



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to November 1, 2003. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT

Table of Contents

Section	Page
1. Definitions.....	5
2. Registration of judgment from reciprocating state.....	5
3. Jurisdiction to issue certificate.....	7
4. Conversion to Canadian currency.....	7
5. Where judgment is in a language other than English.....	7
6. Effect of registration.....	7
7. <i>Ex parte</i> orders.....	8
8. Application for garnishment order.....	8
9. Rules of practice.....	8
9.1 Remedies.....	8
10. Exercise of powers.....	9
11. Reciprocating states.....	9
12. Saving.....	9
SCHEDULE	11
CERTIFICATE	11



RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT

CHAPTER R-6

1. Definitions

(1) In this Act

(a) “**judgment**”

- (i) means a judgment or order of a court in a civil proceeding, whether given or made before or after the commencement of this Act, whereby a sum of money is made payable, and
- (ii) includes an award in an arbitration proceeding if the award, under the law in force in the state where it was made, has become enforceable in the same manner as a judgment given by a court in that state, but
- (iii) does not include an order for the periodical payment of money as alimony or as maintenance for a spouse or former spouse or reputed spouse or a child or any other dependant of the person against whom the order was made;

(b) “**judgment creditor**” means the person by whom the judgment was obtained, and includes his executors, administrators, successors, and assigns;

(c) “**judgment debtor**” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the state in which it was given;

(d) “**original court**” in relation to a judgment means the court by which the judgment was given;

(e) “**registering court**” in relation to a judgment means the court in which the judgment is registered under this Act.

Application for registration of judgment

- (2) All references in this Act to personal service mean actual delivery of the process, notice, or other document, to be served, to the person to be served therewith personally; and service shall not be held not to be personal service merely because the service is effected outside the state of the original court. *R.S.P.E.I. 1974, Cap. R-7, s.1.*

2. Registration of judgment from reciprocating state

- (1) Where a judgment has been given in a court in a reciprocating state, the judgment creditor may apply to have the judgment registered in the Supreme Court unless

- (a) the time for enforcement has expired in the reciprocating state; or
- (b) ten years have elapsed since the day on which the judgment became enforceable in the reciprocating state,

and the court may order that the judgment be registered.

Application ex parte

- (2) An order for registration under this Act may be made without notice to any other person in any case in which the judgment debtor,
- (a) was personally served with process in the original action; or
 - (b) though not personally served, appeared or defended, or attorned or otherwise submitted to the jurisdiction of the original court;

and in which, under the law in force in the state where the judgment was made, the time within which an appeal may be made against the judgment has expired and no appeal is pending or an appeal has been made and has been disposed of.

Certificate from original court

- (3) In a case to which subsection (2) applies, the application shall be accompanied by a certificate issued from the original court and under its seal and signed by a judge thereof or the clerk thereof.

Form of certificate

- (4) The certificate shall be in the form set out in the Schedule, or to the like effect, and shall set forth the particulars as to the matters therein mentioned.

Notice of application in other cases

- (5) In a case to which subsection (2) does not apply, such notice of the application for the order as is required by the rules or as the judge considers sufficient shall be given to the judgment debtor.

Conditions of registration

- (6) No order for registration shall be made if the court to which application for registration is made is satisfied that
- (a) the original court acted either
 - (i) without jurisdiction under the conflict of laws rules of the court to which application is made, or
 - (ii) without authority, under the law in force in the state where the judgment was made, to adjudicate concerning the cause of action or subject matter that resulted in the judgment or concerning the person of the judgment debtor;
 - (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the state of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court;
 - (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the state of that court or had agreed to submit to the jurisdiction of that court;
 - (d) the judgment was obtained by fraud;
 - (e) an appeal is pending or the time within which an appeal may be taken has not expired;
 - (f) the judgment was in respect of a cause of action that for reasons of public policy or for some similar reason would not have been entertained by the registering court; or
 - (g) the judgment debtor would have a good defence if an action were brought on the judgment.

Method of registration

- (7) Registration may be effected by filing the order and an exemplification or a certified copy of the judgment with the Registrar of the Supreme Court of Prince Edward Island whereupon the judgment shall be entered as a judgment of that court. *R.S.P.E.I. 1974, Cap. R-7, s.2; 1992, c.65, s.7; 1994, c.5, s.13 [eff.] July 14/94.*

3. Jurisdiction to issue certificate

Where the original court is a court in the Province of Prince Edward Island, that court has jurisdiction to issue a certificate for the purposes of registration of a judgment in a reciprocating state. *R.S.P.E.I. 1974, Cap. R-7, s.3.*

4. Conversion to Canadian currency

Where a judgment sought to be registered under this Act makes payable a sum of money expressed in a currency other than the currency of Canada,

- (a) the Registrar of the Supreme Court of Prince Edward Island shall determine the equivalent of that sum in the currency of Canada on the basis of the rate of exchange prevailing at the date of the judgment in the original court, as ascertained from any branch of any chartered bank;
- (b) the Registrar shall certify on the order for registration the sum so determined expressed in the currency of Canada; and
- (c) upon its registration, the judgment shall be deemed to be a judgment for the sum so certified. *R.S.P.E.I. 1974, Cap. R-7, s.4; 1992, c.65, s.7.*

5. Where judgment is in a language other than English

Where a judgment sought to be registered under this Act is in a language other than the English language

- (a) the judgment or the exemplification or certified copy thereof, as the case may be, shall have attached thereto for all purposes of this Act a translation in the English language approved by the court; and
- (b) upon such approval being given the judgment shall be deemed to be in the English language. *R.S.P.E.I. 1974, Cap. R-7, s.5.*

6. Effect of registration

Where a judgment is registered under this Act,

- (a) the judgment, from the date of the registration, is of the same force and effect as if it had been a judgment given originally in the registering court on the date of the registration and proceedings may be taken thereon accordingly, except that where the registration is made pursuant to an order without notice, no sale or other disposition of any property of the judgment debtor shall be made under the judgment before expiration of the period fixed by clause 7(1)(b) or such further period as the registering court may order;
- (b) the registering court has the same control and jurisdiction over the judgment as it has over judgments given by itself; and
- (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original

court and of the application for registration, are recoverable in like manner as if they were sums payable under the judgment if

- (i) such costs are assessed by the proper officer of the registering court, and
- (ii) his certificate thereof is endorsed on the order for registration. *R.S.P.E.I. 1974, Cap. R-7, s.6.*

7. Ex parte orders

- (1) Where a judgment is registered pursuant to an order without notice,
 - (a) within one month after the registration or within such further period as the registering court may at any time order, notice of the registration shall be served upon the judgment debtor in the same manner as a writ of summons or statement of claim is required to be served; and
 - (b) the judgment debtor, within one month after he has had notice of the registration, may apply to the registering court to have the registration set aside.

Setting aside registration

- (2) On such an application the court may set aside the registration upon any of the grounds mentioned in subsection 2(6) and upon such terms as the court thinks fit. *R.S.P.E.I. 1974, Cap. R-7, s.7.*

8. Application for garnishment order

- (1) At the time of, or after, making an application under section 2, the applicant may further apply, without notice, to the registering court for an order that all debts, obligations, and liabilities owing, payable, or accruing due to the judgment debtor from such person as may be named in the application be attached.

Making of garnishing order

- (2) A judge of the registering court,
 - (a) upon considering the application for registration of the judgment and the certificate of the original court accompanying it; and
 - (b) upon production of such further evidence as he may require,may, if he considers it proper, make the order mentioned in subsection (1); and the order when made shall be deemed to be a garnishment order before judgment, and the rules of the registering court with respect to garnishment orders apply thereto. *R.S.P.E.I. 1974, Cap. R-7, s.8.*

9. Rules of practice

Rules of court may be made respecting the practice and procedure, including costs, in proceedings under this Act; and, until rules are made under this section, the rules of the registering court, including rules as to costs, apply with the necessary changes. *R.S.P.E.I. 1974, Cap. R-7, s.9.*

9.1 Remedies

Any remedies available to a person under this Act shall be deemed to be available to a person who may be subject to proceedings under the *Canada-United Kingdom Judgments Recognition Act R.S.P.E.I. 1988, Cap. C-1. 1997,c.41,s.1.*

10. Exercise of powers

Subject to the rules of court, any of the powers conferred by this Act on a court may be exercised by a judge of that court. *R.S.P.E.I. 1974, Cap. R-7, s.10.*

11. Reciprocating states

- (1) Where the Lieutenant Governor in Council is satisfied that reciprocal provisions will be made by a state in or outside Canada for the enforcement therein of judgments given in Prince Edward Island, he may by order declare it to be a reciprocating state for the purposes of this Act.

Revocation

- (2) The Lieutenant Governor in Council may revoke any order made under subsection (1) and thereupon the state with respect to which the order was made ceases to be a reciprocating state for the purposes of this Act. *R.S.P.E.I. 1974, Cap. R-7, s.11.*

12. Saving

Nothing in this Act deprives a judgment creditor of the right to bring action on his judgment, or on the original cause of action,

- (a) after proceedings have been taken under this Act, or
(b) instead of proceeding under this Act,

and the taking of proceedings under this Act, whether or not the judgment is registered, does not deprive a judgment creditor of the right to bring action on the judgment or on the original cause of action. *R.S.P.E.I. 1974, Cap. R-7, s.12.*

SCHEDULE

Under the Reciprocal Enforcement of Judgments Act of the Province of Prince Edward Island.

CERTIFICATE

CANADA

Province of Prince Edward Island

To all to whom these presents shall come

GREETING:

It is here certified that, among the records enrolled in the court of at , before the Honourable , a Justice of the said Court, in the Procedure Book there is record of an action, numbered as No

BETWEEN:

.....

Plaintiff (s)

and

.....

Defendant (s)

1. The writ of summons (statement of claim) (or as the case may be) was issued on the day of20, and proof was furnished to this court that it was served on the defendant by delivery of a copy thereof to him and leaving it with him.

2. No defence was entered, and the judgment was allowed by (proof, default, or order)

or

2. A defence was entered and judgment was allowed at the trial (or as the case may be)

3. Judgment was given on theday of 20.....

4. Time for appeal has expired and no appeal is pending (or an appeal against the judgment was made and was dismissed by the Court of Appeal and the time for any further appeal has expired and no further appeal is pending, or as the case may be).

5. Further details if any.

6. Particulars:

Claim as allowed \$

Costs to judgment \$

Subsequent costs \$

Interest \$

Paid on \$

And the balance remaining due on said judgment for debt, interest and costs is the sum of \$.....

All and singular which premises by the tenor of these presents we have commanded to be certified.

IN TESTIMONY WHEREOF we have caused the Seal of our said Court at to be hereunto affixed.

WITNESS, The Honourable a Justice of our said Court at this day of 20.....

SEAL

A Justice of the Supreme Court of
Prince Edward Island

or

Prothonotary of the Supreme Court
of Prince Edward Island.

*{Note: the Schedule is prescribed by subsection 2(4).}