

No. 29

4th Session, 13th Legislature, Alberta
6 Elizabeth II, 1958

BILL 29

A Bill to Facilitate the Reciprocal Enforcement of
Judgments

HON. MR. MANNING

Printed by L. S. WALL, Printer to the Queen's Most Excellent Majesty
Edmonton, Alberta, 1958

Explanatory Note

General. The Reciprocal Enforcement of Judgments Act is a uniform Act first prepared in 1924 by the Commissioners on Uniformity of Legislation in Canada and adopted by Alberta in 1925. This Bill sets forth a revision of that Act completed by the uniformity commissioners in 1956 and recommended for adoption by the Alberta Commissioners. The references in the explanatory notes are to the corresponding provisions in the present Act, chapter 280 of The Revised Statutes of Alberta, 1955.

2. (1) (a). The present section 2 (1) clause (a). The exception is new.

(b) The present section 2 (1), clause (b),

(c) The present section 2, subsection (1), clause (c).

(d) The present section 2, subsection (1), clause (d).

(e) The present section 2, subsection (1), clause (e).

(2) New. Self-explanatory.

BILL

No. 29 of 1958

An Act to Facilitate the Reciprocal Enforcement of Judgments

(Assented to _____, 1958)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Reciprocal Enforcement of Judgments Act, 1958*".

2. (1) In this Act,

- (a) "judgment" 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 includes an award in an arbitration proceeding if the award, under the law in force in the jurisdiction where it was made, has become enforceable in the same manner as a judgment given by a court in that jurisdiction, but does not include an order for the payment of money as alimony or as maintenance for a wife or former wife or a child, or an order made against a putative father of an unborn child for the maintenance or support of the mother thereof;
- (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 jurisdiction 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.

(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 jurisdiction of the original court.

3. (1). The present section 4 (1) with “reciprocating jurisdiction” substituted for a list of particular jurisdictions and made applicable to courts not fitting within the description “superior, county or district courts”.

(2). The present section 4 (4) reworded and with a reference to appeals added.

(3). New. Self-explanatory.

(4). New. Form of certificate provided.

(5). The present section 4 (5) reworded.

(6). Mainly the present section 5 slightly reworded. Clause (a) is new. The present clause (a) reads “the original court acted without jurisdiction.”.

3. (1) Where a judgment has been given in a court in a reciprocating jurisdiction, the judgment creditor may apply to the Supreme Court or a district court within six years after the date of the judgment to have the judgment registered in that court, and on any such application the court may order the judgment to be registered accordingly.

(2) An order for registration under this Act may be made *ex parte* 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 laws of the country of the original court, 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 dismissed.

(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.

(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.

(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 deems sufficient shall be given to the judgment debtor.

(6) No order for registration shall be made if it is shown by the judgment debtor to the court to which application for registration is made 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 of the original court to adjudicate concerning the cause of action or subject matter that resulted in the alleged judgment or concerning the person of the alleged judgment debtor,
 or without such jurisdiction and without such authority,
- (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction 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

(7). The present section 4 (6) reworded.

4. New. Self-explanatory.

5. New. Self-explanatory.

6. (a). The present section 6 (a) combined with the present section 7 (3).

carrying on business within the jurisdiction of that court or 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 original judgment.

(7) Registration may be effected by filing the order and an exemplification or a certified copy of the judgment with the clerk of the court in which the order was made, whereupon the judgment shall be entered as a judgment of that court.

4. 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, the registering court, or, where that court is the Supreme Court, the clerk of that court, 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 entry of the judgment in the original court, as ascertained from any branch of any chartered bank, and the registering court or the clerk, as the case may be, shall certify on the order for registration the sum so determined expressed in the currency of Canada and, upon its registration, the judgment shall be deemed to be a judgment for the sum so certified.

5. Where a judgment sought to be registered under this Act is in a language other than the English language, 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 upon such approval being given the judgment shall be deemed to be in the English language.

6. 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 *ex parte* order, no sale or other disposition of any property of the judgment debtor shall be made under the judgment before the expiration of the period fixed by clause (b) of subsection (1) of section 7 or such further period as the registering court may order,

(b). The present section 6 (b).

(c) The present section 6 (c).

7. (1) (a) The present section 7 (1) and (2) combined.

(b) The present section 8 in part.

(2) The present section 8 in part.

8. The present section 9 extended.

9. The present section 2 (2).

10. (1) The present section 3 (1) reworded in more general language.

(2) The present section 3(2) reworded.

11. The present section 10 extended to make it clear that a judgment creditor, even if he has taken proceedings under this Act, is still entitled to bring action on the original judgment or cause of action.

- (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 such costs are taxed by the proper officer of the registering court and his certificate thereof is endorsed on the order for registration.

7. (1) Where a judgment is registered pursuant to an *ex parte* order,

- (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 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.

(2) On such an application the court may set aside the registration upon any of the grounds mentioned in subsection (6) of section 3 and upon such terms as the court thinks fit.

8. 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, *mutatis mutandis*, apply.

9. Subject to the Consolidated Rules of the Supreme Court any of the powers conferred by this Act on a court may be exercised by a judge of that court.

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

(2) The Lieutenant Governor in Council may revoke any order made under subsection (1) and thereupon the jurisdiction with respect to which the order was made ceases to be a reciprocating jurisdiction for the purposes of this Act.

11. 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

12. The present section 11.

(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.

12. This Act shall be so interpreted as to effect its general purpose of making uniform the law of the provinces that enact it.

13. *The Reciprocal Enforcement of Judgments Act*, being chapter 280 of The Revised Statutes of Alberta, 1955, is hereby repealed.

14. This Act comes into force on the day upon which it is assented to.

SCHEDULE

THE RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT, 1958

(Section 3(4))

CERTIFICATE

CANADA

Province of
(or as the case may be)

To all whom these Presents shall come GREETING:

It is hereby certified that, among the records enrolled in the court of at, before the Honourable a Justice (Judge) 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 of 19, 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 and exhibiting the original thereof to him at the time of the service.

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

or

FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

BILL

An Act to Facilitate the Reciprocal
Enforcement of Judgments

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
