The Enforcement of Foreign Judgments Act

Chapter E-9.121 of the *Statutes of Saskatchewan, 2005* (effective April 19, 2006), as amended by the *Statutes of Saskatchewan*, 2012, c 12; and 2023, c 28.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER E-9.121

An Act respecting the Enforcement of Foreign Judgments

PART I
Title, Interpretation and Application

Short title

1 This Act may be cited as *The Enforcement of Foreign Judgments Act*.

Interpretation

2 In this Act:

"civil proceeding" means a proceeding to determine a dispute between two or more persons, one or more of whom may be a government body, the object of which is a judgment, order, decree or similar instrument that:

(a) in the case of a violation of a right, requires a party to comply with a duty or pay damages; or

(b) in any other case, determines the personal status or capacity of one or more of the parties; (« *instance civile* »)

"enforcing court" means the Court of King's Bench; (« *tribunal d'exécution* »)

foreign civil protection order" means a foreign civil protection order as defined in *The Enforcement of Canadian Judgments Act, 2002* (« *ordonnance civile de protection rendue à l'étranger* »)

"foreign judgment" means a final decision made in a civil proceeding by a court of a foreign state, rendered by means of a judgment, order, decree or similar instrument in accordance with the laws of that state, and includes a final decision made by an adjudicative body other than a court if the enforcing court is satisfied that the adjudicative body is the body that determines disputes of the kind in question in that state; (« *jugement étranger* »)

"judgment creditor" means the person entitled to enforce a foreign judgment; (« *créancier judiciaire* »)

"judgment debtor" means the person liable under a foreign judgment; (« *débiteur judiciaire* »)

"registration" means the procedure prescribed by this Act and the rules of court for the registration and enforcement of a foreign judgment; (« *enregistrement* »)

"state of origin" means the state or subdivision of a state where a foreign judgment was made. (« *État d'origine* »)

2005, c E-9.121, s 2; 2012, c 12, s 12; 2023, c 28, s 17-13.

Exceptions

3 This Act does not apply to foreign judgments:

(a) for the recovery of taxes;

(b) arising out of bankruptcy and insolvency proceedings as defined in Part XIII of the *Bankruptcy and Insolvency Act* (Canada);

(c) for maintenance or support;

(d) that recognize the judgment of another foreign state;

(e) for the recovery of monetary fines or penalties; or

(f) rendered in proceedings commenced before the coming into force of this Act.

2005, c E-9.121, s 3.

Foreign civil protection order

3.1 A foreign civil protection order may be enforced pursuant to *The Enforcement of Canadian Judgments Act, 2002* or as a foreign judgment pursuant to this Act.

2012, c 12, s 5.

PART II
Enforcement

Reasons for refusal

4 A foreign judgment cannot be enforced in Saskatchewan if:

(a) the court of the state of origin lacked jurisdiction over the judgment debtor or subject-matter contrary to sections 8 and 9;

(b) the judgment has been satisfied;

(c) the judgment is not enforceable in the state of origin or an appeal is pending, or the time within which an appeal may be made or leave for appeal requested has not expired;

(d) the judgment debtor was not lawfully served in accordance with the laws of the state of origin or did not receive notice of the commencement of the proceeding in sufficient time to present a defence, and the judgment was allowed by default;

(e) the judgment was obtained by fraud;

(f) the judgment was rendered in a proceeding that was conducted contrary to the principles of procedural fairness and natural justice;

(g) the judgment is manifestly contrary to public policy in Saskatchewan; or

(h) at the time the judgment was submitted for registration or an action for enforcement was commenced, a civil proceeding based on the same facts and having the same purpose:

(i) was pending before a court in Saskatchewan, having been commenced before the civil proceeding that gave rise to the foreign judgment was commenced;

(ii) has resulted in a judgment or order rendered by a court in Saskatchewan; or

(iii) has resulted in a judgment or order rendered by a court of a foreign state, other than the state of origin, that meets the conditions for its registration and enforcement in Saskatchewan.

2005, c E-9.121, s 4.

Enforcement period

5 A foreign judgment can be enforced in Saskatchewan only within the period provided by the law of the state of origin, or within 10 years after the day on which the foreign judgment becomes enforceable in that state, whichever is earlier.

2005, c E-9.121, s 5.

Limit of damages

6(1) If the enforcing court, on application by a judgment debtor, determines that a foreign judgment includes an amount added to compensatory damages as punitive or multiple damages or for other non-compensatory purposes, it shall limit enforcement of the damages awarded by the foreign judgment to the amount of similar or comparable damages that could have been awarded in Saskatchewan.

(2) If the enforcing court, on application by a judgment debtor, determines that a foreign judgment includes an amount of compensatory damages that is excessive in the circumstances, it may limit enforcement of the award, but the amount awarded may not be less than that which the enforcing court could have awarded in the circumstances.

(3) In this section, a reference to damages includes the costs and expenses of the civil proceeding in the state of origin.

2005, c E-9.121, s 6.

Limits relating to non-monetary awards

7(1) In the case of a non-monetary foreign judgment, the enforcing court may, on application by any party:

(a) make an order that the foreign judgment be modified as may be required to make it enforceable in Saskatchewan, unless the foreign judgment is not susceptible of being so modified;

(b) make an order stipulating the procedure to be used in enforcing the foreign judgment; or

(c) make an order staying or limiting the enforcement of the foreign judgment, subject to any terms and for any period the enforcing court considers appropriate in the circumstances, if:

(i) the enforcing court could have made that order with respect to an order or judgment rendered by it pursuant to the Acts and the rules of court in Saskatchewan relating to legal remedies and the enforcement of orders and judgments; or

(ii) the judgment debtor has brought, or intends to bring, in the state of origin, a proceeding to set aside, vary or obtain other relief with respect to the foreign judgment.

(2) An application pursuant to subsection (1) must be made before any measures are taken to enforce a foreign judgment if:

(a) the enforceability of the foreign judgment is, by its terms, subject to the satisfaction of a condition; or

(b) the foreign judgment was obtained without notice to the persons bound by it.

2005, c E-9.121, s 7.

Jurisdiction

8 A court in the state of origin has jurisdiction in a civil proceeding that is brought against a person if:

(a) the person expressly agreed to submit to the jurisdiction of the court;

(b) as defendant, the person submitted to the jurisdiction of the court by appearing voluntarily;

(c) the person commenced a counterclaim to the proceeding;

(d) the person, being an individual, was ordinarily resident in the state of origin;

(e) the person, not being an individual, was incorporated in the state of origin, exercised its central management in that state or had its principal place of business located in that state; or

(f) there was a real and substantial connection between the state of origin and the facts on which the proceeding was based.

2005, c E-9.121, s 8.

Real and substantial connection

9 For the purposes of clause 8(f), in the case of a foreign judgment allowed by default, a real and substantial connection between the state of origin and the facts on which the civil proceeding was based is established in, but is not limited to, the following cases:

(a) the judgment debtor, being a defendant in the court of the state of origin, had an office or place of business in that state and the proceedings were with respect to a transaction effected through or at that office or place;

(b) in an action for damages in tort or for extra-contractual damages:

(i) the wrongful act occurred in the state of origin; or

(ii) injury to person or property was sustained in the state of origin, but only if the defendant could have reasonably foreseen that the activity on which the action was based could result in that injury in the state of origin, including as a result of distribution through commercial channels known by the defendant to extend to that state;

(c) the claim was related to a dispute concerning title in real property located in the state of origin;

(d) in an action for damages in contract, the contractual obligation was or should have been performed in the state of origin;

(e) for any question related to the validity or administration of a trust established in the state of origin or to trust assets located in that state, the trustee, settlor or beneficiary had his or her ordinary residence or its principal place of business in the state of origin;

(f) the claim was related to a dispute concerning goods made or services provided by the judgment debtor and the goods and services were acquired or used by the judgment creditor when the judgment creditor was ordinarily resident in the state of origin and were marketed through the normal channels of trade in the state of origin.

2005, c E-9.121, s 9.

Judgment not enforceable

10 A foreign judgment shall not be enforced in Saskatchewan if the judgment debtor proves to the satisfaction of the enforcing court that:

(a) there was not a real and substantial connection between the state of origin and the facts on which the civil proceeding was based; and

(b) it was clearly inappropriate for the court in the state of origin to take jurisdiction.

2005, c E-9.121, s 10.

Recognition of foreign judgments

11 The rules in this Part that determine whether a foreign judgment is unenforceable for lack of jurisdiction in the court of the state of origin over a party or subject-matter, or on account of fraud, public policy or a violation of the principles of procedural fairness and natural justice, also apply, with any necessary modification, in determining whether a foreign judgment is binding on the parties so as to be a defence to a claim, or conclusive of an issue, in an action in Saskatchewan.

2005, c E-9.121, s 11.

PART III
Enforcement Procedures

Registration

12(1) A foreign judgment that is enforceable pursuant to this Act may be registered pursuant to this Part.

(2) If a foreign judgment contains parts that may be enforced separately, the judgment creditor may register the judgment with respect to those parts at different times.

(3) The judgment creditor must give to the judgment debtor a notice of intention to register a foreign judgment with respect to one or more of its parts:

(a) indicating which of the grounds set out in section 8 are being relied on to claim that the court in the state of origin had jurisdiction to make the foreign judgment; and

(b) identifying the parts.

(4) A judgment creditor may register a foreign judgment by filing with the enforcing court:

(a) a copy of the foreign judgment certified as true by a proper officer of the court that made the order;

(b) a copy of the notice mentioned in subsection (3);

(c) an application to modify the foreign judgment, if the judgment creditor is of the opinion that the judgment must be amended by the enforcing court to render it enforceable; and

(d) a certified translation of the foreign judgment into either English or French, if it was not given in one of those languages.

2005, c E-9.121, s 12.

Conversion to Canadian currency

13(1) If a foreign judgment orders the payment of a sum of money expressed in a currency other than Canadian currency, when the judgment is registered it must include a statement that the money payable under the judgment will be the amount of Canadian currency that is necessary to purchase the equivalent amount of the other currency at a bank located in Saskatchewan at the close of business on the conversion date.

(2) For the purposes of subsection (1), the conversion date is the last day, before the day on which the judgment debtor makes a payment to the judgment creditor under the registered foreign judgment, on which the bank mentioned in subsection (1) quotes a Canadian dollar equivalent to the other currency.

2005, c E-9.121, s 13.

Enforcement

14(1) On registration, a foreign judgment is enforceable as if it were a judgment of the enforcing court.

(2) The enforcing court has the same jurisdiction and control over a registered foreign judgment as it has over its own judgments and may order enforcement with respect to one or more of its parts.

(3) A registered foreign judgment may not be enforced by the sale or other disposition of any property of the judgment debtor before the expiry of 30 days after the judgment debtor has received notice of the proceedings to register the foreign judgment, or any longer period that the enforcing court may allow.

2005, c E-9.121, s 14.

Interest

15(1) The interest payable on an amount awarded under a registered foreign judgment is:

(a) the interest accruing on that amount under the law of the state of origin, starting on the day on which the foreign judgment became enforceable in that state and ending on the day immediately before the conversion date as described in subsection 13(2); and

(b) the interest accruing on that amount under the law of Saskatchewan, starting on the conversion date.

(2) If it considers it necessary to do so to ensure that the judgment creditor will be most truly and exactly compensated, the enforcing court may order that the interest be calculated in a different manner.

2005, c E-9.121, s 15.

Rules of court

16 The Court of King's Bench may make any rules that it considers necessary to regulate the practice and procedure, including costs, with respect to proceedings pursuant to this Part.

2005, c E-9.121, s 16; 2023, c 28, s 17-13.

PART IV
Repeal and Transitional

RSS 1978, c F-18 repealed

17 *The Foreign Judgments Act* is repealed.

2005, c E-9.121, s 17.

Transitional

18 Notwithstanding the repeal of *The Foreign Judgments Act*, that Act, as it existed on the day before the coming into force of this Act, continues to apply with respect to foreign judgments rendered in proceedings commenced prior to the coming into force of this Act.

2005, c E-9.121, s 18.

PART V
Coming into Force

Coming into force

19 This Act comes into force on proclamation.

2005, c E-9.121, s 19.

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