

CAP. 10.

CYPRUS

**FOREIGN JUDGMENTS
(RECIPROCAL ENFORCEMENT)**

CHAPTER 10 OF THE LAWS

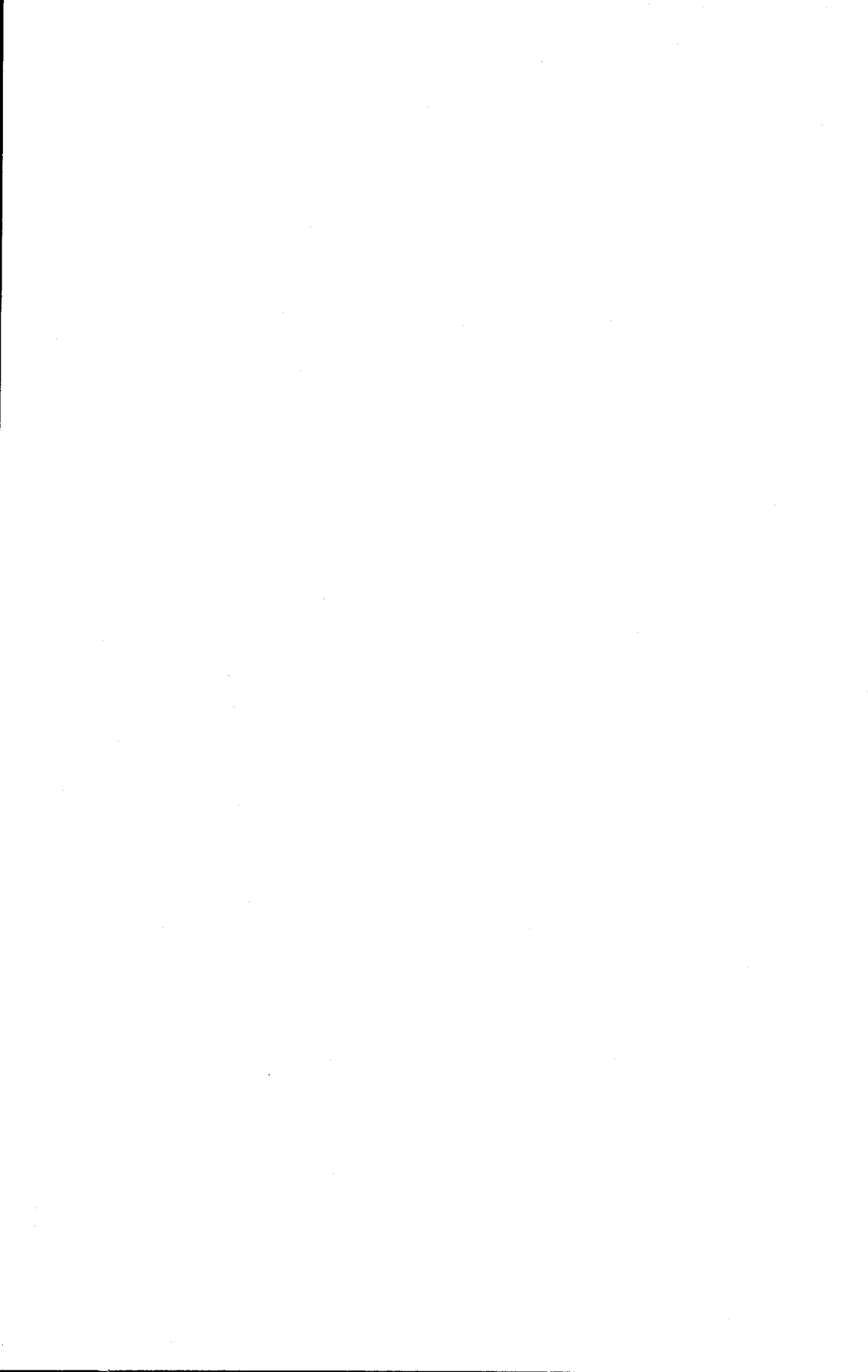
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1959



CHAPTER 10.

FOREIGN JUDGMENTS.

ARRANGEMENT OF SECTIONS.

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A LAW TO MAKE PROVISION FOR THE ENFORCEMENT IN THE COLONY OF JUDGMENTS GIVEN IN FOREIGN COUNTRIES WHICH ACCORD RECIPROCAL TREATMENT TO JUDGMENTS GIVEN IN THE COLONY FOR FACILITATING THE ENFORCEMENT IN FOREIGN COUNTRIES OF JUDGMENTS GIVEN IN THE COLONY, AND FOR OTHER PURPOSES IN CONNECTION WITH THE MATTERS AFORESAID.

[2nd August, 1935.] 1949 Cap. 16.

1. This Law may be cited as the Foreign Judgments (Reciprocal Enforcement) Law. Short title.

2. (1) In this Law—

“appeal” includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution ;

“country of original Court” means the country in which the original Court is situated ;

“District Court” means the District Court in the

Interpretation.

district in which the judgment debtor or any of the judgment debtors resides or in which any property to which a judgment relates is situate ;

“ judgment ” means a judgment or order given or made by a Court in any civil proceedings, or a judgment or order given or made by a Court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to any injured party ;

“ judgment creditor ” means the person in whose favour the judgment was given and includes any person in whom the rights under the judgment have become vested by succession or assignment or otherwise ;

“ judgment debtor ” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable under the law of the original Court ;

“ judgment given in the superior Courts of the Colony ” means judgments given in the Supreme Court or in a District Court in the Colony and includes judgments given in any Courts on appeals against any judgments so given ;

“ original Court ” in relation to any judgment means the Court by which the judgment was given ;

“ prescribed ” means prescribed by Rules of Court ;

“ registration ” means registration under Part I of this Law, and the expressions “ register ” and “ registered ” shall be construed accordingly ;

“ registering court ” in relation to any judgment means the Court to which an application to register the judgment is made.

(2) For the purposes of this Law, the expression “ action *in personam* ” shall not be deemed to include any matrimonial cause or any proceedings in connection with any of the following matters, that is to say, matrimonial matters, administration of the estates of deceased persons, bankruptcy, winding up of companies, lunacy, or guardianship of infants.

PART I.

REGISTRATION OF FOREIGN JUDGMENTS.

3. (1) The Governor, if he is satisfied that, in the event of the benefit conferred by this Part of this Law being extended to judgments given in the superior Courts of any

Power to
extend Part
I of this
Law to
foreign
countries
giving
reciprocal
treatment.

foreign country, substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of judgments given in the superior Courts of the Colony, may by Order in Council direct—

- (a) that this Part of this Law shall extend to that foreign country ; and
- (b) that such Courts of that foreign country as are specified in the Order shall be deemed superior Courts of that country for the purposes of this Part of this Law.

(2) Any judgment of a superior Court of a foreign country to which this Part of this Law extends, other than a judgment of such a Court given on appeal from a Court which is not a superior Court, shall be a judgment to which this Part of this Law applies, if—

- (a) it is final and conclusive as between the parties thereto ; and
- (b) there is payable thereunder a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty ; and
- (c) it is given after the coming into operation of the Order in Council directing that this Part of this Law shall extend to that foreign country.

(3) For the purposes of this section, a judgment shall be deemed to be final and conclusive notwithstanding that an appeal may be pending against it, or that it may still be subject to appeal, in the Courts of the country of the original Court.

(4) The Governor may by a subsequent Order in Council vary or revoke any Order previously made under this section.

4. (1) A person, being a judgment creditor under a judgment to which this Part of this Law applies, may apply to the District Court at any time within six years after the date of the judgment, or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in the District Court, and on any such application the Court shall, subject to proof of the prescribed matters and to the other provisions of this Law, order the judgment to be registered:

Application for, and effect of, registration of foreign judgment.

Provided that a judgment shall not be registered if at the date of the application—

- (a) it has been wholly satisfied ; or
- (b) it could not be enforced by execution in the country of the original Court.

(2) Subject to the provisions of this Law with respect to the setting aside of registration—

- (a) a registered judgment shall, for the purposes of execution, be of the same force and effect ; and
- (b) proceedings may be taken on a registered judgment and
- (c) the sum for which a judgment is registered shall carry interest ; and
- (d) the registering Court shall have the same control over the execution of a registered judgment, as if the judgment had been a judgment originally given in the registering Court and entered on the date of registration :

Provided that execution shall not issue on the judgment so long as, under this Part of this Law and the Rules of Court made thereunder, it is competent for any party to make an application to have the registration of the judgment set aside, or, where such an application is made, until after the application has been finally determined.

(3) Where the sum payable under a judgment which is to be registered is expressed in a currency other than the currency of the Colony, the judgment shall be registered as if it were a judgment for such sum in the currency of the Colony as, on the basis of the rate of exchange prevailing at the date of the judgment of the original Court, is equivalent to the sum so payable.

(4) If at the date of the application for registration the judgment of the original Court has been partly satisfied, the judgment shall not be registered in respect of the whole sum payable under the judgment of the original Court, but only in respect of the balance remaining payable at that date.

(5) If, on an application for the registration of a judgment, it appears to the registering Court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judg-

ment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

(6) In addition to the sum of money payable under the judgment of the original Court, including any interest which by the law of the country of the original Court becomes due under the judgment up to the time of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgment from the original Court.

5. (1) The Governor, with the advice and assistance of the Chief Justice may from time to time by writing under the hand and official seal of the Governor and the hand of the Chief Justice, make, alter, and revoke Rules of Court to be published in the Gazette for all or any of the following matters, that is to say—

Rules of Court.

- (a) for regulating and prescribing the procedure and the practice in respect of any proceedings under this Law ;
- (b) for prescribing the fees to be taken in respect of any proceedings under this Law ;
- (c) for making provision with respect to the giving of security for costs by persons applying for the registration of judgments ;
- (d) for prescribing the matters to be proved on an application for the registration of a judgment and for regulating the mode of proving those matters ;
- (e) for providing for the service on the judgment debtor of notice of the registration of a judgment ;
- (f) for making provision with respect to the fixing of the period within which an application may be made to have the registration of the judgment set aside and with respect to the extension of the period so fixed ;
- (g) for prescribing the method by which any question arising under this Law whether a foreign judgment can be enforced by execution in the country of the original Court, or what interest is payable under a foreign judgment under the law of the original Court, is to be determined ;
- (h) for prescribing any matter which under this Part of this Law is to be prescribed ;

(i) generally for the better carrying out of the purposes of this Law.

(2) Rules made for the purposes of this Part of this Law shall be expressed to have, and shall have, effect subject to any such provisions contained in Orders in Council made under section 3 of this Law as are declared by the said Orders to be necessary for giving effect to agreements made between Her Majesty and foreign countries in relation to matters with respect to which there is power to make Rules of Court for the purposes of this Part of this Law.

Cases in which registered judgments must, or may, be set aside.

6. (1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment—

(a) shall be set aside if the registering Court is satisfied—

(i) that the judgment is not a judgment to which this Part of this Law applies or was registered in contravention of the foregoing provisions of this Law ; or

(ii) that the Courts of the country of the original Court had no jurisdiction in the circumstances of the case ; or

(iii) that the judgment debtor, being the defendant in the proceedings in the original Court, did not (notwithstanding that process may have been duly served on him in accordance with the law of the country of the original Court) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear ; or

(iv) that the judgment was obtained by fraud ; or

(v) that the enforcement of the judgment would be contrary to public policy in the country of the registering Court ; or

(vi) that the rights under the judgment are not vested in the person by whom the application for registration was made ;

(b) may be set aside if the registering Court is satisfied that the matter in dispute in the proceedings in the original Court had previously to the date of the judgment in the original Court been the subject of a final and conclusive judgment by a Court having jurisdiction in the matter.

(2) For the purposes of this section the Courts of the country of the original Court shall, subject to the provisions of subsection (3) of this section, be deemed to have had jurisdiction—

(a) in the case of a judgment given in an action *in personam*—

(i) if the judgment debtor, being a defendant in the original Court, submitted to the jurisdiction of that Court by voluntarily appearing in the proceedings otherwise than for the purpose of protecting, or obtaining the release of, property seized, or threatened with seizure, in the proceedings or of contesting the jurisdiction of that Court ; or

(ii) if the judgment debtor was plaintiff in, or counter-claimed in, the proceedings in the original Court ; or

(iii) if the judgment debtor, being a defendant in the original Court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that Court or of the Courts of the country of that Court ; or

(iv) if the judgment debtor, being a defendant in the original Court, was at the time when the proceedings were instituted resident in, or being a body corporate had its principal place of business in, the country of that Court ; or

(v) if the judgment debtor, being a defendant in the original Court, had an office or place of business in the country of that Court and the proceedings in that Court were in respect of a transaction effected through or at that office or place ;

(b) in the case of a judgment given in an action of which the subject matter was immovable property or in an action *in rem* of which the subject matter was movable property, if the property in question was at the time of the proceedings in the original Court situate in the country of that Court ;

(c) in the case of a judgment given in an action other than any such action as is mentioned in paragraph (a) or paragraph (b) of this subsection, if

the jurisdiction of the original Court is recognized by the law of the registering Court.

(3) Notwithstanding anything in subsection (2) of this section, the Courts of the country of the original Court shall not be deemed to have had jurisdiction—

- (a) if the subject matter of the proceedings was immovable property outside the country of the original Court ; or
- (b) except in the cases mentioned in sub-paragraphs (i), (ii) and (iii) of paragraph (a) and in paragraph (c) of subsection (2) of this section, if the bringing of the proceedings in the original Court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the Courts of the country of that Court ; or
- (c) if the judgment debtor, being a defendant in the original proceedings, was a person who under the rule of public international law was entitled to immunity from the jurisdiction of the Courts of the country of the original Court and did not submit to the jurisdiction of that Court.

Powers of registering Court on application to set aside registration.

7. (1) If, on an application to set aside the registration of a judgment, the applicant satisfies the registering Court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment, the Court, if it thinks fit, may, on such terms as it may think just, either set aside the registration or adjourn the application to set aside the registration until after the expiration of such period as appears to the Court to be reasonably sufficient to enable the applicant to take the necessary steps to have the appeal disposed of by the competent tribunal.

(2) Where the registration of a judgment is set aside under the last foregoing subsection, or solely for the reason that the judgment was not at the date of the application for registration enforceable by execution in the country of the original Court, the setting aside of the registration shall not prejudice a further application to register the judgment when the appeal has been disposed of or if and when the judgment becomes enforceable by execution in that country, as the case may be.

(3) Where the registration of a judgment is set aside solely for the reason that the judgment, notwithstanding that it

had at the date of the application for registration been partly satisfied, was registered for the whole sum payable thereunder, the registering Court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

8. No proceedings for the recovery of a sum payable under a foreign judgment to which this Part of this Law applies, other than proceedings by way of registration of the judgment, shall be entertained by any Court in the Colony.

Foreign judgments which can be registered not to be enforceable otherwise.

9. (1) This Part of this Law shall apply to Her Majesty's dominions outside the Colony and to judgments obtained in the Courts of the United Kingdom and of the said dominions as it applies to foreign countries and judgments obtained in the Courts of the foreign countries, and the Civil Procedure (Reciprocal Enforcement of Judgments) Law, shall cease to have effect except in relation to those parts of the said dominions to which it extends at the date of the commencement of this Law.

Power to apply Part I of Law to United Kingdom, British dominions, protectorates and mandated territories. Cap. 7.

(2) If an Order in Council is made under section 3 of this Law extending Part I of this Law to any part of Her Majesty's dominions to which the Civil Procedure (Reciprocal Enforcement of Judgments) Law, extends as aforesaid, the said Law shall cease to have effect in relation to that part of Her Majesty's dominions except as regards judgments obtained before the Order comes into operation.

Cap. 7.

(3) References in this section to Her Majesty's dominions outside the Colony shall be construed as including references to any protectorate, protected state, mandated territory and trust territory.

PART II.

MISCELLANEOUS AND GENERAL

10. (1) Subject to the provisions of this section, a judgment to which Part I of this Law applies or would have applied if a sum of money had been payable thereunder, whether it can be registered or not, and whether, if it can be registered, it is registered or not, shall be recognized in any

General effect of certain foreign judgments.

Court in the Colony as conclusive between the parties thereto and may be relied on by way of defence or counter-claim in any such proceedings.

(2) This section shall not apply in the case of any judgment—

(a) where the judgment has been registered and the registration thereof has been set aside on some ground other than—

(i) that a sum of money was not payable under the judgment ; or

(ii) that the judgment had been wholly or partly satisfied ; or

(iii) that at the date of the application the judgment could not be enforced by execution in the country of the original Court ; or

(b) where the judgment has not been registered, it is shown (whether it could have been registered or not) that if it had been registered the registration thereof would have been set aside on an application for that purpose on some ground other than one of the grounds specified in paragraph (a) of this subsection.

(3) Nothing in this section shall be taken to prevent any Court in the Colony recognizing any judgment as conclusive of any matter of law or fact decided therein if that judgment would have been so recognized before the enactment of this Law.

Power to
make foreign
judgments
unenforce-
able in the
Colony if no
reciprocity.

11. (1) If it appears to the Governor that the treatment in respect of recognition and enforcement accorded by the Courts of any foreign country to judgments given in the superior Courts of the Colony is substantially less favourable than that accorded by the Courts of the Colony to judgments of the superior Courts of that country, the Governor may by Order in Council apply this section to that country.

(2) Except in so far as the Governor may by Order in Council under this section otherwise direct, no proceedings shall be entertained in any Court in the Colony for the recovery of any sum alleged to be payable under a judgment given in a Court of a country to which this section applies.

(3) The Governor may by a subsequent Order in Council vary or revoke any Order previously made under this section.

12. Where a judgment under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, has been entered in the District Court against any person and the judgment creditor is desirous of enforcing the judgment in a country or territory to which Part I of this Law applies, the Court shall, on an application made by the judgment creditor and on payment of the prescribed fee issue to the judgment creditor a certified copy of the judgment, together with a certificate containing such particulars with respect to the action, including the causes of action, and the rate of interest, if any, payable on the sum payable under the judgment, as may be prescribed:

Issue of
certificates
of
judgments
obtained in
the Colony.

Provided that, where execution of a judgment is stayed for any period pending an appeal or for any other reason, an application shall not be made under this section with respect to the judgment until the expiration of that period.

