



Jersey

JUDGMENTS (RECIPROCAL ENFORCEMENT) (JERSEY) LAW 1960

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Contents

Article

PART 1	4
GENERAL	4
1 Limitation on application.....	4
2 Interpretation	4
PART 2	5
REGISTRATION OF FOREIGN JUDGMENTS	5
3 Power to extend Part 2 to countries giving reciprocal treatment	5
4 Application for, and effect of, registration of judgments	6
5 Rules of court.....	7
6 Cases in which registered judgments must, or may, be set aside	7
7 Powers of Royal Court on application to set aside registration	9
8 Judgments which can be registered not to be enforceable otherwise.....	9
PART 3	9
MISCELLANEOUS	9
9 General effect of certain judgments	9
10 Power to make judgments unenforceable if no reciprocity	10
11 Issue of certificates of judgments obtained in Jersey	10
12 Citation	10
ENDNOTES	11
Table of Legislation History.....	11
Table of Renumbered Provisions	11
Table of Endnote References	11



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A **LAW** to make provision for the enforcement in Jersey of judgments given in countries which accord reciprocal treatment to judgments given in Jersey, for the issue of certificates to facilitate the enforcement in such countries of judgments given in Jersey, and for other purposes in connection with the matters aforesaid

Commencement [[see endnotes](#)]

WHEREAS, on the twenty-seventh day of June, 1562, Her late Majesty Queen Elizabeth I granted by Letters Patent under the Great Seal, a Charter to the Bailiff and Jurats and other natives and inhabitants of the Island of Jersey, the said Charter containing a confirmation of all and singular the laws and customs duly and lawfully used in the Island, and also granting and confirming to the Bailiff and Jurats and all other magistrates, officers of Justice, and any other persons appointed there in any office or duty, full, absolute and complete authority touching all sorts of pleas, processes, law suits, actions, disputes and cases of any kind whatsoever arising in the Island, as well real, personal and mixed, as criminal and capital, and there and not elsewhere to plead, proceed with, prosecute and defend all these things and in the same matters either to proceed or supersede, to examine, hear, end, acquit, condemn, decide and put their sentences into execution according to the laws and customs of the Island theretofore used and approved;

WHEREAS the said Charter contains a clause which translated from the original Latin, reads as follows –

“Moreover we desire and for us our heirs and successors by these presents we grant to the aforesaid Bailiff and Jurats and other natives and inhabitants within the Island and other maritime places before mentioned that none of them for the future should be cited apprehended or drawn into any lawsuit by any writs or process issued from any of our Courts or other Courts within our kingdom of England or any of them or in any other way be compelled to appear or reply without the Island and maritime places aforesaid before any Judges Courts Magistrates or officers of Justice of ours or of others concerning or touching any thing suit matter or cause whatsoever arising within the aforesaid Island but that the said Islanders and any one of them notwithstanding citations apprehensions writs and processes of the kind mentioned may and might lawfully and with impunity in the Island and aforesaid places reside remain be at rest and there await justice without any corporal punishment or pecuniary fine ransom or loss on that account to be incurred or

suffered and without any offence or cause of contempt or contumacy as far as concerns our heirs and successors on them or on any one or more of them on that account to be inflicted imposed or otherwise adjudged. Except only such cases as by the laws and customs of the Island and aforesaid places may be reserved to our royal cognisance and examination or by our royal right or privilege ought to be reserved.”;

AND WHEREAS it is desirable that provision should be made for the enforcement in the Island, without prejudice to the privileges and immunities conferred by the said Charter, of judgments given in countries which accord reciprocal treatment to judgments given in the Island, and for facilitating the enforcement in such countries of judgments given in the Island;

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

GENERAL

1 Limitation on application

- (1) For the purposes of this Law, a judgment given by Her Majesty in Council on any matter originating in the courts of Jersey shall not be deemed to be a judgment given in a court of a country outside Jersey, and nothing in this Law shall affect the procedure applicable before the coming into force of this Law to the registration in, and the enforcement by, the Royal Court of any such judgment.
- (2) Nothing in this Law shall enable a judgment creditor to register in Jersey any judgment given by a court of any country outside Jersey, whether within or without Her Majesty’s dominions, in any thing, suit, matter or cause whatsoever arising within Jersey save in a case where, by virtue of Article 6(2) of this Law, the courts of the country of the original court are deemed to have jurisdiction.

2 Interpretation

- (1) In this Law, unless the context otherwise requires –
 - “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 the original court” means the country in which the original court is situated;
 - “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 an 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;

“judgments given in the Royal Court” includes any judgments given in any court upon appeal 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 2 of this Law, and “register” and “registered” shall be construed accordingly.

- (2) For the purposes of this Law, “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 2

REGISTRATION OF FOREIGN JUDGMENTS

3 Power to extend Part 2 to countries giving reciprocal treatment

- (1) The States, if satisfied that, in the event of the benefits conferred by this Part of this Law being extended to judgments given in the superior courts of any country outside Jersey, whether within or without Her Majesty's dominions, substantial reciprocity of treatment will be assured as respects the enforcement in that country of judgments given in the Royal Court, may by Act direct –
- (a) that this Part of this Law shall extend to that country; and
 - (b) that such courts of that country as are specified in the Act 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 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;
 - (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 Act directing that this Part of this Law shall extend to that country.
- (3) For the purposes of this Article, 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 States may by a subsequent Act vary or revoke any Act previously made under this Article.

4 Application for, and effect of, registration of judgments

- (1) A person, being a judgment creditor under a judgment to which this Part of this Law applies, may apply to the Royal Court at any time within 6 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 Royal 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:

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;
 - (b) proceedings may be taken on a registered judgment; and
 - (c) the Royal 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 Royal 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 Jersey, the judgment shall be registered as if it were a judgment for such sum in the currency of Jersey 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 Royal 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 judgment 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 Rules of court

- (1) The power to make rules of court under the [Royal Court \(Jersey\) Law 1948](#), shall, subject to the provisions of this Article, include power to make rules of court for the following purposes –
 - (a) for making provision with respect to the giving of security for costs by persons applying for the registration of judgments;
 - (b) 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;
 - (c) for providing for the service on the judgment debtor of notice of the registration of a judgment;
 - (d) 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 with respect to the extension of the period so fixed;
 - (e) 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 is to be determined;
 - (f) for providing that the sum for which a judgment is registered shall carry interest from the date of the registration at such rate, not exceeding 4% per annum, as may be prescribed;
 - (g) for prescribing any matter which under this Part of this Law is to be prescribed.
- (2) Rules of court 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 Acts made under Article 3 of this Law as are declared by the said Acts 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.

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

- (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 Royal 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,
 - (ii) that the courts of the country of the original court had no jurisdiction in the circumstances of the case,
 - (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 the judgment debtor in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable the judgment debtor to defend the proceedings and did not appear,
 - (iv) that the judgment was obtained by fraud,

- (v) that the enforcement of the judgment would be contrary to public policy in Jersey, 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 Royal 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 Article, the courts of the country of the original court shall, subject to the provisions of paragraph (3) of this Article, be deemed to have had jurisdiction only –
 - (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,
 - (ii) if the judgment debtor was plaintiff in, or counter-claimed in, the proceedings in the original court,
 - (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,
 - (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 sub-paragraph (a) or (b), if the jurisdiction of the original court is recognized by the law of Jersey.
- (3) Notwithstanding anything in paragraph (2), 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;
 - (b) except in the cases mentioned in paragraph (2)(a)(i), (2)(a)(ii), (2)(a)(iii) and (2)(c), 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 rules 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.

7 Powers of Royal Court on application to set aside registration

- (1) If, on an application to set aside the registration of a judgment, the applicant satisfies the Royal Court either that an appeal is pending, or that the applicant 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 paragraph (1), 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 Royal Court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

8 Judgments which can be registered not to be enforceable otherwise

No proceedings for the recovery of a sum payable under a 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 Jersey.

PART 3

MISCELLANEOUS

9 General effect of certain judgments

- (1) Subject to the provisions of this Article, a judgment to which Part 2 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 court in Jersey as conclusive between the parties thereto in all proceedings founded on the same cause of action and may be relied on by way of defence or counterclaim in any such proceedings.
- (2) This Article 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,

- (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 and it is shown, whether the judgment 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 subparagraph (a).
- (3) Nothing in this Article shall be taken to prevent any court in Jersey recognising any judgment as conclusive of any matter of law or fact decided therein if that judgment would have been so recognized before the coming into force of this Law.

10 Power to make judgments unenforceable if no reciprocity

- (1) If it appears to the States that the treatment in respect of recognition and enforcement accorded by the courts of any other country to judgments given in Jersey is substantially less favourable than that accorded by the courts of Jersey to judgments of the superior courts of that country, the States may by Act apply this Article to that country.
- (2) Except in so far as the States may by Act under this Article otherwise direct, no proceedings shall be entertained in any court in Jersey for the recovery of any sum alleged to be payable under a judgment given in a court of a country to which this Article applies.
- (3) The States may by a subsequent Act vary or revoke any Act previously made under this Article.

11 Issue of certificates of judgments obtained in Jersey

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 Royal Court against any person and the judgment creditor is desirous of enforcing the judgment in a country to which Part 2 of this Law applies, the court shall, on an application made by the judgment creditor, 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:

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 Article with respect to the judgment until the expiration of that period.

12 Citation

This Law may be cited as the Judgments (Reciprocal Enforcement) (Jersey) Law 1960.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Judgments (Reciprocal Enforcement) (Jersey) Law 1960	L.14/1960	9 July 1960

Table of Renumbered Provisions

Original	Current
PART I	PART 1
PART II	PART 2
PART III	PART 3

Table of Endnote References

There are currently no endnote references