

CHAPTER 21.

FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT).

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CHAPTER 21.

FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT).

11 of 1935.
27 of 1959.

An Ordinance to make provision for the enforcement in Sierra Leone of judgments given in foreign countries which accord reciprocal treatment to judgments given in Sierra Leone, for facilitating the enforcement in foreign countries of judgments given in Sierra Leone, and for other purposes in connection with the matters aforesaid.

[6TH JUNE, 1935.]

Short title.

1. This Ordinance may be cited as the Foreign Judgments (Reciprocal Enforcement) Ordinance, and shall apply to the Colony and Protectorate.

Interpretation.

2. (1) In this Ordinance, 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 and includes an award in proceedings on an arbitration, if the award has in pursuance of the law in the place where it was made become enforceable in the same manner as a judgment given by a court of that place. Any such award shall where necessary be deemed to be the judgment of a superior court; 27 of 1959.

“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 superior courts of Sierra Leone” means judgments given in the Supreme Court, and includes judgments given in any court 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 Ordinance, 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 Ordinance, 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 in Council, if he is satisfied that, in the event of the benefits conferred by this Part of this Ordinance being extended to judgments given in the superior courts of any foreign country, substantial reciprocity of treatment will

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

be assured as respects the enforcement in that foreign country of judgments given in the superior courts of Sierra Leone, may by Order direct—

(a) that this Part of this Ordinance 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 Ordinance.

(2) Any judgment of a superior court of a foreign country to which this Part of this Ordinance 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 Ordinance 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 directing that this Part of this Ordinance 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.

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

4. (1) A person, being a judgment creditor under a judgment to which this Part of this Ordinance applies, may apply to the Supreme 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 Supreme Court, and on any such application the court shall, subject to proof of the prescribed matters and to the other provisions of this Ordinance, 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:

Provided further that where an Order is made extending this Part of this Ordinance to a foreign country, the fact that a judgment was given before the coming into operation of the Order shall not prevent it from being a judgment to which this Part applies, but the time limited for the registration of a judgment so given shall be twelve months from the date of the judgment or such longer period as may be allowed by the Supreme Court. ^{27 of 1959.}

(2) Subject to the provisions of this Ordinance 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 Ordinance 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 Sierra Leone, the judgment shall be registered as if it were a judgment for such sum in the currency of Sierra Leone 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 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.

Rules of
court.
Cap. 7.

5. (1) The power to make rules of court under section 24 of the Courts Ordinance, shall, subject to the provisions of this section, include power to make rules 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 and with respect to the extension of the period so fixed;

(e) for prescribing the method by which any question arising under this Ordinance 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;

(f) for prescribing any matter which under this Part of this Ordinance is to be prescribed.

(2) Rules made for the purposes of this Part of this Ordinance shall be expressed to have, and shall have, effect subject to any such provisions contained in Orders made under section 3 of this Ordinance 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 Ordinance.