



LAWS OF MALAYSIA

REPRINT

Act 99

RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT 1958

Incorporating all amendments up to 1 January 2006

PUBLISHED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968
IN COLLABORATION WITH
PERCETAKAN NASIONAL MALAYSIA BHD
2006

**RECIPROCAL ENFORCEMENT OF JUDGMENTS
ACT 1958**

First enacted		1958 (Ordinance No. 65 of 1958)
Revised		1972 (Act 99 w.e.f. 15 December 1972)

PREVIOUS REPRINTS

<i>First Reprint</i>		1994
<i>Second Reprint</i>		2000

LAWS OF MALAYSIA

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RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT 1958

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LAWS OF MALAYSIA

Act 99

RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT 1958

An Act for the reciprocal enforcement of judgments of superior courts.

*[Peninsular Malaysia—1 January 1959, Ord. 65 of 1958;
Sabah and Sarawak—1 December 1972, P.U. (A) 297/1972]*

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Reciprocal Enforcement of Judgments Act 1958.

Interpretation

2. In this Act, unless the context otherwise requires—

“action *in personam*” shall not be deemed to include any matrimonial cause or any proceedings in connection with any matrimonial matters, administration of the estates of deceased persons, bankruptcy, winding up of companies, lunacy or guardianship of infants;

“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 reciprocating 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, except in relation to a country or territory outside the Commonwealth,

includes an award in proceedings in an arbitration if the award has, pursuant to the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place; and a judgment given in any court on appeal from a judgment given in the High Court shall be deemed to be a judgment given in the High Court;

“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;

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

“prescribed” means prescribed by rules of court;

“reciprocating country” means any country or territory including the United Kingdom to which this Act for the time being applies and which is specified in the First Schedule;

“registration” means registration under Part II, 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;

“superior courts” means the courts of a reciprocating country so described in the First Schedule.

PART II

REGISTRATION OF JUDGMENTS FROM RECIPROCATING COUNTRIES

Part II to extend to reciprocating countries

3. (1) This Part shall extend to judgments given in the superior courts of reciprocating countries.

(2) The Yang di-Pertuan Agong may, if he is satisfied that in the event of the benefits conferred by this Part being extended to judgments given in the superior courts of any country or territory outside Malaysia, substantial reciprocity of treatment will be assured as respects the enforcement in that country or territory of judgments given in the High Court, by order extend this Part to that country or territory and may, by the same or a different order, amend the First Schedule to add that country or territory thereto and specify what courts of that country or territory shall be deemed to be superior courts for the purposes of this Part.

(3) Any judgment of a superior court, 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 applies, if—

- (a) it is final and conclusive as between 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) being a judgment from a country or territory added to the First Schedule pursuant to subsection (2), it is given after that country or territory is added to that Schedule.

(4) 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 judgment

4. (1) A person, being a judgment creditor under a judgment to which this Part applies, may apply to the High 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 High Court, and on any such application the court shall, subject to proof of the prescribed matters and to the other provisions of this Act, 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 Act 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;
- (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 and the rules of court made for the purposes thereof, 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 Malaysian currency, the judgment shall be registered as if it were a judgment for such sum in Malaysian currency 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.

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

5. (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 applies or was registered in contravention of this Act;
- (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 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;
- (iv) that the judgment was obtained by fraud;
- (v) that the enforcement of the judgment would be contrary to public policy in Malaysia; or
- (vi) that the rights under the judgment are not vested in the person by whom the application for registration was made; and

(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 subsection (3), 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;
- (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; and

(c) in the case of a judgment given in an action other than any such action as is mentioned in paragraph (a) or (b), if the jurisdiction of the original court is recognized by the law of Malaysia.

(3) Notwithstanding anything in subsection (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 subparagraph (2)(a)(i), (ii), (iii) and paragraph (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.

Powers of registering court on application to set aside registration

6. (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 subsection (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 registering court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

Judgments which can be registered not to be enforceable otherwise

7. No proceedings for the recovery of a sum payable under a judgment of a superior court, being a judgment to which this Part applies, other than proceedings by way of registration of the judgment, shall be entertained by any court in Malaysia.

PART III**MISCELLANEOUS AND GENERAL****General effect of certain judgments**

8. (1) Subject to this section, a judgment to which Part II 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 Malaysia 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 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;

(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).

(3) Nothing in this section shall be taken to prevent any court in Malaysia recognizing 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 Act.

Power to make judgments unenforceable in Malaysia if no reciprocity

9. (1) If it appears to the Yang di-Pertuan Agong that the treatment in respect of recognition and enforcement accorded by the courts of any reciprocating country to judgments given in the High Court is substantially less favourable than that accorded by the courts in Malaysia to judgments of the superior courts of that country, the Yang di-Pertuan Agong may by order apply this section to that reciprocating country and amend the First Schedule in any manner which may be necessary or expedient to give effect to the order and to remove any inconsistency therewith in the Schedule.

(2) Except so far as the Yang di-Pertuan Agong may by order under this section otherwise direct, no proceedings shall be entertained in any court in Malaysia for the recovery of any sum alleged to be payable under a judgment given in a court of a reciprocating country to which this section applies.

Issue of certificates of judgments obtained in Malaysia

10. 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 High Court against any person and the judgment creditor is desirous of enforcing the judgment in a reciprocating country to which Part II applies, the court shall, on an application made by the judgment creditor and on payment of such fee as may be prescribed 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 section with respect to the judgment until the expiration of that period.

Rules of court

11. (1) Subject to subsection (2) rules of court may be made for—
(a) making provision with respect to the giving of security for costs by persons applying for the registration of judgments;

- (b) 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) providing for the service on the judgment debtor of notice of the registration of a judgment;
- (d) 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) prescribing the method by which any question arising under this Act whether a judgment can be enforced by execution in the country of the original court, or what interest is payable under a judgment under the law of the original court, is to be determined; and
- (f) prescribing any matter which is to be prescribed.

(2) Rules of court made for the purposes of Part II shall be expressed to have, and shall have, effect subject to any such provisions contained in orders made under section 3 as are declared by the said orders to be necessary for giving effect to agreements made between the Yang di-Pertuan Agong and reciprocating countries in relation to matters with respect to which there is power to make rules of court for the purposes of Part II.

Repeal and saving

12. (1) The written laws specified in the Second Schedule are repealed.

(2) Any judgment of a superior court in a reciprocating country registered in any court in Malaysia under any written law in force in any part of Malaysia before the first day of December 1972, shall be deemed to have been registered under this Act and to be enforceable accordingly, and anything done in relation to any such judgment under any such law or under any rules of court or other provisions applicable thereto shall be as valid and effectual as if it had been done under this Act or the corresponding rules of court or other provisions applicable to this Act.

FIRST SCHEDULE

[Sections 2, 3 and 10]

RECIPROCATING COUNTRIES

Reciprocating country					Superior courts
United Kingdom	...	...	...	...	1. The High Court in England; 2. The Court of Session in Scotland; 3. The High Court in Northern Ireland; 4. The Court of Chancery of the County Palatine of Lancaster; 5. The Court of Chancery of the County Palatine of Durham.
Hong Kong Special Administrative Region of the People's Republic of China	...	...	...	...	The High Court.
Singapore	...	...	...	...	The High Court.
New Zealand	...	...	...	...	The High Court.
Republic of Sri Lanka (Ceylon)	...	...	...	...	1. The High Court. 2. The District Courts.
India (excluding State of Jammu and Kashmir, State of Manipur, Tribal areas of State of Assam, Scheduled areas of the States of Madras and Andhra)	...	...	...	...	The High Court.
Brunei Darussalam	...	...	...	...	The High Court

SECOND SCHEDULE

[Subsection 12(1)]

REPEAL

F.M.S. Enactment No. 19 of 1935	...	Judgments (Reciprocal Enforcement) Enactment 1935
Johore Enactment No. 11 of 1936	...	Judgments (Reciprocal Enforcement) Enactment 1936
Kedah Enactment No. 7 of 1355	...	Judgments (Reciprocal Enforcement) Enactment 1355
F. of M. No. 53 of 1949		Reciprocal Enforcement of Judgments Ordinance 1949
Sarawak Ordinance No. 2 of 1961	...	Sarawak Reciprocal Enforcement of Judgments (Superior Courts) Ordinance 1961
Sabah Ordinance No. 8 of 1959	...	Foreign Judgments (Reciprocal Enforcement) Ordinance 1959

LAWS OF MALAYSIA**Act 99****RECIPROCAL ENFORCEMENT OF
JUDGMENTS ACT 1958****LIST OF AMENDMENTS**

Amending law	Short title	In force from
P.U. (A) 297/1972	Reciprocal Enforcement of Judgments (Extension) Order 1972	01-12-1972
P.U. (A) 73/1994	Reciprocal Enforcement of Judgments (Application of Section 9) Order 1994	27-06-1993
P.U. (A) 122/2000	Reciprocal Enforcement of Judgments (Extension of Part II) Order 2000	31-03-2000
P.U. (A) 34/2004	Reciprocal Enforcement of Judgments (Extension of Part II) Order 2003	23-01-2004

LAWS OF MALAYSIA

Act 99

RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT 1958

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	P.U. (A) 297/1972	01-12-1972
1	P.U. (A) 297/1972	01-12-1972
2	P.U. (A) 297/1972	01-12-1972
3	P.U. (A) 297/1972	01-12-1972
4	P.U. (A) 297/1972	01-12-1972
5	P.U. (A) 297/1972	01-12-1972
7	P.U. (A) 297/1972	01-12-1972
8	P.U. (A) 297/1972	01-12-1972
9	P.U. (A) 297/1972	01-12-1972
10	P.U. (A) 297/1972	01-12-1972
12	P.U. (A) 297/1972	01-12-1972
First Schedule	P.U. (A) 297/1972 P.U. (A) 73/1994 P.U. (A) 122/2000 P.U. (A) 34/2004	01-12-1972 27-06-1993 31-03-2000 23-01-2004
Second Schedule	P.U. (A) 297/1972	01-12-1972

