

Rules of Court under the Reciprocal Enforcement of Judgments Act, 1934.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 18th day of November, 1935.

Present :

THE RIGHT HON. J. G. COATES PRESIDING IN COUNCIL.

IN pursuance and exercise of the powers and authorities conferred on him by sections five and eleven of the Reciprocal Enforcement of Judgments Act, 1934, and section three of the Judicature Amendment Act, 1930, and of every other power and authority in this behalf enabling him, His Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, and with the concurrence of the Right Honourable the Chief Justice, and of the other members of the Rules Committee constituted under the Judicature Amendment Act, 1930 (three of such other members being Judges of the Supreme Court), doth hereby make the rules of Court set out hereunder for regulating the practice and procedure under the Reciprocal Enforcement of Judgments Act, 1934.

RULES.

Short Title and Date of Commencement.

1. These rules may be cited as the Reciprocal Enforcement of Judgments Rules, 1935, and shall come into force on the day following the publication hereof in the *Gazette*.

Revocation of former Rules.

2. The rules made under the Administration of Justice Act, 1922, on the 18th day of May, 1925, and published in the *Gazette* on the 21st day of May, 1925, are hereby revoked.

Rules to have effect subject to Order in Council.

3. These rules shall have effect subject to any such provisions contained in Orders in Council made under section three of the Act as are declared by the said Orders to be necessary for giving effect to any agreement made by or on behalf of the Government of New Zealand in relation to matters with respect to which there is power to make rules of Court for the purposes of Part I of the Act.

Interpretation.

4. In these rules, unless the context otherwise requires,—
“The Act” means the Reciprocal Enforcement of Judgments Act, 1934 :

“Application for registration” means an application made under section 4 of the Act :

“Foreign judgment” means any judgment to which, pursuant to section 3 of the Act, Part I of the Act for the time being applies :

Expressions used in these rules shall have the same meanings as in the Act.

Place for Filing.

5. Every application for registration shall be filed in the office of the Court in which had the proceedings been instituted by way of action on the foreign judgment the defendant would have been required to file his statement of defence.

Application to be by Motion.

6. Every application for registration shall be made by motion to the Court, and, subject to the express provisions herein contained, the provisions of the Code of Civil Procedure with regard to motions shall apply to such motion.

Application *Ex parte* or on Notice.

7. An application for registration may be made *ex parte* or on notice to the judgment debtor, but if made in the first instance *ex parte* the Court may order notice thereof to be given to the judgment debtor in such manner as the Court thinks fit.

Title of Proceedings.

8. Documents filed in an application for registration shall be properly intitled showing the Court and district in which the application is made and further intitled “In the matter of the Reciprocal Enforcement of Judgments Act, 1934, and in the matter of a judgment of the [Describing the Court] between [Name of judgment creditor] and [Name of judgment debtor].”

Supporting Evidence.

9. Every application for registration shall be supported by one or more affidavits comprising the matters hereinafter prescribed.

Foreign Judgment to be exhibited.

10. An affidavit shall be filed exhibiting the foreign judgment or a verified or certified or otherwise duly authenticated copy thereof, and if the judgment is in a language other than English, exhibiting also a translation thereof into English; and an affidavit by a person qualified as a translator shall be filed verifying such translation.

Judicial Notice of Authentication of Judgment.

11. Judicial notice shall be taken of any seal or signature by which a copy of a foreign judgment is verified and which purports to be the seal of the Court in which the judgment was given or of a Judge thereof or of a Registrar or similar officer thereof, or (as the case may be), which purports to be the signature of a Judge or of a Registrar or similar officer of the Court in which the judgment was given.

Evidence of Rate of Exchange.

12. An affidavit shall be filed stating—

- (a) The rate of exchange prevailing at the date of the foreign judgment between New Zealand currency and the currency in which the sum payable under the judgment is expressed :
- (b) The amount which the sum payable under the foreign judgment represents in New Zealand currency calculated at the rate aforesaid :
- (c) The rate of interest, if any, carried by the foreign judgment by the law of the country under which it was given :
- (d) The amount of interest which by the law of the country of the original Court will have become due under the judgment up to the time of registration, such amount being expressed in terms of New Zealand currency.
- (e) The rate of exchange prevailing at the date of filing the documents comprising the application for registration.

Evidence of Right to Registration.

13. An affidavit shall be filed stating to the best of the information and belief of the deponent—

- (a) That the applicant is entitled to enforce the judgment :
- (b) As the case may require, either that at the date of the application the judgment has not been satisfied, or if the judgment has been satisfied in part what the amount is in respect of which it remains unsatisfied :
- (c) That at the date of the application the judgment can be enforced by execution in the country of the original Court :
- (d) That if the judgment were registered the registration would not be or be liable to be set aside under section 6 of the Act :
- (e) The full name, title, trade, or business, and the usual or last-known place of abode or of business of the judgment creditor and the judgment debtor respectively, and if such place of abode or of business of the judgment debtor is in New Zealand the distance thereof from the office of the Court in which the application for registration is filed :
- (f) The means of information and belief of the deponent as to the matters deposed to.

Partial Registration.

14. Where a judgment is in respect of different matters and 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, an affidavit shall be filed stating the provisions in respect of which it is sought to register the judgment.

Further Evidence.

15. The application for registration shall be accompanied by such other evidence with respect to the matters referred to in paragraph (c) of Rule 12 hereof and paragraph (c) of Rule 13 hereof as may be required having regard to the provisions of any Order in Council extending the Act to the country of the original Court.

Security for Costs.

16. Save as otherwise provided by any relevant Order in Council the Judge may, in respect to an application for registration, order the judgment creditor to find security for the costs of the application and of any proceedings which may thereafter be brought to set aside the registration.

Order on Application for Registration.

17. (1) An order giving leave to register a judgment shall be drawn up by, or on behalf of, the judgment creditor.
(2) No such order shall require to be served on the judgment debtor.