

Revised Canadian Statute on Judgment Enforcement

Two years ago, the Uniform Law Conference of Canada (ULCC) released a revised version of the Court Jurisdiction and Proceedings Transfer Act (CJPTA), model legislation putting the taking of jurisdiction and staying of proceedings on a statutory footing. The statute is available [here](#).

The ULCC has now released a revised version of another model statute, the Enforcement of Canadian Judgments Act (ECJA). The original version of this statute was prepared in 1998 and had been amended four times. It has now been consolidated and substantially revised. It is available [here](#) and background information is available [here](#) and [here](#).

Disclosure: I was the lead researcher and a member of the Working Group for the revised ECJA.

The ECJA is based on the general rule that a party seeking to enforce a Canadian judgment in a province or territory that has enacted the ECJA should face no additional substantive or procedural barriers beyond those that govern the enforcement of judgments of the local courts.

The core features of the ECJA are unchanged. The statute allows for the registration of a Canadian judgment (a defined term: s 1). This is an alternative from the common law process of suing on the judgment. Registration is a simple administrative process (s 4) and makes the judgment enforceable as if it were a judgment of the province or territory in which it is registered (s 5). The aim is to make the enforcement of Canadian judgments easier.

Another core feature is also unchanged. The defendant cannot, at the registration stage, object to the jurisdiction of the court that rendered the judgment (s 7(4)(a)). Any challenge to the jurisdiction of that court must be made in the province or territory in which the plaintiff has chosen to sue.

What has changed? First, the commentaries to the statutory provisions have been extensively revised. In part this reflects the many developments that have occurred over the past thirty years. Second, a new provision (s 1(3)(f)) makes it

clear that the scheme does not apply to a judgment that itself recognizes or enforces a judgment of another province, territory or foreign jurisdiction. This precludes registering so-called “ricochet” judgments. There had been some debate in the jurisprudence about whether the scheme applies to such judgments. Third, a clearer process has been established (s 7(1)) for setting aside a registration (for example, if the judgment does not in fact meet the requirements for registration). Fourth, there are some smaller changes to provisions dealing with the calculation of post-judgment interest (s 8) and costs of the registration process (s 9).

In addition, an optional defence to registration has been added (s 7(2)(a)(ii)). The defence protects individual defendants who are resident in the place of registration against certain judgments in consumer and employment litigation. Such a defence is not, in general, available under the current statutory schemes or at common law: these treat consumer and employment litigation similar to all other civil litigation rather than as a special case. The defence is optional in that it is left to an enacting province or territory to decide whether to implement it.

It will now fall to the provinces and territories that have enacted the ECJA to determine how to respond to these changes. A version of the statute is in force in several provinces and territories including British Columbia, Manitoba, Nova Scotia and Saskatchewan. It will also be interesting to see if the revised and updated version generates any interest in the provinces and territories that did not enact the earlier version (which include Alberta, Ontario and Quebec).

The expectation is that the ULCC will now turn its attention to revising its third model statute in this area, the Enforcement of Foreign Judgments Act (available [here](#)).