

1971 No. 1039**JUDGMENTS****The Reciprocal Enforcement of Foreign Judgments
(Israel) Order 1971**

Made - - - - - 23rd June 1971
Coming into Operation 26th July 1971

At the Court at Buckingham Palace, the 23rd day of June 1971

Present,

The Queen's Most Excellent Majesty in Council

Whereas by section 1 of the Foreign Judgments (Reciprocal Enforcement) Act 1933(a) Her Majesty, if She is satisfied that, in the event of the benefits conferred by Part I of the said Act being extended to judgments given in the superior courts of any foreign country, substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of judgments given in the superior courts of the United Kingdom, is empowered to direct by Order in Council that Part I of the said Act shall extend to that foreign country and that such courts of that foreign country as are specified in the Order shall be deemed to be superior courts of that country for the purposes of the said Part I:

And whereas by section 3 of the said Act it is provided that rules of court made for the purposes of that Act shall have effect subject to any such provisions contained in Orders in Council made under section 1 of the said Act 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 for the purposes of that Act:

And whereas a Convention, a copy whereof is set out in the Schedule to this Order, relating to the Reciprocal Recognition and Enforcement of Judgments in Civil Matters, signed at London on 28th October 1970, has been ratified by the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Israel:

And whereas Her Majesty is satisfied that, in the event of Part I of the said Act being extended to judgments given in the superior courts of Israel, substantial reciprocity of treatment will, under the terms of the said Convention, be assured as respects the enforcement in Israel of judgments given in the superior courts of the United Kingdom; and is accordingly minded to direct that Part I of the said Act shall extend to Israel:

And whereas it is expedient to specify the Courts in Israel which are, for the purposes of that Act, to be deemed to be superior courts, and necessary, in order to give effect to the said Convention, to make certain provisions in relation to matters with respect to which there is power to make rules of court for the purposes of the said Act:

Now, therefore, Her Majesty, by virtue and in exercise of Her powers under the said Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Reciprocal Enforcement of Foreign Judgments (Israel) Order 1971 and shall come into operation on 26th July 1971.

2. Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 shall extend to Israel.

3. The following courts of Israel shall be deemed superior courts of Israel for the purposes of Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933, that is to say:—

The Supreme Court ;
The District Courts ;
Rabbinical Courts ;
Moslem Religious Courts ;
Christian Religious Courts ;
Druze Religious Courts.

4. No security for costs shall be required to be given by any person making application for the registration of a judgment of a superior court of Israel.

5. A judgment of a superior court of Israel shall, in the absence of proof to the contrary, be deemed to be capable of execution in Israel if a certified copy of the judgment is produced authenticated by the court stamp and accompanied by a certificate issued by an officer of the original court that it is capable of execution in Israel.

6. The rate of interest due under the law of Israel upon the sum in respect of which a judgment of a superior court of Israel is given shall be deemed to be that specified in the judgment or any certificate of the original court accompanying the judgment and, if no rate is so specified, no interest shall be deemed to be due thereon under the law of Israel.

7. A translation of the judgment of a superior court of Israel or of any other document accompanying an application for registration of such a judgment shall, if certified by a notary or by a diplomatic or consular officer of either the United Kingdom or Israel, be accepted without further authentication.

W. G. Agnew.

SCHEDULE
CONVENTION
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF ISRAEL PROVIDING FOR THE
RECIPROCAL RECOGNITION AND ENFORCEMENT OF
JUDGMENTS IN CIVIL MATTERS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Israel ;

Desiring to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil matters ;

Have agreed as follows :

General

ARTICLE 1

For the purposes of this Convention :

- (a) "territory" shall be interpreted in accordance with the provisions of Article 10 ;
- (b) "judgment" means any decision of a court, however described (judgment, order or the like), by which the rights of the parties are determined and which cannot be altered by that court. It includes judgments against which an appeal may be pending or which may still be subject to appeal in the courts of the country of the original court. If the amount of the costs or interest to be paid under a judgment is not fixed by the judgment itself but by a separate court order, such order shall be deemed to be part of the judgment for the purposes of this Convention ;
- (c) "original court" means in relation to any judgment the court by which such judgment was given ; and "court applied to" the court in which it is sought to obtain recognition of a judgment or to which an application for the registration of a judgment or for the grant of an enforcement declaration is made ;
- (d) "judgment debtor" means the person against whom the judgment was given in the original court and includes, where necessary, any person against whom such judgment is enforceable under the law of the country of the original court ;
- (e) "judgment creditor" means the person in whose favour the judgment was given and includes, where necessary, any other person in whom the rights under the judgment have become vested under the law of the country of the original court ;
- (f) "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.

ARTICLE 2

(1) Subject to the provisions of paragraph (2) of this Article, this Convention shall apply to judgments in any civil proceedings, and to judgments in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party, given after the date of the entry into force of this Convention by the following courts:

- (a) in the case of the United Kingdom, the House of Lords ; for England and Wales, the Supreme Court of Judicature (Court of Appeal and High Court of Justice) and the Courts of Chancery of the Counties Palatine of Lancaster and Durham ; for Scotland, the Court of Session and the Sheriff Court ; and for Northern Ireland, the Supreme Court of Judicature ; and
- (b) in the case of Israel, the Supreme Court, the District Courts, Rabbinical Courts, Moslem Religious Courts, Christian Religious Courts and Druze Religious Courts.

(2) This Convention shall not apply to:

- (a) judgments given on appeal from courts not referred to in paragraph (1) of this Article ;
- (b) judgments given in proceedings for the recovery of taxes or other charges of a like nature or for the recovery of a fine or other penalty ;
- (c) judgments given in proceedings arising out of injury or damage falling within the definition of " nuclear damage " in the Vienna Convention of the 21st of May, 1963 on Civil Liability for Nuclear Damage(a).

(3) This Convention shall not preclude the recognition and enforcement in the territory of one Contracting Party, in accordance with the municipal law for the time being in force in the country concerned, of judgments given by any court in the territory of the other Contracting Party, being judgments to which this Convention does not apply or judgments given in circumstances where the provisions of this Convention do not require such recognition or enforcement.

Recognition of judgments

ARTICLE 3

(1) For the purposes of this Convention, the recognition of a judgment means that the judgment shall be treated as conclusive as to the matter thereby adjudicated upon in any further action as between the same parties (judgment creditor and judgment debtor).

(2) Judgments given in the territory of one Contracting Party shall be recognised in the territory of the other subject to the provisions of paragraphs (3), (4) and (5)

of this Article and where no objection to the judgment can be established on any of the following grounds:

- (a) in the case in question, the jurisdiction of the original court is not recognised under the provisions of Article 4;
- (b) 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, or if it is proved to the court applied to that he was not afforded a reasonable opportunity to present his arguments and to produce his evidence;
- (c) the judgment was, in the opinion of the court applied to, obtained by fraud;
- (d) the recognition of the judgment is likely to prejudice the sovereignty or safety of the State or would be contrary to public policy;
- (e) 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;
- (f) the judgment is sought to be enforced against a person who, under the rules of public international law, is entitled to immunity from the jurisdiction of the court applied to.

(3) Where the court applied to is satisfied that proceedings by way of appeal have been instituted against the judgment in the country of the original court, or that such proceedings have not been actually instituted, but the time for appeal has not elapsed under the law of that country, the court applied to may, in so far as the law of its country permits, recognise the judgment, refuse to recognise the judgment or adjourn its decision on the recognition of the judgment so as to allow the judgment debtor an opportunity of completing or of instituting such proceedings.

(4) Where the court applied to 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 judgment by a court having jurisdiction in the matter, the court applied to may refuse to recognise the judgment of the original court.

(5) Where the court applied to is satisfied that, at the time when proceedings were instituted in the original court in the matter in dispute, proceedings as to the same matter between the same parties were pending before any court or tribunal of the country of the court applied to, the latter may refuse to recognise the judgment of the original court.

ARTICLE 4

(1) For the purposes of sub-paragraph (a) of paragraph (2) of Article 3, the courts of the country of the original court shall, subject to the provisions of

paragraphs (2) to (5) of this Article, be recognised as possessing jurisdiction in all cases :

- (a) if the judgment debtor, being a defendant in the proceedings 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 ; or
- (b) if the judgment debtor was plaintiff or counter-claimant in the proceedings in the original court ; or
- (c) if the judgment debtor, being a defendant in the proceedings 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 ; or
- (d) if the judgment debtor, being a defendant in the original court, was, at the time when the proceedings were instituted, resident, or being a body corporate had its principal place of business, in the country of that court ; or
- (e) 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.

(2) The provisions of paragraph (1) of this Article shall not apply to judgments where the subject matter of the proceedings was immovable property, unless such property was situated in the country of the original court.

(3) The provisions of paragraph (1) of this Article shall not apply to judgments given in actions of which the subject matter was ships, aircraft or their cargo, if, according to the law of either Contracting Party, they are conclusive not only against the parties to the proceedings but also against any other person claiming an interest in such ships, aircraft or their cargo inconsistent with the judgment. The jurisdiction of the original court shall, however, be recognised if such ships, aircraft or their cargo were situated in the country of the original court at the time of the commencement of the proceedings in that court.

(4) The jurisdiction of the original court need not be recognised in the cases specified in sub-paragraphs (d) and (e) of paragraph (1) and in paragraphs (2) and (3) of this Article, 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 the original court.

(5) The provisions of paragraph (1) of this Article shall not apply to judgments in any proceedings concerning matrimonial matters, administration of the estates of deceased persons, bankruptcy, winding up of companies, lunacy, guardianship

of infants or paternity. However, in the case of such judgments, the jurisdiction of the courts of the country of the original court shall be recognised where such recognition is in accordance with the law of the country of the court applied to.

Enforcement of judgments

ARTICLE 5

(1) Subject to the provisions of paragraph (2) of this Article, judgments given in the territory of one Contracting Party shall be enforced by execution in the territory of the other in the manner provided in Articles 6 to 8 of this Convention, provided that the following conditions are fulfilled:

- (a) they are enforceable by execution in the country of the original court ;
- (b) there is payable thereunder a sum of money ;
- (c) the judgment debt has not been wholly satisfied ;
- (d) they are recognised by the court applied to under the provisions of Article 3.

(2) Where the court applied to is satisfied that proceedings by way of appeal have been instituted against the judgment in the country of the original court, or that such proceedings have not been actually instituted, but the time for appeal has not elapsed under the law of that country, the court applied to may, in so far as the law of its country permits, enforce the judgment, refuse to enforce the judgment or adjourn its decision on the enforcement of the judgment so as to allow the judgment debtor an opportunity of completing or of instituting such proceedings.

ARTICLE 6

(1) In order that a judgment given in the courts of Israel may be enforced in the territory within the jurisdiction of the courts of the United Kingdom, an application by a judgment creditor for its registration should, in accordance with the procedure of the court applied to, be made:

- (a) in England and Wales, to the High Court of Justice ;
- (b) in Scotland, to the Court of Session ; and
- (c) in Northern Ireland, to the Supreme Court of Judicature.

(2) The application for registration should be accompanied by:

- (a) a certified copy of the complete judgment authenticated by the court stamp and accompanied by a certificate issued by an officer of the original court that it is capable of execution in the country of that court ;
- (b) an affidavit of the facts required by the rules of the court applied to ;
- (c) a translation into English of any document required by this paragraph certified by a notary or by a diplomatic or consular officer of either Contracting Party.

(3) The documents enumerated in paragraph (2) shall require no further authentication.

(4) If an application is made in accordance with paragraphs (1) and (2) of this Article in respect of a judgment fulfilling the conditions laid down in Article 5, registration shall be granted.

ARTICLE 7

(1) In order that a judgment given in the courts of the United Kingdom may be enforced in the territory within the jurisdiction of the courts of Israel, an application by a judgment creditor for the grant of an enforcement declaration should, in accordance with the procedure of the court applied to, be made to the District Court of Jerusalem.

(2) The application for the grant of an enforcement declaration should be accompanied by:

- (a) a certified copy of the judgment authenticated by the court seal, or in the case of judgments of the Sheriff Court, authenticated by the signature of the Sheriff Clerk ;
- (b) an affidavit of the facts required by the rules of the court applied to ;
- (c) a certificate issued by the original court giving particulars of the proceedings and a statement of the grounds on which the judgment was based, and specifying whether at the date of the issue of the certificate the time for appeal has elapsed without any proceedings by way of appeal having been instituted against the judgment in the United Kingdom ;
- (d) a translation into Hebrew of any document required by this paragraph certified by a sworn translator or by a diplomatic or consular officer of either Contracting Party.

(3) The documents enumerated in paragraph (2) shall require no further authentication.

(4) If an application is made in accordance with paragraphs (1) and (2) of this Article in respect of a judgment fulfilling the conditions laid down in Article 5, an enforcement declaration shall be granted.

ARTICLE 8

(1) From the date on which it is granted registration under Article 6 or an enforcement declaration under Article 7 a judgment shall, for the purpose of its execution by virtue of that grant, have effect in the country of the court applied to as if it were a judgment originally given in that country on that date.

(2) The procedure for the registration of a judgment under Article 6 and the procedure for the grant of an enforcement declaration of a judgment under Article 7 shall be as simple and rapid as possible, and no security for costs shall be required of any person making application for such registration or for the grant of an enforcement declaration.

(3) A period of not less than six years, running from the date of the judgment of the original court if no appeal has been brought to a higher court in the country of the original court or from the date of the judgment given in the last instance if such an appeal has been brought, shall be allowed by the court applied to for the purpose of making any application for registration or for a grant of an enforcement declaration.

(4) if it is found by the court applied to that the judgment of the original court is in respect of different matters and that one or more, 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 or could have been granted an enforcement declaration, the judgment may be registered or granted an enforcement declaration in respect only of the provisions aforesaid.

(5) If it is found by the court applied to that the judgment has been, at the date of the application, partly but not wholly satisfied by payment, the judgment shall be registered or an enforcement declaration shall be granted in respect of the balance remaining payable at that date, provided that the judgment is otherwise one which would be enforceable under the provisions of this Convention.

(6) If under a judgment a sum of money is payable which is expressed in a currency other than that of the country of the court applied to, the law of the country of the court applied to shall determine if, and if so in what manner and in what conditions, the amount payable under the judgment may or shall be converted into the currency of the country of the court applied to for the purposes of the satisfaction or enforcement of the judgment debt.

(7) When granting registration or an enforcement declaration, the court applied to shall, if so requested by the judgment creditor, include the costs of an incidental to registration or the grant of an enforcement declaration.

(8) Where a judgment is granted registration or an enforcement declaration it shall carry, in respect of the period up to the date of the grant, interest at the rate, if any, specified in the judgment or in any certificate of the original court accompanying the judgment. As from the date of the grant, interest shall be allowed at 4 per cent. per annum on the total sum (principal and interest) in respect of which the registration or the enforcement declaration is granted.

Final provisions

ARTICLE 9

Any difficulties which may arise in connexion with the interpretation or application of this Convention shall be settled through the diplomatic channel.

ARTICLE 10

(1) This Convention shall apply in the case of the Government of the United Kingdom of Great Britain and Northern Ireland to the territory within the jurisdiction of the courts of England and Wales, Scotland and Northern Ireland, and in the case of the Government of Israel, to the territory within the jurisdiction of the courts of Israel.

(2) The Government of the United Kingdom may, by a notification given through the diplomatic channel, at any time while this Convention is in force, and provided that an agreement has been concluded by an Exchange of Notes on the points mentioned in paragraph (3) of this Article, extend the operation of this Convention to any territory for whose international relations the Government of the United Kingdom are responsible.

(3) Prior to any notification of extension in respect of any territory under the preceding paragraph, an agreement shall be concluded between the Contracting Parties by an Exchange of Notes as to the courts of the territory concerned which shall be courts to whose judgments this Convention shall apply, and the courts to which application for the registration of any judgment shall be made.

(4) The date of the coming into force of any extension under this Article shall be three months from the date of the notification given under paragraph (2) of this Article.

(5) Either of the Contracting Parties may, at any time after the expiry of three years from the coming into force of an extension of this Convention to any of the territories referred to in paragraph (2) of this Article, terminate such extension on giving six months' notice of termination through the diplomatic channel.

(6) The termination of this Convention under Article 11 shall, unless otherwise expressly agreed by both Contracting Parties, also terminate it in respect of any territory to which it has been extended under paragraph (2) of this Article.

ARTICLE 11

This Convention shall be subject to ratification. Instruments of ratification shall be exchanged as soon as possible. The Convention shall come into force three months after the date on which the instruments of ratification are exchanged and shall remain in force for three years after the date of its coming into force. If neither of the Contracting Parties shall have given notice through the diplomatic channel to the other, not less than six months before the expiration of the said period of three years, of intention to terminate the Convention, it shall remain in force until the expiration of six months from the date on which either of the Contracting Parties shall have given notice to terminate it.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at London this 28th day of October, 1970, corresponding to the 28th day of Tishri, 5731, in the English and Hebrew languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

For the Government of Israel:

JOSEPH GODBER

MICHAEL COMAY

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 to the judgments of the superior courts of Israel and makes certain provisions regarding the registration and enforcement of such judgments.

Relevant judgments given on or after the 26th July 1971 will be enforceable in the United Kingdom upon registration in the High Court, the Court of Session or the Supreme Court of Judicature in Northern Ireland.

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