
STATUTORY INSTRUMENTS

1995 No. 2708

JUDGMENTS

**The Reciprocal Enforcement of Foreign
Judgments (Canada) (Amendment) Order 1995**

Made - - - - *18th October 1995*
Coming into force - - *1st December 1995*

At the Court at Buckingham Palace, the 18th day of October 1995

Present,

The Queen's Most Excellent Majesty in Council

Whereas a Convention relating to the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters, signed at Ottawa on 24th April 1984, was ratified on 1st October 1986 by Her Majesty and the Government of Canada and entered into force on 1st January 1987⁽¹⁾:

And whereas by section 9(2) of the Civil Jurisdiction and Judgments Act 1982⁽²⁾, as amended by the Civil Jurisdiction and Judgments Act 1991⁽³⁾, Her Majesty may declare a provision of a convention entered into by the United Kingdom to be a provision whereby the United Kingdom assumed an obligation of a kind provided for in Article 59 of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters opened for signature at Lugano on 16th September 1988 ("the 1988 Convention"):

And whereas Her Majesty and the Government of Canada have agreed in an Exchange of Notes dated 7th November 1994 and 17th February 1995⁽⁴⁾, in circumstances permitted by Article 59 of the 1988 Convention, that the United Kingdom would not recognise or enforce under that Convention certain judgments given in a third state which is a party to that Convention against a person domiciled or habitually resident in Canada:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the Foreign Judgments (Reciprocal Enforcement) Act 1933⁽⁵⁾ and section 9(2) of the Civil Jurisdiction and Judgments Act 1982 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) The text of the Convention is set out in the Schedule to S.I. 1987/468. That Order has been amended by S.I. 1987/2211, 1988/1304 and 1853, 1989/987, 1991/1724 and 1992/1731.
(2) 1982 c. 27.
(3) 1991 c. 12.
(4) Cmnd. 2894.
(5) 1933 c. 13.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

1. This Order shall come into force on 1st December 1995 and may be cited as the Reciprocal Enforcement of Foreign Judgment (Canada) (Amendment) Order 1995.

2. The text of the Convention as set out in the Schedule to the Reciprocal Enforcement of Foreign Judgments (Canada) Order 1987 shall be amended as follows:

- (a) after Article I(i) there shall be added the following “(j) “the 1988 Convention” means the Convention of 16th September 1988 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, signed at Lugano.”;
- (b) in Article II, paragraph 1, after the words “1968 Convention” there shall be added the words “or to the 1988 Convention.”;
- (c) the following shall be substituted for paragraph 1 of Article IX:

“1. The United Kingdom undertakes, in the circumstances permitted by Article 59 of the 1968 Convention and by Article 59 of the 1988 Convention, not to recognise or enforce under either of those Conventions any judgment given in a third state against a person domiciled or habitually resident in Canada.”.

3. It is hereby declared that Article IX of the Convention set out in the Schedule to the 1987 Order, the text of which is amended by Article 2 of this Order, is a provision of a convention whereby the United Kingdom assumed an obligation of the kind provided for in Article 59 of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, opened for signature at Lugano on 16th September 1988.

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

In an Exchange of Notes the Governments of the United Kingdom and Canada agreed to amend the Convention between them on the reciprocal enforcement of judgments to provide for the assumption by the United Kingdom of an obligation of a kind provided for in Article 59 of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Lugano on 16th September 1988, and implemented by the Civil Jurisdiction and Judgments Act 1982, as amended. Under this agreement the United Kingdom undertakes that it will not recognise or enforce judgments given against persons domiciled or habitually resident in Canada by other States parties to the 1988 Convention if the judgment could only have been based on a ground of jurisdiction specified in Article 3 of that Convention (which specifies certain exorbitant grounds of jurisdiction). This Order amends the text of the Convention as set out in the Schedule to the 1987 Order to reflect the Exchange of Notes and makes a declaration in terms of section 9(2) of the 1982 Act.