

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT

CHAPTER 76 OF THE LAWS OF ZAMBIA

**CHAPTER 76 THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT)
ACT**

THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT

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CHAPTER 76

FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT)

An Act to make provision for the enforcement in the Republic of judgments given in foreign countries which accord reciprocal treatment to judgments given in the Republic, for facilitating the enforcement in foreign countries of judgments given in the Republic and for other purposes in connection with the matters aforesaid.

5 of 1937
12 of 1959
41 of 1960
Government Notices
303 of 1964
497 of 1964
Statutory Instrument
152 of 1965

[16th July, 1937]

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Foreign Judgments (Reciprocal Enforcement) Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation

"appeal" includes any proceedings 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 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;

"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;

"registering court", in relation to any judgment, means the court to which an application to register the judgment is made;

"registration" means registration under Part II, and "register" and "registered" shall be construed accordingly.

(2) For the purposes of this Act, the expression "action *in personam*" shall not be deemed to include any matrimonial cause or any proceedings in connection with any of the following matters, that is to say, matrimonial matters, administration of the estates of deceased persons, bankruptcy, winding up of companies, lunacy or guardianship of infants.

(As amended by G.N. No. 303 of 1964 and S.I. No. 152 of 1965)

PART II REGISTRATION OF FOREIGN JUDGMENTS PART II

REGISTRATION OF FOREIGN JUDGMENTS

3. (1) The President, 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 foreign country, substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of judgments given in the High Court, may by statutory order direct-

Power to extend Part II to foreign countries giving reciprocal treatment

(a) that this Part shall extend to that foreign country; and

(b) that such courts of that foreign country as are specified in the order shall be deemed superior courts of that country for the purposes of this Part.

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(2) Any judgment of a superior court of a foreign country to which this Part extends, 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 the parties thereto; and
- (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) it is given after the commencement of the order directing that this Part shall extend to that foreign country.

(3) 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.

(4) The President may by a subsequent statutory order vary or revoke any order previously made under this section.

(As amended by G.N. No. 303 of 1964 and S.I. No. 152 of 1965)

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:

Application for, and effect of, registration of foreign judgment

Provided that a judgment shall not be registered if at the date of the application-

- (i) it has been wholly satisfied; or
- (ii) 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; and
- (b) proceedings may be taken on a registered judgment; and
- (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 thereunder, 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 the currency of the Republic, the judgment shall be registered as if it were a judgment for such sum in the currency of the Republic 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.

(As amended by S.I. No. 152 of 1965)

5. (1) The power to make rules of court under the High Court Act shall, subject to the provisions of this section, include power to make rules for the following purposes:

Rules of court.
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- (a) for making provisions with respect to the giving of security for costs by persons applying for the registration of judgments;
- (b) for prescribing the matters to be proved on an application for the registration of a judgment and for regulating the mode of proving those matters;

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

(2) Rules made for the purposes of this Part shall be expressed to have, and shall have, effect subject to any such provisions contained in orders made under section *three* as are declared by the said orders to be necessary for giving effect to agreements made between the Government and foreign countries, in relation to matters with respect to which there is power to make rules of court for the purposes of this Part.

(As amended by No. 41 of 1960, G.N. No. 303 of 1964 and S.I. No. 152 of 1965)

6. (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-

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

- (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 the foregoing provisions of this Act; or
 - (ii) that the courts of the country of the original court had no jurisdiction in the circumstances of the case; or
 - (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; or
 - (iv) that the judgment was obtained by fraud; or
 - (v) that the enforcement of the judgment would be contrary to public policy in the Republic; or
 - (vi) that the rights under the judgment are not vested in the person by whom the application for registration was made;
- (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 the provisions of 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; or
 - (ii) if the judgment debtor was plaintiff in, or counter-claimed in, the proceedings in the original court;
or
 - (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; or
 - (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;
- (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 recognised by the law of the registering court.

(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; or
- (b) except in the cases mentioned in sub-paragraphs (i), (ii) and (iii) of paragraph (a) and in paragraph (c) of subsection (2), 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.

7. (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 a competent tribunal.

Powers of registering court on application to set aside registration

(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.

8. No proceedings for the recovery of a sum payable under a foreign judgment, 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 the Republic.

Foreign judgments which can be registered not to be enforceable otherwise

9. (1) The President may by statutory order direct that this Part shall apply to Her Britannic Majesty's dominions and to judgments obtained in the courts of the said dominions as it applies to foreign countries and to judgments obtained in the courts of foreign countries, and, in the event of the President so directing, this Act shall have effect accordingly and the British and Colonial Judgments Act, Chapter 16 of the 1959 Edition of the Laws, shall cease to have effect except in relation to those parts of the said dominions to which it extends at the commencement of the order.

Power to apply Part II to British dominions, protectorates and mandated territories

(2) If, at any time after the President has directed as aforesaid, an order is made under section *three* extending this Part to any part of Her Britannic Majesty's dominions to which the British and Colonial Judgments Act, Chapter 16 of the 1959 Edition of the Laws, extends as aforesaid, the said Act shall cease to have effect in relation to that part of Her Britannic Majesty's dominions, except as regards judgments obtained before the commencement of the order.

(3) References in this section to Her Britannic Majesty's dominions shall be construed as including references to any British protectorate or protected state and any territory in respect of which a mandate on behalf of the League of Nations has been accepted by Her Britannic Majesty.

(As amended by G.N. No. 303 of 1964 and S.I. No. 152 of 1965)

10. Where an order is made extending this Part to any part of Her Britannic Majesty's dominions to which the British and Colonial Judgments Act, Chapter 16 of the 1959 Edition of the Laws, has been extended, this Part shall, in relation to that part of Her Britannic Majesty's dominions, have effect as if-

Interpretation of Part II

- (a) the expression "judgment" included an award in proceedings on an arbitration if the award has, in pursuance of 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;
- (b) the fact that a judgment was given before the commencement of the order did not prevent it from being a judgment to which this Part applies, but the time limited for the registration were, in the case of a judgment so given, twelve months from the date of the judgment or such longer period as may be allowed by the High Court;
- (c) any judgment registered in the High Court under the British and Colonial Judgments Act, Chapter 16 of the 1959 Edition of the Laws, before the commencement of the order, had been registered in the High Court under this Part, and anything done in relation thereto under the British and Colonial Judgments Act, Chapter 16 of the 1959 Edition of the Laws, or any rules of court or other provisions applicable to the said Act, had been done under this Part or the corresponding rules of court or other provisions applicable to this Part.

(No. 12 of 1959 as amended by G.N. No. 303 of 1964 and S.I. No. 152 of 1965)

PART III MISCELLANEOUSPART III

MISCELLANEOUS

11. (1) Subject to the provisions of 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 recognised in any court in the Republic 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.

General effect of certain foreign judgments

(2) This section shall not apply in the case of any judgment-

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- (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; or
 - (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 the Republic recognising any judgment as conclusive of any matter of law or fact decided therein if that judgment would have been so recognised before the commencement of this Act.

12. (1) If it appears to the President that the treatment in respect of recognition and enforcement accorded by the courts of any foreign country to judgments given in the High Court is substantially less favourable than that accorded by the courts of the Republic to judgments of the superior courts of that country, the President may by statutory order apply this section to that country.

Power to make foreign judgments unenforceable in the Republic if no reciprocity

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

(3) The President may by a subsequent statutory order vary or revoke any order previously made under this section.

(As amended by G.N. No. 303 of 1964)

13. 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 foreign 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 fixed for the purpose of this section under the High Court Act, 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:

Issue of certificates of judgments obtained in the Republic
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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.

(As amended by S.I. No. 152 of 1965)

SUBSIDIARY LEGISLATION

FOREIGN JUDGMENTS

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(RECIPROCAL ENFORCEMENT)

**SECTION 3-THE JUDGMENTS (RECIPROCAL ENFORCEMENT)
(GILBERT AND ELLICE ISLANDS COLONY) ORDER**

*Government Notice
29 of 1958*

1. This Order may be cited as the Judgments (Reciprocal Enforcement) (Gilbert and Ellice Islands Colony) Order.

Title

2. It is hereby directed that Part II of the Act shall extend to the Gilbert and Ellice Islands Colony.

Extension of Part II of
Act

3. It is hereby further directed that the following court shall be deemed to be a superior court of the said Colony for the purposes of Part II of the Act:

Superior court for
purposes of Part II of
Act

Her Britannic Majesty's High Commissioner's Court for the Western Pacific.

**SECTION 3-THE JUDGMENTS (RECIPROCAL ENFORCEMENT)
(BRITISH SOLOMON ISLANDS PROTECTORATE) ORDER**

*Government Notice
30 of 1958*

1. This Order may be cited as the Judgments (Reciprocal Enforcement) (British Solomon Islands Protectorate) Order.

Title

2. It is hereby directed that Part II of the Act shall extend to the British Solomon Islands Protectorate.

Extension of Part II of
Act

3. It is hereby further directed that the following court shall be deemed to be a superior court of the said Protectorate for the purposes of Part II of the Act:

Superior court for
purposes of Part II of
Act

Her Britannic Majesty's High Commissioner's Court for the Western Pacific.

THE FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) RULES

ARRANGEMENT OF RULES

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SECTION 5-THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) RULES

Rules by the High Court

Government Notices
68 of 1958
303 of 1964
Statutory Instrument
52 of 1965

1. These Rules may be cited as the Foreign Judgments (Reciprocal Enforcement) Rules. **Title**

2. In these Rules, unless the context otherwise requires- **Interpretation**

"Order" means a statutory order made under section *three* of the Act.

(As amended by No. 303 of 1964)

3. An application under section *three* of the Act to have a foreign judgment to which Part II of the Act applies registered in the High Court may be made *ex parte* to the Court or a Judge.

Application for
registration

4. (1) An application for registration shall be supported by an affidavit of the facts-

Evidence in support of
application

- (a) exhibiting a certified copy of the judgment issued by the original court and authenticated by its seal and a translation of the judgment certified by a notary public or authenticated by affidavit;
- (b) stating to the best of the information and belief of the deponent-
 - (i) that the applicant is entitled to enforce the judgment;
 - (ii) 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;
 - (iii) that at the date of the application the judgment can be enforced by execution in the country of the original court;
 - (iv) that if the judgment were registered, the registration would not be, or be liable to be, set aside under section *six* of the Act;
- (c) specifying the amount of the interest, if any, which under the law of the country of the original court has become due under the judgment up to the time of registration;

and shall be accompanied by such other evidence with respect to the matters referred to in sub-paragraph (iii) of paragraph (b) or paragraph (c) as may be required having regard to the provisions of the Order extending the Act to the country of the original court.

(2) Where the sum payable under the judgment is expressed in a currency other than the currency of the Republic, the affidavit shall also state the amount which that sum represents in the currency of the Republic calculated at the rate of exchange prevailing at the date of the judgment.

(3) The affidavit shall also state 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, so far as known to the deponent.

(4) 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, the affidavit shall state the provisions in respect of which it is sought to register the judgment.

(As amended by No. 303 of 1964 and No. 152 of 1965)

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5. Save as otherwise provided by any relevant Order, the Court or a 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.

Security for costs

(As amended by No. 303 of 1964)

6. The affidavit, if any, shall be intituled:

Title of affidavit and summons

In the matter of the Foreign Judgments (Reciprocal Enforcement) Act, and in the matter of a judgment of the (describing the court) obtained in (describing the cause or matter) and dated the day of 19.....

7. (1) An order giving leave to register a judgment shall be drawn up by, or on behalf of, the judgment creditor.

Order on application for registration

(2) No such order shall require to be served on the judgment debtor.

(3) Every such order shall state the period within which an application may be made to set aside the registration and shall contain a notification that execution on the judgment will not issue until the expiration of that period.

(4) The Court or a Judge may, on an application made at any time while it remains competent for any party to apply to have the registration set aside, grant an extension of the period (either as originally fixed or as subsequently extended) during which an application to have the judgment set aside may be made.

8. There shall be kept in the Principal Registry of the High Court at Lusaka by, or under the direction of, the Registrar a register of the judgments ordered to be registered under the Act.

Register of judgments

9. (1) Notice in writing of the registration of a judgment must be served on the judgment debtor-

Notice of registration

- (a) if within the jurisdiction, by personal service as in the case of a writ of summons, unless some other mode of service is ordered by the Court or a Judge;
- (b) if out of the jurisdiction, in accordance with the rules applicable to the service of a writ of summons out of jurisdiction, save that special leave to serve out of the jurisdiction shall not be required.

(2) The notice of registration shall state-

- (a) full particulars of the judgment registered and the order for registration; and
- (b) the name and address of the judgment creditor or his solicitor or agent on whom, and at which, any summons issued by the judgment debtor may be served; and
- (c) the right of the judgment debtor to apply on the grounds provided in the Act to have the registration set aside; and
- (d) in accordance with the terms of the order giving leave to register, within what time from the date of service of the notice an application to set aside may be made.

10. (1) Within three days from the day of service or within such extended period as may, in special circumstances, be allowed by order of a Judge, the notice or a copy or duplicate thereof shall be endorsed by the person serving the same with the day of the month and of the week on which service was effected, and, if the notice is not so endorsed, the judgment creditor shall not be at liberty to issue execution on the judgment without the leave of the Court or a Judge.

Endorsement of
service

(2) Every affidavit of service of any such notice shall state on what day such endorsement was made.

11. (1) An application to set aside the registration of a judgment shall be made by summons to the Court or a Judge supported by affidavit.

Application to set
aside registration

(2) A summons for the purpose of this rule shall be an ordinary summons entitled in the same manner as the affidavit referred to in rule 6.

(3) On any such application, the Court or a Judge may direct that an issue between the judgment creditor and the judgment debtor shall be stated and tried and may give such directions in relation to the trial of such issue as may be necessary.

12. (1) Execution shall not issue on a registered judgment until after the expiration of the period which, in accordance with the provisions of rule 7 (3), is specified in the order giving leave to register as the period within which an application may be made to set aside the registration, or, if an order is made extending the period so specified, until after the expiration of the extended period.

Issue of execution

(2) If an application is made to set aside the registration of a judgment, execution shall not issue until such application has been disposed of.

(3) The party desirous of issuing an execution upon a registered judgment shall produce to the proper officer an affidavit of the service of the notice of registration and of any order made by the court in relation to the judgment registered.

13. In the case of a registered judgment the form of a writ of execution shall be varied as follows:

Form of writ of execution

For the words "which said sum of money and interest were lately before us in the High Court for Zambia", etc., there shall be substituted the words "which said sum of money and interest were lately in (describing the court in which judgment was obtained)", etc., "and which judgment has been duly registered in the High Court for Zambia pursuant to Part II of the Foreign Judgments (Reciprocal Enforcement) Act".

(As amended by No. 152 of 1965)

14. If, whether under the Act or under these Rules, any question arises whether a foreign judgment can be enforced by execution in the country of the original court, or what interest is payable under the foreign judgment under the law of that country, that question shall be determined in accordance with such provisions, if any, in that behalf, as are contained in the Order extending the Act to that country.

Determination of certain questions

(As amended by No. 303 of 1964)

15. (1) An application under section *twelve* of the Act for a certified copy of a judgment obtained in the High Court shall be made *ex parte* to the Registrar on an affidavit made by the judgment creditor or his solicitor.

Certified copy of High Court judgment

(2) An affidavit for the purposes of this rule shall-

- (a) give particulars of the proceedings in which the judgment was obtained; and
- (b) have annexed to it a copy of the writ of summons or the originating summons by which the proceedings were instituted, the evidence of service thereof upon, or appearance by, the defendant, copies of the pleadings, if any, in the proceedings, and a statement of the grounds on which the judgment was based; and
- (c) state whether the defendant did or did not object to the jurisdiction, and if so, on what grounds; and

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- (d) show that the judgment is not subject to any stay of execution and that no notice of appeal against it has been entered, and whether the time for appealing has expired; and
- (e) state the rate at which the judgment carries interest.

(3) Where an application for a certified copy of judgment is duly made under this rule, there shall be issued an office copy of the judgment sealed with the seal of the High Court and certified by the Registrar as follows:

I certify that the above copy judgment is a true copy of a judgment obtained in the High Court for Zambia and this copy is issued in accordance with section *twelve* of the Foreign Judgments (Reciprocal Enforcement) Act.

Signed
Registrar of the High Court.

together with the following further certificates also under the seal of the High Court and certified by the Registrar:

- (a) a certificate giving particulars of the proceedings in which the judgment was obtained and having annexed to it copies of the writ of summons, or originating summons, by which the proceedings were instituted, showing the manner in which the writ or summons was served on the defendant, or that the defendant appeared thereto, and the objections made to the jurisdiction, if any, the pleadings, if any, in the proceedings, a statement of the grounds on which the judgment was based and such other particulars as it may be necessary to give to the foreign tribunal in which it is sought to obtain execution of the judgment;
- (b) a certificate stating the rate at which the judgment carries interest.

(As amended by No. 152 of 1965)

16. These Rules shall, in relation to any judgment, have effect subject to any such provisions contained in the Order extending the Act to the country of the original court as are declared by the Order to be necessary for giving effect to the agreement made in relation to matters for which provision is made by these Rules.

Rules to have effect subject to Orders

(As amended by No. 303 of 1964)

SECTION 9-THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ORDER

Government Notice
28 of 1958
Statutory Instrument
152 of 1965

1. This Order may be cited as the Foreign Judgments (Reciprocal Enforcement) Order.

Title Application of Part II of Act to Her Britannic Majesty's dominions

The Laws of Zambia

2. It is hereby directed that Part II of the Act shall apply to Her Britannic Majesty's dominions and to judgments obtained in the courts of the said dominions as it applies to foreign countries and to judgments in the courts of foreign countries.

(As amended by No. 152 of 1965)