

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE FOREIGN JUDGMENTS  
RECIPROCAL ENFORCEMENT LAW (1996 REVISION); AND TO  
MAKE PROVISION FOR INCIDENTAL AND CONNECTED MATTERS**

DRAFT

**THE FOREIGN JUDGMENTS RECIPROCAL ENFORCEMENT  
(AMENDMENT) BILL, 2013**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to amend the Foreign Judgments Reciprocal Enforcement Law (1996 Revision) (“the principal Law”) in order to apply the provisions of Part II to the judgments of a superior court of a foreign country without the added requirement of reciprocity.

Clause 1 of the Bill provides the short title and commencement.

Clause 2 amends the short title of the principal Law in keeping with the removal of the requirement for reciprocity in the enforcement of a foreign judgment.

Clause 3 amends the definition of “foreign” in order to remove any limitation in determining which jurisdiction would fall within the scope of the Law. It also introduces a definition of “superior court” in order to remove the need to specifically identify a court in a country or territory as being superior.

Clause 4 amends section 3 of the principal Law by removing the requirement for reciprocity in the enforcement of a judgment of a superior court and it extends the application of Part II to judgments of the superior court of a foreign country.

Clause 5 amends section 4 of the principal Law to make it clear that the court has a discretion in determining whether to register a foreign judgment.

Clause 6 amends section 6 of the principal Law by introducing provisions to prohibit enforcement of a judgment until an application to set aside that judgment has been determined. It also places the burden of proof on the judgment creditor to provide reasons why an application to set aside has no merit.

Clause 7 provides for the savings and transitional provisions.

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**ARRANGEMENT OF CLAUSES**

1. Short title and commencement
2. Amendment of section 1 of the Foreign Judgments Reciprocal Enforcement Law (1996 Revision) - short title
3. Amendment of section 2- definitions and interpretation
4. Amendment of section 3- power to extend Part II to foreign countries giving treatment
5. Amendment of section 4- application for, and effect of registration of foreign judgment
6. Amendment of section 6- cases in which registered judgments must or may be set aside
7. Savings and transitional provisions

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ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Foreign Judgments Reciprocal Enforcement (Amendment) Law, 2013. Short title and commencement  
  
(2) This Law shall come into force on such date as may be appointed by order made by the Governor in Cabinet.
2. The Foreign Judgments Reciprocal Enforcement Law (1996 Revision), in this Law referred to as “the principal Law”, is amended in section 1 by repealing the word “Reciprocal”. Amendment of section 1 of the Foreign Judgments Reciprocal Enforcement Law (1996 Revision) - short title
3. The principal Law is amended in section 2- Amendment of section 2- definitions and interpretation
  - (a) by deleting the definition of the word “foreign” and substituting the following definition-  
“ “foreign” includes any country other than the Islands;” and
  - (b) by inserting in the appropriate alphabetical sequence the following definition-

“ “superior court” means any court other than a court of summary jurisdiction.”.

Amendment of section 3- power to extend Part II to foreign countries giving treatment

4. The principal Law is amended in section 3-

- (a) by deleting the marginal note thereto and substituting the following-

“Judgments to which Part II applies”;

- (b) by repealing subsection (1);  
(c) by repealing subsection (2) and substituting the following subsection-

“(2) A judgment of a superior court of a foreign country 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 between the parties; and  
(b) there is payable a sum of money under the judgment, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or penalty.”; and

- (d) by repealing subsection (4).

Amendment of section 4- application for, and effect of registration of foreign judgment

5. The principal Law is amended in section 4-

- (a) by repealing subsection (1) and substituting the following subsection-

“(1) A person, being a judgment creditor under a judgment to which this Part applies, may apply to the Grand 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 Grand Court, and on any such application the court may, subject to proof of the prescribed matters and to this Law, order the judgment to be registered.”; and

- (b) by inserting after subsection (1), the following subsection-

“(1A) A judgment shall not be registered if at the date of application-

- (a) it has been wholly satisfied; or

- (b) it could not be enforced by execution in the country of the original court.”.

6. The principal Law is amended in section 6 by inserting after subsection (3), the following subsections-

Amendment of section 6- cases in which registered judgments must or may be set aside

“(4) Where a judgment debtor makes an application to set aside a registered judgment, no proceedings shall be commenced to enforce that judgment before a final determination of the judgment debtor’s application.

(5) The court shall make an order staying any proceedings commenced to enforce a registered judgment until a final determination of the judgment debtor’s application.

(6) The judgment creditor shall be required, on a balance of probabilities, to satisfy the court that the circumstances relied upon by the judgment debtor do not justify setting aside the registration and enforcement of a foreign judgment.”.

7. (1) The amendment of section 3 of the former Law by this new Law shall not affect the validity of an order made under that section which was in force immediately before the commencement of the new Law and the order may be varied by a subsequent order made under and in accordance with that former Law as if section 3 of that former Law had not been amended by the new Law.

Savings and transitional provisions

(2) Any common law proceedings which have commenced in relation to the enforcement of a superior court judgment before the new Law comes into force shall continue to be dealt with in all respects as if the new Law had not come into force.

(3) In this section -

“new Law” means the principal Law as amended by this Law; and

“former Law” means the principal Law in force immediately before the date of commencement of this Law.

Passed by the Legislative Assembly the        day of        , 2013.

Speaker.

Clerk of the Legislative Assembly.

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