

SARANJIT SINGH

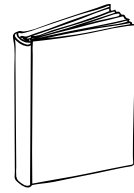
ADVOCATES & SOLICITORS

BACK-TO-BASICS: ENFORCEMENT OF FOREIGN JUDGMENTS IN MALAYSIA



What is a Foreign Judgment?

A court judgment obtained outside Malaysian jurisdiction whereby it can be registered in Malaysia for purposes of enforcement.



Is There a Specific Statute For This?

Yes. It is the Reciprocal Enforcement of Judgments Act ("REJA") 1958.

What Are The Countries Listed in REJA 1958?



United Kingdom



Hong Kong



Singapore



Sri Lanka



India



Brunei



New Zealand

They are known as the reciprocating countries.



Why Enforce in Malaysia?

The foreign judgment can be enforced in Malaysia if its enforcement in the foreign country is unsatisfactory.

Conditions to register a foreign judgment: Section 3(3)

- The judgment is final
- The judgment prescribes for an amount to be paid
- The judgment is given by any of the countries listed in above

What Are The Procedures Laid Down Under Section 4?

- (a) Through an ex-parte application (by Originating Summons and Affidavit in Support) to the High Court made by the Judgment Creditor
- (b) The application must be made within **6** years after the judgment date



Note:

The judgment must not have been satisfied in full and must be capable of being enforced in the foreign jurisdiction where it was obtained.

Can the Judgment Debtor challenge the registration?

Yes. This right is provided under Section 5 and the Judgment Debtor must prove either that:

- REJA does not apply to the judgment
- The original foreign court did not have jurisdiction
- The Judgment Debtor could not defend the matter in the original foreign court due to insufficient notice
- The element of fraud was involved in obtaining the judgment
- The enforcement of the foreign judgment would violate Malaysian public policy
- The rights to enforce the judgment did not vest in the Judgment Creditor when the application was made

What happens after the foreign judgment is registered?

The Judgment Creditor may proceed with its enforcement against the Judgment Debtor.

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