

# BILL NO. 23

(as passed, with amendments)



*2nd Session, 58th General Assembly  
Nova Scotia  
50 Elizabeth II, 2001*

Government Bill

## **Enforcement of Canadian Judgments and Decrees Act**

CHAPTER 30 OF THE ACTS OF 2001

The Honourable Michael G. Baker, Q.C.  
Minister of Justice

[First Reading](#): April 9, 2001 (LINK TO BILL AS INTRODUCED)

Second Reading: November 1, 2001

[Third Reading](#): November 15, 2001 (WITH COMMITTEE AMENDMENTS)

Royal Assent: November 22, 2001



**An Act Respecting the Enforcement  
of Canadian Judgments and Decrees**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Enforcement of Canadian Judgments and Decrees Act*.

**2** In this Act,

(a) "Canadian judgment" means a judgment, decree or order made in a civil proceeding by a court of a province or territory of Canada other than the Province

(i) that requires a person to pay money, including

(A) an order for the payment of money that is made in the exercise of a judicial function by a tribunal of a province or territory of Canada other than the Province and that is enforceable as a judgment of the superior court of unlimited trial jurisdiction in that province or territory, and

(B) an order made and entered under Section 725 of the *Criminal Code* (Canada) in a court of a province or territory of Canada other than the Province,

(ii) under which a person is required to do or not do an act or thing, or

(iii) that declares rights, obligations or status in relation to a person or thing,

but does not include a judgment, decree or order that

(iv) is for maintenance or support, including an order enforceable under the *Maintenance Enforcement Act* or the *Maintenance Orders Enforcement Act*,

(v) is for the payment of money as a penalty or fine for committing an offence,

(vi) relates to the care, control or welfare of a minor,

(vii) is made by a tribunal of a province or territory of Canada other than the Province whether or not it is enforceable as an order of the superior court of unlimited trial jurisdiction of the province or territory where the order was made, to the extent that it provides for relief other than the payment of money, or

(viii) relates to the granting of probate or letters of administration or the administration of the estate of a deceased person;

(b) "enforcement" includes requiring that a Canadian judgment be recognized by any person or authority whether or not further relief is sought;

(c) "enforcing party" means a person entitled to enforce a Canadian judgment in the province or territory where the judgment was made;

(d) "registered Canadian judgment" means a Canadian judgment that is registered under this Act.

**3** This Act applies to

(a) a Canadian judgment made in a proceeding commenced after this Act comes into force; and

(b) a Canadian judgment made in a proceeding commenced before this Act comes into force and in which the party against whom enforcement is sought took part.

**4 (1)** Subject to subsection (2), a Canadian judgment, whether or not the judgment is final, may be registered under this Act for the purpose of enforcement.

**(2)** A Canadian judgment that requires a person to pay money may not be registered under this Act for the purpose of enforcement unless it is a final judgment.

**(3)** A Canadian judgment that also contains provisions for relief that may not be enforced under this Act may be registered under this Act except in respect of those provisions.

**5 (1)** A Canadian judgment is registered under this Act by paying the fee prescribed by regulation and by filing in the registry of the Supreme Court of Nova Scotia

(a) a copy of the judgment, certified as true by a judge, registrar, clerk or other proper officer of the court that made the judgment; and

(b) the additional information or material required by regulation.

**(2)** Law enforcement authorities acting in good faith may, without liability, rely on and enforce a purported Canadian judgment that

(a) was made in a proceeding between spouses or domestic partners having a similar relationship; and

(b) enjoins, restrains, or limits the contact one party may have with the other for the purpose of preventing harassment or domestic violence whether or not the judgment has been registered in the Supreme Court of Nova Scotia under subsection (1).

**6** Subject to Sections 7 and 8, a registered Canadian judgment may be enforced in the Province as if it were an order or judgment of, and entered in, the Supreme Court of Nova Scotia.

**7 (1)** A Canadian judgment that requires a person to pay money must not be registered or enforced under this Act

(a) after the time for enforcement has expired in the province or territory where the judgment was made; or

(b) later than twenty years after the day on which the judgment became enforceable in the province or territory where it was made.

**(2)** Equitable doctrines and rules of law in relation to delay apply to the enforcement of a Canadian judgment, to the extent that it provides for relief other than the payment of money.

**8 (1)** A party to the proceeding in which a registered Canadian judgment was made may apply to the Supreme Court of Nova Scotia for directions respecting its enforcement.

**(2)** On an application under subsection (1), the court may

(a) make an order that the judgment be modified as may be required to make it enforceable in the conformity with local practice;

(b) make an order stipulating the procedure to be used in enforcing the judgment;

(c) make an order staying or limiting the enforcement of the judgment, subject to any terms and for any period the court considers appropriate in the circumstances, if

(i) such an order could be made in respect of an order or judgment of the Supreme Court of Nova Scotia under the *Judicature Act* and the *Civil Procedure Rules*,

(ii) the party against whom enforcement is sought has brought, or intends to bring, in the province or territory where the Canadian judgment was made, a proceeding to set aside, vary or obtain other relief in respect of the judgment,

(iii) an order staying or limiting enforcement is in effect in the province or territory where the Canadian judgment was made, or

(iv) is contrary to public policy in the Province.

**(3)** Notwithstanding subsection (2), the Supreme Court of Nova Scotia shall not make an order staying or limiting the enforcement of a registered Canadian judgment solely on the grounds that

(a) the judge, court or tribunal that made the judgment lacked jurisdiction over the subject-matter of the proceeding that led to the judgment, or over the party against whom enforcement is sought, under

(i) principles of private international law, or

(ii) the domestic law of the province or territory where the judgment was made,

(b) the Supreme Court of Nova Scotia would have come to a different decision on a finding of fact or law or on an exercise of discretion from the decision of the judge or court that made the judgment; or

(c) a defect existed in the process or proceeding leading to the judgment.

**(4)** An application for directions must be made under subsection (1) before any measures are taken to enforce a registered Canadian judgment where

(a) the enforceability of the judgment is, by its terms, subject to the satisfaction of a condition; or

(b) the judgment was obtained *ex parte* without notice to the persons bound by it.

**9 (1)** To the extent that a registered Canadian judgment requires a person to pay money, interest is payable as if it were an order or judgment of the Supreme Court of Nova Scotia.

**(2)** For the purpose of calculating interest payable under subsection (1), the amount owing on the registered Canadian judgment is the total of

(a) the amount owing on that judgment on the date it is registered under this Act; and

(b) interest that has accrued to that date under the laws applicable to the calculation of interest on that judgment in the province or territory where it was made.

**10** An enforcing party is entitled to recover all costs, charges and disbursements

(a) reasonably incurred in the registration of a Canadian judgment under this Act; and

(b) taxed, assessed or allowed by a judge of the Supreme Court of Nova Scotia.

**11** Neither registering a Canadian judgment nor taking other proceedings under this Act affects an enforcing party's right to bring an action on the original cause of action or to register and enforce the Canadian judgment pursuant to the *Reciprocal Enforcement of Judgments Act*.

**12 (1)** The Governor in Council may make regulations

(a) prescribing the fee payable for the registration of a Canadian judgment under this Act;

(b) respecting additional information or material that is to be filed in relation to the registration of a Canadian judgment under this Act;

(c) respecting forms and their use under this Act; and

(d) to do any matter or thing required to effect or assist the operation of this Act.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

**13** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.



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