

Enforcement of Overseas Judgments

Judgments of overseas courts are enforced in the Isle of Man using either the Reciprocal Enforcement Act or the Common Law.

The Judgments (Reciprocal Enforcement) (Isle of Man) Act 1968 ('the Reciprocal Enforcement Act')

The Reciprocal Enforcement Act applies in respect of money judgments from the superior courts of the United Kingdom, Italy, Jersey, Guernsey, Israel, Suriname and the Netherlands.

The judgment creditor can apply for the overseas judgment to be registered in the Isle of Man High Court at any time within six years of the date of the judgment, or where there has been an appeal within six years of the date of the last judgment in those proceedings.

The judgment must be final and conclusive and not be in respect of taxes, a fine or a penalty. Once the judgment has been registered it has the same force and effect as if it were a judgment of the Isle of Man High Court.

The application is made by claim form and may be made without notice to the judgment debtor. The application must be supported by written evidence exhibiting the judgment together with an English translation if the judgment is not in English.

The written evidence must include the grounds upon which the judgment creditor is entitled to enforce the judgment, the amount of the judgment that remains unsatisfied and the interest sought.

In addition the written evidence must also:

- Confirm that the judgment can be enforced by execution in its country of origin;
- Confirm that the registration could not be set aside under the Reciprocal Enforcement Act (discussed below);
- Confirm that the judgment is not a judgment to which section 5 of the Protection of Trading Interests Act 1980 (an Act of Parliament) applies (this seeks to prohibit the enforcement of judgments for multiple damages);
- Where the judgment contains provisions that cannot be registered the evidence must set out the provisions to be registered;

Once the judgment has been registered the registration order must be served upon the judgment debtor. In the case of an individual service is effected by delivering the registration order to him personally or in such other manner directed by the court. In the case of a company service is effected by leaving it at or posting the registration order to the company's registered office.

Where the company has abandoned its registered office service can be effected by posting the registration order to the last recorded addresses of the directors.

The judgment cannot be enforced before the end of the period within which an application to set aside the registration can be made which is generally between 14 and 21 days.

Where the Reciprocal Enforcement Act applies to a judgment no proceedings for the recovery of a sum payable under that judgment can be dealt with by the Isle of Man courts until the judgment has been registered.

Setting aside a registered judgment

An application to set aside a registered judgment can be made by anyone against whom the registered judgment can be enforced.

The High Court can set aside or adjourn the registration if an appeal of the judgment is pending or if the applicant is entitled to and intends to appeal.

The High Court must set aside the registration if-

- The judgment was registered in contravention of the provisions of the Reciprocal Enforcement Act.
- The courts of the country of the original judgment had no jurisdiction.
- The judgment debtor did not receive notice of the original proceedings in time to defend them and did not appear.
- The judgment was obtained by fraud.
- The enforcement of the judgment would be contrary to Isle of Man public policy.
- The rights under the judgment are not vested in the person who applied for registration.

The court may also set aside a judgment if the subject of the proceedings had previously been the subject of a final and conclusive judgment.

Before the judgment is enforced the court has power to make orders preserving the property of the judgment debtor.

The Isle of Man is not a party to the 1968 Brussels Convention or the 2007 Lugano Convention on jurisdiction and the enforcement of judgments in civil and commercial matters.

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The Common Law

Where a judgment from a court of competent jurisdiction cannot be registered under the Reciprocal Enforcement Act a fresh action can be commenced with the judgment as the debt.

For judgments in personam to be enforceable under the common law the judgment debtor has to have been present in the foreign country when the proceedings were commenced, or to have submitted to the court's jurisdiction by voluntarily appearing in the proceedings or agreed to submit to the courts of that country.

There are only limited defences to such an action e.g. the judgment was obtained by fraud; the proceedings in which the judgment was obtained were opposed to natural justice; its enforcement or recognition would be contrary to public policy.



We are here for you...

Our litigators have considerable experience of the enforcement of overseas judgments in the Isle of Man. We can assist you or your overseas lawyers with all aspects of the registration and enforcement of a judgment whether as claimant or defendant.

Many of our clients have complex legal problems that require the help of lawyers from across the firm, including those from our commercial and civil litigation, employment, company and commercial, family law and dispute resolution teams. Our cross-practice approach ensures that our clients receive seamless advice and that their legal problems are analysed from every necessary angle.

If you would like to discuss matters further, then please contact our team by telephone on **01624 639350** or by email at enquiries@mannbenham.com or to arrange a convenient time to call you back, either by telephone or video call.

