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## Reciprocal Enforcement of Judgments in Guernsey

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This article explains how a judgment obtained in a foreign jurisdiction may be recognised (and thereby enforced) in Guernsey.

Guernsey, as a Crown Dependency, is a separate jurisdiction from the UK and has its own administrative, fiscal and legal systems. In addition, Guernsey is not part of the EU or EEA, nor a signatory to the Brussels or Lugano Conventions. The result is that a foreign judgment (including one from England and Wales) is not directly enforceable in Guernsey simply by virtue of its existence. Foreign judgments may, therefore, be enforced via one of two routes.

### The Statutory Route

In Guernsey, there is a limited statutory regime for the reciprocal enforcement of judgments. Under Part II of the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957 (the “**Reciprocal Law**”),

However, the extent of the Reciprocal Law is limited to judgments from the superior courts of a small number of jurisdictions- namely the UK, Jersey, the Isle of Man, the Netherlands, Italy and Israel, Kingdom of the Netherlands, the Netherlands Antilles (which was dissolved in 2010), Northern Ireland, the Republic of Italy, Scotland, and Surinam.

Such judgments may be registered if the following criteria are met:

- the foreign court’s decision is final and conclusive (notwithstanding that the judgment may be subject to an appeal);
- the judgment is for a sum of money (save in respect of taxes or similar charges, fines or other penalties);
- an application is made within six years of the date of the original judgment or the last judgment given in relevant appeal proceedings; and
- the original foreign court had jurisdiction in the circumstances of the case.

In order for a judgment to be registered in Guernsey under the Reciprocal Law, an application must be filed with related supporting documentation (including an affidavit) to the Royal Court in Guernsey (the “**Royal Court**”), alongside payment of the relevant fees.

Once registered under the Reciprocal Law, the foreign judgment is treated as if it was originally given by the Royal Court on the date of registration. From the date of the registration, the judgment can therefore be enforced in Guernsey (with judgment interest accruing accordingly under Guernsey law).

Limited circumstances exist under the Reciprocal Law for a judgment debtor to apply for the registration of a foreign judgment to be set aside, but any such application would need to be made within 14 days from service of the registered judgment.



## The Common Law Route

Where registration is not available under the Reciprocal Law, foreign judgments may be recognisable and enforceable under the common law regime. In this instance, a judgment creditor is required to sue on the judgment itself.

In the vast majority of cases, summary judgment may be sought in the absence of a substantive defence to the judgment debt. Any challenge by a judgment debtor would then be limited to circumstances in which:

- the foreign court did not have the requisite jurisdiction to give judgment;
- the judgment was obtained by fraud (either on the part of the judgment creditor or by the foreign court);
- enforcement of the foreign judgment is contrary to Guernsey's public policy; or
- the foreign court proceedings were contrary to natural justice.

## Enforcement

After a foreign judgment has been registered under the Reciprocal Law or successfully sued upon via the common law route, enforcement may, as appropriate, be pursued through HM Sheriff (who has the power to institute wage arrests and to seize and sell a judgment debtor's assets), corporate insolvency processes, or customary law remedies against the judgment debtor's personality (under the process of désastre) or realty (under a saisie).

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