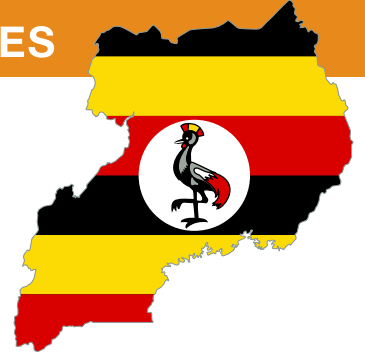


UGANDA

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ENFORCEMENT OF FOREIGN MONEY JUDGMENTS

What Laws Regulate Enforcement

The following laws regulate enforcement of foreign money judgments in Uganda:

- The Constitution of the Republic of Uganda 1995.
- The Judgment Extension Act, CAP 46 of the Laws of Uganda, 1908. The Act empowers Uganda courts to execute decrees and warrants for any debt, damages or costs issued by the Superior Courts of Kenya, Malawi and Tanzania. The Act also empowers the court to enforce warrants of arrest issued by the superior or subordinate courts of those countries, on a defendant in a civil case.
- The Reciprocal Enforcement of Judgments Act, CAP 47 of the Laws of Uganda, 1922 which regulates the enforcement of judgments emanating from the United Kingdom and other commonwealth countries, including the Republic of Ireland. It was subsequently extended to include Seychelles, Mauritius, Swaziland and New South Wales.
- The Foreign Judgments (Reciprocal Enforcement) Act, CAP 48 of the Laws of Uganda, 1961 which regulates the enforcement of judgments emanating from foreign countries which accord reciprocal treatment to judgments emanating from Uganda.
- The foreign judgments (Reciprocal Enforcement) (General Application) order No. 35 of 2002.

Treaties

Uganda is not party to any treaty concerning the enforcement of foreign money judgments.

Jurisdiction over Foreign Judgment Debtors

The Ugandan Courts have the power to enforce a foreign judgment against property in Uganda belonging to a non-resident foreign judgment debtor.

Requirements for Enforcement

The following are the requirements for enforcement of a foreign money judgment in Uganda:

- The judgment must be final in the sense that it is not pending appeal in the foreign jurisdiction.
- The judgment must have been obtained in the courts of a commonwealth territory.
- Judgments from other foreign countries will be enforced only if those countries reciprocally enforce Uganda judgments.

- Only foreign money judgments obtained after 1 January 2001 will be enforced.
- The judgment must not have been wholly satisfied. Where a foreign judgment has been partially enforced elsewhere the balance of a foreign judgment will be enforced.
- The foreign judgment will only be enforced if the plaintiff is unable to enforce it in its country of origin.
- The foreign court must have had the requisite jurisdictional competence, which means that the judgment debtor must have submitted to the jurisdiction of that court either contractually or by appearing in the proceedings, must have been counter-claimed in the original proceedings, must have been resident in that country or, in the case of a body corporate, must have had its principal place of business in that country.
- The judgment debtor must have received notice of the process in the foreign court.
- The judgment must not have been obtained by fraud.
- The judgment must not conflict with Ugandan public policy.
- The foreign court must have had jurisdiction over the defendant in terms of its own law.

Authentication and Translation of Judgment

Ugandan Law requires a foreign judgment to be authenticated by the seal of its court of origin.

If the judgment is in language other than English, it has to be translated into English and notarised before enforcement.

Procedure

Enforcement is by way of application for registration of the foreign judgment

Under the Reciprocal Enforcement of Judgment Rules under the Reciprocal Enforcement of Judgments Act, CAP 47 (i.e. for judgments obtained in the superior courts in the UK, Republic of Ireland or the parts of the Commonwealth) to which the Act applies, application for registration must be made to the High Court:



- Ex parte by summons to a Judge.
- The application must be accompanied by an affidavit to which the authenticated judgment is attached.
- The affidavit must explain why the judgment creditor is entitled to enforce the judgment and why it does not fall within any of the categories under the Act which prohibits registration / enforcement.
- The affidavit must set out the name, title, trade or business and last known place of the residence or business of the judgment creditor and the judgment debtor respectively.

Once the judgment has been registered, the judgment debtor must be given notice of the registration and the judgment debtor may within the time limit allowed by the notice apply to set aside the registration or to suspend the execution of the judgment.

How long does Enforcement take

Though the time taken to enforce a foreign judgment in Uganda is heavily dependent on the aggressiveness, vigilance and diligence of the particular advocate handling the matter and the Judge allocated the matter, the process of enforcement of foreign judgments in Uganda on average, takes between two to three months.

Judgments in a Foreign Currency

A foreign judgment must first be converted into the local currency before it can be enforced. The exchange rate is the prevailing rate of exchange as at the date of the granting of the judgment in the original court.

Interest

A Ugandan court will enforce the interest portion of a foreign money judgment. In addition it has the power to include interest up to the date of registration of the judgment and to add the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgment from the original court.

Merits

A Ugandan court may not reassess the merits of the case giving rise to the foreign judgment.

Limitation

The limitation period for the registration of a foreign money judgment is 6 years from the date of the judgment.

Security for Costs

A Judge of the High Court of Uganda has discretionary powers to order the judgment creditor to furnish security for the costs of the debtor should the judgment debtor succeed in opposing the enforcement procedure.

ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

Relevant laws and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Uganda is party to the New York Convention, having acceded to it on the 12 February, 1992.

The following laws regulate the enforcement of foreign arbitral awards in Uganda:

- The Reciprocal Enforcement of Judgments Act, CAP47 of 1922.
- The Arbitration and Conciliation Act, CAP 4 of 2000, which gives effect to the New York Convention.

Requirements for Enforcement

- The plaintiff is required to provide a duly authenticated original arbitral award and arbitration agreement, or duly certified copies. If these documents are in a language other than English, they must be translated into English.
- The award must have been made pursuant to a valid arbitration agreement under the governing law.
- The award must have been made by a tribunal constituted in terms of the agreement to arbitrate.
- The award must conform with the law governing the arbitration procedure.
- The award must be final in the country in which it was made.
- The enforcement of the award must not be contrary to Ugandan public policy.
- The subject matter of the award must be one which may be lawfully referred to arbitration under Ugandan law.
- The arbitration award must not have been set aside in the seat of the arbitration.

Procedure

A foreign arbitral award is enforced as a decree of the court. On the registration of the foreign arbitral award, it is given a serial number in the Civil List and the party registering it is required to serve a notice of the registration upon the opposite party. The party registering the award is required thereafter to file in the High Court evidence on affidavit of service on the opposing party.

A party who objects to the registration of the award in court, is required within ninety days after the notice of registration has been served upon him, to apply to have the award set aside by lodging objections. The parties on whom the objections are served, may within fourteen days after the date of service of the objections, lodge cross objections which must be served on the original objector.



It is important to note that an application to enforce an award as a decree of the court is commenced by Chamber summons supported by an affidavit and cannot be made, if no objections to the award are lodged, until after the expiry of ninety days after notice of registration of the award has been served upon the party against whom the award is to be enforced, and if any objections have been made, then until after objections have been dealt with by the court.

Limitation

Under the Uganda Limitation Act, CAP 80 a party wishing to enforce a foreign arbitral award can only do so within a period of six years from the date on which it became “registrable”. This means from the date the award was made.

How long will Enforcement take

The enforcement procedure takes between five to seven months on average

Security for Costs

The arbitration rules made under the Arbitration and Conciliation Act, CAP 4, entitle a party interested in the award to apply to the court for an order directing the person who objects to the enforcement of the award, to give security for the enforcement of the award and for any costs that may be ordered in the objection hearing.

