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Reform of Singapore's foreign judgment rules

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On 3rd October, the amendments to the Reciprocal Enforcement of Foreign Judgments Act ("REFJA") came into force. REFJA is based on the UK Foreign Judgments (Reciprocal Enforcement) Act 1933, but in this recent round of amendments has deviated in some significant ways from the 1933 Act. The limitation to judgments from "superior courts" has been removed. Foreign interlocutory orders such as freezing orders and foreign non-money judgments now fall within the scope of REFJA. So too do judicial settlements, which are defined in identical terms to the definition contained in the Choice of Court Agreements Act 2016 (which enacted the Hague Convention on Choice of Court Agreements into Singapore law).

In relation to non-money judgments, such judgments may only be enforced if the Singapore court is satisfied that enforcement of the judgment would be "just and convenient". According to the Parliamentary Debates, it may not be "just and convenient" to allow registration of a non-money judgment under the amended REFJA if to do so would give rise to practical difficulties or issues of policy and convenience. The Act gives the court the discretion to make an order for the registration of the monetary equivalent of the relief if this is the case.

An interlocutory judgment need not be "final and conclusive" for the purposes of registration under REFJA. The intention underlying this expansion is to allow Singapore courts to enforce foreign interlocutory orders such as asset freezing orders. This plugs a hole as currently *Mareva* injunctions are not regarded as free-standing relief under Singapore law. It has recently been held by the Court of Appeal that the Singapore court would only grant Mareva injunctions in aid of foreign proceedings if: (i) the Singapore court has personal jurisdiction over the defendant and (ii) the plaintiff has a reasonable accrued cause of action against the defendant in Singapore (*Bi Xiaoqing v China Medical Technologies Inc* [2019] SGCA 50).

New grounds of refusal of registration or to set aside registration have been added: if the judgment has been discharged (eg, in the event of bankruptcy of the judgment debtor), the damages are non-compensatory in nature, and if the notice of the registration had not been served on the judgment debtor, or the notice of registration was defective.

It is made clear that the court of origin would not be deemed to have had jurisdiction in an action *in personam* if the defendant voluntarily appeared in the proceedings solely to invite the court in its discretion not to exercise its jurisdiction in the proceedings. *Henry v Geoprosco* [1976] QB 726 would thus not apply for the purposes of REFJA although its continued applicability at common law is ambiguous (see *WSG Nimbus Pte Ltd v Board of Control for Cricket in Sri Lanka* [2002] 1 SLR(R) 1088).

All along, only judgments from the superior courts of Hong Kong SAR have been registrable under REFJA. The intention now is to repeal the Reciprocal Enforcement of Commonwealth Judgments Act ("RECJA"; based on the UK Administration of Justice Act 1920) and to transfer the countries which are gazetted under RECJA to the amended REFJA. The Bill to repeal RECJA has been passed by Parliament.

The amended REFJA may be found here: https://sso.agc.gov.sg/Act/REFJA1959