

**International  
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Legal Guides**



# **Enforcement of Foreign Judgments**

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# Nigeria



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## The Trusted Advisors

## 1 Country Finder

1.1 Please set out the various regimes applicable to recognising and enforcing judgments in your jurisdiction and the names of the countries to which such special regimes apply.

Applicable Law/Statutory Regime	Relevant Jurisdiction(s)	Corresponding Section Below
Reciprocal Enforcement of Judgments Ordinance, Cap. 175, Laws of the Federation of Nigeria and Lagos 1958.	The Ordinance applies to judgments from England, Scotland, Ireland, Sierra Leone, Ghana, Gambia, Barbados, Bermuda, Gibraltar, Grenada, Jamaica, Leeward Islands, Newfoundland, New South Wales, St Lucia, St Vincent, Trinidad, and Tobago. Judgments from any of the countries that make up the Commonwealth are also enforced in line with the Ordinance.	N/A.
Foreign Judgments (Reciprocal Enforcement) Act, Cap. C35, Laws of the Federation of Nigeria 2004.	This Act applies to any country with which Nigeria has reciprocal enforcement arrangements regarding the enforcement of judgments. The principle that guides this method is the principle of reciprocity. This mode of enforcement is hinged on the willingness of the Country where the judgment was given to enforce the judgment of Nigerian Courts. Countries that Nigeria enjoys this arrangement with ought to be contained in Part 1, Section 3 of the Foreign Judgments (Reciprocal Enforcement) Act by virtue of an order to be made by the Minister of Justice. To date, however, that order is yet to be made.	N/A.

## 2 General Regime

2.1 Absent any applicable special regime, what is the legal framework under which a foreign judgment would be recognised and enforced in your jurisdiction?

The Foreign Judgments (Reciprocal Enforcement) Act, Cap. F35, Laws of the Federation of Nigeria, 2004 and the Reciprocal Enforcement of Judgments Ordinance, Cap 175, Laws of the Federation of Nigeria and Lagos, 1958; both constitute the legal framework in Nigeria for the recognition and

enforcement of foreign judgments. Please see the information contained in the table under question 1.1 above.

2.2 What constitutes a 'judgment' capable of recognition and enforcement in your jurisdiction?

A judgment capable of recognition in Nigeria must be a judgment delivered by a superior court of record of a foreign country. For the foreign judgment to be capable of recognition in Nigeria, there must have been a voluntary submission to the jurisdiction of the foreign court by the judgment debtor. This

was the decision of the Nigerian Supreme Court in the case of *Conoil v Vitols S.A.* (2019) 9 NWLR (Pt. 1625) 463.

### 2.3 What requirements (in form and substance) must a foreign judgment satisfy in order to be recognised and enforceable in your jurisdiction?

By Section 3(2) of the Foreign Judgments (Reciprocal Enforcement) Act, for a foreign judgment to be recognised or be registrable in Nigeria, the judgment must fulfil the under-listed conditions:

- It must be one given by a superior court in the foreign country.
- The judgment must be final and conclusive.
- The original court must have had jurisdiction to hear the matter.
- The judgment is in respect of a definite sum of money.
- The Nigerian Minister of Justice has made an Order that judgments from the foreign country be recognised and enforced, and is satisfied that the original country will also recognise and enforce Nigerian judgments (See Section 12 of the Act).

It is important to state, however, that the registration of a foreign judgment in Nigeria does not preclude a dissatisfied party from appealing against that judgment in the original country.

### 2.4 What (if any) connection to the jurisdiction is required for your courts to accept jurisdiction for recognition and enforcement of a foreign judgment?

Nigerian courts will enforce a foreign judgment that meets the conditions stipulated in Section 3(2) of the Foreign Judgments (Reciprocal Enforcement) Act. It is also important to state that the duty of the registering court in Nigeria is to enforce the decision contained in the foreign judgment brought to it for registration, and not to review such judgment. Neither is the Nigerian court empowered to sit on appeal over the foreign judgment. As stated in question 2.2 above, there must have been a voluntary submission to the jurisdiction of the foreign court by the judgment debtor in order to confer jurisdiction on the Nigerian court.

### 2.5 Is there a difference between recognition and enforcement of judgments? If so, what are the legal effects of recognition and enforcement respectively?

A foreign judgment cannot be enforced in Nigeria if it has not been registered. As such, registration is the precursor of recognition. In other words, the legal effect of the registration of a foreign judgment is that the judgment becomes a judgment of the Nigerian Court as if it had been delivered in Nigeria.

Enforcement naturally follows the delivery of a judgment, and the legal effect of enforcing a judgment is that the Judgment Debtor becomes liable for the judgment to be enforced against him by any of the methods stipulated in the Judgments (Enforcement) Rules, such as by garnishee, writ of *fiери facias*, writ of sequestration, or by judgment summons.

By Section 4 of the Act, a foreign judgment can be enforced within six years from the date of delivery of its registration as a Nigerian judgment. Court Sheriffs, Bailiffs and Police Officers are the officers critical to the entire process of execution of the judgments of Courts. See sections 3–15 of the Sheriffs and Civil Process Act, Cap. S6, Laws of the Federation of Nigeria 2004.

### 2.6 Briefly explain the procedure for recognising and enforcing a foreign judgment in your jurisdiction.

There are two ways in which foreign judgments can be recognised and enforced in Nigeria, which are:

- under the Act; and
- by enforcement at Common Law.

Under the Foreign Judgments (Reciprocal Enforcement) Act, an application for the registration of the foreign judgment must be filed within 12 months of the delivery of the judgment to the High Court of a particular State, the Federal High Court, or the High Court of the Federal Capital Territory (as the case may be) by way of a Motion *Ex-parte*, supported by an affidavit and a written address seeking the leave of court to register the judgment. The affidavit must contain facts to prove that the foreign judgment was given by a country that has reciprocal arrangement with Nigeria. In some cases, however, the Court may demand that the Judgment Debtor be put on notice.

Under the common law, the procedure is that an action would be instituted by way of a Writ of Summons with the judgment being the cause of action. The applicant (Judgment creditor) is expected to accompany the Writ with an application for summary judgment or an application to enlist the matter under the undefended list.

The steps and conditions for the grant of summary judgment are:

- (a) The judgment debtor has no defence to the action and the production of a certified copy of the foreign final judgment is sufficient proof of same.
- (b) Where the application is granted, the judgment would be executed in accordance with the Sheriffs and Civil Processes Act.

The application for summary judgment can, however, be denied; and the case set down for trial where the court is of the opinion that the judgment debtor has a defence.

The conditions to be considered by the court in the enforcement of foreign judgment under common law include the following:

- (a) The judgment must be a final judgment.
- (b) It must have been granted by a court with competent jurisdiction in the country of origin.
- (c) It must be a monetary claim or in reaction to a *res* within the jurisdiction of the foreign court.

### 2.7 On what grounds can recognition/enforcement of a judgment be challenged? When can such a challenge be made?

A foreign judgment can be challenged on any of the grounds stipulated in Section 6 of the Foreign Judgments (Reciprocal Enforcement) Act. Such a challenge can be made as soon as the judgment debtor is served with, and becomes aware of, the application for registration.

A foreign judgment can be challenged and be denied recognition and enforcement on the following grounds:

- a) The judgment is not a judgment to which the act or ordinance applies.
- b) The courts of the country of the original court had no jurisdiction in the circumstances of the case.
- c) The judgment debtor did not receive notice of those proceedings in sufficient time to enable it to defend the proceedings, and therefore did not appear before the court (notwithstanding that the process may have been duly served in accordance with the law of the country of the original court).

- d) The judgment was obtained by fraud and the enforcement of the judgment would be contrary to public policy in Nigeria.
- e) The rights in the judgment were not vested in the person who applied for registration; or the matter in dispute before the original court had, on the date of the original judgment, been the subject of a final and conclusive judgment by a court with jurisdiction in the matter.

**2.8 What, if any, is the relevant legal framework applicable to recognising and enforcing foreign judgments relating to specific subject matters?**

Please see the information contained in the table under question 1.1 above.

**2.9 What is your court's approach to recognition and enforcement of a foreign judgment when there is: (a) a conflicting local judgment between the parties relating to the same issue; or (b) local proceedings pending between the parties?**

- (a) Where the court is faced with a conflicting local judgment relating to the same issue between the parties to the foreign judgment, the local judgment will take precedence.
- (b) Where local proceedings are pending between the parties on the same issue, the courts would have to exercise discretion on whether to go ahead with the local proceedings or strike out those proceedings. Such discretion must, however, be exercised judicially and judiciously. The court would also have to consider the concept of abuse of process where one of the parties files an application in that regard seeking a striking out of the local proceedings.

**2.10 What is your court's approach to recognition and enforcement of a foreign judgment when there is a conflicting local law or prior judgment on the same or a similar issue, but between different parties?**

Where there is a local law or prior judgment on the same issue, but between different parties, the court will not register, recognise and enforce the foreign judgment. This is because it is a common principle of Nigerian law that a judgment only binds the parties to a particular action, and not strangers.

**2.11 What is your court's approach to recognition and enforcement of a foreign judgment that purports to apply the law of your country?**

Where parties to a dispute (either between a Nigerian entity and a foreign entity or between Nigerian entities *inter se*) have chosen a foreign court for the resolution of their dispute and have further agreed that Nigerian law should apply to, and govern the relationship between them, Nigerian court will apply a foreign judgment in which Nigerian law was applied as the governing law of the parties.

**2.12 Are there any differences in the rules and procedure of recognition and enforcement between the various states/regions/provinces in your country? Please explain.**

No, there are no differences between them.

**2.13 What is the relevant limitation period to recognise and enforce a foreign judgment?**

As stated above in question 2.6, an application for the registration of a foreign judgment must be made within 12 months of the delivery of the judgment, and such a judgment, after having been registered as a Nigerian judgment, must be enforced within six years from the date of such registration by virtue of Section 4 of the Foreign Judgments (Reciprocal Enforcement) Act. See also question 2.5 above.

### 3 Special Enforcement Regimes Applicable to Judgments from Certain Countries

**3.1 With reference to each of the specific regimes set out in question 1.1, what requirements (in form and substance) must the judgment satisfy in order to be recognised and enforceable under the respective regime?**

Please see our response to question 2.3 above.

**3.2 With reference to each of the specific regimes set out in question 1.1, does the regime specify a difference between recognition and enforcement? If so, what is the difference between the legal effect of recognition and enforcement?**

Please see our response to question 2.5 above.

**3.3 With reference to each of the specific regimes set out in question 1.1, briefly explain the procedure for recognising and enforcing a foreign judgment.**

Please see our response to question 2.6 above.

**3.4 With reference to each of the specific regimes set out in question 1.1, on what grounds can recognition/enforcement of a judgment be challenged under the special regime? When can such a challenge be made?**

Please see our response to question 2.7 above.

### 4 Enforcement

**4.1 Once a foreign judgment is recognised and enforced, what are the general methods of enforcement available to a judgment creditor?**

The methods stipulated in the Judgments (Enforcement) Rules for the enforcement of judgments are by garnishee, writ of *fierti facias*, writ of sequestration, or by judgment summons. See also our response to question 2.5 above.

### 5 Other Matters

**5.1 Have there been any noteworthy recent (in the last 12 months) legal developments in your jurisdiction relevant to the recognition and enforcement of foreign judgments? Please provide a brief description.**

There have not been any at the time of writing this chapter (February 2024).

**5.2 Are there any particular tips you would give, or critical issues that you would flag, to clients seeking to recognise and enforce a foreign judgment in your jurisdiction?**

A client seeking to register and enforce a foreign judgment must either seek to enforce such judgment under the Foreign Judgments (Reciprocal Enforcement) Act, Cap. F35, Laws of

the Federation of Nigeria, 2004 and the Reciprocal Enforcement of Judgments Ordinance, Cap 175, Laws of the Federation of Nigeria and Lagos, 1958. The critical issues to be kept in mind are those stated in question 2.3 above (in respect of the conditions to be fulfilled before a foreign judgment can be registered in Nigeria) and that stated in question 2.7 (in respect of the conditions under which a foreign judgment will not be enforced).





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- Special Enforcement Regimes Applicable to Judgments from Certain Countries
- Enforcement
- Grounds for Challenging Recognition/Enforcement of a Foreign Judgment
- Recent Developments