

LAW REFORM COMMISSION OF BRITISH COLUMBIA

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Backgrounder

LRC 117—Report on Enforcing Judgments from Outside the Province

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In the late 1980s, the Law Reform Commission commenced a project on the enforcement of judgments from other Canadian provinces. This project culminated in the issuance of a working paper in 1989. It was then deferred, after the national meeting of Attorneys General referred the issue to the Uniform Law Conference of Canada. Recent changes in the common law, however, require immediate amendments to the *Court Order Enforcement Act* and the *Limitation Act*. The cases concern issues of the reciprocal enforcement of judgments, limitation periods and foreign judgments.

Judgments requiring the payment of money can be filed in another province's courts, allowing a successful plaintiff to enforce the judgment in that province. A judgment debtor may oppose the registration of a judgment by arguing that there was a defect in the jurisdiction of the court that granted the judgment. The *Morguard* case creates a test allowing courts to take jurisdiction of a case if the matter was substantially connected to the province. This is a substantial change in the common law that requires modification to the *Court Order Enforcement Act*.

After a plaintiff is awarded a judgment, he has a fixed amount of time to satisfy it. In the event that the limitation period expires before the foreign judgment is filed, the judgment creditor has no recourse. In *Bank of Montreal v. Kim* the court held that the limitation period does not begin until the judgment debtor becomes a resident of the jurisdiction in which the judgment claimant wishes to file the foreign judgment. For policy reasons, the commission would like the *Limitation Act* to be amended to modify the common law by negating the *Kim* principal and confirming that the limitation period begins at the date of the judgment.

Included are a summary of the recommendations, and the relevant legislation.

Further Developments

1. Recommendations implemented by *Enforcement of Canadian Judgments Act*, S.B.C. 1992, c. 37, s. 14 (not in force).

2. Act repealed by *Supplements Repeal Act*, S.B.C. 2006, c. 33, s. 1 (1) (i); in force 18 May 2006. See *Enforcement of Canadian Judgments and Decrees Act*, S.B.C. 2003, c. 29.