Western Australia

Judgments Act 1855 (Imp)

Compare between:

[26 Oct 1999, 01-a0-10] and [26 Sep 2025, 01-b0-01]

Western Australia

Judgments Act 1855 (Imp)

An Act for the better Protection of Purchasers against Judgments, Crown Debts, Cases of Lis Pendens, and Life Annuities or Rentcharges. ~~3~~2

Preamble

Whereas an Act of Parliament was passed in the session of the first and second years of Her Majesty, intituled '*An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for amending the Laws for the Relief of Insolvent Debtors in ~~England~~*'~~4~~*England*'3;

and another Act in the session of the second and third years of Her Majesty, intituled '*An Act for the better Protection of Purchasers against Judgments, Crown Debts, Lis Pendens, and Fiats in ~~Bankruptcy~~*'~~5~~*Bankruptcy*'4;

and another Act in the session of the third and fourth years of Her Majesty, intituled '*An Act for further amending the Act for abolishing Arrest on Mesne Process in Civil ~~Actions~~*'~~6~~*Actions*'5:

And whereas the provisions of the said Acts respecting judgments, decrees, orders, and rules, and *lis pendens*, ought to include and be applicable to the Counties Palatine of Lancaster and Durham, and the common law and equity courts thereof respectively:

And whereas an Act was passed in the session of the thirteenth and fourteenth years of Her Majesty, intituled '*An Act to amend the Practice and Proceedings of the Court of Chancery of the County Palatine of Lancaster*,' 7by force whereof the said provisions do to some extent include and are applicable to the County Palatine of Lancaster, as far as regards the Courts of Chancery thereof:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*[**1-8.** Deleted: No. 59 of 2004 s. 20(g).]*

~~**9. Duties of prothonotary Fees for registration and searches**~~

~~For the purposes of any registration or re-registration to be made in pursuance of this Act in either of the said Counties Palatine, all such acts and things as under the provisions of the said several Acts of the reign of Her Majesty ought to be done by or left with the senior master of the Court of Common Pleas at Westminster shall be done by or left with the prothonotary or deputy prothonotary of the Court of Common Pleas of the County Palatine of Lancaster, or of the Court of Pleas of the County Palatine of Durham, as the case may require, or such other officer (if any) of the same courts respectively as may for the time being have been appointed by the same courts respectively, for the purpose of entering the judgments thereof respectively, under the provisions of the said Act of the first and second years of Her Majesty;~~

~~and the said prothonotary, deputy prothonotary, or other officer as aforesaid, shall be entitled to the sum of two shillings and sixpence, and no more, for the duties to be performed on every registration, and the sum of one shilling only for re-registration;~~

~~and all persons shall be at liberty to search all or any of the books kept in pursuance of any of the foregoing provisions of this Act in each court, for the sum of one shilling.~~

*[**9.** Deleted: No. 14 of 2025 s. 4(1)(h).]*

*[**10.** Repealed in WA by 34 Vict. No. 21 s. 23.]* [7]

11. Legal estate vested in purchaser or mortgagee not to be taken in execution

And whereas great delay and expense are occasioned upon purchases and mortgages of lands in consequence of judgments against mortgagees and Crown debts and liabilities to the Crown of mortgagees continuing to bind lands, although the mortgagees have been *bonâ fide* paid off, and the lands have been actually conveyed to purchasers, or to other mortgagees:

For remedy whereof, be it enacted as follows: Where any legal or equitable estate or interest or any disposing power in or over any lands, tenements, or hereditaments shall, under any conveyance or other instrument executed after the passing of this Act, become vested in any person as a purchaser or mortgagee for valuable consideration, such lands, tenements, or hereditaments shall not be taken in execution under any writ of *elegit*, or other writ of execution, to be sued upon any judgment, or any decree, order, or rule against any mortgagee or mortgagees thereof, who shall have been paid off prior to or at the time of the execution of such conveyance, nor shall any such judgment, decree, order, or rule, or the money thereby secured, be a charge upon such lands, tenements, or hereditaments so vested in purchasers or mortgagees, nor shall such lands, tenements, or hereditaments so vested in purchasers or mortgagees be extended or taken in execution, or rendered liable under any writ of extent or writ of execution or other process issued by or on behalf of Her Majesty, her heirs or successors, in respect of any judgment, statute, or recognizance obtained against or entered into by, or inquisition found against, or obligation or specialty made by, or acceptance of office by any mortgagee or mortgagees, whereby he or they hath or have become or shall become a debtor or accountant, or debtors or accountants to the Crown, where such mortgagee or mortgagees shall have been paid off prior to or at the time of the execution of such conveyance as aforesaid.

12. Life annuities and rentcharges not to affect lands as to purchasers, etc., until memorandum left with senior master

And whereas by reason of the repeal in the last session of Parliament of the Act of the fifty-third year of King George the Third, chapter one hundred and forty-one, requiring the enrolment of life annuities or rentcharges, purchasers are no longer enabled to ascertain by search what life annuities or rent charges may have been granted by their vendors or others:

Be it therefore enacted by the authority aforesaid as follows: Any annuity or rentcharge granted after the passing of this Act, otherwise than by marriage settlement, for one or more life or lives, or for any term of years or greater estate determinable on one or more life or lives, shall not affect any lands, tenements, or hereditaments as to purchasers, mortgagees, or creditors, unless and until a memorandum or minute containing the name, and the usual or last known place of abode, and the title, trade, or profession of the person whose estate is intended to be affected thereby, and the date of the deed, bond, instrument, or assurance whereby the annuity or rentcharge is granted, and the annual sum or sums to be paid, shall be left with the senior master of the Court of Common Pleas at Westminster, who shall forthwith enter the particulars aforesaid in a book in alphabetical order by the name of the person whose estate is intended to be affected by the annuity or rentcharge, together with the year and the day of the month when every such memorandum or minute is so left with him, and he shall be entitled for every such entry to the sum of two shillings and sixpence, and all persons shall be at liberty to search the same book, together with the other books or registers in the office, on payment of the sum of one shilling.

13. Searches may be made by parties themselves

The searches of the several registers, by the said recited Acts or by this Act authorised to be made for the sum of one shilling, may be made by the parties themselves, under proper regulations in the office, and the sum of one shilling only shall

be payable on one search, although more names than one shall be searched for where such names relate to the same purchase, mortgage, or other transaction.

14. Annuities, etc., given by will excepted from Act

The provisions of this Act shall not extend to require the registry of annuities or rentcharges given by will.

Notes

[1] This is a compilation of the *Judgments Act 1855 (Imp)* and includes the amendments made by the other written laws referred to in the following table. The table also contains. For provisions that have come into operation, and for information about any previous reprints., see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
Judgments Act 1855 (Imp)	1855 (18 and 19 Vict. c. 15)	26 Apr 1855	15 Jul 1867 (adopted by *Imperial Acts Adopting Ordinance 1867*)
The Debtors Act 1871 s. 23	1871 (34 Vic. No. 21)	13 Jan 1871	13 Jan 1871 (see s. 2)
Reprinted as at 26 Oct 1999			
Courts Legislation Amendment and Repeal Act 2004 s. 20(1)(g)	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7128))
Statutes (Repeals and Minor Amendments) Act 2025 s. 4(1)(h)	14 of 2025	25 Sep 2025	26 Sep 2025 (see s. 2(b))

[2] 1 Adopted in WA by *Imperial Acts Adopting Ordinance 1867*. (31 Vict. No. 8) [Assent 15 July 1867]

[3] 2 The short title *Judgments Act 1855* was given to this Imperial Act by the *Short Titles Act 1896 (UK)*.
For other information about this Imperial Act see *Halsbury's Statutes of England*, Second Edition, Vol 13 p 380.

[4] 3 I.e. *Judgments Act 1838* (Imp) (1 & 2 Vict. c. 110) which is also adopted in WA and reproduced in this part of this publication.

[5] 4 I.e. *Judgments Act 1839* (Imp) (2 & 3 Vict. c. 11) which is also adopted in WA and reproduced in this part of this publication.

[6] 5 I.e. *Judgments Act 1840* (Imp) (3 & 4 Vict. c. 82) which is also adopted in WA and reproduced in this part of this publication.

[7] 6 I.e. 13 & 14 Vict. c. 43.

[8] 7 I.e. repealed in so far as it was part of the law of WA by the *Debtors Act 1871* (34 Vict. No. 21) s 23 [Assent 13 January 1871; Commencement 1 April 1871].

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