



Western Australia

Judgments Act 1839 (Imp)

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Judgments Act 1839 (Imp)

An Act for the better Protection of Purchasers against Judgments, Crown Debts, Lis Pendens, and Fiats in Bankruptcy. ³

Preamble

Whereas it is desirable that further protection should be afforded to purchasers against judgments, Crown debts, and *lis pendens*:

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,

[1-6. Deleted: No. 59 of 2004 s. 20(e).]

7. Purchasers not to be affected by any *lis pendens*, unless such suit is duly registered as directed by this Act

And be it enacted, that no *lis pendens* shall bind a purchaser or mortgagee without express notice thereof, 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 court of equity, and the title of the cause or information, and the day when the bill or information was filed, shall be left with the senior master of the said Court of Common Pleas, who shall forthwith enter the same particulars in a book as aforesaid, in alphabetical order, by the name of the person whose estate is intended to be affected by such *lis pendens*; and such officer shall be entitled for any such entry to the sum of two shillings and sixpence; and the provisions hereinbefore contained in

regard to the re-entering of judgments every five years, and the fee payable to the officer thereon, shall extend to every case of *lis pendens* which shall be registered under the provisions of this Act.

8. Recognisances entered into not to affect purchasers, unless duly registered as directed by this Act

And be it enacted, that no judgment, statute, or recognisance which shall hereafter be obtained or entered into in the name or upon the proper account of Her Majesty, her heirs or successors, or inquisition by which any debt shall be found due to Her Majesty, her heirs or successors, or obligation or specialty which shall hereafter be made to Her Majesty, her heirs or successors, in the manner directed by an Act passed in the thirty-third year of the reign of his late Majesty King Henry the Eighth, intituled '*The Erection of the Court of Surveyors of the King's Lands, and the Names of the Officers there, and their Authority,*' or any acceptance of office which shall hereafter be accepted by officers whose lands shall thereby become liable for the payment and satisfaction of arrearages under the provisions of the Act passed in the thirteenth year of the reign of her late Majesty Queen Elizabeth, intituled '*An Act to make the Lands, Tenements, Goods, and Chattels of Tellers, Receivers, et cetera, liable to the Payment of their Debts,*' shall affect any lands, tenements or hereditaments, as to purchasers or mortgagees, unless and until a memorandum or minute, containing the name and the usual or last place of abode, and the title, trade, or profession, of the person whose estate is intended to be affected thereby, and also in the case of any judgment the court and the title of the cause in which such judgment shall have been obtained, and the date of such judgment, and the amount of the debt, damages, and costs thereby recovered, and also in the case of a statute or recognisance the sum for which the same was acknowledged, and before whom the same was acknowledged, and the date of the same, and also in the case of an inquisition the sum thereby found to be due, and the date of the same, and also in the case of an obligation or specialty the sum in which

the obligee shall be bound, or for which the obligation or specialty shall be made, and the date of the same, and also in the case of acceptance of office the name of the office and the time of the officer accepting the same, shall be left with the senior master of the said Court of Common Pleas, who shall forthwith enter the same particulars in a book, to be intituled 'The Index to Debtors and Accountants to the Crown,' in alphabetical order, by the name of the person whose estate is intended to be affected by such judgment, statute, or recognisance, inquisition, obligation, or specialty, or the acceptance of any office; and such officer shall be entitled for any such entry to the sum of two shillings and sixpence; and all persons shall be at liberty to search the same book, and also the other book to be kept according to the provisions of the said recited Act of the first and second years of the reign of her present Majesty, or either of the said books, on payment of the sum of one shilling, whether one only or both of the said books shall be searched, and no multiplication of books is to increase the fee.

9. Quietus to debtors or accountants to the Crown to be registered

And be it enacted, that whenever a quietus shall be obtained by a debtor or accountant to the Crown, and an office copy thereof shall be left with the senior master of the said Court of Common Pleas, together with a certificate, signed by the Accountant General, that the same may be registered, the said master shall forthwith enter the same in the said book of debtors and accountants to the Crown, in alphabetical order, by the name of the person whose estate is intended to be discharged by such quietus, with the date, and shall for any such entry be entitled to a fee of two shillings and sixpence.

10. For discharge of the estates of debtors or accountants to the Crown in certain cases

And whereas it is expedient to make further provision for the discharge of an estate belonging to a debtor or accountant to the

Crown from the claim of the Crown in the hands of a purchaser or mortgagee, although the debt or liability shall not be fully discharged: Be it therefore enacted, that it shall be lawful for the commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three of them, by writing under their hands, upon payment of such sums of money as they may think fit to require into the receipt of Her Majesty's Exchequer, to be applied in liquidation of the debt or liability of any debtor or accountant to the Crown, or upon such other terms as they may think proper, to certify that any lands, tenements, or hereditaments of any such Crown debtor or accountant shall be held by the purchaser or mortgagee or intended purchaser or mortgagee thereof, his or their heirs, executors, administrators, and assigns, wholly exonerated and discharged from all further claims of Her Majesty, her heirs or successors, for or in respect of any debt, claim, or liability, present or future, of the debtor or accountant to whom such lands, tenements, or hereditaments belonged, or, in cases of leases for fines, to certify that the lessees, their heirs, executors, administrators, and assigns, shall hold so exonerated and discharged, without prejudice to the rights and remedies of the Crown against the reversion of the lands, tenements, or hereditaments comprised in any such leases, and the rents and covenants reserved and contained by and in the same; and thereupon the same lands, tenements, or hereditaments shall respectively be held accordingly wholly exonerated and discharged as aforesaid, but in the cases of leases without prejudice as aforesaid.

11. Discharge of part of the estate of a debtor or creditor to the Crown not to affect claim of the Crown on other lands liable

Provided also, and be it enacted, that any such certificate, or the discharge of any such lands, tenements, or other hereditaments by virtue of this Act, shall in nowise impeach, lessen, or affect the right or power of Her Majesty, her heirs or successors, to levy the whole of any debt or demand which may at any time be due from any such debtor or accountant to the Crown out of or

from any other lands, tenements, or hereditaments which would have been liable thereto in case no such certificate had been granted and no such discharge had been obtained.

12. For protection of purchasers against secret fiats of bankruptcy

And whereas it is expedient that further provision should be made for the protection of purchasers against secret acts of bankruptcy and fiats in bankruptcy: Be it therefore enacted, that all conveyances by any bankrupt *bona fide* made and executed before the date and issuing of the fiat against such bankrupt shall be valid, notwithstanding any prior act of bankruptcy by him committed, provided the person or persons to whom such bankrupt so conveyed had not at the time of such conveyance notice of any prior act of bankruptcy by him committed.

13. Purchases from bankrupts not to be impeached unless commission is sued out within twelve months

And be it enacted, that no purchase from any bankrupt *bona fide* and for valuable consideration, where the purchaser had notice at the time of such purchase of an act of bankruptcy by such bankrupt committed, shall be impeached by reason thereof, unless the commission against such bankrupt shall have been sued out within twelve calendar months after such act of bankruptcy.

14. Act not to extend to Ireland

And be it enacted, that this Act shall not extend to Ireland.

Notes

- ¹ This is a compilation of the *Judgments Act 1839 (Imp)* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any previous reprints.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Judgments Act 1839 (Imp)</i>	1839 (2 and 3 Vict. c. 11)	4 Jun 1839	15 Jul 1867 (adopted by <i>Imperial Acts Adopting Ordinance 1867</i>)
Reprinted as at 26 Oct 1999			
<i>Courts Legislation Amendment and Repeal Act 2004 s. 20(1)(e)</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and Gazette 31 Dec 2004 p. 7128))

- ² Adopted in WA by *Imperial Acts Adopting Ordinance 1867*. (31 Vict. No. 8) [Assent 15 July 1867]
- ³ The short title *Judgments Act 1839* was given to this Imperial Act by the *Short Titles Act 1896* (UK).
- ⁴ 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.