

## RECIPROCAL ENFORCEMENT OF JUDGMENTS.

12° GEO. V., No. XX.

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No. 20 of 1921.

**AN ACT to facilitate the Reciprocal Enforcement of Judgments and Awards in Western Australia and other parts of His Majesty's Dominions or Territories under His Majesty's protection.**

[Assented to 29th November, 1921.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Reciprocal Enforcement of Judgments Act, 1921.* Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“Judgment” means any judgment or order given or made by a court in any civil proceedings, whether before or after the passing of this Act, whereby any sum of money is made payable and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place.

“Judgment creditor” means the person by whom any judgment was obtained, and includes the successors and assigns of that person.

“Judgment debtor” means any person against whom any judgment was given, and includes any person against whom the judgment is enforceable in that place where it was given.

“Original court,” in relation to any judgment, means the court by which the judgment was given.

“Superior court” means the High Court of Justice in England, Ireland, or Southern or Northern Ireland, or the Court of Session in Scotland, or any court in any other part of His Majesty’s dominions having original civil jurisdiction as a superior court therein or declared by the legislature thereof to be a superior court.

Enforcement in the State of judgments obtained in superior courts in other British dominions.

3. (1.) Where a judgment has been obtained in a superior court in any part of His Majesty’s dominions outside the Commonwealth to which this Act extends, the judgment creditor may apply to the Supreme Court at any time within twelve months after the date of the judgment, or such longer period as may be allowed by the Supreme Court, to have the judgment registered in that court, and on any such application the court may, if in all the circumstances of the case they think it is just and convenient that the judgment should be enforced in the State, and subject to the provisions of this section, order the judgment to be registered accordingly.

(2.) No judgment shall be ordered to be registered under this section if—

- (a) the original court acted without jurisdiction; or
- (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that court; or
- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
- (d) the judgment was obtained by fraud; or
- (e) the judgment debtor satisfies the Supreme Court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment; or

- (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the Supreme Court.

(3.) Where a judgment is registered under this section—

- (a) the judgment shall, as from the date of registration, be of the same force and effect, and proceedings may be taken thereon (including proceedings under the Debtors Act, 1871) as if it had been a judgment originally obtained or entered up on the date of registration in the Supreme Court;
- (b) the Supreme Court shall have the same control and jurisdiction over the judgment as it has over similar judgments given by itself, but in so far only as relates to execution under this section;
- (c) the reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining a certified copy thereof from the original court and of the application for registration) shall be recoverable in like manner as if they were sums payable under judgment.

(4.) Rules of court shall provide—

- (a) for service on the judgment debtor of notice of the registration of a judgment under this section; and
- (b) for enabling the Supreme Court on an application by the judgment debtor to set aside the registration of a judgment under this section on such terms as the court thinks fit; and
- (c) for suspending the execution of a judgment registered under this section until the expiration of the period during which the judgment debtor may apply to have the registration set aside.

(5.) In any action brought in any court in the State on any judgment which might be ordered to be registered under this section, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under this section has previously been refused, or unless the court otherwise orders.

Issue of certificates  
of judgments  
obtained in the  
State.

4. Where a judgment has been obtained in the Supreme Court against any person, the court shall on an application made by the judgment creditor and on proof that the judgment debtor is resident in some part of His Majesty's dominions outside the Commonwealth to which this Act extends, issue to the judgment creditor a certified copy of the judgment.

Power to make rules  
with regard to  
evidence.

5. Rules of court made for the purposes of this Act may prescribe any special rules of evidence which shall be followed and observed in the Supreme Court in proceedings under this Act.

Powers of single  
judge.

6. Subject to rules of court, any of the powers conferred by this Act on the Supreme Court may be exercised by a judge of the court sitting in court or in chambers.

Power to apply this  
Act to territories  
under His Majesty's  
protection.

7. The Governor may by Order in Council declare that this Act shall apply to any territory which is under His Majesty's protection, or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions, as if that territory were part of His Majesty's dominions, and on the making of any such order this Act shall, subject to the provisions of the order, have effect accordingly.

Extent of this Act.

8. (1.) This Act shall extend to the United Kingdom and, where the Governor is satisfied that reciprocal provisions have been, or are about to be, made by the legislature or other competent authority of or in any part of His Majesty's dominions outside the Commonwealth and outside the United Kingdom for the enforcement within that part of his dominions of judgments obtained in the Supreme Court of this State, the Governor may by Order in Council declare that this Act shall extend to that part of His Majesty's dominions, and on any such order being made this Act shall so extend accordingly.

(2.) An Order in Council under this section may be varied or revoked by a subsequent order.

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