

FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT).

No. 61 of 1980.

AN ACT to amend the Foreign Judgments
(Reciprocal Enforcement) Act 1963-1965.

[Assented to 24 November 1980.]

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

1. (1) This Act may be cited as the *Foreign Judgments (Reciprocal Enforcement) Amendment Act 1980*. Short title
and citation.

(2) In this Act the Foreign Judgments (Reciprocal Enforcement) Act 1963-1965 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Foreign Judgments (Reciprocal Enforcement) Act 1963-1980.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Section 3
amended.

3. Section 3 of the principal Act is amended by deleting "14" and substituting the following—

" 15 " .

Section 5
amended.

4. Section 5 of the principal Act is amended—

(a) in subsection (1), by inserting, in their appropriate alphabetical positions, the following definitions—

" "non-recoverable tax" means tax other than recoverable tax; ;

"recoverable tax" means tax payable under the laws of Papua New Guinea relating to taxes on income, but does not include—

(a) additional or other tax payable, by way of penalty, interest or otherwise, because of a contravention or failure to comply with any of those laws or of a requirement made under any of those laws; or

(b) tax of a class or description for the time being specified in an Order in force under subsection (3) of this section; " ;

(b) by inserting after subsection (2) the following subsection—

“ (3) Where the Governor is of the opinion that any tax payable under the laws of Papua New Guinea is not properly a tax on income, he may, for the purposes of paragraph (b) of the definition of “recoverable tax” in subsection (1) of this section, by Order declare any class or description of tax specified in the Order not to be recoverable tax. ” .

5. Section 6 of the principal Act is amended in subsection (3) by deleting paragraph (b) and substituting the following paragraph—

Section 6
amended.

“ (b) there is payable thereunder—

- (i) a sum of money, not being (except as referred to in subparagraph (ii) of this paragraph) a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty; or
- (ii) a sum of money payable in respect of a recoverable tax; and ” .

6. Section 7 of the principal Act is amended by inserting after subsection (6) the following subsection—

Section 7
amended.

“ (6a) Without affecting subsection (7) of this section, where, on an application for the registration of a judgment, it appears to the Supreme Court that—

- (a) a judgment is in respect of a sum of money payable in respect of both recoverable tax and non-recoverable tax;
- (b) the judgment could have been registered if it had been in respect of recoverable tax only, the judgment

may be registered in respect of the sum less so much as relates to non-recoverable tax, but may not be registered in respect of so much of the sum as relates to non-recoverable tax. " .

Section 14
amended.

7. Section 14 of the principal Act is amended in subsection (1) by deleting “, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty,”.

Section 15
added.

8. After section 14 of the principal Act, the following section is added—

Savings re
Orders
cancelled or
varied.

“ 15. (1) In this section, “relevant Order” means—

- (a) an Order cancelling or varying an Order under subsection (2) of section 6 of this Act; or
- (b) an Order under subsection (3) of section 5 of this Act.

(2) Subject to subsection (3) of this section, this Act continues to apply to and in respect of judgments given before the coming into operation of a relevant Order as if the Order had not been made.

(3) Where, by reason of the coming into operation of a relevant Order—

- (a) Part II of this Act ceases to apply to a country;
- (b) a court of a country ceases to be a superior court for the purposes of Part II of this Act; or
- (c) a recoverable tax becomes a non-recoverable tax,

