# 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 and citation. Judgments (Reciprocal Enforcement) Amendment Act 1980.
- (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— 2. This Act shall come into operation on a day to be fixed by proclamation.
- 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; ";

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

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

- (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

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

## Section 14

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 varled.

- 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 nonrecoverable tax.

the Governor may, in the relevant Order or a subsequent Order, direct that this Act shall not apply to or in respect of—

- (d) all judgments (other than a judgment referred to in subsection (4) of this section) given before the coming into operation of the relevant Order, being—
  - (i) judgments given in the courts of the country referred to in paragraph (a) of this subsection;
  - (ii) judgments given in the courts referred to in paragraph (b) of this subsection; or
  - (iii) judgments so far as sums of money are payable in respect of a tax referred to in paragraph(c) of this subsection; or
- (e) such class or description of the judgments referred to in paragraph (d) of this subsection as is specified in the Order,

and the direction shall, subject to subsection (4) of this section, have effect according to its terms.

(4) A direction under subsection (3) of this section does not have effect in relation to a judgment if an application for the registration of the judgment was made in accordance with this Act before the Order in which the direction was given came into operation. ".