

**FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) AMENDMENT ACT, 1981, No. 27**

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 27, 1981.

An Act to amend the Foreign Judgments (Reciprocal Enforcement) Act, 1973, so as to provide for the enforcement in the State of income tax judgments of certain courts of Papua New Guinea, and for related matters. [Assented to, 14th May, 1981.]

Foreign Judgments (Reciprocal Enforcement) Amendment.

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

Short title.

1. This Act may be cited as the "Foreign Judgments (Reciprocal Enforcement) Amendment Act, 1981".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 39, 1973.

3. The Foreign Judgments (Reciprocal Enforcement) Act, 1973, is amended in the manner set forth in Schedule 1.

SCHEDULE 1. (Sec. 3.)

AMENDMENTS TO THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT, 1973.

(1) (a) Section 4 (1), definition of "non-recoverable tax"—

After the definition of "judgments given in the Supreme Court" in section 4 (1), insert :—

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

Foreign Judgments (Reciprocal Enforcement) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) ACT, 1973—*continued.*

(b) Section 4 (1), definition of “recoverable tax”—

After the definition of “prescribed” in section 4 (1),
insert :—

“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 of 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);

(c) Section 4 (3)—

After section 4 (2), insert :—

(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), by order declare
any class or description of tax specified in the order
not to be recoverable tax.

Foreign Judgments (Reciprocal Enforcement) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) ACT, 1973—*continued.*

(2) Section 5 (4) (b)—

Omit the paragraph, insert instead :—

(b) there is payable thereunder—

- (i) a sum of money, not being (except as referred to in subparagraph (ii)) 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

(3) Section 6 (6A)—

After section 6 (6), insert :—

(6A) Without affecting subsection (7), 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; and
- (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.

Foreign Judgments (Reciprocal Enforcement) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) ACT, 1973—*continued.*

(4) Section 13 (1)—

Omit “, 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,”.

(5) Section 16—

Omit the section, insert instead :—

Savings re orders.

16. (1) In this section, “relevant order” means—

- (a) an order revoking, altering or amending an order under section 5 (3); or
- (b) an order under section 4 (3).

(2) Subject to subsection (3), 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 ceases to apply to a country;
- (b) a court of a country ceases to be a superior court for the purposes of Part II; or
- (c) a recoverable tax becomes a non-recoverable tax, the Governor may, in the relevant order or a subsequent

Foreign Judgments (Reciprocal Enforcement) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) ACT, 1973—*continued.*

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)) 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);
 - (ii) judgments given in the courts referred to
in paragraph (b); or
 - (iii) judgments so far as sums of money are
payable in respect of a tax referred to in
paragraph (c); or
- (e) such class or description of the judgments
referred to in paragraph (d) as is specified in
the order,

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

(4) A direction under subsection (3) 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.
