

**FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT)
AMENDMENT ACT 1988 No. 65**

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS

**FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT)
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NEW SOUTH WALES



Act No. 65, 1988

An Act to amend the Foreign Judgments (Reciprocal Enforcement) Act 1973 to make provision for the restriction of the enforcement of certain judgments. [Assented to 21 November 1988]

Foreign Judgments (Reciprocal Enforcement) Amendment 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Foreign Judgments (Reciprocal Enforcement) Amendment Act 1988.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Foreign Judgments (Reciprocal Enforcement) Act 1973 No. 39

3. The Foreign Judgments (Reciprocal Enforcement) Act 1973 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Long title—

After “State;” where secondly occurring, insert “to restrict the enforcement in the State of certain judgments given in other countries;”.

(2) Section 1 (**Short title**)—

Omit “(Reciprocal Enforcement)”.

(3) Section 3 (**Division of Act**)—

Omit the section.

(4) Section 8 (**Cases in which registered judgments must, or may, be set aside**)—

(a) Section 8 (2) (a) (i)—

Omit the subparagraph, insert instead:

(i) if the judgment debtor voluntarily submitted to the jurisdiction of the original court;

(b) Section 8 (4)—

After section 8 (3), insert:

(4) For the purposes of subsection (2) (a), a person does not voluntarily submit to the jurisdiction of a court by—

(a) entering an appearance in proceedings in the court; or

(b) participating in proceedings in the court only to such extent as is reasonably necessary,

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for the purpose only of one or more of the following:

- (c) protecting, or obtaining the release of—
 - (i) property seized, or threatened with seizure, in the proceedings; or
 - (ii) property subject to an order restraining its disposition or disposal or in relation to which such an order is sought;
- (d) contesting the jurisdiction of the court;
- (e) inviting the court in its discretion not to exercise its jurisdiction in the proceedings.

(5) Part 4—

After Part 3, insert:

**PART 4—ENFORCEMENT OF JUDGMENTS TO WHICH
PART 2 DOES NOT APPLY**

Certain judgments not enforceable at common law etc.

18. (1) For the purposes of proceedings brought in the State for the recovery of a sum payable under a judgment given in an action in personam by a court of a Commonwealth country (other than Australia) or a foreign country, not being a judgment to which Part 2 applies, the court shall be deemed not to have had jurisdiction to give the judgment by reason only that the judgment debtor—

- (a) entered an appearance in proceedings in the court; or
- (b) participated in proceedings in the court only to such extent as was reasonably necessary,

for the purpose only of one or more of the following:

- (c) protecting, or obtaining the release of—
 - (i) property seized, or threatened with seizure, in the proceedings; or
 - (ii) property subject to an order restraining its disposition or disposal or in relation to which such an order was sought;
- (d) contesting the jurisdiction of the court;
- (e) inviting the court in its discretion not to exercise its jurisdiction in the proceedings.

(2) For the purposes of section 5 (2) (b) of the Administration of Justice Act 1924, a person does not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of a court by—

- (a) entering an appearance in proceedings in the court; or

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SCHEDULE 1—AMENDMENTS—*continued*

(b) participating in proceedings in the court only to such extent as is reasonably necessary,
for the purpose only of doing one or more things of the kind mentioned in subsection (1) (c), (d) or (e).

[*Minister's second reading speech made in—
Legislative Assembly on 30 August 1988
Legislative Council on 15 November 1988*]
