

# Administration of Justice Act 1924 No 42

[1924-42]



New South Wales

## Status Information

### Currency of version

Repealed version for 7 July 1999 to 14 August 2005 (accessed 12 December 2024 at 13:12)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by Sch 4 to the [Civil Procedure Act 2005 No 28](#) with effect from 15.8.2005.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Administration of Justice Act 1924 No 42



New South Wales

An Act to amend the law with respect to the administration of justice; to facilitate the reciprocal enforcement of judgments and awards in the State of New South Wales and in the United Kingdom and other parts of His Majesty's dominions or territories under His Majesty's protection; to amend the [Common Law Procedure Act 1899](#), the [Supreme Court Procedure Act 1900](#), the [Inter-state Debts Recovery Act 1901](#), the [Interpleader Act 1901](#), the [District Courts Act 1912](#) and certain other Acts; to repeal the [Interest on Judgments Amendment Act 1900](#); and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the [Administration of Justice Act 1924](#).

### 2 (Repealed)

## Part 2 Reciprocal enforcement of judgments in New South Wales and in other parts of His Majesty's dominions

### 3 Interpretation

(1) In this Part of this Act, unless the context otherwise requires:

**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 (other than a foreign award enforceable by virtue of Part 7 of the [Commercial Arbitration Act 1984](#)) 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 the judgment was obtained, and includes the successors and assigns of that person.

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

**Supreme Court** means the Supreme Court of New South Wales.

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

**United Kingdom** does not include the Irish Free State but does include Northern Ireland.

(2) (Repealed)

**3A Restrictions on operation of this Part: *Foreign Judgments (Reciprocal Enforcement) Act 1973***

- (1) Where an order is made directing that Part 2 of the *Foreign Judgments (Reciprocal Enforcement) Act 1973* shall apply to a Commonwealth country to which Part 2 of this Act applied immediately before the coming into operation of the order, this Part shall cease to apply to that country upon the coming into operation of the order.
- (2) After the commencement of the *Foreign Judgments (Reciprocal Enforcement) Act 1973*, no proclamations shall be made under this Act applying this Part to any Commonwealth country.
- (3) In this section **Commonwealth country** has the meaning ascribed to that expression in subsection (1) of section 4 of the *Foreign Judgments (Reciprocal Enforcement) Act 1973*.

**4 Application of this Part**

- (1) This Part applies with respect to:
  - (a) the United Kingdom,
  - (b) any other part of His Majesty's dominions with respect to which this Part is applied under this section,
  - (c) any territory with respect to which this Part is applied under this section.
- (2) Where the Governor is satisfied that reciprocal provisions have been made by the legislature of any part of His Majesty's dominions other than the United Kingdom for the enforcement within that part of His Majesty's dominions of judgments obtained in the Supreme Court, the Governor may, by proclamation, declare that this Part shall apply with respect to that part of His Majesty's dominions, and on any such proclamation this Part shall apply accordingly.
- (3) The Governor may, by proclamation, declare that this Part shall apply with respect 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

proclamation this Part shall, subject to the provisions of the proclamation, apply accordingly.

- (4) The Governor may, by proclamation, revoke or vary any proclamation made under this section.
- (5) A copy of the Gazette purporting to contain a copy of a proclamation under this section shall be conclusive evidence of the validity, contents, making and publication of such proclamation, and of the fulfilment of all conditions precedent to the valid making thereof.
- (6) Nothing in this section shall authorise the Governor to declare that this Part shall apply with respect to:
  - (a) any part of His Majesty's dominions within the Commonwealth of Australia,
  - (b) any territory in respect of which a mandate is being exercised by the Commonwealth of Australia.

**Editorial note—**

For proclamations under this section, see the Historical notes at the end of this Act.

**5 Enforcement in New South Wales of judgments obtained in superior courts of other British dominions**

- (1) Where a judgment has been obtained in a superior court in any part of His Majesty's dominions with respect to which this Part applies, 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 court, to have the judgment registered in the court, and on any such application the court may, if in all the circumstances of the case the court thinks it is just and convenient that the judgment should be enforced in New South Wales, 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 the judgment debtor 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 the judgment debtor 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 as if it had been a judgment originally obtained or entered 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 the judgment.
- (4) In paragraph (c) of subsection (3) a certified copy of the judgment means a copy:
- (a) proved to be an examined copy of the judgment, or
  - (b) sealed with the seal of the original court, or
  - (c) signed by a judge of the original court with a statement in writing attached by the judge to the judge's signature on the copy that he or she is such judge and that the court has no seal.
- (5) 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.
- (6) In any action in any court in New South Wales 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.

## **6 Issue of certificate of judgments obtained in New South Wales**

- (1) Where a judgment has been obtained in the Supreme Court against any person, the court shall, on an application made by the judgment creditor, issue to the judgment creditor a certified copy of the judgment.
- (2) In this section a certified copy of the judgment includes any copy authenticated in the manner prescribed by the law for the time being in force in any part of His Majesty's dominions, or in any territory, to which this Part applies.

## **7 Power to make rules**

- (1) Rules of court may be made under the [Supreme Court Act 1970](#) regulating the practice and procedure (including evidence) in respect of proceedings of any kind under this Part.
- (2) Subsection (1) does not limit the rule-making powers conferred by the [Supreme Court Act 1970](#).

## **Parts 3, 4**

### **8-20 (Repealed)**

### **Schedule (Repealed)**