

# RECIPROCAL ENFORCEMENT OF JUDGMENTS ORDINANCE 1925. <sup>(1)</sup>

No. 3 of 1925.

## An Ordinance to facilitate the reciprocal enforcement of judgments and awards in the Territory of New Guinea and the United Kingdom and other parts of His Majesty's Dominions.

**B**E it ordained by the Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920*, as follows:—

1. This Ordinance may be cited as the *Reciprocal Enforcement of Judgments Ordinance 1925*. <sup>(1)</sup> Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.

“judgment” means any judgment or order given or made by a court in any civil proceedings, whether before or after the passing of this Ordinance whereby any sum of money is made payable and includes an award in proceedings on an arbitration 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;

“original court” in relation to any judgment means the court by which the judgment was given;

“registering court” in relation to any judgment means the court by which the judgment was registered;

“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.

(1) Particulars of this Ordinance are as follows:—

Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwlth. Gaz.</i>	Date on which took effect.
11.2.1925	12.2.1925	12.2.1925 ( <i>Cwlth. Gaz.</i> of 11.2.1925)

## JUDGMENTS (RECIPROCAL ENFORCEMENT)—

Enforcement  
of judgments  
obtained in  
High Court  
in England,  
&c.

3.—(1.) Where a judgment has been obtained in the High Court in England or Ireland or in the Court of Session in Scotland the judgment creditor may apply to<sup>(3)</sup> Central Court<sup>(2)</sup> of the Territory at any time within twelve months after the date of the judgment or such longer period as may be allowed by the Central Court<sup>(2)</sup> to have the judgment registered in the Central Court<sup>(2)</sup> and on any such application the Central Court<sup>(2)</sup> may if in all the circumstances of the case it thinks it just and convenient that the judgment should be enforced in the Territory 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 he 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 registering court either that an appeal is pending or that he 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 registering 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 up on the date of registration in the registering court;
- (b) the registering 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 executions under this section;

(2) See Section 7A of the *Judiciary Ordinance* 1921-1938.

(3) The words "to Central Court" appeared in the original Ordinance. The word "the" has now been inserted after the word "to" by the First Schedule of the *Ordinances Reprint and Revision Ordinance* 1947 of the Territory of Papua-New Guinea.

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- (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 the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment.

4. In any action brought in the Central Court<sup>(2)</sup> of the Territory on any judgment which might be ordered to be registered under the last preceding section the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under that section has previously been refused or unless the court otherwise orders.

No costs of action in certain cases.

5. Where a judgment has been obtained in the Central Court<sup>(2)</sup> of the Territory against any person the Central Court<sup>(2)</sup> shall on an application made by the judgment creditor and on proof that the judgment debtor is resident in the United Kingdom issue to the judgment creditor a certified copy of the judgment.

Issue of certificate of judgment obtained in Territory.

6.—(1.) The Chief Judge of the Territory may make rules of court<sup>(4)</sup> for regulating the practice and procedure (including scales of fees and evidence) in respect of proceedings of any kind under this Ordinance and such rules of court shall (*inter alia*) provide—

Power to make rules.

- (a) for service on the judgment debtor of notice of the registration of a judgment under this section; and
- (b) for enabling the registering 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.

(2.) All rules of court made in pursuance of this section shall be published or notified in the *Gazette*, and copies thereof shall be forwarded to the Minister<sup>(5)</sup> after the making thereof.

(3.) The Minister<sup>(5)</sup> may, by notification in the *Gazette*, disallow any rule of court, and thereupon the rule so disallowed shall cease to have effect.

7.—(1.) Where the Governor-General is satisfied that reciprocal provisions have been made by the legislature of any other part of His Majesty's Dominions outside the United Kingdom for the enforcement within that part of His Majesty's Dominions of judg-

Power to extend provisions of Ordinance.

(2) See Section 7A of the *Judiciary Ordinance 1921-1938*.

(4) See the *Rules of Court (Reciprocal Enforcement of Judgments) 1928*, printed on p. 2643.

(5) Section 4 of the *Ordinances Interpretation Ordinance 1934-1941* provides as follows: "In any Ordinance, unless the contrary intention appears— . . . 'Minister' means the Minister of State for the time being administering the *New Guinea Act 1920-1932*".

JUDGMENTS (RECIPROCAL ENFORCEMENT)—

ments obtained in the Territory of New Guinea the Governor-General may by Proclamation<sup>(6)</sup> declare that this Ordinance shall extend to judgments obtained in a Superior Court in that part of His Majesty's Dominions in like manner as it extends to judgments obtained in a Superior Court in the United Kingdom and on any such order being made this Ordinance shall extend accordingly.

(2.) For the purposes of this section the expression "that part of His Majesty's Dominions outside the United Kingdom" shall be deemed to include 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.

(3.) A Proclamation under this section may be varied or revoked by a subsequent Proclamation.

(6) Pursuant to Section 7, the Governor-General, by proclamations, particulars of which are set out in the Table below, declared that the *Reciprocal Enforcement of Judgments Ordinance* 1925. should extend to judgments obtained in the Courts of the parts of His Majesty's Dominions respectively specified in such proclamations, in like manner as it extends to judgments obtained in a Supreme Court in the United Kingdom.

TABLE.

(N.B.—Proclamations which have been revoked are shown in italics.)

Date on which proclamation made.	Date on which published in <i>Cwlth. Gaz.</i>	Date on which published in <i>N.G. Gaz.</i>	Court and part of His Majesty's Dominions declared.
<i>26.8.1925<sup>(a)</sup></i>	<i>27.8.1925</i>	(b)	<i>Superior Courts of the States of South Australia, Western Australia, and New South Wales</i>
<i>3.3.1926<sup>(a)</sup></i>	<i>20.5.1926</i>	(b)	<i>Superior Courts of the Colony of Fiji, the Northern Territory of Australia, and the Territories of Papua and Norfolk Island</i>
7.2.1927	10.2.1927	31.10.1927	Superior Courts of the States of South Australia and Western Australia, the Colony of Fiji, the Northern Territory of Australia, and the Territories of Norfolk Island and Papua
28.10.1927	3.11.1927	(b)	The Supreme Court of the Straits Settlements

(a) Revoked by Proclamation dated 7.2.1927 and published in *Cwlth. Gaz.* of 10.2.1927.

(b) Not published in *N.G. Gaz.*