

**FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT)
AMENDMENT ACT 1987**

No. 59 of 1987

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**FOREIGN JUDGMENTS (RECIPROCAL
ENFORCEMENT) AMENDMENT ACT 1987**

No. 59 of 1987

**AN ACT to amend the Foreign Judgments (Reciprocal
Enforcement) Act 1963.**

[Royal Assent 18 August 1987]

BE it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled, as
follows:—

1—This Act may be cited as the *Foreign Judgments* Short title.
(Reciprocal Enforcement) Amendment Act 1987.

2—(1) This section and section 1 shall commence on the Commencement.
day on which this Act receives the Royal assent.

(2) Except as provided in subsection (1), this Act shall
commence on such day as may be fixed by proclamation.

3—In this Act, the *Foreign Judgments (Reciprocal* Principal Act.
*Enforcement) Act 1963** is referred to as the **Principal Act.**

*Act No. 5 of 1963. For this Act as amended to 1st March 1980, see the continuing Reprint
of Statutes. Subsequently amended by No. 84 of 1980 and No. 51 of 1985.

Amendment of
long title to
Principal Act.

4—The long title to the Principal Act is amended by inserting after “State”, thirdly occurring, “to restrict the enforcement of certain foreign judgments, to provide for the registration of court of requests judgments as judgments of the Supreme Court,”.

Amendment of
section 1 of
Principal Act
(Short title).

5—Section 1 of the Principal Act is amended by omitting “(Reciprocal Enforcement)”.

Amendment of
section 6 of
Principal Act
(Cases in which
registered
judgments must,
or may, be set
aside).

6—Section 6 of the Principal Act is amended as follows:—

(a) by omitting subparagraph (i) of subsection (2) (a) and substituting the following subparagraph:—

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

(b) by adding the following subsection after subsection (3):—

(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,

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;

(d) contesting the jurisdiction of the court;

(e) inviting the court in its discretion not to exercise its jurisdiction in the proceedings.

Insertion
Principal Act of
new Parts IIA
and IIB.

7—The Principal Act is amended by inserting the following Parts after Part II:—

PART IIA
ENFORCEMENT OF JUDGMENTS TO WHICH PART II DOES
NOT APPLY

9A—For the purposes of proceedings brought in Tasmania for the recovery of a sum payable under a judgment given in an action *in personam* by a court of a foreign country, not being a judgment to which Part II applies, the court shall not be taken to have had jurisdiction to give the judgment by reason only that the judgment debtor—

Certain judgments not enforceable.

- (a) entered an appearance in proceedings in that court; or
- (b) participated in proceedings in that 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;
- (d) contesting the jurisdiction of the court;
- (e) inviting the court in its discretion not to exercise its jurisdiction in the proceedings.

PART IIB
REGISTRATION OF COURT OF REQUESTS JUDGMENTS
AS JUDGMENTS OF SUPREME COURT

9B—(1) Any person in whose favour a judgment is, or is deemed to be, given or made, on or after 2nd May 1963 in a court of requests may apply to the registrar of that court for a certificate of judgment.

Procedure for registration of court of requests judgments as judgments of Supreme Court.

- (2) An application for a certificate of judgment—
 - (a) shall be accompanied by the prescribed application fee; and
 - (b) shall contain the prescribed information.

(3) The registrar of a court of requests to whom an application under subsection (1) is made, on being satisfied that the information contained in the application is correct shall issue a certificate of judgment and shall forthwith forward the certificate to the Registrar of the Supreme Court and a copy of the certificate to the applicant.

(4) A certificate of judgment shall be in the prescribed form and shall contain the prescribed particulars.

(5) A certificate of judgment shall not be issued by the registrar of a court of requests—

(a) before the expiration of the period within which an appeal may be lodged in relation to the judgment; or

(b) if such an appeal has been lodged, before the determination or abandonment of the appeal, as the case may be.

(6) Upon receipt of a certificate of judgment from the registrar of a court of requests, the Registrar of the Supreme Court may, if he is satisfied that the provisions of this Act are appropriate to use in the enforcement of the judgment, register the judgment referred to in the certificate as a judgment of the Supreme Court and, on the date on which the judgment is registered, the judgment of the court of requests referred to in the certificate shall, by force of this section, have the same force and effect as a judgment of the Supreme Court and the like proceedings may be taken on the judgment as if it were a judgment originally given in the Supreme Court.

(7) The Registrar of the Supreme Court shall notify the person who made application under subsection (1) that the judgment referred to in the certificate of judgment has been registered as a judgment of the Supreme Court and shall forward to that person a copy of that registered judgment certified by the Registrar as being a true and correct copy.

(8) Further action may not be taken in the court of requests in relation to the proceedings to which the judgment relates on and from the date on which the Registrar of the Supreme Court registers the judgment referred to in the certificate of judgment in accordance with subsection (6).

15—The Governor may make regulations for the ^{Regulations.} purposes of this Act.

