

FOREIGN JUDGMENTS (RECIPROCAL  
ENFORCEMENT) AMENDMENT BILL, 1981

**FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT)  
AMENDMENT BILL, 1981**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Foreign Judgments (Reciprocal Enforcement) Act, 1973 ("the Principal Act"), so as to provide for the enforcement in the State of income tax judgments of the superior courts of Papua New Guinea.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3 gives effect to the schedule of amendments to the Principal Act.

Schedule 1 (1) inserts in the Principal Act definitions of "recoverable tax" and "non-recoverable tax". "Recoverable tax" is defined as tax payable under the laws of Papua New Guinea, excluding additional or other tax payable because of a breach of those laws and also excluding tax specified in an order of the Governor-in-Council under proposed section 4 (3).

Schedule 1 (2) amends section 5 of the Principal Act so as to remove the prohibition on the enforcement in the State of income tax judgments so far as they relate to "recoverable tax".

Schedule 1 (3) inserts section 6 (6A) in the Principal Act, to deal with judgments given in respect of both "recoverable tax" and "non-recoverable tax", so that the judgments may be enforced in respect of "recoverable tax".

Schedule 1 (4) amends section 13 of the Principal Act so as to remove the prohibition on the issue by the Supreme Court of certificates in respect of judgments entered in the Supreme Court for taxes and other matters.

Schedule 1 (5) omits section 16 of the Principal Act and inserts a new section which deals with the operation of the Principal Act on judgments given before the coming into operation of orders that have the effect of narrowing the operation of the Act.



FOR THE PURPOSES OF THE ACT OF 1907

ARTICLE IV

(1) The Government of the United States of America

has agreed to the following provisions for the purpose of the Act of 1907

that the Government of the United States of America

shall have the right to

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**FOREIGN JUDGMENTS (RECIPROCAL  
ENFORCEMENT) AMENDMENT BILL, 1981**

No. , 1981.

**A BILL FOR**

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.

[MR WALKER—25 March, 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 :—

**5 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  
10 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*.

**15 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.)

**20 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 :—

**25** "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”—

5 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—

10 (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  
15 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)—

20 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  
25 “recoverable tax” in subsection (1), by order declare  
any class or description of tax specified in the order  
not to be recoverable tax.

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*Foreign Judgments (Reciprocal Enforcement) Amendment.*

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

## (2) Section 5 (4) (b)—

5 Omit the paragraph, insert instead :—

(b) there is payable thereunder—

- 10 (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)—

15 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—

- 20 (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,
- 25 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)—

- 5 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 :—

10 **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).

15 (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.

20 (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,
- 25 the Governor may, in the relevant order or a subsequent



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*Foreign Judgments (Reciprocal Enforcement) Amendment.*

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**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.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

(40c.)



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

**New South Wales**



ANNO TRICESIMO

**ELIZABETHÆ II REGINÆ**

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**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.]



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*Foreign Judgments (Reciprocal Enforcement) Amendment.*

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**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.

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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.



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*Foreign Judgments (Reciprocal Enforcement) Amendment.*

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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



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*Foreign Judgments (Reciprocal Enforcement) Amendment.*

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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.

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
Governor.

Government House,  
Sydney, 14th May, 1981.







Foreign Judgments (Reciprocity) Amendment Act

SCHEDULE 1

AMENDMENTS TO THE FOREIGN JUDGMENTS (RECIPROCITY) ACT, 1973

1. In the Act, the following amendments shall be made:

(a) in section 2, the definition of "foreign judgment" shall be amended to read as follows:

"foreign judgment" means a judgment of a court of law in a foreign country which is enforceable in this country;

(b) in section 3, the definition of "reciprocity" shall be amended to read as follows:

"reciprocity" means the principle that a country will enforce the judgments of another country only if that other country will enforce the judgments of this country;

(c) in section 4, the definition of "judgment" shall be amended to read as follows:

"judgment" means a final judgment of a court of law in a foreign country which is enforceable in this country;

(d) in section 5, the definition of "party" shall be amended to read as follows:

"party" means a person who is a party to a judgment of a court of law in a foreign country which is enforceable in this country;

In the name and on behalf of Her Majesty I assent to this Act

J. A. ROWLAND

Governor

Government House

Sydney, 14th May, 1981

BY AUTHORITY

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