

New Zealand

Reciprocal Enforcement of Judgments Act 1934

Public Act 1934 No 11

Date of assent: 28 September 1934

Part 1 Reciprocal enforcement of judgments

[...]

3. Application of this Part

(1) This Part shall extend to the United Kingdom.

(1A) Nothing in this Part applies or extends to a judgment that is given in or by a superior court or an inferior court of Australia.

(1B) Subsection (1A) does not, however, prevent a judgment given in or by a superior court or an inferior court of Australia from being a registrable Australian judgment under subpart 5 of Part 2 of the Trans-Tasman Proceedings Act 2010.

(1C) Subsection (1A), and the amendments to, and revocations of orders under, this Part effected by Schedule 2 of the Trans-Tasman Proceedings Act 2010, do not, however, affect the application of this Part to a judgment given in or by a superior court or an inferior court of Australia before the commencement of subpart 5 of Part 2 of that Act.

(2) If the Governor-General is satisfied that, in the event of the benefits conferred by this Part being extended to money judgments given in the superior courts of any part of the Sovereign's dominions outside the United Kingdom, or given in the superior courts of any foreign country, substantial reciprocity of treatment will be assured as respects the enforcement within that part of the Sovereign's dominions or in that foreign country, as the case may be, of money judgments given in the superior courts of New Zealand, he may by Order in Council direct—

(a) that this Part shall extend to that part of the Sovereign's dominions or to that foreign country; and

(b) that such courts as are specified in the Order in Council shall, for the purposes of this Part, be deemed superior courts of that part of the Sovereign's dominions or of that foreign country.

(2A) The fact that a particular court is not specified in an Order in Council is not taken to imply that the court is not a superior court for the purposes of this Act.

(3) Any money judgment of a superior court of a country to which this Part extends, other than a money judgment of such a court given on appeal from a court, not being a specified inferior court, which is not a superior court, shall be a judgment to which this Part applies, if—

(a) it is final and conclusive as between the parties thereto; and

(b) there is payable thereunder a sum of money, 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; and

(c) it is given after the coming into operation of the Order in Council directing that this Part shall extend to that country: provided that nothing in this paragraph shall apply with respect to judgments given in the United Kingdom or in any other part of

the Sovereign's dominions to which Part 1 of the Administration of Justice Act 1922 applied immediately before the passing of this Act.

(3A) [Repealed]

(4) For the purposes of this section a judgment shall be deemed to be final and conclusive notwithstanding that an appeal may be pending against it, or that it may still be subject to appeal, in the courts of the country of the original court.

(5) The Governor-General may by a subsequent Order in Council vary or revoke any Order in Council previously made under this section.

(6) [Repealed]

3A. Application of this Part to judgments of inferior courts

(1) If the Governor-General is satisfied that, in the event of the benefits conferred by this Part being extended to money judgments given in all or some inferior courts of a country to which this Part extends, substantial reciprocity of treatment will be assured as respects the enforcement in that country of money judgments given in all or some inferior courts of New Zealand, the Governor-General may, by Order in Council, direct that such inferior courts of that country as are specified in the order, are specified inferior courts for the purposes of this Part.

(2) Any money judgment of a specified inferior court shall be a judgment to which this Part applies if—

(a) it is final and conclusive as between the parties to it; and

(b) there is payable under the judgment a sum of money, 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; and

(c) it is given after the coming into operation of the Order in Council directing that the inferior court is a specified inferior court for the purposes of this Part.

(3) [Repealed]

(4) [Repealed]

(5) For the purposes of this section, a judgment shall be deemed to be final and conclusive notwithstanding that an appeal may be pending against it, or that it may still be subject to appeal, in the courts of the country of the original court.

(6) The Governor-General may by a subsequent Order in Council vary or revoke any Order in Council previously made under this section.

3B. Application of this Part to non-money judgments

(1) If the Governor-General is satisfied that, in the event of the benefits conferred by this Part being extended to some or all non-money judgments given in any superior courts of any country to which this Part extends, substantial reciprocity of treatment will be assured as respects the enforcement in that country of all or some non-money judgments given in the superior courts of New Zealand, the Governor-General may, by Order in Council, direct that such non-money judgments of the superior courts of that country as are specified in the order are specified non-money judgments for the purposes of this Part.

(2) If the Governor-General is satisfied that, in the event of the benefits conferred by this Part being extended to all or some non-money judgments given in any inferior courts of a country to which this Part extends, substantial reciprocity of treatment will be assured as respects the enforcement in that country of all or some non-money judgments given in the inferior courts of New Zealand, the Governor-General may, by Order in Council, direct that such non-

money judgments of such of the inferior courts of that country as are specified in the order, are specified non-money judgments for the purposes of this Part.

(3) Every Order in Council made under subsection (1) or subsection (2) shall specify the non-money judgments by reference to—

- (a) the kinds of proceedings in which the non-money judgments are given; and
- (b) the kinds of non-money judgments.

(4) A specified non-money judgment shall be a judgment to which this Part applies if it was given after the coming into operation of an Order in Council made under subsection (1) or subsection (2), as the case may be, in relation to that judgment.

(5) [Repealed]

(6) The Governor-General may by a subsequent Order in Council vary or revoke any Order in Council previously made under this section.

4. Application for, and effect of, registration of judgment

(1) A person, being a judgment creditor under a judgment to which this Part applies, may apply to the High Court at any time within 6 years after the date of the judgment, or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in the High Court, and on any such application the said court shall, subject to proof of the prescribed matters and to the other provisions of this Act, order the judgment to be registered:

provided that a judgment shall not be registered if at the date of the application—

- (a) it has been wholly satisfied; or
- (b) it could not be enforced in the country of the original court.

(2) Subject to the provisions of this Act with respect to the setting aside of registration,—

- (a) a registered judgment shall, for the purposes of enforcement, be of the same force and effect; and
- (b) proceedings may be taken on a registered judgment; and
- (c) the sum for which a judgment is registered shall carry interest; and
- (d) the High Court shall have the same control over the enforcement of a registered judgment—

as if the judgment had been a judgment originally given in the High Court on the date of registration:

provided that the judgment shall not be enforced so long as, under this Part and the rules of court made thereunder, it is competent for any party to make an application to have the registration of the judgment set aside, or, where such an application is made, until after the application has been finally determined.

(2A) A judgment may only be enforced if, and to the extent that, at the time the proceedings for enforcement are or are to be taken, the judgment is capable of being enforced in the country of the original court.

(3) Where a sum payable under a judgment that is to be registered is expressed in a currency other than New Zealand currency, the judgment is to be registered—

- (a) if the judgment creditor has stated in the application that the judgment creditor wishes the judgment to be registered in the currency in which it is expressed, in that currency; or

(b) in any other case, as if it were for an equivalent amount in New Zealand currency, based on the rate of exchange prevailing on the day of the application for registration.

(4) If at the date of the application for registration of a judgment the judgment of the original court has been partly satisfied, the judgment shall not be registered in respect of the whole sum payable under the judgment of the original court, but only in respect of the balance remaining payable at that date.

(5) If, on an application for the registration of a judgment, it appears to the High Court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

(6) In addition to any sum of money payable under the judgment of the original court, including any interest which by the law of the country of the original court becomes due under the judgment up to the time of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgment from the original court.

5. Rules of court

(1) The power to make rules of court under section 51C of the Judicature Act 1908 shall, subject to the provisions of this section, include power to make rules for the following purposes:

(a) for making provision with respect to the giving of security for costs by persons applying for the registration of judgments:

(b) for prescribing the matters to be proved on an application for the registration of a judgment and for regulating the mode of proving those matters:

(c) for providing for the service on the judgment debtor of notice of the registration of a judgment:

(d) for making provision with respect to the fixing of the period within which an application may be made to have the registration of the judgment set aside and with respect to the extension of the period so fixed:

(e) for prescribing the method by which any question arising under this Act whether a judgment to which this Part applies can be enforced in the country of the original court, or what interest is payable under a judgment under the law of the original court, is to be determined:

(f) for prescribing any matter which under this Part is to be prescribed.

(2) Rules made for the purposes of this Part shall be expressed to have, and shall have, effect subject to any such provisions contained in Orders in Council made under section 3 as are declared by the said orders to be necessary for giving effect to any agreement made by or on behalf of the Government of New Zealand in relation to matters with respect to which there is power to make rules of court for the purposes of this Part.

6. Cases in which registered judgments must, or may, be set aside

(1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment shall be set aside if the High Court is satisfied—

(a) that the judgment is not a judgment to which this Part applies or was registered in contravention of the foregoing provisions of this Act; or

(b) that the courts of the country of the original court had no jurisdiction in the circumstances of the case; or

(c) that the judgment debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on him in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear; or

(d) that the judgment was obtained by fraud; or

(e) that the enforcement of the judgment would be contrary to public policy in New Zealand; or

(f) that the rights under the judgment are not vested in the person by whom the application for registration was made.

(2) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment may be set aside if the High Court is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a final and conclusive judgment by a court having jurisdiction in the matter.

(3) For the purposes of this section the courts of the country of the original court shall, subject to the provisions of subsection (4), be deemed to have had jurisdiction—

(a) in the case of a judgment given in an action in personam—

(i) if the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings otherwise than for the purpose of protecting, or obtaining the release of, property seized, or threatened with seizure, in the proceedings or of contesting the jurisdiction of that court; or

(ii) if the judgment debtor was plaintiff in, or counterclaimed in, the proceedings in the original court; or

(iii) if the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the country of that court; or

(iv) if the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted resident in, or being a body corporate had its principal place of business in, the country of that court; or

(v) if the judgment debtor, being a defendant in the original court, had an office or place of business in the country of that court and the proceedings in that court were in respect of a transaction effected through or at that office or place:

(vi) [Repealed]

(b) in the case of a judgment given in an action of which the subject matter was immovable property or in an action in rem of which the subject matter was movable property, if the property in question was at the time of the proceedings in the original court situate in the country of that court:

(c) in the case of a judgment given in an action other than any such action as is mentioned in paragraph (a) or paragraph (b), if the jurisdiction of the original court is recognised by the law of the registering court.

(4) Notwithstanding anything in subsection (3), the courts of the country of the original court shall not be deemed to have had jurisdiction—

(a) if the subject matter of the proceedings was immovable property outside the country of the original court; or

(b) except in the cases mentioned in subparagraphs (i), (ii), and (iii) of paragraph (a) and in paragraph (c) of subsection (3), if the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the country of that court; or

(c) if the judgment debtor, being a defendant in the original proceedings, was a person who under the rules of public international law was entitled to immunity from the jurisdiction of the courts of the country of the original court and did not submit to the jurisdiction of that court

7. Powers of High Court on application to set aside registration

(1) If, on an application to set aside the registration of a judgment, the applicant satisfies the High Court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment, the court, if it thinks fit, may, on such terms as it may think just, either set aside the registration or adjourn the application to set aside the registration until after the expiration of such period as appears to the High Court to be reasonably sufficient to enable the applicant to take the necessary steps to have the appeal disposed of by a competent tribunal.

(2) Where the registration of a judgment is set aside under the last preceding subsection, or solely for the reason that the judgment was not at the date of the application for registration enforceable in the country of the original court, the setting aside of the registration shall not prejudice a further application to register the judgment when the appeal has been disposed of or if and when the judgment becomes enforceable in that country, as the case may be.

(3). Where the registration of a judgment is set aside solely for the reason that the judgment, notwithstanding that it had at the date of the application for registration been partly satisfied, was registered for the whole sum payable thereunder, the High Court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

8. Judgments which can be registered under this Act not to be enforceable otherwise

No proceedings for the recovery of a sum payable under a judgment to which this Part applies, other than proceedings by way of registration of the judgment, shall be entertained by any court in New Zealand.

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