

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 22 of 1981

## AN ACT

To amend the Foreign Judgments (Reciprocal Enforcement) Act

[Assented to 25 March 1981]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

### 1. SHORT TITLE

This Act may be cited as the Foreign Judgments (Reciprocal Enforcement) Amendment Act 1981.

### 2. COMMENCEMENT

The several sections of this Act shall come into operation on such dates as are respectively fixed by the Administrator by notice in the Gazette.

### 3. PRINCIPAL ACT

The Foreign Judgments (Reciprocal Enforcement) Act is in this Act referred to as the Principal Act.

### 4. INTERPRETATION

Section 4 of the Principal Act is amended -

(a) by inserting after the definition of "judgments given in the Supreme Court" the following:

"non-recoverable tax' means tax other than recoverable tax;"

(b) by inserting after the definition of "prescribed" the following:

"recoverable tax' means tax payable under the laws of Papua New Guinea relating to taxes on income, but does not include -

Foreign Judgments (Reciprocal Enforcement) Amendment

- (a) additional or other tax payable, by way of penalty, interest or otherwise, because of a contravention 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 declared under sub-section (3);"; and

(c) by inserting after sub-section (2) the following:

"(3) Where the Minister is of the opinion that a 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', by notice in the Gazette, declare a class or description of tax specified in the notice not to be recoverable tax."

5. APPLICATION OF THIS PART

Section 5(2) of the Principal Act is amended by omitting paragraph (b) and substituting the following:

"(b) there is payable under the judgment -

- (i) a sum of money, not being (except as referred to in sub-paragraph (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"

6. APPLICATION FOR, AND EFFECT OF, REGISTRATION OF FOREIGN JUDGMENT

Section 6 of the Principal Act is amended -

(a) by omitting from sub-section (2) "the Rules of the Supreme Court," and substituting "the Rules made under section 7,"; and

(b) by inserting after sub-section (6) the following:

"(6A) Without affecting sub-section (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

7. RULES FOR THE PURPOSES OF THIS PART

Section 7 of the Principal Act is amended by omitting all words to and including "making provision for or in relation to -" and substituting "The Judges of the Supreme Court who are not appointed as acting or additional Judges, or a majority of those Judges may make Rules (not inconsistent with a notice under this Act) prescribing all matters which by this Act are required or permitted to be prescribed and, in particular, making provision for or in relation to -".

8. ISSUE OF CERTIFICATES OF JUDGMENTS OBTAINED IN THE TERRITORY

Section 14(1) of the Principal Act is amended by omitting ", 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,".

9. NEW SECTION

The Principal Act is amended by inserting after section 14 the following:

"15. SAVINGS RE DECLARATIONS REVOKED, ALLOWED OR VARIED

"(1) In this section, 'relevant declaration' means -

- (a) a declaration revoking, altering or amending a declaration under section 4(3) or 5(1); or
- (b) a declaration under section 4(3).

"(2) Subject to sub-section (3), this Act continues to apply to and in respect of judgments given before the coming into operation of a relevant declaration as if the declaration had not been made.

"(3) Where, by reason of the coming into operation of a relevant declaration -

- (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 Minister may, in the relevant declaration or a subsequent declaration, direct that this Act shall not apply to or in respect of -

- (d) all judgments (other than a judgment referred to in sub-section (4)) given before the coming into operation of the relevant declaration, being -

Foreign Judgments (Reciprocal Enforcement) Amendment

- (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 declaration,

and the direction shall, subject to sub-section (4), have effect according to its terms.

"(4) A direction under sub-section (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 declaration in which the direction was given came into operation."

10. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

SCHEDULE

Section 10

Provision of the Principal Act	Amendment	
	Omit	Substitute
Section 4(1)		
- definition of "prescribed"	"Rules of Court"	"Rules made under section 7"
- definition of "the Master"	" <u>Supreme Court Ordinance</u> "	" <u>Supreme Court Act</u> "
- definition of "the Supreme Court"	the whole definition	
Section 8(3)(b)	"sub-paragraphs (i), (ii) and (iii) of paragraph (a) and in paragraph (c) of sub-section (2)"	"sub-section (2)(a)(i), (ii), (iii) and (c)"

Foreign Judgments (Reciprocal Enforcement) Amendment

Provision of the Principal Act	Amendment	
	Omit	Substitute
Section 11(1)	"this Ordinance" (wherever occurring)	"this Act"
Long title and sections 1, 2, 4, 6(2), (4), 7(e), (f), (g), 8(1)(a)(i) and 12(3)	"Ordinance" (wherever occurring)	"Act"

