



Foreign Judgments Act 1991

No. 112, 1991

Compilation No. 5

Compilation date:	18 February 2022
Includes amendments up to:	Act No. 3, 2022
Registered:	1 March 2022

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Foreign Judgments Act 1991* that shows the text of the law as amended and in force on 18 February 2022 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	1
3 Interpretation	1
4 External Territories	4
Part 2—Reciprocal enforcement of judgments	5
5 Application of this Part on the basis of reciprocity of treatment	5
6 Application for, and effect of, registration of foreign judgments	7
7 Setting aside a registered judgment	10
8 Stay of enforcement of a registered judgment	14
9 Re-registration of certain registered judgments which have been set aside	14
10 Registrable judgments not to be otherwise enforceable	15
Part 3—Miscellaneous	16
11 Judgments to which Part 2 does not apply	16
12 General effect of certain judgments	16
13 Money judgments unenforceable if no reciprocity	17
14 Registered judgments cease to be enforceable in certain circumstances	17
15 Issue of certificates of judgments obtained in Australian courts	18
16 Regulations	18
17 Rules of Court	19
Part 4—Transitional provisions	20
18 Registration of judgments recognised under State or Territory law	20
19 Enforcement of judgments registered under State or Territory law after commencement of this Act	20
20 Rules of Court	20
Endnotes	22
Endnote 1—About the endnotes	22
Endnote 2—Abbreviation key	24

Endnote 3—Legislation history	25
Endnote 4—Amendment history	26

An Act relating to the enforcement of foreign judgments in the Commonwealth, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Foreign Judgments Act 1991*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (2) Section 21 commences at the end of 4 months after the day on which this Act receives the Royal Assent.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

action in personam does not include a matrimonial cause or proceedings in connection with:

- (a) matrimonial matters; or
- (b) the administration of the estates of deceased persons; or
- (c) bankruptcy or insolvency; or
- (d) the winding up of companies; or
- (e) mental health; or
- (f) the guardianship of infants.

appeal includes a proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution.

country means a foreign country, and includes any region:

- (a) which is part of a foreign country; or

Section 3

- (b) which is under the protection of a foreign country; or
- (c) for whose international relations a foreign country is responsible.

country of the original court means the country in which the original court is situated.

enforceable money judgment means a money judgment under which is payable:

- (a) an amount of money, other than (except as mentioned in paragraphs (b) and (c)) an amount payable in respect of:
 - (i) taxes or other charges of a similar nature; or
 - (ii) a fine or other penalty; or
- (b) an amount of money payable in respect of New Zealand tax; or
- (c) an amount of money payable in respect of recoverable Papua New Guinea income tax.

enforcement means:

- (a) where there is not an amount of money payable under the judgment, enforcement by:
 - (i) attachment; or
 - (ii) committal; or
 - (iii) fine; or
 - (iv) sequestration; or
- (b) where there is an amount of money payable under the judgment, enforcement by execution.

judgment means:

- (a) a final or interlocutory judgment or order given or made by a court in civil proceedings; or
- (b) a judgment or order given or made by a court in criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party; or
- (c) an award (other than an award given in a dispute of a kind referred to in paragraph 34(a) of the *International Arbitration Act 1974* or an award that may be enforced under subsection 35(2) of that Act) in proceedings on an arbitration

conducted in, and under the law applying in, a country, being an award that has become enforceable in a court of that country in the same manner as a judgment or order given by that court.

judgment creditor, in relation to a judgment, means the person in whose favour the judgment was given, (whether or not a sum of money is payable under the judgment) and includes a person in whom the rights under the judgment have become vested by succession, assignment or otherwise.

judgment debtor, in relation to a judgment, means the person against whom the judgment was given, (whether or not a sum of money is payable under the judgment) and includes a person against whom the judgment is enforceable under the law of the original court.

money judgment means a judgment under which money is payable.

New Zealand tax means tax or other charge of a similar nature payable under the laws of New Zealand, and includes additional or other tax payable, by way of penalty, interest or otherwise, because of a contravention of any of those laws or of a requirement made under any of those laws.

non-money judgment means a judgment that is not a money judgment.

non-recoverable tax means tax that is not New Zealand tax or recoverable Papua New Guinea income tax.

original court, in relation to a judgment, means the court by which the judgment was given.

recoverable Papua New Guinea income 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 any of those laws or of a requirement made under any of those laws; or

Section 4

(b) tax of a class or description prescribed for the purposes of subsection (2).

registered judgment means a judgment registered under section 6.

Registrar, in relation to a court, means the person who holds, in relation to that court, the office of, or the office equivalent to the office of, Registrar or Clerk.

registration means registration under Part 2.

Rules of Court means rules duly made by the Supreme Court of a State or Territory or the Federal Court of Australia.

- (2) The regulations may provide that a specified tax, or a tax included in a specified class of taxes, payable under the laws of Papua New Guinea is not a recoverable Papua New Guinea income tax.
- (3) Regulations are not to be made in relation to a tax or class of taxes unless the Governor-General is satisfied that the tax, or each tax included in the class, is not properly a tax on income.
- (4) For the purposes of this Act, an award of a kind to which paragraph (c) of the definition of **judgment** in subsection (1) applies is taken to be a judgment of the court, referred to in that paragraph, in which the award has become enforceable.

4 External Territories

This Act extends to each external Territory.

Part 2—Reciprocal enforcement of judgments

5 Application of this Part on the basis of reciprocity of treatment

- (1) If the Governor-General is satisfied that, in the event of the benefits conferred by this Part being applied to money judgments given in the superior courts of a country, substantial reciprocity of treatment will be assured in relation to the enforcement in that country of money judgments given in all Australian superior courts, the regulations may provide that this Part extends in relation to that country.
- (2) A specified court of such a country is taken to be a superior court for the purposes of this Act if the regulations so provide, but a failure so to provide in relation to a particular court is not taken to imply that the court is not a superior court for the purposes of this Act.
- (3) If the Governor-General is satisfied that, in the event of the benefits conferred by this Part being applied to money judgments given in all or some inferior courts of such a country, substantial reciprocity of treatment will be assured in relation to the enforcement in that country of money judgments given in all or some Australian inferior courts, the regulations may provide that this Part extends in relation to specified inferior courts of that country.
- (4) This Part applies to an enforceable money judgment that:
 - (a) is final and conclusive; and
 - (b) was given in:
 - (i) a superior court of a country in relation to which this Part extends; or
 - (ii) an inferior court of such a country, being an inferior court in relation to which this Part extends.
- (5) For the purposes of paragraph (4)(a), a judgment is taken to be final and conclusive even though:
 - (a) an appeal may be pending against it; or

Section 5

- (b) it may still be subject to appeal;
in the courts of the country of the original court.
- (6) If the Governor-General is satisfied that, in the event of the benefits conferred by this Part being applied to all or some non-money judgments given in courts of a country in relation to which this Part extends, substantial reciprocity of treatment will be assured in relation to the enforcement in that country of all or some non-money judgments given in Australian courts, the regulations may provide that this Part applies to such non-money judgments, given in the courts of that country, as are prescribed.
- (7) Regulations made for the purposes of subsection (6) must provide for the kinds of non-money judgments, given in the courts of a country, to which this Part applies by specifying or describing:
 - (a) the courts in which such non-money judgments are given;
and
 - (b) the kinds of proceedings in which such non-money judgments are given; and
 - (c) the kinds of non-money judgments.
- (8) This Part does not apply to:
 - (a) a money judgment given by a superior court of a country before the day on which the regulations extend this Part in relation to that country; or
 - (b) a money judgment given by an inferior court before the day on which the regulations extend this Part in relation to that court; or
 - (c) a non-money judgment of a particular kind given in a court in proceedings of a particular kind before the day on which the regulations apply this Part to non-money judgments of that kind given in that court in proceedings of that kind;unless:
 - (d) the judgment was given by a court of the United Kingdom; or
 - (e) the judgment was, immediately before that day, registrable in the Supreme Court of a State or Territory under a law of that State or Territory.

- (9) This Part does not apply to a judgment given by a superior court on appeal from a judgment given by an inferior court, unless the judgment of the inferior court is a judgment to which this Part applies.
- (10) This Part does not apply to a judgment given by a court of New Zealand.

Note: For the enforcement in Australia of judgments given by courts of New Zealand, see Part 7 of the *Trans-Tasman Proceedings Act 2010*.

6 Application for, and effect of, registration of foreign judgments

- (1) A judgment creditor under a judgment to which this Part applies may apply to the appropriate court at any time within 6 years after:
- (a) the date of the judgment; or
 - (b) where there have been proceedings by way of appeal against the judgment, the date of the last judgment in those proceedings;
- to have the judgment registered in the court.

Note: For the registration of a foreign judgment against a foreign State, or a separate entity of a foreign State, see the *Foreign States Immunities Act 1985*.

- (2) For the purposes of subsection (1), the appropriate court is:
- (a) if the judgment is a money judgment and was given in proceedings in which a matter for determination arises under the Commerce Act 1986 of New Zealand (other than proceedings in which a matter for determination arises under section 36A, 98H or 99A of that Act)—the Federal Court of Australia or the Supreme Court of a State or Territory; or
 - (b) if the judgment is not a money judgment and was given in such proceedings—the Federal Court of Australia; or
 - (c) in any other case—the Supreme Court of a State or Territory.
- (3) Subject to this Act and to proof of the matters prescribed by the applicable Rules of Court, if an application is made under this section, the Supreme Court of a State or Territory or the Federal Court of Australia is to order the judgment to be registered.

Section 6

- (4) The court's order must state the period within which an application may be made under section 7 to have the registration of the judgment set aside.
- (5) The court may, by order, extend the period within which such an application may be made.
- (6) A judgment is not to 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.
- (7) Subject to sections 7 and 14:
 - (a) a registered judgment has, for the purposes of enforcement, the same force and effect; and
 - (b) proceedings may be taken on a registered judgment; and
 - (c) the amount for which a judgment is registered carries interest; and
 - (d) the registering court has the same control over the enforcement of a registered judgment;as if the judgment had been originally given in the court in which it is registered and entered on the date of registration.
- (8) A judgment registered under this section in the Supreme Court of a State or Territory is registrable in the Supreme Court of any other State or Territory under Part 6 of the *Service and Execution of Process Act 1992* as if the judgment had been originally given in the first-mentioned Supreme Court and entered on the day of registration.
- (9) Subsection (8) does not apply if an order has been made under section 8 that enforcement of the judgment be stayed.
- (10) Action is not to be taken to enforce a registered judgment:
 - (a) during the period fixed under subsection (4) (including any extensions of that period under subsection (5)) as the period during which a party may apply to have the registration of the judgment set aside; or
 - (b) where such an application has been made, until after the application has been finally determined.

- (11) Subject to subsection (12), if the amount payable under a judgment that is to be registered is expressed in a currency other than Australian 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 Australian currency, based on the rate of exchange prevailing on the second business day (the *conversion day*) before the day on which the application for registration is made.
- (11A) For the purposes of paragraph (11)(b), the rate of exchange prevailing on the conversion day referred to in that paragraph is the average of the rates at which Australian dollars may be bought in the currency in which the judgment is expressed at:
- (a) 11 am; or
 - (b) if another time is prescribed for the purposes of this subsection—that other time;
- on that day from 3 authorised foreign exchange dealers selected by the judgment creditor.
- (11B) The reference in paragraph (11)(b) to a business day is a reference to a day on which the authorised foreign exchange dealers selected by the judgment creditor as mentioned in subsection (11A) publish rates at which Australian dollars may be bought in the currency in which the judgment is expressed.
- (12) If, on the day of the application for registration of a judgment, the judgment of the original court has been partly satisfied, the judgment is not to be registered in respect of the whole amount payable under the judgment of the original court, but only in respect of the balance remaining payable on that day.
- (13) If, on an application to a court for the registration of a judgment, it appears to the 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 those

Section 7

provisions, but not in respect of any other provisions contained in it.

- (14) Without affecting the operation of subsection (13), where, on an application to a court for the registration of a judgment, it appears to the court that:
- (a) the judgment is in respect of an amount of money payable in respect of both recoverable Papua New Guinea income tax and non-recoverable tax; and
 - (b) the judgment could have been registered if it had been in respect of recoverable Papua New Guinea income tax only;
- the judgment may be registered in respect of the amount less so much as relates to non-recoverable tax.
- (15) A judgment registered under this section is to be registered for:
- (a) the reasonable costs of and incidental to registration, including the cost of obtaining a certified copy of the judgment from the original court and the costs of obtaining from foreign exchange dealers evidence of the rates at which Australian dollars may be bought in the currency in which the judgment is expressed; and
 - (b) where an amount of money is payable under the judgment—any interest which, by the law of the country of the original court, becomes due under the judgment up to the time of registration.
- (16) In this section:

authorised foreign exchange dealer means a person authorised by a general authority issued by the Reserve Bank of Australia under regulation 38A of the Banking (Foreign Exchange) Regulations to buy and sell foreign currency.

7 Setting aside a registered judgment

- (1) A party against whom a registered judgment is enforceable, or would be enforceable but for an order under section 8, may seek to have the registration of the judgment set aside by duly applying to the court in which the judgment was registered, or (where applicable) a court in which the judgment was registered under

Part 6 of the *Service and Execution of Process Act 1992*, to have the registration of the judgment set aside.

- (2) Where a judgment debtor duly applies to have the registration of the judgment set aside, the court:
- (a) must set the registration of that judgment aside if it is satisfied:
 - (i) that the judgment is not, or has ceased to be, a judgment to which this Part applies; or
 - (ii) that the judgment was registered for an amount greater than the amount payable under it at the date of registration; or
 - (iii) that the judgment was registered in contravention of this Act; or
 - (iv) that the courts of the country of the original court had no jurisdiction in the circumstances of the case; or
 - (v) that the judgment debtor, being the defendant in the proceedings in the original court, did not (whether or not process had been duly served on the judgment debtor in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable the judgment debtor to defend the proceedings and did not appear; or
 - (vi) that the judgment was obtained by fraud; or
 - (vii) that the judgment has been reversed on appeal or otherwise set aside in the courts of the country of the original court; or
 - (viii) that the rights under the judgment are not vested in the person by whom the application for registration was made; or
 - (ix) that the judgment has been discharged; or
 - (x) that the judgment has been wholly satisfied; or
 - (xi) that the enforcement of the judgment, not being a judgment under which an amount of money is payable in respect of New Zealand tax, would be contrary to public policy; or
 - (b) may set the registration of the judgment aside if it is satisfied that the matter in dispute in the proceedings in the original
-

Section 7

court had before 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 subparagraph (2)(a)(iv) and subject to subsection (4), the courts of the country of the original court are taken to have had jurisdiction:
- (a) in the case of a judgment given in an action *in personam*:
 - (i) if the judgment debtor voluntarily submitted to the jurisdiction of the original court; or
 - (ii) if the judgment debtor was plaintiff in, or counter-claimed in, the proceedings in the original court; or
 - (iii) if the judgment debtor was a defendant in the original court and had agreed, in respect of the subject matter of the proceedings, before the proceedings commenced, to submit to the jurisdiction of that court or of the courts of the country of that court; or
 - (iv) if the judgment debtor was a defendant in the original court and, at the time when the proceedings were instituted, resided in, or (being a body corporate) had its principal place of business in, the country of that court; or
 - (v) if the judgment debtor was a defendant in the original court and the proceedings in that court were in respect of a transaction effected through or at an office or place of business that the judgment debtor had in the country of that court; or
 - (vi) if there is an amount of money payable in respect of New Zealand tax under the judgment; or
 - (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 situated in the country of that court; or
 - (c) in the case of a judgment given in an action other than an action of the kind referred to in paragraph (a) or (b)—if the jurisdiction of the original court is recognised by the law in

force in the State or Territory in which the judgment is registered.

- (4) In spite of subsection (3), the courts of the country of the original court are not taken to have had jurisdiction:
- (a) if the subject matter of the proceedings was immovable property situated outside the country of the original court; or
 - (b) except in the cases referred to in subparagraphs (3)(a)(i), (ii) and (iii) and paragraph (3)(c), if the bringing of the proceedings in the country of 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.
- (5) For the purposes of subparagraph (3)(a)(i), 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 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.
- (6) Where the registration of a judgment is set aside on an application to a court in which the judgment was registered under Part IV of the *Service and Execution of Process Act 1901*, the applicant must:

Section 8

- (a) forthwith notify the Registrar of the court in which the judgment was registered under this Act of the order setting the judgment aside; and
- (b) within 7 days lodge a certified copy of the order in that court.

8 Stay of enforcement of a registered judgment

- (1) If the court in which a judgment is registered is satisfied that the judgment debtor has appealed, or is entitled and intends to appeal, against the judgment, the court may order that enforcement of the judgment be stayed pending the final determination of the appeal, until a specified day or for a specified period.
- (2) If the court in which a judgment is registered makes an order on the ground that the person is entitled and intends to appeal against the judgment, the court must require the person, as a condition of the order, to bring the appeal by a specified day or within a specified period.
- (3) Every order is to be made on the condition that the judgment debtor pursues the appeal in an expeditious manner.
- (4) An order may be made or such other conditions, including conditions relating to giving security, as the court in which the judgment is registered thinks fit.

9 Re-registration of certain registered judgments which have been set aside

- (1) If the registration of a judgment is set aside under subparagraph 7(2)(a)(ii), the court in which the judgment was registered must, on the application of the judgment creditor, order that the judgment be registered in respect of the amount payable under the judgment at the date of the application.
- (2) If the registration of a judgment has been set aside under subparagraph 7(2)(a)(iii) solely because it was not at the date of the application for registration enforceable in the country of the original court, the setting aside of the registration does not prejudice a further application to register the judgment if and when the judgment becomes enforceable in that country.

10 Registrable judgments not to be otherwise enforceable

- (1) No proceedings for the recovery of an amount payable under a judgment to which this Part applies, other than proceedings by way of registration of the judgment, are to be entertained by a court having jurisdiction in Australia.
- (2) Nothing in this section affects the enforcement, under the *International Arbitration Act 1974*, of an award.

Part 3—Miscellaneous

11 Judgments to which Part 2 does not apply

For the purposes of proceedings brought in Australia for the recovery of an amount payable under a judgment given in an action *in personam* by a court of a country, not being a judgment to which Part 2 applies, the court is not taken to have had jurisdiction to give the judgment merely because the judgment debtor:

- (a) entered an appearance in proceedings in the court; or
- (b) participated in proceedings in the court only to such extent as was 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.

12 General effect of certain judgments

- (1) Subject to this section, a judgment to which Part 2 applies, or would have applied if it were a money judgment, must, whether or not it is, or can be, registered, be recognised in any Australian court as conclusive between the parties to it in all proceedings founded on the same cause of action and may be relied on by way of defence or counter-claim in any such proceedings.
- (2) This section does not apply to:
 - (a) a judgment that has been registered, the registration of which has been set aside under subparagraph 7(2)(a)(iv), (v), (vi), (vii) or (xi); or

- (b) a judgment (whether registrable or not) that has not been registered, the registration of which would, if it were registered, have been set aside under one or more of those subparagraphs.
- (3) Nothing in this section prevents any Australian court from recognising a judgment as conclusive of any matter of law or fact decided in the judgment if that judgment would be recognised as conclusive under the common law.

13 Money judgments unenforceable if no reciprocity

- (1) If the Governor-General is satisfied that the treatment in respect of recognition and enforcement accorded by the courts of a country to money judgments given in Australian superior courts is substantially less favourable than that accorded by Australian superior courts to money judgments of the superior courts of that country, the regulations may provide that this section applies to that country.
- (2) Except so far as regulations made for the purposes of subsection (1) provide, no proceedings are to be entertained in an Australian court for the recovery of an amount of money alleged to be payable under a judgment given in a country to which this section applies.
- (3) Nothing in this section affects the enforcement, under the *International Arbitration Act 1974*, of an award.

14 Registered judgments cease to be enforceable in certain circumstances

- (1) If, because of regulations made for the purposes of subsection 3(2) or because of the amendment or repeal of regulations made for the purposes of subsection 5(1), (3), (6) or (7), a judgment ceases to be a judgment to which Part 2 applies, the judgment ceases to be enforceable under this Act, whether or not the judgment was registered before the amendment or repeal of the regulations came into force.
- (2) Subsection (1) does not apply to judgments:

Section 15

- (a) that are registered under this Act or in respect of which applications for registration under this Act have been made; and
- (b) that have ceased to be judgments to which Part 2 applies because of regulations made for the purposes of subsection 3(2); and
- (c) that are specified, in the regulation effecting the amendment or repeal, not to be judgments to which subsection (1) applies.

15 Issue of certificates of judgments obtained in Australian courts

- (1) Subject to this section, where an application is duly made by a judgment creditor who wishes to enforce in a country a judgment that has been given in an Australian court, the Registrar of the court must issue to the judgment creditor:
 - (a) a certified copy of the judgment; and
 - (b) a certificate with respect to the judgment containing such particulars, including:
 - (i) the causes of action to which the judgment relates; and
 - (ii) the rate of interest (if any) payable on any amount payable under the judgment;as are prescribed by the regulations or by Rules of Court.
- (2) An application may not be made until the expiration of any stay of enforcement of the judgment in question.
- (3) Nothing in subsection (1) prevents a fee being imposed in respect of the issue of documents referred to in that subsection.

16 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, for and in relation to the practice and procedure of a superior court in proceedings under this Act.

17 Rules of Court

- (1) The power of an authority to make rules regulating the practice and procedure of a superior court extends to making any rules, not inconsistent with this Act or with any regulations made under this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act, including the following:
 - (a) making provision with respect to the giving of security for costs by a person applying for registration of a judgment;
 - (b) 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) providing for the service on the judgment debtor of notice of the registration of a judgment;
 - (d) making provision with respect to the extension of the period within which an application may be made to have the registration of a judgment set aside;
 - (e) relating to the method of determining a question arising under this Act as to:
 - (i) whether a judgment given in a country in relation to which this Part extends can be enforced in the country of the original court; or
 - (ii) what interest is payable under a judgment under the law of the original court.
- (2) This section does not affect any power to make rules under any other law.

Part 4—Transitional provisions

18 Registration of judgments recognised under State or Territory law

- (1) Subject to this section, a judgment that:
 - (a) is a judgment of a court of a country that is not a country prescribed for the purposes of subsection 5(1); and
 - (b) but for the operation of this Act (other than section 19), would be registrable under the law of a State or Territory; may be registered in the Supreme Court of that State or Territory.
- (2) This section does not extend to the courts of countries that are prescribed for the purposes of this section.
- (3) This section ceases to be in force at the end of 2 years, or such lesser period as is prescribed, after the day on which it commences.

19 Enforcement of judgments registered under State or Territory law after commencement of this Act

A State or Territory law providing for the enforcement of judgments of courts of a country continues to apply, and this Act (other than this subsection) does not apply, after the commencement of this Act to judgments registered:

- (a) under that law before the commencement of this Act; or
- (b) under section 18 of this Act.

20 Rules of Court

Rules of Court relating to the registration or enforcement, under the laws of a State or Territory, of judgments of the courts of a country apply, so far as they are capable of application and with necessary modifications and adaptations, to proceedings under this Act until:

- (a) the day on which Rules of Court are made under section 17 of this Act; or

(b) the end of one year from the day on which this Act commences;
whichever is the earlier.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Foreign Judgments Act 1991	112, 1991	27 June 1991	s. 21: 27 Oct 1991 Remainder: Royal Assent	
Service and Execution of Process (Transitional Provisions and Consequential Amendments) Act 1992	166, 1992	11 Dec 1992	10 Apr 1993 (<i>see</i> s. 2 and <i>Gazette</i> 1993, No. GN13)	—
Law and Justice Legislation Amendment Act 1997	34, 1997	17 Apr 1997	Sch 9: 17 Apr 1997 (s 2(1))	—
as amended by				
Law and Justice Legislation Amendment Act 1999	125, 1999	13 Oct 1999	Sch 12: 17 Apr 1997 (s 2(6))	—
Trans-Tasman Proceedings (Transitional and Consequential Provisions) Act 2010	36, 2010	13 Apr 2010	s. 4: Royal Assent Schedule 2 (items 21–23): 11 Oct 2013 (<i>see</i> s 2(1))	s 4 and Sch 2 (item 23)
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Schedule 6 (item 39): Royal Assent	—
Courts and Tribunals Legislation Amendment (2021 Measures No. 1) Act 2022	3, 2022	17 Feb 2022	Sch 1 (item 74): 18 Feb 2022 (s 2(1) item 3)	—

Foreign Judgments Act 1991

25

Compilation No. 5

Compilation date: 18/02/2022

Registered: 01/03/2022

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 2	
s 5	am No 36, 2010
s 6	am No 166, 1992; No 34, 1997 (as am by No 125, 1999); No 3, 2022
s 7	am No 166, 1992
Part 4	
s 18	exp end of 26 June 1993 (s 18(3))
Part 5	rep No 136, 2012
s 21	rep No 136, 2012
s 22	rep No 136, 2012
