
Foreign Judgments (Reciprocal Enforcement) (Amendment) Ordinance 1982

No. 36 of 1982

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act* 1910.

Dated 25 June 1982.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

P. DURACK
Attorney-General

An Ordinance to amend the *Foreign Judgments (Reciprocal Enforcement) Ordinance* 1954

Short title

1. This Ordinance may be cited as the *Foreign Judgments (Reciprocal Enforcement) (Amendment) Ordinance* 1982.¹

Commencement

2. This Ordinance shall come into operation on 1 July 1982.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Foreign Judgments (Reciprocal Enforcement) Ordinance* 1954.²

Interpretation

4. Section 4 of the Principal Ordinance is amended—

- (a) by inserting "the Federal Court of Australia or" after "includes judgments given in" in the definition of "judgments given in the Supreme Court" in sub-section (1);

- (b) by inserting after the definition of “judgments given in the Supreme Court” in sub-section (1) the following definition:

“‘non-recoverable tax’ means tax other than recoverable tax;”;

- (c) by inserting after the definition of “prescribed” in sub-section (1) the following definition:

“‘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 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 a proclamation under sub-section (2A);” and

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

“(2A) Where the Governor-General 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 sub-section (1), by proclamation declare any class or description of tax specified in the proclamation not to be recoverable tax.”.

Application of this Part

5. Section 5 of the Principal Ordinance is amended by omitting paragraph (3) (b) and substituting the following paragraph:

“(b) if 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;”.

Application for, and effect of, registration of foreign judgment

6. Section 6 of the Principal Ordinance is amended by inserting after sub-section (7) the following sub-section:

“(7A) Without affecting the operation of sub-section (8), where, on an application for the registration of a judgment, it appears to the Supreme Court that

(a) the judgment is in respect of a sum of money payable in respect of both recoverable 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.”.

Issue of certificates of judgments obtained in the Territory

7. Section 13 of the Principal Ordinance is amended by omitting from sub-section (1) “, 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,”.

8. The Principal Ordinance is amended by adding at the end thereof the following section:

Savings where proclamations revoked or amended

“14. (1) In this section, ‘relevant proclamation’ means—

- (a) a proclamation revoking, altering or amending a proclamation made under sub-section 5 (2); or
- (b) a proclamation made under sub-section 4 (2A).

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

“(3) Where, by reason of the coming into operation of a relevant proclamation—

- (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-General may, in the relevant proclamation or in a subsequent proclamation, direct that this Ordinance shall not apply to or in respect of

- (d) all judgments (other than a judgment referred to in sub-section (5)) given before the coming into operation of the relevant proclamation, being—
 - (i) judgments given in the courts of the country referred to in paragraph (a);
 - (ii) judgments given in the court 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 proclamation.

“(4) A direction under sub-section (3) shall, subject to sub-section (5), have effect according to its terms.

“(5) Where the Governor-General includes in a proclamation a direction under sub-section (3), the direction does not have effect in relation to a judgment if an application for the registration of the judgment was made in accordance with this Ordinance before the proclamation came into operation.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 30 June 1982.
2. No. 11, 1954 as amended by No. 65, 1977.