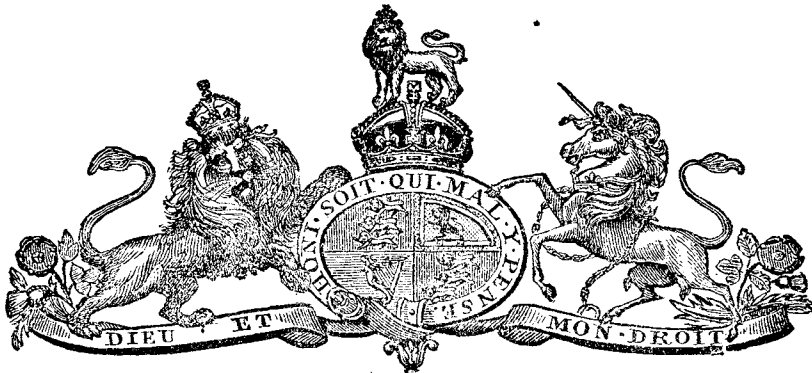


TASMANIA



1931.

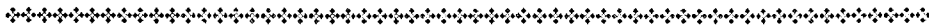
ANNO VICESIMO SECUNDO

GEORGII V. REGIS.

No. 25.

ANALYSIS.

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| <ul style="list-style-type: none"> 1. Short title. 2. Interpretation. 3. Enforcement in Tasmania of judgments obtained in superior courts in other British Dominions. 4. Judgments which shall not be registered. | <ul style="list-style-type: none"> 5. Effect of judgment when registered. 6. Rules of Court. 7. No costs in action on unregistered judgment. 8. Issue of certified copies of judgments. 9. Extent of Act. |
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AN ACT to facilitate the Reciprocal Enforcement of Judgments and Awards in this State and in other parts of His Majesty's Dominions. [8 December, 1931.]

A.D. 1931.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Reciprocal Enforcement Short title, of Judgments Act, 1931."

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Interpretation.

2 In this Act, unless the contrary intention appears—

“Judge” means a judge of the Supreme Court sitting in court or in chambers:

“Judgment” means any judgment or order given or made by a court in any civil proceedings, whether before or after the commencement of this Act, whereby any sum of money is payable; and includes an award in proceedings on an arbitration, if the award has, in pursuance of the law in force in the place where it was made, become enforceable in the same manner as a judgment given by a court in that place:

“Judgment creditor” means the person by whom the judgment was obtained, and includes the successors and assigns of that person:

“Judgment debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given:

“Original court,” in relation to any judgment, means the court by which the judgment was given:

“Superior court” means the High Court of Justice in England, the Court of Sessions in Scotland, and the High Court of Justice in Northern Ireland, and any court in any part of His Majesty’s dominions having original civil jurisdiction as a superior court or declared by the legislature thereof to be a superior court:

“The Court” or “the Supreme Court” means the Supreme Court of Tasmania.

Enforcement
in Tasmania
of judgments
obtained in
superior
courts in
other British
dominions.

See 10 and 11
Geo. V., c. 81,
Part II.; N.Z.,
1922, No. 11;
N.S.W., No. 42,
1924; Vic. No.
3286, 3395, and
3783; S.A.,
1921, No.
1461; W.A.,
No. 20 of 1921.

Judgments
which shall
not be
registered.

3 Where a judgment has been obtained in a superior court in any part of His Majesty’s dominions outside the Commonwealth, to which this Act extends, the judgment creditor may apply to a judge at any time within twelve months after the date of the judgment, or such longer period as may be allowed by the judge, to have the judgment registered in the Supreme Court; and on any such application the judge, if in all the circumstances of the case he thinks it just and convenient that the judgment should be enforced in this State, and subject to the provisions of this Act, may order the judgment to be registered accordingly.

4 No judgment shall be ordered to be registered under this Act if—

I. The original court acted without jurisdiction:

II. The judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court,

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did not voluntarily appear, or otherwise submit or agree to submit to the jurisdiction of that court: A.D. 1931

- III. The judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court, and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court, or agreed to submit to the jurisdiction of that court:
- IV. The judgment was obtained by fraud:
- V. The judgment debtor satisfies the judge either that an appeal is pending, or that he is entitled and intends to appeal against the judgment: or
- VI. The judgment was in respect of a cause of action which for reasons of public policy, or for some other similar reason, could not have been entertained by the Supreme Court.

5 Where a judgment is registered under this Act—

- I. The judgment shall, as from the date of registration, be of the same force and effect, and proceedings may be taken thereon, as if it had been a judgment originally obtained or entered up on the date of registration in the Supreme Court:
- II. The Court and every judge thereof shall have the same control and jurisdiction over the judgment as it or he has over similar judgments given by the Supreme Court, but in so far only as relates to execution under this Act: and
- III. The reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining a certified copy thereof from the original court and of the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment.

Effect of judgment when registered.

6—(1) Provision may be made by Rules of Court for regulating the practice and procedure (including scales of fees and evidence) in respect of proceedings of any kind under this Act. Rules of Court.

(2) The Rules of Court shall provide—

- I. For service on the judgment debtor of notice of the registration of a judgment under this Act:
- II. For enabling the Court or a judge thereof, on an application by the judgment debtor, to set aside the registration of a judgment under this Act, on such terms as the Court or judge thinks fit: and

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III. For suspending the execution of a judgment registered under this Act until the expiration of the period during which the judgment debtor may apply to have the registration set aside.

No costs in action on unregistered judgment.

7 In any action brought in the Supreme Court on any judgment which might be ordered to be registered under this Act, the plaintiff shall not be entitled to recover any costs of the action unless an application to register the judgment under this Act has previously been refused or unless the Court otherwise orders.

Issue of certified copies of judgments.

8 Where a judgment has been obtained in the Supreme Court against any person, the Court or a judge thereof, on an application made by the judgment creditor, and on proof that the judgment debtor is resident in some part of His Majesty's dominions to which this Act extends, shall issue to the judgment creditor a certified copy of the judgment.

Extent of Act.

9—(1) This Act shall extend to Great Britain and Northern Ireland.

(2) Where the Governor is satisfied that reciprocal provisions have been made by the legislature of any part of His Majesty's dominions, outside Great Britain and Northern Ireland, and the Commonwealth, for the enforcement within that part of His Majesty's dominions of judgments obtained in the Supreme Court, the Governor, by proclamation, may declare that this Act shall extend and apply to that part of His Majesty's dominions; and thereupon this Act shall extend and apply to that part accordingly.

(3) The Governor, by proclamation, may declare that this Act shall extend and apply to any territory which is under His Majesty's protection, or in respect of which a mandate is being exercised by the Government of any part of His Majesty's dominions other than the Commonwealth, as if that territory were part of His Majesty's dominions; and on the making of any such proclamation this Act, subject to the provisions of the proclamation, shall extend and apply to that part accordingly.

(4) Any proclamation made under this section may be varied or revoked by a subsequent proclamation.