

# Reciprocal Enforcement of Judgments Amendment Act 1990

Public Act 1990 No 45  
Date of assent 29 June 1990

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### **“PART Ia**

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**An Act to amend the Reciprocal Enforcement of Judgments Act 1934**

**BE IT ENACTED by the Parliament of New Zealand as follows:**

**1 Short Title and commencement**

- (1) This Act may be cited as the Reciprocal Enforcement of Judgments Amendment Act 1990 and shall be read together with and deemed part of the Reciprocal Enforcement of Judgments Act 1934 (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the 1st day of July 1990.

**2 New Part inserted**

The principal Act is hereby amended by inserting, after Part I, the following Part:

**“PART Ia  
“Enforcement of Judgments and Orders of Federal Court of  
Australia**

**“8a Interpretation**

In this Part of this Act, unless the context otherwise requires,—

“‘Injunction’ includes an interim or interlocutory injunction whether obtained *inter partes* or *ex parte*:

“‘Order’ means a direction under which a person is required to perform an act, or to make a payment, including a payment of a pecuniary penalty, or to observe a condition or to refrain from performing an act or from engaging in specified conduct, whether the order is interlocutory or final; but does not include an injunction:

“‘Specified proceeding’ means a proceeding in the Federal Court of Australia in which—

“(a) A matter for determination arises under—

“(i) Any of sections 46a, 155a, or 155b of the Trade Practices Act 1974 of the Parliament of the Commonwealth of Australia; or

“(ii) A provision of Part VI or Part XII of the Trade Practices Act 1974 of the Parliament of the Commonwealth of Australia in so far as it relates to any of sections 46a, 155a, or 155b of that Act—

whether or not any other matter arises for determination; or

“(b) Any other kind of relief specified by the Governor-General by Order in Council for the purposes of this Part of this Act is sought; or

“(c) An interlocutory order is sought in relation to a proceeding of the kind mentioned in paragraph (a) or paragraph (b) of this definition; or

“(d) The enforcement is sought of a judgment or order or injunction given or made or granted in a proceeding of the kind mentioned in paragraph (a) or paragraph (b) of this definition.

**“8b Application**

“(1) This Part of this Act applies to a judgment or order or injunction given or made or granted in a specified proceeding.

“(2) Nothing in Part I of this Act applies to a judgment or order or injunction to which this Part of this Act applies.

**“8c Service in New Zealand**

An order or injunction to which this Part of this Act applies may be served in New Zealand on the person expressed to be bound by it.

**“8d Registration**

“(1) On production of a copy of a judgment or order or injunction to which this Part of this Act applies in accordance with Rules made under section 51c of the Judicature Act 1908, the High Court shall, on being satisfied that the judgment or order or injunction is one to which this Part of this Act applies, order that the judgment or order or injunction be registered.

“(2) A registered judgment or order or injunction to which this Part of this Act applies shall—

“(a) For the purposes of execution, be of the same force and effect; and

“(b) In the case of a judgment or order under which a sum of money is payable, carry interest on that sum; and

“(c) Be subject to the same control over its execution by the High Court—

as if it had been a judgment or order or injunction originally given or made or granted in the High Court and entered on the date of registration.

“(3) A judgment or order to which this Part of this Act applies that is to be registered under this Part of this Act under which a sum is payable that is expressed in Australian currency shall be registered as if it were a judgment or order in New Zealand currency that at the rate of exchange applying at the date of the judgment or order is equivalent to that sum.

“(4) If, at the date of the application for registration of a judgment or order to which this Part of this Act applies under which a sum of money is payable the judgment or order has been partly satisfied, the judgment or order shall not be registered in respect of the whole sum payable under the judgment or order, but shall be registered only in respect of the balance remaining payable at that date.

“(5) In addition to any sum of money payable under the judgment or order, including any interest which by the law of the Commonwealth of Australia becomes due under the judgment or order up to the time of registration, the judgment or order shall be registered for the reasonable costs of and incidental to regis-

tration, including the costs of obtaining a certified copy of the judgment from the Federal Court of Australia.

**“8e Cases in which registration must be set aside**

The High Court shall set aside the registration of a judgment or order or injunction that is registered under section 8d of this Act on the application of any person against whom it may be enforced if the High Court is satisfied that the judgment or order or injunction—

- “(a) Is unenforceable in Australia; or
- “(b) Has been wholly satisfied; or
- “(c) Was registered in contravention of this Part of this Act or that this Part of this Act does not apply to it; or
- “(d) Has been reversed or set aside by the Federal Court of Australia or the High Court of Australia; or
- “(e) Relates to a claim or claims for relief for a contravention, or 2 or more contraventions, of section 46a of the Trade Practices Act 1974 of the Parliament of the Commonwealth of Australia, whether or not it also relates to any other claim for relief, that has, or all of which have, been dismissed by the Federal Court of Australia or the High Court of Australia.

**“8f Variation**

- “(1) A copy of every judgment or order of the Federal Court of Australia varying a judgment or order or injunction registered under this Part of this Act shall be registered in the High Court and the provisions of this Part of this Act shall apply to the judgment or order or injunction as so varied.
- “(2) No execution of a judgment registered under this Part of this Act that has been varied by the Federal Court of Australia or by the High Court of Australia shall be issued and no proceedings to enforce an order or injunction registered under this Part of this Act that has been varied by the Federal Court of Australia or by the High Court of Australia, as the case may be, shall be commenced before the registration of the variation of the judgment or order under subsection (1) of this section without the leave of the High Court.

**“8g Stay of execution**

- “(1) The High Court may, if it is satisfied that a person against whom a judgment or order or injunction has been registered under this Part of this Act—
  - “(a) Has applied, or intends to apply, to the Federal Court of Australia to have the judgment or order or injunction set aside; or

“(b) Has appealed, or intends to appeal, to the High Court of Australia against the judgment or the making of the order or the granting of the injunction,—

the High Court may order that enforcement of the judgment or order or injunction be stayed pending the determination of the application or appeal, as the case may be, or until a specified date, or for a specified period.

“(2) If the High Court makes an order on the ground that a person intends to apply to the Federal Court of Australia to have the judgment or order or injunction set aside or intends to appeal to the High Court of Australia against the judgment or the making of the order or the granting of the injunction, the High Court shall impose, as a condition of the order, a condition that the person makes the application or brings the appeal, as the case may be, by a specified date or within a specified period.

“(3) Every order made under subsection (1) of this section shall be made on the condition that the application or appeal, as the case may be, is proceeded with in an expeditious manner.

“(4) An order under subsection (1) of this section may be made on such other conditions, including conditions relating to the giving of security, as the High Court thinks fit.

**“8h Application of rules of private international law**

The provisions of this Part of this Act shall have effect in relation to the execution and enforcement of judgments, orders, and injunctions registered under this Part of this Act notwithstanding any rule of law relating to the jurisdiction of the courts of countries other than New Zealand or to public policy.

**“8i Rules of Court**

“(1) Rules may be made under section 51c of the Judicature Act 1908 for, or in relation to, the registration of judgments, orders, and injunctions to which this Part of this Act applies.

“(2) Without limiting subsection (1) of this section, rules may be made that make provision for—

“(a) The registration and service of facsimiles of judgments, orders, and injunctions to which this Part of this Act applies; and

“(b) The service of notice of registration of judgments, orders, and injunctions to which this Part of this Act applies.”

This Act is administered in the Department of Justice.