



ANNO DUODECIMO

GEORGII V REGIS.

A.D. 1921.

No. 1461.

An Act to facilitate the Reciprocal Enforcement of Judgments and Awards in Parts of His Majesty's Dominions outside the Commonwealth of Australia, and for other purposes.

[Assented to, October 5th, 1921.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the "Administration of Justice Act, 1921." Short title.

2. This Act is divided into Parts, as follows :—

Arrangement of Act.

PART I.—Preliminary :

PART II.—Reciprocal Enforcement of Judgments in South Australia and in other parts of His Majesty's Dominions :

PART III.—Miscellaneous Provisions.

PART II.

PART II.

RECIPROCAL ENFORCEMENT OF JUDGMENTS IN SOUTH AUSTRALIA AND IN OTHER PARTS OF HIS MAJESTY'S DOMINIONS.

3. The Creditors Remedies Act, 1880, is hereby repealed.

Repeal of Act No. 181 of 1880

4. (1) In

PART II.

Administration of Justice Act.—1921.

Interpretation.

Cf. 10 & 11 Geo. 5,
c. 81, s. 12.

4. (1) In this Part of this Act, unless the context otherwise requires—

“ Judgment ” means any judgment or order given or made by a Court in any civil proceedings, whether before or after the passing of this Act, whereby any sum of money is made 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.

(2) Subject to Rules of Court, any of the powers conferred by this Part of this Act on any Court may be exercised by a Judge of the Court.

Application of this Act.

Cf. *ibid.*, ss. 13, 14.

Cf. S.A., 181, 1880,
s. 2.

5. (1) This Part of this Act applies with respect to the United Kingdom.

(2) Where the Governor is satisfied that reciprocal provisions have been made by the legislature of any part of His Majesty's dominions outside the Commonwealth of Australia, other than the United Kingdom, for the enforcement within that part of His Majesty's dominions of judgments obtained in the Supreme Court of South Australia, the Governor may, by proclamation, declare that this Part of this Act shall apply with respect to that part of His Majesty's dominions, and on any such proclamation this Part of this Act shall apply accordingly.

(3) The Governor may, by proclamation, declare that this Part of this Act shall apply with respect 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, as if that territory were part of His Majesty's dominions, and on the making of any such proclamation this Part of this Act shall, subject to the provisions of the proclamation, have effect accordingly.

(4) The Governor may, by proclamation, revoke or vary any proclamation made under this section.

(5) A copy of the *Government Gazette* purporting to contain a copy of a proclamation under this section shall be conclusive evidence of the validity, contents, making, and publication of such proclamation, and of the fulfilment of all conditions precedent to the valid making thereof.

6. (1) Where

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PART II.

6. (1) Where a judgment has been obtained in a ~~superior~~ Court in any part of His Majesty's dominions outside the Commonwealth of Australia with respect to which this Part of this Act applies, the judgment creditor may apply by motion to the Supreme Court of South Australia at any time within twelve months after the date of the judgment, or such longer period as may be allowed by the said Court, to have the judgment registered in the said Court, and on any such application the said Court may, if in all the circumstances of the case they think it is just and convenient that the judgment should be enforced in South Australia, and subject to the provisions of this section, order the judgment to be registered accordingly.

Enforcement in South Australia of judgments obtained in superior courts in other British dominions.

Cf. *ibid.*, s. 9.

Cf. S.A., 181, 1880, s. 3.

(2) No judgment shall be ordered to be registered under this section if—

- (a) the original Court acted without jurisdiction ; or
- (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original Court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that Court ; or
- (c) 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 ; or
- (d) the judgment was obtained by fraud ; or
- (e) the judgment debtor satisfies the Supreme Court of South Australia either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment ; or
- (f) 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 of South Australia.

(3) Where a judgment is registered under this section—

- (a) 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 on the date of registration in the Supreme Court of South Australia :
- (b) the said Court shall have the same control and jurisdiction over the judgment as it has over similar judgments given by itself, but in so far only as relates to execution under this section :

(c) the

PART II.

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(c) 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.

(4) Rules of Court shall provide—

(a) for service on the judgment debtor of notice of the registration of a judgment under this section ; and

(b) for enabling the Supreme Court of South Australia, on an application by the judgment debtor, to set aside the registration of a judgment under this section on such terms as the Court thinks fit ; and

(c) for suspending the execution of a judgment registered under this section until the expiration of the period during which the judgment debtor may apply to have the registration set aside.

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

Issue of certificates of judgments obtained in South Australia.

Cf. 10 & 11 Geo. 5, c. 81, s. 10.

7. Where a judgment has been obtained in the Supreme Court of South Australia against any person, the said Court shall, 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 outside the Commonwealth of Australia with respect to which this Part of this Act applies, issue to the judgment creditor a certified copy of the judgment.

Power to make rules.

Cf. *ibid.*, s. 11.

8. 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 Part of this Act.

PART III.

PART III.

MISCELLANEOUS PROVISIONS.

Power to make rules as to proof.

Cf. *ibid.*, s. 6.

No. 116 of 1878.

9. The power to make rules conferred by the Supreme Court Act, 1878, shall include—

(a) power to make such Rules of Court as are mentioned in Part II. of this Act ; and

(b) power to make rules for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings in the Supreme Court, or on any application in connection with or at any stage of such proceedings.

10. Where

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PART III.

10. Where, for the purpose of disposing of any action or other matter which is being tried by a Judge of the Supreme Court or a Special Magistrate with a jury in any Court in South Australia, it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the Judge or Special Magistrate alone.

Questions of foreign law to be decided by Judge.

Cf. *ibid.*, s. 15.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. E. G. A. WEIGALL, Governor.