

**Draft Reciprocal Enforcement of Foreign  
Judgments (Amendment) Bill**

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2019

An Act to amend the Reciprocal Enforcement of Foreign Judgments Act (Chapter 265) and to repeal the Reciprocal Enforcement of Commonwealth Judgments Act (Chapter 264).

***Please note that the proposed amendments in this draft are still undergoing the legislative drafting and vetting process, and are thus not finalised and subject to change.***

## Short title and commencement

1. This Act is the Reciprocal Enforcement of Foreign Judgments (Amendment) Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 **Amendment of section 2**

2. Section 2 of the Reciprocal Enforcement of Foreign Judgments Act (called in this Act the principal Act) is amended --

(a) by inserting, immediately after the definition of “country of the original court” in subsection (1), the following definition:

10                                   ““Family Justice Rules” means the Family Justice Rules made under section 46 of the Family Justice Act 2014 (Act 27 of 2014);”;

(b) by deleting the words “which is not part of the Commonwealth” in the definition of “foreign country” in subsection (1);

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(c) by deleting the words “a judgment or order given or made by a court in any civil proceedings” in the definition of “judgment” in subsection (1) and substituting the words “an interlocutory or final judgment or order given or made by a court in any civil proceedings”;

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*[Aust’s Foreign Judgment Act s3(1) “judgment”]*

(d) by inserting, at the end of the definition of “judgment” in subsection (1), the words “, and includes a judicial settlement”;

(e) by inserting, immediately after the word “given” in the definitions of “judgment creditor” and “judgment debtor” in subsection (1), the words “(whether or not a sum of money is payable under the judgment)”;

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*[Aust s3(1) “judgment creditor” and “judgment debtor”]*

(f) by inserting, immediately after the definition of “judgment debtor” in subsection (1), the following definitions:

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““judicial settlement”—

(a) means a contract approved by, or concluded before, a court in the course of proceedings, being a contract —

(i) between the parties to proceedings before that court;

(ii) by which those parties end those proceedings; and

(iii) that is recorded by that court in an official document; but

(b) does not include a consent order or consent judgment;

*[s2(1) Choice of Court Agreements Act]*

“money judgment” means a judgment under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a similar nature or in respect of a fine or other penalty;

“non-money judgment” means a judgment that is not a money judgment;” and

(g) by inserting, immediately after subsection (2), the following subsection:

“(2A) A reference to the making or giving of a judgment, in the case of a judgment that is a judicial settlement, is to the making or concluding of the contract in paragraph (a) of the definition of “judicial settlement” in subsection (1).”.

### **Deletion and substitution of section 3**

**3.** The principal Act is amended by deleting section 3 and substituting the following section:

#### **Extension of Part to judgments of recognised courts of foreign countries on basis of reciprocity**

**3.—**(1) The Minister, if satisfied that, in the event of the benefits conferred by this Part being extended to a particular

description of judgments given in a particular court or description of courts of a foreign country, substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of similar judgments given in a similar court or similar courts of Singapore, may by order published in the Gazette, direct that—

- (a) this Part applies to that foreign country;
- (b) the court or courts of the foreign country specified in the order is a recognised court or are recognised courts of the foreign country for the purposes of this Part; and
- (c) judgments specified in the order of any such recognised court or courts, if within subsection (2), are judgments to which this Part applies.

(2) A judgment of a recognised court is within this subsection if —

- (a) (unless it is an interlocutory judgment) it is final and conclusive as between the parties to it; and
- (b) it is given after the coming into operation of the order.

(3) A judgment—

- (a) specified in an order under subsection (1) of a court of a foreign country specified in the order; and
- (b) that is within subsection (2),

is a judgment to which this Part applies.

(4) However, the following judgments of a recognised court are not judgments to which this Part applies:

- (a) a judgment given by that court on appeal from a court that is not a recognised court;
- (b) a judgment or other instrument that is regarded for the purposes of its enforcement as a judgment of that court but which was given or made in another foreign country;

(c) a judgment given by that court in proceedings founded on a judgment of a court in another foreign country and having as their object the enforcement of the secondmentioned judgment.

5 (5) For the purposes of this section, a judgment is taken to be final and conclusive even though—

- (a) an appeal may be pending against it; or
- (b) it may still be subject to appeal,

in the courts of the country of the original court.

10 (6) The Minister may by a subsequent order published in the Gazette vary or revoke any order previously made under this section.”.

#### **Amendment of section 4**

**4.** Section 4 of the principal Act is amended—

- 15 (a) by deleting the word “or” at the end of subsection (3)(a);
- (b) by inserting, immediately after paragraph (a) of subsection (3), the following paragraph:

“(aa) it has been discharged; or”;

- 20 (c) by inserting, immediately after the words “setting aside of registration” in subsection (4), the words “and to subsections (4A) and (4B)”;

(d) by inserting, immediately after subsection (4), the following subsections:

(4A) The registering court—

- 25 (a) may only enforce a registered judgment that is a non-money judgment if, having regard to the circumstances of the case and the nature of the relief contained in the judgment, it is satisfied that such enforcement would be just and convenient;
- 30 and

(b) if it is of the opinion that such enforcement would not be just and convenient, may make an order for payment of such amount as it considers is the monetary equivalent of the relief.

5 (4B) The registering court may refuse to enforce a registered judgment, if, and to the extent that, the registered judgment awards damages (including exemplary or punitive damages) in excess of compensation for the actual loss or harm suffered by the party awarded the damages.

10 (4C) In making its decision under subsection (4B), the registering court must take into account whether, and the extent to which, the damages awarded by the original court serve to cover costs and expenses relating to the proceedings in which the judgment was obtained.”

15 *[ss(4B) and (4C) from s16 of Choice of Court Agreements Act]*

### **Amendment of section 5**

**5.** Section 5 of the principal Act is amended—

- 20 (a) by deleting the word “or” at the end of subsection (1)(a);
- (b) by deleting the full-stop at the end of subsection (1)(b) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

25 “(c) may be set aside if the registering court is satisfied that the notice of registration had not been served on the judgment debtor, or if the notice of registration was defective.”;

- (c) by inserting, immediately after subsection (1), the following subsection:

30 “(1A) To avoid doubt, subsection (1)(c) does not prevent the subsequent registration of the judgment which registration has been set aside, solely because the notice of registration had not been served or was defective.”;

(d) by deleting sub-paragraph (i) of subsection (2)(a) and substituting the following sub-paragraph:

(ia) if the judgment debtor, being a defendant in the proceedings in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings otherwise than for the purpose of—

(A) protecting, or obtaining the release of, property seized or threatened with seizure, in the proceedings;

(B) contesting the jurisdiction of that court; or

(C) inviting the court in its discretion not to exercise its jurisdiction in the proceedings.”; and

*[Aust s7(5)]*

(e) by inserting, immediately after subsection (3), the following subsection:

“(4) In this section, “notice of registration” means a notice of the registration of a judgment mentioned in section 8(1)(c) that is required to be served on a judgment debtor by the Rules of Court or the Family Justice Rules, as the case may be.”.

### **Repeal of Part II and new section 9**

**6.** Part II of the principal Act is repealed and the following section substituted therefor:

#### **“Application of Act to judgments to which repealed Registration of Commonwealth Judgments Act applied**

**9.**—(1) Each foreign country mentioned in the 2<sup>nd</sup> column of the table in the Schedule is taken to be a foreign country to which Part I applies, and a judgment given in the court or a court specified opposite that country in the 3<sup>rd</sup> column of the table whether before, on or after the appointed day, is taken to be a

judgment to which Part I applies if it is a judgment that would have been registrable under the RECJA had the RECJA not been repealed.

5 (2) Despite subsection (1), the time limited for the registration of a judgment mentioned in that subsection that is given before the appointed day is 12 months from the date of the judgment or such longer period as may be allowed by the High Court.

10 (3) A judgment registered in the High Court under the RECJA before the appointed day is taken to be registered under section 4.

15 (4) In the application of this Act in relation to a judgment mentioned in subsection (3), a reference to a judgment is to any judgment or order given or made by a court in any civil proceedings, whereby any sum of money is made payable (not being a sum payable in respect of taxes or other charges of a similar nature or in respect of a fine or other penalty), 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  
20 given by a court in that place.

(5) Section 7(2) does not apply to a judgment mentioned in subsection (1).

25 (6) In relation to a judgment mentioned in subsection (1), section 7(1) only applies to proceedings commenced in a court in Singapore on or after the appointed day.

(7) This section does not prevent the making of another order under section 3 in respect of a foreign country mentioned in subsection (1) that is not inconsistent with this section.

30 (8) The Minister may, from time to time, by order in the *Gazette*, amend the Schedule, and may in that order make such saving or transitional provision as may be necessary or expedient.

(9) In this section –

“appointed day” means the date of commencement of section 6 of the Reciprocal Enforcement of Foreign Judgments (Amendment) Act 2019;

5 “RECJA” means the Reciprocal Enforcement of Commonwealth Judgments Act repealed by the Reciprocal Enforcement of Foreign Judgments (Amendment) Act 2019.

### **Amendment of section 12**

10 **7.** Section 12(1) of the principal Act is amended –

(a) by deleting the words “High Court of Singapore” and substituting the words “a court of Singapore”; and

(b) by deleting the words “superior courts of that country” and substituting the words “a court of that country that is similar  
15 to the firstmentioned court of Singapore”.

### **Amendment of section 13**

**8.** Subsection (1) of section 13 of the principal Act is deleted and the following subsections substituted therefor:

“(1) Where—

20 (a) a judgment has been given in a court of Singapore; and

(b) the judgment creditor desires to enforce the judgment in a foreign country to which Part I applies [in respect of a judgment of a court similar to the judgment and court mentioned in paragraph (a)],

25 the registrar of the court of Singapore must, on an application made by a judgment creditor and on payment of such fee as may be prescribed, issue to the judgment creditor a certified copy of the judgment, together with a certificate that contains the particulars in subsection (1A).

30 (1A) The particulars that the certificate must contain are:

(a) the cause of action to which the judgment relates;

(b) the relief granted by the judgment;

- (c) the rate of interest (if any) payable on any amount payable under the judgment;
- (d) such other particulars as may be prescribed by the Rules of Court or the Family Rules of Court, as the case may be.”.

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### **New Schedule**

**9.** The principal Act is amended by inserting, immediately after section 13, the following Schedule:...

### **Repeal of Reciprocal Enforcement of Commonwealth Judgments Act**

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**10.** The Reciprocal Enforcement of Commonwealth Judgments Act (Cap. 264) is repealed.

### **Savings and transitional provisions**

**11.**—(1) Any order made before the date of commencement of section 10 of the Reciprocal Enforcement of Foreign Judgments (Amendment) Act 2019 (called in this section the appointed day) under section 3 of the principal Act as in force immediately before that date, which—

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(a) extends Part I of the principal Act to a foreign country; and

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(b) deems a specified court of the foreign country as a superior court of that country for the purposes of Part I of the principal Act,

has effect from the appointed day as an order made under section 3 of the principal Act as if—

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(c) it directed that that court is a recognised court of that foreign country for those purposes; and

(d) it directed that money judgments of that court that are within section 3(2) of the principal Act are judgments to which Part I of the principal Act applies.

(2) In determining for the purposes of Part I of the principal Act whether a judgment mentioned in subsection (1)(d) is one to which that Part applies, section 3(2)(b) of the principal Act is omitted.

5 (3) In the application of this Act in relation to a judgment of a court mentioned in subsection (1) that was registered before the appointed day, a reference to “judgment” is to any judgment or order given or made by a court in any civil proceedings, whereby any sum of money is made payable (not being a sum payable in respect of taxes or other charges of a similar nature or in respect of a fine or other penalty),  
10 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.

15 (4) For a period of 2 years after the appointed date, the Minister may, by rules, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of any part of this Act as the Minister may consider necessary or expedient.

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## EXPLANATORY STATEMENT

This Bill seeks to

### EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

### EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.