

**Version No. 022**  
**Foreign Judgments Act 1962**  
**No. 6916 of 1962**

Version incorporating amendments as at 7 December 2007

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**Version No. 022**  
**Foreign Judgments Act 1962**  
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An Act to make Provision for the Enforcement in Victoria of Judgments given in the United Kingdom or in other Countries (whether Commonwealth Countries or not) which accord Reciprocal Treatment to Judgments given in Victoria, for Facilitating the Enforcement in other Countries of Judgments given in Victoria, and for other purposes.

**BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):**

**PART I—PRELIMINARY**

**1 Short title and commencement**

- (1) This Act may be cited as the **Foreign Judgments Act 1962**.

\* \* \* \* \*

S. 1(2)  
repealed by  
No. 57/1989  
s. 3(Sch.  
item 80.1).

**2 Repeal and savings**

- (1) Division 11 of Part VIII of the **Supreme Court Act 1958** is hereby repealed.
- (2) Every Proclamation issued under section one hundred and sixty-seven of that Act, and in force immediately before the passing of this Act, shall continue in force as if it were an Order to the same

effect made under section four of this Act, and may be varied or revoked in accordance with the provisions of subsection (5) of section four of this Act.

- (3) Any judgment registered in the Supreme Court under the repealed Division before the passing of this Act shall be deemed to have been registered in that Court under Part II of this Act and anything done in relation thereto under the repealed Division or any Rules of Court or other provisions applicable to that Division shall be deemed to have been done under Part II or the corresponding Rules of Court or other provisions applicable to Part II and Part II shall have operation and effect in relation thereto accordingly.

Cf. 23 Geo. V.,  
c.13, s. 11.

### 3 Definitions

- (1) In this Act, unless inconsistent with the context or subject-matter—

*appeal* includes any proceedings by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;

*Commonwealth country* means a country that is a member of the British Commonwealth of Nations, and includes every territory for whose international relations the Government of that country is responsible;

*country of the original Court* means the country in which the original Court is situated;

*foreign country* means a country which is not a Commonwealth country;

*judgment* means a judgment or order given or made by a Court in any civil proceedings, or a judgment or order given or made by a Court in any criminal proceedings for the payment of a sum of money in respect of

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compensation or damages to an injured party, whether before or after the commencement of this Act 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 in whose favour the judgment was given and includes any person in whom the rights under the judgment have become vested by succession or assignment or otherwise;

***judgment debtor*** means the person against whom the judgment was given and includes any person against whom the judgment is enforceable under the law of the original Court;

***judgments given in the superior Courts of Victoria*** means judgments given in the Supreme Court and includes judgments given in any Court on appeals against any judgments so given: The term also includes judgments that have become enforceable as judgments of the Supreme Court though not given therein;

***non-recoverable tax*** means tax other than recoverable tax;

S. 3(1) def. of *non-recoverable tax* inserted by No. 9621 s. 3(a).

***Order*** means Order of the Governor in Council published in the Government Gazette;

***original Court*** in relation to any judgment means the Court by which the judgment was given;

***Part*** means Part of this Act;

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S. 3(1) def. of  
*recoverable  
tax*  
inserted by  
No. 9621  
s. 3(b).

*prescribed* means prescribed by Rules of Court;

*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 an Order in force under subsection (3);

*registration* means registration under Part II and the expressions *register* and *registered* shall be construed accordingly;

*repealed Division* means Division 11 of Part VIII of the **Supreme Court Act 1958**;

S. 3(1) def. of  
*Supreme  
Court*  
repealed by  
No. 57/1989  
s. 3(Sch.  
item 80.2).

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- (2) For the purposes of this Act the expression *action in personam* shall not be deemed to include any matrimonial cause or any proceedings in connexion with any of the following matters that is to say—
  - (a) matrimonial matters;
  - (b) administration of the estates of deceased persons;
  - (c) bankruptcy;
  - (d) winding up of companies;

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- (e) lunacy; or
  - (f) guardianship of minors.

S. 3(2)(f)  
amended by  
No. 9075  
s. 5(1).

- (3) Where the Governor in Council 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 subsection (1), by Order declare any class or description of tax specified in the Order not to be recoverable tax.

S. 3(3)  
inserted by  
No. 9621  
s. 3(c).

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**PART II—RECIPROCAL ENFORCEMENT OF JUDGMENTS**

Cf. 23 Geo. V.,  
c.13, s. 1.

S. 4(1)(b)  
amended by  
No. 7332  
Sch. 1.

**4 Application of this Part of Act**

- (1) (a) This Part extends to the United Kingdom.
  - (b) In relation to the United Kingdom, the term *superior Court* means the High Court in England, the Court of Session in Scotland, the High Court in Northern Ireland, the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham, or such other Court as the Governor in Council may by Order specify for the purposes of this Part.
- (2) If the Governor in Council is satisfied that, in the event of the benefits conferred by this Part being extended to judgments given in the superior Courts of any Commonwealth country not including the United Kingdom and the Commonwealth of Australia or given in the superior Courts of any foreign country, substantial reciprocity of treatment will be assured as respects the enforcement within that Commonwealth country or in that foreign country, as the case may be, of judgments given in the superior Courts of Victoria, he may by Order direct—
    - (a) that this Part shall extend to that Commonwealth country or to that foreign country; and
    - (b) that such Courts as are specified in the Order shall, for the purposes of this Part, be deemed superior Courts of that Commonwealth country or of that foreign country.

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(3) Any judgment of a superior Court of a country to which this Part extends, including any judgment of such superior Court for the payment of the costs of an appeal to that superior Court from a Court which is not a superior Court but not including any other judgment of such a Court given on appeal from a Court which is not a superior Court, shall be a judgment to which this Part applies, if—

**S. 4(3)**  
amended by  
No. 7041  
s. 2(a).

(a) it is final and conclusive as between the parties thereto;

(b) there is payable thereunder—

**S. 4(3)(b)**  
substituted by  
No. 9621 s. 4.

(i) a sum of money, not being (except as referred to in subparagraph (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; and

(c) it is given after the coming into operation of the Order directing that this Part shall extend to that country:

Provided that nothing in this paragraph (c) shall apply with respect to judgments given in the United Kingdom or in any other Commonwealth country (not including the Commonwealth of Australia) to which the repealed Division applied immediately before the passing of this Act.

(4) For the purposes of this section a judgment shall be deemed to be final and conclusive notwithstanding that an appeal may be pending against it, or that it may still be subject to appeal, in the Courts of the country of the original Court.

(5) The Governor in Council may by a subsequent Order vary or revoke any Order previously made under this section.



- (6) A copy of the Gazette purporting to contain a copy of an Order under this section shall be conclusive evidence of the validity, contents, making and publication of the Order and of the fulfilment of all conditions precedent to the valid making thereof.

Cf. 23 Geo. V.,  
c.13, s. 2.

### **5 Application for, and effect of, registration of judgment**

- (1) A person, being a judgment creditor under a judgment to which this Part of this Act applies, may apply to the Supreme Court at any time—
- (a) in the case of a judgment given before the passing of this Act in the United Kingdom or in any other Commonwealth country (not including the Commonwealth of Australia) to which the repealed Division applied immediately before the passing of this Act, within twelve months from the date of the judgment or such longer period as may be allowed by the Supreme Court;
  - (b) in any other case, within six years after the date of the judgment, or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in the proceedings—

to have the judgment registered in the Supreme Court, and on any such application that Court shall, subject to proof of the prescribed matters and to the other provisions of this Act, order the judgment to be registered:

Provided that a judgment shall not be registered if at the date of the application—

- (i) it has been wholly satisfied; or
- (ii) it could not be enforced by execution in the country of the original Court.

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- (2) Subject to the provisions of this Act with respect to the setting aside of registration—
- (a) a registered judgment shall, for the purposes of execution, be of the same force and effect;
  - (b) proceedings may be taken on a registered judgment;
  - (c) the sum for which a judgment is registered shall carry interest;
  - (d) the Supreme Court shall have the same control over the execution of a registered judgment—

as if the judgment had been a judgment originally given in the Supreme Court and entered on the date of registration:

Provided that execution shall not issue on the judgment so long as, under this Part and the Rules of Court made thereunder, it is competent for any party to make application to have the registration of the judgment set aside, or, where such an application is made, until after the application has been finally determined.

- (3) Where the sum payable under a judgment which is to be registered is expressed in a currency other than the currency of the Commonwealth of Australia, the judgment shall be registered as if it were a judgment for such sum in the currency of the Commonwealth as, on the basis of the rate of exchange prevailing at the date of the judgment of the original Court, is equivalent to the sum so payable.
  - (4) If at the date of the application for registration the judgment of the original Court has been partly satisfied, the judgment shall not be registered in respect of the whole sum payable under the judgment of the original Court, but only in respect of the balance remaining payable at that date.
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S. 5(4A)  
inserted by  
No. 9621 s. 5.

- (4A) Without affecting subsection (5), where, on an application for the registration of a judgment, it appears to the Supreme Court that—
- (a) a judgment is in respect of a sum of money payable in respect of both recoverable tax 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.
- (5) If, on an application for the registration of a judgment, it appears to the Supreme Court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of those provisions but not in respect of any other provisions contained therein.
- (6) In addition to the sum of money payable under the judgment of the original Court, including any interest which by the law of the country of the original Court becomes due under the judgment up to the time of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgment from the original Court.

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## 6 Rules of Court

Cf. 23 Geo. V.,  
c.13, s. 3.

- (1) The power to make Rules of Court, under section twenty-five of the **Supreme Court Act 1986**, includes, subject to the provisions of this section, power to make rules for the following purposes:
- (a) For making provision with respect to the giving of security for costs by persons applying for the registration of judgments;
  - (b) For prescribing the matters to be proved on an application for the registration of a judgment and for regulating the mode of proving those matters;
  - (c) For providing for the service on the judgment debtor of notice of the registration of a judgment;
  - (d) For making provision with respect to the fixing of the period within which an application may be made to have the registration of the judgment set aside and with respect to the extension of the period so fixed;
  - (e) For prescribing the method by which any question arising under this Act whether a judgment given in any Commonwealth country (not including the Commonwealth of Australia) or in any other country to which this Part extends can be enforced by execution in the country of the original Court, or what interest is payable under any judgment under the law of the original Court, is to be determined;

S. 6(1)  
amended by  
No. 57/1989  
s. 3(Sch.  
item 80.3).

(f) For prescribing all matters and things which under this Part are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

(2) Rules made for the purposes of this Part shall be expressed to have, and have, effect subject to any such provisions contained in Orders made under section four of this Act as are declared by those Orders to be necessary for giving effect to any agreement made by or on behalf of the Government of Victoria in relation to matters with respect to which there is power to make Rules of Court for the purposes of this Part.

Cf. 23 Geo. V.,  
c.13, s. 4.

#### **7 Cases in which registered judgments must, or may be set aside**

(1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment shall be set aside if the Supreme Court is satisfied—

(a) that the judgment is not a judgment to which this Part applies or was registered in contravention of the foregoing provisions of this Act;

(b) that the Courts of the country of the original Court had no jurisdiction in the circumstances of the case;

(c) that the judgment debtor did not (notwithstanding that process may have been duly served on him in accordance with the law of the country of the original Court) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear;

(d) that the judgment was obtained by fraud;

S. 7(1)(c)  
amended by  
No. 7041  
s. 2(b)(i).

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- (e) that the enforcement of the judgment would be contrary to public policy in Victoria; or
- (f) that the rights under the judgment are not vested in the person by whom the application for registration was made.
- (2) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment may be set aside if the Supreme Court is satisfied that the matter in dispute in the proceedings in the original Court had previously to the date of the judgment in the original Court been the subject of a final and conclusive judgment by a Court having jurisdiction in the matter.
- (3) For the purposes of this section the Courts of the country of the original Court shall, subject to the provisions of subsection (4) of this section, be deemed to have had jurisdiction—
- (a) in the case of a judgment given in an action in personam—
- (i) if the judgment debtor submitted to the jurisdiction of that Court by voluntarily appearing in the proceedings otherwise than for the purpose of protecting, or obtaining the release of, property seized or threatened with seizure, in the proceedings or of contesting the jurisdiction of that Court; **S. 7(3)(a)(i) amended by No. 7041 s. 2(b)(ii).**
- (ii) if the judgment debtor was plaintiff in, or counterclaimed in, the proceedings in the original Court;
- (iii) if the judgment debtor had before the commencement of the proceedings agreed, in respect of the subject-matter of the proceedings, to submit to the **S. 7(3)(a)(iii) amended by No. 7041 s. 2(b)(ii).**
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jurisdiction of that Court or of the  
Courts of the country of that Court;

S. 7(3)(a)(iv)  
amended by  
No. 7041  
s. 2(b)(ii).

(iv) if the judgment debtor was at the time  
when the proceedings were instituted  
resident in, or being a body corporate  
had its principal place of business in,  
the country of that Court; or

S. 7(3)(a)(v)  
amended by  
No. 7041  
s. 2(b)(ii).

(v) if the judgment debtor had an office or  
place of business in the country of that  
Court and the proceedings in that Court  
were in respect of a transaction effected  
through or at that office or place;

(b) in the case of a judgment given in an action  
of which the subject-matter was immovable  
property or in an action in rem of which the  
subject-matter was movable property, if the  
property in question was at the time of the  
proceedings in the original Court situate in  
the country of that Court; and

(c) in the case of a judgment given in an action  
other than any such action as is mentioned in  
paragraph (a) or paragraph (b) of this  
subsection, if the jurisdiction of the original  
Court is recognized by the law of the State of  
Victoria.

(4) Notwithstanding anything in subsection (3) of this  
section, the Courts of the country of the original  
Court shall not be deemed to have had  
jurisdiction—

(a) if the subject-matter of the proceedings was  
immovable property outside the country of  
the original Court;

(b) except in the cases mentioned in  
subparagraphs (i), (ii) and (iii) of paragraph  
(a) and in paragraph (c) of subsection (3) of  
this section, if the bringing of the

proceedings in the original Court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the Courts of the country of that Court; or

- (c) if the judgment debtor was a person who under the rules of public international law was entitled to immunity from the jurisdiction of the Courts of the country of the original Court and did not submit to the jurisdiction of that Court.

S. 7(4)(c)  
amended by  
No. 7041  
s. 2(b)(iii).

**8 Powers of Supreme Court on application to set aside registration**

Cf. 23 Geo. V.,  
c.13, s. 5.

- (1) If, on an application to set aside the registration of a judgment, the applicant satisfies the Supreme Court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment, the Court, if it thinks fit, may, on such terms as it may think just, either set aside the registration or adjourn the application to set aside the registration until after the expiration of such period as appears to the Supreme Court to be reasonably sufficient to enable the applicant to take the necessary steps to have the appeal disposed of by a competent tribunal.
- (2) Where the registration of a judgment is set aside under subsection (1) of this section, or solely for the reason that the judgment was not at the date of the application for registration enforceable by execution in the country of the original Court, the setting aside of the registration shall not prejudice a further application to register the judgment when the appeal has been disposed of or if and when the judgment becomes enforceable by execution in that country, as the case may be.



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- (3) Where the registration of a judgment is set aside solely for the reason that the judgment, notwithstanding that it had at the date of the application for registration been partly satisfied, was registered for the whole sum payable thereunder, the Supreme Court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

23 Geo. V.,  
c.13, s. 6.

**9 Judgments which can be registered under this Act not to be enforceable otherwise**

No proceedings for the recovery of a sum payable under a judgment to which this Part applies, other than proceedings by way of registration of the judgment, shall be entertained by any Court in Victoria.

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**PART III—MISCELLANEOUS AND GENERAL**

**10 Judgments given by superior Courts outside  
Victoria**

Cf. 23 Geo. V.,  
c.13, s. 8.

- (1) Subject to the provisions of this section, a judgment to which Part II applies or would have applied if a sum of money had been payable thereunder, whether it can be registered or not, and whether, if it can be registered, it is registered or not, shall be recognized in any Court in Victoria as conclusive between the parties thereto in all proceedings founded on the same cause of action, and may be relied on by way of defence or counterclaim in any such proceedings.
- (2) This section shall not apply in the case of any judgment—
  - (a) where the judgment has been registered and the registration thereof has been set aside on some ground other than—
    - (i) that a sum of money was not payable under the judgment;
    - (ii) that the judgment had been wholly or partly satisfied; or
    - (iii) that at the date of the application for registration of the judgment, the judgment could not be enforced by execution in the country of the original Court; or
  - (b) where the judgment has not been registered, and it is shown (whether it could have been registered or not) that if it had been registered the registration thereof would have been set aside on an application for that purpose on some ground other than one of

the grounds specified in paragraph (a) of this subsection.

- (3) Nothing in this section prevents any Court in Victoria recognizing any judgment as conclusive of any matter of law or fact decided therein if that judgment would have been so recognized before the passing of this Act.

23 Geo. V.,  
c.13, s. 10.

#### **11 Power to make judgments unenforceable in Victoria if no reciprocity**

- (1) If it appears to the Governor in Council that the treatment in respect of recognition and enforcement accorded by the Courts of any country to judgments given in any superior Court of Victoria is substantially less favourable than that accorded by the Courts of Victoria to judgments of the superior Courts of that country, the Governor in Council may by Order apply this section to that country.
- (2) Except in so far as the Governor in Council may by Order under this section otherwise direct, no proceedings shall be entertained in any Court in Victoria for the recovery of any sum alleged to be payable under a judgment given in a Court of a country to which this section applies.
- (3) The Governor in Council may by a subsequent Order vary or revoke any Order previously made under this section.

23 Geo. V.,  
c.13, s. 10.

#### **12 Issue of certificates of judgments obtained in Victoria**

S. 12(1)  
amended by  
No. 9621 s. 6.

- (1) Where a judgment under which a sum of money is payable has been entered in the Supreme Court against any person and the judgment creditor is desirous of enforcing the judgment in any country to which Part II applies, the Court shall, on an application made by the judgment creditor and on payment of such fee as may be prescribed by

Rules of Court for the purposes of this section, issue to the judgment creditor a certified copy of the judgment, together with a certificate containing such particulars with respect to the action, including the causes of action, and the rate of interest, if any, payable on the sum payable under the judgment, as may be prescribed:

Provided that, where execution of a judgment is stayed for any period pending an appeal or for any other reason, an application shall not be made under this section with respect to the judgment until the expiration of that period.

- (2) The power to make Rules of Court under section twenty-five of the **Supreme Court Act 1986**, shall include power to make rules for the purpose of prescribing any matters or things which under this section are required or permitted to be prescribed.

S. 12(2)  
amended by  
No. 57/1989  
s. 3(Sch.  
item 80.4).

### 13 Savings

- (1) In this section *relevant order* means—
- (a) an Order revoking, altering or amending an Order under section 4(2); or
  - (b) an order under section 3(3).
- (2) Subject to subsection (3), this Act continues to apply to and in respect of judgments given before the coming into operation of a relevant Order as if the Order had not been made.
- (3) Where, by reason of the coming into operation of a relevant Order—
- (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

S. 13  
repealed by  
No. 7041  
s. 3(2),  
new s. 13  
inserted by  
No. 9621 s. 7.

(c) a recoverable tax becomes a non-recoverable tax—

the Governor in Council may, in the relevant Order or a subsequent Order, direct that this Act shall not apply to or in respect of—

(d) all judgments (other than a judgment referred to in subsection (4)) given before the coming into operation of the relevant Order, being—

- (i) judgments given in the Courts of the country referred to in paragraph (a);
- (ii) judgments given in the Courts 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 Order—

and the direction shall, subject to subsection (4), have effect according to its terms.

(4) A direction under subsection (3) does not have effect in relation to a judgment if an application for the registration of the judgment was made in accordance with this Act before the Order in which the direction was given came into operation.

## ENDNOTES

### 1. General Information

The **Foreign Judgments Act 1962** was assented to on 20 November 1962 and came into operation on 20 November 1962: Government Gazette 28 November 1962 page 3883.

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Endnotes

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**2. Table of Amendments**

This Version incorporates amendments made to the **Foreign Judgments Act 1962** by Acts and subordinate instruments.

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**Foreign Judgments (Amendment) Act 1963, No. 7041**

*Assent Date:* 12.11.63  
*Commencement Date:* 12.11.63  
*Current State:* All of Act in operation

**Statute Law Revision Act 1965, No. 7332**

*Assent Date:* 14.12.65  
*Commencement Date:* 14.12.65  
*Current State:* All of Act in operation

**Age of Majority Act 1977, No. 9075**

*Assent Date:* 6.12.77  
*Commencement Date:* 1.2.78: Government Gazette 11.1.78 p. 97  
*Current State:* All of Act in operation

**Foreign Judgments (Amendment) Act 1981, No. 9621**

*Assent Date:* 8.12.81  
*Commencement Date:* 1.7.82: Government Gazette 31.3.82 p. 884  
*Current State:* All of Act in operation

**Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

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**3. Explanatory Details**

No entries at date of publication.