

Queensland



*Supreme Court Act 1921*  
*Foreign Judgments Act 1991 (Commonwealth)*

# **SUPREME COURT (FOREIGN JUDGMENTS) RULES ORDER 1993**

**Reprinted as in force on 23 June 1993  
(Order not amended up to this date)**

**Reprint No. 1**

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the Office of the Queensland Parliamentary Counsel  
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NOT FURTHER AMENDED  
LAST REPRINT BEFORE REPEAL  
See 2005 SL No. 65 s 6

# Information about this reprint

This order is reprinted as at 23 June 1993.

The opportunity has been taken, under section 7 of the *Reprints Act 1992*, to use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act.

**See Endnotes for—**

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**



# **SUPREME COURT (FOREIGN JUDGMENTS) RULES ORDER 1993**

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## **SUPREME COURT (FOREIGN JUDGMENTS) RULES ORDER 1993**

[reprinted as in force on 23 June 1993<sup>2</sup>]

### **Short title**

1. This order in council may be cited as the *Supreme Court (Foreign Judgments) Rules Order 1993*<sup>3</sup>.

### **Supreme Court (Foreign Judgments) Rules 1993**

2. The Schedule has effect.

## **SCHEDULE**

### **SUPREME COURT (FOREIGN JUDGMENTS) RULES 1993**

section 2

#### **PART 1—PRELIMINARY**

##### **Short title**

1. These rules may be cited as the *Supreme Court (Foreign Judgments) Rules 1993*.

##### **Definitions**

2. In these rules—

“**Court**” means the Supreme Court of Queensland, and includes a Judge of the Court sitting in Chambers;

“**judgment**” means a judgment to which Part 2 of the Act applies;

“**the Act**” means the *Foreign Judgments Act 1991* (Commonwealth).

##### **Application of Supreme Court Rules and practices**

3. Except as otherwise provided in the Act and these rules, the Rules of the Supreme Court and the general practice of the Court (including the practices and procedures in Chambers), apply with any necessary changes in relation to the matters to which these rules apply.

SCHEDULE (continued)

**PART 2—RECIPROCAL ENFORCEMENT OF  
FOREIGN JUDGMENTS**

**Application for registration of judgment**

**4.(1)** An application for registration of a judgment—

- (a) must be made by originating summons; and
- (b) may be made ex parte or on written notice given to the judgment debtor.

(2) If the application is made ex parte, the Court may order that the judgment creditor give written notice of the application to the judgment debtor in the way the Court considers appropriate.

**Evidence in support of application**

**5.(1)** An application for registration of a judgment must be supported by an affidavit—

- (a) exhibiting a certified copy of the original court's judgment under its seal; and
- (b) specifying the regulation under the Act that extends Part 2 of the Act to the country of the original court or to the original court; and
- (c) stating the following particulars—
  - (i) the full name and last known address of the judgment creditor and debtor;
  - (ii) the nature of the causes of action the subject of the judgment;
  - (iii) that a regulation has not been made under section 13 of the Act applying the section to the country of the original court;
  - (iv) that the judgment has not been wholly satisfied or, if the judgment has been partly satisfied, the amount in respect of which it remains unsatisfied;
  - (v) that there is no reason why the judgment could not be enforced in the country of the original court;

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SCHEDULE (continued)

- (vi) the costs of registration of the judgment incurred by the applicant;
- (vii) if the judgment creditor wishes the judgment to be registered in a currency other than Australian currency—the rate of exchange prevailing on the day of the affidavit;
- (viii) if it is more than 6 years since the day of the judgment—whether there has been a proceeding by way of appeal against the judgment and, if so, the day of the last judgment in the proceeding;
- (ix) if interest is payable on the judgment under the law of the country of the original court and the interest is not expressed in the judgment—the rate of interest;
- (x) if the judgment is a judgment of a court of Papua New Guinea—specify the amount (if any) payable under the judgment that is recoverable Papua New Guinea income tax or non-recoverable tax;
- (xi) if the judgment is a judgment of a court of New Zealand—that it was not given in a proceeding, or part of a proceeding, in which a matter for determination arose under section 36A, 98H or 99A of the *Commerce Act 1986* of New Zealand.

(2) If the certified copy of the judgment exhibited with the affidavit is not in the English language, a translation of the judgment must be filed with the affidavit.

(3) The translation must be properly certified by a person who is competent to make the translation into the English language.

(4) The deponent may state the particulars mentioned in subrule (1)(c) as the belief of the deponent, giving the sources of the deponent's information and the grounds of the deponent's belief.

### **Security for costs of application**

6. The Court may order that a judgment creditor who has made application for registration of a judgment give security for the costs of any



SCHEDULE (continued)

proceeding that may be brought under section 7 of the Act to set aside registration of the judgment.

**Order for registration**

7. An order for the registration of a judgment must be in form 1 of the Schedule.

**Register of judgments**

8. The Registrar must keep a register of registered judgments.

**Registration of judgments**

9.(1) The Registrar must, immediately after the Court orders registration of a judgment, register the judgment by entering in the register the following particulars of the judgment—

- (a) the full name and last known address of the judgment creditor and debtor;
- (b) the amount payable under the judgment after deducting any amount paid in part satisfaction of the judgment;
- (c) any interest that, under the law of the country of the original court, has become payable under the judgment up to the time of registration.

(2) The Registrar must, at the same time, also record the following details in the register—

- (a) the reasonable costs of, and incidental to, registration of the judgment;
- (b) any special directions contained in the order for registration.

**Notice of registration**

10.(1) The judgment creditor under a registered judgment must, within 28 days from registration of the judgment or such longer period as the

**SCHEDULE (continued)**

Court may allow, serve notice of registration of the judgment on the judgment debtor.

- (2) The notice must be in form 2 of the Schedule.

**Indorsement of service**

**11.(1)** A person who serves a notice of registration of a judgment on a judgment debtor must, within 3 days of service of the notice or such longer period as the Court may allow, indorse on the duplicate notice, or a copy of the notice—

- (a) the day of service; and
- (b) the way in which the notice was served.

(2) A judgment creditor cannot enforce a judgment, without the leave of the Court, if subrule (1) is not complied with in relation to the judgment.

(3) An affidavit of service of the notice must state the day on which the indorsement was made.

**Application to set aside registration of judgment**

**12.** An application to set aside the registration of a judgment must—

- (a) be made by summons; and
- (b) be made within the period stated in the Court's order for registration of the judgment or the period as extended by the Court; and
- (c) be supported by an affidavit setting out with particularity the grounds on which the application is made.

**Enforcement of judgment**

**13.(1)** A judgment creditor who wishes to enforce a registered judgment must lodge with the Registrar—

- (a) an affidavit of service of the notice of registration of the judgment; and

SCHEDULE (continued)

(b) all orders made by the Court in relation to the judgment.

(2) The form of writ of execution used in relation to the enforcement of a registered judgment must be varied, in a way approved by the Registrar, by—

(a) stating that the judgment is a registered judgment; and

(b) specifying the date of, and the amount payable under, the judgment.

(3) If a registered judgment is enforced, the Registrar must, as soon as practicable after the return of the writ, enter details of the enforcement in the register of registered judgments.

## **PART 3—RECIPROCAL ENFORCEMENT OF AUSTRALIAN JUDGMENTS**

### **Application for certificates of judgment**

**14.** An application under section 15 of the Act for the issue of certificates with respect to a judgment of the Court must be in a form approved by the Registrar.

### **Registrar's certificate of judgment**

**15.** For the purposes of section 15(1)(b) of the Act, a certificate with respect to a judgment of the Court must contain the following particulars—

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

(b) the rate of interest (if any) payable on any amount payable under the judgment;

(c) whether the judgment debtor contested the jurisdiction of the Court and, if so, the grounds of the contest;

(d) whether the judgment is subject to a notice of appeal.

## SCHEDULE (continued)

**SCHEDULE****FORMS****Form 1****ORDER FOR REGISTRATION OF JUDGMENT**

rule 7

In the Supreme Court of Queensland

19 .

BETWEEN , plaintiff

and

, defendant

Before (*name of Justice*)

Date of Order:

I ORDER THAT—

- (a) the judgment of (*name of original court*) of (*name of foreign country of original court*) dated                      whereby it was ordered that (*name of judgment debtor*) pay (*amount as expressed in judgment*) together with interest and costs of (*amount as expressed in judgment*) to (*name of judgment creditor*) be registered under Part 2 of the *Foreign Judgments Act 1991* (Commonwealth); and
- (b) the amount payable by the judgment debtor to the judgment creditor is (*amount in the currency of the relevant foreign country or the equivalent Australian currency of—*

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SCHEDULE (continued)

SCHEDULE (continued)

- (i) *the judgment, interest and costs mentioned in paragraph (a); and*
- (ii) *interest payable under the law of the foreign country but not expressed in the judgment); and*
- (c) the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgment (*fixed at     , or to be taxed*) are payable by the judgment debtor to the judgment creditor; and
- (d) the judgment creditor may, within (*period under rule 12(b)*) apply to have the registration set aside.

By the Court,

Registrar.

Judgment creditor.

## ENDNOTES

### 1            **Index to Endnotes**

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### 2            **Date to which amendments incorporated**

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. However, no amendments have commenced operation on or before that day. Future amendments of the *Supreme Court (Foreign Judgments) Rules Order 1993* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

### 3            **List of legislation**

**Supreme Court (Foreign Judgments) Rules Order 1993 SL No. 91**  
notfd Gaz 2 April 1993 pp 1665–6  
commenced on date of notification