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# EIGHTH REPORT

of the

LAW REFORM COMMITTEE

of

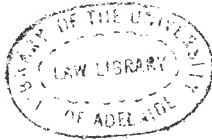
SOUTH AUSTRALIA

to

THE ATTORNEY-GENERAL



FOREIGN JUDGMENTS BILL



The Law Reform Committee of South Australia was established by Proclamation which appeared in the *South Australian Government Gazette* of 19th September, 1968. The Members are:

THE HONOURABLE MR. JUSTICE ZELLING, C.B.E., *Chairman.*  
S. J. JACOBS, Q.C.  
K. P. LYNCH.  
D. ST.L. KELLY.

The Secretary of the Committee is Mr. H. G. Edwards, c/o Adelaide Magistrates' Court Department, Adelaide, South Australia.

## EIGHTH REPORT OF THE LAW REFORM COMMITTEE OF SOUTH AUSTRALIA

To:

The Honourable R. R. Millhouse, M.P.,  
Attorney-General for South Australia.

Sir,

We have the honour to report at your instance upon a draft bill prepared by the South Australian Parliamentary Draftsman in 1965 and entitled "A Bill for an Act to make Provision for the Enforcement in South Australia of Judgments given in the United Kingdom or in other Countries (whether Commonwealth Countries or not) which accord Reciprocal Treatment to Judgments given in South Australia, for Facilitating the Enforcement in other Countries of Judgments given in South Australia, and in connection therewith to repeal the Administration of Justice Act, 1921-1926, to amend the Evidence Act, 1929-1965 and for other purposes"

1. The effect of the Bill is to provide for a simpler form of enforcement of foreign money judgments than that which was available at common law. It provides for a system of registration of foreign money judgments, as does the present Administration of Justice Act, 1920, but, unlike the latter Act, covers money judgments from foreign countries as well as those from countries of the Commonwealth.

2. We are of opinion that the enforcement of foreign money judgments at common law, which could only be effected by suing upon the foreign judgment as constituting a debt inter partes, was, and is, unnecessarily restrictive. The common law system caused inconvenience to the parties and unnecessary burdens for the court and a simpler system of enforcement is generally to be welcomed.

3. However, we are also of opinion that the present Bill is itself unduly restrictive, and will not in practice be applicable sometimes partly and sometimes at all to foreign judgments.

4. The Bill provides for a system of registration, but there are two main prerequisites which any particular judgment must satisfy if it is to be registered: first,

it must be a judgment of a reciprocating country (see clause 5 of the Bill),

and, secondly,

it must be a judgment for a sum of money, and final and conclusive inter partes (see clause 5 (3) of the Bill).

Any judgment so registered must be set aside if, upon application, it appears, inter alia, that the foreign court had no jurisdiction in the matter. (Clause 8 (1) (b)). Jurisdiction for this purpose is defined in clause 8 (3) (a) of the Bill. A foreign court will be deemed to have had jurisdiction in an action in personam where either—

- (i) the judgment debtor voluntarily submitted in the foreign court (subject to certain exceptions); or
- (ii) the judgment debtor was plaintiff in, or counterclaimed in, the foreign proceedings; or
- (iii) the judgment debtor had agreed to submit to the jurisdiction of the foreign court; or

- (iv) the judgment debtor resided in the foreign country; or
- (v) the judgment debtor had an office or place of business in the foreign country and the proceedings concerned a transaction effected thereby.

5. We are of opinion that the condition of reciprocity is not a desirable one for the provision of the suggested method of enforcement. If, as we believe, there are good grounds for providing a simpler method of enforcement for foreign money judgments we should provide for this benefit irrespective of whether foreign countries provide equivalent recognition of our own judgments.

It must be remembered that, even without statutory assistance, foreign judgments can be enforced in South Australia by common law action and that all the Bill seeks to do (subject to minor exceptions) is to provide a simpler method of enforcement. It seems to us not to be justifiable to deprive the plaintiff of the simpler method merely because the country of the court which delivered the judgment is not that of a reciprocating country.

6. Our second objection to the Bill is that it espouses, in clause 8 of the Bill, too narrow a concept of "jurisdiction" in the foreign court. There are consequently many cases where, both by this Bill and at common law, enforcement will have to be denied despite the fact that, in equivalent cases, the South Australian Supreme Court would itself assume jurisdiction. Subject to one important reservation, we believe that enforcement should be afforded to foreign judgments in all cases where, were the South Australian Supreme Court the jurisdiction rendering the original judgment, it would itself be able to assume jurisdiction by effective service upon the defendant.

7. The reservation which we make relates to the rules concerning the jurisdiction of the South Australian Supreme Court. What we have proposed in paragraph 6 hereof is that enforcement should be afforded to foreign judgments whenever we are of the opinion that the foreign court's assumption of jurisdiction was itself reasonable in view of the relationship between the court and the cause of action. One test of such a relationship is that the South Australian Supreme Court would, in equivalent circumstances, claim jurisdiction itself. However, we are by no means satisfied that the South Australian Supreme Court has jurisdiction only in appropriate cases. We point to two general anomalies in this respect.

- (1) The South Australian Supreme Court at common law can obtain jurisdiction in an action in personam, (e.g., torts or contract) solely by service of the writ upon the defendant in South Australia; it is, subject to minor exceptions, irrelevant that the cause of action is otherwise unrelated in any way to this State.
- (2) Service outside South Australia may be permitted under Order XI of the Rules of the Supreme Court in many cases where the connection between this Court and the cause of action is, to say the least, a tenuous one. For example, it seems to us not to be a proper basis for the assumption of jurisdiction by the South Australian Supreme Court solely on the ground that a contract was "made" in this State when that

contract is otherwise unrelated to South Australia particularly when one bears in mind the highly technical rules which govern the question of where a contract is made.

8. Consequently, were we simply to recommend enforcement of foreign money judgments on the basis of comity which is what we have suggested in paragraph 6, we would be espousing the extension, rather than the removal, of anomalies. The proper solution, therefore, we feel, is to recommend not only alterations in the law concerned with the enforcement of foreign money judgments, but also amendments to both the common law and the Order XI aspects of jurisdiction based on service upon the defendant.

9. We turn now to a completely different topic, namely that the proposed Bill deals with the problem of registration of foreign judgments solely from the point of view of registering European-type judgments whereas we now live close to Asia and within five to ten years at the outside we will be faced with the necessity of considering judgments which are not in European form at all but which are perfectly valid and binding judgments in the Asian countries concerned. Particularly is this so in the Asian countries which are Muslim and therefore have the Muslim Orthodox law, the Shari'a, either as general law or personal law such as Pakistan, Indonesia and Malaysia. Their judgments are quite likely to be registered in our Courts from time to time. We think that power ought to be given to the Supreme Court or a Judge to order the registration of any judgment which is an enforceable judgment of the country concerned even though it does not comply with the definition of "judgment" in the Act if in the opinion of the Court it is just and equitable so to do.

10. We therefore propose:—

- (1) That the Bill be not enacted in its present form.
- (2) That a new Act be drafted to cover the whole field of the enforcement of foreign judgments which recommendation would, in our view, require the following amendments:—
  - (a) The requirement of reciprocity (and ancillary requirements in the Bill) should be dispensed with.
  - (b) The common law rule of jurisdiction (service within the territorial jurisdiction) and Order XI jurisdiction should be qualified by a discretion to refuse jurisdiction where the court is not *the* or *a* forum conveniens (or where the interests of justice so dictate).  
(Order XI discretion already exists, but needs to be spelt out in greater detail). This would require an amendment to the Supreme Court Act and Rules to abrogate (pro tanto) the common law rule.
  - (c) The Bill should be amended so as to allow for recognition upon the basis of comity. This could be done either by the addition of a further subclause to clause 8 (3), stating simply that jurisdiction may also be constituted in any case where, *mutatis mutandis*, a South Australian court would itself have accepted the jurisdiction, or, better, by amending the intro-

ductory part of clause 8 (3) by adding after "jurisdiction" (in the fourth line) a similar qualification to that suggested above, making the criteria in 8 (3) (a) exemplary rather than exclusive.

- (3) That where a judgment is presented for registration which is an enforceable judgment of the country concerned that a Court or Judge have power to direct registration of the judgment notwithstanding that it does not comply with the definition of "judgment" in the Bill if in its or his opinion it is just and equitable so to do.

The effect of adopting all these proposals would be to have only one, simple system of enforcing all foreign judgments (save maintenance orders, see, *e.g.*, Social Welfare Act, 1965) in the State of South Australia.

We should add that we have had the benefit of the views of Mr. Hackett-Jones of the Parliamentary Draftsman's Office for which we are grateful. Mr. Hackett-Jones remains unpersuaded by some of the views expressed in this report and where differences occur, he will inform the Government through departmental channels and decisions will have to be made on these as a matter of policy.

A copy of the draft Bill is appended for reference.

We have the honour to be

HOWARD ZELLING.

S. J. JACOBS.

K. P. LYNCH.

D. ST.L. KELLY.

Law Reform Committee of South Australia.

1965

A Bill for an Act to make provision for the enforcement in South Australia of Judgments given in the United Kingdom or in other Countries (whether Commonwealth Countries or not) which accord Reciprocal Treatment to Judgments given in South Australia, for Facilitating the Enforcement in other Countries of Judgments given in South Australia, and in connection therewith to repeal the Administration of Justice Act, 1921-1926, to amend the Evidence Act, 1929-1965, and for other purposes.

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  
PRELIMINARY

1. This Act may be cited as the “Foreign Judgments Act, 1965”.

Short title.

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

Arrangement.

PART I.—Preliminary ss. 1-4.

PART II.—Reciprocal Enforcement of Judgments ss. 5-10.

PART III.—Miscellaneous and General ss. 11-14.

3. (1) The Administration of Justice Act, 1921, and the Administration of Justice Act Amendment Act, 1926, are hereby repealed.

Repeal and savings.

(2) A proclamation issued under section 5 of the repealed Act and in force immediately before the commencement of this Act, shall continue in force as if it were an order to the same effect made under section 5 of this Act, and may be varied or revoked in accordance with that section.

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

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

Interpretation.

“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 compensation or damage 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 has 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 South Australia” means—

(a) judgments given in the Supreme Court; and

(b) judgments given in any court on appeal against judgments given in the Supreme Court,

and includes judgments that have become enforceable as judgments of the Supreme Court though not given therein;

“original court” in relation to any judgment means the court by which the judgment was given;

“registration” means registration under Part II of this Act, and the expressions “register” and “registered” shall be construed accordingly;

“repealed Act” means the Administration of Justice Act, 1921, or that Act as amended by the Administration of Justice Act Amendment Act, 1926.

(2) For the purposes of this Act, the expression “action *in personam*” shall be deemed not to include any matrimonial cause or any proceedings in connexion with any of the following matters:—

(a) matrimonial matters;

(b) administration of the estates of deceased persons;

(c) bankruptcy;

(d) winding up of companies;

(e) lunacy;

or

(f) guardianship of infants.

## PART II

### RECIPROCAL ENFORCEMENT OF JUDGMENTS

5. (1) This Part shall extend to the United Kingdom, and to any other Commonwealth country or foreign country to which it is extended by an order under this section.

(2) If the Governor 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 South Australia, the Governor may by order direct—

(a) that this Part shall extend to that Commonwealth country or that foreign country;

and

(b) that such courts as are specified in the order shall, for the purposes of this Part, be deemed to be superior courts of that Commonwealth country or of that foreign country.

(3) Any judgment of a superior court of a country to which this Part extends shall be a judgment to which this Part applies if—

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

(b) there is payable thereunder a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty;

and

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

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

(4) For the purposes of subsection (3) 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) An order under this section—

(a) may be varied or revoked by a subsequent order under this section;

and

(b) shall have effect according to the tenor thereof.

(6) In this section—

“judgment of a superior court” includes a judgment of that court for the payment of the costs of an appeal to that court from a court that is not a superior court but does not include any other judgment of that superior court given on appeal from a court that is not a superior court;

“order” means an order made by the Governor under this section and published in the *Gazette*;

“superior court”, in relation to the United Kingdom 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 may by order specify for the purposes of this Part.

(7) A copy of the *Gazette* purporting to contain a copy of an order under this section, shall, in the absence of evidence that it has been

varied or revoked under subsection (4) of this section, 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.

Application  
for, and  
effect of,  
registration  
of judgment.

6. (1) A person, being a judgment creditor under a judgment to which this Part applies, may apply to the Supreme Court at any time—

(a) in the case of a judgment given before the commencement of this Act in the United Kingdom or in any other country (not including the Commonwealth of Australia) to which the repealed dict applied immediately before the commencement of this Act, within twelve months from the date of the judgment or such longer period as may be allowed by the Supreme Court;

or

(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 the Supreme Court shall, subject to proof of the prescribed matters and to the other provisions of this Act, order the judgment to be registered.

(2) A judgment shall not be registered if at the date of the application—

(a) the judgment has been wholly satisfied;

or

(b) there is in force in the original court an order staying execution of the judgment.

(3) Subject to this section and 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; and

(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.

(4) Execution shall not issue on the judgment if—

(a) 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;

or

(b) there is in force in the original court an order staying execution of the judgment.

(5) 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.

(6) 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.

(7) 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 the provisions aforesaid but not in respect of any other provisions contained therein.

(8) 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 cost of and incidental to registration, including the costs of obtaining a certified copy of the judgment from the original court.

7. (1) The power to make Rules of Court, under section 127 of the Supreme Court Act, 1935-1963, shall, subject to the provisions of this section, include power to make rules for the following purposes:—

Rules of Court.

- (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;

and

- (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 the Part shall be expressed to have, and shall have, effect subject to any such provisions contained in orders made under section 5 of this Act as are declared by the said

orders to be necessary for giving effect to any agreement made by or on behalf of the Government of South Australia in relation to matters with respect to which there is power to make Rules of Court for the purposes of this Part.

Cases in which registered judgments must, or may, be set aside.

8. (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;
- (e) that the enforcement of the judgment would be contrary to public policy in South Australia;

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;
- (ii) if the judgment debtor was plaintiff in, or counter-claimed 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 jurisdiction of that court or of the courts of the country of that court;
- (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

(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 when the proceedings were instituted in the original court situate in the country of that court;

and

(c) in the case of any other judgment, if the jurisdiction of the original court is recognized by the law of the State.

(4) The courts of the country of the original court shall be deemed not 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 rule 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.

9. (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.

Powers of Supreme Court on application to set aside registration.

(2) Where the registration of a judgment is set aside under subsection (1) of this section, or solely for the reason that there was at the date of the application for registration in force in the original court an order staying execution of the judgment, 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 order staying execution ceases to have effect, as the case may be.

(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.

10. 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 South Australia.

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

PART III  
MISCELLANEOUS AND GENERAL

General effect of judgments given by superior courts outside South Australia.

11. (1) Subject to the provisions of this section, a judgment to which Part II of this Act 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 South Australia 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 counter-claim 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 there was at the date of the application in force in the original court an order staying execution of the judgment;

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 shall be taken to prevent any court in South Australia 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.

Power to make judgments unenforceable in South Australia if no reciprocity.

12. (1) If it appears to the Governor that the treatment in respect of recognition and enforcement accorded by the courts of any country to judgments given in any superior court in South Australia is substantially less favourable than that accorded by the courts of South Australia to judgments of the superior courts of that country, the Governor may by order apply this section to that country.

(2) Except in so far as the Governor may by order under this section otherwise direct no proceedings shall be entertained in any court in South Australia 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 may by a subsequent order vary or revoke any order previously made under this section.

(4) An order under this section shall be published in the *Gazette*.

Issue of certificates of judgments obtained in South Australia.

13. (1) Where a judgment under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, 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 of this Act 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, subject to subsection (2) of this section, 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.

(2) 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.

(3) The power to make Rules of Court under section 127 of the Supreme Court Act, 1935-1963, shall include power to make rules for the purposes of prescribing any matters or things which under this section are required or permitted to be prescribed.

14. (1) The following section is enacted and inserted in the Evidence Act, 1929-1965, after section 63:—

Enactment of  
s. 63a of  
Evidence Act.

63a. Where for the purpose of disposing of any action or other matter which is being tried in the Supreme Court by a Judge with a jury 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 alone.

Questions of  
foreign law  
to be decided  
by judge.

(2) The Evidence Act, 1929-1965, as amended by this section, may be cited as the "Evidence Act, 1929-1965".