

# RULES OF COURT (RECIPROCAL ENFORCEMENT OF JUDGMENTS) 1928. <sup>(1)</sup>

1. These Rules may be cited as the *Rules of Court (Reciprocal Enforcement of Judgments) 1928.*<sup>(1)</sup> Citation.

2. In these Rules the expression "the Ordinance" means the *Reciprocal Enforcement of Judgments Ordinance 1925*, and the definitions contained in section 2 of the Ordinance shall apply; and the term "Central Court"<sup>(2)</sup> means the Central Court<sup>(2)</sup> of the Territory of New Guinea. Interpretation.

3. The powers conferred by these Rules on the Central Court<sup>(2)</sup> may be exercised by a Judge of the Central Court<sup>(2)</sup> sitting in open Court or in Chambers. Powers of Judge.

4. Any application under subsection (1) of section 3 of the Ordinance for leave to have a judgment obtained in a superior Court in any part of His Majesty's Dominions with respect to which the Ordinance applies registered in the Central Court shall be made by motion to the Central Court.<sup>(2)</sup> Notice of motion shall be filed in the office of the Registrar of the Central Court<sup>(2)</sup> before the hearing of the motion. The motion may be heard *ex parte* but the Central Court<sup>(2)</sup> may direct notice of the motion to be served on the judgment debtor, and may for the purpose adjourn the hearing of the motion. After such service (if any) the judgment debtor may appear at the hearing of the motion. The Application.

5. The application shall be supported by an affidavit of the facts, exhibiting the judgment or a verified or certified or otherwise duly authenticated copy thereof, and stating that to the best of the infor- The Affidavit.

(1) Particulars of these Rules of Court are as follows:—

Ordinance under which made.	Date on which made by Chief Judge.	Date on which notified in <i>Cwth. Gaz.</i>	Date on which took effect.
<i>Reciprocal Enforcement of Judgments Ordinance 1925</i>	3.5.1928 <sup>(a)</sup>	13.12.1928	(b)

(a) Published in *N.G. Gaz.* of 21.5.1928.

(b) The *Rules of Court (Reciprocal Enforcement of Judgments) 1928* made no provision for the date on which they were to take effect. At the relevant dates in 1928 Section 6(2) of the *Reciprocal Enforcement of Judgments Ordinance 1925* (under which the *Rules of Court (Reciprocal Enforcement of Judgments) 1928* were made) provided that, "All rules of Court made in pursuance of this section shall be published or notified in the *Gazette*, and copies thereof shall be forwarded to the Minister after the making thereof". The "*Gazette*" meant the "*Commonwealth of Australia Gazette*". (Section 4 of the *Interpretation and Amendments Incorporation Ordinance 1921-1931*). At the relevant dates in 1928 there was no other Ordinance or regulation of general application providing for the publication of rules of court or the date on which they were to take effect.

(2) See Section 7A of the *Judiciary Ordinance 1921-1938*.

JUDGMENTS (RECIPROCAL ENFORCEMENT)—

mation and belief of the deponent the judgment creditor is entitled to enforce the judgment and the judgment does not fall within any of the cases in which, under subsection (2) of section 3 of the Ordinance, a judgment cannot properly be ordered to be registered. The affidavit must also, so far as the deponent can, give the full name, title, trade or business and usual or last known place of abode or business of the judgment creditor and judgment debtor respectively, and shall be filed in the office of the Registrar of the Central Court<sup>(2)</sup> with the notice of motion.

Title of affidavit and notice of motion.

6. The affidavit and notice of motion shall be intituled—"In the Matter of the *Reciprocal Enforcement of Judgments Ordinance 1925* and

In the matter of a judgment of the  
(describing the Court) obtained in  
(describing the cause or matter) and dated the  
day of                      , 19                      ."

Service of notice of motion.

7. The notice of motion, if required to be served on the judgment debtor, shall (unless otherwise ordered) be served in the same manner as a writ of summons is required to be served. The judgment debtor shall not be required to enter any appearance thereto.

Form of Order.

8. Every order giving leave to register the judgment shall state the time within which the judgment debtor is entitled to apply to set aside the registration. Such time shall ordinarily be the same time as is limited for entering appearance after service of a writ of summons or notice thereof.

The Register.

9. The Register of Judgments ordered to be registered under the Ordinance shall be kept in the office of the Registrar of the Central Court.<sup>(2)</sup> The judgment shall be registered therein in accordance with the order giving leave to register it.

Form of Register.

10. The Register shall be kept in alphabetical order in the name of the judgment debtor, and there shall be entered in the Register the date of the order for registration and of the registration, the name, title, trade or business and usual or last known place of abode or business of the judgment debtor and judgment creditor and the amount for which the judgment is given, and any special directions in the order for registration as to such registration and execution thereon, and the particulars of any execution issued thereon.

Notice of Registration.

11. Notice in writing of the registration of the judgment must be served on the judgment debtor within a reasonable time after such registration. Such notice shall (in the absence of an order by the Central Court<sup>(2)</sup> or a Judge as to the mode of service thereof) be

(2) See Section 7A of the *Judiciary Ordinance 1921-1938*.

served on the judgment debtor by personal service as in the case of a writ of summons, but the Central Court<sup>(2)</sup> or a Judge may at any stage of the proceedings authorise or direct some other mode of service (including substituted service or service out of the jurisdiction or both), in which case the service shall be effected in accordance with such authority or direction.

**12.** The notice of registration shall contain full particulars of the judgment registered and of the order for such registration and shall state the name and address, within the town of Rabaul, of the judgment creditor or of his solicitor or agent on whom and at which service of any notice issued by the judgment debtor may be served. The notice shall state that the defendant is entitled, if he has grounds for doing so, to apply to set aside the registration and shall also state the number of days for applying to set aside the registration limited by the order giving leave to register. Form of Notice

**13.** The party serving the notice shall, within three days at most after such service, endorse on the notice or a copy or duplicate thereof, the day of the month and week of the service thereof, otherwise the judgment creditor shall not be at liberty to issue execution on the judgment; and every affidavit of service of such notice shall mention the day on which such endorsement was made. This rule shall apply to substituted as well as other service. The three days limited by this rule may under special circumstances be extended by order of the Central Court<sup>(2)</sup> or a Judge. Endorsement of service.

**14.** The judgment debtor may, at any time within the time limited by the order giving leave to register, after service on him of the notice of the registration of the judgment, apply by motion to the Central Court<sup>(2)</sup> to set aside the registration or to suspend execution on the judgment, and the Central Court<sup>(2)</sup> on such application, if satisfied that the case comes within one of the cases in which, under subsection (2) of Section 3 of the Ordinance no judgment can be ordered to be registered, or that it is not just or convenient that the judgment shall be enforced in the Territory of New Guinea, or for other sufficient reason, may order that the registration be set aside, or execution on the judgment suspended, either unconditionally or on such terms as the Central Court<sup>(2)</sup> thinks fit, and either altogether or until such time as the Central Court<sup>(2)</sup> shall direct: Provided that the Central Court<sup>(2)</sup> may allow the application to be made at any time after the expiration of the time herein mentioned. Application to set aside registration.

**15.** The motion of the judgment debtor to set aside the registration or to suspend execution on the judgment shall be supported by an affidavit of the facts showing the grounds why such registration should be set aside or execution on the judgment suspended. Notice of such Motion to set aside.

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(2) See Section 7A of the *Judiciary Ordinance 1921-1938.*

## JUDGMENTS (RECIPROCAL ENFORCEMENT)—

motion, together with a copy of the supporting affidavit, shall be served on the judgment creditor or his solicitor or agent at the address given by the judgment creditor in the notice of registration under Rule 11 hereof at least two clear days before the hearing of the motion. Notice of such motion and the supporting affidavit shall be filed in the office of the Registrar of the Central Court<sup>(2)</sup> before the hearing of the motion.

Execution.

16. No execution shall issue on a judgment registered under the Ordinance until after the expiration of the time limited by the order giving leave to register after service on the judgment debtor of notice of the registration thereof: Provided that the Central Court<sup>(2)</sup> when making the order for such registration, or at any time thereafter may order that execution shall be suspended for a longer time.

Affidavit of service.

17. Any party desirous of issuing execution on a judgment registered under the Ordinance must produce to the proper officer an affidavit of the service of the notice of registration.

Application of certain Rules.

18. The Rules for the time being of the Central Court<sup>(2)</sup> in relation to execution on judgments shall except as expressly altered by these Rules apply to executions under this Ordinance.

Certified copy of Judgment.

19. Any application under section 5 of the Ordinance for a certified copy of a judgment obtained in the Central Court<sup>(2)</sup> shall be made ex parte to a Judge on an affidavit made by the judgment creditor or his solicitor giving the particulars of the judgment and showing that the judgment debtor is resident in some (stating what) part of His Majesty's Dominions outside the Territory of New Guinea with respect to which the Ordinance applies, and stating to the best of his information and belief the title, trade, business or occupation of the judgment creditor and judgment debtor respectively and their respective usual or last known places of abode or business.

20. The certified copy of the judgment shall be an office copy, and shall be sealed with the seal of the Central Court<sup>(2)</sup> and shall be certified by the Registrar of the Central Court<sup>(2)</sup> as follows:—

“I certify that the above copy judgment is a true copy of a judgment obtained in the Central Court<sup>(2)</sup> of the Territory of New Guinea, and this copy is issued in accordance with section 5 of the *Reciprocal Enforcement of Judgments Ordinance* 1925.”

(Signed)

Registrar.

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(2) See Section 7A of the *Judiciary Ordinance* 1921-1938.