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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprijs • Selling price
(AVB uitgesluit/GST excluded)

Plaaslik **50c** Local
Buitelands 70c Other countries
Posvry • Post free

VOL. 274

KAAPSTAD, 8 APRIL 1988

No. 11232

CAPE TOWN, 8 APRIL 1988

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 669.

8 April 1988

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 32 van 1988: Wet op die Afdwinging van Buitelandse Siviele Vonnisse, 1988.

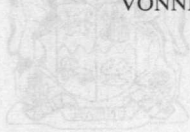
No. 669.

8 April 1988

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 32 of 1988: Enforcement of Foreign Civil Judgments Act, 1988.

Wet No. 32, 1988

WET OP DIE AFDWINGING VAN BUITELANDSE SIVIELE
VONNISSE, 1988

WET

Om voorsiening te maak dat siviele vonnisse wat in aangewese lande gevel is, in landdroshof in die Republiek afgedwing kan word; om die Wet op die Wederkerige Afdwinging van Siviele Vonnisse, 1966, te herroep; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 24 Maart 1988.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing.

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—

- (i) "aangewese land" 'n land kragtens artikel 2 (1) aangewys; (iii) 5
- (ii) "gewaarmerkte afskrif", met betrekking tot 'n vonnis, 'n afskrif wat deur die bevoegde amptenaar van die hof van 'n aangewese land as 'n juiste afskrif gewaarmerk is; (i) 10
- (iii) "hof", met betrekking tot die hof van 'n aangewese land, die Hooggeregshof of Hoërhof of enige landdroshof (met inbegrip van 'n streekhof) van daardie land en, met betrekking tot 'n hof in die Republiek, die landdroshof van die distrik waar— 15
 - (a) die persoon teen wie 'n betrokke vonnis gevel is—
 - (i) woon, besigheid dryf of in diensbetrekking is; of
 - (ii) enige roerende of onroerende goed besit;
 - (b) 'n regspersoon teen wie die vonnis gevel is sy geregistreerde kantoor of die hoofsetel van sy besigheid het; 20
 - (c) 'n vennootskap teen wie die vonnis gevel is sy besigheidsperseel het of enige lid daarvan woon; (ii)
- (iv) "Minister" die Minister van Justisie; (vii) 25
- (v) "verrigtinge" die verrigtinge waarin die vonnis gevel is; (ix)
- (vi) "vonnis" 'n finale vonnis of bevel vir die betaling van geld, gevel of gemaak voor of na die inwerkingtreding van hierdie Wet deur 'n hof in siviele verrigtinge of ten opsigte van vergoeding of skadevergoeding aan 'n benadeelde party in strafregtelike verrigtinge en wat afdwingbaar is by eksekusie in die land waarin dit gevel of gemaak is, maar nie ook 'n vonnis of bevel gevel of gemaak deur 'n hof op appèl van 'n vonnis of bevel van 'n ander hof as 'n hof soos in hierdie Wet omskryf, of vir die betaling van 'n belasting of heffing van 'n soortgelyke aard of van 'n boete of ander straf, of vir die periodieke betaling van somme geld vir die onderhoud van enige persoon nie; (iv) 40

ENFORCEMENT OF FOREIGN CIVIL JUDGMENTS ACT, 1988

Act No. 32, 1988

ACT

To provide that civil judgments given in designated countries may be enforced in magistrates' courts in the Republic; to repeal the Reciprocal Enforcement of Civil Judgments Act, 1966; and to provide for matters incidental thereto.

(English text signed by the State President.)

(Assented to 24 March 1988.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

1. In this Act, unless the context otherwise indicates—

Definitions.

- (i) "certified copy", in relation to a judgment, means a copy certified by the proper officer of the court of a designated country to be a true copy; (ii)
- (ii) "court", in relation to the court of a designated country, means the Supreme or High Court or any magistrate's court (including a regional court) of that country and, in relation to a court in the Republic, means the magistrate's court of the district where—
 - (a) the person against whom a judgment in question was given—
 - (i) resides, carries on business or is employed; or
 - (ii) owns any movable or immovable property;
 - (b) any juristic person against which the judgment was given has its registered office, or its principal place of business;
 - (c) any partnership against which the judgment was given has its business premises or any member thereof resides; (iii)
- (iii) "designated country" means a country designated under section 2 (1); (i)
- (iv) "judgment" means any final judgment or order for the payment of money, given or made before or after the commencement of this Act by any court in any civil proceedings or in respect of compensation or damages to any aggrieved party in any criminal proceedings and which is enforceable by execution in the country in which it was given or made, but does not include any judgment or order given or made by any court on appeal from a judgment or order of a court other than a court as defined in this Act, or for the payment of any tax or charge of a like nature or of any fine or other penalty, or for the periodical payment of sums of money towards the maintenance of any person; (vi)
- (v) "judgment creditor" means the person in favour of whom the judgment was given, including any other person in whom rights under the judgment have become vested; (vii)

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- (vii) "vonnis skuldeiser" die persoon in wie se guns die vonnis gevel is, met inbegrip van enige ander persoon in wie regte kragtens die vonnis gevestig is; (v)
- (viii) "vonnis skuldenaar" die persoon teen wie die vonnis in die hof van 'n aangewese land gevel is, met inbegrip 5 van enige persoon teen wie sodanige vonnis kragtens die reg van die aangewese land afdwingbaar is; (vi)
- (ix) "voorgeskrif" voorgeskryf by die reëls bedoel in artikel 6 van die Wet op die Reëlsraad vir Geregshoue, 1985 (Wet No. 107 van 1985), saamgelees met artikel 10 10 van hierdie Wet. (viii)

Toepassing van
Wet.

2. (1) Hierdie Wet is van toepassing ten opsigte van vonnisse gevel in 'n land buite die Republiek wat die Minister vir die doeleindes van hierdie Wet by kennisgewing in die *Staatskoerant* aangewys het. 15

(2) Die Minister kan te eniger tyd 'n kennisgewing kragtens subartikel (1) by 'n latere kennisgewing in die *Staatskoerant* intrek, en daarop hou 'n land wat in die eersgenoemde kennisgewing genoem word, op om by die toepassing van hierdie Wet 'n aangewese land te wees. 20

Registrasie van
vonnisse in aange-
wese lande gevel.

3. (1) Wanneer 'n gewaarmerkte afskrif van 'n vonnis gevel teen 'n vonnis skuldenaar deur 'n hof in 'n aangewese land, by 'n klerk van die hof in die Republiek ingedien word, registreer sodanige klerk van die hof daardie vonnis op die voorgeskrewe wyse ten opsigte van— 25

(a) die balans van die bedrag daarkragtens betaalbaar, met inbegrip van die getakseerde koste deur die hof van die aangewese land toegeken;

(b) die rente, as daar is, wat volgens die reg of volgens 'n bevel van die hof van die betrokke aangewese land verskuldig is op die bedrag daarkragtens betaalbaar tot op die tydstop van bedoelde registrasie; 30

(c) die redelike koste van en in verband met bedoelde registrasie, met inbegrip van die koste om 'n gewaarmerkte afskrif van die vonnis te verkry. 35

(2) Die klerk van die hof wat die vonnis registreer, reik onverwyld 'n kennisgewing gerig aan die vonnis skuldenaar uit waarin hy hom van sodanige registrasie in kennis stel.

(3) Die kennisgewing in subartikel (2) bedoel, word deur die vonnis skuldeiser op die wyse vir die betekening van proses- 40 stukke voorgeskryf, aan die vonnis skuldenaar beteken.

(4) Indien 'n bedrag wat betaalbaar is kragtens 'n vonnis wat kragtens hierdie artikel geregistreer word, uitgedruk is in 'n ander betaalmiddel as die betaalmiddel van die Republiek, word die vonnis geregistreer asof dit 'n vonnis was vir die bedrag in 45 die geldmiddel van die Republiek, bereken teen die wisselkoers wat geheers het op die datum van die vonnis.

(5) Die bedrae bedoel in subartikel (1) (a) en (c) dra rente vanaf die datum van registrasie van die vonnis tot die datum van betaling van bedoelde bedrag, bereken teen die koers voorgeskryf kragtens artikel 1 (2) van die Wet op die Voorgeskrewe 50 Rentekoers, 1975 (Wet No. 55 van 1975), of teen die koers wat deur die hof van die aangewese land vasgestel is, watter ook al die laagste is.

Uitwerking van
registrasie van
vonnisse, en
tenuitvoerlegging.

4. (1) Wanneer 'n vonnis ingevolge artikel 3 geregistreer is, 55 het daardie vonnis dieselfde uitwerking as 'n siviele vonnis van die hof waarby die vonnis geregistreer is.

(2) Ondanks andersluidende bepalings van hierdie artikel word 'n vonnis wat kragtens artikel 3 geregistreer is, nie ten uitvoer gelê voor die verstryking van 21 dae na betekening van 60 die kennisgewing bedoel in artikel 3 (2), of totdat 'n aansoek ingevolge artikel 5 finaal afgehandel is nie.

Tersydestelling van
geregistreerde von-
nisse.

5. (1) Die registrasie van 'n vonnis kragtens artikel 3 word op aansoek van die vonnis skuldenaar tersyde gestel indien die hof 65 waarby die vonnis geregistreer is, oortuig is—

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- (vi) "judgment debtor" means the person against whom a judgment was given in the court of a designated country, including any person against whom such judgment is enforceable under the law of the designated country;
- 5 (viii) "Minister" means the Minister of Justice; (iv)
- (viii) "prescribed" means prescribed by the rules referred to in section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), read with section 10 of this
- 10 Act; (ix)
- (ix) "proceedings" means the proceedings in which the judgment was given. (v)

2. (1) This Act shall apply in respect of judgments given in any country outside the Republic which the Minister has for the purposes of this Act designated by notice in the *Gazette*. Application of Act.

(2) The Minister may at any time by subsequent notice in the *Gazette* withdraw any notice under subsection (1), and thereupon any country referred to in such last-mentioned notice shall cease to be a designated country for the purposes of this Act.

20 3. (1) Whenever a certified copy of a judgment given against any person by any court in a designated country is lodged with a clerk of the court in the Republic, such clerk of the court shall register such judgment in the prescribed manner in respect of— Registration of judgments given in designated countries.

- 25 (a) the balance of the amount payable thereunder, including the taxed costs awarded by the court of the designated country;
- (b) the interest, if any, which by the law or by order of the court of the designated country concerned is due on the amount payable thereunder up to the time of such registration;
- 30 (c) the reasonable costs of and incidental to such registration, including the costs of obtaining a certified copy of the judgment.

(2) The clerk of the court registering the judgment shall forthwith issue a notice directed to the judgment debtor informing him of such registration.

(3) The notice referred to in subsection (2) shall be served on the judgment debtor by the judgment creditor in the manner prescribed for the service of process.

40 (4) If any amount payable under a judgment registered under this section is expressed in a currency other than the currency of the Republic, the judgment shall be registered as if it were a judgment for such amount in the currency of the Republic, calculated at the rate of exchange prevailing at the date of the judgment.

45 (5) The amounts referred to in subsection (1) (a) and (c) shall bear interest from the date of registration of the judgment until the date of payment of the said amount, calculated at the rate prescribed under section 1 (2) of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), or at the rate fixed by the court of the designated country, whichever is the lower.

55 4. (1) Whenever a judgment has been registered in terms of section 3, such judgment shall have the same effect as a civil judgment of the court at which the judgment has been registered. Effect of registration of judgment, and execution.

(2) Notwithstanding anything to the contrary in this section contained, a judgment registered in terms of section 3 shall not be executed before the expiration of 21 days after service of the notice referred to in section 3 (2), or until an application in terms of section 5 has been finally disposed of.

5. (1) The registration of a judgment under section 3 shall, on the application of the judgment debtor, be set aside if the court at which the judgment is registered is satisfied— Setting aside of registered judgment.

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- (a) dat die vonnis in stryd met 'n bepaling van hierdie Wet geregistreer is;
- (b) dat die hof van die betrokke aangewese land onder die omstandighede van die geval geen jurisdiksie gehad het nie; 5
- (c) dat die vonnisskuldenaar geen kennis van die verrigtinge waarin die vonnis gevel was, volgens voorskrif van die wetsbepalings van die aangewese land ontvang het nie of, indien sodanige kennisgewing nie aldus voorgeskryf is nie, dat hy geen redelike kennisgewing 10 van die gemelde verrigtinge ontvang het ten einde hom in staat te stel om hom in sodanige verrigtinge te verweer nie, en nie verskyn het nie;
- (d) dat die vonnis deur bedrog verkry is;
- (e) dat afdwinging van die vonnis strydig met die openbare 15 beleid in die Republiek sou wees;
- (f) dat die gewaarmerkte afskrif van die vonnis wat ingevolge artikel 3 ingedien is, aldus ingedien is op versoek van 'n ander persoon as die vonnisskuldeiser;
- (g) dat die aangeleentheid in geskil in die verrigtinge voor 20 die datum van die vonnis die onderwerp uitgemaak het van 'n finale vonnis deur 'n bevoegde hof in siviele verrigtinge;
- (h) dat die vonnis deur 'n bevoegde hof tersyde gestel is;
- (i) dat die vonnis kragtens die wette van of die Republiek 25 of die betrokke aangewese land verjaar het;
- (j) dat daar ten volle aan die vonnis voldoen is;
- (k) dat daar gedeeltelik aan die vonnis voldoen is, in die mate waarin aldus voldoen is;
- (l) dat die vonnis 'n vonnis of bevel is wat ingevolge enige 30 wet nie in die Republiek erken of afgedwing kan word nie.
- (2) 'n Aansoek kragtens subartikel (1) word gedoen binne 21 dae na betekening van die kennisgewing in artikel 3 (2) bedoel.
- (3) Die hof wat 'n in subartikel (1) bedoelde aansoek verhoor, 35 kan te eniger tyd die verhoor van die aansoek uitstel tot die datum wat hy bepaal.

Uitstel van
tenuitvoerlegging
van vonnis.

6. Indien, op aansoek van 'n vonnisskuldenaar, die hof waarby die vonnis geregistreer is oortuig is dat 'n appèl teen die vonnis by 'n bevoegde hof aanhangig is of dat die aansoeker geregtig en 40 van voorneme is om teen die vonnis na 'n bevoegde hof te appelleer, kan hy op die voorwaardes wat hy goedvind die tenuitvoerlegging van die vonnis uitstel.

Vermoedens.

7. (1) 'n Vonnis word geag finaal te wees ondanks die feit dat 'n appèl teen daardie vonnis aanhangig is in 'n hof van die aan- 45 gewese land of dat die tydperk voorgeskryf deur die wetsbepalings van daardie land om teen daardie vonnis te appelleer, nie verstryk het nie.

(2) 'n Dokument wat voorgee om 'n afskrif van 'n vonnis van 'n hof in 'n aangewese land te wees, en wat voorgee om as 'n 50 ware afskrif van 'n oorspronklike vonnis van daardie hof gesertifiseer te wees deur iemand wat in daardie dokument as 'n griffier of 'n klerk van sodanige hof vermeld word, word as getuie-nis in verrigtinge ingevolge die bepalinge van hierdie Wet toege-
laat en is *prima facie*-bewys van die inhoud daarvan. 55

(3) 'n Dokument wat kragtens subartikel (2) toelaatbaar is, of 'n dokument wat kragtens enige ander regsbeepaling toelaatbaar sou wees indien dit in die Republiek gemaak of geattesteer was, 60
hoef nie gewaarmerk te word nie en is toelaatbaar asof dit in die Republiek gemaak of geattesteer is.

(4) Behoudens die bepalinge van subartikel (5) word die hof van die aangewese land waarin die vonnis gevel is, by die toe-
passing van artikel 5 geag jurisdiksie te gehad het—

(a) indien die vonnisskuldenaar—

(i) die eiser of eiserin rekonvensie in die verrigtinge 65 was of hom onderwerp het aan die jurisdiksie van die hof deur wie die vonnis gevel is deur vrywillig in die verrigtinge te verskyn met 'n ander doel as

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- (a) that the judgment was registered in contravention of any provision of this Act;
- (b) that the court of the designated country concerned had no jurisdiction in the circumstances of the case;
- 5 (c) that the judgment debtor did not receive notice of the proceedings in which the judgment was given, as prescribed by the law of the designated country, or, if no such notice is so prescribed, that he did not receive reasonable notice of the said proceedings to enable him
- 10 (d) that the judgment was obtained by fraud;
- (e) that the enforcement of the judgment would be contrary to public policy in the Republic;
- (f) that the certified copy of the judgment lodged in terms
- 15 of section 3 was so lodged at the request of a person other than the judgment creditor;
- (g) that the matter in dispute in the proceedings had, prior to the date of the judgment, been the subject of a final judgment in civil proceedings by a court of competent
- 20 jurisdiction;
- (h) that the judgment has been set aside by a court of competent jurisdiction;
- (i) that the judgment has become prescribed under either the laws of the Republic or the designated country concerned;
- 25 (j) that the judgment has been wholly satisfied;
- (k) that the judgment has been partly satisfied, to the extent in which it has been so satisfied;
- (l) that the judgment is a judgment or order which in terms
- 30 of any law may not be recognized or enforced in the Republic.

(2) An application under subsection (1) shall be brought within 21 days after service of the notice referred to in section 3 (2).

- (3) The court hearing an application referred to in subsection
- 35 (1) may at any time postpone the hearing of the application to such date as it may determine.

6. If, on the application of any judgment debtor, the court at which the judgment is registered is satisfied that an appeal against the judgment is pending in a court of competent jurisdiction or that the applicant is entitled and intends to appeal
- 40 against the judgment to a court of competent jurisdiction, it may, on such conditions as it may deem fit, postpone the execution of the judgment.

Stay of execution of judgment.

7. (1) A judgment shall be deemed to be final notwithstanding
- 45 that an appeal against such judgment is pending in a court of the designated country or that the time prescribed by the law of such country for appealing against such judgment has not expired.

Presumptions.

- (2) A document purporting to be a copy of a judgment of a court in a designated country, and purporting to be certified as a
- 50 true copy of an original judgment of that court by someone styled in that document to be a registrar or a clerk of such court, shall be admissible in evidence in any proceedings under any of the provisions of this Act, and shall be *prima facie* proof of the contents thereof.

- 55 (3) Any document admissible under subsection (2), or any document which would have been admissible under any other law if made or attested within the Republic, need not be authenticated and shall be admissible as if it has been made or attested within the Republic.

- 60 (4) Subject to the provisions of subsection (5), the court of the designated country in which the judgment was given shall, for the purpose of section 5, be deemed to have had jurisdiction—

- (a) if the judgment debtor—
- (i) was the plaintiff or plaintiff in reconvention in the proceedings or submitted to the jurisdiction of the court by which the judgment was given by voluntarily appearing in the proceedings for any purpose
- 65

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- om goed waarop in die verrigtinge beslag gelê is of wat in die verrigtinge met beslaglegging bedreig is, te beskerm of om die vrystelling daarvan te verkry of om die jurisdiksie van die hof te betwis;
- (ii) 'n verweerder was in die verrigtinge en hy voor die 5
aanvang van die verrigtinge ooreengekom het, ten opsigte van die onderwerp van die verrigtinge, om hom te onderwerp aan die jurisdiksie van 'n hof van die aangewese land; of
- (iii) 'n verweerder was en hy by die instelling van die 10
verrigtinge woonagtig was in, of, indien hy 'n regs-
persoon is, sy hoof-besigheidsplek gehad het in,
daardie aangewese land, of te eniger tyd 'n kan-
toor of besigheidsplek in daardie aangewese land
gehad het waardeur of waarin die transaksie waar- 15
op die verrigtinge betrekking het, tot stand gebring
is;
- (b) indien, in 'n aksie met betrekking tot onroerende goed,
die goed by die instelling van die verrigtinge geleë
was in die aangewese land waarin die verrigtinge ingestel is; 20
- (c) indien, in 'n ander as in paragraaf (a) of (b) be-
doelde verrigtinge, die jurisdiksie van die hof wat die
vonnis gevel het, deur die reg van die Republiek erken
word.
- (5) Die hof van die aangewese land waarin 'n vonnis gevel is, 25
word by die toepassing van artikel 5 geag nie jurisdiksie te ge-
had het nie—
- (a) in verrigtinge met betrekking tot onroerende goed ge-
leë buite daardie aangewese land;
- (b) behalwe in die gevalle in subartikel (4) (a) (i) en (ii) 30
bedoel, in verrigtinge ingestel in stryd met 'n ooreen-
koms waarvolgens die betrokke geskil besleg moes ge-
wees het op 'n ander wyse as by verrigtinge in die hof van
daardie aangewese land; of
- (c) in verrigtinge waarin die persoon teen wie die vonnis 35
gevel is, kragtens die reëls van die volkereg geregtig
was op immuniteit van die jurisdiksie van die hof van
daardie aangewese land en hy hom nie aan daardie ju-
risdiksie onderwerp het nie.
- Verwydering van
bates verbied. 8. 'n Kennisgewing wat kragtens artikel 3 (2) uitgereik is, geld 40
as 'n interdik teen die vonnisskuldenaar op wie dit beteken is, en
teen iemand wat van die kennisgewing bewus is, om nie bates
van die vonnisskuldenaar te verwyder of te vervreem nie indien
sodanige verwydering of vervreemding die tenuitvoerlegging van
die vonnis sou belemmer. 45
- Voorbehoude. 9. Die bepalings van hierdie Wet word nie so uitgelê dat dit 'n 50
hof in die Republiek belet om, vir die doeleindes van 'n eis, ver-
weer of teeneis, 'n vonnis (behalwe 'n vonnis waarvan die regi-
strasie kragtens artikel 5 tersyde gestel is) wat deur 'n bevoegde
hof buite die Republiek in 'n siviele saak gevel is, as afdoende
oor 'n regskwessie of feitekwessie wat in daardie vonnis beslis is,
te erken nie indien daardie vonnis voor die inwerkingtreding
van hierdie Wet deur daardie hof aldus erken kon geword het.
- Reëls. 10. Die bevoegdheid om kragtens artikel 6 van die Wet op die 55
Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), reëls
te maak, word geag ook die bevoegdheid in te sluit om reëls te
maak wat 'n aangeleentheid voorskryf wat ingevolge hierdie Wet
voorgeskryf kan word of wat nodig of dienstig is om voorgeskryf
te word om aan die bepalings van hierdie Wet gevolg te gee.
- Herroeping van
Wet 9 van 1966. 11. Die Wet op die Wederkerige Afdwining van Siviele Von- 60
nisse, 1966 (Wet No. 9 van 1966), word hierby herroep.
- Kort titel en inwer-
kingtreding. 12. Hierdie Wet heet die Wet op die Afdwining van Buite- 65
landse Siviele Vonnisse, 1988, en tree in werking op 'n datum
wat die Staatspresident by proklamasie in die *Staatskoerant* be-
paal.

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- other than protecting or obtaining the release of property seized or threatened with seizure in the proceedings or contesting the jurisdiction of that court;
- 5 (ii) was a defendant in the proceedings and had, before the commencement of the proceedings, agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of any court of the designated country; or
- 10 (iii) was a defendant and, at the institution of the proceedings, resident in, or being a juristic person, had its principal place of business in, such designated country, or at any time had an office or place of business in such designated country
- 15 through or at which the transaction to which the proceedings relate, was effected;
- (b) if, in any action relating to immovable property, the property was at the institution of the proceedings situate in the designated country in which the proceedings were instituted;
- 20 (c) if, in any proceedings other than proceedings referred to in paragraph (a) or (b), the jurisdiction of the court by which the judgment was given is recognized by the law of the Republic.
- 25 (5) The court of the designated country in which the judgment was given shall, for the purposes of section 5, be deemed not to have had jurisdiction—
- (a) in proceedings relating to immovable property situated outside such designated country;
- 30 (b) except in the cases referred to in subsection (4) (a) (i) and (ii), in proceedings instituted in contravention of an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of such designated country; or
- 35 (c) in proceedings in which the person against whom the judgment was given was under the rules of public international law entitled to immunity from jurisdiction of the courts of such designated country and did not submit to such jurisdiction.
- 40 8. A notice issued under section 3 (2) shall operate as an interdict against the judgment debtor on whom it was served, and against any person having knowledge of such notice, not to remove or dispose of any assets of the judgment debtor if such removal or disposal would prejudice the execution of the judgment.
- 45 ment.
9. Nothing in this Act contained shall be construed as preventing any court in the Republic from recognizing, for the purposes of any claim, defence or counter-claim, any judgment (other than a judgment the registration of which has been set
- 50 aside under section 5) given by any court of competent jurisdiction outside the Republic in any civil matter, as conclusive of any matter of law or of fact decided in such judgment if such judgment could, before the commencement of this Act, have been so recognized by such court.
- 55 10. Any powers to make rules under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), shall be deemed to include the power to make rules prescribing any matter which may in terms of this Act be prescribed or which is necessary or expedient to be prescribed to give effect to the provisions of this Act.
- 60
11. The Reciprocal Enforcement of Civil Judgments Act, 1966 (Act No. 9 of 1966), is hereby repealed.
12. This Act shall be called the Enforcement of Foreign Civil Judgments Act, 1988, and shall come into operation on a date
- 65 fixed by the State President by proclamation in the *Gazette*.
- Removal of assets prohibited.
- Savings.
- Rules.
- Repeal of Act 9 of 1966.
- Short title and commencement.

- other than protecting or obtaining the release of property seized or threatened with seizure in the proceedings or concerning the institution of that court;
- (ii) was a defendant in the proceedings and had before the commencement of the proceedings agreed in respect of the subject matter of the proceedings to submit to the jurisdiction of any court of the designated country; or
- (iii) was a defendant and, at the institution of the proceedings, resident in, or being a juristic person, had his principal place of business in, such designated country or at any time had an office or place of business in such designated country through or at which the transaction to which the proceedings relate was effected;
- (b) if in any action relating to immovable property the property was in the institution of the proceedings in the designated country in which the proceedings were instituted;
- (c) if in any proceedings other than proceedings referred to in paragraph (a) or (b), the jurisdiction of the court by which the judgment was given is recognized by the law of the Republic.
- (2) The court of the designated country in which the judgment was given shall, for the purposes of section 2, be deemed not to have had jurisdiction—
- (a) in proceedings relating to immovable property situated outside such designated country;
- (b) except in the cases referred to in subsection (4) (a) (i) and (ii), in proceedings instituted in continuation of an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of such designated country; or
- (c) in proceedings in which the person against whom the judgment was given was under the rule of public international law entitled to immunity from jurisdiction of the courts of such designated country and did not submit to such jurisdiction.
8. A notice issued under section 3 (2) shall operate as an interdict against the judgment debtor on whom it was served, and against any person having knowledge of such notice, not to remove or dispose of any assets of the judgment debtor if such removal or disposal would prejudice the execution of the judgment.
9. Nothing in this Act contained shall be construed as preventing any court in the Republic from recognizing, for the purposes of any claim, defence or counter-claim, any judgment (other than a judgment the registration of which has been set aside under section 2) given by any court of competent jurisdiction outside the Republic in any civil matter as conclusive of any matter of law or of fact decided in such judgment if such judgment could, before the commencement of the Act, have been so recognized by such court.
10. Any powers to make rules under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985) shall be deemed to include the power to make rules prescribing any matter which may in terms of this Act be prescribed or which is necessary or expedient to be prescribed to give effect to the provisions of this Act.
11. The Republic's Enforcement of Civil Judgments Act, 1966 (Act No. 9 of 1966) is hereby repealed.