

# **Circuit Layouts Regulations (Amendment) 1991 No. 459**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1991 No. 459**

Issued by the Authority of the Attorney-General

Subject - Circuit Layouts Act 1989

Circuit Layouts Regulations (Amendment)

Section 48 of the Circuit Layouts Act 1989 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed for carrying out or giving effect to it.

Section 42 of the Act enables a country to be declared to be an eligible foreign country if the Governor-General is satisfied that, although the foreign country is not a party to a convention relating to circuit layouts, provision is or will be made under the law of that country whereby adequate protection is, or will be, given to circuit layouts made by citizens or residents of, or companies incorporated in, Australia and to circuit layouts first commercially exploited in Australia.

The Regulations amend the Schedule to the Circuit Layouts Regulations to include New Zealand in the list of eligible foreign countries.

In March 1991, the New Zealand Government requested that New Zealand be declared an 'eligible foreign country' for the purposes of the Act. The New Zealand Government submits that circuit layouts are protected under the New Zealand Copyright Act 1962 (the NZ Copyright Act) as 'artistic works'. Under the Copyright (International Conventions) Order 1964 artistic works made by an Australian citizen or resident are protected under the NZ Copyright Act as if they were made by a New Zealand citizen or resident. First commercial exploitation of a circuit layout in Australia will not, however, be sufficient for protection under the NZ Copyright Act, although if commercial exploitation amounted to publication within the meaning of that Act the circuit layout would be protected. By contrast the Circuit Layouts Act provides that first commercial exploitation of the layout in Australia or an 'eligible foreign country' is one of the grounds for affording protection to the layout in Australia (s.5). The New Zealand Government has advised that it is presently considering enacting specific legislation for circuit layouts which would afford substantially similar protection to Australian circuit layouts as is provided by the Circuit Layouts Act.

Notwithstanding the difference noted above between Australian and New Zealand law regarding the protection of circuit layouts, the Governor-General is satisfied that adequate protection is, or will be, given to circuit layouts which are made by Australian citizens, residents or companies or which are first commercially exploited in Australia. Accordingly, New Zealand has been declared an eligible foreign country for the purposes of the Circuit Layouts Act.