

Foreign Judgments Regulations 1992 No. 321

EXPLANATORY STATEMENT

STATUTORY RULES 1992 No. 321

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

FOREIGN JUDGMENTS ACT 1991

FOREIGN JUDGMENTS REGULATIONS

Section 16 of the *Foreign Judgments Act 1991* (the Act) provides, in part, that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed.

Part 2 of the Act provides, amongst other matters, for the registration and enforcement in Australia of judgments given in courts of foreign countries to which the Part has been extended.

The main purpose of the Regulations is to extend Part 2 of the Act to New Zealand and to extend that Part to the inferior courts of New Zealand.

Subsection 5(1) of the Act provides that the regulations may provide that Part 2 of the Act extends in relation to a country if the Governor-General is satisfied that, in the event of the benefits conferred by Part 2 being applied to money judgments given in the superior courts of that country, substantial reciprocity of treatment will be assured in relation to the enforcement in that country of money judgments given in all Australian superior courts.

As regulations are made applying Part 2 of the Act to foreign countries the Act will progressively replace existing State and Territory legislation which makes provision, on the basis of reciprocity, for the enforcement of foreign superior court civil judgments for payment of money by registration in State and Territory Supreme Courts.

New Zealand has reciprocal enforcement of judgments legislation similar to that of the Act (and of nearly all the States and Territories). Under that legislation (the *Reciprocal Enforcement of Judgments Act 1934*), the relevant part of which has been applied to the Commonwealth of Australia as part of the reciprocal arrangements between the States and Territories and New Zealand, the money judgments of all Australian superior courts are enforceable in New Zealand.

The requirements of subsection 5(1) of the Act having been met, the Regulations provide that Part 2 extends to New Zealand.

Subsection 5(3) of the Act provides that the regulations may provide that Part 2 of the Act extends in relation to specified inferior courts of a country to which the Part extends if the Governor-General is satisfied that, in the event of the benefits conferred by Part 2 of the Act being applied to money judgments given in all or some inferior courts of such a country, substantial reciprocity of treatment will be assured in relation to the enforcement in that country of money judgments given in all or some Australian inferior courts.

New Zealand has agreed to enforce in New Zealand the money judgments of all Australian inferior courts.

New Zealand has gazetted an Order-in-Council under the provisions of its *Reciprocal Enforcement of Judgments Act 1934* to achieve this end which is to come into force on 15 October 1992.

The requirements of subsection 5(1) of the Act having been met, the Regulations provide that Part 2 extends to New Zealand inferior courts.

Details of the Regulations are as follows:

Regulation 1 is formal.

Regulation 2 defines 'the Act' for the purposes of the Regulations.

Regulation 3 provides, in effect, that Part 2 of the Act extends to New Zealand.

Regulation 4 specifies, in effect, that for the purposes of the Act the New Zealand Court of Appeal and High Court are taken to be superior courts of New Zealand.

Regulation 5 extends Part 2 of the Act to each District Court of New Zealand. District Courts are New Zealand's inferior courts.

The Regulations commenced on gazettal.