

# Foreign Judgments Regulations (Amendment) 1996 No. 145

EXPLANATORY STATEMENT

STATUTORY RULES 1996 No. 145

*Issued by the Authority of the Attorney-General and Minister for Justice*

Foreign Judgments Act 1991

Foreign Judgments Regulations (Amendment)

Section 16 of the *Foreign Judgments Act 1991* (the Act) provides 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 foreign courts to which the Act has been extended.

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 Australian superior courts.

Subsection 5(3) 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 tile event of the benefits conferred by Part 2 being applied to money judgments given ill the inferior courts of that country, substantial reciprocity of treatment will be assured in relation to the enforcement in that country of money judgments given ill Australian inferior courts.

The purpose of the Regulations is to extend Part 2 of the Act to the superior courts of Fiji, Switzerland, and Taiwan, China and also to extend Part 2 of the Act to inferior courts of tile Canadian province of Manitoba, Taiwan, China and Switzerland.

Fiji, Switzerland, Taiwan and the Canadian Province of Manitoba have reciprocal enforcement of judgments legislation similar to the Act. The relevant legislation has been applied to Australia or an undertaking has been given by the authorities of each of these jurisdictions to apply that legislation to Australia. The requirements of subsections 5(1) and 5(3) of the Act having been met, the Regulations provide that Part 2 extends to the courts of those jurisdictions.

Details of the Regulations are as follows:

Regulation 1 is formal.

Regulation 2 provides in effect that Part 2 of the Act extends to the Provincial Court of Manitoba, the District Courts of Taiwan, China and to four categories of Swiss inferior courts: Bezirksgerichte, Erstinstanzliche Gericlite, Arbeitsgerichte, Mietgerichte.

Regulation 3 amends the Schedule to the Foreign Judgments Regulations to provide that Part 2 of the Act extends to the superior courts of Fiji, Switzerland and Taiwan, China.

The Regulations commenced on gazettal.