

Foreign Judgments Regulations (Amendment) 1994 No. 283

EXPLANATORY STATEMENT

STATUTORY RULES 1994 No. 283

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

FOREIGN JUDGMENTS ACT 1991

FOREIGN JUDGMENTS REGULATIONS (AMENDMENT)

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 certain inferior courts of the United Kingdom of Great Britain and Northern Ireland (the United Kingdom).

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.

Part 2 was applied to the United Kingdom by the Foreign Judgments Regulations (Amendment), No. 143 of 1993.

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.

On 23 August 1990 the Government of Australia and the Government of the United Kingdom entered into an Agreement which provides for, amongst other things, the enforcement in Australia of money judgments of certain United Kingdom inferior courts, namely County Courts in England and Wales and Northern Ireland and Sheriff Courts in Scotland, and the enforcement in the United Kingdom of money judgments of certain Australian inferior courts.

Australia and the United Kingdom have agreed that the Agreement shall come into force on 1 September 1994.

The United Kingdom made an Order in Council on 19 July 1994 to carry out its obligations under the Agreement.

The requirements of subsection 5(3) of the Act having been met, the Regulations provide that Part 2 extends to County Courts in England and Wales, County Courts in Northern Ireland and Sheriff Courts in Scotland.

Details of the Regulations are as follows:

Regulation 1 provides that the Regulations commence on 1 September 1994.

Regulation 2 provides that the Regulations amend the Foreign Judgments Regulations.

Regulation 3 in effect extends Part 2 of the Act to each County Court in England and Wales, each County Court in Northern Ireland and each Sheriff Court in Scotland.

The Regulations commence on 1 September 1994.