

# Foreign Judgments Regulations (Amendment) 1995 No. 35

## EXPLANATORY STATEMENT

### Statutory Rules 1995 No. 35

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 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 the event of the benefits conferred by Part 2 being applied to money judgments given in 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 in Australian inferior courts.

The purpose of the Regulations is to extend Part 2 of the Act to superior courts of Alberta (Canada), British Columbia (Canada), Hong Kong, Malawi, Sri Lanka and Tonga and to inferior court;; of the Canadian provinces of Alberta and British Columbia.

The Canadian Provinces of Alberta and British Columbia, Hong Kong, Malawi, Sri Lanka and Tonga have reciprocal enforcement of judgments legislation similar to that of 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 subsection 5(1) 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 Courts of Alberta (Canada) and British Columbia (Canada). Provincial Courts are inferior courts in these jurisdictions.

Regulation 3 amends the Schedule to the Foreign Judgments Regulations to provide that Part 2 of the Act extends to the superior courts of Alberta (Canada), Malawi, Sri Lanka and Tonga. Regulation 3 also substitutes an existing item in the Schedule relating to Hong Kong in order to extend Part 2 of the Act to the Privy Council as a superior court in relation to Hong Kong.

The Regulations commenced on gazettal.

