

# Foreign Judgments Regulations (Amendment) Rules 1997 No. 205

## EXPLANATORY STATEMENT

### Statutory Rules 1997 No. 205

*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.

The purpose of the proposed regulations is to:

- (a) amend existing references in the Foreign Judgments Regulations in respect of Hong Kong, consequential to its reversion to Chinese sovereignty on 1 July 1997; and
- (b) extend Part 2 of the Act to the superior courts of Western Samoa. (The Head of State of Western Samoa signed an order extending Part II of the Western Samoan *Reciprocal Enforcement of Judgments Act 1970* to judgments given in Australian superior courts on 28 May 1997.)

Details of the proposed regulations are as follows:

Regulation 1 is formal.

Regulation 2 amends the Schedule to the Foreign Judgments Regulations as follows:

- (a) Subregulation 2. 1 substitutes a new item 13 which:

\* in column 2 (Country), replaces "Hong Kong" with "The Hong Kong Special Administrative Region of the People's Republic of China"; and

\* in column 3 (Courts), replaces "Privy Council" with "Court of Final Appeal", and amends the titles of other listed superior courts.

- (b) Subregulation 2.2 inserts a new item 28 to provide in effect that Part 2 of the Act extends to the Court of Appeal and the Supreme Court of Western Samoa.

The proposed regulations would commence on gazettal.

The Minute recommends that regulations be made in the form proposed.

Authority: Section 16 of the *Foreign Judgments Act 1991*