

# **Foreign Judgments (Amendment) Regulations 1999 (No. 1) 1999 No. 84**

## **EXPLANATORY STATEMENT**

### **Statutory Rules 1999 No. 84**

*Issued by the Authority of the Attorney-General*

*Foreign Judgments Act 1991*

Foreign Judgments (Amendment) Regulations 1999 (No. 1)

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) makes similar provision in respect of money judgments given in inferior courts.

Statutory Rule No. 145 of 1996 extended Part 2 of the Act to the Supreme Court and High Courts, as superior courts, and to the District Courts, as inferior courts, of "Taiwan, China". The Taipei Economic and Cultural Office has subsequently advised the Australian Department of Foreign Affairs and Trade that the District Courts are superior rather than inferior courts and that the reference to "Taiwan, China" is incorrect.

The purpose of the regulations is to prescribe the District Courts of Taiwan as superior rather than as inferior courts and to replace the reference to "Taiwan, China" with a reference to "Taiwan". The regulations also alter the name of the Foreign Judgments Regulations to include a reference to 1992 as the year in which they were first made.

Details of the Regulations are set out in the attachment.

The Regulations commenced on gazettal.

## Attachment

Regulation 1 is formal.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 in the Regulations amends the Foreign Judgments Regulations.

Item 1 of Schedule 1 substitutes regulation 1 of the Foreign Judgments Regulations to include a reference to 1992 as the year in which the Foreign Judgments Regulations were first made.

Item 2 of Schedule 1 omits sub-regulation 5(5) of the regulations. Sub-regulation 5(5) provides that Part 2 of the Foreign Judgments Act 1991 extends to each of the District Courts of Taiwan, China. Sub-regulation 5(5) is no longer required as a consequence of item 3, which includes the District Courts of Taiwan in the list of superior courts in the Schedule to the Foreign Judgments Regulations.

Item 3 substitutes item 25AB of the Schedule to the Foreign Judgments Regulations. The revised item 25AB replaces the reference to "Taiwan, China" with a reference to "Taiwan" and adds the District Courts of Taiwan to the list of superior courts of Taiwan.