

EXPLANATORY STATEMENT

Select Legislative Instrument No. 207, 2015

Issued by the authority of the Attorney-General

Foreign Judgments Act 1991

Foreign Judgments Amendment (Miscellaneous) Regulation 2015

The *Foreign Judgments Act 1991* (the Act) provides a streamlined procedure for the recognition and enforcement of certain judgments of courts prescribed in the *Foreign Judgments Regulations 1992* (the Regulations) based upon reciprocity of enforcement. Under the Act, a foreign judgment may be registered and then enforced as if it was a judgment of a local court. However, the Act only applies to judgments rendered by superior and specified inferior courts in countries nominated in the Regulations.

The Act provides that the legislation will be applied with respect to judgments of courts of a particular country, by regulations, where the Governor General is satisfied that substantial reciprocity of treatment will be given to the enforcement in that country of corresponding Australian judgments.

Section 16 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Regulation removes the reference to New Zealand from the Regulations since recognition of judgments from New Zealand's courts in Australia is now wholly governed by the *Trans-Tasman Proceedings Act 2010*. In addition, the Regulation corrects the names of the United Kingdom courts listed in the Schedule as the names of the courts have changed.

Details of the Regulation are set out in the Attachment A.

Given the limited impact of these amendments, no consultation was required or undertaken.

The Act does not specify any conditions that need to be satisfied before the power to make the proposed Regulation may be exercised.

A Statement of Compatibility with Human Rights prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny Act) 2011* is set out in Attachment B.

The Office of Best Practice Regulation was consulted and a Regulation Impact Statement was not required.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commenced on the day after the instrument was registered.

Authority: Section 16 of the
Foreign Judgments Act 1991

Details of the *Foreign Judgments Amendment (Miscellaneous) Regulation 2015*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Foreign Judgments Amendment (Miscellaneous) Regulation 2015*.

Section 2 – Commencement

This section provides for the Regulation to commence on the day after this instrument is registered.

Section 3 – Authority

This section provides that the *Foreign Judgments Amendment (Miscellaneous) Regulation 2015* is made under the *Foreign Judgments Act 1991*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Item [1] – Subregulation 5(1)

Subregulation 5(1) is repealed.

Item [2] – Schedule (table item 1)

Schedule (table item 1) is repealed.

Item [3] – Schedule (cell at table item 27, column headed “Courts”)

Cell at table item 27, column headed “Courts” in the Schedule is repealed and substituted with:

Supreme Court of the United Kingdom

Senior Courts of England and Wales

Court of Judicature of Northern Ireland

Court of Session

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Foreign Judgments Amendment (Miscellaneous) Regulation 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Foreign Judgments Act 1991* (the Act) provides a streamlined procedure for the recognition and enforcement of certain judgments of courts prescribed in the *Foreign Judgments Regulations 1992* (the Regulations) based upon reciprocity of enforcement. Under the Act, a foreign judgment may be registered and then enforced as if it was a judgment of a local court. However, the Act only applies to judgments rendered by superior and specified inferior courts in countries nominated in the Regulations.

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Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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