

AUSTRALIAN CAPITAL TERRITORY

FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) (AMENDMENT)
ORDINANCE 1988

No. 24, 1988

EXPLANATORY STATEMENT

The purpose of the proposed Ordinance is to amend the Foreign Judgments (Reciprocal Enforcement) Ordinance 1954 (the "Principal Ordinance") of the Australian Capital Territory to provide for the circumstances in which a person is to be deemed to have submitted or not to have submitted to the jurisdiction of a foreign court. Those circumstances are set out in section 4 of the Ordinance which is described below.

The need to determine whether a person has submitted to the jurisdiction of a foreign court arises where that person was served with process in the proceeding outside the court's territorial jurisdiction. At common law a person who appears or participates in such a proceeding is deemed to have submitted to the court's jurisdiction.

The Ordinance also corrects a typographical error in section 12 of the Principal Ordinance.

Details of the Ordinance are as follows:

Section 1 provides that the Ordinance may be cited as the Foreign Judgments (Reciprocal Enforcement) (Amendment) Ordinance 1988.

Section 2 defines the Principal Ordinance to mean the Foreign Judgments (Reciprocal Enforcement) Ordinance 1954.

Section 3 amends section 8 of the Principal Ordinance, which provides for the registration of judgments, by:

- (a) omitting subparagraph 2(a)(i) and substituting a provision to the effect that a foreign court shall be deemed to have had jurisdiction if the judgment debtor voluntarily submitted to the jurisdiction of the Court; and
- (b) adding a new subsection 4, which provides that a person does not voluntarily submit to the jurisdiction of a foreign court by entering an appearance only for the purpose of protecting or obtaining the release of property, contesting the jurisdiction of the foreign court, or inviting the foreign court not to exercise jurisdiction in the proceedings.

Section 4 inserts in Part III of the Principal Ordinance a new section 10A to make similar provisions apply to common law proceedings for the recovery of a sum payable under a foreign judgment. This ensures that the same rules apply to enforcement of judgments by common law proceedings as apply to enforcement by registration.

Section 5 amends subsection 12(1) of the Principal Ordinance to correct a typographical error by omitting "or" and substituting "to".

Authorised by the Minister
for Justice for and on behalf
of the Attorney-General