



AUSTRALIAN CAPITAL TERRITORY

Supreme Court Rules¹ (Amendment)

Subordinate Law No. 35 of 1992²

We, Judges of the Supreme Court, make the following Rules of Court under section 36 of the *Supreme Court Act 1933*.

Dated 14 December 1992.

JEFFREY MILES
Chief Justice

J F GALLOP
Judge

T J HIGGINS
Judge

A G TOWILL
Registrar

Principal Rules

1. In these Rules, “Principal Rules” means the Supreme Court Rules.

Privilege

2. Rule 2 of Order 34A is amended—

- (a) by adding at the end of paragraph (a) “or”;
- (b) by omitting from paragraph (b) “or” (last occurring); and
- (c) by omitting paragraph (c).

Copies

3. Rule 14 of Order 42 of the Principal Rules is amended by adding at the end the following subrule:

“(3) The Registrar shall, on the request of a judgment creditor, furnish to the judgment creditor a certificate in accordance with Form 50A in the First Schedule setting out the particulars of the judgment.”.

Insertion

4. After Part 5 of the Principal Rules the following Part is inserted:

“PART 5A—FOREIGN JUDGMENTS**ORDER 74A****RECIPROCAL ENFORCEMENT OF JUDGMENTS UNDER THE
FOREIGN JUDGMENTS ACT 1991 OF THE COMMONWEALTH****Interpretation**

“1. (1) In this Order—

‘the Act’ means the *Foreign Judgments Act 1991* of the Commonwealth.

“(2) Unless the contrary intention appears, expressions used in this Order have the same meaning as in the Act.

Application of Order

“2. This Order applies in relation to an order for the registration of a money judgment or a non-money judgment to which paragraph 6 (2) (a) or (c) of the Act applies.

Application for an order for registration

“3. (1) An application under subsection 6 (1) of the Act to have a judgment registered shall—

- (a) be in accordance with Form 78A;

- (b) have attached a copy of the judgment certified by the original court;
 - (c) if the judgment is not in the English language—have attached a translation of the judgment authenticated by affidavit; and
 - (d) be supported by affidavits filed in accordance with rule 4.
- “(2) An application may be made *ex parte*.

Supporting affidavits

“4. (1) An affidavit shall be filed with the application and shall state the following:

- (a) the full name, occupation and the usual or last known place of residence, or of business, of the parties;
- (b) that Part 2 of the Act applies in relation to the judgment;
- (c) if paragraph 6 (1) (b) of the Act applies—the date of the last judgment in proceedings by way of appeal;
- (d) if the judgment is a money judgment—
 - (i) that the judgment was given in a superior court of a country in relation to which Part 2 of the Act extends or an inferior court of such a country, being an inferior court in relation to which that Part extends; and
 - (ii) if section 13 of the Act does not apply to the country of the original court—that section 13 does not apply;
- (e) if the judgment is a non-money judgment—that the judgment is prescribed for the purposes of subsection 5 (6) of the Act;
- (f) if applicable—that the judgment was given in proceedings in which a matter for determination arose under the Commerce Act 1986 of New Zealand (other than proceedings in which a matter for determination arose under section 36A, 98H or 99A of that Act);
- (g) that if the judgment were registered the registration would not be, or be liable to be, set aside under section 7 of the Act;
- (h) the amount of costs of and incidental to the registration sought to be included in the registered judgment.

“(2) A further affidavit in support of the application shall be filed on the day on which the application is to be heard and shall state—

- (a) that on that day the judgment can be enforced in the country of the original court; and

- (b) if the judgment is a money judgment—
- (i) that on that day the judgment has not been wholly satisfied;
 - (ii) if the judgment has been partly satisfied—the balance remaining payable on that day;
 - (iii) the interest (if any) which, by the law of the country of the original court, has become due up to the time of registration; and
 - (iv) if the amount payable under the judgment is expressed in a currency other than Australian currency and the application does not state that the judgment is to be registered in the currency in which it is expressed—that the judgment is to be registered for the equivalent amount in Australian currency, based on the rate of exchange prevailing on the day of the application for registration.

“(3) An affidavit filed in accordance with subsection (2) shall set out the facts and grounds relied on for each statement made in the affidavit and attach any certificates that have been issued by the original court—

- (a) setting out the causes of action to which the judgment relates;
- (b) stating whether or not the judgment can be enforced in the country of the original court; and
- (c) setting out the rate of interest (if any) payable under the law of that country on any amount payable under the judgment.

Registration

“5. (1) An order for the registration of a money judgment shall be in accordance with Form 78B.

“(2) An order for the registration of a non-money judgment shall be in accordance with Form 78C.

Notice of registration

“6. (1) The party named in an order for registration of a judgment as the judgment creditor shall serve notice of the registration in accordance with Form 78D or 78E (as the case requires) on the party named in the order as the judgment debtor.

- “(2) The notice shall have attached—
- (a) an office copy of the order; and
 - (b) copies of the affidavits filed in accordance with rule 4.

“(3) The notice and the attachments to it shall be served personally unless some other mode of service is ordered by the Court.

Affidavit of service to be filed

“7. Before any step is taken to enforce a registered judgment, an affidavit of due service of notice of the registration shall be filed.

Time limit

“8. Rule 5 of Order 64 applies in relation to an application to have the registration of a judgment set aside as if the period within which the application may be made had been appointed by these Rules.

Court may give directions

“9. On an application to have the registration of a judgment set aside, the Court may give such directions as may be necessary for the statement and trial of any issue arising in the application.

Security for costs

“10. The Court may order an applicant for registration of a judgment to give such security as the Court thinks fit for the costs of the application and of any application that may be brought to set aside the registration of the judgment.

Record of registered judgment

“11. The Registrar shall maintain a record of the following particulars of each registered judgment:

- (a) the details of the judgment of the original court;
- (b) the date of the order that the judgment be registered;
- (c) the full name and address of the party named in the order as the judgment creditor, or the name and address of that party’s solicitor or agent on whom a document can be served;
- (d) the full name, occupation and last known address of the party named in the order as the judgment debtor;
- (e) if the judgment is a money judgment—
 - (i) the amount payable under the judgment expressed in the currency in which the judgment is registered;
 - (ii) the interest (if any) due under the judgment up to the time of registration; and
 - (iii) the rate at which interest is due under the judgment;

- (f) if the judgment is a non-money judgment—the terms of the judgment;
- (g) the amount of costs of, and incidental to, registration included in the registered judgment;
- (h) the particulars of any enforcement of or proceeding in respect of the registered judgment.”.

First Schedule

5. The First Schedule to the Principal Rules is amended—

- (a) by inserting after Form 50 the form set out in Schedule 1;
- (b) by omitting from Form 72 “Take notice that the respondent” and substituting “TAKE NOTICE that the appellant”;
- (c) by omitting from Form 72 “*Omit inapplicable words” and substituting the following:
“TAKE NOTICE that the papers in the appeal will be settled by the Registrar
at on (*time and date to be inserted by the Registrar*).
*Omit inapplicable words”;
- and
- (d) by inserting after Form 78 the forms set out in Schedule 2.

SCHEDULE 1

Rule 5

FORM 50A

O. 42 r. 14

[Heading as in Form 1]

CERTIFICATE OF JUDGMENT

Causes of action to which the judgment relates	The rate of interest (if any) payable on any amount payable under the judgment	Amount payable under the judgment on date of issue of certificate	Amount of costs ordered to be paid under the judgment	Particulars (if any) required by a foreign tribunal in which it is proposed to register or enforce the judgment	Date of trial	Date of judgment
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I certify that this certificate correctly and fully sets forth the particulars of a judgment given in this Court, on *(insert date of judgment)* in a suit wherein *(insert name of plaintiff)* was plaintiff and *(insert name of defendant)* was defendant.

Dated 19 .

.....
Registrar

SCHEDULE 2

Rule 5

FORM 78A

O. 74A r. 3

**APPLICATION FOR REGISTRATION OF JUDGMENT UNDER THE FOREIGN
JUDGMENTS ACT 1991 OF THE COMMONWEALTH**

**IN THE SUPREME COURT OF
THE AUSTRALIAN CAPITAL
TERRITORY**

No. of 19 .

Between

Applicant

and

Respondent

I, (*insert name of applicant*) apply under Part 2 of the *Foreign Judgments Act 1991* of the Commonwealth to have the following judgment registered in the Court.

DETAILS OF JUDGMENT

COURT:

JUDGE:

DATE OF JUDGMENT:

WHERE MADE:

(If the judgment is a money judgment)

AMOUNT OF JUDGMENT, INCLUDING INTEREST:

NOTE 1: The application shall state if the applicant wishes the judgment to be registered in the currency in which it is expressed and, if so, the amount of the judgment expressed in that currency.

NOTE 2: If the application does not include a statement of the kind referred to in Note 1, the judgment shall be registered for an equivalent amount in Australian currency, based on the rate of exchange prevailing on the day of application for registration.

See subsection 6 (11) of the *Foreign Judgments Act 1991* of the Commonwealth.

and/or

(if the judgment is an order or injunction)

TERMS OF JUDGMENT:

Dated 19 .

.....
Applicant/applicant's solicitor

The applicant's address for service is:

SCHEDULE 2—continued

FORM 78B

O. 74A r. 5

[Heading as in Form 78A]

ORDER FOR REGISTRATION OF MONEY JUDGMENT

JUDGE:

DATE OF ORDER:

WHERE MADE:

ORDER

THE COURT ORDERS THAT:

1. The judgment dated (*insert date of judgment*) of the (*insert name of court*) by which it was ordered that (*insert name of respondent*) (“the judgment debtor”) pay the sum of (*insert amount in foreign currency or in equivalent Australian currency*) and interest (if any) to (*insert name of applicant*) (“the judgment creditor”) be registered under Part 2 of the *Foreign Judgments Act 1991* of the Commonwealth.
2. The amount that the judgment debtor is required to pay to the judgment creditor is . The amount includes an amount of interest of .
(*Insert amounts in foreign currency or in equivalent Australian currency*)
3. (*Insert any other orders made under the judgment*)
4. The reasonable costs of, and incidental to, the application for this order and registration of the judgment (fixed at \$, or to be taxed) are to be paid by the judgment debtor to the judgment creditor.
5. The judgment debtor may, within days after service of the notice of registration, apply to have the registration set aside.

Dated 19 .

.....
Registrar

SCHEDULE 2—continued

FORM 78C

O. 74A r. 5

[Heading as in Form 78A]

ORDER FOR REGISTRATION OF NON-MONEY JUDGMENT

JUDGE:

DATE OF ORDER:

WHERE MADE:

ORDER

THE COURT ORDERS THAT:

1. The judgment dated *(insert date of judgment)* of the *(insert name of court)* by which it was ordered that *(insert name of respondent)* (“the judgment debtor”) *(insert terms of order or injunction)* be registered under Part 2 of the *Foreign Judgments Act 1991* of the Commonwealth.
2. The reasonable costs of, and incidental to, the application for this order and registration of the judgment (fixed at \$ _____, or to be taxed) are to be paid by the judgment debtor to *(insert name of applicant)* (the “judgment creditor”).
3. The judgment debtor may, within _____ days after service of the notice of registration, apply to have the registration set aside.

Dated _____ 19 ____ .

.....
Registrar

SCHEDULE 2—continued

FORM 78D

O. 74A r. 6

[Heading as in Form 78A]

NOTICE OF REGISTRATION OF MONEY JUDGMENT

To: *(Name of respondent)*

1. The judgment dated *(insert date of judgment)* of the *(insert name of court)* that you pay the sum of *(insert amount in foreign currency or in equivalent Australian currency)* and interest (if any) to *(insert name of judgment creditor)* (“the judgment creditor”) and *(insert any other terms of judgment)* has been registered in this Court under Part 2 of the *Foreign Judgments Act 1991* of the Commonwealth.

2. The amount that you are required to pay to the judgment creditor is . The amount includes an amount of interest of .
(Insert the amounts in foreign currency or in equivalent Australian currency)

3. You may, within days after service of this notice on you, apply to have the registration set aside.

The address for service of *(insert name of judgment creditor)* is *(state address)*.

Dated 19 .

.....
Registrar

FORM 78E

O. 74A r. 6

[Heading as in Form 78A]

NOTICE OF REGISTRATION OF NON-MONEY JUDGMENT

To: *(Name of respondent)*

1. The judgment dated *(insert date of judgment)* of the *(insert name of court)* that *(insert terms of order or injunction)* has been registered in this Court under Part 2 of the *Foreign Judgments Act 1991* of the Commonwealth.

2. You may, within days after service of this notice on you, apply to have the registration set aside.

The address for service of *(insert name of judgment creditor)* is *(state address)*.

Dated 19 .

.....
Registrar

SCHEDULE 2—continued

NOTE

1. Reprinted by the Commonwealth as at 2 October 1991. See also Commonwealth Statutory Rules 1991 Nos. 416 and 472; 1992 Nos. 79 and 82; Subordinate Laws Nos. 16, 21, 23 and 34, 1992.
2. Notified in the ACT Gazette on 18 December 1992.