

NORTHERN TERRITORY OF AUSTRALIA
SUPREME COURT AMENDMENT (REGISTRATION OF FOREIGN
JUDGMENTS) RULES 2005

Regulations No. 14 of 2005

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NORTHERN TERRITORY OF AUSTRALIA

Regulations No. 14 of 2005*

Supreme Court Amendment (Registration of Foreign Judgments) Rules 2005

WE, the undersigned Judges of the Supreme Court of the Northern Territory of Australia, pursuant to section 86 of the *Supreme Court Act*, make the following Rules of Court.

Dated 3 May 2005.

B. MARTIN CJ

D. N. ANGEL J

D. MILDREN J

S. G. THOMAS J

T. J. RILEY J

S. R. SOUTHWOOD J

Judges of the Supreme Court
of the Northern Territory of Australia

* Notified in the *Northern Territory Government Gazette* on 1 June 2005.

1. Citation

These Rules may be cited as the *Supreme Court Amendment (Registration of Foreign Judgments) Rules 2005*.

2. Principal Rules amended

These Rules amend the *Supreme Court Rules*.

3. New Chapter 9

After rule 93.03 –

insert

CHAPTER 9 – REGISTRATION OF FOREIGN JUDGMENTS

94.01 Interpretation

(1) In this Chapter –

"the Act" means the *Foreign Judgments Act 1991* (Cth).

(2) If an expression used in this Chapter is defined in the Act, the expression has the meaning given by that definition unless a contrary intention appears.

94.02 Application

This Chapter applies to any proceedings in the Court under the Act.

94.03 Application under section 6 by originating motion

(1) An application under section 6 of the Act for the registration of a judgment to which Part 2 of the Act applies may be made without notice to any person.

(2) The application must be by originating motion and supported by affidavit.

94.04 Affidavit

(1) An affidavit under rule 94.03 must state to the best of the information and belief of the deponent –

(a) that the plaintiff is entitled to enforce the judgment;

(b) that the judgment is final and conclusive between the parties;

- (c) facts demonstrating that the Court is the appropriate court under section 6(1) of the Act;
 - (d) that at the date of the application, the judgment has not been satisfied or has been satisfied only in part;
 - (e) the amount in respect of which the judgment remains unsatisfied;
 - (f) that at the date of the application, the judgment can be enforced by execution in the country of the original court;
 - (g) that, if the judgment were registered, the registration would not be, or liable to be, set aside under section 7 of the Act;
 - (h) the amount of interest (if any) that, under the law of the country of the original court, has become due under the judgment up to the time of the application;
 - (i) if the sum payable under the judgment is expressed in a currency other than Australian currency and the judgment creditor has not stated that he or she wishes the judgment to be registered in that other currency – the amount that sum represents in Australian currency calculated in accordance with section 6(11), (11A) and (11B) of the Act;
 - (j) if the judgment is in respect of different matters and only some of the provisions of the judgment could, if contained in separate judgments, have been registered – the provisions in respect of which it is sought to register the judgment; and
 - (k) the full name, title, occupation and the usual or last known place of residence or business of the judgment creditor and the judgment debtor.
- (2) The affidavit must exhibit –
- (a) a copy of the judgment of the original court certified as such by the proper officer of the court and authenticated by its seal; and
 - (b) if the judgment is not in the English language, a translation of the judgment certified by a notary public or authenticated by affidavit.
- (3) The affidavit must be accompanied by such other evidence in respect of the matters referred to in subrule (1)(f) and (h) as may be required having regard to the provisions of any regulations made under the Act extending the Act to the country of the original court.

94.05 Security for costs may be ordered

The Court may order that a person applying for registration of a judgment give security for costs.

94.06 Order on application

- (1) An order for registration of a judgment must –
 - (a) specify the period within which an application to set aside the registration may be made; and
 - (b) state that the judgment will not be enforced until after the expiration of that period or any extension of that period under subrule (3).
- (2) The order need not be served on the judgment debtor.
- (3) The period referred to in subrule (1)(a) may be extended by the Court on the application of a party made before or after the expiration of the period or any extended period.

94.07 Notice of registration

- (1) Notice in writing of the registration of a judgment must be served on the judgment debtor whether within the jurisdiction or not.
- (2) Unless the Court orders otherwise, service must be personal service.
- (3) The notice must –
 - (a) include full particulars of the judgment registered and the order for registration;
 - (b) provide the name and address of –
 - (i) the judgment creditor;
 - (ii) the judgment creditor's solicitor; or
 - (iii) an agent,on whom and at which any process issued by the judgment debtor may be served;
 - (c) state that the judgment debtor may apply on the grounds set out in the Act to have the judgment set aside;

- (d) specify the time from the date of the service of the notice within which the application must be made; and
- (e) advise that the judgment debtor may apply to have that time extended.

94.08 Application to set aside

(1) An application to set aside the registration of a judgment must be made by summons in the proceedings in which the judgment was registered.

(2) The summons must set out the grounds of the application and be supported by affidavit.

(3) The summons and any affidavit in support must be served on the person who procured registration of the judgment.

94.09 Enforcement of judgment

A registered judgment may not be enforced unless –

- (a) the period referred to in rule 94.06(1)(a), or any extended period, has expired;
- (b) any application to set aside registration of the judgment has been determined by the Court;
- (c) there has been filed in the Court –
 - (i) an affidavit of service of the notice of registration; and
 - (ii) a copy of the notice of registration; and
- (d) any order of the Court in relation to the judgment has been authenticated and filed.

94.10 Certified copy of judgment

(1) An application under section 15 of the Act may be made without notice to any person.

(2) The application must be made in the proceeding in which the judgment of the Court was obtained.

(3) The application must be made by filing a draft of the certificate provided for rule 94.11(b) with an affidavit deposing to such information as will enable the certificate to be granted.

94.11 Certificates

(1) If an application for a certified copy of a judgment is granted, the copy of the judgment issued must be –

- (a) sealed with the seal of the Court; and
- (b) certified by the Registrar to be –
 - (i) a true copy; and
 - (ii) issued in accordance with section 15 of the Act.

(2) The copy of the judgment must be accompanied by a certificate from the Registrar that includes –

- (a) a statement that the proceeding is at an end except for the enforcement of the judgment;
- (b) the claim or claims in respect of which the judgment was given;
- (c) the grounds on which the judgment was based;
- (d) the rate at which the judgment carries interest; and
- (e) such other matters as the Registrar considers necessary or desirable.

94.12 Master

An application other than one made under section 15 of the Act must be made to the Master.

