

EXPLANATORY STATEMENT

Administrative Decisions (Judicial Review)
Act Regulations (Amendment)

Statutory Rules 1987 No. 188

Issued by the Authority of the Attorney-General

Section 20 of the Administrative Decisions (Judicial Review) Act 1977 ("the Act") provides that the Governor General may make regulations, not inconsistent with the Act, prescribing matters that are required or permitted by the Act to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 19 of the Act provides that the regulations may declare a class or classes of decisions to be decisions that are not subject to judicial review by the Federal Court of Australia under the Act.

Section 5 of the Act empowers the Federal Court of Australia to review certain administrative decisions of Ministers and officers acting under Commonwealth laws.

Paragraph (e) of Schedule 1 of the Act excludes from review under the Act decisions affecting the assessment or calculation of taxation, including customs and excise duties, made under the Australian Capital Territory Taxation (Administration) Act 1969.

Part VIII of the Taxation Laws Amendment (No. 2) Act 1987 (Act No. 62) terminated the imposition of taxes and duties under certain taxation laws relating to the Australian Capital Territory and provided for the transfer of the administration of those laws from the Commissioner of Taxation to the Commissioner for Australian Capital Territory Revenue Collections appointed under the Taxation Administration Ordinance 1987 of the Australian Capital Territory. This transfer came into effect on 1 August 1987 when Part VIII of the Taxation Laws Amendment (No. 2) Act 1987 was proclaimed and the Taxation (Administration) Ordinance 1987 was proclaimed.

The Regulation will exclude from review under the Act decisions made under the amended Business Franchise (Tobacco and Petroleum Products) Ordinance 1984, the Payroll Tax Ordinance 1987, the Stamp Duties and Taxes Ordinance 1987 and the Taxation (Administration) Ordinance 1987 which commenced operations on 1 August 1987 and the Financial Institutions Duty Ordinance 1987 which commenced operation on 1 September 1987.

The effect of the Regulation is to exclude certain classes of taxation decisions from judicial review by the Federal Court of Australia under the Act. This is consistent with existing policy that review of assessment or calculation of tax or duty decisions should be subject to the ordinary procedures for review or appeal provided in the relevant legislation under

which the tax or duty is calculated. Under the Ordinances review of decisions affecting the assessment or calculation of taxation will be undertaken by the Administrative Appeals Tribunal. An appeal from a decision of the Administrative Appeals Tribunal on a question of law may be made to the Federal Court, (section 44, Administrative Appeals Tribunal Act 1975).