



# **Jurisdiction of Courts (Cross-vesting) Act 1987**

**No. 24, 1987**

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## About this compilation

### This compilation

This is a compilation of the *Jurisdiction of Courts (Cross-vesting) Act 1987* that shows the text of the law as amended and in force on 2 December 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## **An Act relating to the cross-vesting of certain jurisdiction**

WHEREAS inconvenience and expense have occasionally been caused to litigants by jurisdictional limitations in federal, State and Territory courts, and whereas it is desirable, so far as is constitutionally possible:

- (a) to establish a system of cross-vesting of jurisdiction between those courts, without detracting from the existing jurisdiction of any court;
- (b) to structure the system in such a way as to ensure as far as practicable that proceedings concerning matters which, apart from this Act and any law of a State relating to cross-vesting of jurisdiction, would be entirely or substantially within the jurisdiction (other than any accrued jurisdiction) of the Federal Court or the Family Court or the jurisdiction of a Supreme Court of a State or Territory are instituted and determined in that court, whilst providing for the determination by one court of federal and State matters in appropriate cases; and
- (c) if a proceeding is instituted in a court that is not the appropriate court, to provide a system under which the proceeding will be transferred to the appropriate court.

BE IT THEREFORE ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### **1 Short title**

This Act may be cited as the *Jurisdiction of Courts (Cross-vesting) Act 1987*.

### **2 Commencement**

This Act shall come into operation on a day to be fixed by Proclamation.

### 3 Interpretation and application

(1) In this Act, unless the contrary intention appears:

**Family Court** means the Family Court of Australia.

**Federal Court** means the Federal Court of Australia.

**Full Court**, in relation to a Supreme Court of a State, includes any court of the State to which appeals lie from a single judge of that Supreme Court.

**judgment** means a judgment, decree or order, whether final or interlocutory.

**party**, in relation to a proceeding, includes a person who intervenes in the proceeding.

**proceeding** does not include a criminal proceeding.

**special federal matter** means:

- (a) a matter arising under Part IV of the *Competition and Consumer Act 2010* (other than under section 45D, 45DA, 45DB, 45E or 45EA); or
- (aa) a matter arising under the Competition Code (as defined in section 150A of the *Competition and Consumer Act 2010*) of the Australian Capital Territory or the Northern Territory; or
- (ab) a matter arising under section 60G of the *Family Law Act 1975* in a court other than the Family Court of Western Australia or the Supreme Court of the Northern Territory; or
- (b) a matter involving the determination of questions of law on appeal from a decision of, or of questions of law referred or stated by, a tribunal or other body established by an Act or a person holding office under an Act, not being a matter for determination in an appeal or a reference or case stated to the Supreme Court of a State or Territory under a law of the Commonwealth that specifically provides for such an appeal, reference or case stated to such a court; or

- (c) a matter arising under the *Administrative Decisions (Judicial Review) Act 1977*; or
- (e) a matter that is within the original jurisdiction of the Federal Court by virtue of section 39B of the *Judiciary Act 1903*; being a matter in respect of which the Supreme Court of a State or Territory would not, apart from this Act, have jurisdiction.

**State** includes the Australian Capital Territory and the Northern Territory.

**State Family Court**, in relation to a State, means a court of that State to which section 41 of the *Family Law Act 1975* applies by virtue of a Proclamation made under subsection 41(2) of that Act.

**Territory** does not include the Australian Capital Territory or the Northern Territory.

- (2) A reference in this Act, other than a reference in subsection 4(1), 5(3) or 7(4), to the Supreme Court of a State includes, if there is a State Family Court of that State, a reference to that State Family Court.
- (3) This Act extends to every external Territory.
- (4) Jurisdiction conferred on the Federal Court by an application law (as defined in section 150A of the *Competition and Consumer Act 2010*), of the Australian Capital Territory or the Northern Territory, is to be treated for the purposes of this Act as if that jurisdiction were federal jurisdiction.

#### 4 Additional jurisdiction of certain courts

- (1) Where:
  - (a) the Federal Court or the Family Court has jurisdiction with respect to a civil matter, whether that jurisdiction was or is conferred before or after the commencement of this Act; and
  - (b) the Supreme Court of a State or Territory would not, apart from this section, have jurisdiction with respect to that matter;

then:

- (c) in the case of the Supreme Court of a State (other than the Supreme Court of the Australian Capital Territory and the Supreme Court of the Northern Territory)—that court is invested with federal jurisdiction with respect to that matter; or
  - (d) in the case of the Supreme Court of a Territory (including the Australian Capital Territory and the Northern Territory)—jurisdiction is conferred on that court with respect to that matter.
- (2) Where:
- (a) the Supreme Court of a Territory has jurisdiction with respect to a civil matter, whether that jurisdiction was or is conferred before or after the commencement of this Act; and
  - (b) the Federal Court, the Family Court or the Supreme Court of a State or of another Territory would not, apart from this section, have jurisdiction with respect to that matter;
- jurisdiction is conferred on the court referred to in paragraph (b) with respect to that matter.
- (3) Where a proceeding is transferred to the Federal Court, the Family Court or a State Family Court of a State, that court has, by virtue of this subsection, jurisdiction with respect to so many of the matters for determination in the proceeding as that court would not have apart from this subsection.
- (4) This section does not apply to a matter arising under:
- (a) the *Conciliation and Arbitration Act 1904*; or
  - (ab) the *Fair Work Act 2009*; or
  - (aba) the *Building and Construction Industry (Improving Productivity) Act 2016*; or
  - (ac) the *Fair Work (Registered Organisations) Act 2009*; or
  - (ad) the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*; or
  - (b) the *Workplace Relations Act 1996*; or
  - (ba) the *Native Title Act 1993*; or



- (c) section 45D, 45DA, 45DB, 45E, 45EA, 46A, 155A or 155B of the *Competition and Consumer Act 2010*; or
- (d) a provision of Part VI or XII of the *Competition and Consumer Act 2010* so far as the provision relates to section 46A, 155A or 155B of that Act.

## 5 Transfer of proceedings

- (1) Where:
  - (a) a proceeding (in this subsection referred to as the ***relevant proceeding***) is pending in the Supreme Court of a State or Territory (in this subsection referred to as the ***first court***); and
  - (b) it appears to the first court that:
    - (i) the relevant proceeding arises out of, or is related to, another proceeding pending in the Federal Court or the Family Court and it is more appropriate that the relevant proceeding be determined by the Federal Court or the Family Court;
    - (ii) having regard to:
      - (A) whether, in the opinion of the first court, apart from this Act and any law of a State relating to cross-vesting of jurisdiction and apart from any accrued jurisdiction of the Federal Court or the Family Court, the relevant proceeding or a substantial part of the relevant proceeding would have been incapable of being instituted in the first court and capable of being instituted in the Federal Court or the Family Court;
      - (B) the extent to which, in the opinion of the first court, the matters for determination in the relevant proceeding are matters arising under or involving questions as to the application, interpretation or validity of a law of the Commonwealth and not within the jurisdiction of the first court apart from this Act and any

law of a State relating to cross-vesting of jurisdiction; and

(C) the interests of justice;

it is more appropriate that the relevant proceeding be determined by the Federal Court or the Family Court, as the case may be; or

(iii) it is otherwise in the interests of justice that the relevant proceeding be determined by the Federal Court or the Family Court;

the first court shall transfer the relevant proceeding to the Federal Court or the Family Court, as the case may be.

(2) Where:

(a) a proceeding (in this subsection referred to as the **relevant proceeding**) is pending in the Supreme Court of a State or Territory (in this subsection referred to as the **first court**); and

(b) it appears to the first court that:

(i) the relevant proceeding arises out of, or is related to, another proceeding pending in the Supreme Court of another State or Territory and it is more appropriate that the relevant proceeding be determined by that other Supreme Court;

(ii) having regard to:

(A) whether, in the opinion of the first court, apart from this Act and any law of a State relating to cross-vesting of jurisdiction, the relevant proceeding or a substantial part of the relevant proceeding would have been incapable of being instituted in the first court and capable of being instituted in the Supreme Court of another State or Territory;

(B) the extent to which, in the opinion of the first court, the matters for determination in the relevant proceeding are matters arising under or involving questions as to the application, interpretation or validity of a law of the State or

Territory referred to in sub-subparagraph (A) and not within the jurisdiction of the first court apart from this Act and any law of a State relating to cross-vesting of jurisdiction; and

(C) the interests of justice;

it is more appropriate that the relevant proceeding be determined by that other Supreme Court; or

(iii) it is otherwise in the interests of justice that the relevant proceeding be determined by the Supreme Court of another State or Territory;

the first court shall transfer the relevant proceeding to that other Supreme Court.

(3) Where:

(a) a proceeding (in this subsection referred to as the **relevant proceeding**) is pending in the Supreme Court of a State or the State Family Court of that State (in this subsection referred to as the **first court**); and

(b) it appears to the first court that:

(i) the relevant proceeding arises out of, or is related to, another proceeding pending in the other of the courts referred to in paragraph (a) and it is more appropriate that the relevant proceeding be determined by that other court;

(ii) having regard to:

(A) whether, in the opinion of the first court, apart from this Act and any law of a State relating to cross-vesting of jurisdiction, the relevant proceeding or a substantial part of the relevant proceeding would have been incapable of being instituted in the first court and capable of being instituted in the other of the courts referred to in paragraph (a); and

(B) the interests of justice;

it is more appropriate that the relevant proceeding be determined by the other of the courts referred to in paragraph (a); or

- (iii) it is otherwise in the interests of justice that the relevant proceeding be determined by the other of the courts referred to in paragraph (a);  
the first court shall transfer the relevant proceeding to that other court.
- (4) Where:
- (a) a proceeding (in this subsection referred to as the **relevant proceeding**) is pending in the Federal Court or the Family Court (in this subsection referred to as the **first court**); and
  - (b) it appears to the first court that:
    - (i) the relevant proceeding arises out of, or is related to, another proceeding pending in the Supreme Court of a State or Territory and it is more appropriate that the relevant proceeding be determined by that Supreme Court;
    - (ii) having regard to:
      - (A) whether, in the opinion of the first court, the relevant proceeding or a substantial part of it would have been incapable of being instituted in that court, apart from this Act and any law of the Australian Capital Territory or the Northern Territory relating to cross-vesting of jurisdiction; and
      - (B) whether, in the opinion of the first court, the relevant proceeding or a substantial part of it would have been capable of being instituted in the Supreme Court of a State or Territory, apart from this Act and any law of a State or Territory relating to cross-vesting of jurisdiction; and
      - (C) the extent to which, in the opinion of the first court, the matters for determination in the relevant proceeding are matters arising under or involving questions as to the application, interpretation or validity of a law of the State or Territory referred to in sub-subparagraph (B)

and not within the jurisdiction of the first court apart from this Act and any law of the Australian Capital Territory or the Northern Territory relating to cross-vesting of jurisdiction; and

(D) the interests of justice;

it is more appropriate that the relevant proceeding be determined by that Supreme Court; or

(iii) it is otherwise in the interests of justice that the relevant proceeding be determined by the Supreme Court of a State or Territory;

the first court shall transfer the relevant proceeding to that Supreme Court.

(5) Where:

(a) a proceeding (in this subsection referred to as the **relevant proceeding**) is pending in the Federal Court or the Family Court (in this subsection referred to as the **first court**); and

(b) it appears to the first court that:

(i) the relevant proceeding arises out of, or is related to, another proceeding pending in the other of the courts referred to in paragraph (a) and it is more appropriate that the relevant proceeding be determined by the other of the courts referred to in paragraph (a); or

(ii) it is otherwise in the interests of justice that the relevant proceeding be determined by the other of the courts referred to in paragraph (a);

the first court shall transfer the relevant proceeding to that other court.

(6) Where:

(a) a court (in this subsection referred to as the **first court**) transfers a proceeding to another court under a law or laws relating to cross-vesting of jurisdiction; and

(b) it appears to the first court that:

- (i) there is another proceeding pending in the first court that arises out of, or is related to, the first-mentioned proceeding; and
    - (ii) it is in the interests of justice that the other proceeding be determined by the other court;
- the first court shall transfer the other proceeding to the other court.
- (7) A court may transfer a proceeding under this section on the application of a party to the proceeding, of its own motion or on the application of the Attorney-General of the Commonwealth or of a State or Territory.
  - (8) A person who is entitled to practise as a barrister or a solicitor, or as both a barrister and a solicitor, in a court has, if a proceeding (in this subsection referred to as the ***transferred proceeding***) in that court is transferred to another court under a law or laws relating to cross-vesting of jurisdiction, the same entitlement to practise in relation to:
    - (a) the transferred proceeding; and
    - (b) any other proceeding out of which the transferred proceeding arises or to which the transferred proceeding is related, being another proceeding that is to be determined together with the transferred proceeding;in the other court that the person would have if the other court were a federal court exercising federal jurisdiction.
  - (9) Nothing in this section confers on a court jurisdiction that the court would not otherwise have.

Note: This section has effect subject to section 6 (Special federal matters: general rules) and section 6A (Special federal matters: Commonwealth authorities or officers acting under the laws of States).

## 6 Special federal matters: general rules

- (1) If:
  - (a) a matter for determination in a proceeding that is pending in the Supreme Court of a State or Territory is a special federal matter; and

(b) the court does not make an order under subsection (3) in respect of the matter;

the court must transfer the proceeding in accordance with this section to the Federal Court or a court mentioned in paragraph (2)(b).

Note: This section has effect subject to section 6A (Special federal matters: Commonwealth authorities or officers acting under the laws of States).

- (1A) However, the court must only transfer so much of the proceeding as is, in the opinion of the court, within the jurisdiction (including the accrued jurisdiction) of the Federal Court, or the court mentioned in paragraph (2)(b), as the case may be.
- (2) If the court orders that a proceeding or part of a proceeding be transferred, the proceeding or part of the proceeding must be transferred:
- (a) if the matter for determination in the proceeding is a matter mentioned in paragraph (a), (b), (c) or (e) of the definition of **special federal matter** in subsection 3(1)—to the Federal Court; or
  - (b) if the matter for determination in the proceeding is a matter mentioned in paragraph (ab) of that definition—to whichever of the Family Court, the Family Court of Western Australia or the Supreme Court of the Northern Territory, in the opinion of the court, is appropriate in the circumstances.
- (3) The Supreme Court may order that the proceeding be determined by that court if it is satisfied that there are special reasons for doing so in the particular circumstances of the proceeding other than reasons relevant to the convenience of the parties.
- (4) Before making an order under subsection (3), the court must be satisfied that:
- (a) a written notice specifying the nature of the special federal matter has been given to the Attorney-General of the Commonwealth and the Attorney-General of the State or Territory where the proceeding is pending; and

- (b) a reasonable time has elapsed since the giving of the notice for the Attorneys-General to consider whether submissions to the court should be made in relation to the proceeding.
- (5) For the purposes of subsection (4), the court:
  - (a) may adjourn the proceeding for such time as the court thinks necessary and may make such order as to costs in relation to an adjournment as it thinks fit; and
  - (b) may direct a party to the proceeding to give a notice in accordance with that subsection.
- (6) In considering whether there are special reasons for the purposes of subsection (3), the court must:
  - (a) have regard to the general rule that special federal matters should be heard by the Federal Court or a court mentioned in paragraph (2)(b), whichever is appropriate in the particular case; and
  - (b) take into account any submission made in relation to the proceeding by an Attorney-General mentioned in subsection (4).
- (7) The Attorney-General may authorise the payment by the Commonwealth to a party of an amount in respect of costs arising out of the adjournment of a proceeding under this section, under a corresponding provision of a law of a State or under this section and under such a provision.
- (8) Nothing in this section prevents the court granting urgent relief of an interlocutory nature if it is in the interests of justice to do so.
- (9) Where, through inadvertence, the Supreme Court of a State or Territory determines a proceeding of the kind mentioned in subsection (1) without:
  - (a) the court making an order under subsection (3) that the proceeding be determined by that court; or
  - (b) a notice mentioned in subsection (4) being given;nothing in this section invalidates the decision of that court.



- (10) This section does not apply to an appeal that is instituted in the Full Court of the Supreme Court of a State or Territory if the court whose decision is the subject of the appeal had made an order under subsection (3), or under subsection 6(1) as in force before the commencement of the amendments of this Act made by the *Law and Justice Legislation Amendment Act (No. 3) 1992*, in relation to the special federal matter.

### 6A Special federal matters: Commonwealth authorities or officers acting under the laws of States

- (1) This section applies to a proceeding (the *federal matter proceeding*) if:
- (a) a matter for determination in the proceeding is covered by paragraph (c) or (e) of the definition of *special federal matter* in subsection 3(1); and
  - (b) the matter for determination in the proceeding involves or relates to the exercise, or purported or proposed exercise, of functions or powers conferred on a Commonwealth authority, or officer of the Commonwealth, by an enactment (the *State enactment*) referred to in paragraph (ca) or (cb) of the definition of *enactment* in subsection 3(1) of the *Administrative Decisions (Judicial Review) Act 1977*; and
  - (c) the matter for determination in the proceeding arises out of, or relates to, another proceeding (the *State matter proceeding*) pending in any court of any State:
    - (i) that arises, or a substantial part of which arises, under the State enactment or a corresponding enactment of another State; and
    - (ii) none of the matters for determination in which are covered by paragraph (c) or (e) of the definition of *special federal matter* in subsection 3(1);
- regardless of which proceeding was commenced first.

Note: Paragraph (c) of the definition of *special federal matter* in subsection 3(1) refers to matters arising under the *Administrative Decisions (Judicial Review) Act 1977*, and paragraph (e) of that definition refers to matters that are within the original jurisdiction of the Federal Court by virtue of section 39B of the *Judiciary Act 1903*.

- (2) If:
- (a) the federal matter proceeding is pending in the Federal Court or the Family Court; and
  - (b) having regard to the interests of justice, including the desirability of related proceedings being heard in the same jurisdiction, the Federal Court or the Family Court considers it appropriate to transfer the proceeding to the Supreme Court of the State in which the State matter proceeding is pending; the Federal Court or the Family Court may transfer the proceeding to that Supreme Court. Subsection 5(4) does not apply to the federal matter proceeding.
- (3) If:
- (a) the federal matter proceeding is pending in the Supreme Court of a State; and
  - (b) the State matter proceeding is pending in any court of that State;
- neither subsection 5(1) nor section 6 applies to require the Supreme Court to transfer the federal matter proceeding to the Federal Court or the Family Court. However, the Supreme Court may do so if it considers that to be appropriate, having regard to the interests of justice, including the desirability of related proceedings being heard in the same jurisdiction.
- (4) Nothing in this section confers on a court jurisdiction that the court would not otherwise have.
- (5) The fact that references in this section to the interests of justice include the desirability of related proceedings being heard in the same jurisdiction does not of itself mean that references to the interests of justice elsewhere in this Act do not include that matter.
- (6) In this section:
- Commonwealth authority*** means an authority or other body (whether incorporated or not) that is established or continued in existence by or under an Act.

*officer of the Commonwealth* has the same meaning as in paragraph 75(v) of the Constitution.

## **7 Institution and hearing of appeals**

- (1) An appeal shall not be instituted from a decision of a single judge of the Federal Court or the Family Court to the Full Court of the Supreme Court of a State or Territory.
- (2) An appeal shall not be instituted from the Federal Court or the Family Court to the other of those courts.
- (3) Where it appears that the only matters for determination in a proceeding by way of an appeal from a decision of a single judge of the Supreme Court of a State or Territory are matters other than matters arising under an Act specified in the Schedule, that proceeding shall be instituted only in, and shall be determined only by, the Full Court of the Supreme Court of that State or Territory.
- (4) An appeal shall not be instituted from a decision of a court of summary jurisdiction of a State to the Supreme Court of the State if an appeal lies from that decision to the State Family Court of the State.
- (5) Subject to subsections (7) and (8), where it appears that a matter for determination in a proceeding by way of an appeal from a decision of a single judge of the Supreme Court of a State or Territory (not being a proceeding to which subsection (6) applies) is a matter arising under an Act specified in the Schedule, that proceeding shall be instituted only in, and shall be determined only by:
  - (a) the Full Court of the Federal Court or of the Family Court, as the case requires; or
  - (b) with special leave of the High Court, the High Court.
- (6) A proceeding by way of an appeal from a decision of a judge of a State Family Court, being a proceeding involving the determination of:
  - (a) a matter arising under an Act specified in the Schedule; and

(b) another matter;  
may be dealt with as if no matter for determination in the proceeding were a matter arising under an Act specified in the Schedule.

(7) Where:

- (a) the Full Court of the Supreme Court of a State or Territory commences to hear a proceeding by way of an appeal; and
- (b) before the Court determines the proceeding, it appears to the Court that the proceeding is a proceeding to which subsection (5) applies;

the Court shall, unless the interests of justice require that the Court proceed to determine the proceeding, transfer the proceeding to the Full Court of the Federal Court or of the Family Court, as the case requires.

(8) Where the Full Court of the Supreme Court of a State or Territory:

- (a) determines a proceeding to which subsection (5) applies as mentioned in subsection (7); or
- (b) through inadvertence, determines a proceeding to which subsection (5) applies;

nothing in this section invalidates the decision of that court.

## 8 Orders by Supreme Court of a Territory

(1) Where:

- (a) a proceeding (in this subsection referred to as the *relevant proceeding*) is pending in:
  - (i) a court, other than the Supreme Court, of a Territory; or
  - (ii) a tribunal established by or under a law of a Territory;and
- (b) it appears to the Supreme Court of that Territory that:
  - (i) the relevant proceeding arises out of, or is related to, another proceeding pending in the Federal Court, the Family Court, the Supreme Court of a State or the Supreme Court of another Territory and, if an order is made under this subsection in relation to the relevant

proceeding, there would be grounds on which that other proceeding could be transferred to the Supreme Court of that first-mentioned Territory; or

- (ii) an order should be made under this subsection in relation to the relevant proceeding so that consideration can be given to whether the relevant proceeding should be transferred to another court;

the Supreme Court of that first-mentioned Territory may, on the application of a party to the relevant proceeding or of its own motion, make an order removing the relevant proceeding to that Supreme Court.

- (2) Where an order is made under subsection (1) in relation to a proceeding, this Act applies in relation to the proceeding as if it were a proceeding pending in the court to which it was removed.
- (3) Where a proceeding is removed to a court in accordance with an order made under subsection (1), that court may, if the court considers it appropriate to do so, remit the proceeding to the court or tribunal from which the proceeding was removed.

## **9 Exercise of jurisdiction pursuant to cross-vesting laws**

- (1) Nothing in this or any other Act is intended to override or limit the operation of a provision of a law of a State relating to cross-vesting of jurisdiction.
- (2) The Supreme Court of a Territory may:
  - (a) exercise jurisdiction (whether original or appellate) conferred on that court by a provision of this Act or of a law of a State relating to cross-vesting of jurisdiction; and
  - (b) hear and determine a proceeding transferred to that court under such a provision.
- (3) The Federal Court or the Family Court may:
  - (a) exercise jurisdiction (whether original or appellate) conferred on that court by a provision of this Act or of a law of the

Australian Capital Territory or the Northern Territory relating to cross-vesting of jurisdiction; and

- (b) hear and determine a proceeding transferred to that court under such a provision.

## **10 Transfer of matters arising under the Australian Consumer Law**

Where:

- (a) a proceeding is pending in the Federal Court, the Family Court or the Supreme Court of a State or Territory;
- (b) a matter for determination in the proceeding is a matter arising under Part 2-2, 3-1, 3-3 or 3-4 of Schedule 2 to the *Competition and Consumer Act 2010*, as that Part applies as a law of the Commonwealth;
- (c) no matter for determination in the proceeding is a special federal matter;
- (d) the proceeding is not a proceeding by way of an appeal from a judgment of a court; and
- (e) a court of a State or Territory, other than the Supreme Court of that State or Territory, has jurisdiction with respect to all of the matters for determination in the proceeding;

the court referred to in paragraph (a) may, on the application of a party to the proceeding or of its own motion, transfer the proceeding to the court referred to in paragraph (e).

## **11 Conduct of proceedings**

- (1) Where it appears to a court that the court will, or will be likely to, in determining a matter for determination in a proceeding, be exercising jurisdiction conferred by this Act or by a law of a State relating to cross-vesting of jurisdiction:
  - (a) subject to paragraphs (b) and (c), the court shall, in determining that matter, apply the law in force in the State or Territory in which the court is sitting (including choice of law rules);
  - (b) subject to paragraph (c), if that matter is a right of action arising under a written law of another State or Territory, the

- court shall, in determining that matter, apply the written and unwritten law of that other State or Territory; and
- (c) the rules of evidence and procedure to be applied in dealing with that matter shall be such as the court considers appropriate in the circumstances, being rules that are applied in a superior court in Australia or in an external Territory.
- (2) The reference in paragraph (1)(a) to the State or Territory in which the court is sitting is, in relation to the Federal Court or the Family Court, a reference to the State or Territory in which any matter for determination in the proceeding was first commenced in or transferred to that court.
- (3) Where a proceeding is transferred or removed to a court (in this subsection referred to as the *transferee court*) from another court (in this subsection referred to as the *transferor court*), the transferee court shall deal with the proceeding as if, subject to any order of the transferee court, the steps that had been taken for the purposes of the proceeding in the transferor court (including the making of an order), or similar steps, had been taken in the transferee court.

## 12 Orders as to costs

Where a proceeding is transferred or removed to a court, that court may make an order as to costs that relate to the conduct of the proceeding before the transfer or removal if those costs have not already been dealt with by another court.

## 13 Limitation on appeals

An appeal does not lie from a decision of a court:

- (a) in relation to the transfer or removal of a proceeding under this Act; or
- (b) as to which rules of evidence and procedure are to be applied pursuant to subsection 11(1).

## **14 Enforcement and effect of judgments**

- (1) A judgment of the Federal Court or the Family Court that is given, in whole or in part, in the exercise of jurisdiction conferred by a law or laws relating to cross-vesting of jurisdiction is enforceable in a Territory as if the judgment had been given entirely in the exercise of the jurisdiction of that court apart from any such law.
- (2) A judgment of the Supreme Court of a Territory that is given, in whole or in part, in the exercise of jurisdiction conferred by a law or laws relating to cross-vesting of jurisdiction is enforceable in that Territory as if the judgment had been given entirely in the exercise of the jurisdiction of that court apart from any such law.
- (3) Where:
  - (a) a provision of a law of the Commonwealth or of a Territory (not being a law relating to the enforcement of judgments) refers to a thing done by the Federal Court, the Family Court or the Supreme Court of that Territory; and
  - (b) that thing is done by another court in the exercise of jurisdiction conferred by this Act;the reference in that provision to the Federal Court, the Family Court or the Supreme Court of that Territory, as the case may be, shall be read as a reference to that other court.

## **15 Construction of Act to be subject to Constitution**

This Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that if this Act would, but for this section, have been construed as being in excess of that power, it shall nevertheless be valid to the extent to which it is not in excess of that power.

## **16 Suspension or cessation of operation of Act**

- (1) Subject to subsection (2), the Governor-General may, if a Proclamation has not been made under subsection (4), by Proclamation, declare that the operation of this Act is suspended



from a day (being a day not earlier than 3 years after the commencement of this Act) specified in the Proclamation and, where such a Proclamation is made, this Act ceases to be in force from that day until a Proclamation is made under subsection (3) revoking the first-mentioned Proclamation.

- (2) The Governor-General shall not make a Proclamation under subsection (1) having effect from a particular day unless the Governor-General is satisfied that the Attorney-General has given notice of his or her intention to seek the making of such a Proclamation to each State (other than a State in relation to which a Proclamation under subsection (5) has been made) not less than 6 months before that day.
- (3) Where the Governor-General has made a Proclamation under subsection (1), the Governor-General may, by Proclamation, revoke the first-mentioned Proclamation.
- (4) Where the Governor-General is satisfied that State Acts relating to cross-vesting of jurisdiction are not effective to confer jurisdiction of the Supreme Courts of the States on the Federal Court or the Family Court, the Governor-General may, by Proclamation, declare that this Act shall, on a day specified in the Proclamation, cease to be in force and, where such a Proclamation is made, this Act ceases to be in force on that day.
- (5) Where the Governor-General is satisfied that an Act of a particular State relating to cross-vesting of jurisdiction has been repealed, rendered inoperative, suspended or altered in a substantial manner, the Governor-General may, by Proclamation, declare that this Act shall, on a day specified in the Proclamation, cease to be in force in relation to that State and, where such a Proclamation is made, this Act ceases to be in force in relation to that State on that day.
- (6) Where:
  - (a) the Governor-General has made a Proclamation under subsection (5) in relation to a State; and
  - (b) the Governor-General is satisfied that there is in force an Act of that State relating to cross-vesting of jurisdiction, being an

## Section 16

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Act in terms substantially corresponding to the terms of this Act;  
the Governor-General may, by Proclamation, declare that this Act again applies in relation to that State from a day specified in the Proclamation and, where such a Proclamation is made, this Act applies in relation to that State on and after that day.

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## Schedule

Section 7

*Advance Australia Logo Protection Act 1984*

*Bankruptcy Act 1966*

*Commonwealth Electoral Act 1918*

*Copyright Act 1968*

*Dental Benefits Act 2008*

*Designs Act 2003*

*Family Law Act 1975*

*Health Insurance Act 1973*

*Liquid Fuel Emergency Act 1984*

*Patents Act 1990*

*Referendum (Machinery Provisions) Act 1984*

*Shipping Registration Act 1981*

*Trade Marks Act 1955*

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*Jurisdiction of Courts (Cross-vesting) Act 1987*

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## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Jurisdiction of Courts (Cross-vesting) Act 1987	24, 1987	26 May 1987	1 July 1988 ( <i>see Gazette</i> 1988, No. S191)	
Industrial Relations (Consequential Provisions) Act 1988	87, 1988	8 Nov 1988	ss. 1 and 2: Royal Assent Remainder: 1 Mar 1989 ( <i>see s. 2(2) and Gazette</i> 1989, No. S53)	s. 95
Trade Practices (Misuse of Trans-Tasman Market Power) Act 1990	70, 1990	16 June 1990	1 July 1990 ( <i>see Gazette</i> 1990, No.S172)	—
Patents Act 1990	83, 1990	30 Oct 1990	30 Apr 1991	—
Law and Justice Legislation Amendment Act (No. 3) 1992	165, 1992	11 Dec 1992	s. 4 (Schedule [in part]): 11 Dec 1993 ( <i>a</i> )	s. 3(1)
Trade Practices Legislation Amendment Act 1992	222, 1992	24 Dec 1992	21 Jan 1993	—
Industrial Relations Reform Act 1993	98, 1993	22 Dec 1993	ss. 49–51: 30 Mar 1994 ( <i>see Gazette</i> 1994, No. S104) ( <i>b</i> )	—
Native Title Act 1993	110, 1993	24 Dec 1993	s. 220: 1 Jan 1994 ( <i>see Gazette</i> 1993, No. S402) ( <i>c</i> )	—
Competition Policy Reform Act 1995	88, 1995	20 July 1995	s. 32: 17 Aug 1995 ( <i>d</i> )	—
Family Law Reform (Consequential Amendments) Act 1995	140, 1995	12 Dec 1995	Schedule 1 (Part 6): 11 June 1996 ( <i>see Gazette</i> 1996, No. GN5) ( <i>e</i> )	—

*Jurisdiction of Courts (Cross-vesting) Act 1987*

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Schedule 17 (items 12, 13): 17 Jan 1997 ( <i>see Gazette</i> 1997, No. S18) ( <i>f</i> ) Schedule 19 (item 24): Royal Assent ( <i>f</i> )	s. 2(2) and (6) (am. by 77, 1996, Sch. 3 [items 1, 2])
<b>as amended by</b>				
Workplace Relations and Other Legislation Amendment Act (No. 2) 1996	77, 1996	19 Dec 1996	Schedule 3 (items 1, 2): ( <i>g</i> )	—
Law and Justice Legislation Amendment Act 1997	34, 1997	17 Apr 1997	Schedule 12: Royal Assent ( <i>h</i> )	—
Jurisdiction of Courts Legislation Amendment Act 2000	57, 2000	30 May 2000	Schedule 1 (items 57–69): 1 July 2000 ( <i>see Gazette</i> 2000, No. GN25) ( <i>i</i> )	—
National Crime Authority Legislation Amendment Act 2001	135, 2001	1 Oct 2001	Schedules 1–7 and 9–12: 12 Oct 2001 ( <i>see Gazette</i> 2001, No. S428) Schedule 8: 13 Oct 2001 ( <i>see Gazette</i> 2001, No. S428)	—
Designs (Consequential Amendments) Act 2003	148, 2003	17 Dec 2003	Sch 2 (item 14): 17 June 2004 (s 2(1) item 2)	—
Building and Construction Industry Improvement (Consequential and Transitional) Act 2005	112, 2005	12 Sept 2005	s 4, 5(1), (3), (4) and Sch 1 (items 8, 9, 11): 9 Mar 2005 Sch 2 (item 2)	—



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Petroleum Retail Legislation Repeal Act 2006	113, 2006	23 Oct 2006	Sch 2: 1 Mar 2007 (s 2(1) item 2)	Sch 2 (item 2)
Dental Benefits (Consequential Amendments) Act 2008	42, 2008	25 June 2008	Sch 1 (item 5): 26 June 2008 (s 2(1) item 2)	—
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Sch 5 (item 39): 1 July 2009 (s 2(1) item 13)	—
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Sch 6 (items 1, 70–72, 165): 1 Jan 2011 (s 2(1) items 3, 5, 7)	—
Building and Construction Industry (Consequential and Transitional Provisions) Act 2016	88, 2016	1 Dec 2016	Sch 1 (item 5) and Sch 2: 2 Dec 2016 (s 2(1) items 2, 4)	Sch 2

<b>Name</b>	<b>Registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Building and Construction Industry Improvement Amendment (Transition to Fair Work) Regulation 2012 (SLI No. 80, 2012)	29 May 2012 (F2012L01109)	1 June 2012 (s 1.2)	—

*Jurisdiction of Courts (Cross-vesting) Act 1987*

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## Endnotes

### Endnote 3—Legislation history

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- (a) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by section 4 (Schedule [in part]) only of the *Law and Justice Legislation Amendment Act (No. 3) 1992*, subsection 2(5) of which provides as follows:
- (5) If the amendments mentioned in subsection (4) do not commence under that subsection within the period of 12 months commencing on the day on which the Act receives the Royal Assent, they commence on the first day after the end of that period.
- (b) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by sections 49–51 only of the *Industrial Relations Reform Act 1993*, subsection 2(6) of which provides as follows:
- (6) Subject to subsection (7), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
- (c) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by section 220 only of the *Native Title Act 1993*, subsection 2(2) of which provides as follows:
- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
- (d) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by Schedule 2 (section 32) only of the *Competition Policy Reform Act 1995*, subsection 2(1) of which provides as follows:
- (1) The following provisions commence on the 28th day after the day on which this Act receives the Royal Assent:
- (a) Parts 1, 2 and 7;
- (e) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by Schedule 1 (Part 6) only of the *Family Law Reform (Consequential Amendments) Act 1995*, subsection 2(2) of which provides as follows:
- (2) The amendments made in Parts 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 of Schedule 1 commence on the commencement of section 31 of the *Family Law Reform Act 1995*.
- (f) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by Schedule 17 (items 12 and 13) and Schedule 19 (item 24) only of the *Workplace Relations and Other Legislation Amendment Act 1996*, subsections 2(1) and (2) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Subject to subsection (3), the items of the Schedules, other than Schedule 5, item 1 of Schedule 9, items 2 and 3 of Schedule 12, item 90 of Schedule 16 and the items of Schedule 19, commence on a day or days to be fixed by Proclamation.

Endnote 3—Legislation history

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- (g) The *Workplace Relations and Other Legislation Amendment Act 1996* was amended by Schedule 3 (items 1, 2) only of the *Workplace Relations and Other Legislation Amendment Act (No. 2) 1996*, subsection 2(4) of which provides as follows:
- (4) The items of Schedule 3 are taken to have commenced immediately after the *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent.
- (h) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by Schedule 12 only of the *Law and Justice Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (i) The *Jurisdiction of Courts (Cross-vesting) Act 1987* was amended by Schedule 1 (items 57–69) only of the *Jurisdiction of Courts Legislation Amendment Act 2000*, subsection 2(2) of which provides as follows:
- (2) The items in Schedule 1, other than items 77 to 90, commence on a day or days to be fixed by Proclamation.

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
Preamble .....	am. No. 57, 2000
s. 3 .....	am. No. 165, 1992; No. 98, 1993; Nos. 88 and 140, 1995; No. 60, 1996; No. 34, 1997; No. 57, 2000; No. 135, 2001; No. 103, 2010
s. 4 .....	am. No. 87, 1988; No. 70, 1990; Nos. 98 and 110, 1993; No. 60, 1996; No. 34, 1997; No. 112, 2005; No. 54, 2009; No. 103, 2010; SLI 2012 No. 80; No 88, 2016
s. 5 .....	am. No. 57, 2000
s. 6 .....	rs. No. 165, 1992 am. No. 57, 2000; No. 135, 2001
s. 6A .....	ad. No. 57, 2000
s. 9 .....	am. No. 57, 2000
s. 10 .....	am. No. 222, 1922; No. 103, 2010
Schedule .....	am. No. 83, 1990; No. 148, 2003; No. 113, 2006; No. 42, 2008

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