



Serial 177
Jurisdiction of
Courts (Cross-vesting)
Amendment
Mr Manzie

NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Jurisdiction of Courts
(Cross-vesting) Act*

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Jurisdiction of Courts (Cross-vesting) Amendment Act 1992*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. REPEAL AND SUBSTITUTION

Section 6 of the *Jurisdiction of Courts (Cross-vesting) Act* is repealed and the following substituted:

"6. SPECIAL FEDERAL MATTERS

"(1) Where a matter for determination in a proceeding that is pending in the Supreme Court is a special federal matter, the Supreme Court, if it does not make an order under subsection (3) in respect of the matter, shall transfer the proceeding in accordance with this section to the Federal Court or a court mentioned in subsection (2) (b).

"(2) If the court orders that a proceeding be transferred, the proceeding shall be transferred -

- (a) if the matter for determination in the proceeding is a matter mentioned in paragraph (a), (b), (c), (d) or (e) of the definition of 'special federal matter' in section 3(1) of the *Jurisdiction of Courts (Cross-vesting) Act 1987* of the Commonwealth - to the Federal Court; or

Jurisdiction of Courts (Cross-vesting) Amendment

- (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 or the Family Court of Western Australia, 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; and
- (b) a reasonable time has elapsed since the giving of the notice for the Attorney-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 shall -

- (a) act on the general rule that special federal matters should be heard by the Federal Court or mentioned in subsection (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) 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.

"(8) Where, through inadvertence, the Supreme Court determines a proceeding of the kind mentioned in subsection (1) without -

Jurisdiction of Courts (Cross-vesting) Amendment

- (a) the court making an order under subsection (3) that the proceeding be determined by the court; or
- (b) a notice mentioned in subsection (4) being given,

nothing in this section invalidates the decision of the court.

"(9) This section does not apply to a proceeding by way of an appeal that is instituted in the Full Court of the Supreme Court if the court the decision of which is the subject of the appeal had made an order under subsection (3), or under subsection (1) as in force before the commencement of the *Jurisdiction of Courts (Cross-vesting) Amendment Act 1992*, in relation to the special federal matter.

"(10) Despite the substitution of this section by the *Jurisdiction of Courts (Cross-vesting Amendment Act 1992*, this section as in force immediately before the commencement of that Act continues to apply in relation to a proceeding pending in a court to which this section applied before that commencement."
