

Queensland



**CORPORATIONS
(QUEENSLAND)
AMENDMENT ACT 1995**

Act No. 26 of 1995

Queensland



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**Corporations (Queensland) Amendment Act
1995**

Act No. 26 of 1995

An Act to amend the *Corporations (Queensland) Act 1990*

[Assented to 1 June 1995]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Corporations (Queensland) Amendment Act 1995*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Act amended

3. This Act amends the *Corporations (Queensland) Act 1990*.

Amendment of s 40 (Operation of Division)

4. Section 40(1)(a), ‘matters other than criminal matters (“civil” matters)’—

omit, insert—

‘civil matters’.

Amendment of s 41 (Interpretation)

5. Section 41(1)—

insert—

‘**“civil matter”** means a matter other than a criminal matter.

“Corporations Law” has the extended meaning given by subsection (2).

“lower court” means a court of a State or Territory that is not a superior court.

“superior court” means the Federal Court of Australia, the Supreme Court of a State or Territory, the Family Court or a State Family Court.

“**superior court matter**” means a civil matter the Corporations Law clearly intends (for example, by use of “**the Court**”) to be dealt with only by a superior court.’.

Insertion of new s 42B

6. After section 42A—

insert—

‘Jurisdiction of lower courts

‘**42B.(1)** Subject to the *Administrative Decisions (Judicial Review) Act 1977* (Cwlth), section 9 as it applies as a law of Queensland, jurisdiction is conferred on the lower courts of Queensland and of each other State and the Capital Territory with respect to civil matters, other than superior court matters, arising under the Corporations Law of Queensland.

‘(2) The jurisdiction conferred on a lower court by subsection (1)—

- (a) is subject to the court’s general jurisdictional limits, so far as they relate to the amounts, or the value of property, with which the court may deal; but
- (b) is not subject to the court’s other jurisdictional limits.’.

Amendment of s 43 (Appeals)

7. Section 43(4)—

omit, insert—

‘(4) An appeal may not be instituted from a decision of a court (not being a State Family Court) of another State to the Federal Court, to the Family Court, to a State Family Court of that State or to a court of a different State or of the Capital Territory.’.

Amendment of s 44A (Transfer of proceedings by Family Court and State Family Courts)

8.(1) Section 44A(2), ‘the Supreme Court’—

omit, insert—

‘another court’.

(2) Section 44A(2), ‘that Supreme Court’—

omit, insert—

‘the other court’.

Insertion of new s 44AA

9. After section 44A—

insert—

‘Transfer of proceedings in lower courts

‘44AA.(1) This section applies to a proceeding with respect to a civil matter arising under the Corporations Law of Queensland in a lower court (the **“first court”**) having jurisdiction under section 42B.

‘(2) If it appears to the first court that, having regard to the interests of justice, it is more appropriate for the proceeding, or an application in the proceeding, to be determined by another court (the **“second court”**) having jurisdiction in the matters for determination in the proceeding or application, the first court may take action under whichever of subsections (3) and (4) applies.

‘(3) If the second court is also a lower court, the first court may transfer the proceeding or application to the second court.

‘(4) If the second court is a superior court, the first court may transfer the proceeding or application to the relevant Supreme Court and recommend that the proceeding or application be transferred by the Supreme Court to the second court.

‘(5) The relevant Supreme Court is not bound to comply with a recommendation under subsection (4) and it may instead decide—

- (a) to deal with the proceeding or application itself; or
- (b) to transfer the proceeding or application to another court (which could be the first court).

‘(6) Nothing in this section allows the relevant Supreme Court to transfer the proceeding or application to another court otherwise than under section 44 and the other requirements of this Division.

‘(7) In this section—

“**relevant Supreme Court**” means the Supreme Court of the State or Territory of which the first court is a court.’.

Amendment of s 44B (Further matters for a court to consider when deciding whether to transfer a proceeding)

10.(1) Section 44B, ‘or 44A’—

omit, insert—

‘, 44A or 44AA’.

(2) Section 44B—

insert—

‘(c) the other courts that have jurisdiction to deal with the proceeding or application.’.

Amendment of s 44C (Transfer may be made at any stage)

11. Section 44C, ‘or 44A’—

omit, insert—

‘, 44A or 44AA’.

Amendment of s 44D (Transfer of documents)

12. Section 44D, ‘or 44A’—

omit, insert—

‘, 44A or 44AA’.

Amendment of s 45 (Conduct of proceedings)

13.(1) Section 45(3), definition “**relevant jurisdiction**”, paragraph (c), ‘the Supreme Court’—

omit, insert—

‘a court’.

(2) Section 45(3), definition “**relevant jurisdiction**”, paragraph (d), ‘the Supreme Court of another State or the Capital Territory, or a State Family Court,’—

omit, insert—

‘a court of another State or the Capital Territory’.

Amendment of s 46 (Courts to act in aid of each other)

14. Section 46—

omit—

‘, the Judges of those courts’.

Amendment of s 47 (Exercise of jurisdiction pursuant to cross-vesting provisions)

15.(1) Section 47, ‘The Supreme Court’—

omit, insert—

‘A court’.

(2) Section 47, ‘that Court’—

omit, insert—

‘it’.

Amendment of s 50 (Enforcement of judgments etc.)

16.(1) Section 50(1), ‘the Supreme Court’—

omit, insert—

‘a court’.

(2) Section 50(1), ‘that Court’—

omit, insert—

‘that court’.

(3) Section 50(2)(a), ‘or a State Family Court’—

omit, insert—

‘, a State Family Court or a particular lower court of Queensland or of another State or of the Capital Territory’.

(4) Section 50(2), ‘or that State Family Court’—

omit, insert—

‘, that State Family Court or that lower court’.

Amendment of s 51 (Rules of the Supreme Court)

17.(1) Section 51—

insert—

‘(1A) When a lower court of Queensland is exercising jurisdiction with respect to matters arising under the Corporations Law of Queensland, the court must apply the rules of court made under subsection (1), with all necessary changes.’.

(2) Section 51(2) and (3), ‘the Supreme Court’—

omit, insert—

‘a court’.

(3) Section 51(2) and (3), ‘that Court’—

omit, insert—

‘that court’.

Amendment of s 60 (Interpretation of some expressions in the ASC Law, and the ASC Regulations, of Queensland)

18. Section 60(1), definition “**officer**”, paragraph (c)—

omit, insert—

‘(c) an administrator of the body or an administrator of a deed of company arrangement executed by the body; and’.

Replacement of s 75 (Application of Commonwealth Evidence Act)

19. Section 75—

omit, insert—

‘Application of Commonwealth Evidence Act

75.(1) For the purposes of the ASC Law of Queensland, Part 3 the following provisions of the *Evidence Act 1995* (Cwlth) apply as a law of Queensland—

- Part 2.2 (Documents)
- section 69 (Exception: business records)
- section 70 (Exception: contents of tags, labels and writing)
- section 71 (Exception: telecommunications)
- section 147 (Documents produced by processes, machines and other devices in the course of business)
- Part 4.6, Division 2 (Proof of certain matters by affidavits or written statements).

(2) Those provisions of the *Evidence Act 1995* (Cwlth) apply to an examination in the same way as they apply to a proceeding to which that Act applies under section 4 of that Act.’

Amendment of s 91 (Conferral of functions and powers in relation to cooperative scheme laws)

20. Section 91(1)(b), ‘as if the offence’—

omit, insert—

‘in relation to offences against the laws of the Commonwealth as if the offence against the cooperative scheme law’.

Insertion of new Div 6

21. Part 13—

insert—

Division 6—Application and saving provisions relating to amendments to this Act

‘Interpretation

‘96A. In this Division—

“Court” means the Federal Court or the Supreme Court of a State or Territory.

“jurisdiction amendments” means the amendments made by the *Corporations (Queensland) Amendment Act 1995*, sections 4 to 17.

“jurisdiction commencement” means the commencement of the jurisdiction amendments.

‘Application of jurisdiction amendments—general

‘96B. The jurisdiction amendments apply to proceedings commenced, or recommenced, after the jurisdiction commencement, whether the cause of action arose before or after that commencement.

‘Effect of decision that court did not have jurisdiction

‘96C.(1) This section applies if—

- (a) before the jurisdiction commencement, proceedings in respect of a civil matter under the Corporations Law of Queensland were commenced in a court (the **“first court”**) other than the Court; and
- (b) the first court, or another court on appeal from a decision of the first court, decided before the jurisdiction commencement that the first court did not have jurisdiction in respect of the matter; and
- (c) the decision that the first court did not have jurisdiction still stands at the jurisdiction commencement; and
- (d) the first court would have had jurisdiction in respect of the matter if the jurisdiction amendments had commenced before the cause of action arose.

‘(2) The validity of the decision that the first court did not have jurisdiction is not affected by the jurisdiction amendments.

‘(3) The decision does not affect a recommencement of the proceedings after the jurisdiction commencement.

‘Effect of absence of decision that court did not have jurisdiction

‘96D.(1) This section applies if—

- (a) before the jurisdiction commencement, proceedings in respect of a civil matter under the Corporations Law of Queensland were commenced in a court (the “**first court**”) other than the Court; and
- (b) either—
 - (i) no court expressly decided, before the jurisdiction commencement, whether the first court had jurisdiction in respect of the matter; or
 - (ii) a decision of the first court, or of another court on appeal from a decision of the first court, that the first court had jurisdiction in respect of the matter still stands at the jurisdiction commencement.

‘(2) For the purposes of consideration by a court, after the jurisdiction commencement, of whether the first court had jurisdiction in respect of the matter, the first court is taken to have had jurisdiction in respect of the matter if it would have had that jurisdiction if the jurisdiction amendments had commenced before the cause of action arose.’.