

Queensland



**JURISDICTION OF COURTS
(CROSS-VESTING)
AMENDMENT BILL 1993**

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JURISDICTION OF COURTS (CROSS-VESTING) AMENDMENT BILL 1993

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1993

A BILL

FOR

An Act to amend the Jurisdiction of Courts (Cross-vesting) Act 1987

Jurisdiction of Courts (Cross-vesting)
Amendment

The Parliament of Queensland enacts—	1
 Short title	2
<i>Clause1.</i> This Act may be cited as the <i>Jurisdiction of Courts (Cross-vesting) Amendment Act 1993</i> .	3 4
 Commencement	5
<i>Clause2.</i> This Act commences on a day to be fixed by proclamation.	6
 Amended Act	7
<i>Clause3.</i> The <i>Jurisdiction of Courts (Cross-vesting) Act 1987</i> is amended as set out in this Act.	8 9
 Amendment of s.3 (Interpretation)	10
<i>Clause4.(1)</i> Section 3(1) (definitions “ State ” and “ Territory ”)—	11
<i>omit.</i>	12
(2) Section 3(1)—	13
<i>insert—</i>	14
‘ “ State ” includes the Northern Territory and the Australian Capital Territory;	15
“ Territory ” does not include the Northern Territory or the Australian Capital Territory.’.	16
(3) Section 3(3)—	17
<i>omit.</i>	18 19 20
 Replacement of s.6 (Special federal matters)	21
<i>Clause5.</i> Section 6—	22

Jurisdiction of Courts (Cross-vesting)
Amendment

<i>omit, insert—</i>	1
‘Special federal matters	2
‘6.(1) If—	3
(a) a matter for determination in a proceeding that is pending in the Supreme Court is a special federal matter; and	4 5
(b) the court does not make an order under subsection (3) in respect of the matter;	6 7
the court must transfer the proceeding in accordance with this section to the Federal Court or a court mentioned in subsection (2)(b).	8 9
‘(2) If the court orders that a proceeding be transferred, the proceeding must be transferred—	10 11
(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 <i>Jurisdiction of Courts (Cross-vesting) Act 1987</i> of the Commonwealth—to the Federal Court; or	12 13 14 15 16
(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.	17 18 19 20 21
‘(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.	22 23 24 25
‘(4) Before making an order under subsection (3), the court must be satisfied that—	26 27
(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	28 29 30
(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.	31 32 33

*Jurisdiction of Courts (Cross-vesting)
Amendment*

- ‘(5)** For the purposes of subsection (4), the court— 1
- (a) may adjourn the proceeding for such time as the court thinks 2
necessary and may make such order as to costs in relation to an 3
adjournment as it thinks fit; and 4
- (b) may direct a party to the proceeding to give a notice in accordance 5
with that subsection. 6
- ‘(6)** In considering whether there are special reasons for the purposes of 7
subsection (3), the court must— 8
- (a) have regard to the general rule that special federal matters should 9
be heard by the Federal Court or a court mentioned in 10
subsection (2)(b), whichever is appropriate in the particular case; 11
and 12
- (b) take into account any submission made in relation to the 13
proceeding by an Attorney-General mentioned in subsection (4). 14
- ‘(7)** Nothing in this section prevents the court granting urgent relief of an 15
interlocutory nature if it is in the interests of justice to do so. 16
- ‘(8)** If, through inadvertence, the Supreme Court determines a 17
proceeding of the kind mentioned in subsection (1) without— 18
- (a) the court making an order under subsection (3) that the 19
proceeding be determined by that court; or 20
- (b) a notice mentioned in subsection (4) being given; 21
- nothing in this section invalidates the decision of that court. 22
- ‘(9)** This section does not apply to a proceeding by way of an appeal that 23
is instituted in the Full Court of the Supreme Court if the court the decision 24
of which is the subject of the appeal had made an order under 25
subsection (3), or under section 6(1) as in force before the commencement 26
of the *Jurisdiction of Courts (Cross-vesting) Amendment Act 1993*, in 27
relation to the special federal matter.’. 28

Jurisdiction of Courts (Cross-vesting)
Amendment

Omission of s.15 (Construction of Act to be subject to legislative power of State)	1
	2
<i>Clause</i> 6. Section 15—	3
<i>omit.</i>	4
 Amendment of s.16 (Suspension or cessation of operation of Act)	5
<i>Clause</i> 7.(1) Section 16(1) and (3) to (6)—	6
<i>omit</i> ‘published in the Gazette’.	7
(2) Section 16—	8
<i>insert—</i>	9
‘(7) A proclamation under this section is subordinate legislation.’.	10
 Insertion of new s.17	11
<i>Clause</i> 8. After section 16—	12
<i>insert—</i>	13
‘Saving	14
‘17. This Act, as in force immediately before the commencement of the	15
<i>Jurisdiction of Courts (Cross-vesting) Amendment Act 1993</i> , continues to	16
apply to a proceeding pending in a court to which section 6 of the Act	17
applied before that commencement.’.	18
	19