

**JURISDICTION OF COURTS (CROSS-VESTING)
AMENDMENT ACT 1992 No. 62**

NEW SOUTH WALES



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**JURISDICTION OF COURTS (CROSS-VESTING)
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NEW SOUTH WALES



Act No. 62, 1992

An Act to amend the Jurisdiction of Courts (Cross-vesting) Act 1987 to make further provision in relation to the transfer of special federal matters from the Supreme Court to federal courts; and for related purposes.
[Assented to 3 November 1992]

Jurisdiction of Courts (Cross-vesting) Amendment Act 1992 No. 62

The Legislature of New South Wales enacts:

Short title

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

Commencement

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

Amendment of Jurisdiction of Courts (Cross-vesting) Act 1987 No. 125

3. The Jurisdiction of Courts (Cross-vesting) Act 1987 is amended by omitting section 6 and by inserting instead the following section:

Special federal matters

6. (1) If

- (a) a matter for determination in a proceeding that is pending in the Supreme Court 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 subsection (2) (b).

(2) If the court orders that a proceeding be transferred, the proceeding must 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
- (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.

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(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 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 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) If, through inadvertence, the Supreme Court 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.

(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 section 6 (1) as in force before the commencement of the Jurisdiction of Courts (Cross-vesting) Amendment Act 1992, in relation to the special federal matter.

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Application

4. Despite the amendments of the Jurisdiction of Courts (Cross-vesting) Act 1987 made by this Act, that Act as in force immediately before the commencement of those amendments continues to apply in relation to a proceeding pending in a court to which section 6 of that Act applied before that commencement.

*[Minister's second reading speech in—
Legislative Assembly on 3, September 1992
Legislative Council on 27 October 1992]*