



Federal Magistrates (Consequential Amendments) Act 1999

No. 194, 1999



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An Act to make consequential amendments relating to the *Federal Magistrates Act 1999*, and for other purposes

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No. 194, 1999

An Act to make consequential amendments relating to the *Federal Magistrates Act 1999*, and for other purposes

[Assented to 23 December 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Federal Magistrates (Consequential Amendments) Act 1999*.

2 Commencement

- (1) Subject to this section, this Act commences on the commencement of the *Federal Magistrates Act 1999*.

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- (2) If the *ACIS Administration Act 1999* commences after the commencement of section 1 of this Act, Schedule 1 to this Act commences immediately after the commencement of the *ACIS Administration Act 1999*.
 - (3) If Schedule 1 to the *Human Rights Legislation Amendment Act (No. 1) 1999* commences after the commencement of section 1 of this Act, Schedule 16 to this Act commences immediately after the commencement of Schedule 1 to the *Human Rights Legislation Amendment Act (No. 1) 1999*.
 - (4) If item 2 of Schedule 1 to the *Human Rights Legislation Amendment Act (No. 2) 1999* commences before the commencement of section 1 of this Act, this Act has effect as if the amendments of the *Human Rights and Equal Opportunities Commission Act 1986* contained in Schedule 16 to this Act were amendments of the *Human Rights and Responsibilities Commission Act 1986*.
 - (5) If section 151AQA of the *Trade Practices Act 1974* commences after the commencement of section 1 of this Act, items 5 and 6 of Schedule 25 to this Act commence immediately after the commencement of section 151AQA of the *Trade Practices Act 1974*.
 - (6) If section 152DNB of the *Trade Practices Act 1974* commences after the commencement of section 1 of this Act, item 7 of Schedule 25 to this Act commences immediately after the commencement of section 152DNB of the *Trade Practices Act 1974*.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the ACIS Administration Act 1999

1 Paragraph 112(1)(a)

Repeal the paragraph, substitute:

- (a) application is made for review of the original decision to:
 - (i) the Federal Court or the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977*; or
 - (ii) the Federal Court under section 39B of the *Judiciary Act 1903*; and

Note: The heading to section 112 is altered by omitting “**Federal Court**” and substituting “**court**”.

2 Paragraph 112(1)(b)

Omit “Federal Court”, substitute “court”.

3 Subsection 112(1)

Omit “Federal Court’s”, substitute “court’s”.

4 Subsection 112(2)

Omit “Federal Court’s”, substitute “court’s”.

5 Subsection 112(2)

Omit “the Court”, substitute “the court”.

6 Subsection 112(3)

Omit “Federal Court’s” (wherever occurring), substitute “court’s”.

7 Subsection 112(4)

Omit “Federal Court’s”, substitute “court’s”.

8 Paragraph 112(4)(a)

Omit “Federal Court”, substitute “court”.

Schedule 2—Amendment of the Acts Interpretation Act 1901

1 At the end of section 16C

Add:

- (3) Unless the contrary intention appears, a reference in an Act to a *Magistrate* does not include a reference to a Federal Magistrate.

2 Paragraph 26(d)

After “sitting as a court”, insert “(other than the Federal Magistrates Court)”.

Schedule 3—Amendment of the Administrative Appeals Tribunal Act 1975

1 Paragraph 36A(2)(a)

Omit “the Court”, substitute “a court”.

2 Paragraph 36C(2)(a)

Omit “the Court”, substitute “a court”.

3 Subsection 43(5C)

Omit “Tribunal or the Federal Court of Australia”, substitute “Tribunal, the Federal Court of Australia or the Federal Magistrates Court”.

4 Subsection 43A(2)

After “Federal Court of Australia”, insert “or the Federal Magistrates Court”.

5 Subsection 43A(2)

Omit “that Court” (wherever occurring), substitute “the court”.

6 Subsection 43A(2)

After “paragraph 46(1)(a)”, insert “or (c)”.

7 After section 44

Insert:

44AA Transfer of appeals from Federal Court to Federal Magistrates Court

- (1) If an appeal under subsection 44(1) or (2) is pending in the Federal Court of Australia, the Federal Court of Australia may, by order, transfer the appeal from the Federal Court of Australia to the Federal Magistrates Court.
- (2) However, the Federal Court of Australia must not transfer an appeal to the Federal Magistrates Court if the appeal:

- (a) relates to a decision given by the Tribunal constituted by a member who was, or by members at least one of whom was, a presidential member; or
 - (b) relates to a decision given by the Tribunal on application for review of a decision under:
 - (i) the *Australian Citizenship Act 1948*; or
 - (ii) the *Immigration (Guardianship of Children) Act 1946*; or
 - (iii) the *Migration Act 1958*; or
 - (iv) regulations under an Act referred to in subparagraph (i), (ii) or (iii); or
 - (c) is of a kind specified in the regulations.
- (3) The Federal Court of Australia may transfer an appeal under subsection (1):
- (a) on the application of a party to the appeal; or
 - (b) on its own initiative.
- (4) Rules of Court made under the *Federal Court of Australia Act 1976* may make provision in relation to transfers of appeals to the Federal Magistrates Court under subsection (1).
- (5) In particular, Rules of Court made under the *Federal Court of Australia Act 1976* may set out factors that are to be taken into account by the Federal Court of Australia in deciding whether to transfer appeals to the Federal Magistrates Court under subsection (1).
- (6) Before Rules of Court are made for the purposes of subsection (4) or (5), the Federal Court of Australia must consult the Federal Magistrates Court.
- (7) In deciding whether to transfer an appeal to the Federal Magistrates Court under subsection (1), the Federal Court of Australia must have regard to:
- (a) any Rules of Court made for the purposes of subsection (5); and
 - (b) whether proceedings in respect of an associated matter are pending in the Federal Magistrates Court; and
 - (c) whether the resources of the Federal Magistrates Court are sufficient to hear and determine the appeal; and

- (d) the interests of the administration of justice.
- (8) The Federal Magistrates Court has jurisdiction to hear and determine appeals transferred to it under subsection (1).
- (9) Subsections 44(4), (5) and (6) apply in relation to the hearing and determination of an appeal transferred to the Federal Magistrates Court under subsection (1) of this section in a corresponding way to the way in which they apply to the hearing and determination of an appeal by the Federal Court of Australia.
- (10) An appeal does not lie from a decision of the Federal Court of Australia in relation to the transfer of an appeal under subsection (1).

8 After subsection 44A(2)

Insert:

- (2A) If an appeal from a decision of the Tribunal is transferred from the Federal Court of Australia to the Federal Magistrates Court, the Federal Magistrates Court or a Federal Magistrate may make such order or orders staying or otherwise affecting the operation or implementation of either or both of the following:
 - (a) the decision of the Tribunal or a part of that decision;
 - (b) the decision to which the proceeding before the Tribunal related or a part of that decision;as the Federal Magistrates Court or Federal Magistrate considers appropriate for the purpose of securing the effectiveness of the hearing and determination of the appeal.

9 Subsection 44A(3)

Repeal the subsection, substitute:

- (3) If an order is in force under subsection (2) or (2A) (including an order that has previously been varied on one or more occasions under this subsection):
 - (a) the Federal Court of Australia or a Judge of that Court; or
 - (b) the Federal Magistrates Court or a Federal Magistrate;may make an order varying or revoking the first-mentioned order.

10 Subsection 44A(4)

After “subsection (2)”, insert “or (2A)”.

11 Paragraph 46(1)(b)

Before “at the conclusion”, insert “except in the case of an appeal that is transferred to the Federal Magistrates Court—”.

12 At the end of subsection 46(1)

Add:

; and (c) in the case of an appeal that is transferred to the Federal Magistrates Court:

- (i) the Federal Court of Australia must cause the documents to be sent to the Federal Magistrates Court; and
- (ii) at the conclusion of the proceedings before the Federal Magistrates Court in relation to the appeal, the Federal Magistrates Court must cause the documents to be returned to the Tribunal.

Note: The heading to section 46 is altered by adding at the end “**and the Federal Magistrates Court**”.

13 Subsection 46(2)

After “Federal Court of Australia”, insert “or the Federal Magistrates Court”.

14 Subsection 46(2)

Omit “Court” (last occurring), substitute “court”.

15 At the end of subsection 46(2)

Add:

However, this subsection does not prevent the Federal Court of Australia from causing the document to be sent to the Federal Magistrates Court as mentioned in subparagraph (1)(c)(i).

16 Paragraph 46(3)(b)

After “Federal Court of Australia”, insert “or the Federal Magistrates Court”.

17 Paragraph 46(3)(c)

Omit “Court”, substitute “court”.

18 Subsection 46(4)

Omit “Court” (wherever occurring), substitute “court”.

Schedule 4—Amendment of the Administrative Decisions (Judicial Review) Act 1977

1 Subsection 3(1) (definition of *Court*)

Repeal the definition.

2 Subsection 3(1)

Insert:

Federal Court Rules means the Rules of Court made under the
Federal Court of Australia Act 1976.

3 Subsection 3(1)

Insert:

Federal Magistrates Rules means the Rules of Court made under
the *Federal Magistrates Act 1999*.

4 Subsection 3(1) (definition of *Rules of Court*)

Repeal the definition.

5 Subsection 3(1) (definition of *the Court or a Judge*)

Repeal the definition.

6 Subsection 5(1)

Omit “Court”, substitute “Federal Court or the Federal Magistrates
Court”.

7 At the end of section 5

Add:

- (4) A person is not entitled to make an application under subsection
(1) to the Federal Magistrates Court for an order of review in
respect of a decision under:
- (a) the *Australian Citizenship Act 1948*; or
 - (b) the *Immigration (Education) Act 1971*; or
 - (c) the *Immigration (Guardianship of Children) Act 1946*; or

- (d) the *Migration Act 1958*; or
- (e) regulations under an Act referred to in paragraph (a), (b), (c) or (d).

8 Subsection 6(1)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

9 At the end of section 6

Add:

- (4) A person is not entitled to make an application under subsection (1) to the Federal Magistrates Court for an order of review in respect of conduct that has been engaged in, is being engaged in, or is proposed to be engaged in, for the purpose of making a decision under:
 - (a) the *Australian Citizenship Act 1948*; or
 - (b) the *Immigration (Education) Act 1971*; or
 - (c) the *Immigration (Guardianship of Children) Act 1946*; or
 - (d) the *Migration Act 1958*; or
 - (e) regulations under an Act referred to in paragraph (a), (b), (c) or (d).

10 Subsection 7(1)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

11 Subsection 7(2)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

12 At the end of section 7

Add:

- (3) A person is not entitled to make an application under subsection (1) or (2) to the Federal Magistrates Court for an order of review in respect of a failure to make a decision under:
 - (a) the *Australian Citizenship Act 1948*; or
 - (b) the *Immigration (Education) Act 1971*; or
 - (c) the *Immigration (Guardianship of Children) Act 1946*; or

- (d) the *Migration Act 1958*; or
- (e) regulations under an Act referred to in paragraph (a), (b), (c) or (d).

13 Section 8

Before “Court” (wherever occurring), insert “Federal”.

14 At the end of section 8

Add:

- (2) The Federal Magistrates Court has jurisdiction to hear and determine applications made to the Federal Magistrates Court under this Act.

Note: The heading to section 8 is altered by adding at the end “**and Federal Magistrates Court**”.

15 Subsection 10(1)

Omit “to the Court”, insert “to the Federal Court or the Federal Magistrates Court”.

16 Paragraph 10(1)(a)

Omit “the Court”, substitute “the court”.

17 Paragraph 10(2)(a)

Omit “the Court” (wherever occurring), substitute “the Federal Court or the Federal Magistrates Court”.

18 Paragraph 10(2)(b)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

19 Paragraph 10(2)(b)

Omit “Court” (second occurring), substitute “court”.

20 Subparagraph 10(2)(b)(i)

Omit “the Court”, substitute “the court”.

21 Subparagraph 10(2)(b)(ii)

Omit “the Court”, substitute “the court”.

22 Subsection 11(1)

Omit “the Court”, substitute “the Federal Court or the Federal Magistrates Court”.

23 Paragraph 11(1)(a)

Omit “by Rules of Court;”, substitute:

by:

- (i) in the case of an application to the Federal Court—
Federal Court Rules; or
- (ii) in the case of an application to the Federal Magistrates Court—Federal Magistrates Rules; and

24 Paragraph 11(1)(c)

Omit “the Court” (wherever occurring), substitute “the court concerned”.

25 Subsection 11(2)

Omit “the Court”, substitute “the Federal Court or the Federal Magistrates Court”.

26 Subsection 11(2)

Omit “by Rules of Court.”, substitute:

by:

- (i) in the case of an application to the Federal Court—
Federal Court Rules; or
- (ii) in the case of an application to the Federal Magistrates Court—Federal Magistrates Rules.

27 Subparagraph 11(3)(b)(ii)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

28 Subsection 11(4)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

29 Subsection 11(4)

Omit “Court” (second occurring), substitute “court”.

30 Subsection 11(5)

Omit “Court”, substitute “court”.

31 Subsection 11(6)

Omit “Court”, substitute “court concerned”.

32 Subsection 11(7)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

33 Subsection 11(7)

Omit “Court” (second and third occurring), substitute “court”.

34 Subsection 11(8)

Omit “Rules of Court”, substitute “Federal Court Rules”.

35 Subsection 11(8)

Omit “the Court”, substitute “the Federal Court”

36 After subsection 11(8)

Insert:

(8A) The Federal Magistrates Rules may make provision for and in relation to service on appropriate persons of copies of documents lodged with a Registry of the Federal Magistrates Court under this Act.

37 Subsection 11(9)

Omit “Rules of Court”, substitute “Federal Court Rules or Federal Magistrates Rules”.

38 Subsection 12(1)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

39 Subsection 12(1)

Omit “Court” (second occurring), substitute “court”.

40 Subsection 12(2)

Omit “Court”, substitute “court”.

41 Subsection 13(1)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

42 Paragraph 13(3)(b)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

43 Subsection 13(4)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

44 Paragraph 13(4)(a)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

45 Paragraph 13(4)(b)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

46 Paragraph 13(4)(b)

Omit “Court” (second occurring), substitute “court”.

47 Subsection 13(4)

Omit “Court” (last occurring), substitute “court”.

48 Subsection 13(4A)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

49 Subsection 13(6)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

50 Subsection 13(7)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

51 Subsection 13(7)

Omit “Court” (second occurring), substitute “court”.

52 After subsection 13(10)

Insert:

(10A) A person is not entitled to make an application under this section to the Federal Magistrates Court for an order in relation to a decision under:

- (a) the *Australian Citizenship Act 1948*; or
- (b) the *Immigration (Education) Act 1971*; or
- (c) the *Immigration (Guardianship of Children) Act 1946*; or
- (d) the *Migration Act 1958*; or
- (e) regulations under an Act referred to in paragraph (a), (b), (c) or (d).

53 Subsection 13A(4)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

54 Subsection 13A(4)

Omit “Court” (second occurring), substitute “court”.

55 Subsection 14(4)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

56 Subsection 14(4)

Omit “Court” (second occurring), substitute “court”.

57 Subsection 15(1)

Omit “Court”, substitute “Federal Court”.

58 At the end of section 15

Add:

(3) In this section:

the Court or a Judge has the same meaning as in the *Federal Court of Australia Act 1976*.

Note: The heading to section 15 is altered by adding at the end “—**Federal Court**”.

59 After section 15

Insert:

15A Stay of proceedings—Federal Magistrates Court

- (1) The making of an application to the Federal Magistrates Court under section 5 in relation to a decision does not affect the operation of the decision or prevent the taking of action to implement the decision but:
 - (a) the Federal Magistrates Court or a Federal Magistrate may, by order, on such conditions (if any) as it or he or she thinks fit, suspend the operation of the decision; and
 - (b) the Federal Magistrates Court or a Federal Magistrate may order, on such conditions (if any) as it or he or she thinks fit, a stay of all or any proceedings under the decision.
- (2) The Federal Magistrates Court or a Federal Magistrate may make an order under subsection (1) on its or his or her own initiative or on the application of the person who made the application under section 5.
- (3) In this section:

the Federal Magistrates Court or a Federal Magistrate has the same meaning as in the *Federal Magistrates Act 1999*.

60 Subsection 16(1)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

Note: The heading to section 16 is altered by omitting “**Court**” and substituting “**Federal Court and the Federal Magistrates Court**”.

61 Paragraphs 16(1)(a), (b) and (d)

Omit “Court” (wherever occurring), substitute “court”.

62 Subsection 16(2)

Omit “Court” (first occurring), substitute “Federal Court or the Federal Magistrates Court”.

63 Paragraph 16(2)(b)

Omit “Court”, substitute “court”.

64 Subsection 16(3)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

65 Paragraph 16(3)(c)

Omit “Court”, substitute “court”.

66 Subsection 16(4)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

67 Paragraph 17(a)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

68 Subsection 18(1)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

69 Subsection 18(2)

Omit “Court” (wherever occurring), substitute “court”.

70 Paragraph 18A(3)(f)

Omit “Rules of Court”, substitute “Federal Court Rules”.

71 Subsection 19(1)

Omit “Court”, substitute “Federal Court or the Federal Magistrates Court”.

72 Transitional—section 19 of the *Administrative Decisions (Judicial Review) Act 1977*

Regulations in force for the purposes of subsection 19(1) of the *Administrative Decisions (Judicial Review) Act 1977* immediately before the commencement of this item have effect, after the commencement of this item, as if:

- (a) they had been made for the purposes of subsection 19(1) of the *Administrative Decisions (Judicial Review) Act 1977* as amended by this Act; and
- (b) each reference in those regulations to the Federal Court included a reference to the Federal Magistrates Court.

Schedule 5—Amendment of the Archives Act 1983

1 At the end of section 53

Add:

- (6) Subsection (5) does not prevent the Federal Court of Australia from causing the document concerned to be sent to the Federal Magistrates Court as mentioned in subparagraph 46(1)(c)(i) of the *Administrative Appeals Tribunal Act 1975*.
- (7) If a document produced in accordance with subsection (1) or (2) is sent to the Federal Magistrates Court as mentioned in subparagraph 46(1)(c)(i) of the *Administrative Appeals Tribunal Act 1975*, the Federal Magistrates Court must do all things necessary to ensure that the contents of the document are not disclosed (otherwise than in accordance with this Act) to any person other than:
 - (a) the Federal Magistrate who constitutes the Federal Magistrates Court for the purposes of the proceeding before the Federal Magistrates Court; or
 - (b) a member of the staff of the Federal Magistrates Court in the course of the performance of his or her duties as a member of that staff.

Schedule 6—Amendment of the Australian Citizenship Act 1948

1 Subparagraph 15(2)(a)(ii)

After “federal court”, insert “(other than the Federal Magistrates Court),
being a Judge”.

2 After subparagraph 15(2)(a)(ii)

Insert:

(ia) a Federal Magistrate who is an Australian citizen;

Schedule 7—Amendment of the Bankruptcy Act 1966

1 Subsection 5(1) (at the end of the definition of *magistrate*)

Add:

Note: A Federal Magistrate is not covered by this definition.

2 Subsection 5(1) (definition of *Registrar*)

Repeal the definition, substitute:

Registrar means:

- (a) the Registrar, a Deputy Registrar, a District Registrar or a Deputy District Registrar of the Federal Court; or
- (b) a Registrar of the Federal Magistrates Court.

3 At the end of section 5

Add:

- (5) To avoid doubt, a Federal Magistrate is taken to be a Judge of a Court having jurisdiction under this Act.

4 Section 27

Omit “has”, substitute “and the Federal Magistrates Court have concurrent”.

5 Subsection 30(3)

Before “Court” (wherever occurring), insert “Federal”.

6 After subsection 35A(2)

Insert:

- (2A) If a proceeding is pending in the Federal Magistrates Court, the Federal Magistrates Court may, on the application of a party to the proceeding or on its own initiative, transfer the proceeding to the Family Court.

7 Subsection 35A(5)

After “Federal Court”, insert “or the Federal Magistrates Court”.

Schedule 8—Amendment of the Child Support (Assessment) Act 1989

1 Section 5

Insert:

applicable Rules of Court has the same meaning as in the *Family Law Act 1975*.

2 Section 5 (definition of *Family Law Act 1975*)

Omit “the regulations and Rules of Court made”, substitute “regulations”.

3 Section 5

Insert:

related Federal Magistrates Rules has the same meaning as in the *Family Law Act 1975*.

4 Section 5 (definition of *Rules of Court*)

Repeal the definition.

5 Section 5

Insert:

standard Rules of Court has the same meaning as in the *Family Law Act 1975*.

6 Subsection 99(1)

After “the Family Court”, insert “and the Federal Magistrates Court”.

7 Subsection 100(1)

Omit “applies”, substitute “, the standard Rules of Court and the related Federal Magistrates Rules apply”.

8 Subsection 100(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

9 Section 101

After “102” (wherever occurring), insert “, 102A”.

10 Subsection 102(3)

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

11 After section 102

Insert:

102A Appeals to Family Court from the Federal Magistrates Court

- (1) An appeal lies, with the leave of the Family Court, to the Family Court from:
 - (a) a decree of the Federal Magistrates Court exercising original jurisdiction under this Act; or
 - (b) a decree or decision of a Federal Magistrate exercising original jurisdiction under this Act rejecting an application that he or she disqualify himself or herself from further hearing a matter.
- (2) The jurisdiction of the Family Court in relation to an appeal under subsection (1) is to be exercised by a Full Court unless the Chief Judge of the Family Court considers that it is appropriate for the jurisdiction of the Family Court in relation to the appeal to be exercised by a single Judge.
- (3) Subsection (2) has effect subject to subsections (7) and (9).
- (4) An application for leave to appeal under subsection (1) is to be made within:
 - (a) the time prescribed by the standard Rules of Court; or
 - (b) such further time as is allowed under the standard Rules of Court.
- (5) On an appeal under subsection (1), the Family Court may affirm, reverse or vary the decree or decision the subject of the appeal and may make such decree or decision as, in the opinion of the court, ought to have been made in the first instance, or may, if it considers appropriate, order a re-hearing, on such terms and conditions (if any) as it considers appropriate.

- (6) If, in dismissing an appeal under subsection (1), the Family Court is of the opinion that the appeal does not raise any question of general principle, it may, in accordance with the standard Rules of Court, give reasons for its decision in short form.
- (7) A single Judge or a Full Court may:
- (a) join or remove a party to an appeal under subsection (1); or
 - (b) make an order by consent disposing of an appeal under subsection (1) (including an order for costs); or
 - (c) give directions about the conduct of an appeal under subsection (1), including directions about:
 - (i) the use of written submissions; and
 - (ii) limiting the time for oral argument.
- (8) The standard Rules of Court may make provision enabling matters of the kind mentioned in subsection (7) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (9) Applications:
- (a) for leave to appeal under subsection (1); or
 - (b) for an extension of time within which to make an application for leave to appeal under subsection (1); or
 - (c) for leave to amend the grounds of an appeal under subsection (1); or
 - (d) to reinstate an appeal under subsection (1) that, because of the standard Rules of Court, was taken to have been abandoned; or
 - (e) to stay an order of the Family Court made in connection with an appeal under subsection (1);
- may be heard and determined by a single Judge or by a Full Court.
- (10) The standard Rules of Court may make provision enabling applications of a kind mentioned in subsection (9) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (11) An appeal does not lie to a Full Court from a decision of a single Judge exercising jurisdiction under this section.
- (12) The single Judge referred to in subsection (2), (7) or (9) need not be a member of the Appeal Division of the Family Court.
-

Note: The heading to section 102 is altered by omitting “**under Act**” and substituting “**from courts other than the Federal Magistrates Court**”.

12 At the end of section 103

Add:

- (3) If, in proceedings in the Federal Magistrates Court, being proceedings in which a decree to which subsection 102A(1) applies could be made, a question of law arises which:
 - (a) the Federal Magistrate; and
 - (b) at least one of the parties;wish to have determined by a Full Court of the Family Court before the proceedings are further dealt with:
 - (c) the Federal Magistrate must state the facts and question in the form of a special case for the opinion of a Full Court; and
 - (d) a Full Court must hear and determine the question.
- (4) The Full Court may draw, from the facts and the documents, any inference, whether of fact or of law, that could have been drawn from them by the Federal Magistrate.

13 Subsection 105(3)

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

14 Subsection 106(2)

Omit “Rules of Court” (wherever occurring), substitute “applicable Rules of Court”.

15 Subsection 106A(2)

Omit “Rules of Court” (wherever occurring), substitute “applicable Rules of Court”.

16 Subsection 107(2)

Omit “Rules of Court” (wherever occurring), substitute “applicable Rules of Court”.

17 Subsection 110(3)

Omit “Rules of Court” (wherever occurring), substitute “applicable Rules of Court”.

18 Subsection 132(2)

Omit “Rules of Court” (wherever occurring), substitute “applicable Rules of Court”.

19 Subsection 141(3)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

Schedule 9—Amendment of the Child Support (Registration and Collection) Act 1988

1 Subsection 4(1)

Insert:

applicable Rules of Court has the same meaning as in the *Family Law Act 1975*.

2 Subsection 4(1) (definition of *Family Law Act 1975*)

Omit “the regulations and Rules of Court made”, substitute “regulations”.

3 Subsection 4(1)

Insert:

related Federal Magistrates Rules has the same meaning as in the *Family Law Act 1975*.

4 Subsection 4(1) (definition of *Rules of Court*)

Repeal the definition.

5 Subsection 4(1)

Insert:

standard Rules of Court has the same meaning as in the *Family Law Act 1975*.

6 Subsection 104(1)

After “the Family Court”, insert “and the Federal Magistrates Court”.

7 Subsection 105(1)

Omit “and the regulations and Rules of Court made under that Act”, substitute “, the standard Rules of Court and the related Federal Magistrates Rules”.

8 Subsection 105(1)

Omit “Rules of Court” (second occurring), substitute “applicable Rules of Court”.

9 Section 106

After “107” (wherever occurring), insert “, 107A”.

10 Subsection 107(2)

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

11 After section 107

Insert:

107A Appeals to Family Court from the Federal Magistrates Court

- (1) An appeal lies, with the leave of the Family Court, to the Family Court from:
 - (a) a decree of the Federal Magistrates Court exercising original jurisdiction under this Act; or
 - (b) a decree or decision of a Federal Magistrate exercising original jurisdiction under this Act rejecting an application that he or she disqualify himself or herself from further hearing a matter.
- (2) The jurisdiction of the Family Court in relation to an appeal under subsection (1) is to be exercised by a Full Court unless the Chief Judge of the Family Court considers that it is appropriate for the jurisdiction of the Family Court in relation to the appeal to be exercised by a single Judge.
- (3) Subsection (2) has effect subject to subsections (7) and (9).
- (4) An application for leave to appeal under subsection (1) is to be made within:
 - (a) the time prescribed by the standard Rules of Court; or
 - (b) such further time as is allowed under the standard Rules of Court.
- (5) On an appeal under subsection (1), the Family Court may affirm, reverse or vary the decree or decision the subject of the appeal and may make such decree or decision as, in the opinion of the court, ought to have been made in the first instance, or may, if it considers appropriate, order a re-hearing, on such terms and conditions (if any) as it considers appropriate.

- (6) If, in dismissing an appeal under subsection (1), the Family Court is of the opinion that the appeal does not raise any question of general principle, it may, in accordance with the standard Rules of Court, give reasons for its decision in short form.
- (7) A single Judge or a Full Court may:
- (a) join or remove a party to an appeal under subsection (1); or
 - (b) make an order by consent disposing of an appeal under subsection (1) (including an order for costs); or
 - (c) give directions about the conduct of an appeal under subsection (1), including directions about:
 - (i) the use of written submissions; and
 - (ii) limiting the time for oral argument.
- (8) The standard Rules of Court may make provision enabling matters of the kind mentioned in subsection (7) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (9) Applications:
- (a) for leave to appeal under subsection (1); or
 - (b) for an extension of time within which to make an application for leave to appeal under subsection (1); or
 - (c) for leave to amend the grounds of an appeal under subsection (1); or
 - (d) to reinstate an appeal under subsection (1) that, because of the standard Rules of Court, was taken to have been abandoned; or
 - (e) to stay an order of the Family Court made in connection with an appeal under subsection (1);
- may be heard and determined by a single Judge or by a Full Court.
- (10) The standard Rules of Court may make provision enabling applications of a kind mentioned in subsection (9) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (11) An appeal does not lie to a Full Court from a decision of a single Judge exercising jurisdiction under this section.
- (12) The single Judge referred to in subsection (2), (7) or (9) need not be a member of the Appeal Division of the Family Court.
-

Note: The heading to section 107 is altered by omitting “**under Act**” and substituting “**from courts other than the Federal Magistrates Court**”.

12 At the end of section 108

Add:

- (3) If, in proceedings in the Federal Magistrates Court, being proceedings in which a decree to which subsection 107A(1) applies could be made, a question of law arises which:
 - (a) the Federal Magistrate; and
 - (b) at least one of the parties;wish to have determined by a Full Court of the Family Court before the proceedings are further dealt with:
 - (c) the Federal Magistrate must state the facts and question in the form of a special case for the opinion of a Full Court; and
 - (d) a Full Court must hear and determine the question.
- (4) The Full Court may draw, from the facts and the documents, any inference, whether of fact or of law, that could have been drawn from them by the Federal Magistrate.

13 Subsection 110(3)

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

Schedule 10—Amendment of the Crimes (Superannuation Benefits) Act 1989

1 Paragraph 7(2)(b)

After “federal court”, insert “(other than the Federal Magistrates Court)”.

2 After paragraph 7(2)(b)

Insert:

(ba) a Federal Magistrate; or

Schedule 11—Amendment of the Family Law Act 1975

1 Subsection 4(1)

After “this Act” (first occurring), insert “, the standard Rules of Court and the related Federal Magistrates Rules”.

2 Subsection 4(1)

Insert:

applicable Rules of Court:

- (a) in relation to the Federal Magistrates Court—means the related Federal Magistrates Rules; and
- (b) in relation to any other court—means the standard Rules of Court.

3 Subsection 4(1) (subparagraph (ea)(v) of the definition of *matrimonial cause*)

After “this Act”, insert “or the applicable Rules of Court”.

4 Subsection 4(1)

Insert:

related Federal Magistrates Rules means the Rules of Court made under the *Federal Magistrates Act 1999* to the extent to which they relate to this Act.

5 Subsection 4(1)

Insert:

standard Rules of Court means Rules of Court made under this Act.

6 Subsection 4(1) (definition of *this Act*)

Omit “and Rules of Court”.

7 Subsection 4(1)

Insert:

warrant issued under a provision of this Act includes a warrant issued under the standard Rules of Court or the related Federal Magistrates Rules.

8 Subsection 4(1A)

After “this Act”, insert “, the standard Rules of Court and the related Federal Magistrates Rules”.

9 Subsection 4(2)

After “this Act”, insert “, the standard Rules of Court or the related Federal Magistrates Rules”.

10 At the end of section 4

Add:

- (3) To avoid doubt, for all purposes:
 - (a) jurisdiction under the standard Rules of Court is taken to be jurisdiction under this Act; and
 - (b) jurisdiction under the related Federal Magistrates Rules is taken to be jurisdiction under this Act; and
 - (c) proceedings under the standard Rules of Court are taken to be proceedings under this Act; and
 - (d) proceedings under the related Federal Magistrates Rules are taken to be proceedings under this Act; and
 - (e) an order (however described) made by a court under the standard Rules of Court is taken to be an order made by the court under this Act; and
 - (f) an order (however described) made by a court under the related Federal Magistrates Rules is taken to be an order made by the court under this Act.

11 At the end of section 13D

Add:

- (4) In this section:
 - this Act* includes:
 - (a) the standard Rules of Court; and
 - (b) the related Federal Magistrates Rules.

12 Section 14B (definition of *judge*)

After “includes a”, insert “Federal Magistrate,”.

13 After section 15

Insert:

**15A Request for assistance of a family and child counsellor—
Federal Magistrates Court**

- (1) A person who is:
 - (a) a party to a marriage; or
 - (b) a party to proceedings under this Act in the Federal Magistrates Court;may ask a designated officer of the Federal Magistrates Court for the assistance of a family and child counsellor.
- (2) If a request is made under subsection (1), a designated officer of the Federal Magistrates Court must, as far as practicable, arrange for the parties to the marriage, or the parties to the proceedings, as the case may be, to be interviewed by a family and child counsellor for any or all of the following purposes (to the extent that the purposes are relevant):
 - (a) assisting the parties with a view to a reconciliation;
 - (b) improving the parties’ relationship to each other or to any of their children;
 - (c) assisting the parties and their children to adjust to the consequences of the breakdown of the marriage;
 - (d) undertaking any other family and child counselling in order to assist the parties to resolve any matter in dispute between them.
- (3) For the purposes of this section, a member of the staff of the Federal Magistrates Court is taken to be an officer of the Federal Magistrates Court.
- (4) For the purposes of this section, a *designated officer* of the Federal Magistrates Court is an officer of the Federal Magistrates Court specified in writing by the Chief Executive Officer of the Federal Magistrates Court for the purposes of this subsection.
- (5) In this section:

dispute means a dispute about a matter with respect to which proceedings (other than prescribed proceedings) could be instituted under this Act.

Note: See also section 62CA, which deals with counselling in matters relating to children.

14 Section 17

Omit “Rules of Court”, substitute “applicable Rules of Court”.

15 Paragraph 19A(2)

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

Note: The heading to section 19A is altered by omitting “court” and substituting “a Family Court”.

16 After section 19A

Insert:

19AAA Request for mediation—Federal Magistrates Court

- (1) A person who is:
 - (a) the parent or adoptive parent of a child; or
 - (b) a child; or
 - (c) a party to a marriage; or
 - (d) a party to proceedings in the Federal Magistrates Court under this Act;may ask a designated officer of the Federal Magistrates Court for the help of a family and child mediator in settling a dispute to which the person is a party.
- (2) If a request is made under subsection (1), a designated officer of the Federal Magistrates Court must, as far as practicable, arrange for a family and child mediator to mediate the dispute.
- (3) For the purposes of this section, a member of the staff of the Federal Magistrates Court is taken to be an officer of the Federal Magistrates Court.
- (4) For the purposes of this section, a *designated officer* of the Federal Magistrates Court is an officer of the Federal Magistrates Court

specified in writing by the Chief Executive Officer of the Federal Magistrates Court for the purposes of this subsection.

(5) In this section:

dispute means a dispute about a matter with respect to which proceedings (other than prescribed proceedings) could be instituted under this Act.

17 Subsection 19B(1)

Omit “Rules of Court”, substitute “standard Rules of Court”.

Note: The heading to section 19B is altered by omitting “**Court**” and substituting “**Family Court**”

18 Subsection 19B(3)

Omit “Rules of Court”, substitute “standard Rules of Court”.

19 After section 19B

Insert:

19BAA Federal Magistrates Court may refer matters for mediation

- (1) The Federal Magistrates Court may, with the consent of the parties to any proceedings before it under this Act (other than prescribed proceedings), make an order referring any or all of the matters in dispute in the proceedings for mediation by a family and child mediator.
- (2) Subsection (1) has effect subject to the related Federal Magistrates Rules.
- (3) If the Federal Magistrates Court makes an order under subsection (1), it may, if necessary, adjourn the proceedings and may make such additional orders as it thinks appropriate to facilitate the effective conduct of the mediation.
- (4) If the Federal Magistrates Court makes an order under subsection (1), a designated officer of the Federal Magistrates Court must make arrangements for a family and child mediator to mediate the relevant disputed matter or matters in accordance with the related Federal Magistrates Rules.
- (5) If:

- (a) the Federal Magistrates Court or a Federal Magistrate makes an order under subsection (1) in relation to any matter in dispute in proceedings before it; and
 - (b) a party to the proceedings files a notice in the Federal Magistrates Court that the mediation of the matter has ended; the Federal Magistrates Court may make such orders, or give such directions, as it thinks appropriate in relation to the proceedings.
- (6) For the purposes of this section, a member of the staff of the Federal Magistrates Court is taken to be an officer of the Federal Magistrates Court.
- (7) For the purposes of this section, a *designated officer* of the Federal Magistrates Court is an officer of the Federal Magistrates Court specified in writing by the Chief Executive Officer of the Federal Magistrates Court for the purposes of this subsection.

20 Section 19D

Omit “Rules of Court” (wherever occurring), substitute “applicable Rules of Court”.

21 Subsection 19E(2)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

22 Subsection 19J(2)

Omit “Rules of Court”, substitute “standard Rules of Court”.

23 Subsections 26B(5) and (6)

Omit “Rules of Court”, substitute “standard Rules of Court”.

24 Subsection 31(2)

Omit “Rules of Court”, substitute “standard Rules of Court”.

25 After section 33

Insert:

33A Proceedings not to be instituted in the Family Court if an associated matter is before the Federal Magistrates Court

- (1) Proceedings must not be instituted in the Family Court in respect of a matter if:
 - (a) the Federal Magistrates Court has jurisdiction in that matter; and
 - (b) proceedings in respect of an associated matter are pending in the Federal Magistrates Court.
- (2) Subsection (1) does not apply to proceedings instituted in the Family Court under Division 13A of Part VII or under Part XIII.A.
- (3) If:
 - (a) proceedings are instituted in the Family Court in contravention of subsection (1); and
 - (b) the proceedings are subsequently transferred to the Federal Magistrates Court;the proceedings are taken to be as valid as they would have been if subsection (1) had not been enacted.

33B Discretionary transfer of proceedings to the Federal Magistrates Court

- (1) If a proceeding is pending in the Family Court, the Family Court may, by order, transfer the proceeding from the Family Court to the Federal Magistrates Court.
- (2) The Family Court may transfer a proceeding under subsection (1):
 - (a) on the application of a party to the proceeding; or
 - (b) on its own initiative.
- (3) The standard Rules of Court may make provision in relation to the transfer of proceedings to the Federal Magistrates Court under subsection (1).
- (4) In particular, the standard Rules of Court may set out factors that are to be taken into account by the Family Court in deciding whether to transfer a proceeding to the Federal Magistrates Court under subsection (1).

- (5) Before standard Rules of Court are made for the purposes of subsection (3) or (4), the Family Court must consult the Federal Magistrates Court.
- (6) In deciding whether to transfer a proceeding to the Federal Magistrates Court under subsection (1), the Family Court must have regard to:
 - (a) any standard Rules of Court made for the purposes of subsection (4); and
 - (b) whether proceedings in respect of an associated matter are pending in the Federal Magistrates Court; and
 - (c) whether the resources of the Federal Magistrates Court are sufficient to hear and determine the proceeding; and
 - (d) the interests of the administration of justice.
- (7) If an order is made under subsection (1), the Family Court may make such orders as it considers necessary pending the disposal of the proceeding by the Federal Magistrates Court.
- (8) An appeal does not lie from a decision of the Family Court in relation to the transfer of a proceeding under subsection (1).
- (9) The reference in subsection (1) to a proceeding pending in the Family Court includes a reference to a proceeding that was instituted in contravention of section 33A.
- (10) This section does not apply to proceedings of a kind specified in the regulations.

33C Mandatory transfer of proceedings to the Federal Magistrates Court

- (1) If a proceeding of a kind specified in regulations made for the purposes of this subsection is pending in the Family Court, the Family Court must, before going on to hear and determine the proceeding, transfer the proceeding to the Federal Magistrates Court.
- (2) If a proceeding is transferred under subsection (1), the Family Court may make such orders as it considers necessary pending the disposal of the proceedings by the Federal Magistrates Court.

- (3) An appeal does not lie from a decision of the Family Court in relation to the transfer of a proceeding under subsection (1).
- (4) The reference in subsection (1) to a proceeding pending in the Family Court includes a reference to a proceeding that was instituted in contravention of section 33A.
- (5) The Minister must cause a copy of regulations (*transfer regulations*) made for the purposes of subsection (1) to be tabled in each House of the Parliament.
- (6) Either House may, following a motion upon notice, pass a resolution disallowing the transfer regulations. To be effective, the resolution must be passed within 15 sittings days of the House after the copy of the transfer regulations was tabled in the House.
- (7) If neither House passes such a resolution, the transfer regulations take effect on the day immediately after the last day upon which such a resolution could have been passed.
- (8) Subsections (5), (6) and (7) have effect despite anything in:
 - (a) the *Acts Interpretation Act 1901*; or
 - (b) the *Legislative Instruments Act 1999*.

26 Subsection 34(2)

Omit “Rules of Court”, substitute “standard Rules of Court”.

27 Subsections 37(1) and (2)

Omit “Rules of Court”, substitute “standard Rules of Court”.

28 Subsection 37A(7)

Omit “Rules of Court”, substitute “standard Rules of Court”.

29 Section 37B

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

30 Subsections 38(1) and (3)

Omit “Rules of Court”, substitute “standard Rules of Court”.

31 Subsection 38N(2)

After “this Act”, insert “, by the standard Rules of Court”.

32 After subsection 39(1)

Insert:

- (1A) Subject to this Part, a matrimonial cause (other than proceedings of a kind referred to in subparagraph (a)(ii) or paragraph (b) of the definition of *matrimonial cause* in subsection 4(1)) may be instituted under this Act in the Federal Magistrates Court.

33 After subsection 39(5)

Insert:

- (5A) Subject to this Part, the Federal Magistrates Court has jurisdiction with respect to matters arising under this Act in respect of which proceedings are instituted under:
- (a) regulations made for the purposes of section 109, 110, 111, 111A or 111B; or
 - (b) regulations made for the purposes of paragraph 125(1)(f) or (g); or
 - (c) section 117A.

34 Paragraph 39(6)(d)

Repeal the paragraph, substitute:

- (d) proceedings are instituted under:
- (i) regulations made for the purposes of section 109, 110, 111, 111A or 111B; or
 - (ii) regulations made for the purposes of paragraph 125(1)(f) or (g); or
 - (iii) standard Rules of Court made for the purposes of paragraph 123(1)(r); or
 - (iv) Rules of Court made for the purposes of paragraph 87(1)(j) of the *Federal Magistrates Act 1999*; or

35 Subsection 40(7)

Omit “Rules of Court”, substitute “standard Rules of Court”.

36 After section 40

Insert:

40A Exercise of jurisdiction of Federal Magistrates Court in certain States and Territories

The jurisdiction of the Federal Magistrates Court under this Act must not be exercised in respect of a particular proceeding in a particular State or Territory if the corresponding jurisdiction of the Family Court is not capable of being exercised in the State or Territory.

37 Subsection 41(5)

After “this Act”, insert “or the standard Rules of Court”.

38 Subsection 42(1)

After “this Act” (second occurring), insert “and the applicable Rules of Court”.

39 Subsection 44(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

40 Subsection 44(1B)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

41 At the end of subsection 45(2)

Add:

However, this subsection does not apply to particular proceedings if:

- (a) the first-mentioned court is the Family Court and the other court is the Federal Magistrates Court; or
- (b) the first-mentioned court is the Federal Magistrates Court and the other court is the Family Court.

Note 1: For transfers from the Family Court to the Federal Magistrates Court, see section 33B.

Note 2: For transfers from the Federal Magistrates Court to the Family Court, see section 39 of the *Federal Magistrates Act 1999*.

42 After section 45

Insert:

45A Transfer of property proceedings from the Federal Magistrates Court—value exceeds \$300,000

- (1) If:
- (a) proceedings are instituted in the Federal Magistrates Court in relation to property of a total value exceeding:
 - (i) \$300,000; or
 - (ii) if another amount is specified in the regulations—that other amount; and
 - (b) the respondent, in answer to the application by which the proceedings are instituted, seeks an order different from that sought in the application;
- the Federal Magistrates Court must, before going on to hear and determine the proceedings, inform the parties that, unless each of them consents to the Federal Magistrates Court hearing and determining the proceedings, the Federal Magistrates Court is required to transfer the proceedings to the Family Court.
- (2) If the parties do not consent to the Federal Magistrates Court hearing and determining the proceedings, the Federal Magistrates Court must transfer the proceedings accordingly.
- (3) If the parties consent to the Federal Magistrates Court hearing and determining the proceedings, a party is not entitled subsequently to object to the proceedings being heard and determined by the Federal Magistrates Court.
- (4) A reference in subsection (1) to proceedings in relation to property does not include a reference to proceedings with respect to arrears of maintenance.
- (5) In determining the value of any property for the purposes of subsection (1), any mortgage, lien, charge or other security over the property is to be disregarded.
- (6) Before transferring proceedings under this section, the Federal Magistrates Court may make such orders as it considers necessary pending the disposal of the proceedings by the Family Court.
- (7) Failure by the Federal Magistrates Court to comply with this section does not invalidate any order of the Federal Magistrates Court in the proceedings.

(8) This section does not apply to proceedings under Part XIII.A.

43 Subsection 46(1)

Before “value” (first occurring), insert “total”.

44 Subsection 60D(1) (at the end of the definition of *member of the Court personnel*)

Add:

; or (g) a Registrar of the Federal Magistrates Court.

45 At the end of section 60F

Add:

(5) In this section:

this Act includes:

- (a) the standard Rules of Court; and
- (b) the related Federal Magistrates Rules.

46 At the end of section 60H

Add:

(6) In this section:

this Act includes:

- (a) the standard Rules of Court; and
- (b) the related Federal Magistrates Rules.

47 After section 62C

Insert:

62CA Request for counselling—request made through Federal Magistrates Court

(1) A person who is:

- (a) a party to proceedings under this Part in the Federal Magistrates Court; or
- (b) a person representing a child in the Federal Magistrates Court under an order made under section 68L; or
- (c) the parent of a child; or

- (d) a child;
may ask a designated officer of the Federal Magistrates Court for the assistance of a family and child counsellor.
- (2) If a request is made under subsection (1), a designated officer of the Federal Magistrates Court must, as far as practicable, arrange for any or all of the following:
- (a) the parties to the proceedings;
 - (b) the parents of the child;
 - (c) such other persons as the designated officer thinks appropriate;
to be interviewed (with or without the child) by a family and child counsellor or welfare officer to assess whether counselling is appropriate in all the circumstances, and if it is:
 - (d) to discuss the care, welfare and development of the child; and
 - (e) if there are differences between persons in relation to matters affecting the care, welfare and development of the child, to try to resolve those differences.
- (3) For the purposes of this section, a member of the staff of the Federal Magistrates Court is taken to be an officer of the Federal Magistrates Court.
- (4) For the purposes of this section, a *designated officer* of the Federal Magistrates Court is an officer of the Federal Magistrates Court specified in writing by the Chief Executive Officer of the Federal Magistrates Court for the purposes of this subsection.

Note: The heading to section 62C is altered by omitting “court” and substituting “a Family Court”.

48 Section 62H

Omit “Rules of Court”, substitute “applicable Rules of Court”.

49 Paragraph 63D(3)(a)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

50 Paragraphs 63E(2)(a) and (b)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

51 Subsection 63E(4)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

52 At the end of section 64B

Add:

(9) In this section:

this Act includes:

- (a) the standard Rules of Court; and
- (b) the related Federal Magistrates Rules.

53 Subsection 66P(3)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

54 Subparagraph 66S(1)(a)(ii)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

55 Subsection 67D(3)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

56 Paragraph 67N(3)(a)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

57 Subsections 67W(1) and (2)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

58 Subsection 67Z(4) (definition of *prescribed form*)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

59 Paragraph 68G(2)(b)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

60 Subsection 68J(2)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

61 Subsection 68T(3)

Omit “Rules of Court” (wherever occurring), substitute “applicable Rules of Court”.

62 At the end of section 69H

Add:

- (4) Jurisdiction is conferred on the Federal Magistrates Court in relation to matters arising under this Part (other than proceedings for leave under section 60G).

Note: The heading to section 69H is altered by omitting “**and Northern Territory Supreme Court**” and substituting “**; Northern Territory Supreme Court and Federal Magistrates Court**”.

63 After section 69M

Insert:

69MA Transfer of proceedings from the Federal Magistrates Court—residence orders

- (1) If:
 - (a) proceedings for:
 - (i) a residence order; or
 - (ii) an order under this Part discharging, varying, suspending or reviving a residence order, or a part of a residence order;are instituted in the Federal Magistrates Court; and
 - (b) the respondent, in answer to the application by which the proceedings are instituted, seeks an order different from that sought in the application;the Federal Magistrates Court must, before going on to hear and determine the proceedings, inform the parties that, unless each of them consents to the Federal Magistrates Court hearing and determining the proceedings, the Federal Magistrates Court is required to transfer the proceedings to the Family Court.

Note: *Residence order* is defined by subsection 64B(3).

- (2) If the parties do not consent to the Federal Magistrates Court hearing and determining the proceedings, the Federal Magistrates Court must transfer the proceedings accordingly.
- (3) If the parties consent to the Federal Magistrates Court hearing and determining the proceedings, a party is not entitled subsequently to object to the proceedings being heard and determined by the Federal Magistrates Court.

(4) Before transferring proceedings under this section, the Federal Magistrates Court may make such orders (including an order under subsection 62F(2)) as it considers necessary pending the disposal of the proceedings by the Family Court.

(5) Failure by the Federal Magistrates Court to comply with this section does not invalidate any order of the Federal Magistrates Court in the proceedings.

64 Section 70C

Omit “Rules of Court”, substitute “applicable Rules of Court”.

65 Section 70D

Omit “Rules of Court”, substitute “applicable Rules of Court”.

66 Paragraph 79(8)(a)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

67 Paragraph 79A(1C)(a)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

68 Paragraph 80(1)(I)

After “this Act”, insert “and the applicable Rules of Court”.

69 Subsection 80(3)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

70 Paragraph 83(1)(b)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

71 Subsection 86(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

72 Subsection 87(7)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

73 After paragraph 93A(1)(a)

Insert:

(aa) appeals referred to in subsection 94AAA(1) are instituted; or

74 Subsection 94(1)

Omit “section 94AA”, substitute “sections 94AAA and 94AA”.

75 Subsection 94(1A)

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

76 After section 94

Insert:

94AAA Appeals to Family Court from the Federal Magistrates Court

- (1) An appeal lies to the Family Court from:
 - (a) a decree of the Federal Magistrates Court exercising original jurisdiction under this Act; or
 - (b) a decree or decision of a Federal Magistrate exercising original jurisdiction under this Act rejecting an application that he or she disqualify himself or herself from further hearing a matter.
- (2) Subsection (1) has effect subject to section 94AA.
- (3) The jurisdiction of the Family Court in relation to an appeal under subsection (1) is to be exercised by a Full Court unless the Chief Judge considers that it is appropriate for the jurisdiction of the Family Court in relation to the appeal to be exercised by a single Judge.
- (4) Subsection (3) has effect subject to subsections (8) and (10).
- (5) An appeal under subsection (1) is to be instituted within:
 - (a) the time prescribed by the standard Rules of Court; or
 - (b) such further time as is allowed in accordance with the standard Rules of Court.
- (6) On an appeal under subsection (1), the Family Court may affirm, reverse or vary the decree or decision the subject of the appeal and may make such decree or decision as, in the opinion of the court, ought to have been made in the first instance, or may, if it considers appropriate, order a re-hearing on such terms and conditions, if any, as it considers appropriate.

- (7) If, in dismissing an appeal under subsection (1), the Family Court is of the opinion that the appeal does not raise any question of general principle, it may, in accordance with the standard Rules of Court, give reasons for its decision in short form.
- (8) A single Judge or a Full Court may:
- (a) join or remove a party to an appeal under subsection (1); or
 - (b) make an order by consent disposing of an appeal under subsection (1) (including an order for costs); or
 - (c) give directions about the conduct of an appeal under subsection (1), including directions about:
 - (i) the use of written submissions; and
 - (ii) limiting the time for oral argument.
- (9) The standard Rules of Court may make provision enabling matters of the kind mentioned in subsection (8) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (10) Applications:
- (a) for an extension of time within which to institute an appeal under subsection (1); or
 - (b) for leave to amend the grounds of an appeal under subsection (1); or
 - (c) to reinstate an appeal under subsection (1) that, because of the standard Rules of Court, was taken to have been abandoned; or
 - (d) to stay an order of the Family Court made in connection with an appeal under subsection (1);
- may be heard and determined by a single Judge or by a Full Court.
- (11) The standard Rules of Court may make provision enabling applications of a kind mentioned in subsection (10) to be dealt with, subject to conditions prescribed by the standard Rules of Court, without an oral hearing.
- (12) An appeal does not lie to a Full Court from a decision of a single Judge exercising jurisdiction under this section.
- (13) The single Judge referred to in subsection (3), (8) or (10) need not be a member of the Appeal Division.

Note: The heading to section 94 is altered by adding at the end “**from courts other than the Federal Magistrates Court**”.

77 Subsection 94AA(1)

Before “, except”, insert “of a court other than the Federal Magistrates Court”.

78 Subsection 94AA(2)

Repeal the subsection, substitute:

- (2) An application for leave under subsection (1) is to be determined by a Full Court of the Family Court.
- (2A) An appeal does not lie to the Family Court from a prescribed decision of the Federal Magistrates Court, except by leave of the Family Court.
- (2B) An application for leave under subsection (2A) is to be determined by a single Judge or by a Full Court.
- (2C) The single Judge referred to in subsection (2B) need not be a member of the Appeal Division.

79 Subsection 94AA(3)

Omit “Rules of Court”, substitute “standard Rules of Court”.

80 At the end of section 94A

Add:

- (3) If, in proceedings in the Federal Magistrates Court, being proceedings in which a decree or decision to which subsection 94AAA(1) applies could be made, a question of law arises which:
 - (a) the Federal Magistrate; and
 - (b) at least one of the parties; wish to have determined by a Full Court of the Family Court before the proceedings are further dealt with:
 - (c) the Federal Magistrate must state the facts and question in the form of a special case for the opinion of a Full Court of the Family Court; and
 - (d) a Full Court of the Family Court must hear and determine the question.

- (4) The Full Court may draw from the facts and the documents any inference, whether of fact or of law, which could have been drawn from them by the Federal Magistrate.

81 Subsection 96(1A)

Omit “Rules of Court” (wherever occurring), substitute “standard Rules of Court”.

82 Subsection 97(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

83 Subsection 97(1)

After “Family Court,” insert “in the Federal Magistrates Court,”.

84 Subsection 97(1A)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

85 Subsection 97(1A)

After “Judge”, insert “, Federal Magistrate”.

86 Section 98

Omit “Rules of Court”, substitute “standard Rules of Court”.

87 At the end of section 98

Add:

- (2) This section does not apply to proceedings in the Federal Magistrates Court.

Note: For provisions relating to the Federal Magistrates Court, see the *Federal Magistrates Act 1999*.

88 Subsections 98A(1) and (2)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

89 Section 102B

Omit “Rules of Court”, substitute “applicable Rules of Court”.

90 Subsection 105(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

91 At the end of subsection 105(1)

Add:

Note: For example, the Federal Magistrates Court can enforce decrees made by the Family Court of Australia.

92 Before section 110

Insert:

109B Rules of Court relating to enforcement—Federal Magistrates Court

- (1) Section 109A applies to the making of Rules of Court under section 81 of the *Federal Magistrates Act 1999* in a corresponding way to the way in which it applies to the making of Rules of Court under section 123 of this Act.
- (2) For the purposes of the application of section 109A in accordance with subsection (1):
 - (a) the reference in subsection 109A(1) to the court is to be read as a reference to the Federal Magistrates Court; and
 - (b) each reference in subsection 109A(2) to a court is to be read as a reference to the Federal Magistrates Court; and
 - (c) each reference in subsection 109A(2) to a Registrar is to be read as a reference to a Registrar of the Federal Magistrates Court.
- (3) Section 109A has no effect in relation to the Federal Magistrates Court except as provided by subsections (1) and (2) of this section.

93 Subsection 112AP(3)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

94 At the end of section 115

Add:

- (11) For the purposes of this section, a Federal Magistrate is taken to be a judge.

95 Subsection 116C(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

96 Subsection 117(2)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

97 Subsection 117B(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

98 Paragraph 117B(2)(a)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

99 Subsection 117C(1)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

100 Subsection 121(2)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

101 Subsection 121(10)

Omit “Rules of Court”, substitute “Applicable Rules of Court”.

102 Paragraph 121(11)(a)

Omit “Rules of Court”, substitute “applicable Rules of Court”.

103 Paragraph 123(1)(u)

Omit “Rules of Court”, substitute “standard Rules of Court”.

104 After subsection 123(1)

Insert:

(1A) A reference in subsection (1) to a *court exercising jurisdiction under this Act* does not include a reference to the Federal Magistrates Court.

105 At the end of subsection 123(2)

Add “made under this section”.

106 Subsection 124(2)

Omit “Rules of Court”, substitute “standard Rules of Court”.

Schedule 12—Amendment of the Federal Court of Australia Act 1976

1 At the end of subsection 24(1)

Add:

- ; and (d) appeals from judgments of the Federal Magistrates Court exercising original jurisdiction under a law of the Commonwealth other than:
 - (i) the *Family Law Act 1975*; or
 - (ii) the *Child Support (Assessment) Act 1989*; or
 - (iii) the *Child Support (Registration and Collection) Act 1988*; or
 - (iv) regulations under an Act referred to in subparagraph (i), (ii) or (iii).

2 After subsection 24(1)

Insert:

- (1AAA) An appeal may not be brought to the Court from a judgment of the Court constituted by a single Judge exercising the appellate jurisdiction of the Court in relation to an appeal from the Federal Magistrates Court.

3 After subsection 25(1)

Insert:

- (1A) The appellate jurisdiction of the Court in relation to an appeal from a judgment of the Federal Magistrates Court is to be exercised by a Full Court unless the Chief Justice considers that it is appropriate for the appellate jurisdiction of the Court in relation to the appeal to be exercised by a single Judge.
- (1B) Subsection (1A) has effect subject to subsections (2) and (2B).

4 Paragraph 29(1)(a)

After “not being”, insert “the Federal Magistrates Court or”.

5 After section 32

Insert:

32AA Proceedings not to be instituted in the Court if an associated matter is before the Federal Magistrates Court

- (1) Proceedings must not be instituted in the Court in respect of a matter if:
 - (a) the Federal Magistrates Court has jurisdiction in that matter; and
 - (b) proceedings in respect of an associated matter are pending in the Federal Magistrates Court.
- (2) If:
 - (a) proceedings are instituted in the Court in contravention of subsection (1); and
 - (b) the proceedings are subsequently transferred to the Federal Magistrates Court;the proceedings are taken to be as valid as they would have been if subsection (1) had not been enacted.

32AB Discretionary transfer of proceedings to the Federal Magistrates Court

- (1) If a proceeding is pending in the Court, the Court may, by order, transfer the proceeding from the Court to the Federal Magistrates Court.
- (2) The Court may transfer a proceeding under subsection (1):
 - (a) on the application of a party to the proceeding; or
 - (b) on its own initiative.
- (3) The Rules of Court may make provision in relation to transfers of proceedings to the Federal Magistrates Court under subsection (1).
- (4) In particular, the Rules of Court may set out factors that are to be taken into account by the Court in deciding whether to transfer a proceeding to the Federal Magistrates Court under subsection (1).
- (5) Before Rules of Court are made for the purposes of subsection (3) or (4), the Court must consult the Federal Magistrates Court.
- (6) In deciding whether to transfer a proceeding to the Federal Magistrates Court under subsection (1), the Court must have regard to:

- (a) any Rules of Court made for the purposes of subsection (4);
and
 - (b) whether proceedings in respect of an associated matter are pending in the Federal Magistrates Court; and
 - (c) whether the resources of the Federal Magistrates Court are sufficient to hear and determine the proceeding; and
 - (d) the interests of the administration of justice.
- (7) If an order is made under subsection (1), the Court may make such orders as it considers necessary pending the disposal of the proceeding by the Federal Magistrates Court.
- (8) An appeal does not lie from a decision of the Court in relation to the transfer of a proceeding under subsection (1).
- (9) The reference in subsection (1) to a proceeding pending in the Court includes a reference to a proceeding that was instituted in contravention of section 32AA.
- (10) This section does not apply to proceedings of a kind specified in the regulations.

6 At the end of subsection 33(2)

Add:

However, this subsection does not apply to a judgment of the Court constituted by a single Judge exercising the appellate jurisdiction of the Court in relation to an appeal from a judgment of the Federal Magistrates Court.

7 After subsection 33(3)

Insert:

- (4) An appeal must not be brought from a judgment of the Court constituted by a single Judge exercising the appellate jurisdiction of the Court in relation to an appeal from a judgment of the Federal Magistrates Court unless the High Court gives special leave to appeal.

8 Subsection 58(1) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 6 months.

9 Subsection 58(2) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 6 months.

Schedule 13—Amendment of the Federal Proceedings (Costs) Act 1981

1 Subsection 3(1) (at the end of paragraph (a) of the definition of *Federal appeal*)

Add “or”.

2 Subsection 3(1) (at the end of paragraph (b) of the definition of *Federal appeal*)

Add “or”.

3 Subsection 3(1) (at the end of paragraph (c) of the definition of *Federal appeal*)

Add “or”.

4 Subsection 3(1) (at the end of paragraph (d) of the definition of *Federal appeal*)

Add “or”.

5 Subsection 3(1) (at the end of paragraph (e) of the definition of *Federal appeal*)

Add “or”.

6 Subsection 3(1) (at the end of paragraph (ea) of the definition of *Federal appeal*)

Add “or”.

7 Subsection 3(1) (at the end of paragraph (eb) of the definition of *Federal appeal*)

Add “or”.

8 Subsection 3(1) (at the end of paragraph (f) of the definition of *Federal appeal*)

Add “or”.

9 Subsection 3(1) (after paragraph (f) of the definition of *Federal appeal*)

Insert:

- (fa) an appeal to the Federal Court from a judgment of the Federal Magistrates Court; or

10 Subsection 3(1) (at the end of paragraph (g) of the definition of *Federal appeal*)

Add “or”.

11 Subsection 3(1) (after paragraph (g) of the definition of *Federal appeal*)

Insert:

- (ga) an appeal that is:
 - (i) from a decision of the Administrative Appeals Tribunal; and
 - (ii) heard and determined, or to be heard and determined, in the Federal Magistrates Court; or

12 Subsection 3(1) (at the end of paragraph (h) of the definition of *Federal appeal*)

Add “or”.

13 Subsection 3(1) (after paragraph (j) of the definition of *Federal appeal*)

Insert:

- (ja) an appeal to the Family Court from a judgment of the Federal Magistrates Court; or

14 Paragraph 9(1)(a)

After “(j)”, insert “, (ja)”.

15 Subsection 10(1)

After “Family Court”, insert “, the Federal Magistrates Court”.

Schedule 14—Amendment of the Foreign Evidence Act 1994

1 Division 2 of Part 2 (heading)

Repeal the heading, substitute:

Division 2—Proceedings in the Federal Magistrates Court and inferior courts

2 Before section 10

Insert:

9A Orders for taking evidence abroad—Federal Magistrates Court

Child support or family law matters

- (1) The Family Court of Australia may, on the application of a party to a proceeding before the Federal Magistrates Court in a child support or family law matter, exercise the same power to make an order of the kind referred to in Division 1 as the Family Court of Australia has under that Division for the purpose of a proceeding in the Family Court of Australia.

Matters other than child support or family law matters

- (2) The Federal Court of Australia may, on the application of a party to a proceeding before the Federal Magistrates Court in a matter other than a child support or family law matter, exercise the same power to make an order of the kind referred to in Division 1 as the Federal Court of Australia has under that Division for the purpose of a proceeding in the Federal Court of Australia.

Definition

- (3) In this section:

child support or family law matter means:

- (a) a matter arising under the *Family Law Act 1975* or regulations under that Act; or

- (b) a matter arising under the *Child Support (Assessment) Act 1989* or regulations under that Act; or
- (c) a matter arising under the *Child Support (Registration and Collection) Act 1988* or regulations under that Act.

Note: The heading to section 10 is altered by adding at the end “—**inferior courts**”.

3 Subsection 12(1)

Omit “section 10 or 11 for the purposes of a proceeding before an inferior court,”, substitute “section 9A, 10 or 11 for the purposes of a proceeding before the Federal Magistrates Court or an inferior court,”.

4 Paragraph 12(2)(a)

Omit “inferior court’s satisfaction”, substitute “Federal Magistrates Court’s satisfaction or the inferior court’s satisfaction, as the case may be,”.

5 Subsection 15(1)

After “superior court”, insert “, the Federal Magistrates Court”.

6 Subsection 16(1)

After “7,”, insert “9A,”.

7 Section 17

After “7,”, insert “9A,”.

8 Section 46

After “7,”, insert “9A,”.

Schedule 15—Amendment of the Freedom of Information Act 1982

1 At the end of section 64

Add:

- (7) Subsection (6) does not prevent the Federal Court of Australia from causing the document concerned to be sent to the Federal Magistrates Court as mentioned in subparagraph 46(1)(c)(i) of the *Administrative Appeals Tribunal Act 1975*.
- (8) If a document produced in accordance with subsection (1) or (2) is sent to the Federal Magistrates Court as mentioned in subparagraph 46(1)(c)(i) of the *Administrative Appeals Tribunal Act 1975*, the Federal Magistrates Court must do all things necessary to ensure that the contents of the document are not disclosed (otherwise than in accordance with this Act) to any person other than:
 - (a) the Federal Magistrate who constitutes the Federal Magistrates Court for the purposes of the proceeding before the Federal Magistrates Court; or
 - (b) a member of the staff of the Federal Magistrates Court in the course of the performance of his or her duties as a member of that staff.

Schedule 16—Amendment of the Human Rights and Equal Opportunity Commission Act 1986

1 Subsection 3(1) (paragraph (b) of the definition of *alleged unlawful discrimination*)

After “Federal Court”, insert “or the Federal Magistrates Court”.

2 Paragraph 46PH(1)(h)

After “Federal Court”, insert “or the Federal Magistrates Court”.

3 Subsection 46PH(4)

After “Federal Court”, insert “or the Federal Magistrates Court”.

4 Division 2 of Part IIB (heading)

Repeal the heading, substitute:

Division 2—Proceedings in the Federal Court and the Federal Magistrates Court

5 Subsection 46PO(1)

After “Federal Court”, insert “or the Federal Magistrates Court”.

Note: The heading to section 46PO is altered by omitting “**Court**” and substituting “**court**”.

6 Subsection 46PO(1) (note)

After “commenced”, insert “in the Federal Court”.

7 Subsection 46PO(2)

Omit “Court”, substitute “court concerned”.

8 Subsection 46PO(4)

Omit “Court” (first occurring), substitute “court concerned”.

9 Subsection 46PO(4)

Omit “Court” (second occurring), substitute “court”.

10 Subsections 46PO(6), (7) and (8)

Omit “Court”, substitute “court concerned”.

11 Subsection 46PP(1)

After “Federal Court”, insert “or the Federal Magistrates Court”.

12 Subsection 46PP(4)

Omit “Court”, substitute “court concerned”.

13 Subsection 46PP(5)

Omit “Court”, substitute “court concerned”.

14 Paragraph 46PQ(1)(c)

Omit “Court”, substitute “court”.

15 Section 46PR

Omit “Court is”, substitute “the Federal Court and the Federal Magistrates Court are”.

16 Subsection 46PS(1)

After “Federal Court”, insert “or the Federal Magistrates Court”.

Note: The heading to section 46PS is altered by omitting “**Court**” and substituting “**court**”.

17 Paragraph 46PU(1)(a)

After “Federal Court”, insert “or the Federal Magistrates Court”.

Note: The heading to section 46PU is altered by omitting “**Federal Court**” and substituting “**court**”.

18 Paragraph 46PU(1)(b)

After “Federal Court”, insert “or the Federal Magistrates Court”.

19 Subsection 46PV(1)

Omit “Court”, substitute “Federal Court and the Federal Magistrates Court”.

20 Paragraph 46PV(1)(c)

After “court”, insert “concerned”.

21 Subsection 46PV(2)

Omit “Court”, substitute “court concerned”.

22 Section 49B

Omit “Federal Court has”, substitute “Federal Court and the Federal Magistrates Court have concurrent”.

Note: The heading to section 49B is altered by adding at the end “**and Federal Magistrates Court**”.

23 Subsection 49C(2)

Omit “Federal Court has”, substitute “Federal Court and the Federal Magistrates Court have concurrent”.

Schedule 17—Amendment of the Judges (Long Leave Payments) Act 1979

1 Title

After “**High Court**”, insert “**and Federal Magistrates**”.

2 Section 3 (paragraph (a) of the definition of *Judge*)

After “High Court”, insert “or the Federal Magistrates Court”.

Schedule 18—Amendment of the Judges' Pensions Act 1968

1 Subsection 4(1) (at the end of paragraph (a) of the definition of *Judge*)

Add “(other than the Federal Magistrates Court)”.

**Schedule 19—Amendment of the Maternity
Leave (Commonwealth Employees)
Act 1973**

1 After paragraph 5(3)(b)

Insert:

(ba) a person who is a Federal Magistrate;

Schedule 20—Amendment of the National Crime Authority Act 1984

1 After subsection 27(2)

Insert:

- (2A) A person who proposes to make, or has made, an application to the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977* for an order of review in respect of a matter arising under this Act may make an application to the Attorney-General for the provision of assistance under this section in respect of the application to the Federal Magistrates Court.

2 Subsection 27(3)

Omit “or (2)”, substitute “, (2) or (2A)”.

3 Section 57

Omit “the Court” (first occurring), substitute “the Federal Court or the Federal Magistrates Court”.

4 Section 57

Omit “by Rules of Court and shall contain such other particulars (if any) as the Court directs;”, substitute:

by:

- (i) in the case of an application to the Federal Court—
Federal Court Rules; or
- (ii) in the case of an application to the Federal Magistrates Court—
Federal Magistrates Rules;

and must contain such other particulars (if any) as the court concerned directs; and

5 Section 57

Omit “Court” (fourth and fifth occurring), substitute “court concerned”.

6 Subparagraph 61(2)(g)(ii)

After “Federal Court”, substitute “or the Federal Magistrates Court”.

7 Schedule 1

After:

Federal Court of Australia Act 1976, section 50

Insert:

Federal Magistrates Act 1999, section 61

Schedule 21—Amendment of the Ombudsman Act 1976

1 Subsection 3(1) (after paragraph (c) of the definition of *chief executive officer of a court or tribunal*)

Insert:

(ca) Chief Executive Officer of the Federal Magistrates Court;

2 Subsection 3(1) (paragraph (f) of the definition of *chief executive officer of a court or tribunal*)

After “(c)”, insert “, (ca)”.

Schedule 22—Amendment of the Parliamentary Contributory Superannuation Act 1948

1 Subsection 21B(1) (paragraph (b) of the definition of *holder of an office of profit under the Commonwealth*)

After “federal court”, insert “(other than the Federal Magistrates Court)”.

2 Subsection 21B(1) (after paragraph (b) of the definition of *holder of an office of profit under the Commonwealth*)

Insert:

(ba) a Federal Magistrate;

Schedule 23—Amendment of the Public Service Act 1922

1 Subsection 87(1) (paragraph (c) of the definition of *Commonwealth office*)

After “federal court”, insert “(other than the Federal Magistrates Court)”.

2 Subsection 87(1) (after paragraph (c) of the definition of *Commonwealth office*)

Insert:

(ca) an office of Federal Magistrate;

Schedule 24—Amendment of the Taxation Administration Act 1953

1 At the end of section 17A

Add:

- (2) The Federal Magistrates Court must not, in relation to a review by the Court of a decision of the Tribunal in connection with proceedings under a taxation law, exercise a power conferred on it by section 15A, or paragraph 16(1)(d), (2)(b) or (3)(c) or subsection 16(4), of the *Administrative Decisions (Judicial Review) Act 1977* so as to prevent or restrain the recovery, under that law, of:
- (a) tax or duty; or
 - (b) further tax or further duty; or
 - (c) additional tax or additional duty.

Note: The heading to section 17A is altered by inserting “**and Federal Magistrates Court**” after “**Federal Court**”.

Schedule 25—Amendment of the Trade Practices Act 1974

1 Section 75AS

Omit “Subsection 75B(2) and sections 86,”, substitute “Subsections 75B(2) and 86(1), (2), (3) and (4) and sections”.

2 After subsection 86(1)

Insert:

- (1A) Jurisdiction is conferred on the Federal Magistrates Court in any matter arising under Division 1 or 1A of Part V in respect of which a civil proceeding is instituted by a person other than the Minister or the Commission.

3 Subsection 86(4)

Omit “other than the jurisdiction of the several courts of the States and Territories under subsection (2) and the jurisdiction of the High Court under section 75 of the Constitution.”, substitute:

other than:

- (a) the jurisdiction of the Federal Magistrates Court under subsection (1A); and
- (b) the jurisdiction of the several courts of the States and Territories under subsection (2); and
- (c) the jurisdiction of the High Court under section 75 of the Constitution.

4 After section 86

Insert:

86AA Limit on jurisdiction of Federal Magistrates Court in proceedings under section 82

If proceedings are instituted in the Federal Magistrates Court under section 82, the Federal Magistrates Court does not have jurisdiction to award an amount for loss or damage that exceeds:

- (a) \$200,000; or

- (b) if another amount is specified in the regulations—that other amount.

Note: For transfers from the Federal Magistrates Court to the Federal Court, see section 39 of the *Federal Magistrates Act 1999*.

5 Subsection 151AQA(1)

After “15(1)(a) and (b)”, insert “and 15A(1)(a) and (b)”.

6 At the end of section 151AQA

Add:

(4) If:

- (a) a person applies to the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977* for review of a decision to issue a competition notice; and
- (b) any relevant proceedings have been instituted under Division 7 of this Part;

the Federal Magistrates Court or a Federal Magistrate may, by order, on such conditions as the Court or the Federal Magistrate thinks fit, stay those proceedings.

7 Subsection 152DNB(1)

After “15(1)(a) and (b)”, insert “and 15A(1)(a) and (b)”.

*[Minister’s second reading speech made in—
House of Representatives on 24 June 1999
Senate on 20 October 1999]*

(119/99)
