



Jurisdiction of Courts (Miscellaneous Amendments) Act 2000

No. 161, 2000



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**An Act relating to the jurisdiction of courts, and for
other purposes**

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Jurisdiction of Courts (Miscellaneous Amendments) Act 2000

No. 161, 2000

An Act relating to the jurisdiction of courts, and for other purposes

[Assented to 21 December 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Jurisdiction of Courts (Miscellaneous Amendments) Act 2000*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Jurisdiction of courts

Part 1—Amendments

Administrative Decisions (Judicial Review) Act 1977

1 At the end of section 3

Add:

- (10) To avoid doubt, a reference in this Act (other than subsections 11(1), (2) and (3)) to an application made to the Federal Court includes, and is taken always to have included, a reference to an application that has come, or that came, before the Federal Court by way of a transfer from the Federal Magistrates Court under Part 5 of the *Federal Magistrates Act 1999*.
- (11) To avoid doubt, a reference in this Act (other than subsections 11(1), (2) and (3)) to an application made to the Federal Magistrates Court includes, and is taken always to have included, a reference to an application that:
 - (a) has come, or that came, before the Federal Magistrates Court by way of a transfer from the Federal Court under section 32AB of the *Federal Court of Australia Act 1976*; and
 - (b) could have been made directly to the Federal Magistrates Court.
- (12) For the purposes of paragraph (11)(b), disregard section 19 of the *Federal Magistrates Act 1999*.

2 At the end of section 8

Add:

Note: See also subsections 3(10), (11) and (12).

Family Law Act 1975

3 After subsection 39(5)

Insert:

(5AA) Subject to this Part, the Federal Magistrates Court has, and is taken always to have had, jurisdiction with respect to matters arising under this Act in respect of which matrimonial causes (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)) are instituted under this Act.

Trade Practices Act 1974

4 Section 86AA

Omit “If proceedings are instituted in the Federal Magistrates Court under section 82”, substitute “If proceedings under section 82 are instituted in, or transferred to, the Federal Magistrates Court”.

5 Section 86AA (note)

Before “For”, insert “For transfers from the Federal Court to the Federal Magistrates Court, see section 32AB of the *Federal Court of Australia Act 1976*.”.

Part 2—Safety-net provisions

6 Interpretation

- (1) In this Part:
 - designated judgment* has the meaning given by item 7.
 - liability* includes a duty or obligation.
 - right* includes an interest or status.
- (2) Unless the contrary intention appears, an expression used in this Part has the same meaning as in the *Federal Magistrates Act 1999*.
- (3) Sections 6 and 7 of the *Federal Magistrates Act 1999* apply to this Part in a corresponding way to the way in which they apply to that Act.

7 Designated judgment

- (1) For the purposes of this Part, if:
 - (a) before the commencement of this item:
 - (i) a proceeding arising under the *Administrative Decisions (Judicial Review) Act 1977* was transferred to the Federal Magistrates Court under section 32AB of the *Federal Court of Australia Act 1976*; and
 - (ii) the Federal Magistrates Court did not have jurisdiction to hear and determine the proceeding; and
 - (iii) the Federal Magistrates Court purported to give judgment in the proceeding; and
 - (b) the Federal Magistrates Court would have had jurisdiction to hear and determine the proceeding if subsections 3(11) and (12) of the *Administrative Decisions (Judicial Review) Act 1977* had been in force at the time of the transfer;the judgment is a *designated judgment*.
- (2) If:
 - (a) before the commencement of this item:
 - (i) a proceeding arising under the *Family Law Act 1975* was transferred to the Federal Magistrates Court under section 33B of the *Family Law Act 1975*; and

- (ii) the Federal Magistrates Court did not have jurisdiction to hear and determine the proceeding; and
 - (iii) the Federal Magistrates Court purported to give judgment in the proceeding; and
- (b) the Federal Magistrates Court would have had jurisdiction to hear and determine the proceeding if subsection 39(5AA) of the *Family Law Act 1975* had been in force at the time of the transfer;

the judgment is a *designated judgment*.

- (3) If a court has purported to affirm, revoke, set aside, reverse, vary, revive or suspend a designated judgment, a reference in this Part to the *designated judgment* is a reference to the designated judgment in the form in which, and to the extent to which, it purports or purported to have effect from time to time.

8 Rights and liabilities declared in certain cases

The rights and liabilities of all persons are, by force of this Act, declared to be, and always to have been, the same as if each designated judgment had been a valid judgment of the Federal Magistrates Court.

9 Effect of declared rights and liabilities

- (1) A right or liability conferred, imposed or affected by item 8:
- (a) is exercisable or enforceable; and
 - (b) is to be regarded as always having been exercisable or enforceable;
- as if it were a right or liability conferred, imposed or affected by a valid judgment of the Federal Magistrates Court.
- (2) The rights and liabilities conferred, imposed or affected by item 8 include (but are not limited to) the right of a person who was a party to the proceeding or purported proceeding in which the designated judgment was given to appeal against that judgment.
- (3) In this item:
- enforceable* includes able to be dealt with by proceedings under Division 2 of Part XIII A of the *Family Law Act 1975* relating to a contravention of an order.

10 Effect of things done or omitted to be done under or in relation to rights and liabilities

- (1) Any act or thing done or omitted to be done (whether before, at or after the commencement of this item) under or in relation to a right or liability conferred, imposed or affected by item 8:
- (a) has the same effect, and gives rise to the same consequences, for the purposes of any written or other law; and
 - (b) is to be regarded as always having had the same effect, and always given rise to the same consequences, for the purposes of any written or other law;
- as if it were done, or omitted to be done, to give effect to, or under the authority of, or in reliance on, a valid judgment of the Federal Magistrates Court.
- (2) For the purposes of an enforcement law, any act or thing done or omitted to be done (whether before, at or after the commencement of this item) gives rise to the same consequences, and is to be regarded as always having given rise to the same consequences, as if each designated judgment were a valid judgment of the Federal Magistrates Court given in or in relation to the proceeding in relation to which the designated judgment was given.
- (3) In this item:
- enforcement law* means a provision of a law of the Commonwealth (other than a law relating to contempt of court) that sets out a consequence for a person if the person:
- (a) contravenes; or
 - (b) acts in a specified way while there is in force;
- a judgment, or a particular kind of judgment, given by a court.

11 Powers of courts in relation to declared rights and liabilities

- (1) The Federal Magistrates Court may vary, revoke, set aside, revive or suspend a right or liability conferred, imposed or affected by item 8 as if it were a right or liability conferred, imposed or affected by a valid judgment of the Federal Magistrates Court in or in relation to proceedings of the kind in or in relation to which the designated judgment was given.

- (2) In the case of a designated judgment in a proceeding arising under the *Administrative Decisions (Judicial Review) Act 1977*, the Federal Court may vary, revoke, set aside, revive or suspend a right or liability conferred, imposed or affected by item 8 as if it were a right or liability conferred, imposed or affected by a valid judgment of the Federal Magistrates Court in or in relation to proceedings of the kind in or in relation to which the designated judgment was given.
- (3) In the case of a designated judgment in a proceeding arising under the *Family Law Act 1975*, the Family Court may vary, revoke, set aside, revive or suspend a right or liability conferred, imposed or affected by item 8 as if it were a right or liability conferred, imposed or affected by a valid judgment of the Federal Magistrates Court in or in relation to proceedings of the kind in or in relation to which the designated judgment was given.
- (4) In addition to its powers under subitem (1), (2) or (3), a court also has power to give a judgment achieving any other result that could have been achieved if:
- (a) the designated judgment had been a valid judgment of the Federal Magistrates Court given in or in relation to proceedings of the kind in or in relation to which the designated judgment was given; and
 - (b) the first-mentioned court had been considering whether:
 - (i) to vary, revoke, set aside, revive or suspend that judgment; or
 - (ii) to extend the time for the doing of anything; or
 - (iii) to grant a stay of proceedings.
- (5) Jurisdiction is conferred on the Federal Magistrates Court, the Federal Court and the Family Court with respect to matters arising under this item.

12 Proceedings for contempt

If (whether before, at or after the commencement of this item) a person has:

- (a) interfered with a right conferred or affected by item 8; or
- (b) failed to satisfy or comply with a liability imposed or affected by item 8;

the interference or failure is, and is taken always to have been, a matter that can be dealt with in the same manner as if the interference or failure had been in relation to a right conferred or affected, or a liability imposed or affected, by a valid judgment of the Federal Magistrates Court.

13 Evidence

The court record, or a copy of a court record, of a designated judgment may be adduced in evidence to show the existence, nature and extent of each right or liability conferred, imposed or affected by item 8.

14 This Part does not apply to certain judgments

This Part does not apply to a judgment given by the Federal Magistrates Court that has been declared to be invalid, or that has been quashed or overruled, by the Federal Court or the Family Court before the commencement of this item (otherwise than on the ground that the Federal Magistrates Court had no jurisdiction).

15 Regulations

The Governor-General may make regulations prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Part.

Part 3—Transitional

16 Pre-commencement jurisdiction of the Federal Magistrates Court

The enactment of this Schedule does not imply that the Parliament did not intend that the Federal Magistrates Court was to have jurisdiction, at a time before the commencement of this item, to hear and determine:

- (a) a proceeding arising under the *Administrative Decisions (Judicial Review) Act 1977* that was transferred to the Federal Magistrates Court under section 32AB of the *Federal Court of Australia Act 1976*; or
- (b) a proceeding arising under the *Family Law Act 1975* that was transferred to the Federal Magistrates Court under section 33B of the *Family Law Act 1975*.

17 Pre-commencement jurisdiction of the Federal Court

The enactment of this Schedule does not imply that the Parliament did not intend that the Federal Court was to have jurisdiction, at a time before the commencement of this item, to hear and determine a proceeding arising under the *Administrative Decisions (Judicial Review) Act 1977* that was transferred to the Federal Court under Part 5 of the *Federal Magistrates Act 1999*.

[Minister's second reading speech made in—
House of Representatives on 2 November 2000
Senate on 10 November 2000]

(176/00)
