



Access to Justice (Civil Litigation Reforms) Amendment Act 2009

No. 117, 2009

An Act to amend legislation relating to federal courts, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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An Act to amend legislation relating to federal courts, and for related purposes

[Assented to 4 December 2009]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Access to Justice (Civil Litigation Reforms) Amendment Act 2009*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	4 December 2009
2. Schedules 1 and 2	The 28th day after the day on which this Act receives the Royal Assent.	1 January 2010
3. Schedule 3	The later of: (a) the start of the 28th day after the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 17 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> .	1 January 2010
4. Schedule 4	The 28th day after the day on which this Act receives the Royal Assent.	1 January 2010

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Federal Court of Australia Act 1976

1 Section 4

Insert:

alternative dispute resolution process means a procedure or service for the resolution of disputes (other than arbitration or mediation) not involving the exercise of the judicial power of the Commonwealth.

2 Section 4

Insert:

civil practice and procedure provisions has the meaning given by subsection 37M(4).

3 Section 4

Insert:

lawyer means a person enrolled as a legal practitioner of a federal court or the Supreme Court of a State or Territory.

4 Section 4

Insert:

overarching purpose (of the civil practice and procedure provisions) means the overarching purpose set out in subsection 37M(1).

5 After section 20

Insert:

20A Power of the Court to deal with civil matters without an oral hearing

- (1) This section applies in relation to any civil matter coming before the Court in the original jurisdiction of the Court.

- (2) The Court or a Judge may deal with the matter without an oral hearing (either with or without the consent of the parties) if satisfied that:
- (a) the matter is frivolous or vexatious; or
 - (b) the issue or issues on which determination of the matter depends have been decided authoritatively in the case law; or
 - (c) determination of the matter would not be significantly aided by an oral hearing because:
 - (i) there is no real issue of fact relevant to determination of the matter; and
 - (ii) the legal arguments in relation to the matter can be dealt with adequately by written submissions.
- (3) This section does not limit subsections 20(4) and (6).

6 After Part VA

Insert:

Part VB—Case management in civil proceedings

37M The overarching purpose of civil practice and procedure provisions

- (1) The overarching purpose of the civil practice and procedure provisions is to facilitate the just resolution of disputes:
- (a) according to law; and
 - (b) as quickly, inexpensively and efficiently as possible.
- (2) Without limiting the generality of subsection (1), the overarching purpose includes the following objectives:
- (a) the just determination of all proceedings before the Court;
 - (b) the efficient use of the judicial and administrative resources available for the purposes of the Court;
 - (c) the efficient disposal of the Court's overall caseload;
 - (d) the disposal of all proceedings in a timely manner;
 - (e) the resolution of disputes at a cost that is proportionate to the importance and complexity of the matters in dispute.

-
- (3) The civil practice and procedure provisions must be interpreted and applied, and any power conferred or duty imposed by them (including the power to make Rules of Court) must be exercised or carried out, in the way that best promotes the overarching purpose.
 - (4) The *civil practice and procedure provisions* are the following, so far as they apply in relation to civil proceedings:
 - (a) the Rules of Court made under this Act;
 - (b) any other provision made by or under this Act or any other Act with respect to the practice and procedure of the Court.

37N Parties to act consistently with the overarching purpose

- (1) The parties to a civil proceeding before the Court must conduct the proceeding (including negotiations for settlement of the dispute to which the proceeding relates) in a way that is consistent with the overarching purpose.
- (2) A party’s lawyer must, in the conduct of a civil proceeding before the Court (including negotiations for settlement) on the party’s behalf:
 - (a) take account of the duty imposed on the party by subsection (1); and
 - (b) assist the party to comply with the duty.
- (3) The Court or a Judge may, for the purpose of enabling a party to comply with the duty imposed by subsection (1), require the party’s lawyer to give the party an estimate of:
 - (a) the likely duration of the proceeding or part of the proceeding; and
 - (b) the likely amount of costs that the party will have to pay in connection with the proceeding or part of the proceeding, including:
 - (i) the costs that the lawyer will charge to the party; and
 - (ii) any other costs that the party will have to pay in the event that the party is unsuccessful in the proceeding or part of the proceeding.
- (4) In exercising the discretion to award costs in a civil proceeding, the Court or a Judge must take account of any failure to comply with the duty imposed by subsection (1) or (2).

- (5) If the Court or a Judge orders a lawyer to bear costs personally because of a failure to comply with the duty imposed by subsection (2), the lawyer must not recover the costs from his or her client.

37P Power of the Court to give directions about practice and procedure in a civil proceeding

- (1) This section applies in relation to a civil proceeding before the Court.
- (2) The Court or a Judge may give directions about the practice and procedure to be followed in relation to the proceeding, or any part of the proceeding.
- (3) Without limiting the generality of subsection (2), a direction may:
- (a) require things to be done; or
 - (b) set time limits for the doing of anything, or the completion of any part of the proceeding; or
 - (c) limit the number of witnesses who may be called to give evidence, or the number of documents that may be tendered in evidence; or
 - (d) provide for submissions to be made in writing; or
 - (e) limit the length of submissions (whether written or oral); or
 - (f) waive or vary any provision of the Rules of Court in their application to the proceeding; or
 - (g) revoke or vary an earlier direction.
- (4) In considering whether to give directions under subsection (2), the Court may also consider whether to make an order under subsection 53A(1).
- (5) If a party fails to comply with a direction given by the Court or a Judge under subsection (2), the Court or Judge may make such order or direction as the Court or Judge thinks appropriate.
- (6) In particular, the Court or Judge may do any of the following:
- (a) dismiss the proceeding in whole or in part;
 - (b) strike out, amend or limit any part of a party's claim or defence;
 - (c) disallow or reject any evidence;
 - (d) award costs against a party;

- (e) order that costs awarded against a party are to be assessed on an indemnity basis or otherwise.
- (7) Subsections (5) and (6) do not affect any power that the Court or a Judge has apart from those subsections to deal with a party's failure to comply with a direction.

7 At the end of section 43

Add:

- (3) Without limiting the discretion of the Court or a Judge in relation to costs, the Court or Judge may do any of the following:
 - (a) make an award of costs at any stage in a proceeding, whether before, during or after any hearing or trial;
 - (b) make different awards of costs in relation to different parts of the proceeding;
 - (c) order the parties to bear costs in specified proportions;
 - (d) award a party costs in a specified sum;
 - (e) award costs in favour of or against a party whether or not the party is successful in the proceeding;
 - (f) order a party's lawyer to bear costs personally;
 - (g) order that costs awarded against a party are to be assessed on an indemnity basis or otherwise.

Note: For further provision about the award of costs, see subsections 37N(4) and (5) and paragraphs 37P(6)(d) and (e).

8 Section 49

Repeal the section, substitute:

49 Reserved judgments

- (1) This section applies where judgment is reserved in any proceeding before the Court.
- (2) If a Judge who heard the proceeding, whether as a single Judge or as a member of a Full Court:
 - (a) prepares his or her judgment; but
 - (b) is not available to publish the judgment;the judgment may be made public by another Judge authorised to do so by the Judge whose judgment it is.

- (3) A judgment made public in accordance with subsection (2) has the same effect as it would have if it were made public by the Judge whose judgment it is.

9 Subsection 53A(1)

Repeal the subsection, substitute:

- (1) The Court may, by order, refer proceedings in the Court, or any part of them or any matter arising out of them:
- (a) to an arbitrator for arbitration; or
 - (b) to a mediator for mediation; or
 - (c) to a suitable person for resolution by an alternative dispute resolution process;
- in accordance with the Rules of Court.

(1AA) Subsection (1) is subject to the Rules of Court.

Note: The heading to section 53A is replaced by the heading “**Arbitration, mediation and alternative dispute resolution processes**”.

10 Subsection 53A(1A)

Omit “to a mediator”, substitute “(other than to an arbitrator)”.

11 Subsection 53A(1A)

Omit “However, referrals”, substitute “Referrals”.

12 Application of amendments

The amendments made by this Schedule apply in relation to proceedings commenced before, on or after the commencement of this Schedule.

Schedule 2—Jurisdiction and appeals

Federal Court of Australia Act 1976

1 Subsection 20(2)

Omit “Subject to subsections (3) and (5), the”, substitute “The”.

2 After subsection 20(2)

Insert:

(2A) Subsections (1A) and (2) have effect subject to subsections (3) and (5).

3 Subsection 20(3)

Omit “If the matter coming before the Court as mentioned in subsection (2) is an application”, substitute “Applications”.

4 Subsection 20(3)

Omit “the matter may be heard and determined by a single Judge or by a Full Court.”, substitute:

must be heard and determined by a single Judge unless:

- (e) a Judge directs that the application be heard and determined by a Full Court; or
- (f) the application is made in a proceeding that has already been assigned to a Full Court and the Full Court considers it is appropriate for it to hear and determine the application.

5 At the end of subsection 20(4)

Add “either with or without the consent of the parties”.

6 Subsection 20(5)

After “subsection”, insert “(1A) or”.

7 Subsection 20(5)

After “single Judge”, insert “(sitting in Chambers or in open court)”.

8 After paragraph 20(5)(da)

Insert:

- (db) in relation to a civil matter, give directions under subsection 37P(2); or

9 Paragraph 20(5)(e)

After “give”, insert “other”.

10 After subsection 20(5)

Insert:

- (5A) An application for the exercise of a power mentioned in subsection (5) must be heard and determined by a single Judge unless:
 - (a) a Judge directs that the application be heard and determined by a Full Court; or
 - (b) the application is made in a proceeding that has already been assigned to a Full Court and the Full Court considers it is appropriate for it to hear and determine the application.

11 At the end of subsection 20(6)

Add “either with or without the consent of the parties”.

12 At the end of paragraph 24(1)(a)

Add “exercising the original jurisdiction of the Court”.

13 Subsection 24(1AAA)

Repeal the subsection, substitute:

- (1AA) An appeal must not be brought from a judgment referred to in paragraph (1)(a) if the judgment is:
 - (a) a determination of an application of the kind mentioned in subsection 20(3); or
 - (b) a decision to join or remove a party, or not to join or remove a party; or
 - (d) a decision to adjourn or expedite a hearing or to vacate a hearing date.

14 After subsection 24(1A)

Insert:

- (1B) Subsection (1A) is subject to subsection (1C).
- (1C) Leave to appeal under subsection (1A) is not required for an appeal from a judgment referred to in subsection (1) that is an interlocutory judgment:
- (a) affecting the liberty of an individual; or
 - (b) in proceedings relating to contempt of the Court or any other court.
- (1D) The following are taken to be interlocutory judgments for the purposes of subsections (1A) and (1C):
- (a) a judgment by consent;
 - (b) a decision granting or refusing summary judgment under section 31A.
- (1E) The fact that there has been, or can be, no appeal from an interlocutory judgment of the Court in a proceeding does not prevent:
- (a) a party from founding an appeal from a final judgment in the proceeding on the interlocutory judgment; or
 - (b) the Court from taking account of the interlocutory judgment in determining an appeal from a final judgment in the proceeding.

15 Subsection 25(1A)

Repeal the subsection.

16 Subsection 25(1AA)

Omit “migration”.

17 Subsection 25(1B)

Omit “Subsections (1A) and (1AA) have”, substitute “Subsection (1AA) has”.

18 Subsection 25(2)

Omit “may be heard and determined by a single Judge or by a Full Court.”, substitute:

must be heard and determined by a single Judge unless:

- (e) a Judge directs that the application be heard and determined by a Full Court; or

- (f) the application is made in a proceeding that has already been assigned to a Full Court and the Full Court considers it is appropriate for it to hear and determine the application.

19 At the end of subsection 25(2A)

Add “either with or without the consent of the parties”.

20 Subsection 25(2B)

After “single Judge”, insert “(sitting in Chambers or in open court)”.

21 After paragraph 25(2B)(bc)

Insert:

- (bd) give directions under subsection 37P(2); or

22 Paragraph 25(2B)(c)

After “give”, insert “other”.

23 After subsection 25(2B)

Insert:

- (2BA) In subsection (2B), a reference to an appeal includes a reference to an application of the kind mentioned in subsection (2).
- (2BB) An application for the exercise of a power mentioned in subsection (2B) must be heard and determined by a single Judge unless:
 - (a) a Judge directs that the application be heard and determined by a Full Court; or
 - (b) the application is made in a proceeding that has already been assigned to a Full Court and the Full Court considers it is appropriate for it to hear and determine the application.

24 At the end of subsection 25(2C)

Add “either with or without the consent of the parties”.

25 Subsection 25(5)

Repeal the subsection, substitute:

- (5) Subject to any other Act, the jurisdiction of the Court in an appeal from a judgment of a Court of summary jurisdiction is to be exercised by:
- (a) a single Judge; or
 - (b) if a Judge considers that it is appropriate for the jurisdiction of the Court in relation to the appeal to be exercised by a Full Court—a Full Court.

26 Subsection 25(6)

Omit “with respect to which an appeal would lie from a judgment of the Judge to a Full Court of the Court”, substitute “(whether or not an appeal would lie from a judgment of the Judge to a Full Court of the Court on the matter)”.

27 Subsection 25(7)

Repeal the subsection.

28 Paragraph 26(2)(a)

Repeal the paragraph, substitute:

- (a) if the court stating the case or reserving the question is a court of summary jurisdiction—must be exercised by:
 - (i) a single Judge; or
 - (ii) if a Judge considers that it is appropriate for the jurisdiction of the Court in relation to the matter to be exercised by a Full Court—a Full Court; or

29 Subsection 33(2)

After “Judge” (first occurring), insert “exercising the original jurisdiction of the Court”.

30 Subsection 33(2)

Omit all the words from and including “However”.

31 Subsection 33(4)

Omit “in relation to an appeal from a judgment of the Federal Magistrates Court”.

32 After subsection 33(4)

Insert:

- (4A) An appeal must not be brought to the High Court from a judgment of a Full Court of the Court exercising the original jurisdiction of the Court if the judgment is:
- (a) a determination of an application of the kind mentioned in subsection 20(3); or
 - (b) a decision to join or remove a party, or not to join or remove a party; or
 - (d) a decision to adjourn or expedite a hearing or to vacate a hearing date.
- (4B) An appeal must not be brought to the High Court from a judgment of the Court (whether constituted by a Full Court or a single Judge) in the exercise of its appellate jurisdiction if the judgment is:
- (a) a determination of an application of the kind mentioned in subsection 25(2); or
 - (b) a decision to join or remove a party, or not to join or remove a party; or
 - (c) an order under section 29; or
 - (e) a decision to grant or refuse leave to defend a proceeding; or
 - (f) a decision to reinstate an appeal that was taken to have been abandoned or dismissed; or
 - (g) a decision to extend the time for making an application for leave to appeal; or
 - (h) a decision to adjourn or expedite a hearing or to vacate a hearing date.
- (4C) The fact that there has been, or can be, no appeal to the High Court from an interlocutory judgment of the Court in a proceeding does not prevent:
- (a) a party from founding an appeal from a final judgment in the proceeding on the interlocutory judgment; or
 - (b) the High Court from taking account of the interlocutory judgment in determining:
 - (i) an appeal from a final judgment in the proceeding; or
 - (ii) an application for special leave to appeal from a final judgment in the proceeding.

33 Application of amendments

- (1) The amendments made by items 1 to 11 apply in relation to matters coming before the Federal Court of Australia in the original jurisdiction of the Court on or after the commencement of this Schedule.
- (2) The amendments made by items 12 to 27 apply in relation to appeals brought to the Federal Court of Australia on or after the commencement of this Schedule.
- (3) The amendment made by item 28 applies in relation to any case stated or question reserved under subsection 26(1) of the *Federal Court of Australia Act 1976* on or after the commencement of this Schedule.
- (4) The amendments made by items 29 to 32 apply in relation to appeals brought to the High Court from the Federal Court of Australia on or after the commencement of this Schedule.

Schedule 3—Judicial responsibilities

Part 1—Main amendments

Family Law Act 1975

1 Subsection 21B(1)

After “ensuring the”, insert “effective,”.

2 Subsection 21B(1)

Omit all the words after “business of the Court”.

3 After subsection 21B(1)

Insert:

- (1A) In discharging his or her responsibility under subsection (1) (and without limiting the generality of that subsection) the Chief Judge:
- (a) may, subject to this Act and to such consultation with Judges as is appropriate and practicable, do all or any of the following:
 - (i) make arrangements as to the Judge or Judges who is or are to constitute the Court, or the Full Court, in particular matters or classes of matters;
 - (ii) without limiting the generality of subparagraph (i)— assign particular caseloads, classes of cases or functions to particular Judges;
 - (iii) temporarily restrict a Judge to non-sitting duties; and
 - (b) must ensure that arrangements are in place to provide Judges with appropriate access to (or reimbursement for the cost of):
 - (i) annual health assessments; and
 - (ii) short-term counselling services; and
 - (iii) judicial education.

4 Subsections 21B(2) and (3)

Omit “subsection (1)”, substitute “this section”.

5 At the end of section 21B

Add:

- (4) In exercising, or assisting in the exercise of, the functions or powers mentioned in paragraph (1A)(a), the Chief Judge and the Deputy Chief Judge have the same protection and immunity as if they were exercising, or assisting in the exercise of, those functions or powers as, or as members of, the Court.
- (5) Despite section 39B of the *Judiciary Act 1903*, the Federal Court of Australia does not have jurisdiction with respect to a matter relating to the exercise by the Chief Judge of, or relating to the Deputy Chief Judge assisting in the exercise of, the functions or powers mentioned in subsection (1A).

6 After subsection 22(2)

Insert:

Judges to be assigned to particular location

- (2AAA) The commission of appointment of a Judge must assign the Judge to a particular location. The Judge:
 - (a) must not sit at another location on a permanent basis unless the Attorney-General and the Chief Judge consent; and
 - (b) cannot be required to sit at another location on a permanent basis unless the Judge consents (in addition to the consents required by paragraph (a)); and
 - (c) may sit at another location on a temporary basis.
- (2AAB) In deciding whether to consent as mentioned in paragraph (2AAA)(a), the Chief Judge has the same protection and immunity as if he or she were making that decision as, or as a member of, the Court.
- (2AAC) Despite section 39B of the *Judiciary Act 1903*, the Federal Court of Australia does not have jurisdiction with respect to a matter relating to the exercise by the Attorney-General or the Chief Judge of the power to consent as mentioned in paragraph (2AAA)(a).

Note 1: The following heading to subsection 22(1) is inserted “*Appointment of Judges*”.

Note 2: The following heading to subsection 22(2AA) is inserted “*Appeal Division*”.

Note 3: The following heading to subsection 22(2AF) is inserted “*General Division*”.

Note 4: The following heading to subsection 22(2AFA) is inserted “*Appointment of Deputy Chief Judge or Judge Administrator*”.

Schedule 3 Judicial responsibilities
Part 1 Main amendments

Note 5: The following heading to subsection 22(2AG) is inserted “*Judge of 2 or more courts*”.

Note 6: The following heading to subsection 22(3) is inserted “*Resignation*”.

Note 7: The following heading to subsection 22(4) is inserted “*Style*”.

Federal Court of Australia Act 1976

7 After subsection 6(2)

Insert:

Judges to be assigned to particular location

- (3) The commission of appointment of a Judge must assign the Judge to a particular location. The Judge:
- (a) must not sit at another location on a permanent basis unless the Attorney-General and the Chief Justice consent; and
 - (b) cannot be required to sit at another location on a permanent basis unless the Judge consents (in addition to the consents required by paragraph (a)); and
 - (c) may sit at another location on a temporary basis.
- (3A) In deciding whether to consent as mentioned in paragraph (3)(a), the Chief Justice has the same protection and immunity as if he or she were making that decision as, or as a member of, the Court.
- (3B) Despite section 39B of the *Judiciary Act 1903*, the Court does not have jurisdiction with respect to a matter relating to the exercise by the Attorney-General or the Chief Justice of the power to consent as mentioned in paragraph (3)(a).

Note 1: The following heading to subsection 6(1) is inserted “*Appointment of Judges*”.

Note 2: The following heading to subsection 6(4) is inserted “*Resignation*”.

Note 3: The following heading to subsection 6(5) is inserted “*Judge of 2 or more courts*”.

Note 4: The following heading to subsection 6(6) is inserted “*Style*”.

Note 5: The following heading to subsection 6(7) is inserted “*Definition*”.

8 Subsection 15(1)

After “ensuring the”, insert “effective,”.

9 Subsection 15(1)

Omit all the words after “business of the Court”.

10 After subsection 15(1)

Insert:

- (1AA) In discharging his or her responsibility under subsection (1) (and without limiting the generality of that subsection) the Chief Justice:
- (a) may, subject to this Act and to such consultation with Judges as is appropriate and practicable, do all or any of the following:
 - (i) make arrangements as to the Judge or Judges who is or are to constitute the Court in particular matters or classes of matters;
 - (ii) without limiting the generality of subparagraph (i)— assign particular caseloads, classes of cases or functions to particular Judges;
 - (iii) temporarily restrict a Judge to non-sitting duties; and
 - (b) must ensure that arrangements are in place to provide Judges with appropriate access to (or reimbursement for the cost of):
 - (i) annual health assessments; and
 - (ii) short-term counselling services; and
 - (iii) judicial education.
- (1AB) In exercising the functions or powers mentioned in paragraph (1AA)(a), the Chief Justice has the same protection and immunity as if he or she were exercising those functions or powers as, or as a member of, the Court.
- (1AC) Despite section 39B of the *Judiciary Act 1903*, the Court does not have jurisdiction with respect to a matter relating to the exercise by the Chief Justice of the functions or powers mentioned in subsection (1AA).

Federal Magistrates Act 1999

11 Subsection 12(1)

After “ensuring the”, insert “effective,”.

12 Subsection 12(3)

Repeal the subsection, substitute:

- (3) In discharging his or her responsibility under subsection (1) (and without limiting the generality of that subsection) the Chief Federal Magistrate:
- (a) may, subject to this Act and to such consultation with Federal Magistrates as is appropriate and practicable, do all or any of the following:
 - (i) make arrangements as to the Federal Magistrate who is to constitute the Federal Magistrates Court in particular matters or classes of matters;
 - (ii) without limiting the generality of subparagraph (i)— assign particular caseloads, classes of cases or functions to particular Federal Magistrates;
 - (iii) temporarily restrict a Federal Magistrate to non-sitting duties; and
 - (b) must ensure that arrangements are in place to provide Federal Magistrates with appropriate access to (or reimbursement for the cost of):
 - (i) annual health assessments; and
 - (ii) short-term counselling services; and
 - (iii) judicial education.

13 After subsection 12(6)

Insert:

Protection of the Chief Federal Magistrate in the exercise of functions or powers

- (6A) In exercising the functions or powers mentioned in paragraph (3)(a) or subsection (4), the Chief Federal Magistrate has the same protection and immunity as if he or she were exercising those functions or powers as, or as a member of, the Federal Magistrates Court.
- (6B) Despite section 39B of the *Judiciary Act 1903*, the Federal Court of Australia does not have jurisdiction with respect to a matter relating to the exercise by the Chief Federal Magistrate of the functions or powers mentioned in subsection (3) or (4).

14 Application of amendments

- (1) The amendments made by this Part, other than items 6 and 7, apply in relation to Judges and Federal Magistrates whether appointed before or after the commencement of the amendments.
- (2) The amendments made by items 6 and 7 apply in relation to commissions of appointment signed by the Governor-General after the commencement of those amendments.

Part 2—Related amendments

Administrative Decisions (Judicial Review) Act 1977

15 At the end of Schedule 1

Add:

- ; (zd) the following decisions under the *Family Law Act 1975*:
 - (i) decisions of the Chief Judge or the Deputy Chief Judge in the exercise of, or in assisting in the exercise of, the functions or powers mentioned in subsection 21B(1A) of that Act;
 - (ii) decisions of the Chief Judge or the Attorney-General whether to consent as mentioned in paragraph 22(2AAA)(a) of that Act;
- (ze) the following decisions under the *Federal Court of Australia Act 1976*:
 - (i) decisions of the Chief Justice in the exercise of the functions or powers mentioned in subsection 15(1AA) of that Act;
 - (ii) decisions of the Chief Justice or the Attorney-General whether to consent as mentioned in paragraph 6(3)(a) of that Act;
- (zf) decisions of the Chief Federal Magistrate in the exercise of the functions or powers mentioned in subsection 12(3) or (4) of the *Federal Magistrates Act 1999*.

Schedule 4—Appointment of Federal Court Judges to State Supreme Courts

Federal Court of Australia Act 1976

1 Subsection 6(7) (at the end of the definition of *prescribed court*)

Add:

; or (d) the Supreme Court of a State.

Schedule 5—Registries

Federal Court of Australia Act 1976

1 At the end of section 34

Add:

- (3) The Registrar must ensure that at least one Registry in each State is staffed appropriately to discharge the functions of a District Registry, with the staff to include a District Registrar in that State.

*[Minister's second reading speech made in—
House of Representatives on 22 June 2009
Senate on 10 September 2009]*

(124/09) *Access to Justice (Civil Litigation Reforms) Amendment Act 2009* No. 117, 2009