

# FEDERAL COURTS (STATE JURISDICTION) BILL 1999

## CLAUSE NOTES

### Part 1 Preliminary

#### *Clause 1: Short title*

#### *Clause 2: Commencement*

This clause provides for the commencement of the proposed Act on the day it receives the Royal Assent, except the consequential amendments in Division 2 of Part 4 which will come into operation on a day fixed by proclamation.

Division 2's provisions are drafted on the basis of the current understanding of the amendments that are needed to tidy up various Acts as a result of the High Court decision. These amendments may prove to be either unnecessary or in need of further amendment. However, they are included in this Bill in the expectation that they will be needed. In order to provide flexibility the amendments will only commence if they are proclaimed. It may be that ultimately some of these will prove unnecessary and will have to be repealed.

#### *Clause 3: Interpretation*

This clause defines the meaning of certain words and expressions used in the proposed Act.

#### *Clause 4: Meaning of "ineffective judgment"*

This clause defines the expression *ineffective judgment*. In short, it is defined as a judgment of a federal court given in a State matter or a State family law matter already given in the purported exercise of jurisdiction conferred by a State Act. The definition will apply to judgments of a federal court as affirmed, reversed or varied following an appeal in the federal court concerned. The definition will extend to judgments substituted by the High Court on appeal, as these judgments are made in lieu of judgments of the federal court concerned.

#### *Clause 5: Crown is bound*

This clause provides that the proposed Act binds the Crown.

### Part 2 Rights and Liabilities

#### *Clause 6: Rights and liabilities declared in certain cases*

This clause declares that all rights and liabilities are to be the same as if each ineffective judgment had been given by the Supreme Court or the Family Court of Western Australia, as the case requires.

***Clause 7: Effect of declared rights and liabilities***

This clause provides that such rights and liabilities are exercisable and enforceable as if they were rights and liabilities under judgments of the Supreme Court or Family Court of Western Australia, as the case requires.

***Clause 8: Effect of things done or omitted to be done under or in relation to rights and liabilities***

This clause provides that any act or omission under or in relation to such rights and liabilities has the same effect and consequences as if it was done or omitted to be done under or in relation to rights and liabilities under judgments of the Supreme Court or the Family Court of Western Australia, as the case requires.

***Clause 9: Section 6 regarded as having ceased to have effect in certain cases***

This clause provides that clause 6 does not apply to a judgment that was replaced by a later judgment of a federal court.

***Clause 10: Powers of WA Courts in relation to declared rights and liabilities***

This clause empowers the Supreme Court or the Family Court of Western Australia to vary or otherwise deal with any such rights and liabilities, as the case requires.

***Clause 11: Certain proceedings may be treated as proceedings in a WA court***

This clause provides a mechanism for current proceedings before a federal court in relation to State matters to be transferred to the Supreme Court or the Family Court of Western Australia, as the case requires.

***Clause 12: Proceedings for contempt***

This clause provides that interference with any such rights and liabilities can be dealt with as contempt of an order of the Supreme Court or the Family Court of Western Australia, as the case requires.

### **Part 3 General**

***Clause 13: Evidentiary matters***

This clause enables federal court records to be produced to show the existence, nature and extent of such rights and liabilities.

***Clause 14: Act not to apply to certain judgments***

This clause provides that the proposed Act does not apply to judgments already quashed or overruled.

***Clause 15: Regulations***

This clause provides a power to make regulations.

## **Part 4 Consequential amendments**

Part 4 is divided into two divisions.

### ***Division 1: Amendment that commences on Royal Assent***

Division 1 commences on assent (see clause 2(1)).

#### ***Clause 16: Competition Policy Reform (Western Australia) Act 1996 amended***

This clause amends the *Competition Policy Reform (Western Australia) Act 1996* by repealing section 22 which says that Western Australian courts do not have jurisdiction as to civil and criminal matters arising under the Competition Code of Western Australia.

### ***Division 2: Amendments that commence on proclamation***

Amendments in this Division come into operation on proclamation (see clause 2(2)).

#### ***Clause 17: Agricultural and Veterinary Chemicals (Western Australia) Act 1995 amended***

This clause provides for consequential amendments to the *Agricultural and Veterinary Chemicals (Western Australia) Act 1995*.

#### ***Clause 18: Competition Policy Reform (Western Australia) Act 1996 amended***

This clause provides for consequential amendments to the *Competition Policy Reform (Western Australia) Act 1996*.

#### ***Clause 19: Corporations (Western Australia) Act 1990 amended***

This clause provides for consequential amendments to the *Corporations (Western Australia) Act 1990*.

#### ***Clause 20: Gas Pipelines Access (Western Australia) Act 1998 amended***

This clause provides for consequential amendments to the *Gas Pipelines Access (Western Australia) Act 1998*.

#### ***Clause 21: Jurisdiction of Courts (Cross-Vesting) Act 1987 amended***

This clause provides for consequential amendments to the *Jurisdiction of Courts (Cross-Vesting) Act 1987*.