

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Presented and read a first time

(Attorney-General)

**LAW AND JUSTICE LEGISLATION AMENDMENT BILL
(NO. 2) 1995**

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1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

Presented and read a first time

(Attorney-General)

A BILL

FOR

**An Act to amend various Acts relating to law and justice,
and for related purposes**

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Law and Justice Legislation Amendment Act (No. 2) 1995*.

5 Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Items 1, 5, 7, 8, 10 to 12 and 58 to 67 in the Schedule commence on a day to be fixed by Proclamation.

(3) If the items mentioned in subsection (2) do not commence under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, those items commence on the first day after the end of that period. 5

(4) If item 31 in Schedule 2 to the *Law and Justice Legislation Amendment Act (No. 1) 1995* does not come into effect before the day on which this Act receives the Royal Assent, item 13 in the Schedule to this Act commences on the same day as the first-mentioned item immediately after that item comes into effect. 10

(5) If item 43 in Schedule 1 to the *Law and Justice Legislation Amendment Act (No. 1) 1995* does not come into effect before the day on which this Act receives the Royal Assent, item 14 in the Schedule to this Act commences on the same day as the first-mentioned item immediately after that item comes into effect. 15

Amendments

3. The Acts referred to in the Schedule are amended in accordance with the applicable items in the Schedule, and the other items in the Schedule have effect according to their terms. 20

SCHEDULE

Section 3

PART 1—AMENDMENTS OF THE ADMINISTRATIVE APPEALS TRIBUNAL ACT 1975

1. Subsection 3(1):

Insert:

“ **‘Small Taxation Claims Tribunal’** means the Taxation Appeals Division of the Tribunal when that Division is required under Part IIIAA to be known as the Small Taxation Claims Tribunal;”.

2. Subsection 7(1):

After “he” insert “or she”.

3. Paragraph 16(4)(b):

After “he” insert “or she”.

4. Subsection 16(4):

Omit “to him as if he”, substitute “to him or her as if he or she”.

5. Subsection 19(3A):

Omit “consulted with the Treasurer in relation to the assignment of the member”, substitute “notified the Treasurer of the proposed assignment of the member”.

6. Subsection 21A(3):

(a) After “he” insert “or she”

(b) After “him” insert “or her”.

7. After Part III:

Insert:

“PART IIIAA—SMALL TAXATION CLAIMS TRIBUNAL

Definitions

“24AA. In this Part:

‘determined amount’ means:

(a) subject to paragraph (b)—\$5,000; or

(b) if a higher amount is determined by the regulations—the higher amount;

‘lower application fee’ means the fee payable in respect of an application for the review of a taxation decision where subsection 24AC(1) applies in respect of the hearing and determination of the application;

SCHEDULE—continued

‘standard application fee’ means the fee payable in respect of an application for the review of a taxation decision where subsection 24AC(1) does not apply in respect of the hearing and determination of the application;

‘taxation decision’ means:

- (a) an assessment, determination, notice or decision against which a taxation objection has been made under Part IVC of the *Taxation Administration Act 1953*; or
- (b) a decision refusing a request for an extension of time within which to make such an objection.

Reviews of taxation decisions to be heard before the Taxation Appeals Division

“24AB. Subject to this Part, an application for the review of a taxation decision is to be heard in the Taxation Appeals Division of the Tribunal.

Small Taxation Claims Tribunal to hear tax disputes involving less than the determined amount

“24AC.(1) Subject to section 24AD, if:

- (a) an application for the review of a taxation decision states the amount of tax that the applicant considers to be in dispute and the amount so stated is less than the determined amount; or
- (b) an application for the review of a taxation decision does not state as mentioned in paragraph (a) but, before the start of the hearing of the application, the applicant notifies the Tribunal in writing of the amount of tax that the applicant considers to be in dispute and the amount so notified is less than the determined amount;

the Taxation Appeals Division, when hearing and determining the application, is to be known as the Small Taxation Claims Tribunal.

“(2) A notification may be given to the Tribunal under paragraph (1)(b) in respect of any application for the review of a taxation decision, whether the application was made before, or is made after, the commencement of this section.

“(3) Subject to section 24AD, if paragraph (1)(b) applies, the applicant is entitled to a refund of so much of the application fee paid as exceeds the lower application fee.

What happens if the Small Taxation Claims Tribunal considers that the tax in dispute is not less than the determined amount

“24AD.(1) If:

- (a) an application is before the Small Taxation Claims Tribunal under subsection 24AC(1); and

SCHEDULE—continued

(b) the Tribunal considers that the amount of tax in dispute is not less than the determined amount;
the Tribunal may make an order declaring that subsection 24AC(1) is not to apply.

“(2) If such an order is made:

- (a) the Taxation Appeals Division, when hearing and determining the application, is not to be known as the Small Taxation Claims Tribunal; and
- (b) the Tribunal must not proceed to hear and determine the application until the applicant pays an additional fee in respect of the application equal to the difference between the standard application fee and the lower application fee; and
- (c) if the additional fee is not paid within the period directed by the Tribunal or, if no such direction is given, within the prescribed period, the Tribunal may dismiss the application but:
 - (i) if the additional fee is paid after the application is dismissed, the applicant may apply to the Tribunal for reinstatement of the application; and
 - (ii) if the Tribunal considers it appropriate to do so, the Tribunal may reinstate the application and give any directions that appear to it to be appropriate in the circumstances.

“(3) If the Tribunal waives the whole or a part of the additional fee:

- (a) if the whole of the fee is waived—paragraphs (2)(b) and (c) do not apply; or
- (b) if part of the fee is waived—references in those paragraphs to the additional fee are taken to be references to the part of the fee that is not waived.

“(4) If:

- (a) an application is, or 2 or more applications by the same applicant are, before the Small Taxation Claims Tribunal under subsection 24AC(1); and
- (b) another application is before the Administrative Appeals Tribunal that:
 - (i) is made by the same applicant; and
 - (ii) may, in the opinion of the Registrar, a District Registrar or a Deputy Registrar, be conveniently heard before the Administrative Appeals Tribunal at the same time as the first-mentioned application or applications;

the following provisions apply:

SCHEDULE—continued

- (c) the applications are to be heard and determined before the Taxation Appeals Division;
- (d) that Division, when hearing and determining the applications, is not to be known as the Small Taxation Claims Tribunal;
- (e) the Registrar, a District Registrar or a Deputy Registrar may order that only one standard application fee is payable for the applications.”.

8. After subsection 34A(1):

Insert:

“(1A) In respect of a proceeding before the Small Taxation Claims Tribunal:

- (a) the Registrar, a District Registrar or a Deputy Registrar must give to the applicant:
 - (i) if the proceeding relates to an application to which paragraph 24AC(1)(a) applies—when the application is made; or
 - (ii) if the proceeding relates to an application to which paragraph 24AC(1)(b) applies—when the notification referred to in that paragraph is given;

a statement setting out the procedures to be followed by the Tribunal and the mediation processes that are available under this Act; and

- (b) if the Tribunal considers at any time that it may assist in the resolution of the dispute between the parties if the proceeding, or any part of the proceeding or any matter arising out of the proceeding, were dealt with by mediation, the Tribunal must:
 - (i) recommend to the parties that the proceeding, part of the proceeding or matter be the subject of mediation; and
 - (ii) if the parties consent, direct that the proceeding, part of the proceeding or matter be referred to a mediator for mediation.”.

9. Paragraph 37(1)(b):

Omit “in his possession or under his control and is considered by him”, substitute “in his or her possession or under his or her control and is considered by him or her”.

10. Paragraph 45(1)(a):

Omit “or” (last occurring), substitute “and”.

11. Paragraph 45(1)(b):

Omit “President.”, substitute “President; and”.

SCHEDULE—continued

12. Subsection 45(1):

Add at the end:

“(c) in respect of a proceeding before the Small Taxation Claims Tribunal—in so referring a question, the interests of the applicant must be taken into account.”.

13. Section 69A:

Repeal, substitute:

Procedure for taxing costs

“69A.(1) If:

- (a) the Tribunal has, under this Act or any other Act, ordered a person (the ‘**payer**’) who is a party to a proceeding, or is representing or has represented a party to a proceeding, to pay to another party to the proceeding (the ‘**payee**’) reasonable costs incurred by the payee; and
- (b) the payer and the payee are unable to agree as to the amount of those costs;

the President may give any directions he or she thinks appropriate for the costs:

- (c) to be taxed or settled by the Tribunal; or
- (d) to be taxed by the Registrar, a District Registrar or a Deputy Registrar.

“(2) If the Registrar, a District Registrar or a Deputy Registrar has taxed the amount to be paid by the payer to the payee, either the payer or payee may apply to the Tribunal for review of the amount so taxed.

“(3) If such an application is made, the Tribunal must review the amount taxed and may:

- (a) affirm the amount; or
- (b) set aside the amount and substitute another amount; or
- (c) set aside the amount and remit the matter to the Registrar, District Registrar or Deputy Registrar, as the case may be, to be taxed in accordance with the directions of the Tribunal.

“(4) An amount that the payer is required under an order made by the Tribunal to pay to the payee is recoverable by the payee as a debt due to the payee by the payer.”.

14. After section 69B:

Insert:

Power of Tribunal to award costs

“69C.(1) If the Tribunal considers that:

SCHEDULE—continued

(a) a party to a proceeding, or a person representing a party to a proceeding, has engaged in conduct in relation to the proceeding in which the party or person ought not to have engaged; and

(b) another party to the proceeding has incurred costs that the other party would not have incurred if the conduct had not been engaged in;

the Tribunal may order the first-mentioned party, or the person representing that party, as the case may be, to pay to the other party any of the costs referred to in paragraph (b) that are reasonable.

“(2) Without limiting paragraph (1)(a), the following are examples of conduct to which that paragraph applies:

(a) failure to comply with an order or direction of the Tribunal;

(b) the doing of, or omitting to do, anything that has resulted in the proceeding having to be adjourned;

(c) vexatious conduct that does not result in the dismissal of the application.

“(3) If the Tribunal has dismissed an application under section 42B, the Tribunal may order the applicant, or a person representing the applicant, to pay to any other party to the proceeding the reasonable costs incurred by the other party in relation to the proceeding.”.

SCHEDULE—continued

**PART 2—AMENDMENTS OF THE ADMINISTRATIVE
DECISIONS (JUDICIAL REVIEW) ACT 1977**

15. Schedule 1:

- (a) Reletter paragraph (s) (second occurring) as paragraph (t).
- (b) Reletter paragraph (t) as paragraph (u).
- (c) Reletter paragraph (u) (first occurring) as paragraph (v).
- (d) Reletter paragraph (u) (second occurring) as paragraph (w).
- (e) Reletter paragraph (v) as paragraph (x).

SCHEDULE—continued

PART 3—AMENDMENTS OF THE BANKRUPTCY ACT 1966

16. After section 30:

Insert:

Federal Court to have powers under Family Law Act

“30A.(1) In any proceeding, the powers of the Federal Court include the power to grant any remedies, and make orders of any kinds, that the Family Court of Australia could have made in proceedings in the Family Court under Part VIII of the *Family Law Act 1975*.”

“(2) The powers of the Federal Court under subsection (1) may be exercised by the Court of its own motion or on the application of any person who is entitled to bring proceedings in the Family Court under Part VIII of the *Family Law Act 1975*.”.

17. After section 35A:

Insert:

Transfer of certain proceedings to Family Court

“35B.(1) In this section:

‘**the Family Court**’ includes the Family Court of Western Australia.

“(2) If, in a proceeding pending in the Federal Court, the Federal Court has to consider whether it should make a declaration or order under Part VIII of the *Family Law Act 1975*, the Federal Court may, upon the application of either party to the proceeding or of its own motion, transfer the proceeding to the Family Court if the Federal Court considers that it is more appropriate, or otherwise in the interests of justice, for the proceeding to be heard and determined by the Family Court.

“(3) Subject to subsection (4), if any proceeding is so transferred to the Family Court:

- (a) the Family Court has jurisdiction in the matters that are the subject of the proceeding; and
- (b) the Family Court also has jurisdiction in any other matters not otherwise within its jurisdiction (whether under paragraph (a) or otherwise):
 - (i) that are associated with matters arising in the proceeding; or
 - (ii) in which, apart from subsection 32(1) of the *Federal Court of Australia Act 1976*, the Federal Court would have had jurisdiction in the proceeding; and
- (c) the Family Court may, in or in relation to the proceeding:

SCHEDULE—continued

- (i) grant any remedies; and
 - (ii) make orders of any kinds;
- that the Federal Court could have granted or made, as the case may be, in or in relation to the proceeding; and
- (d) any remedies or orders granted or made by the Family Court in or in relation to the proceeding have the same effect, and may be enforced by the Family Court in the same way, as if they had been granted or made by the Federal Court; and
 - (e) appeals do not lie to the Federal Court from decrees of the Family Court made in or in relation to the proceeding.

“(4) If any difficulty arises in the application of paragraphs (3)(c) and (d) in or in relation to a particular proceeding, the Family Court may, on the application of a party to the proceeding or of its own motion, give any directions, and make any orders, that it considers appropriate to resolve the difficulty.

“(5) An appeal does not lie from a decision of the Federal Court in relation to the transfer of a proceeding under this section to the Family Court.”.

18. After subsection 116(2):

Insert:

“(2AA) If, before property that, apart from this subsection, would be divisible amongst the creditors of the bankrupt, is distributed amongst those creditors:

- (a) a declaration is made under section 78 of the *Family Law Act 1975* that the spouse or former spouse of the bankrupt has an interest in the property; or
- (b) an order is made under section 79 of that Act giving such an interest to the spouse or former spouse of the bankrupt;

subsection (1) does not extend, and is taken never to have extended, to the interest.

“(2AB) The trustee is entitled to a copy of any declaration or order referred to in subsection (2AA).”.

SCHEDULE—continued

PART 4—AMENDMENTS OF THE FAMILY LAW ACT 1975

19. After section 79A:

Insert:

Transfer of proceedings to Federal Court of Australia

“79B.(1) If any proceedings are pending in the court under Part VIII with respect to the property of the parties to a marriage or either of them, the court may, upon the application of either party or of its own motion, if the court considers that it is more appropriate, or otherwise in the interests of justice, for the proceedings to be heard and determined by the Federal Court of Australia, transfer the proceedings to the Federal Court of Australia.

“(2) Subject to subsection (3), if any proceedings are transferred to the Federal Court of Australia:

- (a) the Federal Court of Australia has jurisdiction in the matters that are the subject of the proceedings; and
- (b) the Federal Court of Australia also has jurisdiction in any other matters not otherwise within its jurisdiction (whether under paragraph (a) or otherwise):
 - (i) that are associated with matters arising in the proceedings; or
 - (ii) in which the court would have had jurisdiction in the proceedings; and
- (c) the Federal Court of Australia may, in or in relation to the proceedings:
 - (i) grant any remedies; and
 - (ii) make orders of any kinds;that the court could have granted or made, as the case may be, in or in relation to the proceedings; and
- (d) any remedies or orders granted or made by the Federal Court of Australia in or in relation to the proceedings have the same effect, and may be enforced by the Federal Court of Australia in the same way, as if they had been granted or made by the court; and
- (e) appeals do not lie to the Family Court of Australia from judgments of the Federal Court of Australia given in or in relation to the proceedings.

“(3) If any difficulty arises in the application of paragraphs (2)(c) and (d) in or in relation to particular proceedings, the Federal Court of Australia may, on the application of a party to the proceedings or of its own motion, give any directions, and make any orders, that it considers appropriate to resolve the difficulty.

SCHEDULE—continued

“(4) An appeal does not lie from a decision of the court in relation to the transfer of a proceeding under this section to the Federal Court of Australia.”.

20. Subsection 94(3):

Add at the end “other than a proceeding transferred under section 35B of the *Bankruptcy Act 1966*”.

SCHEDULE—continued

**PART 5—AMENDMENTS OF THE FEDERAL COURT OF
AUSTRALIA ACT 1976**

21. Subsection 32W(5):

Omit “If an amount”, substitute “Subject to subsection (6), if an amount”.

22. Paragraph 32W(5)(b):

Omit, substitute:

“(b) in any other case—as if it were for an equivalent amount in Australian currency, based on the rate of exchange prevailing on the second business day (the ‘**conversion day**’) before the day on which the application for registration is made.”.

23. After subsection 32W(5):

Insert:

“(5A) For the purposes of paragraph (5)(b), the rate of exchange prevailing on the conversion day is the average of the rates at which Australian dollars may be bought in New Zealand currency at:

(a) 11 a.m.; or

(b) if another time is prescribed for the purposes of this subsection—that other time;

on that day from 3 authorised foreign exchange dealers selected by the judgment creditor.

“(5B) The reference in paragraph (5)(b) to a business day is a reference to a day on which the authorised foreign exchange dealers selected by the judgment creditor as mentioned in subsection (5A) publish rates at which Australian dollars may be bought in New Zealand currency.”.

24. Subsection 32W(7):

Add at the end “and the costs of obtaining from foreign exchange dealers evidence of the rates at which Australian dollars may be bought in New Zealand currency.”.

25. Section 32W:

Add at the end:

“(8) In this section:

‘**authorised foreign exchange dealer**’ means a person authorised by a general authority issued by the Reserve Bank of Australia under regulation 38A of the Banking (Foreign Exchange) Regulations to buy and sell foreign currency.”.

SCHEDULE—continued

**PART 6—AMENDMENT OF THE FEDERAL PROCEEDINGS
(COSTS) ACT 1981**

26. Schedule:

After “Court” in the heading insert “or Tribunal”.

SCHEDULE—continued

**PART 7—AMENDMENTS OF THE FOREIGN JUDGMENTS ACT
1991**

27. Subsection 6(11):

Omit “Where the amount”, substitute “Subject to subsection (12), if the amount”.

28. Paragraph 6(11)(b):

Omit “the day of the application for registration”, substitute “on the second business day (the ‘**conversion day**’) before the day on which the application for registration is made”.

29. After subsection 6(11):

Insert:

“(11A) For the purposes of paragraph (11)(b), the rate of exchange prevailing on the conversion day referred to in that paragraph is the average of the rates at which Australian dollars may be bought in the currency in which the judgment is expressed at:

(a) 11 a.m.; or

(b) if another time is prescribed for the purposes of this subsection—that other time;

on that day from 3 authorised foreign exchange dealers selected by the judgment creditor.

“(11B) The reference in paragraph (11)(b) to a business day is a reference to a day on which the authorised foreign exchange dealers selected by the judgment creditor as mentioned in subsection (11A) publish rates at which Australian dollars may be bought in the currency in which the judgment is expressed.”.

30. Paragraph 6(15)(a):

After “court” insert “and the costs of obtaining from foreign exchange dealers evidence of the rates at which Australian dollars may be bought in the currency in which the judgment is expressed”.

31. Section 6:

Add at the end:

“(16) In this section:

‘**authorised foreign exchange dealer**’ means a person authorised by a general authority issued by the Reserve Bank of Australia under regulation 38A of the Banking (Foreign Exchange) Regulations to buy and sell foreign currency.”.

SCHEDULE—continued

**PART 8—AMENDMENTS OF THE FREEDOM OF
INFORMATION ACT 1982**

32. Schedule 2 (Division 1 of Part II):

After the item referring to the Health Insurance Commission insert:
“Indigenous Land Corporation, in relation to documents in respect of its commercial activities”.

33. Schedule 2 (Division 2 of Part II):

Add at the end:
“Department of Administrative Services, in relation to documents in respect of its commercial activities”.

SCHEDULE—continued

PART 9—AMENDMENT OF THE JUDGES’ PENSIONS ACT 1968

34. Subsection 5(1):

Omit, substitute:

“(1) For the purposes of this Act, a Judge is taken not to have retired so long as he or she continues:

- (a) to hold any office as a Judge; or
- (b) to hold any judicial office in relation to a Territory that is remunerated otherwise than on a part-time basis.”.

SCHEDULE—continued

**PART 10—AMENDMENTS OF THE JURISDICTION OF
COURTS (CROSS-VESTING) ACT 1987**

35. Subsection 3(1) (definition of “State”):

Before “Northern” insert “Australian Capital Territory and the”.

36. Subsection 3(1) (definition of “Territory”):

Before “Northern” insert “Australian Capital Territory or the”.

37. Paragraph 4(1)(c):

Before “Northern” insert “Australian Capital Territory and the Supreme Court of the”.

38. Paragraph 4(1)(d):

Before “Northern” insert “Australian Capital Territory and the”.

SCHEDULE—continued

PART 11—AMENDMENTS OF THE PRIVACY ACT 1988

39. Subsection 6(1):

Insert:

“ ‘**guarantee**’ includes an indemnity given against the default of a borrower in making a payment in respect of a loan;”.

40. Subparagraph 11B(1)(c)(ii):

Omit “corporation.”, substitute “corporation; or”.

41. Subsection 11B(1):

Add at the end:

“(d) an agency that:

- (i) carries on a business or undertaking that involves the making of loans; and
- (ii) is determined by the Commissioner to be a credit provider for the purposes of this Act.”.

42. After subsection 11B(1):

Insert:

“(1A) If an agency is a credit provider because of paragraph (1)(d), Part IIIA has effect in relation to the carrying on by the agency of a business or undertaking involving the making of loans despite anything in Part III or in the *Freedom of Information Act 1982*.”.

43. Subsection 11B(3):

Before “is to” insert “or subparagraph (1)(d)(ii)”.

44. After paragraph 18E(1)(b):

Insert:

“(ba) the information is a record of an overdue payment by the individual as guarantor under a guarantee given against default by a person (the ‘**borrower**’) in repaying all or any of an amount of credit obtained by the borrower from a credit provider, and the following subparagraphs apply:

- (i) the credit provider is not prevented under any law of the Commonwealth, a State or a Territory from bringing proceedings against the individual to recover the amount of the overdue payment;
- (ii) the credit provider has given the individual notice of the borrower’s default that gave rise to the individual’s obligation to make the payment;

SCHEDULE—continued

- (iii) 60 days have elapsed since the day on which the notice was given;
- (iv) the credit provider has, separately from and in addition to the giving of the notice referred to in subparagraph (ii), taken steps to recover the amount of the overdue payment from the individual.”.

45. Subsection 18E(7):

Add at the end “or (ba).”.

46. Subsection 18F(1):

After “18E(1)(b)” insert “or (ba)”.

47. After subsection 18F(2):

Insert:

“(2A) For the purposes of subsection (1), the maximum permissible periods for the keeping of personal information of the kind referred to in paragraph 18E(1)(ba) are as follows:

- (a) if the credit reporting agency was informed of the overdue payment concerned before 25 February 1992—the period of 5 years beginning on that date; or
- (b) if the credit reporting agency was informed of the overdue payment concerned after the commencement of this subsection—the period of 5 years beginning on the day on which the agency was so informed.”.

48. After subsection 44(2):

Insert:

“(2A) If documents are produced to the Commissioner in accordance with a requirement under subsection (1), the Commissioner:

- (a) may take possession of, and may make copies of, or take extracts from, the documents; and
- (b) may retain possession of the documents for any period that is necessary for the purposes of the investigation to which the documents relate; and
- (c) during that period must permit a person who would be entitled to inspect any one or more of the documents if they were not in the Commissioner’s possession to inspect at all reasonable times any of the documents that the person would be so entitled to inspect.”.

SCHEDULE—continued

**PART 12—AMENDMENTS OF THE SERVICE AND EXECUTION
OF PROCESS ACT 1992**

49. Subsection 3(1) (definition of “magistrate”):

Omit, substitute:

“ ‘**magistrate**’, except in sections 57 and 67, includes:

- (a) a justice of the peace who has power to issue warrants under a law of the State in which the justice holds that office; and
- (b) a person who is appointed under section 120 of the *Magistrates’ Court Act* 1989 of Victoria as a bail justice or is a bail justice because of holding a prescribed office within the meaning of section 121 of that Act;”.

50. Subsection 3(1) (definition of “warrant”):

Before paragraph (a), insert:

“(aa) this Act; or”.

51. Subsection 8(4):

Omit, substitute:

“(4) Subject to this Act, this Act applies to the exclusion of a law of a State (the ‘**relevant State**’) with respect to:

- (a) the service or execution in another State of process of the relevant State that is process to which this Act applies; or
- (b) the service or execution in the relevant State of process of another State that is process to which this Act applies; or
- (c) the service or execution in another State of judgments of a court of the relevant State that are judgments to which this Act applies; or
- (d) the service or execution in the relevant State of judgments of a court of another State that are judgments to which this Act applies; or
- (e) the service or execution in another State of judgments to which this Act applies that are orders of a tribunal of the relevant State; or
- (f) the service or execution in the relevant State of judgments to which this Act applies that are orders of a tribunal of another State.”.

52. Subsection 17(1):

Omit, substitute:

“(1) If the person served is required or permitted to enter an appearance under a law of the place of issue, the period after service within which the person may enter an appearance is whichever is the longer of the following periods:

SCHEDULE—continued

- (a) 21 days;
- (b) the period in which the appearance would have been required or permitted to be entered if the process had been served in the place of issue.”.

53. Subsection 84(1):

Omit “ascertain whether he or she is a person under restraint.”, substitute:

“find out:

- (a) whether he or she is a person under restraint; and
- (b) if so, the State or States under whose law he or she is a person under restraint.”.

54. After subsection 84(1):

Insert:

“(1A) If the magistrate is satisfied that the person:

- (a) is not under restraint; or
- (b) is under restraint only under the law of the State in which the warrant was issued;

the following provisions of this section do not apply.”.

55. After section 86:

Insert:

Order not to be reviewed except under section 86

“86A.(1) Except as provided by subsection (2), if an order (the ‘**relevant order**’) is made by a magistrate under section 83, a court may not:

- (a) entertain a challenge to, or otherwise review, the relevant order; or
- (b) make an order affecting the carrying out of the relevant order.

“(2) Subsection (1) does not prevent the Supreme Court of the State in which the relevant order was made from exercising, on an application made to that Court under section 86, the powers conferred on that Court by that section.”.

56. Application

The amendment made by item 50 applies to:

- (a) every warrant for the apprehension of a person:
 - (i) that was issued under the *Service and Execution of Process Act 1992* before the commencement of this item; and

SCHEDULE—continued

- (ii) under which the person had not been apprehended before that commencement; and
- (b) every warrant for the apprehension of a person that is issued under that Act after that commencement.

SCHEDULE—continued

**PART 13—AMENDMENT OF THE SUPERANNUATION ACT
1976**

57. Section 154:

Add at the end:

“(8) In subsection (7):

- (a) a reference to an eligible employee includes a reference to a person who is a member of the superannuation scheme established by the Trust Deed referred to in section 4 of the *Superannuation Act 1990* as subsequently amended under section 5 of that Act; and
- (b) a reference to a pensioner includes a reference to a person who is in receipt of a pension under that superannuation scheme.”.

SCHEDULE—continued

**PART 14—AMENDMENTS OF THE TAXATION
ADMINISTRATION ACT 1953**

58. Section 2:

Insert:

“ ‘**Small Taxation Claims Tribunal**’ means the Taxation Appeals Division of the Administrative Appeals Tribunal when that Division is required under Part IIIAA of the *Administrative Appeals Tribunal Act 1975* to be known as the Small Taxation Claims Tribunal.”.

59. Section 2 (definition of “Tribunal”):

Add at the end “or, in appropriate circumstances, the Small Taxation Claims Tribunal”.

60. Section 14ZO:

Omit “AAT”, substitute “Tribunal”.

Note: Upon the commencement of this item, the heading to section 14ZO is altered by omitting “AAT” and substituting “Tribunal”.

61. Subsection 14ZX(4):

Omit “AAT”, substitute “Tribunal”.

62. Subparagraph 14ZZ(a)(i):

Omit “AAT”, substitute “Tribunal”.

63. Section 14ZZE:

Repeal, substitute:

Hearings before Tribunal other than Small Taxation Claims Tribunal to be held in private if applicant so requests

“14ZZE. Despite section 35 of the AAT Act, the hearing of a proceeding before the Tribunal, other than the Small Taxation Claims Tribunal, for:

- (a) a review of a reviewable objection decision; or
- (b) a review of an extension of time refusal decision; or
- (c) an AAT extension application;

is to be in private if the party who made the application requests that it be in private.”.

64. Paragraph 14ZZH(a):

Omit “AAT”, substitute “Tribunal”.

65. Paragraph 14ZZK(a):

Omit “AAT”, substitute “Tribunal”.

SCHEDULE—continued

66. Subsection 14ZZL(1):

Omit “AAT”, substitute “Tribunal”.

67. Subsection 14ZZL(2):

Omit “AAT’s”, substitute “Tribunal’s”.



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