



STATUTES AMENDMENT (ATTORNEY- GENERAL'S PORTFOLIO) ACT 1993

No. 34 of 1993

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ANNO QUADRAGESIMO SECUNDO

ELIZABETHAE II REGINAE

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No. 34 of 1993

An Act to amend the Director of Public Prosecutions Act 1991, the Jurisdiction of Courts (Cross-vesting) Act 1987 and the Motor Vehicles Act 1959.

[Assented to 13 May 1993]

The Parliament of South Australia enacts as follows:

PART 1 PRELIMINARY

Short title

1. This Act may be cited as the *Statutes Amendment (Attorney-General's Portfolio) Act 1993*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2 AMENDMENT OF DIRECTOR OF PUBLIC PROSECUTIONS ACT 1991

Amendment of s. 6—Office of the Director

4. Section 6 of the principal Act is amended by striking out subsection (4).

Insertion of s. 6A

5. The following section is inserted after section 6 of the principal Act:

Delegation

6A. The Director may, by instrument in writing, delegate to any suitable person any of the Director's powers or functions under this Act but such a delegation—

- (a) is revocable at will; and
- (b) does not prevent the Director from acting personally in the matter.

PART 3
AMENDMENT OF JURISDICTION OF COURTS (CROSS-VESTING) ACT 1987

Substitution of s. 6

6. Section 6 of the principal Act is repealed and the following section is substituted:

Special federal matters

6. (1) If—

- (a) a matter for determination in a proceeding that is pending in the Supreme Court is a special federal matter; and
- (b) the court does not make an order under subsection (3) in respect of the matter,

the court must transfer the proceeding in accordance with this section to the Federal Court or a court mentioned in subsection (2)(b).

(2) If the court orders that a proceeding be transferred, the proceeding must be transferred—

- (a) if the matter for determination in the proceeding is a matter mentioned in paragraph (a), (b), (c), (d) or (e) of the definition of “**special federal matter**” in section 3(1) of the *Jurisdiction of Courts (Cross-vesting) Act 1987* of the Commonwealth—to the Federal Court; or
- (b) if the matter for determination in the proceeding is a matter mentioned in paragraph (ab) of that definition—to whichever of the Family Court, the Family Court of Western Australia or the Supreme Court of the Northern Territory, in the opinion of the court, is appropriate in the circumstances.

(3) The Supreme Court may order that the proceeding be determined by that court if it is satisfied that there are special reasons for doing so in the particular circumstances of the proceeding other than reasons relevant to the convenience of the parties.

(4) Before making an order under subsection (3), the court must be satisfied that—

- (a) a written notice specifying the nature of the special federal matter has been given to the Attorney-General of the Commonwealth and the Attorney-General of the State; and

- (b) a reasonable time has elapsed since the giving of the notice for the Attorneys-General to consider whether submissions to the court should be made in relation to the proceeding.
- (5) For the purposes of subsection (4), the court—
- (a) may adjourn the proceeding for such time as the court thinks necessary and may make such order as to costs in relation to an adjournment as it thinks fit; and
- (b) may direct a party to the proceeding to give a notice in accordance with that subsection.
- (6) In considering whether there are special reasons for the purposes of subsection (3), the court must—
- (a) have regard to the general rule that special federal matters should be heard by the Federal Court or a court mentioned in subsection (2)(b), whichever is appropriate in the particular case; and
- (b) take into account any submission made in relation to the proceeding by an Attorney-General mentioned in subsection (4).
- (7) Nothing in this section prevents the court granting urgent relief of an interlocutory nature if it is in the interests of justice to do so.
- (8) If, through inadvertence, the Supreme Court determines a proceeding of the kind mentioned in subsection (1) without—
- (a) the court making an order under subsection (3) that the proceeding be determined by the court; or
- (b) a notice mentioned in subsection (4) being given,
- nothing in this section invalidates the decision of the court.
- (9) This section does not apply to a proceeding by way of an appeal that is instituted in the Full Court of the Supreme Court if the court the decision of which is the subject of the appeal had made an order under subsection (3), or under section 6(1) as in force before the commencement of Part 3 of the *Statutes Amendment (Attorney-General's Portfolio) Act 1993*, in relation to the special federal matter.

Application

7. Despite the amendments of the *Jurisdiction of Courts (Cross-vesting) Act 1987* made by this Act, that Act as in force immediately before the commencement of those amendments continues to apply in relation to a proceeding pending in a court to which section 6 of that Act applied before that commencement.

PART 4
AMENDMENT OF MOTOR VEHICLES ACT 1959

Amendment of s. 93—Notice to be given to Registrar

8. Section 93 of the principal Act is amended by striking out subsections (1) and (2) and substituting the following subsections:

- (1) If a court—
- (a) convicts a person of an offence that attracts demerit points under this Act; or
 - (b) finds a person guilty of the offence of contravening or failing to comply with a condition of a permit or licence under this Act; or
 - (c) makes an order affecting demerit points or disqualifying a person from holding or obtaining a driver's licence,

the proper officer of the court must notify the Registrar in writing of the date of the finding or order, the nature of the finding or order (including the period of any disqualification) and short particulars of the grounds on which the finding or order was made.

(2) If any such finding or order is quashed or varied by a court on appeal, the proper officer of the court must forthwith notify the Registrar in writing of the date of the order made on the appeal and the effect of the order.

(2a) If the Commissioner of Police suspends a driver's licence, the Commissioner must notify the Registrar in writing of the date on which the licence was suspended, the period of suspension and short particulars of the grounds for the suspension.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor