

Judiciary

No. 134 of 1968

An Act relating to the Conditions and Restrictions
subject to which Federal Jurisdiction is invested
in Courts of the States.

[Assented to 9 December 1968]

[Date of commencement, 6 January 1969]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Judiciary Act 1968*.

Short title
and citation.

(2.) The *Judiciary Act 1903–1966** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Judiciary Act 1903–1968*.

2. Section 1A of the Principal Act is amended by omitting the words— Parts.

“ Part VI.—Exclusive and Invested Jurisdiction (Sections 38–39).”

and inserting in their stead the words—

“ Part VI.—Exclusive and Invested Jurisdiction (Sections 38–39A).”

3. Section 39 of the Principal Act is amended by omitting paragraph (a) of sub-section (2.) and inserting in its stead the following paragraph:—

Federal
jurisdiction of
State Courts in
other matters.

“ (a) A decision of a Court of a State, whether in original or in appellate jurisdiction, shall not be subject to appeal to Her Majesty in Council, whether by special leave or otherwise.”

* Act No. 6, 1903, as amended by No. 5, 1906; No. 8, 1907; No. 34, 1910; No. 31, 1912; No. 11, 1914; No. 4, 1915; No. 38, 1920; No. 39, 1926; No. 9, 1927; No. 60, 1932; Nos. 34 and 65, 1933; No. 45, 1934; No. 5, 1937; No. 43, 1939; No. 50, 1940; No. 10, 1946; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 35, 1955; No. 50, 1959; Nos. 32 and 109, 1960; No. 91, 1965; and Nos. 55 and 93, 1966.

4. After section 39 of the Principal Act the following section is inserted in Part VI. :—

Federal
jurisdiction
invested in
State Courts
by other
provisions.

“ 39A.—(1.) The federal jurisdiction with which a Court of a State is invested by or under any Act, whether the investing occurred or occurs before or after the commencement of this section, including federal jurisdiction invested by a provision of this Act other than the last preceding section—

- (a) shall be taken to be invested subject to the provisions of paragraph (a) of sub-section (2.) of the last preceding section; and
- (b) shall be taken to be invested subject to the provisions of paragraphs (b), (c) and (d) of that sub-section (whether or not it is expressed to be invested subject to all or any of those provisions), so far as they are capable of application and are not inconsistent with a provision made by or under the Act by or under which the jurisdiction is invested,

in addition to any other conditions or restrictions subject to which the jurisdiction is expressed to be invested.

“ (2.) Nothing in this section or the last preceding section, or in any Act passed before the commencement of this section, shall be taken to prejudice the application of any of sections seventy-two to seventy-seven (inclusive) of this Act in relation to jurisdiction in respect of indictable offences.”.

Application of
amendments.

5. The conditions and restrictions applicable in relation to the exercise of federal jurisdiction by a Court of a State in proceedings, including an appeal, instituted in that Court before the commencement of this Act are the same as if this Act had not been enacted.
