

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1988, No. 34*

Rules of Court under the *Supreme Court Act*

We, the undersigned Judges of the Supreme Court of the Northern Territory of Australia, in pursuance of section 86 of the *Supreme Court Act*, hereby make the following Rules of Court.

Dated 27 June 1988.

Austin Asche C.J.

W. Kearney J.

Michael Maurice J.

Phillip Rice J.

Brian Martin J.

Judges of the Supreme
Court of the Northern
Territory of Australia

AMENDMENTS OF THE SUPREME COURT RULES

1. COMMENCEMENT

These Rules shall come into operation on 1 July 1988.

2. NEW PART

The Supreme Court Rules are amended by inserting after Chapter 3 the following:

"CHAPTER 4 - CROSS-VESTING OF JURISDICTION RULES

"ORDER 89 - CROSS-VESTING

"89.01 APPLICATION

"(1) This Chapter applies to a proceeding in the Court to which a cross-vesting law applies.

* Notified in the *Northern Territory Government Gazette* on 1 July 1988.

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"(2) In the application of Chapter 1 to a proceeding to which this Chapter applies, a reference in rule 1.02 to a proceeding commenced includes a reference to a proceeding transferred under a cross-vesting law.

"89.02 DEFINITIONS

"In this Chapter, unless the contrary intention appears -

"the Act" means the *Jurisdiction of Courts (Cross-Vesting) Act*;

"cross-vesting law" means a law of the Commonwealth or of a State or Territory (including the Act) relating to the cross-vesting of jurisdiction;

"special federal matter" has the same meaning as in the *Jurisdiction of Courts (Cross-Vesting) Act 1987* of the Commonwealth.

"89.03 FORM OF DOCUMENTS

"(1) Subject to subrule (2), an originating motion or summons by which application is made under a cross-vesting law shall be in writing and be prepared in accordance with rules 27.02 to 27.04 inclusive.

"(2) In addition to the requirements of Order 27 the heading of the originating motion or summons shall state 'In the matter of the *Jurisdiction of Courts (Cross-Vesting) Act*'.

"89.04 APPLICATION BY ATTORNEY-GENERAL

"If an application for the transfer of a proceeding is made by the Attorney-General of the Commonwealth or of a State or another Territory, the Attorney-General does not, by reason of the application, become a party to the proceeding in respect of which the application is made.

"89.05 REMOVAL OF PROCEEDING

"If an order is made for the removal of a proceeding from a court or tribunal to the Court under section 8 of the Act, the Court may give any directions that could have been given by the court or tribunal in which the proceeding was pending.

"89.06 NOTICE

"(1) A party to a proceeding proposing to invoke a jurisdiction arising under a provision of a cross-vesting law, or otherwise to rely on a provision of a cross-vesting law, shall -

(a) file and serve a notice -

(i) identifying the provision;

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- (ii) identifying the claim in relation to which reliance is placed on the provision; and
- (iii) stating the grounds on which reliance is placed on the provision; and

(b) seek directions as soon as practicable as to whether the proceeding should be transferred.

"(2) Where a matter for determination in a proceeding is a special federal matter, the notice shall -

- (a) identify the special federal matter; and
- (b) state the grounds on which it is a special federal matter.

"89.07 SERVICE OUT OF TERRITORY

"(1) Notwithstanding rule 7.01, originating process shall be served out of the Territory only with leave of the Court where the proceeding includes a matter for determination in respect of which jurisdiction under a cross-vesting law is invoked.

"(2) Leave shall not be granted under subrule (1) unless the Court is satisfied that the Court may be, having regard to the relevant cross-vesting law, an appropriate court to hear and determine the proceeding.

"(3) A proceeding may be transferred to another court notwithstanding that leave to serve the originating process out of the Territory has been given.

"89.08 PROCEDURE AFTER TRANSFER

"(1) When a proceeding is transferred by the Court under a cross-vesting law, the Master shall send to the proper office of the court to which the proceeding is transferred all documents filed, and all orders made, in the proceeding.

"(2) When a proceeding is transferred to the Court under a cross-vesting law, the Master shall give it a number and title.

"(3) As soon as practicable after a proceeding is transferred to the Court under a cross-vesting law, the party by whom the proceeding was commenced shall apply for directions.

"89.09 CONDUCT OF PROCEEDING

"(1) If a party seeks to have a written law of another State or Territory applied under section 11(1)(b) of the Act in determining a right of action arising under that written law, that party shall file and serve a notice identifying the right of action and the written law.

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"(2) If a party seeks to have rules of evidence and procedure, other than those of the Court, applied under section 11(1)(c) of the Act in dealing with a matter for determination in the proceeding, that party shall file and serve a notice stating the relevant rules that the party seeks to have applied.

"(3) A party required by subrule (1) or (2) to file and serve a notice shall seek directions on the subject-matter of the notice before the proceeding is set down for trial.

"89.10 DIRECTIONS

"The Court may give directions in relation to a proceeding to which a cross-vesting law applies and may set aside or vary any direction given.

"89.11 APPLICATIONS MADE TO JUDGE

"The powers of the Court under a cross-vesting law and this Chapter shall be exercised by a Judge."
