

**CHILDREN (EQUALITY OF STATUS) AMENDMENT
ACT, 1979, No. 1**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 1, 1979.

An Act to amend the Children (Equality of Status) Act, 1976,
with regard to the establishment of the paternity and maternity
of children, and in certain other respects. [Assented to, 22nd
March, 1979.]

See also Registration of Births, Deaths and Marriages (Amendment) Act, 1979.

Children (Equality of Status) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short
title.

1. This Act may be cited as the "Children (Equality of Status) Amendment Act, 1979".

Commence-
ment.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 2, and section 5 in its application to Schedule 2, shall commence on the day appointed and notified under section 2 (3) of the Principal Act.

Principal
Act.

3. The Children (Equality of Status) Act, 1976, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

**SCHEDULE 1.—AMENDMENTS TO PARTS I, II AND III OF
THE PRINCIPAL ACT.**

**SCHEDULE 2.—AMENDMENTS TO PART IV OF THE
PRINCIPAL ACT.**

Amendment
of Act No.
97, 1976.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Children (Equality of Status) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PARTS I, II AND III OF THE PRINCIPAL ACT.

(1) Section 4 (1), definition of "custody order"—

After the definition of "blood tests", insert :—

"custody order" includes a custody order made under, or registered or registrable under, the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth;

(2) (a) Section 8 (1)—

Omit the subsection, insert instead :—

(1) Dispositions—

(a) made inter vivos before the commencement of this Act; or

(b) made by will or codicil executed by a person who died before that commencement,

shall be construed as if this Act had not been passed.

(b) Section 8 (2)—

Omit "other than one to which section 7 applies", insert instead "referred to in subsection (1)".

(3) Section 12 (6) (a)—

Omit "and is for the time being registered under section 67 or 68 of the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth".

Children (Equality of Status) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO PARTS I, II AND III OF THE PRINCIPAL ACT—
continued.

(4) Section 14 (6) (a)—

Omit “and is for the time being registered under section 67 or 68 of the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth”.

(5) Section 17 (3)—

After section 17 (2), insert :—

(3) Subsection (2) does not apply so as to allow the admission of evidence in rebuttal of an irrebuttable or a conclusive presumption of law arising by virtue of this or any other Act or any rule of law.

Sec. 5.

SCHEDULE 2.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) (a) Section 19 (11)—

Omit “or a registered nurse”, insert instead “, a registered nurse or a person of a class of persons prescribed for the purposes of this subsection”.

Children (Equality of Status) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(b) Section 19 (12)—

Omit “specified in”, insert instead “of a class specified in or prescribed under”.

(2) (a) Section 20 (2A)—

After section 20 (2), insert :—

(2A) Where the person responsible for taking blood samples for the purpose of giving effect to a direction under section 19 (1) or (2) takes those samples and makes to the court which gave the direction a report in or to the effect of the prescribed form with regard to the taking or identification of those samples, the report shall be admitted by the court as evidence in the proceedings of the matters stated in the report.

(b) Section 20 (3)—

Omit “or (2)”, insert instead “, (2) or (2A)”.

(c) Section 20 (4) (a), (b)—

Omit the paragraphs, insert instead :—

(a) any person who has made a report under subsection (1), (2) or (2A); and

(b) any person who took or assisted in taking the samples referred to in such a report or who carried out or assisted in carrying out the tests referred to in such a report,

Children (Equality of Status) Amendment.

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(d) Section 20 (6)—

Omit “a report under this section with respect to”, insert instead “reports under this section with respect to taking or”.

(e) Section 20 (6)—

Omit “except where the party is a minor in which case the cost shall be paid by the person having care and control of the minor”, insert instead “except where the court which has given the direction in its discretion orders that the cost or part thereof be paid by another party to the proceedings, in which case the cost or part thereof shall be paid by that other party”.

(f) Section 20 (7)—

Omit “another party to the proceedings”, insert instead “a person”.

(g) Section 20 (7)—

Omit “other party” wherever occurring, insert instead “person”.

(h) Section 20 (8)—

After section 20 (7), insert :—

(8) A reference in subsection (6) or (7) to a party shall, where the party is a minor, be deemed to be a reference to the person having care and control of the minor.

Children (Equality of Status) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(3) Section 21 (1) (b), (3) (a)—

Omit “the presumption of law arising under section 10 (1)” wherever occurring, insert instead “a rebuttable presumption of law arising by virtue of this or any other Act or any rule of law”.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 22nd March, 1979.*

1947

John F. Kennedy

John F. Kennedy

In the year 1947...

John F. Kennedy

John F. Kennedy

John F. Kennedy

In the year 1947...

CHILDREN (EQUALITY OF STATUS) AMENDMENT BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Registration of Births, Deaths and Marriages (Amendment) Bill, 1979, is cognate with this Bill.

THE objects of this Bill are—

- (a) to amend section 8 of the Children (Equality of Status) Act, 1976 ("the Principal Act") (which section states, inter alia, that certain dispositions shall be construed as if the Principal Act had not been passed) so as to make it clear that the section applies only to dispositions made inter vivos, or made under wills executed by persons who died, before the commencement of the Principal Act (Schedule 1 (2));
- (b) to provide that a person named in a custody order as the parent of an exnuptial child, being an order made before or after the commencement of the Principal Act, shall be presumed to be the parent of that child whether or not that order is a custody order registered under the Family Law Act 1975 of the Parliament of the Commonwealth (Schedule 1 (3) and (4));
- (c) to ensure that a provision allowing the admission of evidence in proceedings in which the paternity or maternity of a child is in issue does not extend to allowing the admission of evidence in rebuttal of presumptions of law which are, under the law, irrebuttable or conclusive (Schedule 1 (5));
- (d) where a court has directed the use of blood tests for the purpose of ascertaining paternity or maternity, to allow persons belonging to a class of persons prescribed by regulation (in addition to medical practitioners and registered nurses) to take blood samples for the purpose of carrying out those tests (Schedule 2 (1));
- (e) to provide that a report with regard to the taking or identification of blood samples may be admitted in court as evidence of the matters stated in the report (Schedule 2 (2));

- (f) to allow a court, in its discretion, to order that the cost of taking and testing blood samples be paid by a party other than the party from whom the samples were taken (Schedule 2 (2) (e));
 - (g) where a person has failed without reasonable cause to comply with a court direction with regard to the taking of blood tests, to enable the court to treat that failure as evidence rebutting any rebuttable presumption of law (instead of only one specified rebuttable presumption of law as at present) (Schedule 2 (3)); and
 - (h) to make other provisions of a minor, consequential or ancillary nature.
-

**CHILDREN (EQUALITY OF STATUS) AMENDMENT
BILL, 1979**

No. , 1979.

A BILL FOR

**An Act to amend the Children (Equality of Status) Act, 1976,
with regard to the establishment of the paternity and maternity
of children, and in certain other respects.**

[MR F. J. WALKER—21 *February*, 1979.]

See also Registration of Births, Deaths and Marriages (Amendment) Bill, 1979.

Children (Equality of Status) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 1. This Act may be cited as the "Children (Equality of Status) Amendment Act, 1979". Short title.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act. Commence-
ment.

(2) Schedule 2, and section 5 in its application to Schedule 2, shall commence on the day appointed and notified under section 2 (3) of the Principal Act.

3. The Children (Equality of Status) Act, 1976, is referred to in this Act as the Principal Act. Principal Act.

4. This Act contains the following Schedules :— Schedules.

15 SCHEDULE 1.—AMENDMENTS TO PARTS I, II AND III OF THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

20 5. The Principal Act is amended in the manner set forth in Schedules 1 and 2. Amendment
of Act No.
97, 1976.

Children (Equality of Status) Amendment.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PARTS I, II AND III OF THE PRINCIPAL ACT.

(1) Section 4 (1), definition of "custody order"—

After the definition of "blood tests", insert :—

5 "custody order" includes a custody order made under, or registered or registrable under, the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth;

(2) (a) Section 8 (1)—

10 Omit the subsection, insert instead :—

(1) Dispositions—

(a) made inter vivos before the commencement of this Act; or

15 (b) made by will or codicil executed by a person who died before that commencement,

shall be construed as if this Act had not been passed.

(b) Section 8 (2)—

Omit "other than one to which section 7 applies", insert instead "referred to in subsection (1)".

20 (3) Section 12 (6) (a)—

Omit "and is for the time being registered under section 67 or 68 of the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth".

Children (Equality of Status) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO PARTS I, II AND III OF THE PRINCIPAL ACT—
continued.

(4) Section 14 (6) (a)—

- 5 Omit “and is for the time being registered under section 67 or 68 of the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth”.

(5) Section 17 (3)—

After section 17 (2), insert :—

- 10 (3) Subsection (2) does not apply so as to allow the admission of evidence in rebuttal of an irrebuttable or a conclusive presumption of law arising by virtue of this or any other Act or any rule of law.

SCHEDULE 2.

Sec. 5.

15 AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

(1) (a) Section 19 (11)—

Omit “or a registered nurse”, insert instead “, a registered nurse or a person of a class of persons prescribed for the purposes of this subsection”.

Children (Equality of Status) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(b) Section 19 (12)—

5 Omit “specified in”, insert instead “of a class specified in or prescribed under”.

(2) (a) Section 20 (2A)—

After section 20 (2), insert :—

10 (2A) Where the person responsible for taking blood samples for the purpose of giving effect to a direction under section 19 (1) or (2) takes those samples and makes to the court which gave the direction a report in or to the effect of the prescribed form with regard to the taking or identification of those samples, the report shall be admitted by the court as evidence in
15 the proceedings of the matters stated in the report.

(b) Section 20 (3)—

Omit “or (2)”, insert instead “, (2) or (2A)”.

(c) Section 20 (4) (a), (b)—

Omit the paragraphs, insert instead :—

20 (a) any person who has made a report under subsection (1), (2) or (2A); and

(b) any person who took or assisted in taking the samples referred to in such a report or who carried out or assisted in carrying out the tests
25 **referred to** in such a report,

Children (Equality of Status) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(d) Section 20 (6)—

5 Omit “a report under this section with respect to”,
insert instead “reports under this section with respect
to taking or”.

(e) Section 20 (6)—

10 Omit “except where the party is a minor in which case
the cost shall be paid by the person having care and
control of the minor”, insert instead “except where
the court which has given the direction in its discretion
orders that the cost or part thereof be paid by another
party to the proceedings, in which case the cost or
part thereof shall be paid by that other party”.

15 (f) Section 20 (7)—

Omit “another party to the proceedings”, insert instead
“a person”.

(g) Section 20 (7)—

20 Omit “other party” wherever occurring, insert instead
“person”.

(h) Section 20 (8)—

After section 20 (7), insert :—

25 (8) A reference in subsection (6) or (7) to a
party shall, where the party is a minor, be deemed to
be a reference to the person having care and control
of the minor.

Children (Equality of Status) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(3) Section 21 (1) (b), (3) (a)—

- 5 Omit “the presumption of law arising under section 10 (1)”
wherever occurring, insert instead “a rebuttable presumption
of law arising by virtue of this or any other Act or
any rule of law”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

[16c]

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA

CHINA



