

CONCURRENCE COPY

CHILDREN (EQUALITY OF STATUS) AMENDMENT BILL, 1984

EXPLANATORY NOTE

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

This Bill is cognate with the Artificial Conception Bill, 1984.

The object of this Bill is to amend the Children (Equality of Status) Act, 1976 ("the Principal Act"), consequent on and in connection with the enactment of the Artificial Conception Bill, 1984 ("the proposed Act").

The Bill—

- (a) provides that a presumption under section 5 of the proposed Act (consenting husband or de facto husband is presumed to be the father of child conceived by artificial insemination) prevails over a conflicting presumption under the Principal Act, and, in particular, over—
 - (i) a presumption under section 11 of the Principal Act (man making a paternity acknowledgment presumed to be father); and
 - (ii) a presumption under section 13 of the Principal Act (man declared by Supreme Court to be father presumed to be father), (Schedule 1 (2)—proposed section 18A (1));
 - (b) provides that a presumption under section 6 of the proposed Act (semen donor presumed not to have caused pregnancy)—
 - (i) does not prevent the rebuttal of a presumption under section 10 (3) of the Principal Act (man cohabitating with pregnant woman is presumed to be father) in certain cases (Schedule 1 (2)—proposed section 18A (2) (c));
 - (ii) gives way to a conflicting presumption under section 11 of the Principal Act (man making a paternity acknowledgment is presumed to be father) in certain cases (Schedule 1 (2)—proposed section 18A (2) (d)); and
 - (iii) prevails over a conflicting presumption under section 13 of the Principal Act (man declared by Supreme Court to be father is presumed to be father) (Schedule 1 (2)—proposed section 18A (3)); and
 - (c) contains other provisions of a consequential or ancillary nature.
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**CHILDREN (EQUALITY OF STATUS) AMENDMENT BILL,
1984**

No. , 1984.

A BILL FOR

An Act to amend the Children (Equality of Status) Act, 1976, with respect to certain presumptions arising under that Act and under the Artificial Conception Act, 1984.

[MR WALKER—24 *November*, 1983.]

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 Short title.

1. This Act may be cited as the "Children (Equality of Status) Amendment Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 **(2)** Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Artificial Conception Act, 1984.

Amendment of Act No. 97, 1976.

3. The Children (Equality of Status) Act, 1976, is amended in the
15 manner set forth in Schedule 1.

Application of Act.

4. (1) The provisions of section 18A of the Children (Equality of Status) Act, 1976, as amended by this Act, apply—

20 (a) in respect of a pregnancy, whether the pregnancy occurred before, on or after the day referred to in section 2 (2) and whether or not it resulted from a procedure carried out in New South Wales; and

25 (b) in respect of a child, whether or not the child was born before, on or after that day and whether or not the child was born in New South Wales.

(2) Nothing in this Act affects the vesting in possession or in interest of any property that occurred before the day referred to in section 2 (2).

Children (Equality of Status) Amendment.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE CHILDREN (EQUALITY OF STATUS)
ACT, 1976.

5 (1) Section 3—

Omit “18”, insert instead “18A”.

(2) Section 18A—

After section 18, insert:—

Effect of Artificial Conception Act, 1984.

10 18A. (1) The presumption that arises by virtue of section 5 of the Artificial Conception Act, 1984, prevails over any conflicting presumption that arises by virtue of this Part.

(2) Where—

(a) a woman becomes pregnant by means of—

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(i) artificial insemination; or

(ii) the procedure of implanting in her womb an ovum (whether or not produced by her) fertilised outside her body; and

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(b) a presumption under section 5 of the Artificial Conception Act, 1983, does not arise in relation to the pregnancy,

then—

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(c) the provisions of section 6 of that Act do not operate to prevent a presumption that arises by virtue of section 10 (3), in relation to any child born as a result of the pregnancy, from being rebutted, but any evidence given in rebuttal of the lastmentioned presumption shall not be taken to establish that any man who produced semen used for the artificial insemination or procedure was the father of any child born as a result of the pregnancy; and

Children (Equality of Status) Amendment.

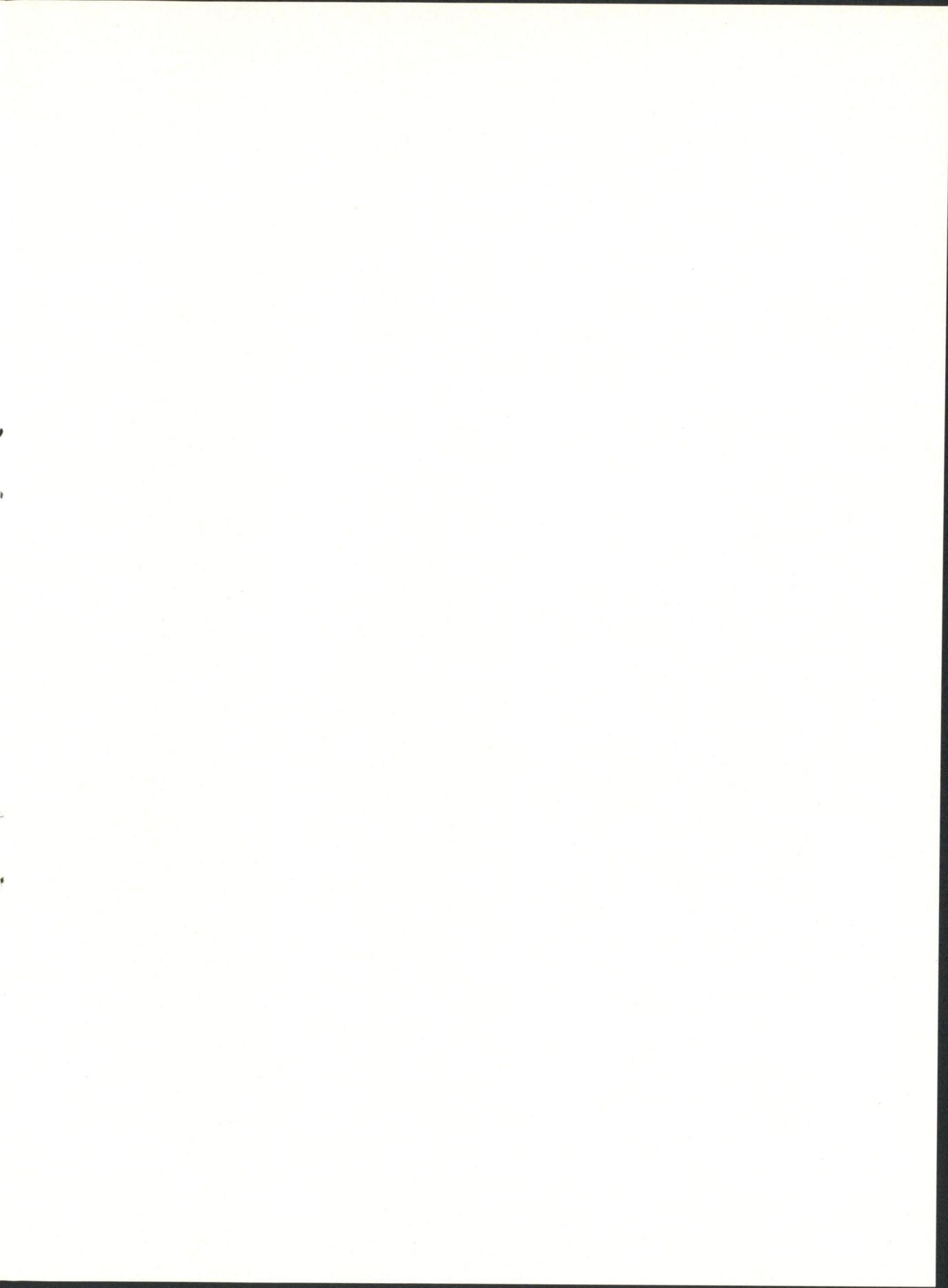
SCHEDULE 1—*continued.*

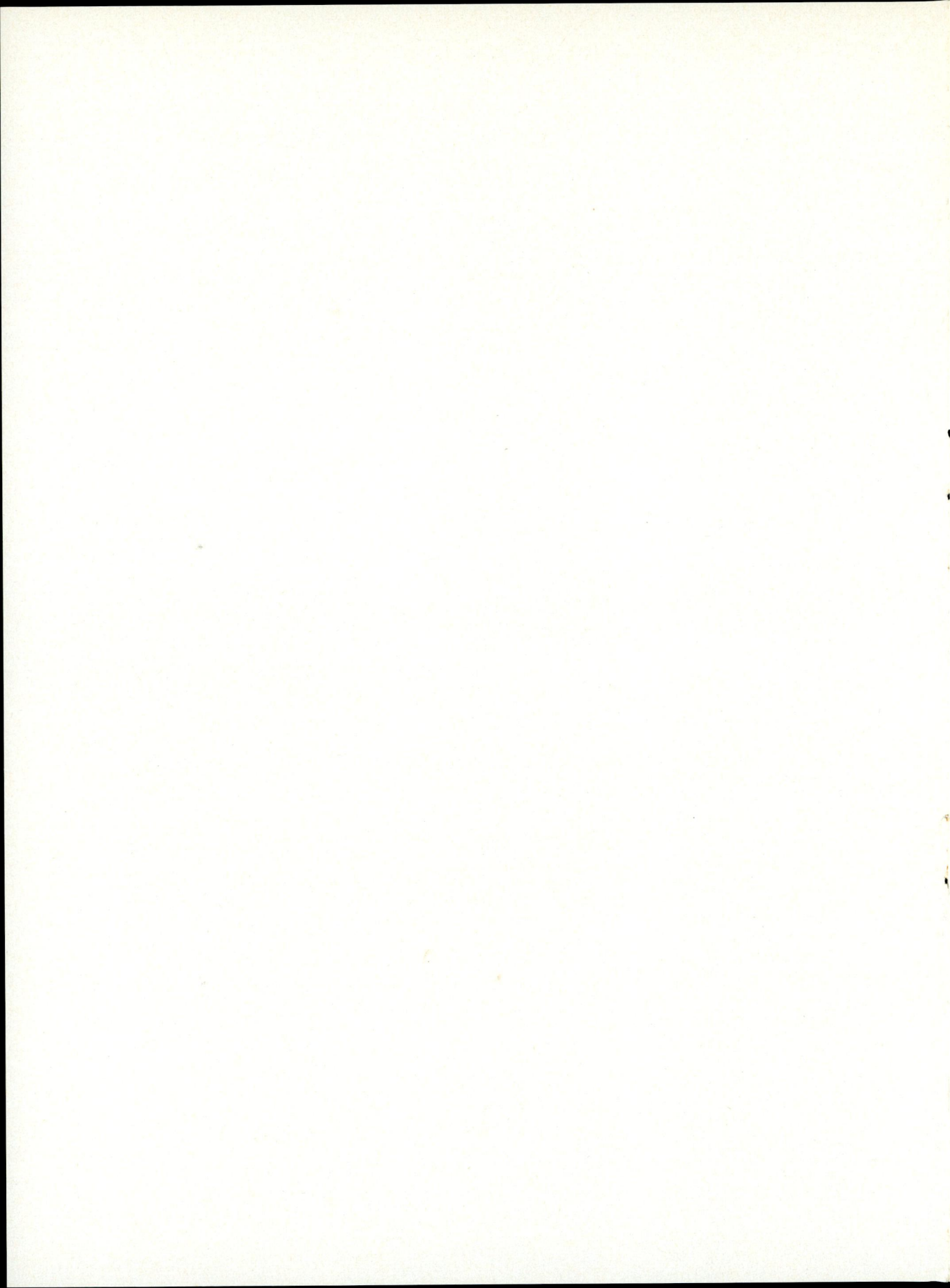
AMENDMENTS TO THE CHILDREN (EQUALITY OF STATUS)
ACT, 1976—*continued.*

5 (d) the presumption that arises by virtue of section 11 (1) prevails over any conflicting presumption that arises by virtue of section 6 of that Act.

(3) The presumption that arises by virtue of section 6 of the Artificial Conception Act, 1984, prevails over any conflicting presumption that arises by virtue of section 13.

10 (4) This section has effect notwithstanding any other provision of this Act.





**CHILDREN (EQUALITY OF STATUS) AMENDMENT
ACT, 1984, No. 6**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 6, 1984.

An Act to amend the Children (Equality of Status) Act, 1976, with respect to certain presumptions arising under that Act and under the Artificial Conception Act, 1984. [Assented to, 5th March, 1984.]

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, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Artificial Conception Act, 1984.

Amendment of Act No. 97, 1976.

3. The Children (Equality of Status) Act, 1976, is amended in the manner set forth in Schedule 1.

Application of Act.

4. (1) The provisions of section 18A of the Children (Equality of Status) Act, 1976, as amended by this Act, apply—

(a) in respect of a pregnancy, whether the pregnancy occurred before, on or after the day referred to in section 2 (2) and whether or not it resulted from a procedure carried out in New South Wales; and

(b) in respect of a child, whether or not the child was born before, on or after that day and whether or not the child was born in New South Wales.

(2) Nothing in this Act affects the vesting in possession or in interest of any property that occurred before the day referred to in section 2 (2).

Children (Equality of Status) Amendment.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE CHILDREN (EQUALITY OF STATUS)
ACT, 1976.

(1) Section 3—

Omit “18”, insert instead “18A”.

(2) Section 18A—

After section 18, insert:—

Effect of Artificial Conception Act, 1984.

18A. (1) The presumption that arises by virtue of section 5 of the Artificial Conception Act, 1984, prevails over any conflicting presumption that arises by virtue of this Part.

(2) Where—

(a) a woman becomes pregnant by means of—

(i) artificial insemination; or

(ii) the procedure of implanting in her womb an ovum (whether or not produced by her) fertilised outside her body; and

(b) a presumption under section 5 of the Artificial Conception Act, 1983, does not arise in relation to the pregnancy,

then—

(c) the provisions of section 6 of that Act do not operate to prevent a presumption that arises by virtue of section 10 (3), in relation to any child born as a result of the pregnancy, from being rebutted, but any evidence given in rebuttal of the lastmentioned presumption shall not be taken to establish that any man who produced semen used for the artificial insemination or procedure was the father of any child born as a result of the pregnancy; and

Children (Equality of Status) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE CHILDREN (EQUALITY OF STATUS)
ACT, 1976—*continued.*

(d) the presumption that arises by virtue of section 11 (1) prevails over any conflicting presumption that arises by virtue of section 6 of that Act.

(3) The presumption that arises by virtue of section 6 of the Artificial Conception Act, 1984, prevails over any conflicting presumption that arises by virtue of section 13.

(4) This section has effect notwithstanding any other provision of this Act.

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

J. A. ROWLAND,
Governor.

Government House,
Sydney, 5th March, 1984.