

First print



New South Wales

Commonwealth Powers (Family Law—Children) Amendment Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Commonwealth Powers (Family Law—Children) Act 1986*:

- (a) to refer to the Commonwealth Parliament the matter of the determination of a child's parentage for the purposes of the law of the Commonwealth, and
 - (b) to refer to the Commonwealth Parliament certain matters relating to maintenance that are presently excluded from the reference of maintenance matters in section 3 (1) of the Act, and
 - (c) to ensure that certain matters relating to the custody, guardianship, care and control of children that would otherwise not be referred to the Commonwealth Parliament by the Act are referred if there is written consent from the Minister administering a provision set out in Schedule 1 to the Act or, in certain cases, his or her delegate, and
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Explanatory note

- (d) to require references in the Act to a provision specified in Schedule 1 to be read as a reference to the provision as amended from time to time or, if the provision is replaced, to the provision which replaces it, and
- (e) to make other minor consequential amendments.

Outline of provisions

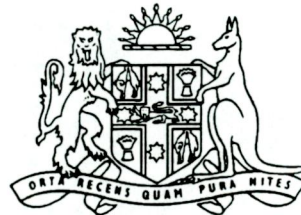
Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Commonwealth Powers (Family Law—Children) Act 1986* set out in Schedule 1.

Schedule 1 makes the amendments described above.

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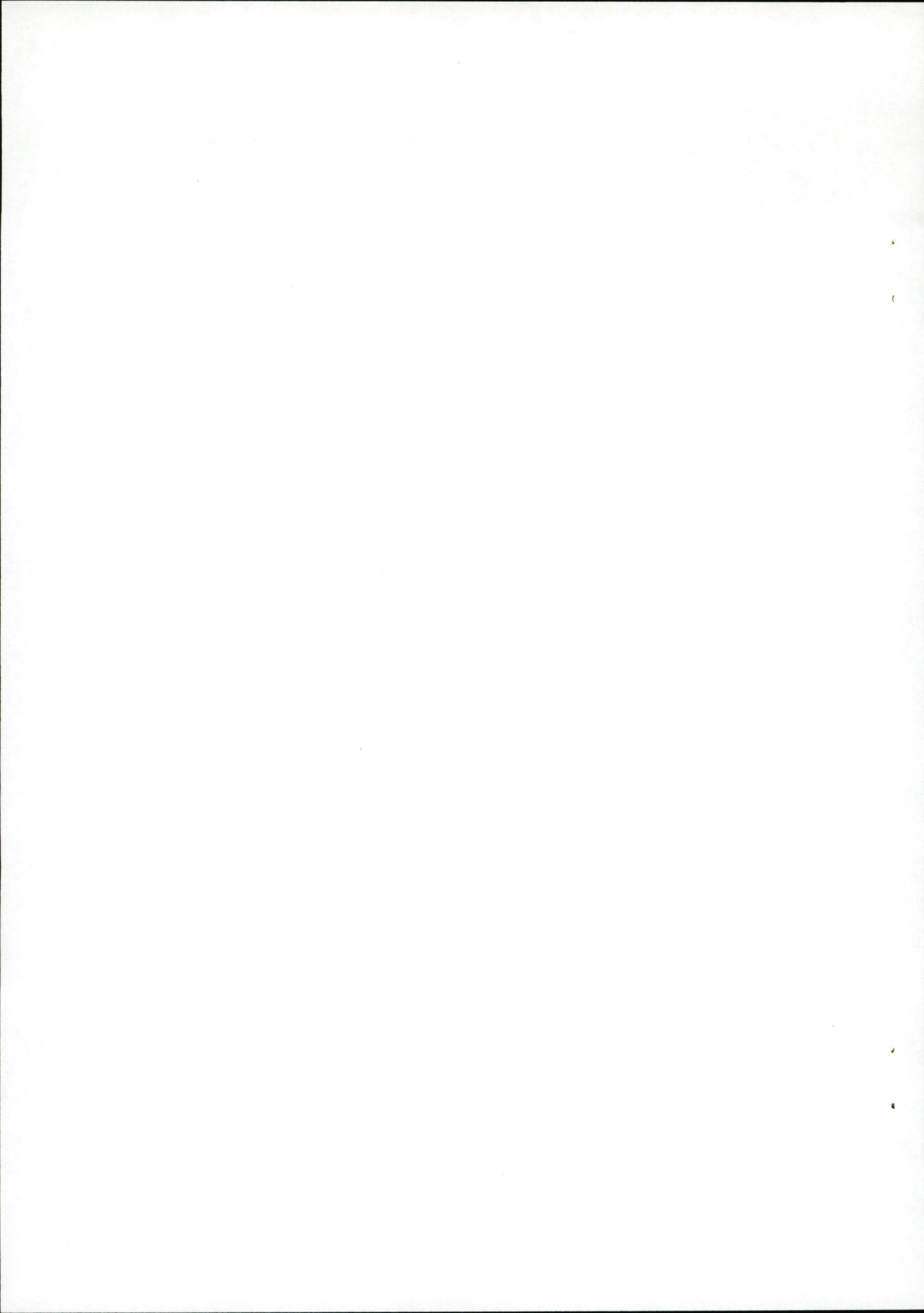


New South Wales

Commonwealth Powers (Family Law—Children) Amendment Bill 1996

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New South Wales

Commonwealth Powers (Family Law—Children) Amendment Bill 1996

No. , 1996

A Bill for

An Act to amend the *Commonwealth Powers (Family Law—Children) Act 1986* with respect to the reference of matters to the Commonwealth Parliament.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Commonwealth Powers (Family Law—Children) Amendment Act 1996*.

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Commonwealth Powers (Family Law—Children) Act 1986 No 182

The *Commonwealth Powers (Family Law—Children) Act 1986* is amended as set out in Schedule 1. 10

Schedule 1 Amendments

(Section 3)

[1] Section 3 Reference of certain matters relating to children

Insert after section 3 (1) (b):

- (c) the determination of a child's parentage for the purposes of the law of the Commonwealth, whether or not the determination of the child's parentage is incidental to the determination of any other matter within the legislative powers of the Commonwealth. 5
10

[2] Section 3 (2)

Omit "The". Insert instead "Subject to subsection (2A), the".

[3] Section 3 (2) (a) and (d)

Omit "of an Act" wherever occurring.

[4] Section 3 (2) (b)

Omit the paragraph. 15

[5] Section 3 (2A)

Insert after section 3 (2):

- (2A) The matters referred by subsection (1) include the matter of the taking, or the making of provision for or in relation to authorising the taking, of action that would prevent or interfere with a matter referred to in subsection (2) (a)–(d) if: 20
- (a) the Minister of the Crown responsible for the administration of the relevant provision specified in Schedule 1, or 25

Schedule 1 Amendments

(b) a person authorised, in writing, by that Minister of the Crown to act on his or her behalf for the purposes of Part VII of the *Family Law Act 1975* of the Commonwealth, as amended and in force for the time being, 5

consents, in writing, to the taking of such action by way of instituting, or continuing, proceedings under that Act in a court having jurisdiction under that Act.

[6] Section 3 (3) (c)

Omit the paragraph. Insert instead: 10

(c) the references to a provision specified in Schedule 1 shall be read as references to the provision as amended and in force from time to time, and as including a reference to any provision or provisions replacing that provision and as amended and in force from time to time. 15

[7] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Statutory provisions

(Section 3) 20

Adoption of Children Act 1965: sections 18, 24, 25, 31C, 34 (1), (2C), (3), (4) and (5), 35, 41, 43, 46 and 47.

Adoption of Children Regulation 1995: clause 24.

Children (Care and Protection) Act 1987: sections 14, 16, 20B, 21, 22, 23, 62, 62A, 72 (1) (c) (ii) and (iii), 77 (1) (a) (v) and (b) (iii) and (1A), 86, 88 (4), 95 (4), 96 and 112 (1) (e) and (f). 25

Commonwealth Powers (Family Laws—Children) Amendment Bill 1996

Amendments

Schedule 1

Community Services (Complaints, Appeals and Monitoring) Act 1993: sections 47 and 48.

Guardianship Act 1987: sections 13, 14, 23 (b), 25 (5) and (6), 31 and 32–48.

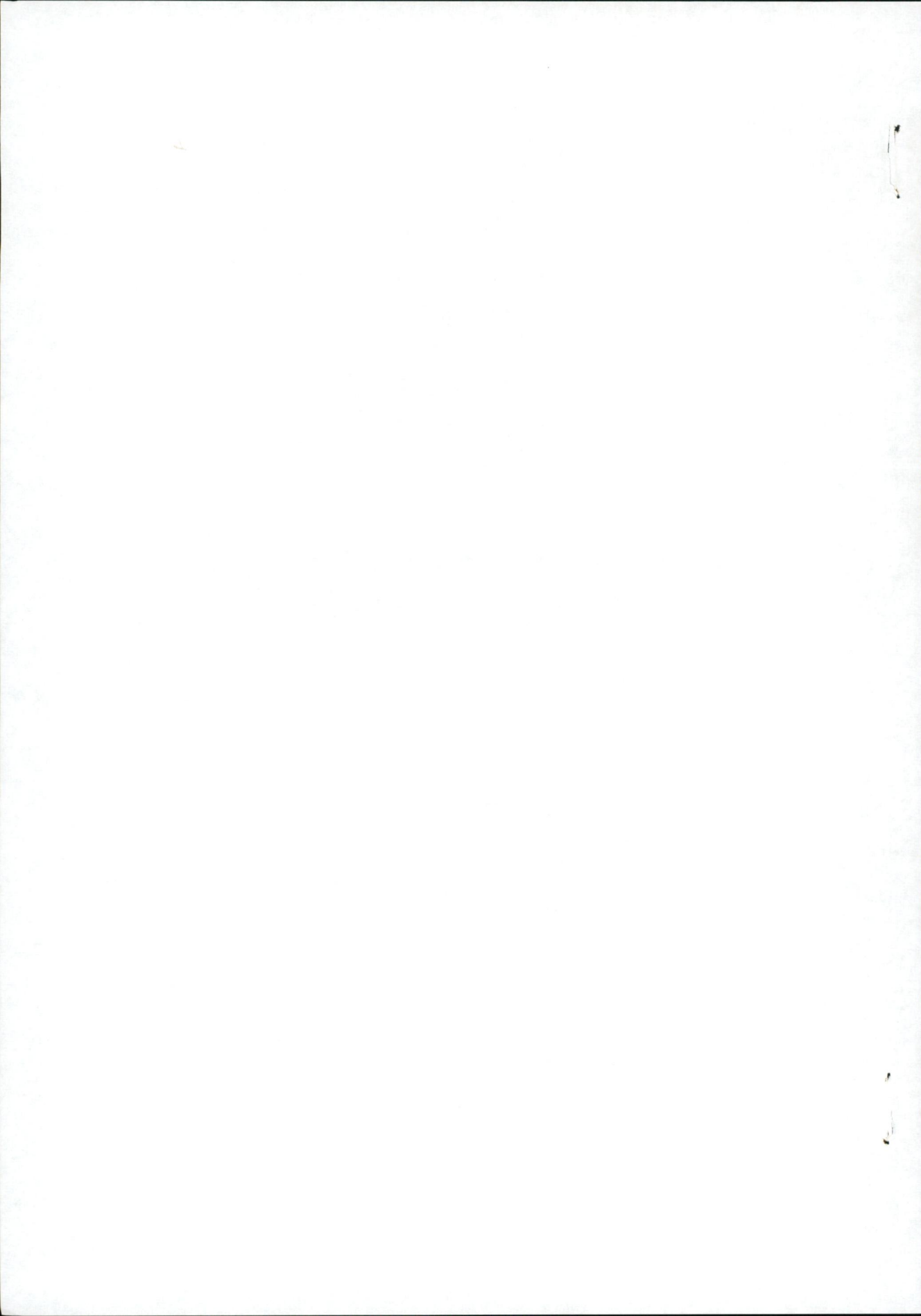


New South Wales

Commonwealth Powers (Family Law—Children) Amendment Act 1996 No 60

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New South Wales

Commonwealth Powers (Family Law—Children) Amendment Act 1996 No 60

Act No 60, 1996

An Act to amend the *Commonwealth Powers (Family Law—Children) Act 1986* with respect to the reference of matters to the Commonwealth Parliament. [Assented to 19 September 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Commonwealth Powers (Family Law—Children) Amendment Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Commonwealth Powers (Family Law—Children) Act 1986 No 182

The *Commonwealth Powers (Family Law—Children) Act 1986* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Reference of certain matters relating to children

Insert after section 3 (1) (b):

- (c) the determination of a child's parentage for the purposes of the law of the Commonwealth, whether or not the determination of the child's parentage is incidental to the determination of any other matter within the legislative powers of the Commonwealth.

[2] Section 3 (2)

Omit "The". Insert instead "Subject to subsection (2A), the".

[3] Section 3 (2) (a) and (d)

Omit "of an Act" wherever occurring.

[4] Section 3 (2) (b)

Omit the paragraph.

[5] Section 3 (2A)

Insert after section 3 (2):

(2A) The matters referred by subsection (1) include the matter of the taking, or the making of provision for or in relation to authorising the taking, of action that would prevent or interfere with a matter referred to in subsection (2) (a)–(d) if:

- (a) the Minister of the Crown responsible for the administration of the relevant provision specified in Schedule 1, or

Schedule 1 Amendments

- (b) a person authorised, in writing, by that Minister of the Crown to act on his or her behalf for the purposes of Part VII of the *Family Law Act 1975* of the Commonwealth, as amended and in force for the time being,

consents, in writing, to the taking of such action by way of instituting, or continuing, proceedings under that Act in a court having jurisdiction under that Act.

[6] Section 3 (3) (c)

Omit the paragraph. Insert instead:

- (c) the references to a provision specified in Schedule 1 shall be read as references to the provision as amended and in force from time to time, and as including a reference to any provision or provisions replacing that provision and as amended and in force from time to time.

[7] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Statutory provisions

(Section 3)

Adoption of Children Act 1965: sections 18, 24, 25, 31C, 34 (1), (2C), (3), (4) and (5), 35, 41, 43, 46 and 47.

Adoption of Children Regulation 1995: clause 24.

Children (Care and Protection) Act 1987: sections 14, 16, 20B, 21, 22, 23, 62, 62A, 72 (1) (c) (ii) and (iii), 77 (1) (a) (v) and (b) (iii) and (1A), 86, 88 (4), 95 (4), 96 and 112 (1) (e) and (f).

Community Services (Complaints, Appeals and Monitoring) Act 1993: sections 47 and 48.

Guardianship Act 1987: sections 13, 14, 23 (b), 25 (5) and (6), 31 and 32–48.

[Minister's second reading speech made in—
Legislative Assembly on 1 May 1996
Legislative Council on 11 September 1996]

