



COMMONWEALTH POWERS (FAMILY LAW) ACT 1987

No. 5 of 1987

TABLE OF PROVISIONS

1. Short title.
2. Commencement.
3. Reference of certain matters relating to children.

SCHEDULE 1

AN ACT to refer to the Parliament of the Commonwealth certain matters relating to Family Law.

[Royal Assent 15 April 1987]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Commonwealth Powers (Family Law) Act 1987*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on a day to be fixed by proclamation.

Reference
of certain
matters
relating to
children.

3—(1) Subject to subsection (2), the following matters, to the extent to which they are not otherwise included in the legislative powers of the Commonwealth Parliament, are referred to the Commonwealth Parliament for a period commencing on the day on which this Act commences and ending on the day fixed by proclamation under subsection (4) as the day on which the reference under this section shall terminate:—

- (a) the maintenance of children and the payment of expenses in relation to children or child bearing;
- (b) the custody and guardianship of, and access to, children.

(2) The matters referred to in subsection (1) do not include the matter of the adoption of children or a matter which affects—

- (a) a Minister of the Crown or officer of the State, or an officer of an adoption agency that is approved under any law of the State, or any other person under a provision of an Act specified in Schedule 1 or declared by proclamation to be an Act to which this section applies—
 - (i) having or acquiring the custody, guardianship, care, or control of children; or
 - (ii) instituting and conducting, or intervening in, proceedings under a law of the State in respect of the custody, guardianship, care, or control of children;
- (b) the payment of maintenance or other contributions in respect of children who are in such custody, guardianship, care, or control;
- (c) the jurisdiction of the Supreme Court to make orders in respect of children who are in such custody, guardianship, care, or control; or
- (d) the jurisdiction of a court of the State, under a provision of an Act specified in Schedule 1 or declared by proclamation to be an Act to which this section applies, to make orders, or to take any other action, in respect of—
 - (i) the custody, guardianship, care, or control of children; or
 - (ii) access to children or the supervision of children.

(3) A reference in this section to children shall be construed as a reference to persons under the age of 18 years, and a reference to the maintenance of, and the payment of expenses in relation to, children shall be construed as including a reference to the maintenance of, and the payment of expenses in relation to persons who have attained that age and have special needs in respect of maintenance or expenses by reason of being engaged in a course of education or training or by reason of a physical or mental handicap.

(4) The Governor may, by proclamation, fix a day as the day on which the reference under this section shall terminate.

(5) The Governor may, by proclamation, declare an Act to be an Act to which this section applies.

SCHEDULE 1

Section 3 (2)

Child Protection Act 1974

Child Welfare Act 1960