



**COMMONWEALTH POWERS (FAMILY LAW)  
AMENDMENT ACT 1994**

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**No. 20 of 1994**

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**AN ACT to amend the *Commonwealth Powers (Family Law) Act 1987***

[Royal Assent 17 March 1994]

**B**E 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:—

**Short title**

**1**—This Act may be cited as the *Commonwealth Powers (Family Law) Amendment Act 1994*.

**Commencement**

2—This Act commences on a day to be proclaimed.

**Principal Act**

3—In this Act, the *Commonwealth Powers (Family Law) Act 1987\** is referred to as the Principal Act.

**Section 3 amended (Reference of certain matters relating to children)**

4—Section 3 of the Principal Act is amended as follows:—

- (a) by omitting “children.” from paragraph (b) of subsection (1) and substituting “children;”;
- (b) by inserting after paragraph (b) of subsection (1) the following paragraph:—
  - (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.
- (c) by omitting from subsection (2) “The matters referred to in subsection (1) do not include the matter of the adoption of children or a matter which affects—” and substituting “Subject to subsection (2A), the matters referred by subsection (1) do not include the matter of the adoption of children or the matter of the taking, or the making of provision for or in relation to authorizing the taking, of action that would prevent or interfere with—”;
- (d) by omitting from paragraph (a) of subsection (2) “of an Act”;
- (e) by omitting paragraph (b) of subsection (2);
- (f) by omitting from paragraph (d) of subsection (2) “of an Act”;

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\*No. 5 of 1987.

(g) by inserting after subsection (2) the following subsection:—

(2A) The matters referred by subsection (1) include the matter of the taking, or the making of provision for or in relation to authorizing the taking, of action of the kind referred to in subsection (2) if—

(a) the Minister of the Crown responsible for the administration of the relevant provisions specified in Schedule 1; or

(b) a person authorized, 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 the *Family Law Act 1975* of the Commonwealth, as amended and in force for the time being, in a court having jurisdiction under that Act.

(h) by omitting subsection (3) and substituting the following subsection:—

(3) In the preceding provisions of this section—

(a) the references to children are to be read as references to persons under the age of 18 years; and

(b) the references to the maintenance of, and the payment of expenses in relation to, children are to be read as including references 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; and

(c) the references to a provision specified in Schedule 1 are to 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.

**Schedule 1 substituted**

5—Schedule 1 to the Principal Act is repealed and the following Schedule is substituted:—

**SCHEDULE 1**

Section 3 (2),  
(2A) and (3)

**STATUTORY PROVISIONS**

Sections 23 (1) (c), 28 (1) (b), 33A, 34 (1) (a), 34 (5), 35 and 39 of the *Child Welfare Act 1960*.

Sections 3A, 9, 10 and 10A of the *Child Protection Act 1974*.

Sections 27, 40, 42, 43 (1) (b) and 47 of the *Adoption Act 1988*.

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*[Second reading presentation speech made in:—  
House of Assembly on 24 February 1994  
Legislative Council on 2 March 1994]*