

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

FAMILY LAW REFORM (CONSEQUENTIAL AMENDMENTS) BILL 1995

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by the authority of the Attorney-General,
the Honourable Michael Lavarch, M.P.)

AMENDMENTS TO BE MOVED ON BEHALF OF THE GOVERNMENT



AMENDMENTS OF THE FAMILY LAW REFORM (CONSEQUENTIAL AMENDMENTS) BILL 1995

GENERAL OUTLINE

The amendments proposed by the Government will amend the *Family Law Reform (Consequential Amendments) Bill 1995*.

The purpose of the amendments is to:

- make consequential amendments to a number of Commonwealth Acts which need amending due to the new terminology used in the *Family Law Act 1975* as a result of the amendments contained in the *Family Law Reform Act 1995*.
- correct various technical and drafting matters including the consequences of the altered numbering of parts of the *Family Law Act 1975*.
- amend the *Evidence Act 1995* to apply that Act to appeals to the Family Court of Australia from a court of summary jurisdiction exercising jurisdiction under the *Family Law Act 1975*.

FINANCIAL IMPACT STATEMENT

The proposed amendments will have no financial impact.

NOTES ON AMENDMENTS AND NEW CLAUSES

Amendment 1 - Commencement.

1. This amendment replaces clause 2 - 'commencement' with a new clause. Three sections of the *Family Law Reform Act 1995* commence on the day on which that Act receives royal assent. The balance of that Act commences on a day, or days, to be fixed by proclamation, or if not proclaimed, at the expiry of 12 months after proclamation. This clause links the commencement of the various clauses in this Bill with the commencement of relevant provisions in the *Family Law Reform Act 1995*.

Amendment 2 - Amendment of Acts in Schedule.

2. This is a technical amendment which clarifies that the Acts referred to in the Schedules are amended only in accordance with the applicable items in the Schedules.

Schedules

Amendment 3 -Consequential Terminology Amendment.

3. This amendment to Part 1, Item 2 of the Schedule is consequential upon amendments to the terminology used in the *Family Law Reform Act 1995*. It substitutes the term 'specific issues order' for 'special purpose order' in proposed paragraph 5(2)(c) of the *Australian Citizenship Act 1948*.

Amendments 4 and 5 - Consequential Re-Numbering Amendments in the Amendments of the Child Support (Assessment) Act 1989 (the Act) contained in Part 2 of the Schedule.

Amendment 4.

4. This amendment inserts a new item 2A into Division 1 of that Act. The new item replaces a reference to section 60B of the *Family Law Act 1975* in paragraph (b) of the definition of parent in the *Child Support (Assessment) Act 1989* with a reference to section 60H, the equivalent section on the commencement of the *Family Law Reform Act 1995*.

Amendment 5.

5. This amendment inserts a new item 28A into Division 1 of that Act. The new item replaces a reference to sub-section 64A(9) of the *Family Law Act 1975* in sub-section 150(9) of the *Child Support (Assessment) Act 1989* with

a reference to sub-section 67M(6), the equivalent section on the commencement of the *Family Law Reform Act 1995*.

Amendment 6 - Consequential Re-Numbering Amendments in the Amendments of the Child Support (Registration and Collection) Act 1988 (the Act) contained in Part 3 of the Schedule.

6. This amendment inserts two new items, 34A and 34B into Part 3. New item 34A replaces a reference to sub-section 64A(9) of the *Family Law Act 1975* in sub-section 16(9) of the *Child Support (Registration and Collection) Act 1988* with a reference to sub-section 67M(6), the equivalent section on the commencement of the *Family Law Reform Act 1995*.
7. This amendment also inserts a new item 34B into that Act. The new item replaces a reference to section 66K of the *Family Law Act 1975* in sub-paragraph 19(2)(b)(iv) of the *Child Support (Registration and Collection) Act 1988* with a reference to section 66Q, the equivalent section on the commencement of the *Family Law Reform Act 1995*.

Amendment 7 - Amendments of further Acts by inclusion in the Schedule.

8. This amendment inserts new Parts 4A, 4B and 4C into the Schedule to amend, respectively, the *Commonwealth Legal Aid Act 1977*, the *Jurisdiction of Courts (Cross Vesting) Act 1987* and the *Marriage Act 1961*.
9. The amendment of the *Commonwealth Legal Aid Act 1977* inserts a new item 38A omitting the words "section 8 of the *Interim Forces Benefits Act 1947* and subsections 117(3) & (4) of the *Family Law Act 1975*" from sub-section 32 (3) of the *Commonwealth Legal Aid Act 1977*. The *Interim Forces Benefits Act 1947* has been repealed and subsections 117 (3) & (4) of the *Family Law Act 1975* have been omitted by the *Family Law Reform Act 1995*.
10. The amendment of the *Jurisdiction of Courts (Cross-Vesting) Act 198* inserts a new item 38B substituting the reference to section 60AA in sub-section 3(1) (paragraph (ab) of the definition of 'special federal matter') with 60G, the equivalent section on the commencement of the *Family Law Reform Act 1995*.
11. The amendment of the *Marriage Act 1961* inserts a number of new items to ensure the terminology in that Act is consistent with the *Family Law Act 1975*.

12. In particular;

- the reference to “marriage counselling organisation” in subsection 9D(1) is substituted by “approved counselling organisation”.
- at the end of subsection 9D(2) the following is added “These conditions count as conditions of the organisation’s approval for the purposes of section 13D of the *Family Law Act 1975*”.
- the reference to “marriage counsellor” in subsection 16(2A) is substituted by “family and child counsellor”.
- the reference to “marriage counsellor” in subsection 16(7) is substituted by “family and child counsellor”.

Amendments 8 and 9 - Consequential Terminology Amendments.

13. Amendment 8 is to Part 6, Item 44 of the Schedule and is consequential upon amendments to the terminology used in the *Family Law Reform Act 1995*. It substitutes the term ‘specific issues order’ for ‘special purpose order’ in proposed paragraph 7A(8)(c) of the *Passports Act 1938*.
14. Amendment 9 is to Part 7, Item 49 of the Schedule and is consequential upon amendments to the terminology used in the *Family Law Reform Act 1995*. It substitutes the term ‘specific issues order’ for ‘special purpose order’ in proposed sub-paragraph 250(1)(c)(ia) of the *Social Security Act 1991*.

Amendment 10 - Insertion of new Schedule 2.

15. This amendment adds a new Schedule 2 making a number of amendments of the *Evidence Act 1995*. These amendments provide for the *Evidence Act 1995* to apply that Act to appeals to the Family Court of Australia from a court of summary jurisdiction of a State or Territory exercising jurisdiction under the *Family Law Act 1975*. Such appeals continue to heard *de novo*.

Amendment 11 - Amendment of Title of Act.

16. This amendment adds the words ‘and for other purposes’ at the end of the title ‘*Family Law Reform (Consequential Amendments) Act 1995*’. The amendment to the long title of the Act is necessary as the amendments of the *Evidence Act 1995* are not consequential upon amendments to the *Family Law Act 1975*.

