



**Victoria**

**No. 92 of 1986**

## **Commonwealth Powers (Family Law—Children) Act 1986**

[Assented to 16 December 1986]

The Parliament of Victoria enacts as follows:

### **Purpose.**

1. The purpose of this Act is to refer to the Parliament of the Commonwealth certain powers relating to Family Law.

### **Commencement.**

2. This Act comes into operation on a day to be proclaimed.

### **Reference of certain matters relating to children.**

3. (1) The following matters, to the extent to which they are not otherwise included in the legislative powers of the Parliament of the Commonwealth, are referred to the Parliament of the Commonwealth for a period commencing on the day on which this Act comes into operation and ending on the day fixed, pursuant to section 4, as the day on which the reference under this section will terminate, but no longer namely—

- (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 by sub-section (1) do not include 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—

- (a) a Minister of the Crown, an officer of the State, an officer of an adoption agency approved under a law of the State, or any other person or body having or acquiring the custody, guardianship, care or control of children under a provision of an Act specified in the Schedule; or
- (b) the payment of maintenance in respect of children who are in such custody, guardianship, care or control; or
- (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 the Schedule, to make orders, or 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) In the preceding provisions of this section—

- (a) the references to children shall be construed 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 shall be construed 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 an Act specified in the Schedule shall be read as references to that Act as amended and in force from time to time, and as including a reference to any Act or Acts replacing that Act and as amended and in force from time to time.

#### **Termination of reference.**

4. The Governor in Council may, at any time, by proclamation published in the *Government Gazette*, fix a day as the day on which the reference under this Act shall terminate.

SCHEDULE

Section 3.

*Children's Court Act 1973*

*Community Welfare Services Act 1970*



NOTES

1. *Minister's second reading speech—*  
*Legislative Council: 17 September 1986*  
*Legislative Assembly: 7 October 1986*
2. The long title for the Bill for this Act was "A Bill to refer to the Parliament of the Commonwealth certain matters relating to Family Law."