

**CHILD SUPPORT (ADOPTION OF LAWS) AMENDMENT BILL 2012**

*Introduction and First Reading*

Bill introduced, on motion by **Hon Michael Mischin (Attorney General)**, and read a first time.

*Second Reading*

**HON MICHAEL MISCHIN (North Metropolitan — Attorney General)** [7.45 pm]: I move —

That the bill be now read a second time.

The commonwealth child support scheme was introduced with the object of ensuring that separated parents shared equitably in the financial cost of supporting their children. The scheme enables the collection of child support payments from a parent and the payment of that maintenance to the person having responsibility for the child. The scheme operates under two commonwealth statutes: the Child Support (Registration and Collection) Act 1988 and the Child Support (Assessment) Act 1989. Following the making of an assessment for child support, which includes the payments to be made for the maintenance of a child, the child support registrar and the Department of Families, Housing, Community Services and Indigenous Affairs ensures that those payments are deducted from the contributing parent's salary payments or other income. The scheme also establishes enforcement procedures to ensure that payments are able to be collected on behalf of the child.

However, the commonwealth Parliament has constitutional power to legislate only with respect to children of a marriage. Therefore, exnuptial children are not covered by the commonwealth legislation and cannot benefit from the commonwealth child support scheme unless state Parliaments either refer power to the commonwealth Parliament or adopt the relevant commonwealth legislation. All other state Parliaments have referred power to the commonwealth Parliament so that the commonwealth scheme applies to exnuptial children in those states. Western Australia has not referred power. Rather, pursuant to our Child Support (Adoption of Laws) Act 1990, the Western Australian Parliament has adopted the commonwealth legislation establishing this scheme as well as subsequent amendments to those commonwealth acts. Through this mechanism the commonwealth statutes that implement the child support scheme apply to exnuptial children in Western Australia.

The commonwealth legislation has been amended and adopted by Western Australia on several occasions. The present bill describes the various commonwealth acts that have amended either or both the Child Support (Assessment) Act 1989 and the Child Support (Registration and Collection) Act 1988 since the last adopting legislation enacted by the WA Parliament in 2011. These commonwealth amendments are designed to improve the administration and efficiency of the child support scheme. The post-2011 commonwealth amendments will not apply in this state until they have been adopted by WA legislation.

Consequently, exnuptial children in Western Australia to whom the scheme applies are disadvantaged in comparison with all other children in Australia until those amendments are adopted. During the hiatus period between the enactment of the commonwealth amendments and the adoption of those amendments by the WA Parliament, the commonwealth child support scheme operates under two different regimes—one for exnuptial children in WA and another for all other children.

The government considers that it is appropriate and desirable that the recent commonwealth amendments be adopted by Western Australia, as proposed in the bill, so that the child support scheme and post-2011 commonwealth amendments relating to it can apply to, and benefit, all children in Western Australia. In addition to amendments to the two commonwealth acts that have already taken effect, the commonwealth Parliament has enacted several further amendments to the Child Support (Assessment) Act 1989 that are to take effect in some cases on 1 January 2013 and in others on 1 July 2013. As always, the amended legislation will not apply in Western Australia unless adopted by this Parliament.

It is highly desirable that these amendments should take effect in Western Australia at the same time as elsewhere. Accordingly, this bill contains clauses that will adopt the Child Support (Assessment) Act 1989 as it stands on 1 January 2013 and, again, on 1 July 2013. However, to guard against adopting amendments that this Parliament has not had an opportunity to consider, these clauses will operate only if the amendments affecting the Child Support (Assessment) Act 1989 by those dates are those that the commonwealth Parliament has already enacted. If any other amendments to the Child Support (Assessment) Act 1989 are made between now and then, this bill will not adopt the amended act. In that event, the amended act will be adopted in Western Australia only if a further bill for that purpose is introduced and passed in Western Australia.

Finally, I draw members' attention to section 51(xxxvii) of the commonwealth Constitution, which permits state Parliaments to adopt commonwealth legislation that is based on powers referred by other states to the commonwealth. The bill utilises that mechanism to enable the recent commonwealth child support amendments to apply for the benefit of exnuptial children in Western Australia. Given that the bill mirrors laws changing the

child support scheme operating across the commonwealth so far as it relates to exnuptial children, the government has taken the view that the bill introduces a scheme of uniform laws within the meaning of standing order 126(1). I commend the bill to the house and table the explanatory memorandum.

[See paper 4913.]

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.