

# Child Support (Commonwealth Powers) Bill 2018

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Western Australia

LEGISLATIVE ASSEMBLY

## **Child Support (Commonwealth Powers) Bill 2018**

**A Bill for**

**An Act —**

- **to adopt, for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth, certain laws of the Commonwealth insofar as those laws relate to the maintenance of exnuptial children; and**
- **to refer the matter of the maintenance of exnuptial children to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth to the extent that the Commonwealth's legislative power does not otherwise extend to Western Australia; and**
- **to amend the *Family Court Act 1997* and repeal the *Child Support (Adoption of Laws) Act 1990*; and**
- **for related purposes.**

The Parliament of Western Australia enacts as follows:

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## Part 1 — Preliminary

### 1. Short title

This is the *Child Support (Commonwealth Powers) Act 2018*.

### 2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

### 3. Terms used

In this Act —

***adoption*** means the adoption under section 4(1);

***commencement day*** means the day on which this Act comes into operation under section 2;

***Commonwealth Child Support laws*** means —

(a) the *Child Support (Assessment) Act 1989* (Commonwealth); and

(b) the *Child Support (Registration and Collection) Act 1988* (Commonwealth); and

(c) any Commonwealth enactment that —

(i) amends or otherwise affects the operation of the *Child Support (Assessment) Act 1989* (Commonwealth) or the *Child Support (Registration and Collection) Act 1988* (Commonwealth); and

(ii) has not come into operation before commencement day;

***Commonwealth enactment*** means a provision of a law of the Commonwealth;

***reference*** means the reference under section 5(1).

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**Part 2 — Adoption and referral**

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2 **4. Adoption of the Commonwealth Child Support laws as in**  
3 **force immediately before commencement day**

4 (1) The Commonwealth Child Support laws, in the form in which  
5 they exist at the end of the day before commencement day, are  
6 adopted within the meaning of section 51(xxxvii) of the  
7 Constitution of the Commonwealth insofar as they relate to the  
8 maintenance of exnuptial children.

9 (2) Despite subsection (1), the adoption has effect for, and for no  
10 longer than, the period —

11 (a) beginning on commencement day; and

12 (b) ending on the day fixed under section 6 as the day on  
13 which the adoption is to terminate.

14 **5. Referral of maintenance of exnuptial children**

15 (1) The matter of the maintenance of exnuptial children is referred  
16 to the Parliament of the Commonwealth.

17 (2) To avoid doubt, the matter referred includes the matter of  
18 amending, or otherwise affecting the operation of, the  
19 Commonwealth Child Support laws.

20 (3) To avoid doubt, the matter referred does not include any matter  
21 addressed in the *Family Law Act 1975* (Commonwealth)  
22 Part VII, including conferring jurisdiction on any of the  
23 following courts under that Part —

24 (a) the Family Court of Australia created under the *Family*  
25 *Law Act 1975* (Commonwealth) section 21;

26 (b) the Federal Circuit Court of Australia continued in  
27 existence under the *Federal Circuit Court of Australia*  
28 *Act 1999* (Commonwealth) section 8;

29 (c) the Family Court of Western Australia.

**s. 6**

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1 (4) The reference has effect only if and to the extent that the matter  
2 is not included in the legislative powers of the Parliament of the  
3 Commonwealth (otherwise than by a reference for the purposes  
4 of section 51(xxxvii) of the Constitution of the  
5 Commonwealth).

6 (5) Despite any other provision of this section, the reference has  
7 effect for, and for no longer than, the period —

- 8 (a) beginning on the commencement day; and  
9 (b) ending on the day fixed under section 6 as the day on  
10 which the reference under this Act is to terminate.

11 **6. Termination of adoption and reference**

12 (1) The Governor may, at any time, by proclamation, fix a day (the  
13 ***termination day***) as the day on which the adoption and the  
14 reference are to terminate.

15 (2) The termination day must be no earlier than the first day after  
16 the end of the period of 12 months beginning with the day on  
17 which the proclamation is published in the *Gazette*.

18 (3) The Governor may, by proclamation (a ***revoking proclamation***),  
19 revoke a proclamation made under subsection (1).

20 (4) A revoking proclamation has effect only if published before the  
21 termination day.

22 (5) If a revoking proclamation has effect the revoked proclamation  
23 is taken never to have been made for the purposes of  
24 sections 4(2) and 5(5).

25 (6) A revoking proclamation does not prevent the making of a  
26 further proclamation under subsection (1).

27 (7) A proclamation cannot be made under subsection (1) or (3)  
28 unless a draft of the proclamation has first been approved by a  
29 resolution passed by both Houses of the Parliament of the State.

1           **Part 3 — *Family Court Act 1997* amended**

2   **7.     Act amended**

3           This Part amends the *Family Court Act 1997*.

4   **8.     Section 5 amended**

5       (1) In section 5(1) delete the definitions of:

6           ***Child Support (Assessment) Act***

7           ***Child Support (Registration and Collection) Act***

8       (2) In section 5(1) insert in alphabetical order:

9

10                   ***Child Support (Assessment) Act*** means the *Child*  
11                   ***Support (Assessment) Act 1989*** (Commonwealth);

12                   Note for this definition:

13                         See the *Child Support (Commonwealth Powers) Act 2018*.

14                   ***Child Support (Registration and Collection) Act***  
15                   means the *Child Support (Registration and Collection)*  
16                   ***Act 1988*** (Commonwealth);

17                   Note for this definition:

18                         See the *Child Support (Commonwealth Powers) Act 2018*.

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**Part 4 — Repeal**

**9.**        *Child Support (Adoption of Laws) Act 1990* repealed  
            The *Child Support (Adoption of Laws) Act 1990* is repealed.





## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
adoption .....	3
commencement day .....	3
Commonwealth Child Support laws .....	3
Commonwealth enactment.....	3
reference .....	3
revoking proclamation .....	6(3)
termination day .....	6(1)