

Queensland



**COMMONWEALTH POWERS
(FAMILY LAW—CHILDREN)
AMENDMENT BILL 2001**

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COMMONWEALTH POWERS (FAMILY LAW—CHILDREN) AMENDMENT BILL 2001

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2001

A BILL

FOR

**An Act to amend the *Commonwealth Powers (Family Law—Children)*
*Act 1990***

*Commonwealth Powers (Family Law—Children)
Amendment Bill 2001*

The Parliament of Queensland enacts—

1

Clause 1 Short title

2

This Act may be cited as the *Commonwealth Powers (Family Law—Children) Amendment Act 2001*.

3

4

Clause 2 Act amended

5

This Act amends the *Commonwealth Powers (Family Law—Children) Act 1990*.

6

7

Clause 3 Amendment of s 3 (Reference of certain matters relating to children)

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(1) Section 3(1), from ‘for a period’ to ‘pursuant to section 4’—
omit.

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11

(2) Section 3(1)—
insert—

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‘(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.’.

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(3) Section 3—
insert—

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‘(1A) A reference under subsection (1)(a), (b) or (c) has effect for a period—

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(a) beginning at the beginning of the commencement day; and

23

(b) ending at the beginning of a day fixed under section 4 as the day on which it terminates;

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25

but not longer.’.

26

(4) Section 3(2)(a), ‘, care or control’—

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<i>omit, insert—</i>	1
‘or care’.	2
(5) Section 3(2)(a), ‘of an Act’—	3
<i>omit.</i>	4
(6) Section 3(2)(a), at the end—	5
<i>insert—</i>	6
‘or’.	7
(7) Section 3(2)(b)—	8
<i>omit.</i>	9
(8) Section 3(2)(c)(ii), ‘, care or control’—	10
<i>omit, insert—</i>	11
‘or care’.	12
(9) Section 3(2)(c), ‘of an Act’—	13
<i>omit.</i>	14
(10) Section 3(2)(c)—	15
<i>renumber</i> as section 3(2)(b).	16
(11) Section 3(4)—	17
<i>omit.</i>	18
(12) Section 3(3)—	19
<i>renumber</i> as section 3(4).	20
(13) Section 3—	21
<i>insert—</i>	22
‘(3) Despite subsection (2), the matters referred by subsection (1)	23
include the matter of the taking, or the making of a provision in relation to	24
authorising the taking, of action of the kind specified in subsection 2(a) and	25
(b) if—	26
(a) the Minister responsible for the administration of the relevant	27
provision specified in the schedule; or	28

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(b) a person authorised, in writing, by that Minister to act on his or her behalf for the purposes of Part VII of the <i>Family Law Act 1975</i> (Cwlth) as amended and in force for the time being;	1 2 3
consents, in writing, to the taking of action of the kind specified in subsection (2)(a) and (b) by way of instituting, or continuing, proceedings under the <i>Family Law Act 1975</i> (Cwlth) in a court having jurisdiction under that Act.’.	4 5 6 7
(14) Section 3(4)(c), as renumbered—	8
<i>omit, insert—</i>	9
‘(c) references to a provision specified in the schedule must 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.’.	10 11 12 13 14
(15) Section 3—	15
<i>insert—</i>	16
‘(5) In this section—	17
“commencement day”, in relation to a matter referred to the Parliament of the Commonwealth, means—	18 19
(a) for a matter referred under subsection (1)(a) or (b)—1 August 1990; or	20 21
(b) for a matter referred under subsection (1)(c)—the day this subsection commences.’.	22 23
Clause 4 Replacement of schedule	24
Schedule—	25
<i>omit, insert—</i>	26

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‘SCHEDULE 1

‘STATUTORY PROVISIONS 2

section 3 3

Act	Provision
<i>Adoption of Children Act 1964</i>	section 5B (Inherent jurisdiction of Supreme Court preserved)
	section 16 (Discharge of adoption orders)
	section 25 (Court may dispense with consents)
	section 26 (Consent of child)
	section 26A (Provisions concerning court’s jurisdiction—appeals)
	section 27 (Guardianship of child awaiting adoption)
	section 27B (Renunciation of guardianship of child to be adopted in another State or Territory)
	section 27C (Chief executive may enter into arrangements)
	section 28 (General effect of adoption orders)
	section 33 (Making of interim orders)
	section 35 (Discharge of interim orders)
	section 38AC (Conversion of simple adoption in convention country)
	section 38AD (Conversion of simple adoption by chief executive)
	section 39 (Declarations of validity of foreign adoptions)
<i>Child Protection Act 1999</i>	section 16 (Contact with child at immediate risk of harm)

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Act**Provision**

section 17 (Contact with children in school, child care centre, family day care etc.)

section 18 (Child at immediate risk may be taken into custody)

section 27 (Making of temporary assessment order)

section 34 (Extension of temporary assessment orders)

section 35 (Variation of temporary assessment orders)

section 44 (Making of court assessment order)

section 49 (Extension of court assessment orders)

section 50 (Variation and revocation of court assessment orders)

section 59 (Making of child protection order)

section 64 (Extension of certain child protection orders)

section 65 (Variation and revocation of child protection orders)

section 67 (Court's powers to make interim orders on adjournment)

section 68 (Court's other powers on adjournment of proceedings for child protection orders)

section 78 (Chief executive's powers)

section 99 (Custody or guardianship of child continues pending decision on application for order)

section 207 (Chief executive may transfer order)

section 214 (Court may transfer order)

section 219 (Order may be revived under this Act)

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Act	Provision
	section 223 (Effect of registration)
	section 228 (Court may transfer proceeding)
	section 230 (Court may make interim order)
	section 235 (Filing and registration of interstate transfer decision)
	section 236 (Effect of registration of interstate transfer decision)
	section 237 (Effect of registration of associated interim order)
	section 239 (Appeal against decision of Childrens Court)
	section 240 (Interim orders)
	section 243 (Transfer from a non-participating State)
	section 245 (Transfer to a non-participating State)
<i>Health Act 1937</i>	section 76L (Temporary custody of children)
<i>Succession Act 1981</i>	section 61G (Application by testamentary guardian)
	section 61H (Application by parent)
	section 61I (Supreme Court decision on application)
	section 61J (Supreme Court's powers not limited)'.