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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CHILD SUPPORT AMENDMENT BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Social Security,
the Hon. Brian Howe, M.P.)

CHILD SUPPORT AMENDMENT BILL 1988

GENERAL OUTLINE

This Bill will amend the Child Support Act 1988 to ensure that that Act can apply to ex-nuptial children in either Queensland or Western Australia should either State adopt the Child Support Act.

FINANCIAL IMPACT

The nature of the proposed amendments contained in this Bill is such that a reliable estimate of the potential revenue gain cannot be made, but it is not expected to be significant.

MAIN FEATURES

The Child Support Act 1988 provides for the collection of certain child and/or spousal maintenance payable under court orders and maintenance agreements.

To date, the Child Support Registrar (who is the Commissioner of Taxation) has only been able to collect maintenance in respect of a child :

- . if the child is a child of a marriage; or
- . if the child is not a child of a marriage, where a State has referred its power in respect of ex-nuptial children. Four States, New South Wales, Victoria, South Australia and Tasmania have done so.

Under the Child Support Act, the Registrar was also to be able to collect maintenance for ex-nuptial children of Queensland and Western Australia should either State adopt the Act insofar as it relates to the maintenance of children who are not children of a marriage. There is, however, a technical deficiency in several provisions of the Child Support Act that would, if unchanged, defeat this adoption procedure.

The Child Support Amendment Bill 1988 will enable the effective operation of the Child Support Act in Queensland and Western Australia should either State adopt that Act in relation to ex-nuptial children by ensuring that those provisions of the Child Support Act also apply where orders or agreements for the maintenance of ex-nuptial children are made under the law of a State, e.g., Queensland or Western Australia.

A more detailed explanation of the provisions of the Bill follows.

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Claus 1 - Short title etc.

1. The amending Act is, under subclause (1) to be cited as the Child Support Amendment Act 1988.
2. Subclause (2) of this clause facilitates reference to the Child Support Act 1988 which, in the amending Act, is referred to as the "Principal Act".

Claus 2 - Commencement

3. This clause provides that the amending Act shall come into operation on the day on which it receives the Royal Assent. But for this clause, the Act would, by reason of subsection 5(1A) of the Acts Interpretation Act 1901, come into operation on the twenty-eighth day after the date of Assent.

Claus 3 - Payer and payee to notify Registrar when registrable maintenance liability arises etc.

4. Clause 3 will amend section 23 of the Principal Act which imposes certain obligations on payers and payees of registrable maintenance liabilities. By the amendment to be made to paragraph 23(1)(a) of the Principal Act, these obligations will also be imposed on payees and payers of registrable maintenance liabilities where, an order or agreement is made by, registered in, or approved by, a court under the law of a State. Should Queensland and Western Australia adopt the Principal Act, then orders or agreements made by, registered in, or approved by, a court in respect of ex-nuptial children under the laws of each State would effectively be covered by that Act.

Clause 4 - Payee to notify Registrar of court order varying registered maintenance liability etc.

5. Clause 4 will amend section 33 of the Principal Act which requires a payee of an enforceable registered maintenance liability to notify the Child Support Registrar when an order or agreement is made by, registered in, or approved by, a court under the Family Law Act 1975 or the law of a Territory, and that order or agreement varies or otherwise affects that enforceable registered maintenance liability.
6. By the amendment to be made to paragraph 33(1)(a) of the Principal Act, this obligation will also be imposed on payees when an order or agreement is made by, registered in, or approved by, a court under the law of a State and that order or agreement varies or otherwise affects an enforceable registered maintenance liability. This amendment is to the same effect as those proposed by clauses 3 and 5.

Clause 5 - Copies of maintenance orders and agreements to be forwarded to Registrar

7. Clause 5 will amend section 112 of Principal Act. Under that section, the registrar or other responsible officer of a court that makes, registers or approves orders or agreements under the Family Law Act 1975 or the law of a Territory and which relate to the maintenance of a child or the party to a marriage, is required to forward certified or sealed copies of those orders or agreements to the Child Support Registrar.

8. By the amendment to be made to paragraph 112(1)(a) of the Principal Act, this obligation will also be imposed on registrars or court officers where such orders or agreements are made by, registered in, or approved by, a court under the law of a State. This amendment is to the same effect as the amendments proposed by clauses 3 and 4.