

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Social Services

Child Support (Assessment) Act 1989
and the
Child Support (Registration and Collection) Act 1988

Child Support Legislation (Exclusion of Courts of Summary Jurisdiction)
Proclamation 2017

Summary

Subsection 99(3) of the *Child Support (Assessment) Act 1989* (the Assessment Act) and subsection 104(3) of the *Child Support (Registration and Collection) Act 1988* (the Registration and Collection Act) provide that the Governor-General may fix a date by Proclamation on and after which proceedings in relation to matters arising under the Assessment Act or the Registration and Collection Act may not be instituted in, or transferred to, a court of summary jurisdiction in a specified State or Territory.

Paragraph 99(4)(b) of the Assessment Act and paragraph 104(4)(b) of the Registration and Collection Act provide that a proclamation under subsection 99(3) of the Assessment Act and subsection 104(3) of the Registration and Collection Act may be expressed to apply to the institution of proceedings in, or the transfer of proceedings to, a court of summary jurisdiction in a specified part of a State or Territory.

The Proclamation states that, on and after 1 October 2017, proceedings under the Assessment Act or the Registration and Collection Act may not be instituted in, or transferred to, the Central Local Court, the Downing Centre Local Court, the Local Court Newtown and the Local Court North Sydney, all located in New South Wales (NSW).

The Proclamation is a legislative instrument for the purposes of the *Legislation Act 2003* and commences on 1 October 2017.

Background

This Proclamation has been made due to the expiry of the *Summary Courts Jurisdiction – Child Support (Assessment) Proclamation 2007* and the *Summary Courts Jurisdiction – Child Support (Registration and Collection) Proclamation 2007* (the 2007 Proclamations) on 1 October 2017.

The 2007 Proclamations cease operation on 1 October 2017 due to the sunset provisions in the *Legislation Act 2003*.

The NSW Government relocated the St James Local Court Sydney to the Children's Court complex in Parramatta on 13 November 2006. The St James Court had provided specialist family law services pursuant to an agreement

between the Commonwealth and NSW under the Assessment Act and the Registration and Collection Act. The NSW Attorney General subsequently requested a Proclamation be made to prevent family law proceedings that would previously have been dealt with in the St James Court being lodged in, or transferred to, nearby Local Courts that lack specialist family law expertise.

The presence of the Family Court of Australia and the Federal Circuit Court in the Sydney Central Business District presents an alternative to matters being instituted in or transferred to the Local Courts.

This Proclamation has been made to continue this arrangement at the request of the NSW Department of Justice, as the Local Courts listed in the Proclamation continue to lack specialist family law expertise.

Explanation of the Provisions

Section 1 of the Proclamation states the name of the Proclamation.

Section 2 provides that the Proclamation commences on 1 October 2017.

Section 3 provides that the authority for making this Proclamation is subsection 99(3) of the Assessment Act and subsection 104(3) of the Registration and Collection Act.

Section 4 provides that each instrument specified in a Schedule to the Proclamation is amended or repealed as set out in the Schedule, and any other item in a Schedule to the Proclamation has effect according to its terms.

Section 5 provides that on or after 1 October 2017, proceedings in relation to matters arising under the Assessment Act or the Registration and Collection Act may not be instituted in, or transferred to, a court of summary jurisdiction in NSW listed in the table in the section. The table lists the Central Local Court, the Downing Centre Local Court, the Local Court Newtown and the Local Court North Sydney.

Items 1 and 2 of Schedule 1 repeal two Proclamations. These are the *Summary Courts Jurisdiction – Child Support (Assessment) Proclamation 2007* and the *Summary Courts Jurisdiction – Child Support (Registration and Collection) Proclamation 2007*.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) was consulted about this instrument and has advised that this proposal is minor and machinery in nature, with no impact on regulatory costs. A Regulation Impact Statement is therefore not required.

Consultation

The NSW Department of Justice was consulted and did not oppose this legislative instrument.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Child Support Legislation (Exclusion of Courts of Summary Jurisdiction) Proclamation 2017

The Proclamation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The Proclamation has been made due to the sunset of the *Summary Courts Jurisdiction – Child Support (Assessment) Proclamation 2007* and the *Summary Courts Jurisdiction – Child Support (Registration and Collection) Proclamation 2007* (the 2007 Proclamations) on 1 October 2017.

The Proclamation states that, on and after 1 October 2017, proceedings under the *Child Support (Assessment) Act 1989* (the Assessment Act) or the *Child Support (Registration and Collection) Act 1988* (the Registration and Collection Act) may not be instituted in, or transferred to, the Central Local Court, the Downing Centre Local Court, the Local Court Newtown and the Local Court North Sydney, all located in New South Wales (NSW).

The NSW Government relocated the St James Local Court Sydney to the Children's Court complex in Parramatta on 13 November 2006. The St James Court had provided specialist family law services pursuant to an agreement between the Commonwealth and NSW under the Assessment Act and the Registration and Collection Act. The NSW Attorney General subsequently requested a Proclamation be made to prevent family law proceedings that would previously have been dealt with in the St James Court being lodged in, or transferred to, nearby Local Courts that lack specialist family law expertise.

The presence of the Family Court of Australia and the Federal Circuit Court in the Sydney Central Business District presents an alternative to matters being instituted in or transferred to the Local Courts.

This Proclamation has been made to ensure the continuity of these arrangements, as the Local Courts referred to in the Proclamation continue to lack specialist family law expertise.

Human rights implications

The Proclamation does not engage any of the applicable rights or freedoms.

Conclusion

The Proclamation is compatible with human rights as it does not raise any human rights issues.

Minister for Social Services, the Hon Christian Porter MP