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 and operates under two Commonwealth statutes: the Child Support (Registration and Collection) Act 1988 (Cth) and the Child Support (Assessment) Act 1989 (Cth).

Under the Commonwealth Constitution, the legislative power of the Commonwealth Parliament does not extend to ex-nuptial children. To ensure that this scheme operates in respect to ex-nuptial children as well as to children of a marriage, all other State Parliaments have referred power in respect to ex-nuptial children to the Commonwealth Parliament. Accordingly, the statutes that govern the Child Support Scheme apply to all children in those States.

Instead of referring power to the Commonwealth, the WA Parliament has adopted the Commonwealth child support legislation by the Child Support (Adoption of Laws) Act 1990 (WA). That Act adopted the Commonwealth Acts in the form in which they existed on 19 December 1989.

Subsequently, the Commonwealth Acts have been amended many times. However for those statutes as amended to apply to ex-nuptial children in Western Australia, the Parliament of Western Australia must adopt again the Commonwealth Acts as they stand at a stated date subsequent to the commencement of the amendments to the relevant Commonwealth Acts.

The last occasion on which the WA Parliament amended the Child Support (Adoption of Laws) Act 1990 (WA) to adopt amendments to the Child Support (Registration and Collection) Act 1988 (Cth) and the Child Support (Assessment) Act 1989 (Cth) was 3 March 2011. Since that date the Commonwealth Parliament has made further amendments to those Acts which, if they are to apply to ex nuptial children in WA, must be adopted by the WA Parliament.

The Commonwealth amendments it is proposed to adopt have been enacted but not all have commenced as yet.

Accordingly, the Child Support (Adoption of Laws) Amendment Bill 2012 (WA):

(i) proposes to adopt the Commonwealth legislation as it stands after the amendments which have already commenced operation;
(ii) proposes, with effect from 1 January 2013, to adopt the Commonwealth legislation as it will stand following the amendments which have already been enacted and which are to come into operation on 1 January 2013;

(iii) proposes, with effect from 1 July 2013, to adopt the Commonwealth legislation as it will stand following the amendments which have already been enacted and which are to come into operation on 1 July 2013; and

(iv) contains a legislative mechanism which will have the effect that the Commonwealth legislation will not be adopted as of 1 January 2013 or 1 July 2013 if, before those dates, the Commonwealth legislation has been affected by further amendments not included in the Child Support (Adoption of Laws) Amendment Bill 2012 (WA). This mechanism ensures that the Bill will not have the effect of adopting the Commonwealth legislation after it has been amended in ways which the WA Parliament does not foresee when considering the Bill.