

Western Australia

## **Welfare and Assistance Act 1961**

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### **THE TEXT OF THE LEGISLATION FOLLOWS**



## Welfare and Assistance Act 1961

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## **Welfare and Assistance Act 1961**

**An Act to authorise and regulate the rendering of financial assistance to or on behalf of indigent persons and for payment of funeral expenses of persons dying in necessitous circumstances; to make provision for the recovery of moneys advanced and expended for such purposes; and for other purposes.**

**1. Short title and citation**

This Act may be cited as the *Welfare and Assistance Act 1961*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

**3. Construction**

Nothing in this Act shall prejudice or affect any of the provisions of the Acts specified in the First Schedule to this Act, or of any other Act so far as the same relates to maintenance for persons or for children, or to financial aid or relief for destitute persons, and this Act shall be read and construed as separate and distinct from any of those Acts to the intent that the provisions of this Act are in addition to and not in derogation of or substitution for any of the provisions of those Acts.

**4. Interpretation**

In this Act unless the context requires otherwise

“**advances**” include moneys advanced by or on the authority of the Minister prior to the commencement of this Act by way of financial aid or relief to or on behalf of persons who, if this Act had been in operation at the time of the advance, would be indigent persons;

“**child**” means a person under the age of 18 years;

“**Department**” means the department established under section 4 of the *Community Services Act 1972*<sup>2</sup>;

“**Director-General**” means the Director-General of the Department appointed under section 7 of the *Community Services Act 1972* and includes the Assistant Director-General of that Department appointed under section 8 of that Act;

“**indigent person**” means —

- (a) any woman who satisfies the Minister that she is without adequate support and has not sufficient means of subsistence;
- (b) any child who in the opinion of the Minister is without adequate support and has not sufficient means of subsistence;
- (c) any destitute child within the meaning of the *Child Welfare Act 1947*, or any ward within the meaning of that Act;
- (d) any person entitled to moneys by way of compensation or damages, or in settlement of a claim under a policy of insurance or life assurance, or to any assets as a beneficiary in the estate of a deceased person; or
- (e) any person who is in such necessitous circumstances as in the opinion of the Minister warrant assistance being rendered that person under this Act.

[Section 4 amended by No. 121 of 1984 s. 22; No. 57 of 1997 s. 129(1).]

**5. Administration**

Subject to its provisions, this Act shall be administered by the Minister through the Department.

**6. Inspectors and other officers**

The Governor may from time to time appoint inspectors and other officers, with such powers and functions as he deems necessary to carry out the purposes of this Act.

**7. Delegation of powers**

- (1) The Minister may by writing signed by him delegate all or any of the powers conferred upon him by this Act, with the exception of this power of delegation, to the Director-General, to any other officer of the Department, or to any officer appointed under this Act.
- (2) The person to whom power is so delegated may exercise the power in the same manner and with the same effect as if the power were directly conferred upon him by this Act and not by delegation.
- (3) Where the exercise of the power is dependent upon the opinion, belief, satisfaction or other state of mind of the Minister in relation to any matter, the power when delegated may be exercised by the delegate upon his opinion, belief, satisfaction or state of mind in relation to the matter.
- (4) A person who purports to exercise power pursuant to a delegation conferred under the provisions of this section is presumed to do so in accordance with the terms of the delegation in the absence of proof to the contrary.
- (5) Every delegation of power pursuant to the provisions of this section may be revoked wholly or partly by the Minister at any time, and no delegation shall prevent the Minister from exercising the power.

*[Section 7 amended by No. 121 of 1984 s. 23.]*

**8. Minister may make advances**

The Minister may for the purpose of rendering and affording financial assistance —

- (a) to or on behalf of indigent persons;
- (b) for the transport of indigent persons; or
- (c) for payment of funeral expenses in respect to the burial of persons dying in necessitous circumstances,

make advances at his discretion to persons who apply for such assistance and satisfy the Minister that in the circumstances of the case such assistance should be given.

*[Section 8 amended by No. 57 of 1997 s. 129(2).]*

**9. Applications for assistance to be investigated**

- (1) Every application for assistance under this Act shall be made to the Department, shall contain such particulars as are prescribed, and shall be investigated forthwith in such manner, by such means and to such extent as having regard to the particulars contained in the application appear to the Director-General necessary or advisable.
- (2) The result of the investigation made under this section and the apparent merits or otherwise of the application as disclosed by such investigation shall be reported to the Minister, together with such recommendation and advice to the Minister as the officer making the investigation thinks proper.

*[Section 9 amended by No. 121 of 1984 s. 23.]*

**10. Minister may grant application**

- (1) If the Minister, after considering the report and the recommendation and advice referred to in section 9, is satisfied that the person the subject of the application for assistance is in need and deserving of financial assistance under this Act, he may from time to time grant to the applicant such assistance under this Act as he thinks fit in accordance with the scale of



rates determined by him, and which he is hereby authorised to determine, from time to time and subject to such terms and conditions as to payment, expenditure and repayment as in his discretion he considers advisable or necessary.

- (2) Notwithstanding the provisions of subsection (1), where in any case the Minister considers the circumstances to be unusual and exceptional and the person by or on behalf of whom the application is made to be deserving of assistance to an extent greater than that provided in the scale of rates for the time being applicable, he may at his discretion grant additional assistance to such extent as in that case appears to him necessary.

**11. Liability for funeral expenses**

For the purposes of this Act, the relatives of any person who dies in necessitous circumstances shall be liable to pay or contribute towards the funeral expenses incurred in respect of the burial of that person —

- (a) in the case of a person (other than an unmarried child) — the husband or widow, as the case may be, and the adult children of that person;
- (b) in the case of an unmarried child — the father, the mother, the step-father, the step-mother,

and the Minister may by action commenced in a court of competent jurisdiction sue for and recover from those relatives, or any of them, the amount of advances made under this Act by way of assistance in payment of the funeral expenses incurred in respect of the burial of that person.

*[Section 11 amended by No. 59 of 2004 s. 141.]*

**12. Advances to a wife deemed to be necessities**

- (1) In any case where the Minister makes advances under this Act to or on behalf of an indigent person being a married woman, whether for herself or for her child or children or any of them, —

**s. 13**

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- (a) pending the making or hearing of an application for an order against the husband of that woman for maintenance; or
- (b) where maintenance has been ordered to be paid and has not been duly paid by the husband,

the amount of those advances shall be deemed to have been expended in supplying necessaries for the use of the wife, and notwithstanding any Act or rule of law to the contrary, but subject to the provisions of subsection (2), the wife shall be presumed to have authority to pledge the credit of her husband.

- (2) The Minister may sue for and recover from the husband in any court of competent jurisdiction the amount of advances made to or on behalf of the wife of that husband pursuant to the provisions of subsection (1), but in an action under this subsection, if the husband satisfies the court that in the circumstances (other than the circumstance that he and his wife were living apart) the wife was not entitled to pledge his credit, it is a defence that the amount of those advances was not expended for maintenance of the child or children of the wife, but such defence is available only to the extent of the amount not so expended.
- (3) This section does not apply in respect of a child born to the wife as a result of any act of adultery committed by her during her marriage, except where the child has been accepted by the husband as a child of the family within the meaning of the *Married Persons (Summary Relief) Act 1960*<sup>3</sup>, which case the court in considering the liability of the husband under this section shall have regard also to the provisions of that Act.

**13. Powers of Minister where assistance granted**

- (1) Where the assistance granted under the provisions of this Act to or on behalf of any person has been so granted on the ground that the person was rendered indigent in that —

- (a) a debt lawfully due and owing to that person had not been recovered, or that difficulty was being experienced in recovering the same;
- (b) maintenance payable to such person under the terms of an agreement in writing or by order of a competent court was in arrear, or that an application for maintenance made to a competent court had not been heard; or
- (c) any money or property to which such person was lawfully entitled had not been paid, delivered or transferred to that person,

such person shall, if the Minister so orders, as he is hereby authorised to do, be deemed to have assigned absolutely to the Minister that debt, maintenance, money or property and to have passed and transferred the legal right thereto and all legal and other remedies and the power to give a good discharge for the same, until such time as the assistance so granted to such person has been repaid, or until the Minister revokes the order made by him under this subsection.

- (2) While the debt, maintenance, money or property is deemed to be assigned to the Minister pursuant to the provisions of subsection (1), the Minister may, after giving to the debtor written notice of the assignment, or without giving such notice if the Minister considers it impracticable so to do, either himself or in the name of the person to or on behalf of whom the assistance was granted, exercise all or any of the legal or other remedies and take any legal action, including the issue of warrants of execution or commitment, which such person is entitled to exercise or take for recovery of the debt, maintenance, money or property, or any part thereof, and shall have the power on recovery to give a good discharge for the same without the concurrence of such person.
- (3) Where the debt, maintenance or money deemed to be assigned to the Minister pursuant to subsection (1) is paid or to be paid into any court, the Minister may give to the registrar of the court

**s. 14**

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written notice of the assignment, and after receipt of such notice the registrar shall not pay out of court to any person other than the Minister or such person as the Minister may direct, any moneys then in the court or thereafter paid into the court in respect of the debt, maintenance or money, unless and until the Minister withdraws such notice and of that withdrawal gives notice in writing to the registrar.

*[Section 13 amended by No. 59 of 2004 s. 141.]*

**14. Action for recovery of advances may be taken at any time**

Action for recovery of advances pursuant to the provisions of this Act may be taken by the Minister at any time, and may be so taken for recovery of the whole or any part of those advances as the Minister thinks fit.

*[Section 14 amended by No. 59 of 2004 s. 141.]*

**15. Written notice of assignment may be given to court making maintenance order**

- (1) Where an order for payment of maintenance is made and the maintenance is deemed to be assigned to the Minister pursuant to section 13, the Minister may give to the the registrar of the court in which the order is made written notice of the assignment, and after receipt of such notice the registrar shall —
  - (a) give to the Director-General notice in writing of any application for variation, suspension or discharge of the order so made; and
  - (b) endorse a memorandum of the assignment on every certified copy of that order, or certificate stating the amount due under that order, issued by him.
- (2) The Minister is entitled to be jointed as a party to any application for variation, suspension or discharge of an order referred to in subsection (1) and to appear by an officer of the Department or by solicitor, and to be heard, give evidence and call witnesses at the hearing.

- (3) Where it is sought to enforce payment under an order for maintenance deemed to be assigned to the Minister pursuant to this Act and an affidavit is required to be made for that purpose by the person entitled under a provision of the order to receive payment of any amount of which payment is in default, it shall be sufficient compliance with that requirement if an affidavit is made by the Director-General deposing to so much of the required information as he can ascertain.

*[Section 15 amended by No. 121 of 1984 s. 23; No. 59 of 2004 s. 141.]*

**16. Application of moneys recovered by Minister**

Any moneys recovered by the Minister under the provisions of sections 12 or 13 shall, after deduction therefrom of the costs of and incidental to the recovery, be appropriated and applied in or towards satisfaction of advances made under this Act to or on behalf of the person in respect of whom the moneys are recovered and any interest charged on those advances, and any balance then remaining may be paid to or for such person, or, if the person be a child, to the institution or person having the care, charge or custody of the child.

**17. Provisions as to person arrested on enforcement of order**

In any case where a person liable under an order made by a court of competent jurisdiction to pay maintenance is arrested under a warrant of commitment in respect of non-payment by him thereof and the maintenance is pursuant to the provisions of section 13 deemed to be assigned to the Minister, the provisions of Part IV of the *Married Persons (Summary Relief) Act 1960*<sup>3</sup>, shall continue to apply to such person except that the Minister shall be deemed to be the person entitled to receive payment under the order being enforced.

**18. Certificate of amount due and judgment thereon**

- (1) Where an order has been made by a competent court for payment of maintenance by a defendant to or for his wife and

children, or any of them, and payment into court has been ordered, and the legal right of the person entitled to such maintenance is pursuant to the provisions of section 13 deemed to be assigned to the Minister, the Registrar of the Supreme Court, if the court is the Supreme Court, or the clerk of the court, if the court is other than the Supreme Court, shall at the request of the Director-General or an officer of the Department issue his certificate stating the amount due under the order at the date of the certificate.

- (2) A certificate issued pursuant to this section may be filed by the Director-General or an officer of the Department, either on behalf of the Minister or of the person entitled to receive the amount stated in the certificate, in a court of competent jurisdiction.
- (3) When filed in the court, the certificate is to be taken to be a judgment of the court and may be enforced accordingly.

*[(4) repealed]*

*[Section 18 amended by No. 121 of 1984 s. 23; No. 59 of 2004 s. 141.]*

**19. Provisions where person assisted entitled to compensation, etc.**

- (1) Where the person to or on behalf of whom financial assistance has been granted under this Act is entitled to receive compensation or damages, or the proceeds of any policy of insurance or life assurance, or a share in the estate of any deceased person, the Minister may by notice in writing served on the person liable to pay the compensation, damages, proceeds or share, inform that person that the Minister proposed to recover from him the whole or portion of the amount of the financial assistance paid to or on behalf of the person so entitled.

- (2) The Minister may by the same notice or by a subsequent notice in writing served on the person liable to pay the compensation, damages, proceeds or share, specify an amount payment of which is claimed by the Minister and thereupon that person shall become liable to pay to the Minister the amount so specified and in default of payment the Minister may recover the specified amount from that person in any court of competent jurisdiction.
- (3) After service on him of a notice under subsection (1), the person liable to pay the compensation, damages, proceeds, or share shall not pay to or on behalf of the person entitled thereto any amount thereof until the Minister has specified the amount which the firstmentioned person is liable to pay to the Minister.
- (4) Payment of an amount to the Minister under this section by the person liable to pay the compensation, damages, proceeds or share shall, to the extent of that payment, operate as a discharge to that person as against the person entitled to the compensation, damages, proceeds to share, as the case may be.
- (5) This section shall have effect, in relation to the State or an authority of the State, notwithstanding the provisions of any Act which, but for this subsection, would prevent this section having effect.
- (6) For the purposes of this section, “**person**”, in relation to the person liable to pay the compensation, damages, proceeds or share, includes the Commonwealth or an authority of the Commonwealth, and the State or an authority of the State, and any insurer of that person.

**20. Improvement in financial position to be notified to Department**

Where a person has applied for, or is receiving, assistance under this Act and before the application is granted, or while the assistance is being received, a change occurs in the financial position of that person whereby his financial position is or will

**s. 21**

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be improved or bettered, that person shall furnish to the Department forthwith full particulars of the change which has occurred and the circumstances relating to the same.

**21. False statement punishable**

- (1) Any person who —
- (a) makes, whether orally or in writing, a false or misleading statement in any application, declaration or other document under or for the purposes of this Act;
  - (b) obtains payment of any advance which is not payable; or
  - (c) obtains payment of any advance by means of a false or misleading statement or by means of impersonation or a fraudulent device,

commits an offence against this Act.

Penalty: \$3 000.

- (2) A person convicted of an offence against this section may, in addition to the penalty imposed for the offence, be ordered to repay to the Minister any amount paid by way of advances in consequence of the act, failure or omission in respect of which that person was convicted.

*[Section 21 amended by No. 78 of 1995 s. 147.]*

**22. Action to recovery debt, etc., deemed assigned to Minister an offence**

Any person who, without the consent of the Minister first had and obtained, exercises or attempts to exercise any legal or other remedy or takes or attempts to take any legal action with a view to recovering any debt, money, property or maintenance deemed to be assigned to and vested in the Minister under the provisions of this Act commits an offence against this Act.

Penalty: \$1 000.

*[Section 22 amended by No. 78 of 1995 s. 147.]*



**23. Recovery of over-payment**

Where in consequence of a false statement or representation, or in consequence of a failure or omission to comply with any provision of this Act, moneys have been paid by way of advances under this Act which would not have been paid but for the false statement or representation, failure or omission, the amount so paid shall be recoverable in a court of competent jurisdiction from the person to whom, or on whose account, the amount was paid, or from the estate of that person, as a debt due to the State.

**24. Offences generally**

- (1) A person who does not do a thing which by or under this Act he is required or directed to do, and a person who does or attempts to do a thing which by or under this Act he is prohibited from doing, commits an offence against this Act.
- (2) A person who commits an offence against this Act is liable to the penalty expressly mentioned as the punishment for the offence, but where a penalty is not expressly mentioned is liable —
  - (a) where the offence is not a continuing offence, to a maximum penalty of \$500; and
  - (b) where the offence is a continuing offence, to a penalty of \$10 for each day during which the offence continues.

*[Section 24 amended by No. 57 of 1997 s. 129(3).]*

**25. Provision for expenditure**

- (1) The funds available for the purpose of enabling the Minister to make advances under this Act shall consist of money appropriated by Parliament to the purposes of this Act.
- (2) All moneys received in repayment, either in whole or in part, of advances made under this Act shall be credited to the Consolidated Fund.

*[Section 25 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64.]*

**26. Application of *Financial Administration and Audit Act 1985***

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of departments apply to and in respect of the Department and its operations under this Act.

*[Section 26 inserted by No. 98 of 1985 s. 3.]*

*[27. Repealed by No. 98 of 1985 s. 3.]*

**28. Personation of officers**

A person, not being an officer appointed under this Act, who takes the name, designation or description of any officer appointed under this Act, or pretends or asserts that he is such an officer, is guilty of an offence.

**29. Exemption from personal liability**

A person who occupies or has occupied the office of Minister, Director-General, or officer appointed under this Act, or who otherwise carries out or has carried out any duty or function under this Act, is not personally liable for anything done or omitted in good faith in or in connection with the exercise or purported exercise of any power conferred or which purports to be conferred, or the carrying out of any duty imposed or which purports to be imposed, by this Act.

*[Section 29 amended by No. 121 of 1984 s. 23.]*

**30. Evidence**

- (1) All courts shall take judicial notice of the signature of any person who holds or had held the office of Director-General or Assistant Director-General, and of the fact that that person holds or has held that office, if the signature purports to be on or

appended to any official document, and any document purporting to be so signed shall be received in all courts as *prima facie* evidence of the facts and statements contained therein.

- (2) A statement in writing signed by a person who holds or has held any office referred to in subsection (1) that a person is or was on a certain date, in receipt of assistance under this Act at a certain rate shall be received in all courts as *prima facie* evidence that the lastmentioned person was on that date in receipt of such assistance and of the rate thereof.
- (3) Upon the hearing of any proceedings brought by the Minister under this Act for recovery of the amount of any advances made under this Act, allegations that advances have been made and have not been repaid, and that the person proceeded against is liable to repay to the Minister the amount of any advances, shall be received as *prima facie* proof of those allegations respectively, and the onus of proving that such advances have not been made, or that they have been repaid, or that the person proceeded against is not liable so to repay the amount thereof, shall lie upon the defendant.

[Section 30 amended by No. 121 of 1984 s. 23.]

### **31. Information as to applicants**

The Minister, or the Director-General, may by notice in writing served by post on a person whom he believes to be in a position to do so, require that person to furnish to him a confidential report relating to any matter which might affect the granting of assistance under this Act to any indigent person, or the recovery of any advances made under this Act, and the person so required shall furnish a report accordingly within 14 days after service upon him of such notice, and shall not furnish a report which is false or misleading in any particular.

Penalty: \$100

**s. 32**

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*[Section 31 amended by No. 121 of 1984 s. 23; No. 57 of 1997 s. 129(4).]*

**32. Secrecy to be observed**

The Minister, the Director-General, and any officer appointed under this Act, shall not be required to produce in any court any application, or any determination of an application, under this Act, or to divulge or communicate to any court or to any person any matter or thing which has come to his knowledge or under his notice in the performance of his duties or in the exercise of his powers or functions, under this Act, except where it is necessary so to do for the purposes of giving effect to the provisions of this Act.

*[Section 32 amended by No. 121 of 1984 s. 23.]*

**33. Regulations**

- (1) The Governor may make such regulations as he considers necessary, convenient or desirable for facilitating the operation of this Act or giving effect to the purposes of this Act or for better enabling the Minister and the Director-General to carry out their respective functions under this Act.
- (2) Without prejudice to the generality of the power conferred by subsection (1), the Governor may prescribe such forms and fees as he considers necessary to give effect to this Act and may by regulation prescribe as a penalty for the breach of any regulation so made a penalty not exceeding \$500.

*[Section 33 amended by No. 121 of 1984 s. 23; No. 57 of 1997 s. 129(5).]*

**First Schedule**

[S. 3.]

The Act for the Relief of Destitute Persons (Act 9 Victoriae No. 2) <sup>4</sup>.

*Guardianship of Infants Act 1920* <sup>5</sup>.

*Guardianship of Infants Act 1926* <sup>5</sup>.

*Child Welfare Act 1947*.

*Interstate Maintenance Recovery Act 1959* <sup>3</sup>.

*Married Persons (Summary Relief) Act 1960* <sup>3</sup>.

### Notes

- <sup>1</sup> This is a compilation of the *Welfare and Assistance Act 1961* and includes the amendments made by the other written laws referred to in the following table<sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Welfare and Assistance Act 1961</i>	22 of 1961	30 Oct 1961	26 Mar 1962 (see s. 2 and <i>Gazette</i> 9 Mar 1962 p. 609)
<i>Acts Amendment (Department of Community Services) Act 1984 Pt. IV</i>	121 of 1984	19 Dec 1984	1 Jan 1985 (see s. 2 and <i>Gazette</i> 28 Dec 1984 p. 4197)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993 (see s. 2(1))
<i>Sentencing (Consequential Provisions) Act 1995 s. 147</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 129</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<b>Reprint of the <i>Welfare and Assistance Act 1961</i> as at 16 Nov 2001</b> (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnote referred to in the table.

**Provisions that have not come into operation**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Children and Community Services Act 2004</i> s. 250(1)(c) <sup>6,7</sup>	34 of 2004	20 Oct 2004	To be proclaimed (see s. 2)

<sup>2</sup> The *Community Welfare Act 1972* s. 4 established the Department for Community Welfare. The names of the Act and the department were amended by the *Acts Amendment (Department of Community Services) Act 1984* s. 5 and 6(b) respectively to the *Community Services Act 1972* and the Department for Community Services. The name of the department was again amended under the *Statutes (Repeals and Minor Amendments) Act 1997* s. 34(2) to the Department for Family and Children’s Services.

Under the *Alteration of Statutory Designations Order (No. 3) 2001*, references in any law to the Departments of Community Welfare, of Community Services and of Family and Children’s Services are to be read and construed, unless the contrary intention appears in the law, as references to the Department of Community Development.

<sup>3</sup> Repealed by the *Married Persons and Children (Summary Relief) Act 1965* which was repealed by the *Family Court Act 1975*.

<sup>4</sup> The *Destitute Persons Relief Ordinance 1845* was repealed by the *Statutes (Repeals and Minor Amendments) Act 1994*.

<sup>5</sup> Repealed by the *Guardianship of Children Act 1972* which was repealed by the *Family Court Act 1975*.

<sup>6</sup> On the date as at which this compilation was prepared, the *Children and Community Services Act 2004* s. 250(1)(c) had not come into operation. It reads as follows:

“

**250. Repeal, transitional and savings provisions**

(1) The following Acts are repealed —

.....

(c) the *Welfare and Assistance Act 1961*.

”.

<sup>7</sup> On the date as at which this compilation was prepared, the *Children and Community Services Act 2004* s. 250(3) which gives effect to Sch. 1, had not come into operation. It reads as follows:

“

**250. Repeal, transitional and savings provisions**

- (3) Schedule 1 has effect in relation to the repeals effected by subsection (1).

”

Schedule 1 reads as follows:

“

**Schedule 1 — Transitional and savings provisions**

[s. 250(3)]

**Division 1 — Introductory matters**

**1. Meaning of terms used in this Schedule**

In this Schedule, unless the contrary intention appears —

“**authorisation**” means —

- (a) an approval under the *Child Welfare Act 1947* section 111; or  
(b) a licence under the *Child Welfare Act 1947* section 112;

“**commencement day**” means the day on which section 250 comes into operation;

“**existing appeal**” means an appeal under the *Children’s Court of Western Australia Act 1988* section 42(1) or 43(4) that has not been finally determined before commencement day;

“**existing order**” means an order made under the *Child Welfare Act 1947* section 30 that is in force immediately before commencement day;

“**existing proceedings**” means proceedings under the *Child Welfare Act 1947* section 30 that have not been finally determined before commencement day;

“**extended order**” means an existing order that applies to a child after the child reaches 18 years of age because of an extension under the *Child Welfare Act 1947* section 49(1);

“**repealed Act**” means an Act repealed by section 250.



**2. Interpretation Act 1984 not affected**

The provisions of this Schedule do not affect the application of the *Interpretation Act 1984* to and in relation to the repeals effected by section 250.

**Division 4 — Provisions related to repeal of *Welfare and Assistance Act 1961***

**22. Advances and grants of assistance**

- (1) An advance or grant of assistance under the *Welfare and Assistance Act 1961* that is in force immediately before commencement day has effect on and after that day as if it were assistance provided under Part 9.
- (2) An advance or grant of assistance referred to in subclause (1) is subject to the same terms and conditions (if any) as applied to it immediately before commencement day.

**23. Applications for assistance**

An application for assistance under the *Welfare and Assistance Act 1961* that has not been finally determined immediately before commencement day is to be dealt with and determined as if it were an application for assistance under section 233.

**Division 5 — General**

**24. References to repealed Acts**

If in a written law or other document or instrument there is a reference to a repealed Act, the reference is to be read, unless the context otherwise requires, as if it had been amended to be a reference to this Act.

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