

CHILD WELFARE.

8° Elizabeth II., No. XV.

No. 15 of 1959.

AN ACT to amend the Child Welfare Act, 1947-1958.

[Assented to 8th October, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Child Welfare Act Amendment Act, 1959*.

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Acts.

(2) In this Act the Child Welfare Act, 1947-1958, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the *Child Welfare Act, 1947-1959*.

2. Section four of the principal Act is amended S. 4 am.
by—

(a) adding after the interpretation, “orphanage” the following interpretation—

“parent” means father, mother, step-father or stepmother and in the case of an adopted child includes his adoptors but in relation to an illegitimate child means “mother” only;

(b) adding after the interpretation, “subsidised institution” the following interpretation—

“treatment, discipline and training” in its application to a ward includes admission of the ward to an industrial school or other institution, attendance by the ward at classes conducted by the Department for wards who are released on parole, attendance by the ward on Saturdays at certain centres appointed by the Department and the use by the ward of such other facilities for advancing his moral, material or educational welfare as the Department may from time to time provide;

(c) inserting the interpretation, “Director” after the interpretation, “destitute child”.

3. Section nine A of the principal Act is repealed and re-enacted as follows—

S. 9A re-pealed and re-enacted.

9A. (1) The Minister may from time to time, by writing under his hand either generally or particularly, delegate to the Director or the Assistant Director or both, as he thinks fit, all or any of the powers exercisable by him under section forty-one, forty-eight, fifty-four, fifty-five, sixty-five, sixty-six, one hundred and eight and one hundred and ten of this Act, but not including this present power of delegation.

Delegation.

(2) Subject to any general or special directions given or conditions attached by the Minister, any person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every delegation under this section shall be revocable at will, and no delegation prevents the exercise of any power by the Minister.

(4) Any delegation made under this section, until revoked, continues in force according to its tenor notwithstanding the fact that the Minister by whom it was made ceases to hold office, and continues to have effect as if made by the successor in office of that Minister.

S. 10 am.

4. Subsection (2) of section ten of the principal Act is amended by—

(a) adding after the word, “institution” being the last word in paragraph (c), the passage, “or from one form of training to any other, which in the opinion of the Director is likely to prove more beneficial to the child”; and

(b) deleting the proviso.

S. 20 am.

5. Paragraph (e) of section twenty of the principal Act is amended by deleting the passage, “, and the recommendations shall not be departed from without the consent of the Minister” in the last four lines.

S. 25 am.

6. Section twenty-five of the principal Act is amended by adding after the word, “child” in line one, the passage, “found to be a destitute, neglected, incorrigible or uncontrollable child”.

7. Section thirty-four of the principal Act is amended by— S. 34 am.

(a) substituting for paragraph (a) the following paragraph—

(a) commit such child to the care of the Department for treatment, discipline and training until he attains the age of eighteen years, or during such shorter period as the Court may think sufficient; or; and

(b) substituting for the second proviso to the section the following proviso—

Provided also that, in the case of a child committed to the care of the Department for treatment, discipline and training, the Department, with the approval of the Minister, may release the child on parole under the supervision of a probation officer, or other officer of the Department.

8. The principal Act is amended by adding after section thirty-four A a section as follows— S. 34B added.

34B. If any child is found guilty of an offence, which is not punishable by imprisonment, the Court in lieu of imposing a fine may— How child convicted of offence not punishable with imprisonment may be dealt with.

(a) order the parent of the child to give security for the good behaviour of the child until he attains the age of eighteen years, or during such shorter period as the Court may think sufficient, and upon being satisfied that the security has been given, may dismiss the charge; or

(b) adjourn the case on a near relative undertaking to punish the child in such reasonable or moderate manner as the Court may approve, and on being satisfied that the punishment has been duly inflicted may dismiss the charge; or

- (c) release the child on probation on such conditions, if any, as the Court may order, and in that case the child is subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the Court may think sufficient.

S. 39 *am.*

9. Section thirty-nine of the principal Act is amended by—

- (a) adding after the word, “child” in line one, the passage, “being a destitute, neglected, incorrigible or uncontrollable child”;
- (b) adding after the word, “institution” in line two, the passage, “or being a child who is committed to the care of the Department for treatment, discipline and training, at the time of being so committed”; and
- (c) adding after the word, “institution” in line four, the passage, “or to remain in the care of the Department for treatment, discipline and training, as the case may be”.

S. 41 *am.*

10. Section forty-one of the principal Act is amended by—

- (a) deleting subsection (1);
- (b) deleting the first proviso to subsection (2); and
- (c) deleting the word, “also” in line one of the second proviso to subsection (2).

S. 67 *am.*

11. Section sixty-seven of the principal Act is amended by deleting the passage, “and in the following order,” in lines three and four.

12. Subsection (3) of section sixty-eight of the principal Act is amended by— S. 68 am.

- (a) adding after the subsection designation, the paragraph designation, "(a)"; and
- (b) adding a new paragraph as follows—

(b) Nothing in this subsection prevents the Director from making a complaint under subsection (1) of this section or the Court from making an order under the provisions of section sixty-nine or one hundred and thirty-six of this Act in respect to the maintenance of a ward or a child maintained by the Department pending an order being made by the Supreme Court in respect to the maintenance.

13. Section sixty-nine of the principal Act is amended by deleting the words, "or a governing authority"— S. 69 am.

- (a) in line twelve of subsection (1); and
- (b) in lines eight and nine of subsection (4).

14. The principal Act is amended by adding after section sixty-nine a section as follows— S. 69A added.

69A. (1) Upon a complaint being made under the provisions of section sixty-eight of this Act, whether the defendant or defendants are summoned upon the complaint or not, the defendant or defendants, as the case may be, may sign a memorandum in the prescribed form consenting to an order being made in accordance with the provisions of section sixty-nine of this Act, against him or them, for the payment of such amount at such stated periods as is stated in the memorandum, for past or future maintenance or both. Consent orders for maintenance may be made.

(2) (a) The defendant or defendants shall sign the memorandum in the presence of the Clerk of a Children's Court, a solicitor, a Justice of the Peace, a Commissioner for Declarations, a Member of the Commonwealth or State Parliament, a member of the Police Force, a secretary to the Council of a Municipality or a Road Board, an Electoral Registrar, a post-master, a classified officer in the Commonwealth or State Public Service, or a classified State School teacher.

(b) The statements contained in the memorandum shall be verified by the declaration of the defendant or defendants made before a Justice of the Peace or other person by law authorised to administer an oath as provided in section one hundred and six of the Evidence Act, 1906, and the memorandum and the declaration may be filed by the complainant or the defendant or defendants with the Clerk of the Children's Court before which the complaint is to be heard.

(3) If the complainant consents to an order for maintenance being made in terms of the memorandum, he shall endorse the memorandum to that effect and the Court shall make the order accordingly.

(4) Upon a complaint being made in which the complainant seeks to have the amount of the weekly payments payable under an order for maintenance varied by increasing the amount thereof, the defendant may consent to an order being made increasing the amount of the maintenance, and the provisions of this section apply in all respects to the complaint and the proceedings thereon in relation to an order by consent as if the complaint were for maintenance by consent in the first instance.

15. Section seventy-two of the principal Act is amended by deleting the passage, "or that some other person is prior in order of liability," in lines twelve and thirteen.

16. Section seventy-three of the principal Act is amended by adding after the word, "child" in line three of the proviso to the section, the passage, "and that any sum has been expended upon, or is due or owing for, or in respect of the maintenance of the child,". S. 73 am.
