

CHILD WELFARE.

5° and 6° GEO. VI., No. LVI

No. 56 of 1941.

AN ACT to amend the Child Welfare Act, 1907-1927.

[Assented to 15th January, 1942.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western

Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Child Welfare Act Amendment Act*, 1941, and shall be read as one with the Child Welfare Act, 1907-1927 (No. 31 of 1907, as reprinted in the Appendix to the Sessional Volume of Statutes for the year 1927 and amended by Act No. 12 of 1936), hereinafter referred to as the principal Act. Short title.

2. Section four of the principal Act is amended in the definition of "ward" by inserting the words "or any other" after the word "this" in line two of the definition. Amendment of s. 4 of the principal Act.

3. Section twenty of the principal Act is amended— Amendment of s. 20 of the principal Act.

(i) by deleting the words "sections one hundred and twenty-eight and" in lines two and three of paragraph (c) and substituting the word "section;"

(ii) by adding thereto new paragraphs, as follows:—

(d) shall exercise the powers and authorities of a court of summary jurisdiction under section eight of the Guardianship of Infants Act, 1926. Notwithstanding any other provision to the contrary, the jurisdiction conferred by this paragraph shall be exercised by the special magistrate sitting alone;

(e) may make recommendations concerning any child appearing before the court on a charge of delinquency, or of being a neglected or destitute child, or an uncontrollable or incorrigible child, and such recommendation shall not be departed from without the consent of the Minister.

4. Section twenty-six of the principal Act is amended by adding at the end of the section the following:— Amendment of s. 26 of the principal Act.

Notwithstanding the exercise of any discretion conferred by this section the court may order the child concerned to be subject to the supervision of the department until such child attains the age of eighteen years or during such shorter period, as the court may think sufficient.

Amendment
of s. 29 of the
principal Act.

5. Section twenty-nine of the principal Act is amended by inserting the words "or incorrigible or uncontrollable" after the word "neglected" in line four.

Amendment
of s. 32 of the
principal Act.

6. Section thirty-two of the principal Act is amended—

- (a) by deleting paragraph (b) of the section; and
- (b) by deleting paragraph (b) of the proviso to the said section.

Repeal of
s. 38 of the
principal Act
and new section.
Child released
on probation
may be
arrested with-
out warrant
in certain
cases.

7. Section thirty-eight of the principal Act is repealed and a new section substituted, as follows:—

38. If the conditions of probation upon which any child is released under sections thirty, thirty-two, or thirty-four of this Act are not observed by the child or responsible person or persons, or if the secretary shall not be satisfied with the conduct of the child or the responsible person or persons aforesaid whilst the child is released on probation, the secretary may, without warrant, cause the child to be arrested and brought before the court, and the court may exercise any of the powers specified in sections thirty, thirty-two, or thirty-four, as the case may be.

Amendment
of s. 75 of the
principal Act.

8. Section seventy-five of the principal Act is amended—

- (a) by deleting the words "the child" in line four of subsection (1) and substituting the words "any child;"
- (b) by deleting the words "an illegitimate child" in line two of subsection (2) and substituting "a child."

Amendment
of s. 76 of the
principal Act.

9. Section seventy-six of the principal Act is amended—

- (a) by inserting in subsection (1) the words "seventy-eight, seventy-nine" after the words "sixty-nine" in the first line;
- (b) by deleting the words "one hundred and twenty-eight" in line two of subsection (1).

Amendment
of s. 77 of the
principal Act.

10. Section seventy-seven of the principal Act is amended by adding at the end of the section the following:—

Failure to obey or comply with any direction or

order of the court under this section shall constitute an offence against this Act. Penalty ten pounds.

11. Section seventy-eight of the principal Act is repealed and a new section is substituted, as follows:—

Repeal of
of s. 78 of
the principal
Act and new
section.

78. (1) Any person who refuses, fails, or neglects to comply with any maintenance order made against him under this Act, or who attempts to leave the State without making arrangements for future payments to the satisfaction of the department, may be summoned before the court upon complaint.

Action may be
taken upon
failure to
comply with
maintenance
order and in
other cases.

(2) On the hearing of the complaint the court may commit such person to prison for any term not exceeding twelve months, with or without hard labour.

(3) Provided that the court, in lieu of imposing any such sentence as aforesaid, may require the person liable under this section to find good and sufficient security that he will comply with the order in future or will not leave the State without making arrangements for future payments to the satisfaction of the department.

(4) The court may determine the sufficiency of any proposed security and in what manner security shall be given.

(5) Any justice, if satisfied that the circumstances justify the issue of a warrant in lieu of a summons, may issue his warrant upon sworn complaint being made.

12. Section seventy-nine of the principal Act is repealed and a new section substituted, as follows:—

Repeal of
s. 79 of the
principal Act
and new
section.

79. The amount of the weekly payments payable under any order may be altered, varied, or discharged by any subsequent orders from time to time upon cause being shown and upon fresh evidence to the satisfaction of the court. The amount of any such payments may be diminished or increased: Provided, in case of any increase, the maximum is not exceeded. Orders may be altered, varied, or discharged under this section by the court which made the original order or the court nearest to the place of residence of the near relatives concerned, if such latter court is satisfied that no hardship will thereby result to any such near relative.

Court may
vary or dis-
charge orders.

New section.

13. A new section is inserted in the principal Act after section eighty, as follows:—

Court may
forfeit or
estreat
bonds, etc.

80A. The court shall have power to forfeit any security, bond, or recognisance to the department or to the complainant or any other person whom the court may adjudge to be entitled to the amount, or any portion thereof, if the terms and conditions imposed by the court are not complied with: Provided that, in any case, any money advanced by the department shall be first repaid to the department.

Amendment
of s. 124.

14. Section one hundred and twenty-four of the principal Act is hereby repealed and a new section substituted as follows:—

124. Whenever any child has been committed to the care of the State or has been committed to an institution or has been convicted under this Act, the fact of such committal or conviction shall not be disclosed to any person, except with the consent of the Minister, or be admitted as evidence in any court of law, except a Children's Court.

Repeal of
s. 128 of the
principal Act.

15. Section one hundred and twenty-eight of the principal Act is hereby repealed.

Amendment
of s. 130 of
the principal
Act.

16. Section one hundred and thirty of the principal Act is amended by deleting the words "the two last preceding sections" in line four and substituting the words "sections seventy-eight and one hundred and twenty-nine."

Amendment
of s. 135 of
the principal
Act.

17. Section one hundred and thirty-five of the principal Act is amended—

(a) by deleting the words "one hundred and twenty-eight or" in line two of subsection (1);

(b) by deleting all the words after the word "adjournment" in line nine of subsection (1) and substituting the words "to pay or contribute towards the past and future maintenance of such child as is provided for in section seventy of this Act."

Amendment
of s. 137 of
the principal
Act.

18. Section one hundred and thirty-seven of the principal Act is amended by inserting the words "travelling show" after the word "circus" in line two.

19. Sections one hundred and forty, one hundred and forty-one, and one hundred and forty-two of the principal Act are hereby repealed.

Repeal of
ss. 140,
141 and 142
of the
principal Act.

20. Section one hundred and forty-seven A of the principal Act is amended—

Amendment
of s. 147A of
the prin-
cipal Act.

(a) by inserting the words and figure “Part V. and” after the word “under” in the first line;

(b) by inserting a new subsection, to stand as subsection (2), as follows:—

(2) Where no members of the Children’s Court nearest to the place of arrest are available or, if such arrest occurs in an area within the State in which no Children’s Court has been proclaimed, the person arrested may be brought before the nearest court of petty sessions, and the case shall forthwith be adjudicated upon by such court in accordance with this Act, as if such court were a Children’s Court properly constituted under this Act.

21. The Second Schedule to the principal Act is amended, as follows:—

Amendment
of Second
Schedule to
principal Act.

(a) by inserting the words “Roman Catholic” after the words “Good Shepherd” in line five;

(b) by deleting the word “Depot” in line fifteen and substituting the word “Home”;

(c) by adding at the end of the Schedule the following:—

The Tom Allan Memorial Home (Methodist)
for Boys, Werribee.

The Castledare Roman Catholic Junior
Orphanage, Queen’s Park.

The Presbyterian Children’s Home, Byford.
St. Joseph’s Roman Catholic Farm School,
Bindoon.

Nazareth House (Roman Catholic), Geraldton.

22. The principal Act as amended by this Act may be cited as the Child Welfare Act, 1907-1941.

Citation of
principal Act
as amended.