

## CHILD WELFARE (No. 2).

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No. 73 of 1976.

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AN ACT to amend the Child Welfare Act, 1947-1976.

[Assented to 6th October, 1976.]

**B**E 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:—

1. (1) This Act may be cited as the *Child Welfare Act Amendment Act (No. 2), 1976.*

Short title  
and  
citation.

(2) In this Act the Child Welfare Act, 1947-1976, is referred to as the principal Act.

Reprinted  
as  
approved  
for reprint  
26th April,  
1974, and  
amended  
by Act No.  
106 of 1975  
and Act No.  
36 of 1976.

(3) The principal Act as amended by this Act may be cited as the Child Welfare Act, 1947-1976.

Commence-  
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Long title  
amended.

3. The long title to the principal Act is amended by deleting the passage "making of better provision for the protection, control, maintenance and reformation of neglected and destitute children", in lines two to four, and substituting the passage "protection, guidance and maintenance of children in need of care and protection, for the control and treatment of children offending against the law".

Section 2  
amended.

4. Section 2 of the principal Act is amended—

- (a) by deleting the word "INSTITUTIONS", in line four, and substituting the words "CENTRES AND FACILITIES";
- (b) by inserting after the passage "WARDS," in line five, the passage "CHILDREN UNDER DEPARTMENTAL CONTROL,";
- (c) by deleting the passage "66", in line six, and substituting the passage "66D";
- (d) by inserting, in line seven, the passage "PART V—CHILDREN'S PANELS, ss. 70-78.;" and
- (e) by deleting the words "LICENSING OF CHILDREN AND", in line nine.

Section 4  
amended.

5. Section 4 of the principal Act is amended—

- (a) by inserting after the section designation "4." the subsection designation "(1)";
- (b) by deleting the definition of the term "board out";
- (c) as to the definition of the term "child", by adding at the end of that definition the passage "but also includes any boy or girl

dealt with under this Act by virtue of the provisions of subsection (2) of section twenty of this Act;" ;

- (d) by inserting after the definition of the term "child" a new definition as follows—

"child in need of care and protection" means a child who—

- (a) has no sufficient means of subsistence apparent to the court and whose near relatives are, in the opinion of the court, in indigent circumstances or are otherwise unable or unwilling to support the child, or are dead, or unknown, or can not be found, or are out of the jurisdiction, or in the custody of the law;
- (b) has been placed in a subsidised centre or subsidised facility and whose near relatives have not contributed regularly towards the maintenance of the child;
- (c) associates or dwells with any person who has been convicted of vagrancy, or is known to the Police as of bad repute, or who has been or is reputed to be a thief or habitually under the influence of alcohol or drugs;
- (d) is under the guardianship or in the custody of a person whom the court considers is unfit to have that guardianship or custody;
- (e) is not being maintained properly or at all by a near relative, or is deserted;
- (f) is found in a place where any drug is used and is in the opinion of the court in need of care and protection by reason thereof;

- (g) being under the age of fourteen years is employed or engaged in any circus, travelling show, acrobatic entertainment, or exhibition by which his life, health, welfare, or safety is likely to be lost, prejudiced, or endangered;
  - (h) is unlawfully engaged in street trading;
  - (i) is ill-treated, or suffers injuries apparently resulting from ill-treatment;
  - (j) lives under conditions which indicate that the child is lapsing or likely to lapse into a career of vice or crime; or
  - (k) is living under such conditions, or is found in such circumstances, or behaves in such a manner, as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy; ;
- (e) by deleting the definition of the term "destitute child";
- (f) as to the definition of the term "drug", by adding the passage—
- "or
- (c) referred to in section ninety-four A of the Police Act, 1892;" ;
- (g) by deleting the definition of the term "foster-mother";
- (h) as to the definition of the term "foster-parent"—
- (i) by deleting the words "to or", in line one; and

- (ii) by deleting the words "is apprenticed or", in line two, and substituting the words "or a child placed under the control of the Department is";
- (i) as to the definition of the term "governing authority", by deleting the word "institution" and substituting the words "centre or subsidised facility";
- (j) by deleting the definition of the term "industrial school";
- (k) by deleting the definition of the term "inmate";
- (l) by deleting the definition of the term "institution";
- (m) by deleting the definition of the term "maintenance" and substituting a new definition as follows—
- "maintenance" means financial support, but may include provision for clothing, training and education; ;
- (n) as to the definition of the term "maintenance order", by deleting the word "the", in line two, and substituting the word "a";
- (o) by deleting the definition of the term "neglected child";
- (p) by deleting the definition of the term "orphanage";
- (q) by inserting after the definition of the term "parent" a new definition as follows—
- "place out" means to place a child in the charge of some person for the purpose of being cared for, reared or supervised by that person, or to reside in the house of that person; ;

- (r) by deleting the definition of the term “special magistrate” and substituting a new definition as follows—

“special magistrate” means a person appointed as a special magistrate pursuant to section nineteen of this Act; ;

- (s) by inserting after the definition of the term “street” a new definition as follows—

“street trading” means the selling, offering or exposing for sale, or the delivering for gain or reward of any article, which is wholly or in part carried out in or from a public place; but does not include the occasional selling of any article if the net proceeds of the sale are wholly applied for the benefit of a church or school or other charitable or cultural purpose; ;

- (t) by deleting the definition of the term “subsidised institution” and substituting a new definition as follows—

“subsidised centre” or “subsidised facility” means a centre or facility, not being a Departmental Centre or Departmental facility, maintained wholly or in part by contributions from the Consolidated Revenue Fund, and declared to be such, pursuant to section fourteen of this Act”; ;

- (u) by deleting the definition of the term “treatment, discipline and training”;

- (v) by deleting the definition of the term “ward”; and

(w) by adding three new subsections as follows—

(2) A child who—

- (a) is declared to be a child in need of care and protection;
- (b) is to be treated as a child in need of care and protection pursuant to section thirty-two of this Act;
- (c) was, immediately prior to the coming into operation of the Child Welfare Act Amendment Act (No. 2), 1976, a ward and in relation to whom the period of care or custody has not expired; or
- (d) is committed to the care of the Department by the Minister under this Act, or to the custody of the Director, for a period which is not expired,

is for the purposes of this Act referred to as a “ward” and shall be under the guardianship of the Director.

(3) Where a child is placed under the control of the Department under this Act he does not thereby come under the guardianship of the Director, but in all other respects he may be treated as though he was a ward and may be placed in any centre or facility, required to carry out the lawful directions of the Director or his officers, and required not to leave the State without the consent of the Director.

(4) A person shall be taken to stand *in loco parentis* to a child if that person, whether male or female, is a person—

- (a) responsible for providing for the day to day needs of the child as required having regard to the

age of the child, and whether or not financial support is provided from any other source; or

- (b) with whom the child habitually resides, notwithstanding that the child may at any relevant time be in the custody of the law or living away from that person for the time being for educational or other reasons,

and the fact that a person stands *in loco parentis* to a child shall not be taken to derogate from the rights which the Director might otherwise exercise in relation to that child. .

Section 8  
amended.

6. Section 8 of the principal Act is amended by deleting the words "Government institutions", in line three, and substituting the words "Departmental Centres and Department facilities".

Section 9A  
amended.

7. Section 9A of the principal Act is amended—

- (a) by inserting before the word "section", in line seven, the passage "paragraph (c) of subsection (2) of section ten,"; and
- (b) by inserting after the word "sixty-six", in line eight, the passage ", sixty-six B".

Section 10  
amended.

8. (1) Subsection (1) of section 10 of the principal Act is amended—

- (a) by deleting the word "and", in line three of paragraph (a);
- (b) by deleting paragraph (b); and
- (c) by adding two new paragraphs as follows—
- (b) have the supervision and control of all children placed under the control of the Department; and



- (c) have the supervision of all children to whom a licence granted under section one hundred and eleven or section one hundred and twelve of this Act applies. .

(2) Subsection (2) of section 10 of the principal Act is repealed and a new subsection substituted as follows—

- (2) Any ward and any child placed under the control of the Department may from time to time be dealt with by the Director in any one or more of the following ways—

- (a) by placing the child in any suitable centre or other facility;
- (b) with the approval of the Minister or a person to whom the power to give approval on behalf of the Minister has been delegated pursuant to section nine A of this Act, by transferring the child from one centre or facility to another centre or facility or from one kind of training or employment to any other which in the opinion of the Director is likely to prove more beneficial to the child;
- (c) by placing out that child or placing the child in employment with some suitable person; or
- (d) by placing that child in the care, charge or custody of a suitable person willing to take the child. .

(3) Subsection (3) of section 10 of the principal Act is repealed and re-enacted with amendments to stand as section 10A as follows—

10A. The Director may take such action or cause such action to be taken, not inconsistent with the provisions of this Act, as may be

General  
function  
of the  
Director.

reasonably or probably necessary for promoting the welfare of a child, whether that child is a ward or placed under the control of the Department or not, and the Director and any officer of the Department authorised by the Director in that behalf has all such powers as may be reasonably necessary to enable such action to be taken. .

Section 11  
amended.

9. Section 11 of the principal Act is amended by inserting after the word "wards", in line four, the words "and children placed under the control of the Department".

Section 12  
amended.

10. Section 12 of the principal Act is amended—

(a) by deleting the passage "and shall in such report specify the number of children in the several institutions, the number placed out and apprenticed during the period covered by the report," in line two to line five; and

(b) by deleting the words "same period", in line seven, and substituting the words "period covered by the report".

Heading  
amended.

11. The heading immediately preceding section 13 of the principal Act is deleted and a new heading substituted as follows—

PART III.—CENTRES AND FACILITIES. .

Section 13  
amended.

12. Subsection (1) and subsection (2) of section 13 of the principal Act are repealed and re-enacted with amendments as follows—

(1) The Governor may by order declare any building, place, educational establishment, training facility or other thing to be a

Departmental Centre or Departmental facility for the purposes of this Act and effect shall be given to any such declaration.

- (2) The Governor may by order discontinue and close any Departmental Centre or facility and direct the transfer of any child thereby affected to some other centre or facility. .

13. Section 14 of the principal Act is repealed and re-enacted with amendments as follows—

Section 14  
repealed  
and  
re-enacted.

14. (1) The Governor may by order declare any building, place, educational establishment, training facility, or other thing to be a subsidised centre or subsidised facility or a voluntary centre or voluntary facility for the purposes of this Act and effect shall be given to any such declaration.

Subsidised  
and  
voluntary  
centres  
and  
facilities.

(2) The Governor may by order declare that any subsidised centre or facility or any voluntary centre or facility shall cease to be such for the purposes of this Act, and thereupon any ward or child placed under the control of the Department thereby affected may be transferred to some other centre or facility or otherwise dealt with in accordance with the provisions of this Act.

(3) Any order made under this section may direct that any such centre or facility shall cease to be used in the manner therein specified on the expiry of the period therein specified and effect shall be given to any such direction.

(4) Any order under this section may be altered or revoked by the Governor. .

Section 15  
repealed  
and  
re-enacted.

14. Section 15 of the principal Act is repealed and re-enacted with amendments as follows—

Existing  
centres  
and  
facilities.

15. Subject to the provisions of subsection (2) of section fourteen of this Act the centres and facilities specified in the Second Schedule to this Act are declared to be subsidised centres or facilities. .

Section 16  
repealed  
and  
re-enacted.

15. Section 16 of the principal Act is repealed and re-enacted with amendments as follows—

Manager  
to be  
approved.

16. No centre or facility shall be eligible to be or to continue to be a subsidised centre or facility or a voluntary centre or facility for the purposes of this Act unless the person holding office as manager in chief control of that centre or facility is a person approved in that office by the Governor. .

Section 17  
repealed  
and  
re-enacted.

16. Section 17 of the principal Act is repealed and re-enacted with amendments as follows—

Mainten-  
ance by  
religious  
denomina-  
tion.

17. Where a subsidised centre or facility or a voluntary centre or facility is or is to be established or maintained for the children of persons of any particular religious denomination exclusively, the Governor may have regard to that limitation. .

Section 18  
amended.

17. Section 18 of the principal Act is amended—

- (a) by deleting the word “the”, in line one, and substituting the word “a”; and
- (b) by deleting the word “institution”, in line four, and substituting the words “centre or facility declared to be such pursuant to the provisions of this Act”.

18. The principal Act is amended by adding after section 18 a new section, to stand as section 18A, as follows—

New  
Section  
18A  
added.

18A. The Director, or any officer of the Department authorised in that behalf by the Minister, shall have the right at any time to enter, visit and inspect any subsidised centre or facility or any voluntary centre or facility. .

Visits by  
officers of  
the  
Depart-  
ment.

19. The heading immediately preceding section 19 of the principal Act is amended by inserting immediately after the passage "WARDS," the passage "CHILDREN UNDER DEPARTMENTAL CONTROL,".

Heading  
amended.

20. (1) Section 19 of the principal Act is amended, as to paragraph (e) of subsection (1)—

Section 19  
amended.

- (a) by deleting the passage " , if—" , in line six of that paragraph and substituting the word "if";
- (b) by deleting the subparagraph designation (i) in line seven of that paragraph;
- (c) by deleting the passage "Act; and" , in lines twelve and thirteen of that paragraph, and substituting the passage "Act and—";
- (d) by deleting the subparagraph designation "(ii)" , in line fourteen of that paragraph, and substituting the designation "(i)"; and
- (e) by deleting the passage "thereto." , at the end of the paragraph, and substituting a new passage as follows—

"to that offence; or

- (ii) the parties to the proposed proceedings agree that those powers shall be exercisable by that Children's Court." .

(2) Section 19 of the principal Act is further amended by adding a new subsection as follows—

(7) For every Children's Court there shall be a seal; and plaints, summonses, orders, and notices and other processes issued out of that court shall be sealed or stamped with the seal. .

Section 20  
amended.

21. (1) Subsection (1) of section 20 of the principal Act is amended—

- (a) by inserting after the words "Subject to", in line one, the words "the provisions of Part V of this Act and to"; and
- (b) by deleting the passage "on a complaint of an offence or as a destitute, neglected or uncontrolled child", in lines fourteen to sixteen.

(2) Subsection (1a) of section 20 of the principal Act is repealed and re-enacted to stand as subsection (2).

(3) Subsection (1b) of section 20 of the principal Act is repealed.

(4) Section 20 of the principal Act is amended by inserting a new subsection, to stand as subsection (3), as follows—

(3) Where it is provided by any other Act that a minimum penalty shall be imposed in relation to any offence, notwithstanding that provision a Children's Court is not bound to impose such a penalty. .

(5) Subsection (3) of section 20 of the principal Act is amended—

- (a) by deleting the subsection designation "(3)", in line one, and substituting the designation "(4)";

- (b) by deleting the passage commencing with the word "offences", in line nine of the subsection, and ending with the last word in the subsection and substituting a new passage as follows—

"offences; or

- (b) if hearing a complaint of an indictable offence brought against a child who is over the age of fourteen years and either—

(i) accepting a plea of guilty entered by the child in respect of the offence; or

(ii) determining the complaint and finding the child guilty of the offence,

thereupon commit the child for sentence to the Supreme Court or The District Court of Western Australia, as the case may be." .

(6) Subsection (3a) of section 20 of the principal Act is amended—

- (a) by deleting the subsection designation "(3a)", in line one, and substituting the designation "(5)";
- (b) by deleting the subsection designation "(3)", in line four, and substituting the designation "(4)"; and
- (c) by deleting the subsection designation "(3b)", in line eight and substituting the designation "(6)".

(7) Subsection (3b) of section 20 of the principal Act is amended—

- (a) by deleting the subsection designation "(3b)", in line one, and substituting the designation "(6)";

- (b) by inserting after the word "Australia", in line two, the passage "has, in all cases where a child is before that Court, all the powers of a Children's Court in all respects as if the child had been before such a court and"; and
- (c) by deleting the subsection designation "(3)", in line three, and substituting the designation "(4)".

(8) Subsection (4) of section 20 of the principal Act is amended by deleting the subsection designation "(4)", in line one, and substituting the designation "(7)".

**Section 23  
amended.**

22. (1) Subsection (1) of section 23 of the principal Act is amended by deleting the words "by a court under this Act", in lines one and two, and substituting the passage "relating to a charge against, or any application concerning, a child or where the interests of a child may be prejudicially affected".

(2) Subsection (1a) of section 23 of the principal Act is amended—

- (a) by deleting the words "having a sufficient reason on request", in line four, and substituting the words "who satisfies the court that he has suffered loss by reason of an offence committed by the child"; and
- (b) by deleting the passage "any child coming within the ambit of subsection (3) of this section", in lines five and six, and substituting the words "the child" .

(3) Section 23 of the principal Act is amended by adding a new subsection, to stand as subsection (4), as follows—

(4) The provisions of this section apply to the Supreme Court, The District Court of Western Australia and to all other courts in the State in relation to proceedings under this Act or in respect of any offence. .



23. Section 24 of the principal Act is amended by inserting after the word “unless”, in line seven, the words “the offence is punishable by a fine in excess of one hundred dollars or”.

Section 24  
amended.

24. Section 25 of the principal Act is amended by renumbering it as subsection (1) and adding three new subsections as follows—

Section 25  
amended.

(2) Where a child is brought before a Children’s Court or is to be dealt with as though before such a court, the court may, by order served upon the person therein named, require the parents of the child or any guardian of the child (not being the Director), or any one or more of such persons, to attend during all stages of the proceedings, whether or not from time to time adjourned, unless excused by the court.

(3) A court may, if the court considers it expedient and just so to do, proceed with the hearing and determination of any proceedings notwithstanding the absence of any parent or guardian.

(4) A person who fails to comply with the requirements of an order served upon him pursuant to this section, and who does not show cause why he should be excused, is guilty of an offence.

Penalty: One hundred dollars. .

25. Section 26 of the principal Act is amended—

Section 26  
amended.

- (a) by inserting after the section designation “26.” the subsection designation “(1)”;
- (b) by deleting the passage “case,” in line seven, and substituting the passage “case.”;
- (c) by deleting the words “and such”, in line seven, and substituting the subsection designation and word “(2) The”;

- (d) by inserting after the word "complaint", in line eleven, the passage ", but may in either case make an order for restitution or as to the payment of any costs or charges incurred at or in relation to the proceedings";
- (e) by inserting immediately before the word "Notwithstanding", in line twelve, the subsection designation "(3)";
- (f) by inserting after the word "Department", in line fifteen, the passage ", on such conditions, if any, as the court may order,"; and
- (g) by deleting the comma following the word "period", in line sixteen.

Section 27  
repealed  
and  
re-enacted.

26. Section 27 of the principal Act is repealed and re-enacted with amendments as follows—

Court may  
re-hear  
cases.

27. (1) Subject to the provisions of this section, upon the application of—

- (a) the Department;
- (b) the parent or guardian of any child against whom an order in those proceedings may be made under this Act;
- (c) a child to which the proceedings relate; or
- (d) the complainant,

to a Children's Court having jurisdiction, any original proceedings in which a complaint was dismissed pursuant to section twenty-six of this Act or in which an order (not being an order made following conviction on indictment) was made against a child under this Act may be re-heard upon cause being shown.

(2) The court re-hearing any proceedings under this section—

- (a) is not required to be the court before which the original proceedings were heard;
- (b) shall be constituted of a special magistrate sitting alone;
- (c) has power to set aside or vary any finding or order made in the original proceedings;
- (d) has power to make any finding or order which could have been made in the original proceedings; and
- (e) may make such recommendation to the Minister thereon as may in the opinion of the court meet the circumstances.

(3) Where an application is made for the re-hearing of any proceedings under this section and the court considers that cause has been shown, a child against whom an order was made at the original hearing may be admitted to bail.

(4) Except where the court considers that it is expedient and just so to do, no new evidence shall be admitted at the re-hearing of any proceedings pursuant to this section.

(5) Where any proceedings are re-heard pursuant to this section the proceedings as so re-heard shall not be taken to have been original proceedings for the purposes of any further application but nothing in this section derogates from any right that may be available to any person by way of appeal under the Justices Act, 1902. .

27. (1) Subsection (1) of section 28 of the principal Act is amended by deleting the passage “of any Government detention house, reception home, remand home, police station or police

Section 28  
amended.

lock-up", in lines four to six, and substituting the passage "for the time being of any Departmental Centre or Departmental facility, or by any Police officer".

(2) Subsection (2) of section 28 of the principal Act is amended—

- (a) by inserting after the word "parents", in line ten, the words "or guardian"; and
- (b) by inserting after the word "heard", in line eleven, the passage " , if present".

Heading amended.

28. The heading immediately preceding section 29 of the principal Act is amended by deleting the passage—

*"Destitute, Neglected or Uncontrolled Children"*  
and substituting the passage *"Children in Need of Care and Protection"*.

Section 29 amended.

29. (1) Subsection (1) of section 29 of the principal Act is amended by deleting the words "a destitute or neglected or uncontrolled child", in lines four and five, and substituting the words "in need of care and protection".

(2) Subsection (2) of section 29 of the principal Act is amended—

- (a) by deleting the passage "or when any child is apprehended and charged with the commission of any offence whatsoever, pending the hearing of proceedings against him for the offence charged or during any adjournment thereof or during any period of remand," in line four to line nine;
- (b) by deleting paragraph (aa), paragraph (c) and paragraph (d);
- (c) by deleting the passage "such child;" in line four of paragraph (b), and substituting the passage "that child; or"; and

(d) by adding a further paragraph, to stand as paragraph (c), as follows—

(c) taken to and placed in any Departmental Centre or Departmental facility of an appropriate kind, or such other suitable place as is approved by the Director. .

(3) Subsection (3) of section 29 of the principal Act is amended by deleting the passage “subsections (1) and (2)”, in lines two and three, and substituting the passage “subsection (1)”.

(4) Section 29 of the principal Act is amended by inserting after subsection (3) two new subsections, to stand as subsections (3a) and (3b), as follows—

(3a) Where a child under the age of six years is admitted to a hospital and there are reasonable grounds to suspect that the child is a child in need of care and protection, the Medical Officer in charge of that hospital, or his deputy, may order that the child be detained in the hospital for a period not exceeding forty-eight hours for the purposes of observation, assessment or treatment, but shall thereupon give notice to the Department in the prescribed manner.

(3b) Where a child is detained in a hospital pursuant to subsection (3a) of this section, on the expiration of the period of detention that child shall—

(a) be discharged from the hospital;  
or

(b) remain in the hospital with the consent of a parent or guardian;  
or

(c) be apprehended and dealt with in accordance with the provisions of this section or of section forty-seven B of this Act,

as the case may require. .

Section 30  
amended.

30. Section 30 of the principal Act is amended—

- (a) by inserting after the section designation “30.” the subsection designation “(1)”;
- (b) by deleting the words “a destitute or neglected child”, in line two and again in lines four and five, and substituting in each case the words “in need of care and protection”;
- (c) by inserting a new paragraph to stand as paragraph (b) as follows—
  - (b) placed under the control of the Department; or ;
- (d) by deleting the words “on probation”, in line one of paragraph (c); and
- (e) by adding three new subsections as follows—

(2) All proceedings under this section shall be disposed of in chambers unless the Court otherwise determines, and any such proceedings may be ordered to be heard *in camera*.

(3) In relation to any application for a declaration that a child is in need of care and protection, or on any complaint that a child is a habitual truant,—

- (a) the court shall admit in evidence any statement, whether oral or otherwise, voluntarily expressed or necessarily implied and whether made in the presence of a party to those proceedings or not; and
- (b) the child, the parents and any guardian of the child, and any person who is alleged to have contributed by action or neglect towards the need of the child for care and protection, shall be deemed to be parties to the proceedings.

(4) Where in any proceedings under this section an allegation that a child is in need of care and protection, or is a habitual truant, is found to be proved the child shall not thereby be taken to be guilty or convicted of an offence. .

31. Section 30A of the principal Act is repealed. Section 30A repealed.

32. Section 31 of the principal Act is amended— Section 31 amended.

- (a) by inserting after the word “to”, in line one, the passage “, or placed under the control of,”;
- (b) by deleting the words “of committal”, in line two, and substituting the words “of the court”;
- (c) by deleting the word “institution”, in line four, and substituting the word “place”; and
- (d) by deleting the words “receiving depot”, in line six, and substituting the words “Departmental Centre or Departmental facility of an appropriate kind”.

33. The principal Act is amended by repealing section 137 and re-enacting it to stand as section 31A amended in manner following, that is to say— Section 31A added (presently stands as s. 137).

(a) in subsection (1),—

(i) by deleting the words “a neglected child”, in line nine and again in lines ten and eleven, and substituting in each case the words “a child in need of care and protection”; and

(ii) by deleting the penalty provision and substituting a new passage as follows—

Penalty: Five hundred dollars or imprisonment with hard labour for six months. ; and

(b) by deleting subsection (2).

New  
Heading  
added.

34. The principal Act is amended by inserting, immediately before section 32, a new heading as follows—

*Uncontrolled Children. .*

Section 32  
amended.

35. Section 32 of the principal Act is amended—

- (a) by inserting after the section designation “32.”, the subsection designation “(1)”;
- (b) by deleting the word “A”, in line one, and substituting the passage “Subject to the provisions of this section, a”;
- (c) by deleting the passage commencing with the word “may”, in line five, and ending with the word “that”, in line seventeen, and substituting the passage “may deal with the child as though it were a child in need of care and protection.”;
- (d) by deleting the word “no”, in line seventeen, and substituting the passage “(2) No”;
- (e) by deleting the word “neglect”, in line twenty, and substituting the words “his own omissions”; and
- (f) by adding two new subsections as follows—

(3) No application under subsection (1) of this section shall be heard unless the court is satisfied that the applicant gave reasonable notice in writing to the Department of his intention to bring the child before the court pursuant to the provisions of this section.

(4) An officer of the Department or a Police officer may bring a child before the court on the ground that it is uncontrolled, and the court, if satisfied that the application is well founded, may deal



with the child in like manner and to the same extent as if the child had been brought before the court on the application of a near relative. .

36. Section 33 of the principal Act is repealed. Section 33  
repealed.

37. The principal Act is amended by inserting, immediately following section 32, a new heading as follows— New  
Heading  
added.

*Offending Children. .*

38. The principal Act is amended by inserting a new section, to stand as section 33, as follows— New  
section 33  
added.

33. (1) When any child is apprehended, or is charged, following the alleged commission of an offence the child shall, as soon as is practicable, be brought before the court, or where the circumstances are appropriate before a Children's Panel, to be dealt with according to law. Offending  
Children.

(2) Unless the proceedings against the child are initiated by way of summons or the child is released on bail, pending the hearing of any proceedings against a child or during any adjournment of a hearing or a period of remand, committal or referral arising from those proceedings the child shall be—

- (a) taken to his place of residence and there left, upon the recognisance of a near relative, or the recognisance of some other responsible person, for his appearance;
- (b) placed with some respectable person, and such arrangement or agreement made as may be necessary or proper for the care and maintenance of that child; or

- (c) taken to and placed in any Departmental Centre or Departmental facility of an appropriate kind, or such other suitable place as is approved by the Director.

(3) Nothing in this section shall be construed as limiting the application of section twenty-eight of this Act.

(4) It shall be the duty of every police officer and officer of the Department to ensure, so far as is practicable, that a child arrested for an offence is not held in custody but is taken to his place of residence and there released if any person is willing to enter into a recognisance for the appearance of that child in court, unless—

- (a) the offence is that of treason, wilful murder, murder, manslaughter, or rape, or of attempting any such crime; or
- (b) the detention of the child is necessary in order to prevent persistence by the child in, or repetition by the child of, conduct of the kind constituting the offence, or to prevent the commission of other offences against this or any other Act; or
- (c) proceedings by way of summons would not be effective, are not possible, or reasonable having regard to the welfare of the child, other persons, or property.

(5) Where no person is willing to enter into a recognisance for the appearance in court of a child arrested for an offence, the child may be held in custody. .

Section 34  
amended.

**39.** Section 34 of the principal Act is amended—

- (a) by inserting after the section designation “34.” the subsection designation “(1)”;

- (b) by deleting the words "commit such child to the care", in line four, and substituting the words "place that child under the control";
- (c) by deleting the passage "for treatment, discipline and training", in lines five and six;
- (d) by deleting paragraph (c) and re-enacting it with amendments as follows—

(c) on being satisfied that such punishment as the court may approve has been, or on the undertaking of a near relative will be, inflicted on the child dismiss the case or adjourn it until the punishment is carried out, as the case requires; or ;

- (e) by deleting the passage "dollars:", in line thirty six, and substituting the passage "dollars.";
- (f) by deleting the passage "Provided that no", in line thirty-seven, and substituting the passage (2) No";
- (g) by deleting the second proviso to the section; and
- (h) by adding a new subsection as follows—

(3) No order for the payment of a fine shall be imposed on a child unless the court is satisfied after enquiring into the means of that child that the child has the ability to pay either on demand or by instalments related to such means, and in no case shall any default order be made against a child for non-payment of a fine where that child is below the school leaving age or is receiving full time education. .

40. Section 34A of the principal Act is amended— Section 34A  
amended.

- (a) by deleting the word "fourteen", in line three, and substituting the word "sixteen";

- (b) by deleting paragraph (b) of subsection (1);
- (c) by deleting the word "six", in line seven, and substituting the word "three";
- (d) by deleting the word "fourteen", in line eleven, and substituting the word "sixteen"; and
- (e) by deleting all the passage commencing with the word "more", in line fifteen, and ending with the word "more", in line nineteen, and substituting the words "more than three months".

Section 34B  
amended.

41. Section 34B of the principal Act is amended—

- (a) by inserting after the section designation "34B." the subsection designation "(1)";
- (b) by deleting paragraph (b) and re-enacting it with amendments as follows—
  - (b) on being satisfied that such punishment as the court may approve has been, or on the undertaking of a near relative will be, inflicted on the child dismiss the case or adjourn it until the punishment is carried out, as the case requires; or ; and
- (c) by adding a new subsection as follows—

(2) No order for the payment of a fine shall be imposed on a child unless the court is satisfied after enquiring into the means of that child that the child has the ability to pay either on demand or by instalments related to such means, and in no case shall any default order be made against a child for non-payment of a fine where that child is below the school leaving age or is receiving full time education. .

42. The principal Act is amended by inserting after section 34B a new section, to stand as section 34C, as follows—

New  
section 34C  
added.

34C. Notwithstanding the provisions of any other Act and in addition to any powers exercisable pursuant to this Act or the Police Act, 1892, the court, in dealing with any offence by a child relating to the use, obtaining possession, or self administration of drugs may have regard to the antecedents, character, age and mental condition of the child and taking into account the treatment and future rehabilitation of that child, may—

Drug  
offences.

- (a) remand the case for investigation, or for the parents or the Department to present proposals, and on being satisfied dismiss the case if—
  - (i) the involvement of the child with drugs is of a minor nature, and in the opinion of the court the home circumstances provide adequately for the child; or
  - (ii) acceptable proposals are made by the parents, the Department or any other appropriate authority,but in either case the court may order that the child be 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; or
- (b) release the child on probation on such conditions, if any, as the court may order, and in such case the child shall be 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; or
- (c) place the child under the control of the Department. .

Present  
section 34C  
amended  
and  
re-numbered  
34D.

43. Section 34C of the principal Act is amended—

- (a) by re-numbering the section to stand as section 34D;
- (b) by deleting the passage “is released on probation under sections thirty, thirty-two, thirty-four or thirty-fourB of this Act”, in lines one to three, and substituting the words “is found guilty of an offence and is released on probation pursuant to the provisions of this Part of this Act”; and
- (c) by deleting the passage “, under the sections mentioned in subsection (1) of this section, released on probation” in lines one and two of subsection (2), and substituting the words “found guilty of an offence and is released on probation pursuant to the provisions of this Part of this Act”.

Section 34E  
added  
(presently  
stands as  
s. 137A).

44. The principal Act is amended by repealing section 137A and re-enacting it to stand as section 34E amended—

- (a) as to subsection (1), by deleting the words “or guardian”, in line four, line ten and lines eleven and twelve of that subsection;
- (b) as to subsection (2), by deleting the words “or guardian”, in line two;
- (c) as to subsection (3), by deleting the words “or guardian”, in line two, line five, and line seven;
- (d) as to subsection (4), by deleting the words “or guardian”, in line three and line five; and
- (e) as to subsection (5),—
  - (i) by deleting the passage “officers of the Child Welfare Department, licensed foster mothers”, in lines six and seven, and substituting the passage “the Director or any officer of the Department”; and

- (ii) by deleting the words “staffs of children’s institutions”, in lines eight and nine, and substituting the words “the staff of any Departmental or other centre or facility”.

45. Section 35 of the principal Act is amended—

Section 35  
amended.

(a) as to subsection (1)—

- (i) by inserting after the word “but”, in line five, the words “a child”; and
- (ii) by deleting the words “an institution”, in lines five and six, and again in lines ten and eleven, and substituting in each case the words “a Departmental Centre or appropriate Departmental facility”;

(b) as to subsection (3)—

- (i) by deleting the words “the court”, in line fifteen, and substituting the words “that court or some other more convenient court of summary jurisdiction specified by that court”; and
- (ii) by deleting the words “the court”, in line seventeen, and substituting the words “such a court”;

and

(c) by adding two new subsections, as follows—

(7) Where for the purposes of this section a court other than the court originally dealing with the matter is concerned with the enforcement of any conviction or order that other court shall be deemed to have the like jurisdiction as the court originally dealing with the matter.

(8) Where under this section a child would be liable to be sent to and detained in a Departmental Centre or an appropriate Departmental facility pursuant to a warrant of commitment for default but is at the material time serving a sentence of imprisonment the period of detention required by that warrant may be served concurrently with the period of imprisonment and the warrant shall be given effect to accordingly. .

Section 36  
amended.

46. Section 36 of the principal Act is amended—

- (a) by inserting after the section designation “36.” the subsection designation “(1)”;
- and
- (b) by adding a new subsection as follows—

(2) No warrant of execution or warrant of commitment shall be issued against any child until fourteen days have lapsed since—

- (a) the relevant conviction or order;  
and
- (b) the release of the child from prison, or from any Departmental Centre or facility in which he has been detained, whether for the same or any other offence,

unless that child is at the material time serving a sentence of imprisonment or is detained in a Departmental Centre or facility on other grounds. .

Section 37  
amended.

47. Section 37 of the principal Act is amended—

- (a) by deleting the words “an institution”, in line one, and substituting the words “a Departmental Centre or Departmental facility”; and



- (b) by adding after the words "Supreme Court", in line five, the words "or The District Court of Western Australia".

48. Section 38 of the principal Act is amended— Section 38  
amended.

- (a) by deleting the words "of probation" in line one;
- (b) by deleting the passage "under sections thirty, thirty-two, thirty-four or thirty-four B", in lines two and three, and substituting the words "by a court pursuant to the provisions of this Part";
- (c) by deleting the words "on probation", in lines seven and eight;
- (d) by deleting the reference "thirty-four C" in line ten and substituting the reference "thirty-four D";
- (e) by deleting the reference "twenty-nine", in the last line of subsection (1), and substituting the reference "thirty-three"; and
- (f) by deleting subsection (2) and re-enacting it with amendments as follows—

(2) Where a child has been apprehended pursuant to subsection (1) of this section, a responsible officer with the approval of the Director may cause the child to be brought before the court, and the court may exercise such of the powers conferred by this Act as are appropriate and the circumstances require. .

49. Section 39 of the principal Act is repealed and re-enacted with amendments as follows— Section 39  
repealed  
and  
re-enacted.

39. (1) Notwithstanding any other provision of this Act, where a child has been placed under the control of the Department the court may Child  
over  
seventeen  
years may  
be  
committed  
or placed  
on  
probation.

place that child, if over the age of seventeen years, under the control of the Department for a period not exceeding one year.

(2) Where a child is convicted of an offence but will attain the age of eighteen years within the period of one year thereafter, the court may release the child on probation for a period not exceeding twelve months and effect shall be given to that order notwithstanding any other provision of this Act or the fact that the child during that period attains the age of eighteen years, and the provisions of section thirty-eight of this Act shall apply thereto. .

New  
section 40  
added.

50. The principal Act is amended by inserting a new section, to stand as section 40, as follows—

Rehabilitated  
offenders.

40. (1) The provisions of this section do not apply to, or in relation to persons convicted of, wilful murder, murder, manslaughter or treason or of attempting any of those crimes.

(2) Where a child is convicted of an offence and—

(a) a probation order is made with respect to that child in relation to the offence and the child has not been subsequently dealt with for that offence under any law relating, whether in the State or elsewhere, to probation orders in respect of child offenders; or

(b) a period of two years has expired since—

(i) the date of the conviction; or

(ii) the discharge of any sentence or order imposed in relation to the conviction,

whichever is the later,

that conviction shall, subject to the provisions of this section, be deemed not to be a conviction

for any purpose including the purposes of any enactment imposing or authorising or requiring the imposition of any disqualification or disability on a convicted person, except in relation to—

- (a) the making of the order, or any other order arising out of the conviction, or any other record thereof; or
- (b) any subsequent proceedings that may be taken against the offender under this Act or on indictment in relation to that offence or for a subsequent offence.

(3) The provisions of this section do not affect—

- (a) the right of any person to appeal against his conviction or to rely thereon in bar of any subsequent proceedings for the same offence;
- (b) the reversioning or restoration of any property in consequence of the conviction; or
- (c) the right of a court to disqualify a person from holding or obtaining a driver's licence issued under the Road Traffic Act, 1974.

51. The principal Act is amended by inserting, immediately before section 40A, a new heading as follows—

New heading added.

*General Provisions.*

52. Section 40A of the principal Act is amended—

Section 40A amended.

- (a) by deleting the passage "section thirty, thirty A, thirty-two, thirty-three or thirty-four", in lines one, two and three, and substituting the words "this Part";

- (b) by inserting after the word "Department", in line five, the words "or is placed under the control of the Department";
- (c) by deleting the passage "may, without any complaint being made against, or a summons being served on, them or any of them," in lines six and seven, and substituting the word "shall";
- (d) by deleting subsection (2) and substituting a new subsection as follows—

(2) An order may be made under this section notwithstanding that no complaint has been made against, or summons served on, the parent and, if that parent is not present before the court, the court shall—

- (a) if satisfied that the parent had due and sufficient notice of the proceedings, make the order in the absence of the parent; or
- (b) grant liberty to apply for maintenance and on the hearing of that application, whether or not before the same magistrate, make the order. .

Section 43  
amended.

53. Section 43 of the principal Act is amended—

- (a) by inserting after the word "Department", in line two, the words "or placing a child under the control of the Department";
- (b) by deleting the words "the prescribed form", in lines two and three, and substituting the word "writing"; and
- (c) by deleting the words "child was committed", in line five and substituting the words "order was made".

54. Section 44A of the principal Act is amended by deleting the word "destitute", in line two. Section 44A amended.

55. Section 45 of the principal Act is amended— Section 45 amended.

- (a) by deleting the words "secretary or the superintendent or matron of any institution", in lines two and three, and substituting the words "person in charge of any Departmental or other centre or facility";
- (b) by deleting the words "into such institution", in lines four and five; and
- (c) by deleting the words "in an institution", in line six and substituting the word "therein".

56. Section 46 of the principal Act is amended— Section 46 amended.

- (a) by inserting after the word "ward", in line one, the words "or child placed under the control of the Department"; and
- (b) by deleting the words "absconds from an institution" in line one, and substituting the words "runs away from any Departmental or other centre or facility".

57. Section 47 of the principal Act is repealed and re-enacted with amendments as follows— Section 47 repealed and re-enacted.

47. (1) Where any child has been committed to the care of the Department or placed under the control of the Department the Minister may order the release of that child, and effect shall be given to any such order upon production of the order to the Director or other person in charge of the centre or facility in which the child is detained.

(2) A parent of a child committed to the care of the Department or placed under the control of the Department, or a near relative or guardian of the child, may apply to the Minister for an order for the release of the child pursuant to this section and where the Minister declines to make the order may apply to a Children's Court for the release of the child.

(3) The court may grant an application made under this section unconditionally or subject to such conditions as in the circumstances of the case the court considers are in the best interests of the child, or may refuse the application. .

Section 47A  
amended.

58. Section 47A of the principal Act is amended—

- (a) by deleting the passage “, whether before or after the coming into operation of the Child Welfare Act Amendment Act, 1958,” in lines two, three and four of subsection (1);
- (b) by deleting the words “Minister that he”, in lines eight and nine of subsection (3), and substituting the words “Department that the Minister”;
- (c) by deleting the word “State”, in line seven of subsection (5), and substituting the word “Department”; and
- (d) by deleting the passage “just, and the Court's decision on the application shall be final and conclusive”, in lines ten, eleven and twelve of subsection (5), and substituting the word “just”.

Section 47B  
amended.

59. Section 47B of the principal Act is amended—

- (a) by deleting the words “destitute or neglected child”, in line five of subsection (1), and substituting the word “child in need of care and protection”; and

- (b) by deleting the passage “application, and the decision of the Court on the application shall be final and conclusive”, in lines five, six and seven of subsection (3), and substituting the word “application”.

60. Section 47C of the principal Act is amended— Section 47C amended.

- (a) by inserting after the word “child”, in line two the passage “, or where the child is maintained or taken care of only by one of the parents, that parent,”;
- (b) by inserting after the word “Department”, in line three, the words “or placing the child under the control of the Department”;
- (c) by inserting after the word “Department” in line eleven, the words “or place the child under the control of the Department”; and
- (d) by adding a new subsection as follows—

(3) A parent of the child who has not applied to the Minister for an order under this section may apply to the Children’s Court for cancellation of any order made by the Minister under this section and the release of the child, and the court may grant the application unconditionally or subject to such conditions as in the circumstances of the case the court considers to be in the best interests of the child or may refuse the application. .

61. The principal Act is amended by inserting after section 47C a new section, to stand as section 47D as follows— Section 47D added.

47D. (1) Where it appears to the Minister that a child has been given up for adoption by one of the parents, adoptive parents or guardians of the child and that— Adoptive children.

- (a) such parent, adoptive parent or guardian has consented to the adoption of the child pursuant to the Adoption

of Children Act, 1896 the time for the revocation of such consent pursuant to section four D of that Act having expired; and

- (b) the consent of another parent or guardian of the child must be given or dispensed with before an order of adoption can be made,

the Minister may by order under his hand commit the child to the care of the Department.

(2) Where an order is made by the Minister pursuant to this section, a parent, adoptive parent or guardian of the child who has not consented to the adoption of the child or whose consent has not been dispensed with may apply to a Children's Court within three months of the making of that order for cancellation of the order and the release of the child.

(3) The court may grant an application made under this section unconditionally or subject to such conditions as in the circumstances of the case the court considers are in the best interests of the child, or may refuse the application. .

Section 48  
repealed.

62. Section 48 of the principal Act is repealed.

Section 49  
amended.

63. Section 49 of the principal Act is amended—

- (a) by inserting after the section designation "49." the subsection designation "(1)";
- (b) by inserting after the word "Department", in line three, the words "or was placed under the control of the Department"; and
- (c) by adding two new subsections as follows—

(2) Where the period for which a child was committed to the care of the Department or was placed under the



control of the Department is extended pursuant to subsection (1) of this section, any provision for the maintenance of the child, whether made pursuant to an order of a court or otherwise, shall be deemed to have been extended in like manner.

(3) Where an order for the payment of maintenance for a child has been registered with the Family Court of Western Australia under this Act and the Minister makes an order under this section, the Department shall cause a copy of the order of the Minister to be sent to the Family Court for registration in the manner provided by the regulations of that court; and the order shall, when so registered, be deemed, for all purposes, to be an order of that court. .

64. Section 50 of the principal Act is repealed. Section 50 repealed.

65 The principal Act is amended by inserting before section 51 a new section, to stand as section 50, as follows— New section 50 added.

50. (1) In any case where the consent of a parent or guardian of a child is required or is customarily sought the Director may, by writing under his hand, give that consent in relation to— Power to sign documents.

(a) any ward; or

(b) any child placed under the control of the Department, where the parent or guardian of that child is unwilling or is unable so to do.

(2) Without limiting the generality of the power conferred by subsection (1) of this section, the Director may sign—

- (a) indentures or agreements relating to apprenticeship or training, including applications to join the armed forces; and
- (b) consents to surgical operations, or anaesthesia.

Section 51  
repealed.

66. Section 51 of the principal Act is repealed.

Section 52  
amended.

67. Section 52 of the principal Act is amended—

- (a) by deleting subsection (1) and substituting a new subsection as follows—

(1) Every ward shall be sent regularly to school in accordance with the Education Act, 1928. ; and

- (b) by deleting subsection (2).

Section 53  
repealed.

68. Section 53 of the principal Act is repealed.

Section 54  
amended.

69. Section 54 of the principal Act is amended—

- (a) by inserting after the section designation "54." the subsection designation "(1)";
- (b) by deleting the passage "such child:", in line six, and substituting the passage "that child.";
- (c) by deleting the words "Provided that no", in line seven, and substituting the passage "(2) No";
- (d) by deleting the words "attains the age of twenty-one years", in lines nine and ten, and substituting the words "is released from the care or control of the Department"; and

- (e) by deleting the words "Provided further that all", in line eleven, and substituting the passage "(3) All".

70. Section 55 of the principal Act is amended— Section 55 amended.

- (a) by deleting the words "so deposited", in line one, and substituting the passage "deposited pursuant to subsection (1) of section fifty-four of this Act";
- (b) by deleting the passage "attaining the age of twenty-one years:", in line eight, and substituting the passage "release from the care or control of the Department."; and
- (c) by deleting the words "Provided that on", in line nine, and substituting the passage "(3) On".

71. Section 56 of the principal Act is amended Section 56 amended. by deleting the passage "ward," in line two, and substituting the passage "child, whether a child committed to the care of the Department or placed under the control of the Department or not and".

72. Section 60 of the principal Act is amended Section 60 amended. by deleting the words "such notice as may be prescribed", in line three, and substituting the words "notice in writing forthwith".

73. Section 61 of the principal Act is repealed and re-enacted with amendments as follows— Section 61 repealed and re-enacted.

61. Where a ward or child under the control of the Department is placed out, and that child runs away, becomes ill, meets with an accident, or dies the foster-parent of the child shall immediately notify the Director and take such further necessary action as the Director may require. .

Notice to be given in certain cases.

Section 62  
repealed.

74. Section 62 of the principal Act is repealed.

Section 63  
repealed.

75. Section 63 of the principal Act is repealed.

Section 64  
amended.

76. Section 64 of the principal Act is amended—

- (a) by deleting the words “apprenticed or”, in line two, and substituting the words “and children placed under the control of the Department who have been”;
- (b) by deleting the passage commencing with the word “stipulations” in line five, and ending with the word “the”, in line seven;
- (c) by deleting subsection (2) and subsection (3); and
- (d) by adding a new subsection as follows—

(2) At the request of any officer of the Department or any authorised person, every foster-parent shall produce personally the child placed out to or with him or show cause to the satisfaction of that officer or authorised person for the failure to produce the child personally. .

Section 65  
amended.

77. Section 65 of the principal Act is amended—

- (a) by deleting the word “institution”, in line two, and substituting the words “centre or subsidised facility”;
- (b) by deleting the word “ward”, in line three, and substituting the word “child”; and
- (c) by deleting the words “may be prescribed”, in line four, and substituting the words “he may determine”.

78. Section 66 of the principal Act is amended— Section 66 amended.
- (a) by deleting the words “or foster-mother”, in lines one and two;
  - (b) by deleting the word “ward”, in line two and substituting the word “child”; and
  - (c) by deleting the words “may be prescribed”, in lines three and four, and substituting the words “he may determine”.
79. Section 66A of the principal Act is amended— Section 66A amended.
- (a) by inserting after the word “Commonwealth”, in lines four and five, the passage “, or of another country,”;
  - (b) by inserting after the word “Department”, in line five, the words “or place under the control of the Department”;
  - (c) by deleting the passage commencing with the word “State”, in line six, and ending with the word “child”, in line nine, and substituting the word “State”;
  - (d) by inserting after the word “Commonwealth”, in line two of subsection (2), the passage “, or another country,”;
  - (e) by inserting after the word “committal”, in line seven of that subsection, the words “or transfer of control”;
  - (f) by inserting after the word “ward”, in line nine of that subsection, the words “or child placed under the control of the Department”; and
  - (g) by inserting after the word “Territory”, in line ten of that subsection, the words “or other country”.

Section 66B  
amended.

80. Section 66B of the principal Act is amended—

(a) by inserting after the section designation “66B.” the subsection designation “(1)”;  
and

(b) by adding a new subsection as follows—

(2) Where a child is placed out under the provisions of this Act with or in the care of any person, that child shall not leave the State without the consent of the Minister.

Section 66C  
amended.

81. Section 66C of the principal Act is amended by deleting the passage following the word “ward” in line ten, to the end of the section.

Section 66D  
added.

82. The principal Act is amended by inserting after section 66C a new section, to stand as section 66D, as follows—

Recovery  
of  
certain  
moneys.

66D. (1) Where in relation to any child, not being a ward or a child placed under the control of the Department, a Children’s Court is satisfied that moneys have been or are likely to be lawfully expended under this Act by the Department the court may, on an application made on behalf of the Department, by an order require any parent or guardian of that child to pay to the Department such amount in re-imbusement or anticipation of that expenditure as the court thinks just.

(2) An order shall not be made under this section against a person who is not then present before the court unless the court is satisfied that he received due and sufficient notice of the intention to move the court in that regard.

(3) Where an order is made under this section the court shall cause a certified copy of the order to be sent to the Family Court of Western Australia at the place nearest to that at which

the order was made, for registration in the manner provided by the regulations of that Court, and the order shall, when so registered, be deemed for all purposes to be an order of that Court. .

83. The principal Act is amended by inserting a new heading, to stand immediately preceding section 70, as follows—

New heading added.

PART V.—CHILDREN'S PANELS. .

84. The principal Act is amended by inserting a new section, to stand as section 70, as follows—

New section 70 added.

70. (1) For the purpose of dealing with certain first offenders, in the public interest and in the interest of the child, by means of a procedure other than that of the Children's Court there shall be established a body of persons, to be called the Children's (Suspended Proceedings) Panel from which shall be constituted, at such times and in such places as is necessary, Children's Panels.

The Children's Panel.

(2) Subject to the provisions of subsection (3) of this section, no child shall be dealt with by a Children's Panel—

- (a) unless the child has attained the age of seven years but has not attained the age of sixteen years;
- (b) if that child has on any previous occasion been found to have committed an offence by a Children's Panel or a Children's Court;
- (c) unless the offence alleged is an offence to which this Part of this Act applies;
- (d) until the panel has caused to be explained to the child—
  - (i) the nature of the allegation, and of the offence, and the penalty that may be imposed; and

- (ii) that the child may elect to have the matter dealt with by a Children's Court;
- (e) unless the panel is satisfied that the child is in no doubt as to the nature of the allegation and of the offence but admits the offence and wishes to have the matter determined by the panel rather than the Children's Court;
- (f) if the child elects, or a parent of or person standing *in loco parentis* to the child requests, that the matter shall be dealt with by a Children's Court; or
- (g) if, in relation to the kind or amount of any restitution that may be ordered, the parties affected are not agreed.

(3) Notwithstanding the provisions of the Justices Act, 1902, where a child who has attained the age of seven years but who has not attained the age of sixteen years is found by a Children's Court to have committed an offence to which this Part of this Act applies the court may instead of determining the matter refer the child to a Children's Panel.

(4) A panel, in dealing with a child, shall have regard to the future welfare of the child.

(5) A person shall not publish in any newspaper or other printed medium, or broadcast or televise, any report of the proceedings of a Children's Panel or any information likely to identify any child as a person dealt with by a Children's Panel.

(6) At any proceedings before a Children's Panel no person, other than a person directly interested in the matter, shall be present without the express permission of the panel. .



85. The principal Act is amended by inserting a new section, to stand as section 71, as follows—

New  
section 71  
added.

71. (1) The Governor may appoint persons who are—

Constitu-  
tion of the  
Panel.

- (a) nominated by the Director and authorised by him to represent the Department, being officers of the Department; or
- (b) nominated by the Commissioner of Police and authorised by him to represent the Police, being Police officers or retired Police officers,

to hold office during his pleasure as members of the Children's (Suspended Proceedings) Panel and the appointment of any such person to that office shall be notified in the *Gazette*.

(2) A member of the Children's (Suspended Proceedings) Panel shall hold office until notice of the termination of that appointment by the Governor is published in the *Gazette*.

(3) The Chairman of the Children's (Suspended Proceedings) Panel shall—

- (a) be selected by the Director from the officers of the Department appointed under subsection (1) of this section;
- (b) constitute panels to deal with matters at the places and times that are necessary and practicable;
- (c) report to the Director on any matter referred to him by the Director or on any matter that a member of a panel considers necessary; and
- (d) keep such records as the Director may require.

(4) For the purposes of dealing with any matter, a Children's Panel shall be constituted from amongst the membership of the Children's

(Suspended Proceedings) Panel, shall comprise two persons, one of whom is authorised to represent the Department and the other of whom is authorised to represent the Police, and shall sit in such places and at such times as the Chairman may determine.

(5) Where the members of a Children's Panel can not agree on a matter it shall be referred to a Children's Court for determination.

(6) The powers of a person sitting as a member of a Children's Panel derives solely from this Part of this Act, notwithstanding that such a person may be a justice of the peace or is otherwise authorised to exercise any power under any other Act.

(7) The remuneration and allowances to be paid to a person appointed as a member shall be determined by the Minister after consultation with the chairman of the Public Service Board.

(8) For every Children's Panel there shall be a seal; and summonses, orders and notices and other processes issued out of that panel shall be sealed or stamped with the seal. .

New  
section 72  
added.

86. The principal Act is amended by inserting a new section, to stand as section 72, as follows—

Offences to  
which this  
Part  
applies.

72. (1) The provisions of this Part of this Act apply to all offences other than—

(a) the offences, or the offences in the circumstances therein specified, referred to in the Fourth Schedule to this Act, or the offence of counselling or procuring the commission of any such offence; and

(b) such other offences as may be prescribed.

## (2) Where—

- (a) a complaint relates to more than one offence and any of those offences is an offence to which the provisions of this Part of this Act do not apply; or
- (b) a number of offences arising out of the same or closely related facts are dealt with by way of separate complaints, and any of those offences is an offence to which the provisions of this Part of this Act do not apply,

the matter shall not be dealt with by a Children's Panel.

(3) A Children's Panel shall not hear any application or complaint made under the Education Act, 1928. .

87. The principal Act is amended by inserting a new section, to stand as section 73, as follows—

New section 73 added.

73. (1) A Children's Panel is not bound by the provisions of the Evidence Act, 1906, or any rule of evidence at common law or otherwise, and where an offence is admitted the panel may inform itself of the relevant circumstances in such manner and may adopt such procedures, subject to this Act, as the panel determines to be appropriate.

Panel procedure.

(2) Where any complaint is made against a child and—

- (a) the child is eligible to have the matter dealt with by a Children's Panel; and
- (b) subject to the provisions of subsection (2) of section seventy-two of this Act, the offence is an offence to which this Part of this Act applies,

the complaint shall be forwarded to the Children's (Suspended Proceedings) Panel or a Children's Panel in the prescribed manner and the complaint shall as soon as is practicable thereafter be heard by a Children's Panel.

(3) Subject to the provisions of this Part of this Act, where a complaint to which subsection (2) of this section applies is lodged with a court, the court on ascertaining the nature of the complaint shall refer the matter to the Children's (Suspended Proceedings) Panel and shall not proceed to determine it.

(4) The Chairman of the Children's (Suspended Proceedings) Panel at any time, and a Children's Panel on inquiry or during the course of any hearing, may refer any matter to a court—

- (a) if it appears that the interest and welfare of the child so require;
- (b) where the gravity of the allegations so requires;
- (c) where the child or any other person may be required to make restitution or to pay damages or compensation;
- (d) if the child, or a parent of or person standing *in loco parentis* to the child, fails after due notice to appear before the Panel; or
- (e) if it appears that the powers conferred by this Part of this Act are not adequate in the circumstances.

(5) Where a child is arrested for an offence to which this Part of this Act applies and that child is eligible to have the matter dealt with by a Children's Panel, the child shall be released as soon as is practicable.

(6) Where a child is arrested for an offence to which this Part of this Act applies that child shall not be held in custody by reason only of the need to ascertain whether or not he is eligible to have any matter dealt with by a Children's Panel but the powers conferred upon justices in regard to admission to bail may be exercised from time to time until the matter is ascertained.

(7) A notice requiring a person to appear before a panel may be posted to or served upon a person at his usual place of residence. .

88. The principal Act is amended by inserting a new section, to stand as section 74, as follows—

New  
section 74  
added.

74. (1) Where a Children's Panel is of the opinion having regard to the antecedents, character, age, health, or mental condition of the child, the nature of the offence, or any special circumstances of the case, that no punishment or penalty should be imposed on a child for an offence the panel may—

Powers of  
the Panel.

- (a) dismiss the complaint; or
- (b) determine, and explain or cause to be explained to the offender in language likely to be understood by him, that no action will be taken by the panel to award any punishment or penalty in regard to that offence for a period of not more than six months but that if during that period he fails to comply with any of the requirements of an order as to supervision or commits a further offence he will, in addition to being liable to be dealt with for that further offence, be liable to be sentenced by a Children's Court for the offence for which he is then before the panel.

(2) Where a Children's Panel determines in accordance with paragraph (b) of subsection (1) of this section that no action will be taken in relation to an offence for a specified period and the child in question complies with the requirements of any order as to supervision that may be made and commits no further offence during that period, the finding shall be recorded for the purposes of this Act but that finding shall not be taken to be a conviction recorded in relation to the offence for which

the child was brought before the panel and the child shall, by force of this section, be discharged from any further obligation in respect of that offence.

(3) Where a Children's Panel determines in accordance with paragraph (b) of subsection (1) of this section that no action will be taken in relation to an offence for a specified period and within that period the child in question fails to comply with the requirements of any order as to supervision that may be made, or is alleged to have committed a further offence, the panel may refer the matter to a Children's Court and the Children's Court may deal with the matter and impose sentence.

(4) A Children's Panel has power to refer any matter in relation to a child to a Children's Court if in the opinion of the panel that is the appropriate course, notwithstanding any other provision of this Act. .

New  
section 75  
added.

89. The principal Act is amended by inserting a new section, to stand as section 75, as follows—

Effect of  
admissions.

75. Subject to the provisions of section 76, the admission of an allegation of an offence made to a Children's Panel by a child after the notice of the allegation, and of the offence, and the penalty that may be imposed has been explained to him shall be recorded and for the purposes of any subsequent proceedings before the Panel or in any Court in respect of that offence constitutes a plea of guilty. .

New  
section 76  
added.

90. The principal Act is amended by inserting a new section, to stand as section 76, as follows—

Appeal  
from the  
decision of  
a Panel.

76. Where it is alleged that an admission recorded by a Children's Panel was improperly obtained or was incorrectly recorded, or where a child, the parent of the child or the person standing *in loco parentis* to the child, is

aggrieved by a determination of or order made by a Children's Panel an appeal lies on application to a Children's Court constituted by a special magistrate who may make such order in the matter as he thinks just. .

91. The principal Act is amended by inserting a new section, to stand as section 77, as follows—

New section 77 added.

77. The provisions of this Part of this Act shall be construed so as not to prejudice or affect any civil liability incurred in respect of an act or omission that constitutes an offence. .

Civil liability.

92. The principal Act is amended by inserting a new section, to stand as section 78, as follows—

New section 78 added.

78. (1) For the purposes of this Part of this Act, the Department may make available any service that may be conducive to the welfare of a child brought before a Children's Panel, notwithstanding that the child is not committed to the care of the Department or placed under the control of the Department.

Departmental services.

(2) Where a complaint or application has been made against or concerning a child under this or any other Act the Department, with the written consent of a parent of the child or a person standing *in loco parentis* to the child, may supervise the child or cause the child to be supervised for a period of not more than six months. .

93. The principal Act is amended, as to the heading immediately preceding section 106, by deleting the words "LICENSING OF CHILDREN AND".

Heading amended.

Section 106  
repealed  
and  
re-enacted.

94. Section 106 of the principal Act is repealed and re-enacted with amendments, as follows—

Street  
trading.

106. (1) Any female child under school leaving age, and any male child who has not attained the age of twelve years, who engages in street trading shall be guilty of an offence against this Act.

(2) Any male child over the age of twelve years but under school leaving age who engages in street trading after the hour of eleven in the evening or before the hour of six in the morning, or during such time as the school which that child should attend is in session, shall be guilty of an offence against this Act unless—

- (a) he has attained the age of fourteen years; and
- (b) the trading is engaged in on a casual or part-time basis during the annual or term vacation period of his school; and
- (c) the provisions of subsection (3) of this section have not been applied to him.

(3) Where the Director is of the opinion that the moral, physical or mental welfare of a child is likely to be in jeopardy he may, by notice in writing given to that child, expressly prohibit the child from street trading or limit the participation of that child in street trading.

(4) Any child who contravenes the provisions of a notice given to him pursuant to subsection (3) of this section shall be guilty of an offence against this Act. .

Section 107  
repealed  
and  
re-enacted.

95. Section 107 of the principal Act is repealed and re-enacted with amendments as follows—

Penalty  
for  
employing  
children in  
street  
trading.

107. (1) Any person who causes, procures or employs a child to engage unlawfully in street trading, or who having the custody or



guardianship of a child allows that child to engage unlawfully in street trading, shall be guilty of an offence against this Act.

(2) It shall be a defence for a person having the custody or guardianship of a child and charged with allowing that child to engage in street trading contrary to a notice given pursuant to subsection (3) of section one hundred and six of this Act, to show that he was not aware of the imposition of the prohibition or limitation referred to in that notice and had not been informed of that notice by the Director. .

96. Section 108 of the principal Act is repealed. Section 108 repealed.
97. Section 110 of the principal Act is amended— Section 110 amended.
- (a) by deleting the passage “, and subject to the regulations,” in line two;
  - (b) by deleting the words “and on”, in line six, and substituting the word “on”; and
  - (c) by deleting the words “may be prescribed”, in line seven, and substituting the words “he may determine”.
98. Section 111 of the principal Act is amended— Section 111 amended.
- (a) by deleting the words “be or act as foster-mother to”, in line two, and substituting the passage “have the care, charge or custody of”;
  - (b) by inserting after the word “years”, in line three, the passage “other than on a casual or day-time basis,”; and
  - (c) by inserting after the word “Department”, in line four, the words “or approved by the Director in writing”.

Section 112  
amended.

99. Section 112 of the principal Act is amended—

- (a) by deleting the passage “, on payment of the prescribed fee,” in lines one and two;
- (b) by deleting the words “be foster-mothers to”, in line three, and substituting the passage “have the care, charge or custody of”;
- (c) by inserting after the word “years”, in line four, the passage “other than on a casual or day-time basis,”;
- (d) by deleting the word “foster-mother”, in line six, and substituting the word “person”;
- and
- (e) by adding two new subsections as follows—

(3) If it appears to the Director that any person is incapable of providing the children in his charge with proper food or attention, or is guilty of neglecting to do so, or that the place in respect of which he is licensed is unfit for the purpose for which it is used, or that he has not complied with the regulations, or that for any other reason it is not desirable that the license granted to such person shall continue, the Director may cancel that license and remove the children, and recover the cost of and incidental to the removal from the licensee by action in any court of competent jurisdiction.

- (4) Where the license of a person is cancelled pursuant to subsection (3) of this section, the person may appeal in the prescribed manner to the Minister against the cancellation and the Minister may reverse or confirm the cancellation, and may restore the license and make such other order (including an order for the return of the children) as may be just. .

100. Section 113 of the principal Act is amended— Section 113 amended.

- (a) by deleting the words “as a foster-mother”, in lines two and three, and substituting the words “to do so”;
- (b) by inserting after the word “child”, in line five, the passage “, other than on a casual or day-time basis,”;
- (c) by deleting the words “twenty dollars”, in line eight, and substituting the words “fifty dollars”;
- (d) by deleting the words “forty dollars”, in line ten, and substituting the words “one hundred dollars”; and
- (e) by deleting the word “such”, in line one of subsection (2).

101. Section 114 of the principal Act is repealed and re-enacted with amendments, as follows— Section 114 repealed and re-enacted.

114. A person who is licensed to have the care, charge or custody of any children under this Act and who has in his care, charge or custody children in excess of the number for which he is so licensed shall be guilty of an offence against this Act. Exceeding licensed numbers.

102. Section 115 of the principal Act is amended by deleting the words “licensed foster-mother”, in line two, and substituting the passage “person licensed to have the care, charge or custody of children”. Section 115 amended.

103. Section 116 of the principal Act is repealed. Section 116 repealed.

104. Section 117 of the principal Act is amended— Section 117 amended.

- (a) by deleting the passage commencing with the word “licensed”, in line one, and ending with the passage “say:—”, in line seven and substituting the passage “person licensed

under this Act to have the care, charge or custody of children shall keep, so far as such particulars are capable of being ascertained, a register setting out in respect of each child received the following particulars —”; and

- (b) by deleting subsection (2) and substituting two new subsections as follows—

(2) The register required to be kept by subsection (1) of this section shall be regularly maintained and shall be at all times available for inspection by the Department or an authorised officer.

(3) A person so licensed shall maintain and make available for inspection such further or other particulars and records as the Director requires and shall submit to the Director from time to time such returns and information as the Director requires. .

Section 118  
repealed.

105. Section 118 of the principal Act is repealed.

Section 118A  
amended.

106. Section 118A of the principal Act is amended—

- (a) by deleting the passage “without limiting the operation of section one hundred and sixteen of this Act, a” in lines one and two and substituting the word “A”;
- (b) by deleting the words “child minding”, in line five of subsection (1), line four of subsection (2), lines two and three of subsection (3), and lines one and two and line nine of subsection (5), and substituting in each case the words “day care”;
- (c) by deleting subsection (4); and
- (d) by deleting the passage “kindergarten pursuant to a permit issued under the Education Act, 1928, notwithstanding that the kindergarten”, in lines six to eight of subsection (5), and substituting the

passage “pre-school centre pursuant to a permit issued under the Pre-School (Education and Child Care) Act, 1973, notwithstanding that it”.

**107.** Section 119 of the principal Act is amended by deleting subsection (1), subsection (3) and subsection (4). Section 119 amended.

**108.** Section 120 of the principal Act is amended— Section 120 amended.

- (a) by deleting the passage “-1945, and amendments, adopts or”, in lines four and five;
- (b) by adding after subsection (1) the passage “Penalty: Fifty dollars.”; and
- (c) by deleting subsection (2) and subsection (3).

**109.** Section 121 of the principal Act is amended— Section 121 amended.

- (a) by deleting the word “Justices”, in line two, and substituting the words “a Court of Petty Sessions”; and
- (b) by inserting before the word “acquittal”, in line seven, the passage “remand,”.

**110.** Section 123 of the principal Act is amended— Section 123 amended.

- (a) by inserting after the section designation “123.” the subsection designation “(1)”;  
and
- (b) by adding a new subsection as follows—

(2) Where a complaint or application is being made against or concerning a child the court may cause a copy or notice of the complaint or application to be served upon a parent of or a person standing *in loco parentis* to the child if that is practicable prior to the hearing of the complaint or application. .

Section 124  
repealed.

111. Section 124 of the principal Act is repealed.

Section 125  
amended.

112. Section 125 of the principal Act is amended—

- (a) by inserting after the word “ward”, in line three, line seven, line ten, line eleven and line seventeen, the words “or child placed under the control of the Department”;
- (b) by deleting the words “the ward”, in line four, and substituting the word “he”;
- (c) by deleting the word “ward”, in line fourteen, and substituting the word “person”;
- (d) by deleting the words “the ward”, in line eighteen, and substituting the words “such person”; and
- (e) by deleting the words “One hundred”, in line twenty-two and substituting the words “Two hundred”.

Section 126  
amended.

113. Section 126 of the principal Act is repealed and re-enacted with amendments as follows—

Disclosure  
of convictions  
etc.  
restricted.

126. Subject to the provisions of section twenty-three of this Act, where—

- (a) a complaint against a child is dismissed by a Children’s Court or a Children’s Panel under this Act;
- (b) a child is convicted of an offence; or
- (c) a child is ordered to be committed to the care of the Department or placed under the control of the Department,

a person, other than the child, shall not disclose the fact of the dismissal of the complaint, the conviction, or the order except to a court of law, to a person acting in the performance of his duties pursuant to any Act, or to a person who as part of his duties is concerned with the custody or welfare of the child. .

114. The principal Act is amended by inserting after section 126 a new section, to stand as section 126A, as follows—

Section 126A added.

126A. (1) Where a conviction is deemed not to have been made pursuant to section forty of this Act then in any proceedings, other than proceedings for that or a subsequent offence in the Children's Court or on indictment, no evidence of that conviction shall be admissible.

Disclosure of convictions of rehabilitated persons.

(2) Except for the purposes of this Act or of any court of law, a person, other than the child, shall not disclose the fact of a conviction which by virtue of section forty of this Act is deemed not to have been a conviction.

115. Section 127 of the principal Act is amended—

Section 127 amended.

- (a) by deleting the words "an institution", in line four, and substituting the words "the Departmental Centre or Departmental facility, in which a child is detained";
- (b) by deleting the words "any inmate", in line six, and substituting the words "that child";
- (c) by deleting the word "institution", in line seven, and substituting the words "Departmental Centre or Departmental facility"; and
- (d) by deleting the passage "superintendent, matron, or any officer or servant of such institution", in lines ten, eleven and twelve, and substituting the words "officer or other person for the time being in charge thereof".

116. Section 128 of the principal Act is amended—

Section 128 amended.

- (a) by deleting the words "an institution", in line two, and substituting the words "a Departmental Centre or Departmental facility";

- (b) by deleting the word “inmate”, in line three, and substituting the word “child”;
- (c) by deleting the words “any institution”, in line four and substituting the words “that centre or facility”; and
- (d) by deleting the word “forty”, in line six, and substituting the words “one hundred”.

Section 129  
amended.

117. Section 129 of the principal Act is amended—

- (a) by deleting the word “ward”, in line one, and substituting the word “child”;
- (b) by deleting the words “an institution”, in line two, and substituting the words “Departmental or other centre or facility”;
- (c) by deleting the words “or apprenticed with or to”, in lines two and three, and substituting the word “with”; and
- (d) by deleting the words “the institution”, in line four, and substituting the words “that centre or facility”.

Section 130  
amended.

118. Section 130 of the principal Act is amended—

- (a) by deleting the word “Imprisonment”, in line eight, and substituting the words “Five hundred dollars or imprisonment”; and
- (b) by deleting the word “This”, in line one of subsection (2), and substituting the words “Subsection (1) of this”.

Section 131  
repealed  
and  
re-enacted  
as s. 130(3).

119. Section 131 of the principal Act is repealed and re-enacted to stand as subsection (3) of section 130, amended by deleting the words “section one hundred and thirty of this Act”, in line five, and substituting the words “subsection (1) of this section”.



120. Section 132 of the principal Act is repealed. Section 132 repealed.
121. Section 133 of the principal Act is repealed. Section 133 repealed.
122. Section 134 of the principal Act is repealed. Section 134 repealed.
123. Section 135 of the principal Act is repealed. Section 135 repealed.
124. Section 136 of the principal Act is repealed and re-enacted to stand as subsection (4) of section 130, amended by deleting the words "section one hundred and thirty of this Act", in line two, and substituting the words "subsection (1) of this section". Section 136 repealed and re-enacted as s. 130(4).
125. The principal Act is amended by inserting a new subsection, to stand as subsection (5) of section 130, as follows— Section 130 further amended.
- (5) Where an order is made under subsection (4) of this section and it appears to the court that a person has legal custody of the child for the time being the court may by a further order transfer to that person the benefit of and the right to enforce the order made under subsection (4) of this section. .
126. The principal Act is amended by inserting a new section to stand as section 130A, as follows— New section 130A added.
- 130A. (1) Where it appears upon complaint to a Children's Court that the parent of a child or a person who stands *in loco parentis* to a child is about to leave the State but that the child will remain in the State and no provision has been made for the maintenance of the child during the absence of that person from the State, the court may order that person before he leaves the State to appear before the court or a specified justice of the peace and to enter Parents who leave the State.

into before the court or that justice and file in the registry of the court a written undertaking under his hand to provide maintenance for the child while the child remains in the State.

(2) An order made under subsection (1) of this section may require that one or more persons of good financial standing shall join in the undertaking as surety for its performance, and a person who so signs an undertaking as surety shall be deemed, in the event of any default, to stand in the place of the person for whom he stands surety and shall be liable, subject to subsection (3) of this section, to the extent of the undertaking to such and the like summary or other proceedings as that person would be if he were present in the State.

(3) A person who stands as surety under this section but who is not a near relative of the child to which the undertaking relates shall not be required to provide in the aggregate more than five hundred dollars, or such lesser sum as the court may have determined to be appropriate, towards the maintenance of that child.

(4) The person giving the undertaking required by this section, and any surety, may be released from the undertaking by the court if it appears to the court—

- (a) that such parent or person standing *in loco parentis* has returned to the State with the intention of residing permanently in the State; or
- (b) that the child has left the State and is likely to reside permanently elsewhere.

(5) Where a complaint is made pursuant to subsection (1) of this section against a person and is served upon or otherwise brought to the notice of that person but has not been deter-

mined, or where an order for the entering into and filing of an undertaking with or without surety has not been complied with, a person against whom the complaint is laid or the order made who leaves the State commits an offence.

Penalty: Four hundred dollars or imprisonment with, or without, hard labour for six months, or both such fine and such imprisonment.

127. Section 138 of the principal Act is repealed. Section 138 repealed.

128. The principal Act is amended by inserting a new section, to stand as section 138A, as follows— Section 138A added.

138A. Except where the Director, with the consent of the parents or guardians of the child given by reason of long standing cultural or religious belief, otherwise authorises, a person over the age of eighteen years who for gain or reward tattoos, or otherwise makes a permanent mark or design resembling a tattoo on the skin of, any child or causes any such tattoo, mark or design to be made commits an offence. Tattooing.

Penalty: Four hundred dollars or imprisonment for six months, or both such fine and such imprisonment.

129. The principal Act is amended by inserting a new section, to stand as section 138B as follows— Section 138B added.

138B. (1) Where any Police officer, or an officer of the Department authorised by the Minister, finds a child— Immediate care.

- (a) which he has reason to believe is away from the usual place of residence of that child and is not under the immediate supervision of a parent or responsible person; and
- (b) which is in his opinion in physical or moral danger, misbehaving, or truanting from school,

he may apprehend the child without warrant and forthwith take the child to its usual place of residence or school.

(2) An officer apprehending a child pursuant to subsection (1) of this section shall make inquiries as to whether or not it may be necessary to make application to a Children's Court to declare the child to be in need of care and protection.

(3) Where on inquiry no responsible person can be found to take care of the child for the time being the officer may cause the child to be detained at some convenient place until such time as the child can be returned to the care of a parent or responsible person.

(4) The officer apprehending a child under this section may make application to a Children's Court for an order, and the court may make an order, requiring a parent or person standing *in loco parentis* to the child to pay to the appropriate authority the cost of apprehending and detaining the child, or not more than twenty dollars whichever is the greater.

(5) An order for payment made under subsection (4) of this section may be enforced by warrant in like manner to a fine, but it does not for any purpose constitute a conviction for an offence. .

Section 140  
repealed.

130. Section 140 of the principal Act is repealed.

Section 141  
repealed  
and  
re-enacted.

131. Section 141 of the principal Act is repealed and re-enacted with amendments, as follows—

Persons  
having  
custody.

141. (1) Any—

(a) Police officer;

- (b) officer of the Department, or officer employed by the Minister in a Departmental Centre or Departmental facility; or
- (c) other person specifically authorised by a court or by an officer of the Department,

who has for the time being charge of a child detained under this Act, whether on remand or otherwise, has while engaged in any duty to which this Act relates all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as any Police officer has by common law or statute and the child shall be deemed to be in legal custody.

(2) Without prejudice to the generality of subsection (1) of this section, a child detained under this Act shall be deemed to be in legal custody whilst—

- (a) attending at or travelling between, a court and the place to which he is remanded;
- (b) attending or travelling, to or from a medical or dental practitioner or a hospital;
- (c) attending, or travelling directly to or from, school;
- (d) attending, or travelling directly to or from, any activity organised or supervised by officers of the Department employed at a Departmental Centre or Departmental facility to which the child has been remanded; or
- (e) absent from the place to which he has been remanded at a time and for a purpose approved by the Director. .

Section 142  
amended.

132. Section 142 of the principal Act is amended by deleting the words "a penalty not exceeding one hundred dollars", in lines seven and eight, and substituting the words "a fine not exceeding two hundred dollars or imprisonment for three months".

Section 143  
amended.

133. Section 143 of the principal Act is amended by deleting the passage "—1942" in line seven.

Section 146  
repealed.

134. Section 146 of the principal Act is repealed.

Section 146A  
amended.

135. Section 146A of the principal Act is amended—

- (a) by deleting the words "a destitute or neglected child", in line three, and substituting the words "a child in need of care and protection";
- (b) by deleting the words "in the prescribed form", in line five;
- (c) by inserting after the word "order", in line eight, the passage ", by force if necessary,"; and
- (d) by adding after the word "information", in line ten, the words "and apprehend any such child".

Section 149  
amended.

136. Section 149 of the principal Act is amended—

- (a) by deleting the word "institutions", in line nine, and substituting the words "Departmental and other centres and facilities";
- (b) by inserting after the word "wards", in line twelve, the words "and children placed under the control of the Department";
- (c) by deleting the words "wards at institutions", in line thirteen, and substituting the words "children at Departmental and other centres and facilities";

- (d) by deleting paragraph (e) of subsection (1) and substituting a new paragraph as follows—
- (e) the punishment that may be imposed upon, and the wages and rewards that may be earned by, wards and children placed under the control of the Department; ;
- (e) by deleting paragraph (f) of subsection (1) and substituting a new paragraph as follows—
- (f) the grant or refusal of licenses pursuant to section one hundred and twelve or one hundred and eighteen A of this Act, including all matters relating to the welfare of children received and kept pursuant to any such license, the conduct, staffing and inspection of the premises so used, the control of advertising and the maintenance of records; ;
- (f) by deleting paragraph (h) of subsection (1) and substituting a new paragraph as follows—
- (h) the accounts and records to be maintained and the reports to be furnished by Departmental and other centres and facilities, whether subsidised or otherwise; ;
- (g) by deleting paragraph (i) of subsection (1) and substituting a new paragraph as follows—
- (i) the procedure to be followed in relation to matters, and the offences that may be dealt with, by a Children's Panel; ; and
- (h) by deleting the words "or sections one hundred and sixteen and one hundred and eighteen A of this Act", in lines two and three of subsection (2).

Second  
Schedule  
substituted.

137. The principal Act is amended by deleting the Second Schedule and substituting a new Second Schedule as follows—

SECOND SCHEDULE.

SUBSIDISED CENTRES OR FACILITIES.

CATHOLIC

Catherine McAuley Centre  
 St. Vincents's  
 St. Joseph's  
 "Salvado"  
 Castledare  
 Christian Community Inc.  
 Clontarf  
 Good Shepherd Teen Centre  
 Pallotine Centre Rossmoyne  
 Catherine House Inc.  
 Balgo Mission  
 Beagle Bay Mission  
 Benedictine Mission Kalumburu  
 La Grange Mission  
 Lombardina Mission  
 Nazareth House Geraldton  
 Pallotine Boys Hostel Albany  
 Pallotine Mission Tardun  
 St. Francis Xavier's Native Mission  
 St. Joseph's Hostel Derby  
 Yaandina Babies & Childrens Centre Inc.

ANGLICAN

Parkerville Children's Homes (Inc.)  
 Swanleigh

BAPTIST

Katukutu Hostel  
 Marribank Mission

CHRISTIAN BRETHERN ASSEMBLIES

Kurrawang Aboriginal Christian Centre Inc.

CHURCHES OF CHRIST

"Bamburra" Hostel  
 Churches of Christ Ingada Village—Carnarvon  
 Churches of Christ Aborigines Mission—Norseman  
 Churches of Christ Roelands Village  
 "Fairhaven" Training Hostel Esperance



## METHODIST

Homes for Children

"Mofflyn"

"Allandale"

"Werribee"

"Bourkedale"

"Cooinda"

"Meribah"

"Warminda"

Mogumber Training Centre

Applecross Cottage

Ardross Hostel

Greenmount Hostel (Innaminka)

Mt. Yokine Hostel

Nollamara Cottage

## PRESBYTERIAN

Sister Kate's Children's Homes (Inc.)

Collins House

## SALVATION ARMY

Hollywood Children's Village

"Cottesloe House"

## UNDENOMINATIONAL

Fairbridge

Ngal-a Mothercraft Home &amp; Training Centre (Inc.)

Wanslea Hostel .

138. The principal Act is amended by adding a Fourth Schedule as follows—

Fourth  
schedule  
added.

## FOURTH SCHEDULE.

S. 72.

## PART I.—OFFENCES UNDER THE CRIMINAL CODE.

*Division A.*

The offences specified in this Division of this Part of this Schedule shall not be dealt with by a Children's Panel.

Section of The  
Criminal Code

Offence

37	Treason.
38	Concealment of treason.
39	Treasonable crimes.
41	Inciting to mutiny.
42	Assisting escape of prisoners of war.
47	Unlawful oaths to commit capital offences.

Section of The  
Criminal Code

## Offence

78	Piracy— If the crime is committed with respect to a ship, and if at or immediately before or immediately after the time of committing the crime the offender— (a) assaults any person on board of or belonging to the ship, with intent to kill him or to kill any other person; or (b) wounds any such person; or (c) unlawfully does any act by which the life of any such person is endangered.
79	Attempted piracy with personal violence.
80	Aiding pirates.
125	Perjury— If the offender commits the crime in order to procure the conviction of another person for a crime punishable with death, or with imprisonment with hard labour for life.
134	Conspiracy to bring false accusation— If the offence is such that a person convicted of it is liable to be sentenced to death or to imprisonment with hard labour for life.
144	Forcibly rescuing capital offenders.
153	Counterfeiting gold and silver coin— If the crime is committed with respect to current coin.
154	Preparation for coining gold and silver coin— If the crime is committed with respect to current coin.
155	Clipping.
159	Offences after previous convictions committed with respect to current coin.
185	Defilement of girls under the age of 13 years.
186	Householder permitting defilement of young girls on his premises— If the girl is under the age of 13 years.
197	Incest by man.
282	Wilful Murder. Murder.
283	Attempt to murder.
284	Accessory after the fact to murder.
287	Manslaughter.

Section of The Criminal Code	Offence
288	Aiding Suicide.
290	Killing Unborn Child.
292	Disabling in Order to Commit an Indictable Offence.
293	Stupefying in Order to Commit Indictable Offence.
294	Acts Intended to Cause Grievous Bodily Harm or Prevent Arrest.
295	Preventing Escape from Wreck.
296	Intentionally endangering the safety of persons travelling by Railway.
296A	Endangering safety of persons travelling by aircraft.
298	Causing Explosion likely to endanger life.
326	Rape.
327	Attempt to rape.
343	Child Stealing.
390B	<p>Unauthorised use of aircraft—</p> <p>Where the offender at or immediately before or immediately after the time he so takes or exercises such control of the aircraft—</p> <p>(i) uses or threatens to use actual violence to any person or persons in order to so take or exercise control of the aircraft or to prevent or overcome resistance to such control being taken or exercised; or</p> <p>(ii) is armed with any dangerous or offensive weapon or instrument; or</p> <p>(iii) is in company with one or more other person or persons,</p> <p>or if the offender so takes or exercises such control by any fraudulent representation, trick, or device.</p>
393	<p>Robbery—</p> <p>If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds or uses any other personal violence to any person.</p>

Section of The  
Criminal Code

## Offence

- 394 Attempted Robbery accompanied by Wounding or In Company—  
If the offender is armed with any kind of loaded arms, and at or immediately before or immediately after the time of the assault he wounds any person by discharging the loaded arms.
- 398 Attempts at Extortion by Threats—  
If the accusation or threat of accusation is—
- (a) an offence for which the punishment of death or imprisonment for life may be inflicted; or
  - (b) any of the offences defined in Chapter 22 of The Criminal Code, or any attempt to commit any of such offences; or
  - (c) any assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful or indecent assault upon a male person; or
  - (d) any attempt to commit the crime of rape, or assault with intent to commit the crime of rape, or an unlawful or indecent assault upon a woman or girl; or
  - (e) a solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid.
- 401 Housebreaking: Burglary—  
If the offence is committed in the night.
- 444 Arson.
- 449 Casting away Ships.
- 451 Obstructing and Injuring Railways.
- 451A Endangering safety of aircraft with intent.
- 453 Malicious injuries—
- (i) Destroying or damaging an inhabited house, or a vessel with explosives.
  - (ii) Destroying or damaging sea bank or sea wall, navigation works, or bridges.
- 454 Causing explosion likely to do serious injury to property.
- 473 Forgery—Public Seals.
- 511 Personation of owner of shares.

*Division B.*

The offences specified in this Division of this Part of this Schedule shall not be dealt with by a Children's Panel where, as a result of the alleged offence, a person has been killed or has suffered bodily harm or unlawful wounding as defined in The Criminal Code.

Section of The Criminal Code	Offence
268	Unlawful killing.
271	Death by acts done at child birth.
272	Causing death by threats.
273	Acceleration of death.
275	Injuries causing death in consequence of subsequent treatment.
277	Unlawful homicide.
278	Wilful murder.
279	Murder.
280	Manslaughter.
281	Killing or provocation.
282	Punishment for wilful murder and murder.
283	Attempted murder.
287	Manslaughter.
288	Aiding suicide.
290	Killing an unborn child.
294	Acts intended to cause grievous bodily harm or prevent arrest.
297	Grievous bodily harm.
299	Attempting to cause explosion likely to endanger life.
300	Maliciously administering poison with intent to harm.
301	Unlawful wounding.
305	Setting mantraps.
306	Negligent acts causing harm.
317	Assaults occasioning bodily harm.

PART II.—OFFENCES IN WHICH THE POSSESSION OF DRUGS FOR THE PURPOSE OF SALE IS AN ELEMENT.

*Division A.*

Section of The Police Act	Offence
94B(2)(b)	Sale or supply, or offer for sale or supply, to another any drug to which Part VIA of that Act applies.

Section of The Police Act	Offence
94B(2) (c)	Being in possession of any drug to which Part VIA of that Act applies with intent to sell or supply it to another.
94BA	Being in possession of proceeds of sale etc.
94G(1) (c)	Sale or supply, or offer for sale or supply, to another any drug to which Part VIB of that Act applies.
94G(1) (d)	Being in possession of any drug to which Part VIB of that Act applies with intent to sell or supply it to another.
94GA	Being in possession of proceeds of sale etc.

*Division B.*

Section of The Poisons Act	Offence
43A	Unauthorised sale or supply of drugs by persons authorised to be in possession.

## PART III.—ROAD TRAFFIC ACT, 1974.

Section of the Road Traffic Act	Offence
59	Dangerous driving causing death or injury.

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