

CHILD WELFARE.

No. 27 of 1967.

AN ACT to amend the Child Welfare Act, 1947-1965.

[Assented to 17th November, 1967.]

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

1. (1) This Act may be cited as the *Child Welfare Act Amendment Act, 1967.* Short title and citation.

(2) In this Act the Child Welfare Act, 1947-1965, is referred to as the principal Act. Reprinted as approved for reprint 25th August, 1961, and further amended by Acts Nos. 22 and 43 of 1962 and 79 of 1965.

(3) The principal Act as amended by this Act may be cited as the Child Welfare Act, 1947-1967.

Commence-
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on a date to be fixed by proclamation.

(2) It is not necessary that the whole of this Act be proclaimed to come into operation on the one day; and the several sections may be proclaimed to come into operation on such respective dates as are fixed by proclamation.

S. 2
amended.

3. Section two of the principal Act is amended by deleting the arrangement references to Part V and Part VI.

S. 4
amended.

4. Section four of the principal Act is amended, as to the interpretation, "neglected child", by adding after the word, "conditions", in line one of paragraph (10), the passage, "is found in such circumstances or is behaving in such a manner".

S. 20
amended.

5. Section twenty of the principal Act is amended by adding, immediately after the word, "seventeen", in line three of paragraph (c), the passage, "seventeen A, seventeen B".

S. 26
amended.

6. Section twenty-six of the principal Act is amended by deleting the word, "convicted", in line five.

S. 27
amended.

7. Section twenty-seven of the principal Act is amended by substituting for the word, "may" where first occurring in line four, the passage, "shall, upon cause being shown,".

S. 28
amended.

8. Section twenty-eight of the principal Act is amended—

(a) by adding, after the section number, "28.", the subsection designation, "(1)";

(b) by adding, immediately after the word, "house", in line five, the passage, "reception home, remand home, police station or police lock-up";

(c) by deleting the proviso; and

(d) by adding the following subsection—

(2) Where it appears to the court that a child charged with an offence or in respect of whom an application is made—

(a) is suffering from mental or nervous disorder; or

(b) should be remanded for observation, assessment and a recommendation as to his future treatment,

then, notwithstanding the provisions of any other Act, the court may, after giving the parents of the child an opportunity of being heard, remand the child, and order that he be placed in some suitable place, for a period not exceeding one month, for observation, assessment and the making of a report on his condition or a recommendation as to his future treatment, as the case may require. .

9. Section twenty-nine of the principal Act is amended— S. 29
amended.

(a) by substituting for the passage, "thereof, such child shall be disposed of in one of the following ways:—", in lines eight and nine, the passage, "of the hearing or during any period of remand, the child shall be—";

- (b) by deleting paragraph (a) and substituting the following paragraphs—
 - (a) taken to his place of residence and there left, upon the recognisance of a near relative for his appearance;
 - (aa) taken to and placed in a reception home or a remand home; ;and
- (c) by substituting for paragraph (d) the following paragraph—
 - (d) placed, where the charge is of so serious a nature that his safe custody is of paramount importance and, then only, where no other place of detention is available, in a police gaol or lock-up, apart from any adult prisoners. .

S. 32
amended.

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

- (a) by substituting for the passage commencing with the word, “If”, in line one, and ending with the word, “charge”, in line four, the passage, “A near relative of a child over whom he is unable to exercise proper control may bring the child before the court on an application for an order under this section; and the court, if satisfied that the application”;
- (b) by substituting for the word, “uncontrollable”, in lines one and two of the proviso, the word, “uncontrolled”; and
- (c) by deleting the words, “parent or”, in each case, where appearing in line two and in line three of the proviso.

S. 33
amended.

11. Section thirty-three of the principal Act is amended—

- (a) by substituting for the passage commencing with the word, “If”, in line one, and ending with the word, “founded”, in line five, the

passage, "An officer of the Department or a police officer may bring a child before the court on an application for an order under this section, on the ground that the child is uncontrolled; and the court, upon being satisfied that the application is well founded,";

- (b) by substituting for the word, "charge", in line seven, the word, "application"; and
- (c) by substituting for the words, "the parent or", in the penultimate line, the word "a".

12. Section thirty-five of the principal Act is amended— S. 35 amended.

- (a) by adding, immediately after the section number, "35.", the subsection designation, "(1)"; and
- (b) by adding the following subsection—

(2) The provisions of subsection (1) of this section do not apply to a person where he is convicted, or the order is made, after he attains the age of eighteen years. .

13. Section thirty-six of the principal Act is amended by adding, after the word, "Court", in line six, the words, "or upon a Special Magistrate". S. 36 amended.

14. The principal Act is amended by adding, after section forty-seven B, the following section— S. 47C added.

47C. (1) The parents, or the surviving parent, of a child may apply to the Minister for an order committing the child to the care of the Department, for a period, or until the child attains the age, specified in the application; and the Minister may, if he is satisfied that it is in the best interests of the child that the application be granted and upon the parents or parent giving a written undertaking to provide such maintenance for the child as the Minister may require, commit the child to the care of the Department for the period, or until the child attains the age, specified in the application.

Parents may apply for committal of child.

(2) The amount of maintenance from time to time due to the Minister, by virtue of an undertaking given pursuant to subsection (1) of this section, is deemed to be an advance under, and for the purposes of, the Welfare and Assistance Act, 1961. .

S. 51
amended.

15. Section fifty-one of the principal Act is amended by substituting for the word, "detention", in the last line, the words, "the committal".

S. 52
amended.

16. Section fifty-two of the principal Act is amended,—

(a) as to subsection (1), by substituting for the passage commencing with the word, "fourteen", in line three, and ending with the word, "therefor", at the end of the subsection, the passage, "he attains the leaving age provided by the Education Act, 1928"; and

(b) by repealing subsection (2) and re-enacting it with amendments, as follows—

(2) A ward shall not, unless exempt from school attendance under the Education Act, 1928, be apprenticed or placed out for service before he attains the leaving age mentioned in subsection (1) of this section. .

Ss. 57, 58 and
59 repealed.

17. Sections fifty-seven, fifty-eight and fifty-nine of the principal Act are repealed.

S. 66A added.

18. The principal Act is amended by adding after section sixty-six, the following section—

Reciprocity
between
States as to
care of
wards.

66A. (1) The Minister may, by arrangement or agreement made from time to time with the responsible Minister or some other authorised person of another State of, or a Territory of, the Commonwealth, commit to the care of the Department a child brought to, or resorting to,

this State, as though the child were one to whom the provisions of section forty-seven B of this Act applies and that section shall, thereupon, apply to the child.

(2) Where the Minister is satisfied that another State or, or a Territory of, the Commonwealth has enacted a provision substantially similar to that of subsection (1) of this section, he may, by arrangement or agreement made from time to time with the responsible Minister or some other authorised person there, procure the committal, to the care of that Minister, other person or a department of state there, of a ward taken to, or resorting to, that State or Territory. .

19. The principal Act is amended by adding, after section sixty-six A added by section eighteen of this Act, the following section— S. 66B added.

66B. A person in whose care a child is placed under the provisions of this Act shall not, except with the consent of the Minister, remove the child, or suffer him to remove or be removed, out of the State. . Restriction on removal of children out of the State.

20. The principal Act is amended by adding, after section sixty-six B, added by section nineteen of this Act, the following section— S.66C added.

66C. Notwithstanding, but without limiting, any other provision of this Act, where a child is left without a parent, guardian or some person in *loco parentis* present within the State or is left by a parent or guardian who is in a remote part of the State without a person in *loco parentis* present where the child then is, the Director may, at the requirement of, and without affecting the status of, the child, extend to him such benefits as he might have extended if the child were a ward; and where the Director incurs any costs or expenses in that regard, the costs and expenses are deemed to be an advance under, and for the purposes of, the Welfare and Assistance Act, 1961. . Director may assist children of absent parents.

Part VI
repealed.

21. Part VI of the principal Act is repealed.

S. 106
amended.

22. Section one hundred and six of the principal Act is amended by adding, immediately after the word, "trading", being the last word in subsection (3), the passage, "and, in any event, shall not be issued to a female child".

S. 116
amended.

23. Section one hundred and sixteen of the principal Act is amended—

(a) by substituting for the passage, "Twenty pounds, or for a second offence," in line eight of subsection (1), the passage, "For a first offence, one hundred dollars; and, for every subsequent offence,"; and

(b) by repealing subsection (4) and re-enacting it with amendments, as follows—

(4) The Governor may make regulations—

(a) prescribing the prerequisites to the granting of a license under this section and the grounds upon which a license may be refused;

(b) prescribing all matters relating to the welfare of children received and kept pursuant to a license under this section and the conduct and staffing of a house, room or place kept and used pursuant to such license;

(c) providing for the entry to any house, room or place kept and used, or reasonably believed to be kept and used, in contravention of this section and for the inspection and supervision of a house, room or place kept and used pursuant to a license under this section;

- (d) providing for the notification of deaths of children received and kept pursuant to a license under this section;
- (e) providing for the cancellation and transfer of licenses issued under this section;
- (f) providing for the restriction, prohibition and regulation of advertising in respect of any house, room or place kept and used for the reception and keeping of children;
- (g) prescribing forms and providing for the keeping of records and registers in a house, room or place kept and used pursuant to a license under this section;
- (h) providing penalties not exceeding fifty dollars for the breach of any of them; and
- (i) prescribing all such other matters and things as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, or for the better administration of, this section. .

24. The principal Act is amended by adding, after section one hundred and eighteen, the following section—

S. 118A
added.

118A. (1) Without limiting the operation of section one hundred and sixteen of this Act, a person shall not keep or use, or by word or deed hold himself out as keeping or using, a building or place as a child minding centre, except pursuant to a license or permit granted by the Director for that purpose.

Child
Minding
Centres.

Penalty: For a first offence, one hundred dollars; and for every subsequent offence imprisonment with hard labour for three months.

(2) Subject to the regulations, the Director may, on payment of the prescribed fee, grant a license for the keeping and use of a building or place therein specified as a child minding centre, for a period of one year; and may, on payment of the prescribed fee, renew any such license for a further period of one year.

(3) The Director may grant a permit for the keeping and use of a building or place as a child minding centre for any period, not exceeding six months, during which inquiries are being made respecting an application for a license and may at any time revoke any such permit.

(4) The Governor may make regulations—

- (a) prescribing the prerequisites to the granting of a license and the grounds upon which a license may be refused;
- (b) prescribing the conditions under which, and the period for which, children may be left in a child minding centre;
- (c) prescribing the manner in which a child minding centre is to be conducted and staffed and the nature of, and quantities of, foodstuffs to be provided for children left there;
- (d) providing for the entry to any place kept and used, or reasonably believed to be kept and used, as a child minding centre and for the inspection and supervision of child minding centres;
- (e) providing for the cancellation, renewal and transfer of licenses and prescribing the fees payable on the issue, renewal and transfer of licenses;
- (f) providing for the restriction, prohibition and regulation of advertisements in respect of child minding centres;
- (g) prescribing forms and providing for the keeping of records and registers in child minding centres;

- (h) providing penalties not exceeding fifty dollars for the breach of any of them; and
- (i) prescribing all such other matters and things as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the better administration of, this section.

(5) In this section, the expression, "child minding centre", means a creche, public nursery or other public facility for the casual or day to day care of children under the age of six years; but nothing in this section relates to the conducting of a kindergarten pursuant to a permit issued under the Education Act, 1928, notwithstanding that the kindergarten is conducted within, or in conjunction with, a child minding centre. .

25. Section one hundred and twenty-five of the principal Act is repealed and re-enacted with amendments, as follows—

S. 125
repealed
and
re-enacted.

125. A person who,—

- (a) without the authority of the Director, takes or removes a ward from any situation in which the ward has been placed at the requirement of the Director;
- (b) directly or indirectly, counsels or induces a ward to abscond or escape from any situation in which he has been placed at the requirement of the Director;
- (c) knowingly, aids or abets a ward in absconding or escaping from, harbours a ward who has been taken or removed or has absconded or escaped from, or prevents the return of any such ward to, any situation in which he has been placed at the requirement of the Director; or

Offence of
interfering
with wards.

- (d) having a ward placed in his care, fails or refuses to hand over the ward to an officer of the Department or a police officer, authorised to receive the child, on demand,

commits an offence.

Penalty: One hundred dollars or imprisonment with hard labour for three months. .

S. 136
amended.

26. Section one hundred and thirty-six of the principal Act is amended by substituting for the words, "near relative", in line seven, the word, "parent".

S. 146
amended.

27. Section one hundred and forty-six of the principal Act is amended, as to subsection (1),—

- (a) by deleting the passage, "Part V. and", in line two of paragraph (a);
- (b) by substituting for the words, "court which has caused the warrant to issue", in lines four and five of paragraph (a), the words, "place at which the warrant was issued"; and
- (c) by substituting for the words, "which caused the warrant of arrest to issue", in lines four and five of paragraph (c), the words, "at or nearest to the place at which the warrant was issued".

Second
Schedule
amended.

28. The Second Schedule to the principal Act is amended by deleting—

- (a) the item, "Tom Allan Memorial Home for Boys, Werribee.", under the subheading, "Methodist."; and
- (b) the subheading, "Presbyterian:" and the item, "Benmore Boys' Home, Caversham.", under that subheading.