

STATE CHILDREN.

17° GEO. V., No. XXXI.

No. 31 of 1926.

AN ACT to amend the State Children Act, 1907-1921.

[Assented to 8th December, 1926.]

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

Short title and commencement.

1. This Act may be cited as the *State Children Act Amendment Act*, 1926, and shall have effect and be deemed to have had effect, as regards sections six, nine, and thirteen, as from the commencement of the State Children Act Amendment Act, 1921; and so far as regards sections five and seven, as from the commencement of the State Children Act Amendment Act, 1919; and so far as regards sections three, eight, and fourteen, from the commencement of the State Children Act, 1907; and so far as regards the other sections, shall have effect as from the commencement of this Act.

Citation of principal Act and amendments.

2. The State Children Act, 1907-1921 (reprinted in the 1921-1922 Sessional Volume of the Statutes and hereinafter called "the principal Act"), and this Act may be cited together as the *State Children Act*, 1907-1926.

Amendment of sec. 4.

See S.A. No. 641, s. 4.

3. Section four of the principal Act is hereby amended by the excision of the words "the person admitting himself to be or adjudged by a competent court to be," in the interpretation of the words "near relative," and of the word "or" after the words "uncontrollable child" in the interpretation of the words "State child."

4. Section nineteen of the principal Act is hereby amended— Amendment of sec. 19.

(i) by the addition to subsection two of words as follows:—

“and may appoint any person to be the clerk of any court.”

(ii) by omitting all the words in subsection five after the words “special magistrate” in line five, to the end of the subsection, and by inserting in place thereof the words “if present shall prevail, but if a special magistrate is not present, the case shall be re-heard and determined in the presence of a special magistrate.”

5. Section twenty of the principal Act is hereby amended by substituting for the word “justices” the word “members,” and by inserting in paragraph (b) thereof, after the figures “1907,” the words and figures “and Section 2 of the Public Education Acts Amendment Act, 1919.” Amendment of sec. 20.

6. Section seventy of the principal Act is hereby amended— Amendment of sec. 70.

(i) by the excision of the words “to the Department or to the governing authority,” and the substitution of the words “in the case of a State child, to the Department or a governing authority, or, in the case of any other child, to the Department, or to the complainant, or any person whom the Court shall select.”

(ii) by the addition of a subsection as follows:—

(4) The Court may at any time and from time to time alter any order made hereunder so far as regards the recipient of the money payable thereunder, and in particular may direct, in the case of a child in respect of whom an order has been made and who has become a State child after the making of the order, that the money payable under such order shall be paid to the Department or a governing authority.

7. Section seventy-two of the principal Act is hereby amended by the addition of a subsection as follows:— Amendment of sec. 72.

(5) When an order made under this part directs any person to make periodical

payments, and such person is at any time in default in respect of more than one periodical payment, such person shall be liable, in respect of the aggregate amount in payment whereof he is so in default as aforesaid, to such process of execution and period of imprisonment, or to such imprisonment only, as he would be liable to if he were in default in respect of one payment equal to the said aggregate amount.

8. Section seventy-four of the principal Act is hereby amended by the excision of the words "no order under this section shall be made," and by the substitution of the words following, that is to say—

"the Court may adjudge him to be the father thereof, but shall not so adjudge him or make any order against him under this Part"—

and by adding to the said section the following words, namely, "Provided that the allegation in the complaint that the defendant is of sufficient means to maintain the child shall be received as *prima facie* proof thereof; and the onus of proving that the defendant is not of sufficient means to maintain the child shall lie upon the defendant."

9. (1) Section seventy-five of the principal Act is hereby amended by the insertion in subsection three, after the word "Department," of the words "or to such person as the court may think fit to select as recipient of the moneys."

(2) The said section seventy-five is further amended by the addition of subsections as follows:—

(5) In case any doubt or question shall arise as to the disposal of any moneys paid for confinement expenses, the Court may by subsequent order direct how and in what manner such moneys shall be paid or applied.

(6) The Court may, in case of the death of an illegitimate child, make an order against the father of such child for the payment to the Department, or to such person as the Court considers entitled to receive the money, of a reasonable sum for the funeral expenses of such child.

Amendment of
sec. 74.

See S.A. No. 641,
s. 86.

Amendment of
sec. 75.

10. Section seventy-six of the principal Act is hereby amended by the insertion after the word "secretary" of the words "or the clerk of the court"; and by the insertion, after the word "Department," in subsection two, of the words "or to the person in whose favour an order is made in respect of such money or property under section seventy-seven."

Amendment of
sec. 76.

11. Section eighty-two of the principal Act is hereby amended by the insertion in line four of subsection one and in line six of subsection two, after the word "secretary," of the words "or the clerk of the court."

Amendment of
sec. 82.

12. Sections eighty-three, eighty-five, eighty-six, eighty-seven, and eighty-eight of the principal Act are hereby amended by the insertion after the word "Department" wherever it occurs therein, of the words "or the clerk of the court."

Amendment of
secs. 83, 85, 86, 87,
and 88.

13. Sections are hereby added to Part V. of the principal Act, after section eighty-nine, as follows:—

Adding of new
section to Part V.
This Part to apply
to maintenance
orders under the
Bastardy Laws
Act, 1875.

89A. The provisions of this Part relating to maintenance orders shall, so far as practicable, apply to and in respect of any order for maintenance or education for the time being in force made under the Bastardy Laws Act, 1875.

89B. Any complaint necessary to obtain an order under this Part may be laid by or on behalf of any person, institution, department, or body interested in obtaining the order, or by or on behalf of any person who is or was a near relative of the child in respect of or with reference to whom the order is sought to be obtained.

Complaints.

14. Section one hundred and twenty-nine of the principal Act is hereby amended by the addition of a paragraph as follows:—

Amendment of
sec. 129.

"This section is without prejudice to the enforcement of orders in manner provided in this Act or the Justices Act, 1902, and its amendments; but no person shall be liable to proceedings both under this section and by way of enforcement in respect of the same default."