

EDUCATION (No. 2).

No. 95 of 1976.

AN ACT to amend the Education Act, 1928-1976.

[Assented to 12th November, 1976.]

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 *Education Act Amendment Act (No. 2), 1976.*

Short title
and citation.

(2) In this Act the Education Act, 1928-1976 is referred to as the principal Act.

Reprinted as
approved for
reprint 22nd
June, 1976.

(3) The principal Act as amended by this Act may be cited as the Education Act, 1928-1976.

Section 13
amended.

2. Section 13 of the principal Act is amended—

(a) by adding after subsection (3b) a subsection as follows—

(3c) Notwithstanding the provisions of subsection (1) of this section where the parent of a child is required by a direction served and in force under section twenty A of this Act to cause the child to attend a school specified in the direction he shall, unless that school is not open or some reasonable excuse for non-attendance is shown, cause the child to attend that school during such times as are specified in the direction. ; and

(b) by inserting before the word “of” in line two of subsection (5) the passage “or (3c)”.

Section 20
repealed
and
re-enacted.

3. The principal Act is amended by repealing section 20 and re-enacting that section as follows—

Definition
of “advisory
panel”.

20. In section twenty A, twenty B or twenty C of this Act the term “advisory panel” means an advisory panel convened and constituted under section twenty D of this Act. .

Section 20A
added.

4. The principal Act is amended by adding after section 20 a section as follows—

Children
requiring
special
education.

20A. (1) Where it appears to an advisory panel that a child of not less than six years of age nor more than leaving age has a mental or physical disorder or disability of such a nature that the interests of that child would be best served if he were to attend a school providing education of a kind specially suited to persons suffering from such a disorder or disability, the Minister may, on the recommendation of the panel, serve on the parent of the child a direction in writing requiring the parent to cause the child to attend such school or schools as is or are specified in the direction during such times as are so specified.

(2) Subject to subsection (5) of section twenty E of this Act a direction served under this section shall come into force on such date as is specified in the direction and shall remain in force until—

- (a) it lapses or is revoked or cancelled under this Act;
- (b) the parent of the child to whom it relates is served with another direction under this section or a direction under section twenty B of this Act; or
- (c) the child to whom it relates attains leaving age,

whichever occurs first.

(3) At any time whilst a direction under this section is in force in relation to a child the Minister may—

- (a) serve on the parent of that child a notice in writing revoking the direction; or
- (b) on the recommendation of an advisory panel, serve on the parent of that child another direction under this section in relation to the child.

(4) Notwithstanding section fourteen of this Act, whilst a direction served under this section is in force in relation to a child the mental or physical disorder or disability by reason of which the direction was served shall not be regarded as providing a reasonable excuse for the non-attendance of that child at a school specified in the direction.

5. The principal Act is amended by adding after section 20 a section as follows—

20B. (1) Where it appears to an advisory panel that a child has a mental or physical disorder or disability of so severe a nature that the presence of that child in a Government school would disrupt the normal operation of the school the Minister may, on the recommendation of the panel, serve on the parent of the

Section 20B added.

Children with severe disorders.

child a direction in writing directing the parent to refrain from causing the child to attend any Government school and whilst the direction remains in force the Minister shall refuse to permit the child to attend any Government school.

(2) A direction served under this section shall come into force on the day following the day on which it is served and shall remain in force until—

- (a) it lapses or is revoked or cancelled under this Act; or
- (b) the parent of the child to whom it relates is served with a direction under section twenty A of this Act,

whichever occurs first.

(3) At any time whilst a direction under this section is in force in relation to a child the Minister may serve on the parent of that child a notice in writing revoking the direction.

(4) The provisions of sections thirteen and sixteen of this Act do not apply to or in relation to a child whilst a direction served under this section is in force in relation to that child.

Section 20C
added.

6. The principal Act is amended by adding after section 20 a section as follows—

Review and
confirma-
tion of
direction by
Minister.

20C. (1) Where a direction served under section twenty A or twenty B of this Act is in force in relation to a child the parent of that child may—

- (a) within twenty-one days after the expiration of a period of one year from the date of the service of the direction; and
- (b) within twenty-one days after the expiration of any subsequent period of two years,

serve on the Minister a request in writing requesting the Minister to reconsider the direction and, within sixty days after being served with that request, the Minister shall consider whether it is necessary for the direction to remain in force and may, on the recommendation of an advisory panel, serve a notice in writing on the parent confirming the direction.

(2) If the Minister does not confirm a direction within sixty days after being served with a request under subsection (1) of this section and the direction is still in force at the expiration of that period, the direction shall thereupon lapse. .

7. The principal Act is amended by adding after section 20 a section as follows—

Section 20D
added.

20D. (1) The Minister may convene an advisory panel whenever he considers it necessary or desirable to do so for the purposes of section twenty A, twenty B or twenty C of this Act.

Advisory
panels.

(2) An advisory panel shall consist of two or more persons who, because of their professional or other qualifications or experience, are in the opinion of the Minister qualified to give advice as to the educational or other needs of a child having regard to the disorder or disability from which the child suffers.

(3) Of the members of an advisory panel—

- (a) at least one shall be a teacher; and
- (b) at least one shall be either a guidance officer appointed under this Act or a psychologist who is a member of the Australian Psychological Society. .

Section 20E
added.

8. The principal Act is amended by adding after section 20 a section as follows—

Children's
court may
cancel or
confirm
direction.

20E. (1) A parent who has been served with—

- (a) a direction under section twenty A or twenty B of this Act; or
- (b) a notice under section twenty C of this Act confirming a direction under section twenty A or twenty B of this Act,

may, within thirty days after the service of that direction or notice, as the case may be, on complaint duly laid before a children's court and served on the Minister as defendant to the proceedings, apply to the court for an order cancelling the direction.

(2) In any proceedings under this section the onus shall lie on the Minister to show cause why the direction should not be cancelled.

(3) In any proceedings under this section the Minister may be represented by a person authorised by the Minister in that behalf.

(4) On the hearing of a complaint under this section the court shall make an order—

- (a) cancelling the direction; or
- (b) confirming the direction,

and may, if it thinks fit, make an order as to the costs of the proceedings.

(5) Where, within thirty days after being served with a direction under section twenty A of this Act, a parent lays a complaint under this section before a children's court—

- (a) if the direction is not in force when the complaint is laid—the direction shall not come into force until the court has heard and determined the complaint;
- (b) if the direction is in force when the complaint is laid—the direction shall, by operation of this subsection, cease

to be in force from the time when the complaint is laid until the court has heard and determined the complaint.

(6) Nothing in subsection (5) of this section prevents the Minister from exercising his powers under subsection (3) of section twenty A or subsection (3) of section twenty B of this Act at any time whilst the determination of a complaint laid under this section is pending. .

9. The principal Act is amended by adding after section 20 a section as follows—

Section 20F added.

20F. (1) There shall be included in every direction served under section twenty A or twenty B of this Act a statement advising the parent of the child to whom the direction relates that he may—

Certain statements to be included in directions and notices.

- (a) within twenty-one days after the expiration of a period of one year from the date of the service of the direction; and
- (b) within twenty-one days after the expiration of any subsequent period of two years,

serve on the Minister a request in writing requesting the Minister to reconsider the direction.

(2) There shall be included in—

- (a) every direction served under section twenty A or twenty B of this Act; and
- (b) every notice served under section twenty C of this Act confirming a direction served under section twenty A or twenty B of this Act,

a statement advising the parent of the child to whom the direction relates that he may, within thirty days after the service of the direction or notice, as the case may be, apply to a children's court pursuant to section twenty E of this Act for an order cancelling the direction. .

Section 28
amended.

10. Section 28 of the principal Act is amended by deleting paragraph (p2) of subsection (1).

Sections 32C
and 32D
repealed.

11. The principal Act is amended by repealing sections 32C and 32D.

Section 34
amended.

12. Section 34 of the principal Act is amended by deleting the passage “, or of section eighteen,” in lines one and two of subsection (2).

Section 37AF
amended.

13. Subsection (3) of section 37AF of the principal Act is amended by adding after the word “course” in subparagraph (ii) of the definition “service” in paragraph (b), the words “that was commenced before the first day of January nineteen hundred and seventy-seven and was pursued with financial assistance from the Minister”.

Section 40
amended.

14. Section 40 of the principal Act is amended by repealing subsection (2).

Second
Schedule
amended.

15. The Second Schedule to the principal Act is amended—

- (a) by deleting the words “*the age of Fourteen Years*” in line two and substituting the words “*School Leaving Age*”; and
- (b) by deleting the words “below the age of fourteen years now residing in this dwelling house” and substituting the words “now residing in this dwelling house who are below the leaving age fixed by the above Act”.

Third
Schedule
amended.

16. The Third Schedule to the principal Act is amended by deleting the words “*ages of six and fourteen*” in line four and substituting the words “*age of six years and leaving age*”.