

CHILD WELFARE (No. 2).

No. 27 of 1972.

AN ACT to amend the Child Welfare Act, 1947-1971.

[Assented to 9th June, 1972.]

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 (No. 2), 1972.*

Short title
and cita-
tion.

(2) In this Act the Child Welfare Act, 1947-1971 is referred to as the principal Act.

Reprinted
as approved
for reprint
5th April,
1971 and
further
amended by
Act No. 52
of 1971.

(3) The principal Act as amended by this Act may be cited as the Child Welfare Act, 1947-1972.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

S. 2
amended.

3. Section 2 of the principal Act is amended by deleting the words "THE CHILD WELFARE DEPARTMENT", in line three, and substituting the words "ADMINISTRATIVE PROVISIONS".

S. 4
amended.

4. Section 4 of the principal Act is amended by deleting the definitions of the expressions "Department" and "Director" and substituting new definitions as follows—

"Department" means the Department for Community Welfare established under section four of the Community Welfare Act, 1972;

"Director" means the Director of the Department for Community Welfare appointed under section seven of the Community Welfare Act, 1972; .

Heading of
Part II
amended.

5. The principal Act is amended by deleting the heading "PART II.—THE CHILD WELFARE DEPARTMENT." and substituting a new heading as follows—

PART II.—ADMINISTRATIVE PROVISIONS. .

S. 5
repealed and
re-enacted.

6. Section 5 of the principal Act is repealed and re-enacted with amendments as follows—

Administra-
tion.

5. The administration of this Act shall be vested in a responsible Minister of the Crown and, subject to the Minister, shall be carried out by the Department. .

S. 6
amended.

7. Section 6 of the principal Act is amended—

(a) as to subsection (1), by deleting the passage "The Governor may from time to time,

appoint a Director of the Department, and it", in lines one and two, and substituting the word "It"; and

- (b) as to subsection (2), by adding after the word "appoint", in line one, the passage "the person appointed to be the deputy of the Director under section eight of the Community Welfare Act, 1972, or".

8. Section 7 of the principal Act is amended—

S. 7
amended.

- (a) by redesignating the section to stand as subsection (1);
- (b) by deleting the passage "an Assistant Director," in line two; and
- (c) by adding two new subsections as follows—

(2) All inspectors and other officers of the former Child Welfare Department holding office or being employed immediately prior to the coming into operation of the Child Welfare Act Amendment Act (No. 2), 1972, shall be deemed to have been appointed and engaged under the Community Welfare Act, 1972, but shall otherwise be subject to this Act.

(3) A person appointed or engaged under the Community Welfare Act, 1972, shall, for the purpose of carrying into operation the provisions of this Act, have such powers, duties and functions under this Act as may be imposed or conferred upon him by the Minister.

9. Section 9A of the principal Act is amended by deleting the words "or the Assistant Director or both", in lines three and four of subsection (1), and substituting the words "or to a person appointed to act in place of the Director under section six of this Act or to either or both of them".

S. 9A
amended.

S. 20
amended

10. Section 20 of the principal Act is amended—

(a) by substituting for the passage “justices in respect of indictable offences, by the Justices Act, 1902” in—

(i) lines five and six of subsection (2);
and

(ii) lines six and seven of paragraph (a)
of subsection (3),

the words “a Court of Petty Sessions in respect of the examination and committal for trial of persons charged with indictable offences”; and

(b) by substituting for the passage “under the provisions of the Justices Act, 1902 by a justice”, in lines twelve and thirteen of subsection (3a) the words “by a Court of Petty Sessions”.

S. 20B
amended.

11. Section 20B of the principal Act is amended—

(a) by adding after the word “years”, being the last word in subsection (1), the passage “, if the person so elects”; and

(b) by repealing and re-enacting subsection (4) as follows—

(4) Where a person is charged before a court under this section—

(a) before he is asked to show cause why he should not be convicted, the court is required to explain to him that he is entitled to be tried by a jury, and is not obliged to make any defence before the court, unless he elects to have the charge dealt with summarily, and to ask him to make his election;

(b) if he elects to have the charge dealt with summarily, the court is required to reduce the charge to writing and to read it to him,

and then to ask him whether he is guilty or not guilty of the offence; and if he says he is guilty the court is to convict him of the offence, but if he says he is not guilty the court is required to deal with the charge summarily;

- (c) if the court is of the opinion that it has not jurisdiction to deal summarily with the offence, the court shall abstain from doing so, but may exercise any of the powers and any jurisdiction conferred on a Court of Petty Sessions in respect of the examination and committal for trial of persons charged with indictable offences;
- (d) where the charge is dealt with summarily and the person is convicted but the court is of the opinion that for any reason the sentence which it is empowered by this section to pass on the person convicted by it is inadequate, it may, in lieu of passing sentence, commit the convicted person for sentence to the Supreme Court or the District Court of Western Australia, as the case may require, which may pass such sentence for the offence as might have been passed if the offender had been convicted on indictment. .

12. Section 20C of the principal Act is amended— Section 20C amended.

- (a) by substituting for the word “justices”, in line five of subsection (1), the words “a Court of Petty Sessions”; and

- (b) by substituting for the passage “justices, in respect of indictable offences, by the Justices Act, 1902”, in the last two lines of paragraph (b) of subsection (2), the words “a Court of Petty Sessions in respect of the examination and committal for the trial of persons charged with indictable offences”.

Third
Schedule
amended.

13. The Third Schedule to the principal Act is amended—

- (a) by substituting for the word “boy”, in line two of item two the word “child”;
- (b) by adding after the word “years”, being the last word in item two the words “or inciting such a child to so deal with a person”;
- (c) by substituting for the word “schoolmaster”, being the last word in item five, a passage as follows—
- schoolmaster,
or inciting such a girl to so
deal with a person ; and
- (d) by adding after the word “years”, being the last word in item six, the words “or inciting such a girl to so deal with a person”.
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