

## CHILD WELFARE.

7° Elizabeth II., No. XLV.

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No. 45 of 1958.

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**AN ACT to amend the Child Welfare Act, 1947-1957.**

[Assented to 12th December, 1958.]

**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:—

Short title  
and citation.

1. (1) This Act may be cited as the *Child Welfare Act Amendment Act, 1958*.

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Acts.

(2) In this Act the Child Welfare Act, 1947-1957, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Child Welfare Act, 1947-1958.

2. The principal Act is amended by adding after section nine the following section—

S. 9A  
added.

9A. The Minister may by instrument in writing delegate to the Director authority to exercise the discretion of consent referred to in paragraph (e) of section twenty of this Act in any particular case, and may in similar manner cancel a delegation so conferred.

Delegation.

3. Section twenty B of the principal Act is amended by adding after the word, "offence" being the last word in subsection (2), the passage, "if the hearing took place before the expiration of a period of thirty days from and after the day of the coming into operation of the Child Welfare Act Amendment Act, 1958; but if the hearing takes place after the expiration of that period—by a Children's Court constituted by such a magistrate and also one other member of the Children's Court, but in any case the decision of the magistrate shall prevail and shall be the decision of the Children's Court".

S. 20B  
amended.

4. The principal Act is amended by adding after section forty-seven the following section—

S. 47A  
added.

47A. (1) Where it appears to the Minister that a person has, whether before or after the coming into operation of the Child Welfare Act Amendment Act, 1958, placed a child in the care of another person or of a body but that maintenance for the child is not being paid to that other person or body by the person responsible for payment of the maintenance, the Minister may, by written order signed by him, commit the child to the care of the Department.

Authority for  
Minister  
to commit  
child to the  
care of the  
Department.

(2) Unless modified or cancelled on appeal brought under this section, an order made under subsection (1) of this section has effect according to its tenor.

(3) Before the Minister makes an order under subsection (1) of this section in respect of a child, the person responsible for placing the

child in the care of such person or body and the person responsible for payment of the maintenance and the parents of the child shall, if the whereabouts of such persons and parents are known or can be ascertained by reasonable inquiry, be notified by the Minister that he proposes to make the order, unless they show or any one or more of them shows, within such time as is specified in the notification, good cause why he should not do so.

(4) The Minister shall consider such representations, if any, as such persons or parents make as to why he should not make the order.

(5) A parent of a child in respect of whom an order made under subsection (1) of this section is in force or the person responsible as aforesaid for placing the child in the care of such firstmentioned person or body may make application to a Children's Court for cancellation of the order and the release of the child from the care of the State and the Court may grant the application unconditionally or subject to such conditions as in the circumstances of the case the Court considers just, and the Court's decision on the application shall be final and conclusive.

S. 49  
amended.

5. Section forty-nine of the principal Act is amended by deleting the word, "female" in line two.

S. 77  
amended.

6. Section seventy-seven of the principal Act is amended by adding after subsection (2) the following subsection—

(2a) In order to resolve any doubt which, but for the enactment of this subsection might arise, it is hereby expressly enacted that neither a committal under subsection (2) of this section of a person to prison, nor service by a person of the whole or any part of a term of imprisonment for which he was so committed, shall satisfy any part of his liability under a

maintenance order made under this Act but he shall not be liable to further imprisonment in respect of the same default.

7. Section one hundred and six of the principal Act is amended by adding after the word, "material" in line two of subsection (3), the words, "or educational".

S. 106  
amended.

8. Section one hundred and twenty-one of the principal Act is amended—

S. 121  
amended.

- (a) by adding after the word, "hearing" in line one, the words, "in a Children's Court or before Justices"; and
- (b) by adding after the word, "child" in line two and again in line five, the words, "or ward".

9. The principal Act is amended by adding after section one hundred and thirty-one the following section—

S. 131A  
added.

131A. (1) Where a maintenance order has been made under section sixty-nine of this Act by a Children's Court and payment into the court has been ordered, the Clerk of the Court at the request of the Director or an officer of the Department, shall issue his certificate stating the amount due under the order at the date of the certificate, but if payment is ordered to be made to the Department the Director or an officer of the Department may issue a certificate stating the amount due under the order at the date of the certificate.

Enforcement  
of payment  
of arrears of  
maintenance  
order in  
court of  
competent  
jurisdiction.  
Cf. Deserted  
Wives and  
Children  
Act, 1961 as  
amended,  
N.S.W.,  
s. 13A.

(2) Where money payable under the maintenance order so made is payable to a person or body other than the Department, that person or body may request the Director to cause a certificate mentioned in subsection (1) of this section to issue, and in the name of the Department to cause proceedings to be taken under this section on behalf of the person or body for recovery of the amount stated in the certificate, and the Director may comply with the request.

(3) The Director or an officer of the Department may, either on behalf of the Department, or on behalf of a person or body referred to in subsection (2) of this section, file or cause a certificate so issued to be filed in a local court if the amount shown in the certificate is within the jurisdiction of a local court, or otherwise in the Supreme Court, and the clerk of the local court or, as the case may be, the appropriate officer of the Supreme Court, shall enter judgment for the Department for the amount stated to be due in the certificate together with the amount of such fees, if any, as are paid for the certificate and for filing it and entering judgment.

(4) A judgment so entered may be enforced in any manner in which a final judgment in an action in the local court or, as the case may be, in the Supreme Court may be enforced.

(5) Rules of court may be made to prescribe the practice and procedure in the Supreme Court and in local courts to be observed in connection with the filing of certificates and entering of judgments in pursuance of this section and the fees to be paid.

S. 146C  
added.

10. The principal Act is amended by adding after section one hundred and forty-six B the following section—

Exemption  
from  
personal  
liability.

146C. A person who occupies or has occupied the office of Minister, Director, or officer of the Department, or who otherwise carries out or has carried out any duty or function under this Act, is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred or which purports to be conferred, or the carrying out of any duty imposed or which purports to be imposed, by this Act.