



ANNO VICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1976

No. 111 of 1976

An Act to amend the Community Welfare Act, 1972-1975.

[Assented to 16th December, 1976]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Community Welfare Act Amendment Act, 1976".

(2) The Community Welfare Act, 1972-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Community Welfare Act, 1972-1976".

Commence-
ment.

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

Amendment of
principal Act,
s. 4—
Arrangement.

3. Section 4 of the principal Act is amended—

(a) by striking out the item:

Subdivision 6—Licensed Child Care Centres and inserting in lieu thereof the items:

Subdivision 6—Licensed Child Care Centres and Approved Family Day-Care Premises

Subdivision 6a—Licensed Baby-Sitting Agencies;

(b) by striking out the item:

Subdivision 7—Protection of Children;

and

(c) by inserting after the item:

Subdivision 8—Miscellaneous

the item:

DIVISION III—THE PROTECTION OF CHILDREN

Subdivision 1—Establishment of Regional Panels

Subdivision 2—Notification of Maltreatment

Subdivision 3—Offences against Children

Subdivision 4—Temporary Custody of Children

4. Section 6 of the principal Act is amended—

Amendment of
principal Act,
s. 6—
Interpretation.

(a) by inserting in subsection (1) after the definition of “assessment centre” the following definition:—

“baby-sitting agency” means any person or body of persons that—

(a) carries on a business in the course of which persons are employed for the purpose of caring for children, in their own homes, in the temporary absence of their parents or guardians;

or

(b) carries on the business of introducing to the parents or guardians of children persons who are prepared to care for the children, in their own homes, in the temporary absence of their parents or guardians;;

and

(b) by striking out from the definition of “children’s home” in subsection (1) the passage “under the age of fifteen years”.

5. Section 13 of the principal Act is amended by striking out subsection (2) and inserting in lieu thereof the following subsection:—

Amendment of
principal Act,
s. 13—
Appointment
of advisory
committee.

(2) A committee so appointed shall consist of a chairman and such other members as the Minister thinks fit.

6. Section 40 of the principal Act is amended by striking out paragraph (b) of subsection (6) and inserting in lieu thereof the following paragraph:—

Amendment of
principal Act,
s. 40—
Temporary
custody
of child.

(b) at any time prior to the expiration of that period if—

(i) the parent or guardian, upon whose request the child was received into the care and control of the Minister, applies for the discharge of the child;

(ii) the Minister or the Director-General directs that the child be discharged;

or

(iii) the child, if he is over the age of fifteen years, applies to be discharged.

7. Section 49 of the principal Act is amended—

Amendment of
principal Act,
s. 49—
Discharge
of child
from care
and control
of Minister.

(a) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) A parent of a child who is under the care and control of the Minister may apply in the prescribed form to the Minister for an order—

(a) that the child be discharged from the care and control of the Minister;

or

(b) that the child be placed in the care or custody of the applicant.;

and

(b) by striking out subsection (7) and inserting in lieu thereof the following subsection:—

(7) Upon the hearing of an appeal under this section, the court may order that the child in respect of whom the appeal was instituted—

(a) be discharged from the care and control of the Minister;

or

(b) be placed in the care or custody of the applicant.

Amendment of principal Act, s. 61—
Licensed Children's Homes.

8. Section 61 of the principal Act is amended by striking out from subsection (1) the passage "under the age of fifteen years".

Repeal of heading of principal Act and enactment of heading in its place.

9. The heading immediately preceding section 66 of the principal Act is repealed and the following heading is enacted and inserted in its place:—

Subdivision 6—Licensed Child Care Centres and Approved Family Day-Care Premises

Amendment of principal Act, s. 69—
Register.

10. Section 69 of the principal Act is amended by striking out the passage "child care centre" and inserting in lieu thereof the passage "child care centre, or the occupier of approved family day-care premises".

Amendment of principal Act, s. 70—
Powers of entry and inspection.

11. Section 70 of the principal Act is amended—

(a) by inserting in subsection (1) after the passage "licensed child care centre" the passage "or approved family day-care premises";

and

(b) by inserting in subsection (2) after the passage "child care centre" the passage "or the occupier of approved family day-care premises".

Amendment of principal Act, s. 71—
Family day-care premises.

12. Section 71 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) The Director-General may, on the application of any person, approve premises—

(a) that are not required to be licensed under this Act;
and

(b) in which the applicant proposes, for monetary or other consideration, to care for not more than three children under the age of six years in a family environment apart from their parents or relatives,

as family day-care premises.;

and

(b) by inserting after subsection (4) the following subsection:—

(5) A person may care for children in approved family day-care premises who have been placed in his care—

(a) in pursuance of a family day-care programme conducted by the Director-General;

or

(b) in pursuance of private arrangements made by the parents or guardians of the children.

13. The following heading and sections are enacted and inserted in the principal Act after section 71 thereof:—

Enactment of heading and ss. 71a, 71b and 71c of principal Act—

Subdivision 6a—Licensed Baby-Sitting Agencies

71a. (1) No person shall—

Licensing of baby-sitting agencies.

(a) carry on business as a baby-sitting agency;

or

(b) hold himself out to the public as a baby-sitting agency,

unless he is licensed as a baby-sitting agency under this section.

Penalty: Two hundred dollars.

(2) The Director-General may grant a licence under this section subject to such terms and conditions as he thinks fit and specifies in the licence.

(3) A licence shall, subject to this Subdivision, remain in force for a period of twelve months from the day on which it was issued, and may be renewed for successive periods of twelve months.

(4) A person who contravenes any condition upon which a licence is granted under this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

71b. (1) Where the Director-General is satisfied that proper cause for cancellation of a licence under this subdivision exists, he may, by notice in writing served personally or by post upon the licensee, cancel the licence.

Cancellation of licence.

(2) The Director-General shall not cancel a licence under this subdivision unless, at least twenty-eight days before he does so, he has informed the licensee by notice in writing served personally or by post upon him, of his intention to cancel the licence.

(3) The licensee may, at any time within twenty-one days after service of a notice under subsection (2) of this section, appeal to the Minister against the proposed cancellation of the licence.

(4) The Minister may, upon consideration of any such appeal, revoke the decision of the Director-General to cancel the licence.

71c. (1) A licensed baby-sitting agency shall maintain such records as may be prescribed.

Records, etc.

Penalty: Two hundred dollars.

(2) A licensed baby-sitting agency shall, if so required by the Director-General, or an officer of the Department authorized in writing by him, produce for inspection the records that the agency is required to maintain under this section and shall furnish the Director-General or authorized officer with such other information relating to the activities of the agency as he may require.

Penalty: Two hundred dollars.

Repeal of heading and ss. 72 and 73 of principal Act.

14. Sections 72 and 73 of the principal Act and the heading preceding those sections are repealed.

Enactment of s. 75 of principal Act—

15. The following section is enacted and inserted in the principal Act immediately after section 75 thereof:—

Restriction upon child-minding advertisements.

75a. No person shall by public advertisement represent that he is prepared, for monetary or other consideration, to mind, look after or care for children under the age of six years away from their ordinary homes unless the premises that he proposes to use for the purpose are licensed or approved under this Act.

Penalty: Two hundred dollars.

Enactment of Division III of Part IV of principal Act—

16. The following Division is enacted and inserted in Part IV of the principal Act immediately after section 82 thereof:—

DIVISION III—THE PROTECTION OF CHILDREN

Subdivision 1—Establishment of Regional Panels

Establishment of regional panels.

82a. (1) For the purposes of this Division the Minister may divide the State into such regions as he thinks expedient.

(2) In relation to each such region, the Minister shall establish a regional panel consisting of the following members:—

- (a) one person nominated by the Director-General;
- (b) one person nominated by the Mothers and Babies' Health Association Incorporated;
- (c) one person experienced in child psychiatry nominated by the Director-General of Medical Services;
- (d) one person nominated by the Commissioner of Police;
- and
- (e) one legally qualified medical practitioner.

(3) A member of a regional panel shall hold office at the pleasure of the Minister.

(4) A member of a regional panel shall be appointed by the Minister to be chairman of the panel.

(5) A member of a regional panel shall be entitled to such allowances as may be determined by the Minister.

Procedure of the panel.

82b. (1) A decision in which a majority of members of a regional panel concur shall be a decision of the panel.

(2) Subject to any direction of the Minister, the procedure of a regional panel shall be as determined by the panel.

82c. The functions of a regional panel are as follows:—

Functions of regional panel.

- (a) to receive and consider notifications of maltreatment of children;
 - (b) to decide upon the appropriate action to be taken in each case of maltreatment;
 - (c) to keep all cases under regular review;
 - (d) to carry out, or assist in, research in relation to the maltreatment of children;
 - (e) to compile and maintain statistical data in relation to the maltreatment of children;
 - (f) to identify the services within its region that are involved in the prevention, treatment or management of cases of maltreatment of children, and to make effective use of those services in appropriate cases;
 - (g) to promote the development of those services and such new services as the panel considers desirable;
 - (h) to disseminate information amongst the community relating to the maltreatment of children;
- and
- (i) such other functions as may be prescribed.

Subdivision 2—Notification of Maltreatment

82d. (1) Where a person suspects on reasonable grounds that an offence under this Division has been committed against a child, that person—

Notification of maltreatment.

- (a) if he is not obliged to comply with this section—may notify an officer of the Department of his suspicion;
- or
- (b) if he is obliged to comply with this section—shall notify an officer of the Department of his suspicion,

as soon as practicable after he forms the suspicion.

(2) The following persons are obliged to comply with this section—

- (a) any legally qualified medical practitioner;
 - (b) any registered dentist;
 - (c) any registered or enrolled nurse;
 - (d) any registered teacher;
 - (e) any member of the police force;
 - (f) any employee of an agency established to promote child welfare or community welfare;
- or
- (g) any person of a class declared by regulation to be a class of persons to which this section applies.

(3) Any such notification must be accompanied by a statement of the observations and opinions upon which the suspicion is based.

(4) An officer of the Department who has received any such notification shall as soon as practicable report the matter to the regional panel constituted for the region in which the offence is alleged to have been committed.

(5) Where a person acts in good faith and in compliance or purported compliance with the provisions of this section, he incurs no civil liability in respect of that action.

Subdivision 3—Offences against Children

Offences
against
children.

82e. (1) Any person having the care, custody, control or charge of a child, who maltreats or neglects the child, or causes the child to be maltreated or neglected, in a manner likely to subject the child to unnecessary injury or danger shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars or imprisonment for a period not exceeding twelve months.

(2) Proceedings for an offence against this section shall not be commenced except upon the authorization of a regional panel.

(3) An apparently genuine document purporting to be under the hand of a member of a regional panel, and to certify that the commencement of specified proceedings has been authorized by the panel, shall be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the matter so certified.

Subdivision 4—Temporary Custody of Children

Temporary
custody of
children.

82f. Where—

(a) a child has been admitted into a hospital or prescribed institution;

and

(b) the person in charge of that hospital or institution suspects upon reasonable grounds that an offence against this Division has been committed in relation to the child,

it shall be lawful for the child to be detained against the will of a parent, guardian, or person claiming to be entitled to the custody of the child, in the hospital or institution for a period not exceeding ninety-six hours.

Enactment of
s. 90 of
principal Act—

17. The following section is enacted and inserted in the principal Act immediately after section 89 thereof:—

Carrying on
of business,
trade or
industry.

90. (1) The Minister may, upon land to which this section applies, carry on any business, trade or industry with a view to passing control of the business, trade or industry to Aboriginal people at some later date.

(2) This section applies to land that presently constitutes, or has previously constituted, an Aboriginal reserve.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. NICHOLLS, Governor