



ANNO QUINTO

## GEORGI VI REGIS.

A.D. 1941.

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### No. 44 of 1941.

An Act to amend the Maintenance Act, 1926-1937,  
and for other purposes.

[Assented to 27th November, 1941.]

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

1. (1) This Act may be cited as the "Maintenance Act  
Amendment Act, 1941". Short titles.

(2) The Maintenance Act, 1926-1937, as amended by this  
Act, may be cited as the "Maintenance Act, 1926-1941".

(3) The Maintenance Act, 1926-1937, is hereinafter called  
the "principal Act".

2. This Act is incorporated with the principal Act and that Incorporation.  
Act and this Act shall be read as one Act.

3. Section 5 of the principal Act is amended—

(a) by inserting before the word "father" in the eighth  
line of the definition of "near relative" the words  
"husband, wife,"; and

Amendment of  
s. 5 of  
principal Act—  
Definition  
of near  
relative and  
uncontrolled  
child.

(b) by adding at the end thereof the following definition :—

"uncontrolled child" means a child who, owing to the  
absence or insufficiency of control and supervision  
by parents or guardians, has acquired or is likely  
to acquire habits of immorality, vice, or crime.

4. Section 23 of the principal Act is repealed.

Repeal of s. 23  
of principal  
Act.

Amendment  
of s. 24 of  
principal Act—  
Recovery of  
cost of relief  
from relatives.

5. Section 24 of the principal Act is amended—

- (a) by striking out in the second line of subsection (1) thereof the words “or to the wife and child of any person”:
- (b) by inserting after the word “husband” in the fourth line of subsection (1) thereof the word “wife”:
- (c) by striking out the words “such officer” in the fifth line of subsection (2) thereof and inserting in lieu thereof the words “to the board”:
- (d) by striking out the words “the past relief of such person” at the end of subsection (2) thereof and inserting in lieu thereof the words “such relief”:
- (e) by adding at the end thereof the following subsection:—
  - (3) A complaint against a person under this section may relate to relief which has been given to two or more persons of whom the defendant is a near relative.

Enactment of  
s. 48a of  
principal Act—

6. The following section is hereby enacted and inserted in the principal Act after section 48 thereof:—

Complaints in  
respect of  
maintenance  
of two or more  
children.

48a. (1) Where a person is a near relative of two or more children, a complaint under this Division may be made against that person in relation to the maintenance of all or any of the children; and the court may, upon such complaint, make orders of the kind mentioned in section 48 for the payment of money for the maintenance of all or any of the children: Provided that a separate order shall be made in respect of each child for whose maintenance a payment is ordered.

(2) A complaint under this section may be made against any number of persons alleged to be liable for the maintenance of the same children.

Repeal and  
re-enactment  
of s. 67 of  
principal Act—

7. Section 67 of the principal Act is repealed and the following section is enacted and inserted in lieu thereof:—

Constitution  
of Court.

67. (1) Except as provided by section 75 every application under this Division shall be heard and determined by a court of summary jurisdiction constituted of a special magistrate, unless one of the parties has, in the manner hereinafter mentioned, demanded that the court shall be constituted of a special magistrate and two justices.

If such a demand is duly made the court shall be constituted in accordance therewith.

(2) A demand that a court shall be constituted of a special magistrate and two justices—

(a) if made by the complainant shall be set out in writing in the complaint ; and

(b) if made by the defendant shall be made by notice filed with the clerk of the court before which the defendant has been summoned to appear, at least two clear days before the day appointed for the hearing.

(3) Where a court hearing any application under this Division is constituted of a special magistrate and two justices, the decision of the special magistrate, concurred in by one justice, shall be taken to be the decision of the whole court.

8. Section 91 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsections :—

Amendment  
of s. 91 of  
principal Act—  
Failure to  
comply with  
orders.

(1a) Where the court orders a person to be committed to gaol under subsection (1) of this section, it may order that the issue of the warrant of commitment shall be suspended upon the conditions that the defendant makes such payments in respect of the arrears owing under the maintenance order as are specified by the court, and duly pays all sums becoming payable under the maintenance order after the said order for commitment.

(1b) Where the court has ordered that the issue of a warrant of commitment shall be suspended as provided in subsection (1a) of this section, the complainant may apply to any justice for the issue of the warrant ; and upon proof that the defendant has made default in compliance with any of the conditions upon which the issue of the warrant was ordered to be suspended, the justice shall issue the warrant of commitment.

9. Section 100 of the principal Act is amended by striking out the words “ uncontrollable, or incorrigible ” in the seventh line and inserting in lieu thereof the word “ uncontrolled ”.

Amendment  
of s. 100 of  
principal Act—  
Consequential  
amendment.

10. Section 103 of the principal Act is amended—

(a) by striking out the words “ uncontrollable or incorrigible ” in the third line and inserting in lieu thereof the word “ uncontrolled ” ;

Amendment  
of s. 103 of  
principal Act—  
Uncontrolled  
children, how  
dealt with.

(b) by striking out in paragraphs (a) and (b) thereof in each case the words “ or for such lesser period as the court may order ”.

Amendment  
of principal  
Act, s. 105—  
Liability of  
guardian.

11. Section 105 of the principal Act is amended by striking out the words "uncontrollable, or incorrigible" occurring in the third and sixth lines and inserting in lieu thereof in each case the words "or uncontrolled".

Amendment of  
s. 108 of  
principal Act—  
Consequential  
amendment.

12. Section 108 of the principal Act is amended by striking out the words "uncontrollable or incorrigible" in the second line and inserting in lieu thereof the word "uncontrolled".

Amendment  
of s. 110 of  
principal Act—  
Consequential  
amendment.

13. Section 110 of the principal Act is amended by striking out the words "uncontrollable or incorrigible" at the end of subsection (1) thereof and inserting in lieu thereof the word "uncontrolled".

Amendment  
of s. 111 of  
principal Act—  
Consequential  
amendment.

14. Section 111 of the principal Act is amended by striking out the word "uncontrollable" in the third line thereof and inserting in lieu thereof the word "uncontrolled".

Amendment  
of s. 112 of  
principal Act—  
Consequential  
amendment.

15. Section 112 of the principal Act is amended by striking out the word "uncontrollable" in the first and second lines thereof and inserting in lieu thereof the word "uncontrolled".

Amendment of  
s. 113 of  
principal Act—  
Period of  
control of  
convicted  
children.

16. Section 113 of the principal Act is amended by striking out in paragraph (a) of subsection (1) thereof the words "or for such lesser period as the court in its discretion deems proper".

Repeal of  
s. 117 of  
principal Act.

17. Section 117 of the principal Act is repealed.

Enactment of  
s. 122a of  
principal Act—  
Transfer of  
children to  
custody of  
Comptroller of  
Prisons.

18. The following section is enacted and inserted in the principal Act after section 122 thereof:—

122a. (1) Where the board is satisfied that any child who has been placed in an institution has shown by his conduct that he is so unruly or depraved that he is not a suitable person to be detained in an institution, the Governor may, on the recommendation of the board, order that the child be transferred to the custody of the Comptroller of Prisons.

(2) Upon any child being so transferred, the Comptroller of Prisons may detain him in any prison which the said Comptroller deems suitable, for the balance of the period for which he might have been detained in an institution, or until he is released according to law.

Amendment of  
s. 163 of  
principal Act—  
Licences to  
keep lying-in  
home.

19. Section 163 of the principal Act is amended by striking out the words "such premises are licensed by the board for that purpose" and inserting in lieu thereof the words "that person is licensed to keep that building or apartment as a lying-in home".

20. Section 165 of the principal Act is amended by striking out the words "in respect of any buildings or apartments kept or used, or intended to be kept or used", and inserting in lieu thereof the words "authorizing the person therein named to keep or use any building or apartment therein named".

Amendment of s. 165 of principal Act—  
Grant of licence to keep lying-in home.

21. Section 166 of the principal Act is amended by striking out the words "such building or apartment is licensed by the board for that purpose" and inserting in lieu thereof "that person is licensed to keep that building or apartment as a lying-in home".

Amendment of s. 166 of principal Act—  
Penalty for keeping lying-in home without licence.

22. The forms numbered 8, 11, and 12 in the second schedule to the principal Act are amended as follows:—

Consequential amendment of forms.

- (a) The words "uncontrollable (or incorrigible)" in Form No. 8 are struck out and the word "uncontrolled" inserted in lieu thereof;
- (b) The words "Uncontrollable or Incorrigible" in the heading of Form No. 11 and the words "uncontrollable (or incorrigible)" in the body of that form are struck out and the word "uncontrolled" is inserted in lieu thereof in each case;
- (c) The words "uncontrollable, etc.," in the heading to Form No. 12 are struck out and the word "Uncontrolled" is inserted in lieu thereof.

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

G. J. R. MURRAY, Deputy Governor.