

No. 17, 1939.

- (3) All regulations shall—
- (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the regulations; and
 - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

PART XIX.

ADOPTION OF CHILDREN.

162. In this Part, unless the context otherwise requires—

Interpretation.

cf. Act No. 21, 1923, s. 123.

“ Adopted child ” means person in respect of whom an order of adoption has been made.

“ Adopting parent ” means any person who by an order of adoption under the provisions of this Part has adopted a child or other person, and in case of any such order being made in favour of a husband and wife on their joint application, includes both husband and wife.

“ Court ” means Supreme Court in its equitable jurisdiction.

163. (1) Applications under this Part may be made to the court by—

Who may apply.

cf. *Ibid.* ss. 124, 125.

- (a) husband and wife jointly;
- (b) a married woman;
- (c) a married man;
- (d) any other person of or above the age of twenty-one years;

(e)

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(e) the Minister on behalf of any person within any of the foregoing classes who has given to him an authority in writing to make the application.

(2) In the case of an application made by or on behalf of a married woman or a married man, the consent in writing of the spouse of the applicant shall be furnished except where the applicant is living apart from such spouse.

(3) Any applicant may be represented by counsel or attorney at the hearing of the application.

164. (1) The court may, in the form prescribed by rules of court make an order for adoption of any child in favour of the person by whom or on whose behalf the application was made.

Court may make order. Act No. 21, 1923, ss. 124, 125.

(2) The court may make an order of adoption in favour of the person by whom or on whose behalf the application was made in respect of a person who has reached the age of sixteen years but has not reached the age of twenty-one years if the court is of opinion that good reasons exist to justify such order.

Adoption of person over sixteen years of age.

165. (1) Applications under this Part of this Act may be heard by the court in open court or in public or private chambers.

Hearing of applications. cf. *Ibid.* s. 125A.

(2) At the hearing of any application under this Part of this Act, the court may order that any person other than the parties thereto and the persons representing them upon the application, shall be excluded from the court-room or other place of hearing.

166. (1) For all purposes connected with any application under this Part of this Act, the Minister may be represented by an officer of the Child Welfare Department who is authorised in that behalf by an instrument in writing in or to the effect of the form prescribed by rules of court.

Minister may be represented by officer appointed therefor. cf. *Ibid.* s. 125B.

(2) The authority may authorise the person so appointed to represent the Minister either generally in applications under this Part of this Act or for the purposes of any particular application.

(3) The instrument shall be lodged in the office of the Master in Equity, and where the authority authorises the officer to represent the Minister generally shall

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shall remain in force until revoked by another instrument under the hand of the Minister lodged in the said office.

(4) The court shall take judicial notice of the signature of the Minister to any such instrument as is mentioned in this section.

Matters to be proved before order made. cf. Act No. 6, 1896, s. 5 (W.A.). Act No. 21, 1923, s. 126.

167. An order of adoption shall not be made unless the court is satisfied—

- (a) that the person in whose favour it is proposed that the order should be made is of good repute and a fit and proper person to have the care of the child or person proposed to be adopted and of sufficient ability to maintain, clothe, support, train and educate the child or person proposed to be adopted; and
- (b) that the welfare and interest of the child or person proposed to be adopted will be promoted by the adoption; and
- (c) if the child or person proposed to be adopted is over the age of twelve years, that the child or person consents to the adoption; and
- (d) that the parents of the child or person proposed to be adopted or such one of them as is living consent or consents to the adoption, or if the child or person proposed to be adopted is illegitimate that the mother consents to the adoption, or if the child or person proposed to be adopted has a guardian, that such guardian consents to the adoption:

Provided that the court may dispense with the consent referred to in paragraph (c) or in paragraph (d) of this section where, having regard to the circumstances, the court deems it just and reasonable so to do.

Effect of order. cf. Act No. 6, 1896, ss. 7, 8 (W.A.). Act No. 21, 1923, s. 127.

168. When an order of adoption is made, for all purposes civil and criminal, and as regards all legal and equitable rights and liabilities, the adopted child shall be deemed to be a child of the adopting parent, and the adopting parent shall be deemed to be a parent of the adopted child, as if such child had been born to such adopting parent in lawful wedlock, and the order of adoption

adoption shall terminate all rights and liabilities existing between the child and his natural parents other than the right of the child to take property as heir or next of kin of his natural parents or of their lineal or collateral kindred:

Provided always that such adopted child shall not by such adoption—

- (a) acquire any right, title, or interest in any property under any deed, will, or instrument whatsoever made or executed prior to the date of such order of adoption unless it is expressly so stated in such deed, will, or instrument;
- (b) be entitled to take any property limited to the heirs of the body of the adopting parent;
- (c) be entitled to take any property as next of kin to any lineal or collateral kindred of the adopting parent;
- (d) be entitled to take any property as next of kin to any child of the adopting parent.

169. When an order for adoption is made the adopted child shall take the surname of the adopting parent in substitution for his own surname.

Child to take surname of adopting parent.
cf. Act No. 6, 1896, s. 10 (W.A.); Act No. 69, 1924, s. 2F; Act No. 21, 1923, s. 12B.

170. The court, on the application of an adopting parent or of a reputable person on behalf of an adopted child, may vary or discharge any order of adoption subject to such terms and conditions as it thinks fit.

Order may be reversed.
cf. Act No. 86, 1908, s. 22 (N.Z.).

When an order of adoption is discharged, then, subject to the conditions, if any, named in the discharging order, the child or person in respect of whom the order of adoption was made and his natural parents shall be deemed for all purposes to be restored to the same position inter se as existed immediately before the order of adoption was made:

Provided that such restoration shall not affect anything lawfully done whilst the order of adoption was in force.

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Receipt of premium unlawful.
cf. Act No. 86, 1908, s. 20 (N.Z.).

Registrar-General shall register orders of adoption.
cf. Act No. 21, 1923, s. 125A.

Power to make rules.
Ibid. s. 129.

171. It shall not be lawful for any person adopting a child under this Part to receive any premium or other consideration in respect of such adoption except with the consent of the court.

172. The Registrar-General shall register orders of adoption in the manner for the time being prescribed by rules of court.

173. The judges of the Supreme Court or any three of them may make rules for carrying into effect the provisions and objects of this Part, and for providing for the registration of orders of adoption and the payment of fees, and for regulating the costs chargeable by solicitors in connection with applications under this Part, and for preventing the publication of the names of the child or person proposed to be adopted and the applicant or either of them in cases in which such publication would be inexpedient:

Provided that all rules made under this section shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the rules; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect.

PART XX.

No. 17, 1933.

AMENDMENT OF VARIOUS ACTS.

DIVISION 1.—*Amendment of Interstate Destitute Persons Relief Act, 1919.*

174. The Interstate Destitute Persons Relief Act, 1919, is amended by inserting next after subsection one of section sixteen the following new subsection:—

Amend-
ment of
Act No. 33,
1919, s. 16.

(1A) Where the order so made enforceable in this State is an order which, if made in this State, might have been made under—

(a) the Deserted Wives and Children Act, 1901-1939; or

(b) the Child Welfare Act, 1939,

the provisions of such Act relating to the enforcement of orders shall, mutatis mutandis, apply to and in respect of the order so made enforceable in this State.

DIVISION 2.—*Amendment of Deserted Wives and Children Act, 1901-1931.*

175. (1) The Deserted Wives and Children Act, 1901-1931, as amended by subsequent Acts, is amended—

Amendment of
Act No. 17,
1901.

(a) by inserting at the end of subsection two of section six the following new paragraph:—

Sec. 6.
(Justices
may proceed
ex parte.)

The inquiry and search made for the defendant may be proved orally or by the affidavit of the person who made such inquiry and search.

(b) by omitting from subsection two of section eleven the words “four shillings” wherever appearing and by inserting in lieu thereof the words “ten shillings”;

Sec 11.
(Disobed-
ence of
orders.)

(c) (i) by inserting in subsection one of section twenty-one after the word “direct” the words “to the Director of the Child Welfare Department and”;

Sec. 21.
(Variation
of orders.)

(ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—

(2) An application under this section shall be heard and determined by justices sitting

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sitting at a place agreed upon by the parties or at the place where the order the subject of the application was made:

Provided that the justices may postpone the hearing of the application and direct that it shall be heard and determined by justices sitting at some other place specified by them and appoint a day for the hearing.

(2) The Deserted Wives and Children Act, 1901-1931, as amended by subsequent Acts including this Act, may be cited as the Deserted Wives and Children Act, 1901-1939.

DIVISION 3.—Amendment of the Criminal Appeal Act of 1912.

Amendment
of Act No.
16, 1912.
Sec. 5B.
(Case stated
from Quarter
Sessions.)

176. The Criminal Appeal Act of 1912 as amended by subsequent Acts is amended by omitting from section 5B the words “A court of quarter sessions may submit any question of law arising on any appeal coming before it” and by inserting in lieu thereof the words “A chairman of quarter sessions may submit any question of law arising on any appeal to a court of quarter sessions coming before him.”

DIVISION 4.—Amendment of Public Instruction (Amendment) Act, 1916.

Amendment
of Act No.
51, 1916.

177. The Public Instruction (Amendment) Act, 1916, is amended—

Sec. 2.
(Interpre-
tation.)

(a) by omitting from subsection one of section two the definition of “The Court” and by inserting in lieu thereof the following definition:—

“The Court” means a children’s court established under the Child Welfare Act, 1939, and includes a stipendiary or police magistrate or justices exercising the jurisdiction of a children’s court.

Sec. 4.
(Compulsory
attendance
at school.)

(b) (i) by omitting from subsection one of section four the word “seven” and by inserting in lieu thereof the word “six”;

(ii)

- (ii) by omitting from subsection two of the same section the word "seven" and by inserting in lieu thereof the word "six";
- (iii) by omitting paragraph (a) of subsection four of the same section;
- (iv) by inserting in paragraph (c) of the same subsection after the word "Minister" the words "or any officer authorised by him";
- (c) (i) by inserting in section six after the word "Minister" the words "or any officer authorised by him"; No. 17, 1939.
Sec. 6.
(Exemption certificates.)
- (ii) by inserting at the end of paragraph (c) of the same section the following word and new paragraph:—
- or
- (d) that the child is of the age of thirteen years or more, and has received a certificate in the form of Schedule One, and that the home conditions are such as to warrant exemption.
- (d) (i) by inserting in subsection one of section eight after the words "it may" the words "release the child on probation on such terms and conditions as may be applicable under the Child Welfare Act, 1939, to a neglected or uncontrollable child or young person or juvenile offender released on probation under that Act, or as the court may, in any special case, think fit, and for such period of time as the court may think fit, or may"; Sec. 8.
(Truants.)
- (ii) by inserting at the end of the same section the following new subsection:—
- (5) If a child, who has been released upon probation, breaks or is reasonably suspected of having broken the terms or conditions of his release, the court at any time by notice given in such manner as the court shall direct, to the parent or guardian of such child, or to the child himself, may direct that such child appear or be brought before

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before such court at a time and place named in the notice; and if such child does not so appear or is not so brought before the court, it may issue a summons for the appearance of such child, or if the circumstances so require issue a warrant for the apprehension of such child.

If it be proved that such breach has occurred, the court may deal with the child in the same manner as if he had not been released upon probation.

Sec. 9.
(Recovery
of cost
of main-
tenance of
child in an
institution.)

(e) by omitting from subsection two of section nine the words and figures "the Infant Protection Act, 1904," and by inserting in lieu thereof the words and figures "Part XII of the Child Welfare Act, 1939";

Sec. 10.
(Registra-
tion of
schools.)

(f) (i) by omitting from subsection one of section ten the word "seven" and by inserting in lieu thereof the word "six";
(ii) by omitting from subsection two of the same section the word "seven" and by inserting in lieu thereof the word "six";

Sec. 14.
(Form of
return to be
filled in by
parent.)

(g) by omitting from section fourteen the word "seven" and by inserting in lieu thereof the word "six";

Sec. 15.
(Attendance
officer
authorised
by Minister
may accost
children.)

(h) by omitting from section fifteen the word "seven" and by inserting in lieu thereof the word "six";

Substituted
s. 20.

(i) by omitting section twenty, and by inserting in lieu thereof the following section:—

Proceedings.

20. (1) Any person appointed by the Minister for the purpose may in writing authorise any other person to institute and conduct proceedings or prosecutions under this Act.

(2) An averment in any complaint or information made or laid under the provisions of this Act that any person has been so appointed by the Minister and that the complainant or informant has been so authorised shall be prima facie evidence of the facts alleged.

(j)

- (j) (i) by omitting from Schedule Two the words No. 17, 1939.
 "scholars between the ages of seven" and Schedule
 by inserting in lieu thereof the words Two.
 "children between the ages of six";
- (ii) by omitting from the same Schedule the
 words "other scholars" and by inserting in
 lieu thereof the words "other children";
- (k) by omitting from Schedule Three the word Schedule
 "seven" and by inserting in lieu thereof the Three.
 word "six."

DIVISION 5.—Amendment of Venereal Diseases Act, 1918.

- 178.** The Venereal Diseases Act, 1918, is amended— Amend-
ment of
Act No. 46,
1918, s. 2.
(Defini-
tions.)
- (a) by inserting at the end of section two the fol-
 lowing definition:—
- "Young person" means a person who has
 attained the age of sixteen years and is
 under the age of eighteen years.
- (b) by inserting, in sections eleven and sixteen, after Secs. 11
 the word "child" wherever occurring the words and 16.
 "or young person."

DIVISION 6.—Amendment of Pawnbrokers Act, 1902.

- 179.** The Pawnbrokers Act, 1902, is amended— Amendment
of Act No.
66, 1902.
Sec. 24.
(Pledges not
to be taken
from
children.)
- (a) by omitting from section twenty-four the words
 "fourteen years" and by inserting in lieu
 thereof the words "sixteen years";
- (b) by omitting from the same section the words
 "ten pounds" and by inserting in lieu thereof
 the words "twenty-five pounds."

**DIVISION 7.—Amendment of Second-hand Dealers and
 Collectors Act, 1906.**

- 180.** The Second-hand Dealers and Collectors Act, Amendment
 1906, as amended by subsequent Acts, is amended— of Act No.
30, 1906.
Sec. 9.
(Old wares
not to be
purchased
from children.)
- (a) by omitting from paragraph five of section nine
 the words "fourteen years" and by inserting in
 lieu thereof the words "sixteen years";
- (b)

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Sec. 10.

(Collector's
license.)Fifth
Schedule.(Form of ap-
plication for
collector's
license.)

- (b) by omitting from subsection two of section ten the words "fourteen years" and by inserting in lieu thereof the words "sixteen years";
- (c) by omitting from the Fifth Schedule the words "fourteen years" and by inserting in lieu thereof the words "sixteen years."

DIVISION 8.—*Amendment of Crimes Act, 1900.*Amendment
of Act
No. 40, 1900.

Sec. 429.

(Sentences.
Juvenile
Offenders.)

181. The Crimes Act, 1900, as amended by subsequent Acts, is amended—

- (a) by omitting from subsection one of section four hundred and twenty-nine the words "a reformatory school under the provisions of any Act relating to reformatory schools" and by inserting in lieu thereof the words "an institution constituted and established under the Child Welfare Act, 1939."
- (b) by omitting from subsection two of section four hundred and twenty-nine the words and figures "sixty-five, sixty-six, sixty-seven and sixty-eight of the Child Welfare Act, 1923" and by inserting in lieu thereof the words and figures, "eighty-eight, eighty-nine, ninety-three and ninety-four of the Child Welfare Act, 1939."

SCHEDULES.

FIRST SCHEDULE.

Sec. 3 (1).

Date of Act.	Name of Act.	Extent of repeal.
Act No. 15, 1901	Infant Convicts Adoption Act, 1901.	The whole.
Act No. 21, 1923	Child Welfare Act, 1923 ...	The whole.
Act No. 69, 1924	Child Welfare (Amendment) Act, 1924.	The whole.
Act No. 23, 1925	Widows' Pensions Act, 1925 ...	Section 4.
Act No. 24, 1930	Government Relief Administration Act, 1930.	Section 7, sub section 2.

SECOND

SECOND SCHEDULE.

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CHILD WELFARE ACT, 1939, s. 129.

Sec. 129.

Child Welfare Department,
Education Building,
Bridge-street, Sydney.

Case No.....

..... v.
Complainant. Defendant.

To

I,

of
do hereby authorise you to pay to the Director, Child Welfare Department, on behalf of the Minister of Public Instruction, all moneys now held or hereafter received by you in pursuance of the order whereby the abovenamed
is liable to contribute towards the maintenance of his

I also authorise the Minister, in his discretion, to recoup the funds of the Child Welfare Department from the payments received in pursuance of the order to an amount not exceeding any allowances made or the cost of any services provided by that Department.

This authority is to remain in force until the Minister notifies you that he deems it no longer necessary to operate under this authority.

Signed this day of, 19..

Witness..... (Signature.)

CONVEYANCING (AMENDMENT)
ACT.

Act No. 18, 1939.

An Act to amend the Conveyancing Act, 1919-1938, in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 24th October, 1939.] George VI.
No. 18, 1939.

BE

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