

1970

VICTORIA.



ANNO UNDEVICESIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 8089.

An Act to establish a Social Welfare Department, to make Provision with respect to the Functions of that Department, to re-enact with Amendments certain Provisions of the *Children's Welfare Act* 1958, the *Gaols Act* 1958, the *Street Trading Act* 1958, the *Youth Organizations Assistance Act* 1958, and the *Social Welfare Act* 1960 and for other purposes.

[22nd December, 1970.]

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 Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Social Welfare Act* 1970 and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette* and is divided into Parts as follows:—

Part I.—Social Welfare Department ss. 5–11.

Part II.—Family Welfare Division ss. 12–85.

Division 1.—Administration and Functions ss. 12–14.

Division 2.—Family Assistance ss. 15–26.

Division

Short title
commence-
ment and
Division.

Division 3.—Children's Reception Centres and Homes ss. 27–30.

Division 4.—Admission of Children and Young Persons to the Care of the Department ss. 31–35.

Division 5.—Guardianship and Placement of Children and Young Persons admitted to the Care of the Department ss. 36–44.

Division 6.—Interstate Movement of Children and Young Persons s. 45.

Division 7.—Liability of Parents for Maintenance ss. 46–63.

Division 8.—Protection of Infants ss. 64–74.

Division 9.—Employment of Children ss. 75–80.

Division 10.—Miscellaneous Provisions ss. 81–84.

Part III.—Youth Welfare Division ss. 85–110.

Division 1.—Administration and Functions ss. 85–86.

Division 2.—Youth Advisory Council ss. 87–91.

Division 3.—Remand Centres, Youth Training Centres, Youth Hostels, and Youth Welfare Services ss. 92–94.

Division 4.—Detention of Young Persons ss. 95–99.

Division 5.—Admission of Young Persons ss. 100–104.

Division 6.—Placement and Supervision of Young Persons ss. 105–107.

Division 7.—Miscellaneous Provisions ss. 108–110.

Part IV.—Prisons Division ss. 111–145.

Division 1.—Administration and Functions ss. 111–112.

Division 2.—Constitution and Officers ss. 113–121.

Division 3.—Treatment of Prisoners ss. 122–130.

Division 4.—Offences ss. 131–142.

Division 5.—Miscellaneous ss. 143–145.

Part V.—Research and Statistics Division ss. 146–147.

Part VI.—Training Division ss. 148–152.

Division 1.—Administration and Functions ss. 148–150.

Division 2.—Social Welfare Training Council ss. 151–152.

Part

Part VII.—Probation and Parole Division ss. 153–177.

Division 1.—Interpretation s. 153.

Division 2.—Administration and Functions ss. 154–155.

Division 3.—Youth Parole Board ss. 156–177.

Part VIII.—General ss. 178–182.

Repeals and
savings.

2. (1) The Acts referred to in Schedule One to the extent thereby expressed to be repealed are hereby repealed accordingly.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under any of the repealed Acts or existing or continuing under any of such Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed ;

(b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any appointment assignment application arrangement agreement determination complaint declaration report order regulation transfer certificate notice registration permit roll security summons warrant committal surety bond or recognizance or any obligation liability or right made effected issued granted given presented passed fixed incurred accrued or acquired or existing or continuing by or under any of such Acts before the commencement of this Act.

(3) Any reference in any other Act to any of the Acts referred to in Schedule One or to any of the provisions thereof shall be read and construed as a reference to this Act or to the corresponding provisions thereof.

Interpretations.

3. In this Act unless inconsistent with the context or subject-matter—

“Child.” “Child” means a person under the age of fifteen years.

“Department.” “Department” means the Social Welfare Department established under this Act.

“Director-General.” “Director-General” means the Director-General of Social Welfare appointed or continuing in office under this Act.

“Governor”

<p>“ Governor ” means governor, keeper, gaoler, officer, or other person for the time being in charge of a prison but does not include the keeper of a police gaol or any person acting in his stead.</p>	<p>“ Governor.”</p>
<p>“ Minister ” means Minister for Social Welfare.</p>	<p>“ Minister.”</p>
<p>“ Part ” means Part of this Act.</p>	<p>“ Part.”</p>
<p>“ Prescribed ” means prescribed by the regulations.</p>	<p>“ Prescribed.”</p>
<p>“ Prisoner ” includes any person detained in custody in a prison or a police gaol irrespective of the cause of such detention.</p>	<p>“ Prisoner.”</p>
<p>“ Regulations ” means regulations made under this Act or continued in force under this Act.</p>	<p>“ Regulations.”</p>
<p>“ Superintendent ” in relation to a remand centre or youth training centre includes superintendent, officer in charge, manager, or person for the time being in charge.</p>	<p>“ Super-intendent.”</p>
<p>“ Trainee ” means a young person detained in a remand centre or youth training centre.</p>	<p>“ Trainee.”</p>
<p>“ Ward of the Social Welfare Department ” and “ ward of the Department ” mean one of whose person and estate the Director-General is guardian under the provisions of this Act.</p>	<p>“ Ward of the Social Welfare Department.”</p>
<p>“ Young person ” except where otherwise expressly provided means a person of or over the age of fifteen years and under the age of twenty-one years.</p>	<p>“ Young person.”</p>

4. Unless the context otherwise requires any reference occurring in any Act or in any Order in Council by-law regulation deed contract application list order complaint declaration transfer certificate security summons warrant bond recognizance or other instrument or any other document whatsoever—

Construction of references.
No. 6219 s. 4.

- (a) to the “ Children’s Welfare Department ” or any like expression shall be deemed and taken to refer to and mean the Department ;
- (b) to the “ Director of Children’s Welfare ” or any like expression shall be deemed and taken to refer to and mean the Director-General ;
- (c) to the “ chief probation officer ” or the “ chief parole officer ” shall be deemed and taken to refer to and mean the Director of Probation and Parole ;
- (d) to a “ neglected child ” shall be deemed and taken to refer to and mean a child or young person in need of care and protection under this Act ;

(e) to

- (e) to the "Social Welfare Branch of the Chief Secretary's Department" or the "Social Welfare Branch" or to any Division thereof shall be deemed and taken to refer to and mean the Social Welfare Department or the corresponding Division thereof (as the case requires);
- (f) to a "gaol" or any like expression shall be deemed and taken to refer to a prison; and
- (g) to a "gaoler" or "keeper of a gaol" or like expressions shall be deemed and taken to refer to the governor or officer in charge of a prison.

PART I.—SOCIAL WELFARE DEPARTMENT.

**Establishment
and
constitution of
Social Welfare
Department.**

5. (1) For strengthening and expanding all existing services provided by and through the Government of Victoria for the social welfare of the community and providing further services, for co-ordinating the activities of Government municipal and voluntary organizations engaged in social work in the community and planning the effective use of their resources, for advancing the interests of deprived or underprivileged children, young persons, and adults by modern methods and treatment, for providing and maintaining training and research facilities for or towards any of the purposes of this Act and for the better promotion and development of services organizations and institutions relating to the social welfare of the community and in particular of children and young persons there shall be a Department of State called the "Social Welfare Department" consisting of—

- (a) a Minister for Social Welfare who shall be a responsible Minister of the Crown;
- (b) a Director-General of Social Welfare; and
- (c) such other officers and employes as are necessary for the purposes of the Department.

Judicial notice.

(2) All courts judges and persons acting judicially shall take judicial notice of the signature of the Minister and the Director-General to every document authorized or required to be signed for the purposes of this Act.

**General duties
of Minister.**

6. (1) It shall be the duty of the Minister—

- (a) to exercise and perform the powers and duties conferred upon him by or under any Act or enactment the administration of which is transferred to or vested in him by this Act or in any manner referred to in this Act; and

(b) to

(b) to take such steps as he considers desirable for carrying out the objects of this Act.

(2) For the purposes of this Act the Minister may cause grants to be made to any persons organizations or institutions, whether public or private, rendering or proposing to render welfare services to the community.

7. (1) The Director-General shall—

(a) for the purposes of the *Public Service Act* 1958 be the permanent head of the Department and subject to the Minister shall have the responsibility of administering the Department ; and

(b) be an officer in the First Division of the public service in addition to the other officers therein.

(2) In the Second Schedule to the *Public Service Act* 1958—

(a) in the first column after the words “ Local Government Department ” there shall be inserted the words “ Social Welfare Department ” ; and

(b) in the second column after the words “ Secretary for Local Government ” there shall be inserted the words “ Director-General of Social Welfare ”.

Director-General to be permanent head.

Consequential amendment of No. 6349.

8. (1) On the commencement of this Act such officers and employes of the public service, who are employed in the Chief Secretary's Department or any other Government Department in or in connexion with the administration of any Act or enactment the administration of which is vested in the Minister by this Act, as the Governor in Council upon the recommendation of the Public Service Board determines shall be transferred from the Chief Secretary's Department or such other department (as the case requires) and attached to the Social Welfare Department and shall be deemed to have been appointed to corresponding offices and positions therein.

Transfer of certain officers &c. to Social Welfare Department.

(2) No officer or person shall by reason of the operation of the provisions of this Part be in any worse position with regard to accrued or accruing rights relating to tenure of office salary long service leave pensions or superannuation than he would have been if this Act had not been passed.

9. (1) On and from the commencement of this Act the administration of the Acts and enactments mentioned in Schedule Two (except so far as any Minister other than the Chief Secretary is charged with the administration of any provision of any such Act or enactment immediately prior to the said commencement) shall be transferred to and vested in the Minister for Social Welfare who shall have all the powers and duties of the Minister thereunder.

Transfer of administration of certain Acts.

(2) Any

(2) Any reference in any Act or enactment mentioned in Schedule Two to the Chief Secretary (however expressed) shall after the commencement of this Act be deemed to be a reference to the Minister for Social Welfare.

(3) In connexion with the transfer of the administration of any Act or enactment pursuant to this section the following provisions shall have effect :—

(a) In the construction of any Act judgment decree order award deed contract regulation by-law or other instrument or document passed or made before the transfer, but so far only as may be necessary for the purpose of the transfer, the name of the Minister for Social Welfare shall be deemed to be substituted for the name of the Chief Secretary (however expressed) or other Minister or Government Department (as the case requires) ;

(b) Where any thing has been commenced by or under the authority of the Chief Secretary or any other Minister or Government Department before the transfer in relation to the administration so transferred that thing may be carried on and completed by or under the authority of the Minister for Social Welfare ;

(c) Where at the time of the transfer any legal proceeding is pending to which the Chief Secretary or other Minister or Government Department is a party and that proceeding has reference to the administration transferred the Minister for Social Welfare shall be substituted in such proceeding for the Chief Secretary or other Minister or Department and the proceeding shall not be affected or abated by reason of such substitution.

(4) Nothing in this Act shall be construed as preventing—

(a) the transfer to or the vesting in the Minister of the administration of any Act or enactment other than those referred to in Schedule Two ; or

(b) the transfer from the Minister of the administration of any of the Acts or enactments mentioned in Schedule Two or of any provisions of any such Act or enactment—

in any manner in which the administration of Acts or enactments is customarily transferred between or vested in Ministers of State in Victoria.

10. (1) Subject

10. (1) Subject to the *Public Service Act* 1958 the person holding office as Director-General of Social Welfare under the *Social Welfare Act* 1960 immediately prior to the commencement of this Act shall be Director-General of Social Welfare for the purposes of this Act.

Former
Director-
General
to continue
in office.

(2) With the approval of the Minister the Director-General may assign in writing to any Director or senior officer of the Department any of the statutory functions and duties of the Director-General either generally or in any particular case and may at any time in writing revoke the assignment.

Delegation.

(3) All acts matters and things done or performed by any Director or officer pursuant to any such assignment shall for all purposes have the same force and effect as if done or performed by the Director-General.

(4) Notwithstanding the making of an assignment under this section the Director-General may himself exercise or perform any functions or duties so assigned.

11. (1) It shall be the duty of the Director-General on or before the 30th day of September in each year to submit to the Minister a report as to proceedings under this Act during the preceding financial year and such other particulars as the Minister directs to be included therein.

Annual
Report.
No. 6651 s. 5.

(2) The Minister shall cause such report to be laid before both Houses of Parliament within three weeks after receiving the report if Parliament is then sitting or if Parliament is not then sitting within three weeks after the next assembling of Parliament.

PART II.—FAMILY WELFARE DIVISION.

DIVISION I.—ADMINISTRATION AND FUNCTIONS.

12. (1) There shall be a Division of the Department to be known as the "Family Welfare Division".

Family
Welfare
Division.
No. 6651 s. 6.
Director of
Family
Welfare.

(2) Subject to the *Public Service Act* 1958 there shall be appointed an officer to be called the "Director of Family Welfare".

(3) The person holding office immediately prior to the commencement of this Act as Director of Family Welfare under the *Social Welfare Act* 1960 shall be Director of Family Welfare for the purposes of this Act.

(4) The Director of Family Welfare shall administer the Family Welfare Division subject to the control and direction of the Director-General.

13. (1) The

Functions of
Family
Welfare
Division.
No. 6651 s. 7.

13. (1) The functions of the Family Welfare Division shall be—

- (a) to promote family welfare in the community, to prevent disruption of family life and to mitigate the effects thereof ;
- (b) to promote co-operation with and between voluntary organizations, Government Departments, and persons concerned with the welfare care and protection of persons in distress or in need of assistance ;
- (c) to control and supervise children and young persons in need of care and protection within the meaning of this Act ;
- (d) to manage and control all children's reception centres and children's homes established under this Act ; and
- (e) to provide after care for children and young persons under the control of the Division.

(2) The Family Welfare Division may—

- (a) encourage the formation development and co-ordination of any organizations in the community whose objects include the preservation of family life ;
- (b) advise and assist Government Departments, public authorities, and voluntary organizations in methods of attaining those objects ;
- (c) establish counselling services for the benefit of persons with family problems ; and
- (d) disseminate information to the public with regard to family welfare.

(3) With the approval of the Minister the Director-General may—

- (a) establish and maintain such institutions and buildings for the reception accommodation and housing of families and children in need of assistance or care and protection as he thinks proper and may abolish any such institutions ; and
- (b) provide such services for and assistance to voluntary organizations, persons or bodies of persons engaged in activities within the objects of this Act (including the services of trained officers) as he thinks fit.

14. (1) For

14. (1) For the purposes of this Act the Minister shall constitute a Family Welfare Advisory Council consisting of not more than twelve members.

Family
Welfare
Advisory
Council.
No. 6219 s. 10.

(2) (a) Of such members—

(i) one shall be the Director of Family Welfare ;

(ii) two shall be persons selected by the Minister from a panel of not less than four names submitted by the body known as the Victorian Council of Social Services ; and

(iii) two shall be persons selected by the Minister from a panel of not less than four names submitted by the body known as the Children's Welfare Association of Victoria.

(b) In default of the submission of any panel within fourteen days after a request by the Minister in that behalf the Minister may appoint any persons to be members notwithstanding that the panel has not been submitted.

(3) The Minister may at any time remove any member of the Advisory Council and may appoint an eligible person to fill any casual vacancy in the membership of the Council.

Removal of
members of
Council.

(4) The members of the Advisory Council shall, subject to this Act, be entitled to hold office for such respective terms (not exceeding in any case three years) as the Minister appoints and shall be eligible for re-appointment.

Term of
office.

(5) The members of the Advisory Council holding office immediately prior to the commencement of this Act under section 10 of the *Children's Welfare Act* 1958 shall constitute the Family Welfare Advisory Council for the purposes of this Act and, subject to this Act, shall be entitled to continue in office for the remainder of the terms for which they were appointed and shall be eligible for re-appointment.

Existing
Council
to continue.

(6) The Minister may appoint one of such members to be chairman of the Advisory Council and such member shall hold office as chairman for a term of twelve months and shall be eligible for re-appointment as chairman.

Chairman.

(7) The chairman of the Family Welfare Advisory Council holding office immediately prior to the commencement of this Act shall be entitled, subject to this Act, to continue as chairman of the Advisory Council for the purposes of this Act for the remainder of the term for which he was appointed as chairman.

(8) The

- Secretary. (8) The secretary of the Advisory Council shall be an officer of the Family Welfare Division.
- Meetings. (9) Meetings of the Advisory Council shall be convened and conducted as prescribed but the regulations shall require that not less than ten meetings shall be convened in each year.
- (10) The members of the Advisory Council shall not as such be subject to the *Public Service Act* 1958.
- Fees. (11) Each member of the Advisory Council shall be paid such fees and travelling expenses and allowances as are prescribed.
- (12) The functions of the Advisory Council shall be—
- (a) to advise the Minister on any alterations in practice and procedure considered desirable from time to time for the welfare protection and care of children and young persons under the care of the Family Welfare Division ; and
- (b) to report on any matter of a like or allied nature referred to it by the Minister or on any matter on which it is authorized by this Act to report.

DIVISION 2.—FAMILY ASSISTANCE.

Assistance to deserted wives.

15. The Minister may, from any moneys available for the purpose, cause payments to be made in conjunction with the Commonwealth to persons to whom the Commonwealth Act known as the *States Grants (Deserted Wives) Act* 1968 applies.

Application by parent or other person without sufficient means of support for child.
No. 6219 s. 30.

16. Where any child is without sufficient means of support any parent or other person who has the care and custody of any such child and who is prepared to take all necessary legal proceedings that are available for obtaining sufficient means of support for such child may make application in the prescribed form to the Director-General that a periodic sum be paid to him or her towards the maintenance of such child.

Application in respect of certain young persons.

17. (1) An application may be made under this Division in respect of a young person if that young person is—

- (a) an invalid or otherwise incapacitated and has not attained the age of sixteen years ; or
- (b) in full-time attendance at an educational establishment.

Investigation of application.
No. 6219 s. 31.

(2) Upon receipt of any such application the Director-General shall refer it for investigation to a special magistrate appointed pursuant to the provisions of this Division unless the Director-General considers such a course unnecessary and may, on behalf of such child, take proceedings under Part I. of the *Maintenance Act* 1965 against any person liable to contribute to the support of such child.

(3) With

(3) With the consent of any applicant the Director-General may require any person whom he believes to be in a position to do so to furnish to him with the consent of the applicant a confidential report as to the circumstances or the financial transactions of the applicant or of the spouse or children of the applicant or, where the applicant is not the parent, of any parent of the child or young person.

(4) Where it appears to a stipendiary magistrate in chambers that an applicant is unreasonably withholding his consent to a requirement to furnish a report under the preceding sub-section the stipendiary magistrate may make an order dispensing with the applicant's consent.

(5) Every person who on being required to do so by the Director-General fails to furnish a report within a reasonable time or furnishes a report containing any statement which is wilfully untrue in any particular shall be guilty of an offence.

Failure to furnish report &c. an offence.

Penalty : \$250 or imprisonment for three months.

18. All members of the police force shall, when requested so to do, assist the Director-General in obtaining information necessary for the investigation of an application and clerks of magistrates' courts shall when requested so to do, furnish confidential reports to the Director-General as to any matters in their possession or knowledge with respect to any application.

Certain persons to assist in investigations.

19. On the completion of his investigation the special magistrate shall forward to the Director-General the application together with a report upon the results of his investigation and a recommendation as to whether and what assistance in his opinion should or should not be granted to the applicant.

Report and recommendation of magistrate.
No. 6219 s. 33.

20. (1) The Director-General may grant the application with such modifications and subject to such conditions (if any) as he thinks fit or may refuse the application.

Grant or refusal of application.
No. 6219 s. 34.

(2) In any case where the Director-General considers that it would be in the best interests of any child or young person so to do he may direct that all or any part of the periodic sum so granted be paid in any manner he determines.

(3) Any applicant whose application has been refused shall be notified forthwith in writing of such refusal and that he may within fourteen days after the determination of his application by the Director-General appeal to the Minister against the determination and the Minister may grant or refuse the appeal and may vary any determination as he thinks fit.

21. (1) The payment of any sum to an applicant pursuant to the provisions of this Division—

Duration of payments.
No. 6219 s. 35.

(a) shall be made as from the date of receipt of the application by the Director-General or such later date as he directs ;

(b) may