



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

A.D. 1972

No. 51 of 1972

An Act to promote various aspects of community welfare in this State; to repeal the Social Welfare Act, 1926-1971; the Aboriginal Affairs Act, 1962-1968; and the Children's Protection Act, 1936-1969; and for other purposes.

[Assented to 27th April, 1972]

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

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Community Welfare Act, 1972". Short title.

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

(2) Notwithstanding the provisions of subsection (1) of this section, the Governor may in the proclamation made for the purposes of that subsection suspend the operation of any specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. The Acts referred to in the schedule to this Act are repealed. Acts repealed.

4. This Act is arranged as follows:— Arrangement.

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PART VII—PROVISIONS OF GENERAL APPLICATION.

5. (1) The Minister is the successor to the Minister administering the repealed Social Welfare Act and the repealed Aboriginal Affairs Act, and any rights that were at law or in equity vested in, or enforceable by or against, that Minister immediately before the commencement of this Act under, or as a result of action taken under, the repealed Social Welfare Act or the repealed Aboriginal Affairs Act shall be vested in, or enforceable by or against, the Minister.

Transitional provisions.

(2) Any decision, order or adjudication of a court made, or having effect, under the provisions of any of the repealed Acts, shall be deemed to be a decision, order or adjudication made pursuant to, or having effect under, this Act in all respects as if this Act had been in force when the decision, order or adjudication was made.

(3) Any proceeding under, or act done in pursuance of, any of the repealed Acts in connection with the enforcement of an order or adjudication (whether made pursuant to the law of this State, any other State or Territory of the Commonwealth, or any other country) shall be valid and effective in all respects as if this Act had been in force when the proceeding or act was taken or done, and it had then been taken or done in pursuance of this Act.

(4) Any legal proceedings commenced under any of the repealed Acts shall be deemed to be proceedings commenced under the corresponding provisions of this Act, and may, subject to this Act, be dealt with and disposed of, accordingly.

(5) Any application made to the Minister administering the repealed Social Welfare Act, and the repealed Aboriginal Affairs Act, the Department constituted under the repealed Social Welfare Act, or any officer of that Department, and not finally disposed of at the commencement of this Act, shall be deemed to be an application to the Minister of Community Welfare, the Department for Community Welfare, or any officer of that Department, as the case may require, and may be dealt with and disposed of in accordance with the provisions of this Act.

(6) A person who was, immediately before the commencement of this Act, a State child, within the meaning of the repealed Social Welfare Act shall be deemed to be a child under the care and control of the Minister in all respects as if the decision, order or adjudication by virtue of which the child became a State child were a decision, order or adjudication placing the child under the care and control of the Minister, and any such child shall be dealt with accordingly pursuant to the provisions of this Act.

(7) Any home established or set apart by proclamation under the repealed Social Welfare Act shall be deemed to be a home established by the Minister pursuant to the provisions of this Act.

(8) The proprietor of a children's home in respect of which a licence was in force under the repealed Social Welfare Act immediately before the commencement of this Act shall, for the unexpired portion of the term of the licence, be deemed to be the holder of a licence under this Act in respect of the children's home.

(9) A person licensed as a foster-parent under the repealed Social Welfare Act immediately before the commencement of this Act, shall, for the unexpired portion of the term of the licence, be deemed to be a foster-parent approved under the provisions of this Act.

(10) Any authority or permit issued, given or made under the repealed Social Welfare Act, or the repealed Aboriginal Affairs Act and in force immediately before the commencement of this Act shall be deemed to be an authority or permit under the provisions of this Act.

(11) Any lands declared pursuant to the repealed Aboriginal Affairs Act to be reserved for Aborigines shall be deemed to be an Aboriginal reserve under the provisions of this Act.

(12) Any agreement or arrangement made pursuant to the repealed Social Welfare Act, or the repealed Aboriginal Affairs Act, and in force immediately before the commencement of this Act, shall, subject to this Act, remain effective under the provisions of this Act.

(13) Except as otherwise provided in this Act, any officer of the Department constituted under the repealed Social Welfare Act, or the Department constituted under the repealed Aboriginal Affairs Act, who was in office immediately before the commencement of this Act, shall, subject to this Act, and the Public Service Act, 1967, as amended, be deemed to have been appointed to a corresponding office in the Department for Community Welfare established under this Act.

(14) Any reference in any contract, instrument, document, proclamation, regulation, rule or by-law, to any of the repealed Acts or to a provision of any of those Acts shall, unless the contrary intention appears, be deemed to be a reference to this Act, or the corresponding provision (if any) of this Act.

(15) Subject to this Act, the provisions of the Acts Interpretation Act, 1915, as amended, shall apply in respect of the repeals effected by this Act.

6. (1) In this Act, unless the contrary intention appears—

Interpretation.

“Aboriginal” means a person who is wholly or partly descended from those who inhabited Australia prior to European colonization:

“Aboriginal reserve” means an area declared to be an Aboriginal reserve pursuant to the provisions of this Act:

“adopted child” means a child—

(a) adopted in accordance with the law of this State, or the law of another State or of a Territory of the Commonwealth;

or

(b) adopted in accordance with the law of any other country or State if the adoption is recognized under the law of this State as being effective in this State,

and “adoptive parent” has a correlative meaning:

“affiliation case” means proceedings against the alleged father of an illegitimate child for assistance, maintenance, or preliminary expenses:

“assessment centre” means a centre established under this Act for the examination of children, the evaluation of their personal circumstances and social background and the assessment of the most appropriate treatment or rehabilitative correction or education for each child:

“child” means a person who has not attained the age of eighteen years and includes any person above that age who is under the care and control of the Minister:

“child care centre” means any premises or place in which children under the age of six years are cared for apart from their parents or relatives:

“child under the care and control of the Minister” means a child placed under, or received into, the care and control of the Minister pursuant to this Act, the Juvenile Courts Act, or any other Act and includes a child remanded in custody pursuant to the provisions of the Juvenile Courts Act:

“children’s home” means any premises or place in which more than five children under the age of fifteen years are maintained and cared for apart from their parents and near relatives:

“complainant” means a person by, or on whose behalf, or for whose benefit, a complaint is laid under this Act:

“Department” means the Department for Community Welfare:

“Deputy Director-General” means the person for the time being holding, or acting in, the office of Deputy Director-General of Community Welfare under this Act:

“Director-General” means the person for the time being holding or acting in, the office of Director-General of Community Welfare under this Act:

“foster-parent” means a person, not being a near relative of a child or a person to whom the custody or guardianship of a child has been committed by order of a court, who has received the child into his custody or charge for the purpose of maintaining and caring for the child, but does not include the licensee of a licensed children’s home, or child care centre:

“guardian” means a parent of a child or any person having the immediate custody or control of a child;

“home” means any premises or place established as a home or centre under this Act for the reception, care, maintenance, or support of persons in need or distress or for the reception, detention, care, correction, maintenance, support or training of children:

“juvenile court” means any court exercising jurisdiction pursuant to the Juvenile Courts Act:

“Juvenile Courts Act” means the Juvenile Courts Act, 1971, as amended from time to time:

“maintenance” includes the cost of clothing, support, training and education:

“maintenance order” means an order of a court (made before or after the commencement of this Act either in this State or elsewhere) whereby a person is ordered to pay money in a lump sum or by instalment or periodic payment for or towards the maintenance of another person, or by way of recoupment of moneys expended in, or provided for, the maintenance of another person and includes any order for the payment of money under Part VI of this Act:

“Minister” means the Minister of Community Welfare:

“near relative”, in relation to a legitimate child, means the father, mother, step-father or step-mother of the child; and in relation to an illegitimate child means the mother, father, or husband of the mother of the child; and in relation to a person who is not a child, means the husband, wife, father, mother, or children of that person:

“neglected child” means a child who—

(a) is under the guardianship of any person whom the court considers unfit to have the guardianship of the child;

(b) has apparently no sufficient means of support, and whose guardians or near relatives are unable or unwilling to maintain him or are dead or unknown or cannot be found or are not in the State or are detained in a prison or home;

OR

(c) has no guardian, or is not cared for or maintained adequately, or is ill-treated by his guardian and in need of care:

“parent” includes an adoptive parent:

“preliminary expenses” in respect of the confinement of a woman, means the expenses of the maintenance of the woman during the period of three months immediately preceding the confinement, the reasonable medical, surgical, hospital and nursing expenses attendant upon the confine-

ment, and the expense of the maintenance of the woman and the child or children born to the woman for three months after the birth of the child or children:

“relative”, in relation to a legitimate child, means the father, mother, stepfather, stepmother, brother, sister, uncle, aunt, grandfather or grandmother of the child; and in relation to an illegitimate child, means the mother, father, husband of the mother, brother, sister, uncle or aunt, of the child; and in relation to a person who is not a child, means the husband, wife, father, grandfather, mother, grandmother, child or grandchild of that person:

“review board” means a board established by the Director-General pursuant to Part IV of this Act:

“the repealed Aboriginal Affairs Act” means the Aboriginal Affairs Act, 1962-1968, repealed by this Act:

“the repealed Acts” means the Aboriginal Affairs Act, 1962-1968, the Children’s Protection Act, 1936-1969, and the Social Welfare Act, 1926-1971, repealed by this Act:

“the repealed Social Welfare Act” means the Social Welfare Act, 1926-1971, repealed by this Act:

“uncontrolled child” means a child—

(a) whose parents or guardians appear to be unable or unwilling to exercise adequate supervision and control of the child;

and

(b) who is in need of care and control:

“woman” means any female person:

“youth project centre” means a non-residential centre established by the Minister under Part IV of this Act for the treatment and training of children.

(2) For the purposes of this Act, where a marriage exists between a man and a woman, whether the marriage is monogamous or polygamous, the man and woman shall, if the marriage is lawful and valid in the place in which it was solemnized, be regarded as husband and wife.

(3) The relationship of parent and child shall, for the purposes of this Act, be deemed to exist between a child and any person who is, or has been, a party to a marriage, if the child is a natural or adopted child of either party to the marriage and the child shall be deemed to be a child of any family of which any such person is for the time being a member.

(4) Any references in this Act to an order shall be read and construed, where the order has been varied under this Act or any other Act, by a subsequent order having effect in this State, as a reference to the order as so varied.

PART II

PART II

THE PROMOTION OF COMMUNITY WELFARE

DIVISION I—OBJECTIVES

DIVISION I

7. Without limiting in any way the operation of this Act, it is declared that the objectives of the Minister and the Department, in the administration of this Act, include the following—

Objectives of
the Minister and
Department.

- (a) to promote the well-being of the community by assisting individuals, families and sections of the community to overcome social problems with which they are confronted and to promote the effective use of human resources and the full realization of human potentialities;
- (b) to promote the welfare of the family as the basis of community welfare, to reduce the incidence of disruption of family relationships and to mitigate the effects of such disruption where it occurs;
- (c) to assist voluntary agencies engaged in the provision of services designed to promote the well-being of the community;
- (d) to collaborate with other departments of Government whose activities directly affect the health or well-being of the community;
- (e) to establish, promote and co-ordinate services and facilities within the community designed to advance the well-being of children and young persons;
- (f) to collaborate with agencies engaged in the provision of assistance to those in need or distress and to promote rationalization and co-ordination of the assistance provided for those persons;
- (g) to promote research into problems of community welfare and to promote education and training in matters of community welfare;
- (h) to promote generally an interest in community welfare.

DIVISION II—THE MINISTER AND THE DEPARTMENT

DIVISION II

8. (1) The Minister of Community Welfare and his successors in office shall be a corporation sole.

Incorporation
of the Minister.

(2) The Minister shall, in his corporate name, be capable of suing and being sued and of acquiring, holding and disposing of real and personal property of any kind and no limitation or deficiency of legal competence or capacity shall be imputed to the Minister.

(3) In any legal proceedings, where a document purports to bear the signature or the common seal of the Minister, the document shall, in the absence of evidence to the contrary, be deemed to have been duly executed by the Minister.

PART II
DIVISION II
General powers
of the Minister.

9. Without limiting in any way the powers conferred upon the Minister under any other provision of this Act, the Minister shall have and may exercise the following powers—

- (a) to employ the resources of the Department in such manner as he thinks fit towards the promotion of community welfare;
 - (b) to establish any instrumentality or facility that will, in the opinion of the Minister, conduce to the well-being of the community, and to acquire and maintain land and premises that may be necessary for the purpose;
 - (c) to acquire land in accordance with the provisions of the Land Acquisition Act, 1969;
- and
- (d) to perform any action that may be necessary or expedient for the purpose of giving effect to the provisions or objects of this Act.

The Department,
Director-General
and Deputy
Director-General.

10. (1) There shall be a Department entitled the “Department for Community Welfare”.

(2) There shall be a Director-General of Community Welfare and a Deputy Director-General of Community Welfare.

Delegation.

11. (1) The Minister may, from time to time, by instrument in writing, delegate to the Director-General such of his powers, duties, responsibilities and functions under this Act as the Minister thinks fit, and may at any time revoke any such delegation.

(2) The Director-General may delegate to the Deputy Director-General, or to any officer of the Department, any of the powers, duties, responsibilities and functions vested in, or delegated to, the Director-General under this Act.

(3) A delegation under this section shall be revocable at will, and shall not prevent the exercise or performance of any power, duty, responsibility or function by the Minister or Director-General.

(4) Any power, duty, responsibility or function vested in, or delegated to, the Director-General may, if the Director-General is absent or otherwise unable to perform the duties of his office, be exercised or discharged by the Deputy Director-General.

Report.

12. (i) The Director-General shall submit on or before the thirty-first day of October in each year to the Minister a report on the administration of this Act and of the work of the department during the year ending on the preceding thirtieth day of June and information upon such other matters as the Minister may direct.

(2) The Minister shall cause the report to be laid before both houses of Parliament within fourteen days after the day on which