



ELIZABETHAE SECUNDAE REGINAE

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No. 17 of 1970

**An Act to Amend The Children's Services Act of 1965 in  
certain particulars**

[ASSENTED TO 16TH APRIL, 1970]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) **Short title.** This Act may be cited as the *Children's Services Act Amendment Act 1970*.

(2) **Principal Act.** *The Children's Services Act of 1965* is in this Act called the Principal Act.

(3) **Collective title.** The Principal Act as amended by this Act may be collectively cited as the *Children's Services Act 1965-1970*.

**2. Amendment to s. 4.** Section 4 of the Principal Act is amended by, in paragraph (a), inserting after the words "committed or subjected shall" the words ", save as is provided in section 5 of this Act,".

**3. Amendment to s. 5.** Section 5 of the Principal Act is amended by adding the words "and he shall not be deemed to be a child in care by reason only of his receiving such assistance".

**4. Amendments to s. 6.** Section 6 of the Principal Act is amended by, in subsection (8)—

(a) inserting in paragraph (a) after the words "made pursuant to", where they secondly occur, the words "Part IX of";

(b) inserting in paragraph (b) after the words "made pursuant to", where they secondly occur, the words "Part XII of";

(c) adding the following paragraph:—

"(c) An undertaking having under section 52 of *The State Children Acts 1911 to 1955* the same effect as a maintenance order made under those Acts, which subsists at the commencement of this Act shall, in relation to the person giving such undertaking, be deemed to be and to have been on and from the date of the commencement of this Act a maintenance order made by a Magistrates Court pursuant to Part XII of this Act against the person giving such undertaking and may be varied or enforced accordingly."

**5. Amendments to s. 8.** Section 8 of the Principal Act is amended by—

(a) omitting the definition "day care centre" and inserting in its stead the following definition:—

" "day care centre"—Premises at which a person receives or in relation to which he holds himself out as ready to receive children for the purpose of educating, caring for or minding them (other than in the course of their medical treatment) for fee or reward for the whole or any part of the period between midnight and the next succeeding midnight: The term includes a kindergarten but does not include—

(a) any other school, college or institution the sole or main purpose of which is the education of persons attending thereat;

(b) a dwelling-house at which a person minds or cares for children of whom he is a parent, relative or guardian;"

(b) in the definition "Minister", omitting the words "for Labour and Industry or other Minister".

**6. Amendment to s. 16.** Section 16 of the Principal Act is amended by, in subsection (1), inserting within the brackets and after the words "power of delegation" the words "but including powers and authorities, duties and functions with which he is invested or charged by reason of his being guardian of any child".

**7. Repeal of and new s. 20.** The Principal Act is amended by repealing section 20 and inserting in its stead the following section:—

**“20. Constitution of Children's Courts.** A Children's Court shall be constituted by a Magistrate of Children's Courts sitting alone, or if he be not then present, by a Stipendiary Magistrate or an Acting Stipendiary Magistrate sitting alone, or if neither of such magistrates be then present, by two or more justices.”.

**8. Repeal of and new s. 26.** The Principal Act is amended by repealing section 26 and inserting in its stead the following section:—

**“26. Custody and remand of children.** (1) A child taken into custody for an offence shall be brought as soon as practicable before a Children's Court or, as the case requires, a justice to be dealt with according to law.

Until the child can be brought before the court or justice—

- (a) the person having charge of the case in which the child is concerned shall arrange for his care;
- (b) the Director and any person acting on his behalf may detain the child in such institution or place as the Director directs,

but, unless his safe custody cannot otherwise be provided for, the child shall not be detained during that period in a prison or lock-up.

(2) A Children's Court before which or a justice before whom a child appears charged with any offence may—

- (a) if the child is not in custody, allow him to go at large;
- (b) if the child is in custody,
  - (i) order his discharge either without any recognizance or upon his entering into a recognizance (without a surety or with such one or more sureties as the court or justice thinks fit) conditioned for his appearance at the time and place appointed for continuing the hearing or at a time and place to be determined, as the case may be;
  - (ii) remand him for a period not exceeding eight clear days or such longer period as is agreed to by a parent or guardian of the child into the custody of the Director, or of a person who the court or justice considers suitable and who is willing to receive the child and who undertakes in writing to produce the child where and when the court or, as the case may be, justice requires.

(3) When, pursuant to this section, a child is allowed to go at large the Children's Court or justice may require him, his parent, guardian (other than the Director) or any other person having custody or care of him, and any of them, to enter into a recognizance conditioned for the child's appearance at the time and place appointed for continuing the hearing or at a time and place to be determined, as the case may be.

(4) A recognizance entered into pursuant to this section may, upon its forfeiture, be estreated and the debt therein acknowledged may be recovered from the child or other person a party thereto."

**9. Amendments to s. 27.** Section 27 of the Principal Act is amended by—

(a) in the general words preceding provision (a), inserting after the word "child" the words "alone or in respect of a child and another person conjointly";

(b) omitting provision (b) and inserting in its stead the following provision:—

"(b) a person in respect of whom or in respect of a charge against whom the proceeding is commenced;".

**10. Amendments to s. 29.** Section 29 of the Principal Act is amended by—

(a) in subsection (4)—

(i) inserting before the words "there constituted" the words "then and";

(ii) omitting the second paragraph;

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

"(4A) Where a defendant stands charged with an indictable offence (whether upon committal or otherwise) before a Children's Court the hearing again of evidence already adduced before the magistrate then constituting the court in the course of his examination of witnesses whence the defendant came to be so charged shall be in the discretion of the magistrate but if he elects against hearing again such evidence it shall be deemed to have been adduced before the court on behalf of the party on whose behalf it was adduced in that examination."

**11. Amendment to s. 44.** Section 44 of the Principal Act is amended by, in subsection (1), omitting subparagraph (a) and inserting in its stead the following subparagraph:—

"(a) cause such assistance to be applied to such purposes, or to be paid or given to such persons (whether or not they be members of the assisted family), in such proportions as he, from time to time, determines;".

**12. Amendment to s. 46.** Section 46 of the Principal Act is amended by, in subsection (1), omitting subparagraph (n) and inserting in its stead the following subparagraph:—

"(n) being under such an age that he is not criminally responsible for any act notwithstanding that, at the time of doing the act, he had the capacity to know that he ought not to do the act, he does an act which would of itself or with other elements constitute an offence on his part if he were of or over that age and had the aforesaid capacity;".

**13. Amendments to s. 49.** Section 49 of the Principal Act is amended by—

(a) in subsection (2), omitting the last paragraph and inserting in its stead the following paragraphs:—

“ Pending determination by a Children's Court of such an application the child shall be cared for in a manner consistent with his best interests—

(c) by a person chosen by the court; or

(d) in the absence of such a choice, by the person who took the child into custody or by a person chosen by him,

and for this purpose the person entrusted with the child's care may retain custody of the child.

If under this paragraph the court chooses the Director to care for a child it shall remand the child into the temporary custody of the Director.”;

(b) in subsection (3),—

(i) omitting paragraphs (a) and (b) and inserting in their stead the following paragraph:—

“ (a) order to be made in relation to the child concerned such investigations and medical examinations as to the court appear necessary or desirable and, if it does so, the court—

(i) shall remand the child into the temporary custody of the Director; and

(ii) shall be furnished with reports of such investigations and examinations; ”;

(ii) redesignating paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

**14. Amendments to s. 56.** Section 56 of the Principal Act is amended by, in subparagraph (b) of subsection (1),—

(a) inserting after the words “ of such child ” the words “ , a person in whose custody such child is, ”;

(b) adding the words “ and to this end may order attendance at attendance centres maintained for the purposes of this Act whether or not a court has so ordered ”.

**15. Amendments to s. 61.** Section 61 of the Principal Act is amended by—

(a) in subsection (2), omitting the last paragraph and inserting in its stead the following paragraphs:—

“ Pending determination by a Children's Court of such an application the child shall be cared for in a manner consistent with his best interests—

(c) by a person chosen by the court; or

(d) in the absence of such a choice, by the person who took the child into custody or by a person chosen by him,

and for this purpose the person entrusted with the child's care may retain custody of the child.

If under this paragraph the court chooses the Director to care for a child it shall remand the child into the temporary custody of the Director.”;

(b) in subsection (3),—

(i) omitting paragraphs (a) and (b) and inserting in their stead the following paragraph:—

“(a) order to be made in relation to the child concerned such investigations and medical examinations as to the court appear necessary or desirable and, if it does so, the court—

(i) shall remand the child into the temporary custody of the Director; and

(ii) shall be furnished with reports of such investigations and examinations;”;

(ii) redesignating paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

**16. Amendments to s. 62.** Section 62 of the Principal Act is amended by—

(a) in subsection (1), adding to paragraph (e) the words “ or order such child to reinstate property damaged or defaced in the course of that offence ”;

(b) in subsection (2), adding to provision (iii) of subparagraph (a) of paragraph (a) the following words:—

“ or, if the order was made in Brisbane, under the hand of the person for the time being having custody of the records of the Children's Court; ”.

**17. Amendment to s. 67.** Section 67 of the Principal Act is amended by, in subparagraph (b) of subsection (1), inserting after the words “ of such person ” the words “ , a person in whose custody such person is, ”.

**18. Amendments to s. 68.** Section 68 of the Principal Act is amended by—

(a) in subsection (2), omitting from subparagraph (i) all words from and including the words “ and such person ” to the end of the subparagraph and inserting in their stead the words “ and such person shall be detained in accordance with this Act in that custody or as the Minister from time to time directs during Her Majesty's pleasure until the Minister otherwise orders or until he is otherwise lawfully dealt with and while so detained such person shall be deemed committed to the care and control of the Director and the guardianship of such person shall vest in the Director ”;

(b) in subsection (3),—

(i) adding to subparagraph (i) of paragraph (e) the words “ if he has then attained the age of sixteen years but, in any other case, until he attains the age of eighteen years ”;

(ii) inserting after subparagraph (iii) the following word and subparagraph:—

“ ; or

(iv) impose upon such person a fine not exceeding fifty dollars, ”.

**19. New s. 69A.** The Principal Act is amended by inserting after section 69 the following section:—

**“69A. Tattooing of children prohibited.** A person shall not tattoo a child or otherwise make upon the skin of a child any permanent mark or design resembling a tattoo.

Penalty: Four hundred dollars or imprisonment for six months or both such fine and imprisonment, save where the offender is a child who, in such case, shall be dealt with under such of paragraphs (a) to (k) of subsection (1) of section 62 of this Act as are applicable and as the adjudicating court thinks fit.”

**20. Repeal of and new s. 86.** The Principal Act is amended by repealing section 86 and inserting in its stead the following section:—

**“86. Administration of regulations relating to day care centres.** Regulations made under this Act in relation to day care centres shall be administered by each Local Authority which, in respect of day care centres situated within the Area in which it has jurisdiction, may do all things required or permitted to be done with a view to the proper administration and enforcement of the regulations.”

**21. Amendment to s. 93.** Section 93 of the Principal Act is amended by, in subsection (2), omitting the words “if both such mother and father have died” and inserting in their stead the words “if either the mother or father has died”.

**22. Amendments to s. 94.** Section 94 of the Principal Act is amended by, in subsection (2),—

(a) inserting in the first paragraph after the words “clerk of the court” where they firstly appear the words “or other person having custody of the records of the Children’s Court in question”;

(b) inserting in the second paragraph after the words “clerk of the court” where they firstly appear the words “or other person having custody of the records of the Children’s Court in question”.

**23. Amendment to s. 100.** Section 100 of the Principal Act is amended by adding the following subsections:—

**“ (4) Enforcement of certain orders of Children’s Court.** Where it is made to appear to a Children’s Court that an order made by it awarding custody of an infant to any person or right of access to an infant has not been complied with within a reasonable time and that all reasonable efforts have been made by the person in whose favour the order was made to secure compliance with the order the magistrate constituting that court may, having regard to the nature of the order—

(a) issue his warrant directed to such person to take the child into his keeping and do all other things necessary to secure compliance with the order;

(b) issue his warrant directed to all police officers to take into custody the person who has failed to comply with the order and to bring him before the court as soon as practicable to show cause why he should not be imprisoned for his failure to comply with the order.

(5) A person to whom such a warrant is directed may, using such force as is reasonable and with such assistance as he reasonably requires, enter upon any premises and take into his keeping the child named in the order or, as the case requires, take into his custody the person named in the warrant, remove the child therefrom for the purpose of securing compliance with the order and do all other things necessary to secure compliance with the order.

(6) A person who fails to comply with an order referred to in subsection (4) of this section within a reasonable time having regard to the nature of the order and who fails to show sufficient cause for such failure to the Children's Court before which he appears (either voluntarily or in custody under a warrant) may be imprisoned by order of that court for a period not exceeding twelve months or until the order is sooner complied with."

**24. Amendments to s. 101.** Section 101 of the Principal Act is amended by, in subsection (2),—

(a) inserting after the word "provided" the words "and notwithstanding any provision of *The Districts Courts Act of 1967*";

(b) adding the following paragraph:—

"In respect of every such appeal and every order made therein the provisions of Division II of Part IX of *The Justices Acts 1886 to 1968* other than the provisions of subsection (1) or (3) of section 222 and the provisions of section 223 shall apply with all necessary adaptations and, in particular, for the purpose of such application—

(a) subsection (2) of section 222 of those Acts shall be construed as if—

(i) the words "or within seven days after obtaining the leave of a Judge to appeal against the decision, as the case may be," were omitted from subparagraph (a) of paragraph (i); and

(ii) paragraphs (iv), (v), and (vi) were omitted;

(b) a reference "clerk of petty sessions" shall be construed as a reference "person having custody of the records of the Children's Court".

**25. Amendment to s. 115.** Section 115 of the Principal Act is amended by omitting subparagraph (d) and inserting in its stead the following subparagraph:—

"(d) who is not the holder of a permit issued for the purpose pursuant to the next succeeding section of this Act to be employed or used—

(i) as a performing artist in any place used for a broadcast or television performance or for the photographing of scenes to be depicted in a cinematographic film;

(ii) as a model for any advertising purpose or in any display;

- (iii) in any place for public entertainment;
- (iv) in any place set apart for spectators at any sporting event or in or near any way of access to or egress from any such place.”.

**26. Amendments to s. 124.** Section 124 of the Principal Act is amended by—

- (a) in subsection (1),
  - (i) omitting the words “ and place ”;
  - (ii) adding the words “ and at the place where payments under the maintenance order are required to be made ”;

(b) adding the following subsections:—

“ (3) A maintenance order made pursuant to this Part as varied for the time being and an order for the payment of costs in a proceeding in which the maintenance order was made may be enforced under *The Maintenance Act of 1965* as if it were an order made under Part II of that Act.

(4) For the purposes of the enforcement of a maintenance order which consists of an undertaking deemed, pursuant to any provision of this Act, to be a maintenance order made by a Magistrates Court pursuant to this Part, the undertaking—

- (a) if accepted as prescribed by paragraph (a) of subsection (1) of section 123 of this Act, shall be deemed to be an order made by the court which accepted it;
- (b) if accepted as prescribed by paragraph (b) of subsection (1) of section 123 of this Act shall, upon its registration (which is hereby authorized) in the Magistrates Court for the place where payments thereunder are required to be made, be deemed to be an order made by that court.”.

**27. Amendments to s. 125.** Section 125 of the Principal Act is amended by, in subsection (1)—

- (a) omitting the words “ and place ”;
- (b) inserting after the words “ such summons ” the words “ and at the place where payments under the maintenance order are required to be made ”.

**28. Repeal of and new s. 128.** The Principal Act is amended by repealing section 128 and inserting in its stead the following section:—

“ **128. Procedure in proceedings to enforce maintenance orders.** Save where it is otherwise expressly provided by this Part, every proceeding instituted pursuant to this Part and every step therein shall be instituted, conducted and taken—

- (a) subject to and in accordance with *The Maintenance Act of 1965*, so far as the provisions of that Act extend and apply, where the proceeding is to enforce under that Act a maintenance order made pursuant to this Part;

- (b) subject to and in accordance with *The Justices Acts 1886 to 1968* in any other case or, in a proceeding referred to in paragraph (a) of this section, in so far as the provisions of *The Maintenance Act of 1965* do not extend and apply."

**29. Amendment to s. 129.** Section 129 of the Principal Act is amended by, in subsection (3), adding the following paragraph:—

"The expression "complaint made pursuant to this Part" includes a complaint made in relation to an offence defined in this Part."

**30. Amendment to s. 134.** Section 134 of the Principal Act is amended by adding the following subsections:—

"(4) When a child who is under the care, protection, or control of a Minister, statutory authority, or other person, or who is a State child or ward, under the legislation of any other State or of a Territory of the Commonwealth has entered or is about to enter this State the Director may, on request of the Minister, statutory authority or person concerned, by writing under his hand, declare the child to be admitted to his care and protection.

For the purpose of making such a declaration the Director need not be satisfied of the matters referred to in the first paragraph of subsection (2) of section 47 of this Act.

(5) Such a declaration shall take effect on and from the date of its making in respect of a child then in this State or on and from the date of the child's entry into this State when it is made in respect of a child then about to enter this State and the same consequences shall ensue as if it were a like declaration made under Part VI of this Act the provisions whereof shall apply subject to this section.

Upon the declaration taking effect the guardianship of the child shall pass to the Director and shall vest in him for so long as the declaration continues in force.

(6) Such a declaration shall not continue in force beyond the time when the child would have ceased to be under the care, protection, or control of the Minister, statutory authority, or other person, or to be a State child had he remained in the other State or in the Territory concerned.

(7) The Director may enter into and perform financial and other arrangements with a Minister, statutory authority, or other person in another State or in a Territory of the Commonwealth in respect of the care, protection, or control of a child—

- (a) admitted or to be admitted to the care and protection of the Director by declaration under this section; or  
 (b) being a child in care, admitted or to be admitted to the care, protection, or control of such Minister, statutory authority, or other person.

Subject to such arrangements, the Director may at any time cause a child in care by declaration under this section to be removed from this State and returned to the care, protection, or control of the Minister, statutory authority, or other person who theretofore had charge of the child in the other State or Territory concerned whereupon the declaration shall cease to be in force.”.

**31. Amendment to s. 139.** Section 139 of the Principal Act is amended by inserting after the word “proceeding” the words “before a court other than a Children’s Court”.

**32. Amendment to s. 143.** Section 143 of the Principal Act is amended by adding the following paragraph:—

“It shall be lawful to submit an infant who is in the guardianship of the Director or who, pursuant to this Act, is in the temporary custody of the Director or of any other person (whether by way of remand or otherwise) to medical examinations and to therapeutic, palliative or preventive treatments (physical, psychiatric and psychological) if the consent of the Director or, as the case may be, such person is first had and obtained.”.

**33. Amendment to s. 145.** Section 145 of the Principal Act is amended by omitting subsection (3) and inserting in its stead the following subsection:—

“(3) **Publication of reports in evidence.** A report admitted into evidence pursuant to subsection (2) of this section shall not be published in open court or in any other manner save as is prescribed by this subsection.

Where the person in relation to whom the investigation or examination was made is represented by counsel or solicitor before the court, the report shall be shown or, at the court’s discretion, a copy thereof shall be given to that counsel or solicitor.

Where such person is not represented by counsel or solicitor, neither the report nor a copy thereof shall be shown or given to him or to his parent or guardian save where he or his parent or guardian requests leave of the court to peruse the report in which case the court may, at its discretion, refuse the request, or show the report, or give a copy thereof to such of them, namely such person or his parent or guardian, as to the court seems just and in the best interests of such person.

In every case a copy of the report shall be given to the Director or to the representative of the Department present in the court.”.

**34. Amendments to s. 152.** Section 152 of the Principal Act is amended by—

(a) in paragraph (8), adding the words “, the records to be kept by persons in charge of day care centres and access to such records by persons authorized under the regulations”;

(b) inserting after paragraph (15) the following paragraph:—

“(15A) The definition of circumstances, acts and omissions which, for the purposes of this Act, shall be taken to constitute ill-treatment of a child in a manner likely to cause him unnecessary suffering or to injure his physical or mental health;”.

**35. Amendments in relation to decimal currency.** The Principal Act is amended as set out in the Schedule to this Act.

## SCHEDULE

[s. 35]

## AMENDMENTS IN RELATION TO DECIMAL CURRENCY

Provision Amended	Omit	Insert
Section 69 (1)	(a) "Two hundred pounds" (b) "five hundred pounds"	(a) "Four hundred dollars"; (b) "one thousand dollars";
Section 144 (3)	"Five hundred pounds"	"One thousand dollars";
Section 148 ..	"two hundred pounds"	"four hundred dollars".