



ANNO VICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

No. 3 of 1973

**An Act to amend the Children's Services Act 1965–1971 in
certain particulars**

[ASSENTED TO 11TH APRIL, 1973]

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. Short title and citation. (1) This Act may be cited as the *Children's Services Act Amendment Act 1973*.

(2) The *Children's Services Act 1965–1971* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Children's Services Act 1965–1973*.

2. 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, remand and detention 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 dealt with by the court or justice—

- (a) the child may be released on bail as any other person may, subject to *The Justices Acts 1886 to 1968*;
 - (b) if the child is not released on bail,
 - (i) the person having charge of the case concerning the child shall arrange for his care;
 - (ii) the Director and any person acting on his behalf may detain the child in such place as the Director determines from time to time.
- (2) A Children's Court before which or a justice before whom appears a child charged with any offence may, subject to *The Justices Acts 1886 to 1968*—
- (a) if the child is not in custody and has not been admitted to bail in respect of the offence, allow him to go at large;
 - (b) if the child is in custody or has been admitted to bail in respect of the offence,
 - (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, according as the court or justice orders;
 - (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 is 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, the justice requires.
- (3) Where a Children's Court or a justice allows a child to go at large under subsection (2) it or he may require the child, his parent, his guardian (being a guardian other than the Director) and any other person having custody or care of him, or 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, according as the court or justice orders.
- (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.

(5) The Director may order that any child who is in his custody shall be kept in such place as he nominates whereupon—

- (a) the Director's order shall be sufficient authority to the person in charge of the place so nominated to receive and keep the child therein; and
- (b) the child shall be kept in the place so nominated until the Director otherwise orders or until the child is otherwise dealt with according to law.

Where the place nominated by the Director is a prison or police gaol within the meaning of the *Prisons Act* 1958–1969 the child, for as long as he is liable to be kept therein, shall be a prisoner within the meaning of that Act.

(6) The Director shall not nominate a prison or police gaol within the meaning of the *Prisons Act* 1958–1969 as a place wherein a child is to be kept unless he is satisfied that the child is so unruly or the child's character is otherwise such that his safe custody cannot be provided for in any other place available to the Director for the purpose.

(7) Subsections (5) and (6) apply in respect of any child in the custody of the Director by any means, other than by reason only of his being in the care and protection of the Director whether—

- (a) pending his initial appearance before a court or justice;
- (b) upon his remand ordered by a court or justice;
- (c) upon his committal to be tried or for sentence or the adjournment of his trial to a court of competent jurisdiction;
- (d) upon his committal to the care and control of the Director pursuant to any provision (other than section 63) of this Act,

and apply in respect of any person, not a child, who is in such custody of the Director by reason of his having been dealt with, pursuant to this Act, by a court or justice on the basis that he is a child.”.

3. Repeal of and new s. 32. The Principal Act is amended by repealing section 32 and inserting in its stead the following section:—

“**32. Notification of changes affecting licensed institutions.**

(1) Whenever, in relation to a licensed institution, there is a change in—

- (a) the person in charge; or
- (b) the persons constituting the governing authority; or
- (c) the name of the institution,

the governing authority of the institution shall cause notification in writing of such change to be given forthwith to the Director.

(2) Where the Director receives notification of any change in a particular that is shown in the form of licence of a licensed institution he shall inform the Minister who may authorize the making of an appropriate alteration in that particular in the form of licence.”.

4. Amendment of s. 66. Section 66 of the Principal Act is amended by, in subsection (2)—

(a) inserting before the words "the Chief Probation Officer" where they occur in paragraph (a), the words "the Director or";

(b) inserting after the words "*Act of 1959*" the brackets and words "(as the Governor in Council thinks fit)".

5. Amendment of s. 93A. Section 93A of the Principal Act is amended by—

(a) in the note appearing in and at the commencement of the section, adding at the end thereof the words "and maintenance";

(b) in subsection (1), inserting after the word "custody" the words "and maintenance";

(c) in subsection (2); omitting all words from and including the words "but otherwise" to the end of the subsection and inserting in their stead the following words:—

"but otherwise shall be deemed to be one or more of the following orders, according to its tenor—

(i) in the case of an interim award of custody or of access, an order that awards custody of an infant or, as the case may be, right of access to an infant;

(ii) in the case of an interim award of maintenance, a maintenance order".

6. Amendment of s. 94. Section 94 of the Principal Act is amended by, in subsection (1), inserting after the words "maintenance order", where they firstly occur, the brackets and words "(be it a final or an interim order)".

7. Amendment of s. 123. (1) Section 123 of the Principal Act is amended by, in subsection (1), omitting the first paragraph and inserting in its stead the following paragraph:—

"Any person, whether a relative of the person to whose maintenance the undertaking relates or not, may undertake in writing to pay or contribute to the maintenance of the person specified therein while he is a child."

(2) An undertaking given before the passing of this Act, purportedly under section 123 of the Principal Act, that relates to the maintenance of a child within the meaning of Part XII of the Principal Act shall not be held to be ineffectual or otherwise defective by reason only of the fact that at the date of the undertaking the person to whose maintenance it relates was not a child within the meaning of Part XII of the Principal Act.

8. Amendment of s. 138. Section 138 of the Principal Act is amended by, in subsection (1),

(a) omitting paragraph (a) and inserting in its stead the following paragraph:—

"(a) a report shall not be made of the proceeding or any part thereof save on the order of the court or, as the case may be, the justice unless—

(i) the report is one made for the Department, or the Department of Justice, or the Police Department; or

(ii) the proceeding is one in which the child is concerned as a witness only;”;

(b) omitting from paragraph (b) all words from the commencement of the provision to and including the word “ reveal ” and inserting in their stead the following words:—

“ a report of the proceeding or any part thereof being—

(i) a report made on the order of the court or, as the case may be, the justice; or

(ii) a report made of a proceeding referred to in provision (ii) of paragraph (a),

shall not reveal ”;

(c) omitting from paragraph (c) the words “ save upon the order of the court or justice ” and inserting in their stead the words “ save on the order of the court or, as the case may be, the justice ”.