



ANNO VICESIMO NONO

ELIZABETHAE SECUNDAE REGINAE

No. 26 of 1980 .

**An Act to amend the Health Act 1937–1979 in certain
particulars; and to repeal section 9 of the Health Act
Amendment Act 1978**

[ASSENTED TO 12TH MAY, 1980]

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 *Health Act Amendment Act 1980*.

(2) In this Act, the *Health Act 1937-1979* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Health Act 1937-1980*.

2. Commencement. This Act shall commence on a day to be fixed by Proclamation.

3. Repeal of s. 9 of Act No. 65 of 1978. Section 9 of the *Health Act Amendment Act 1978* is repealed.

4. New Division XIB of Part III. The Principal Act is amended by inserting after section 76J the following heading and sections:—

“ DIVISION XIB—MALTREATMENT OF CHILDREN

76K. Notification of maltreatment. (1) A medical practitioner who suspects on reasonable grounds the maltreatment or neglect of a child in such a manner as to subject or be likely to subject the child to unnecessary injury, suffering or danger shall, within 24 hours after first so suspecting, notify by the most expeditious means available to him a person authorized by the Director-General by regulation to be so notified.

(2) Any such regulation may so authorize particular persons or persons by reference to a class of person or classes of persons or by reference to offices or qualifications held or otherwise howsoever.

(3) Where notification is given to an authorized person pursuant to subsection (1), the medical practitioner so notifying shall, within 7 days after doing so, forward to the Director-General a further notification in such form as is specified for the purpose by the Director-General by regulation.

(4) An authorized person who receives a notification from a medical practitioner under this section shall act in such manner as will best ensure the safety and well being of the child in question and, in so doing, may communicate the notification to other persons for the purpose of having investigations or inquiries made or other things done to enable full effect to be given to the provisions of this Division.

(5) A notification given pursuant to subsection (1) or subsection (3) shall state the observations and opinions upon which the medical practitioner's suspicion is based.

(6) In addition to receiving the notification pursuant to subsection (3), the Director-General may require the medical practitioner so notifying or any other medical practitioner associated with treatment of the child in question to forward to him any statement or further information that the Director-General considers he should have concerning the child; and the medical practitioner concerned shall comply with such requirement.

(7) Where in compliance or purported compliance with this section a notification is given or a statement or further information furnished in good faith by a medical practitioner—

- (a) no liability at law is incurred in respect of the giving or furnishing thereof by him;
- (b) the giving or furnishing thereof shall not in any proceedings before any court or tribunal or in any other respect be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct.

(8) A person does not incur any liability as for defamation by the publication of any defamatory matter contained in a notification or statement or further information as aforesaid where such publication is made in good faith and pursuant to any provision of or otherwise in the execution of this Division.

76L. Temporary custody of children. (1) In this section the term “prescribed medical officer” means the medical superintendent or other medical officer in charge of a hospital in question or any nominee (being a medical practitioner) of such medical superintendent or other medical officer (such medical superintendent or other medical officer being hereby authorized to make any such nomination as he thinks fit).

(2) Where—

- (a) a child has presented itself or been presented at a hospital; and
- (b) the prescribed medical officer suspects upon reasonable grounds the maltreatment or neglect of the child in such a manner as to subject or be likely to subject it to unnecessary injury, suffering or danger,

the prescribed medical officer may order in writing the detention of that child in that hospital for a period not exceeding 96 hours from such presentation.

(3) Notwithstanding the wishes of any parent, guardian or person claiming to be entitled to the custody of a child in respect of whom an order has been made in accordance with subsection (2), it shall be lawful for—

- (a) the child to be detained in the hospital for the period specified in the order;
- (b) the child to be subjected to such diagnostic procedures and tests as the prescribed medical officer considers necessary to determine its medical condition;

(c) such treatment to be administered to the child as the prescribed medical officer considers necessary in the interests of the child, subject to the conditions specified in subsection (4).

(4) Where treatment is administered to a child pursuant to subsection (3) (c), neither the prescribed medical officer administering the treatment or in charge of its administration nor any person acting in aid of the prescribed medical officer and under his supervision in the administration of the treatment shall incur any liability at law by reason only that any parent, guardian or person having authority to consent to the administration of the treatment refused consent to the administration of the treatment or such consent was not obtained if—

(a) in the opinion of the prescribed medical officer the treatment was necessary in the interests of the child; and

(b) either—

(i) upon and after in person examining the child, a second medical practitioner concurred in such opinion before the administration of the treatment; or

(ii) the medical superintendent of a base hospital, being satisfied of the unavailability of a second medical practitioner to examine the child and of the necessity of the treatment in the interests of the child, consented to the treatment before it was administered (which consent may be obtained and given by any means of communication whatsoever).

(5) Treatment administered to a child in accordance with this section shall, for all purposes, be deemed to have been administered with the consent of the parent or guardian or person having authority to consent to the administration of the treatment.

(6) Nothing contained in this section relieves a prescribed medical officer from liability in respect of the administration of treatment to a child to which liability he would have been subject had the treatment been administered with the consent of the parent or guardian or person having authority to consent to the administration of the treatment.

(7) Where an order has been made pursuant to subsection (2), a copy thereof shall be forwarded as soon as practicable to—

(a) the Director-General;

(b) any person recorded at the hospital as being the parent, guardian or person claiming to be entitled to the custody of the child.

(8) Failure to comply with subsection (7) does not invalidate the order.

76M. Meaning of “child”. In this Division the term “child” means a person under or apparently under the age of 17 years.

76N. Regulations. The Director-General, in accordance with this Act, may make regulations not inconsistent with this Act for or with respect to all matters that—

- (a) are to be or may be made under or for the purposes of this Division;
- (b) in his opinion are necessary or convenient for the proper administration of this Division or to achieve the objects and purposes of this Division.”.