

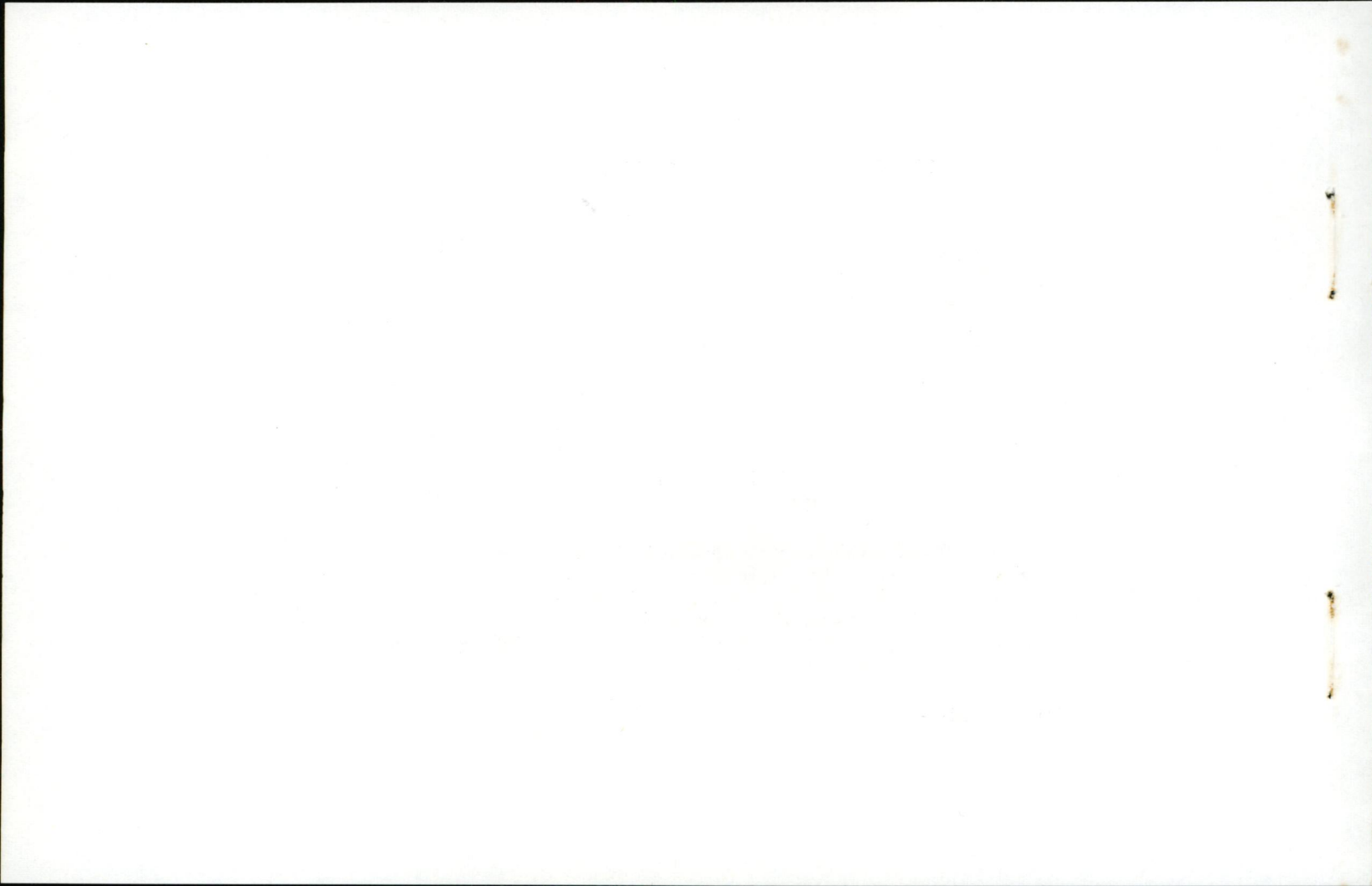
CHILD WELFARE (AMENDMENT) BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 19 March, 1969.*

- No. 1.—Page 3, clause 2, lines 13 and 14. *Omit* “discharged upon his entering into a recognizance”, *insert* “**admitted to bail**”.
- No. 2.—Page 8, clause 2, lines 5 to 9 inclusive. *Omit* all words and symbols on these lines.
- No. 3.—Page 11, clause 2, line 28. *Omit* “ward”, *insert* “**child or young person**”.
- No. 4.—Pages 28 and 29, clause 4, lines 25 to 34 inclusive on page 28 and lines 1 to 10 inclusive on page 29. *Omit* all words, figures and symbols on these lines, *insert*—

81A. Where a child or young person in the custody of the superintendent of an institution or the keeper of a shelter is entitled to be discharged or liberated upon his entering into a recognizance in such amount, and with such surety or sureties, if any, as may have been ordered according to law, the recognizance may be entered into before that superintendent or keeper as if he were a gaoler.

Recognizance may be entered into before certain persons.



This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 6 March, 1969.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 19 March, 1969.*

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1969.

An Act relating to certain proceedings before children's courts, the execution of certain warrants and the transfer of persons between prisons and institutions; to provide for the care of wards and persons having the like status who travel or remove between States; to make further provision with respect to the religious teaching of wards; to establish a Welfare Services Training Council; for these and other purposes to amend the Child Welfare Act, 1939, the Parole of Prisoners Act, 1966, and certain other Acts; and for purposes connected therewith.

BE

66105 211—A

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1969". Short title and citation.

(2) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939–1969.

2. (1) The Child Welfare Act, 1939, as subsequently amended, is amended— Amendment of Act No. 17, 1939.

(a) by inserting in section two after the matter relating to Division 8 of Part XX the following new matter :— Sec. 2. (Parts of Act.)

PART XXI.—WELFARE SERVICES TRAINING COUNCIL—ss. 182–185.

(b) (i) by omitting from paragraph (a) of section fifteen the word "or"; Sec. 15. (Children's courts not held in ordinary courts.)
(ii) by omitting from paragraph (b) of the same section the word "Minister." and by inserting in lieu thereof the following words :—

Minister; or

(c) where in the opinion of the court in any particular case it is expedient to hold the court in some other building or room approved in that behalf by the court, in that other building or room.;

(iii) by inserting in the same section after the words "so approved" the words "by the Minister or the court";

(c)

Child Welfare (Amendment).

(c) (i) by omitting from subsection three of section eighteen the word "determination" and by inserting in lieu thereof the word "hearing";

Sec. 18.
(Right of appeal.)

(ii) by inserting next after the same subsection the following new subsection :—

(3A) During the period of any adjournment of the hearing of the appeal the child or young person may, in accordance with the directions of the court hearing the appeal, be detained at any shelter, or permitted to go home with a parent or with any other person who is willing to undertake the care of the child or young person during that period, or ~~discharged upon his entering into a recognizance~~ **admitted to bail** with or without sureties.

(d) by inserting next after section twenty the following new section :—

New sec. 20A.

20A. (1) In this section—

"court" includes a judge exercising the powers of a court;

Procedure where court misled as to age of person.

"decision" includes finding, order, determination and judgment but does not include—

(a) a finding that a person is a neglected or uncontrollable child or young person;

(b) an order, committing a person to the care of the Minister, under paragraph (d) of subsection one, or paragraph (c) of subsection two, of section eighty-three of this Act;

(c) an order made, after the commencement of section three of the Child Welfare (Amendment) Act, 1967, as subsequently amended, under subsection one of section forty-seven of this Act, as amended by subsequent Acts;

(d)

Child Welfare (Amendment).

- 5 (d) an order, dismissing a charge, under paragraph (e) of subsection one, or paragraph (a) of subsection three, of section eighty-three of this Act;
- (e) the admonishing and discharging of a person under paragraph (b) of subsection three of section eighty-three of this Act.

10 (2) Where a person charged is dealt with by a court as a child or young person and the Director is satisfied that, at the time of the commission of the offence with which he is charged that person had attained the age of eighteen years, and where that person is, at the time the Director is so satisfied, being treated as being affected by that decision—

15 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

20 (b) that person shall—

(i) until that decision is reviewed pursuant to this section, be treated, for the purposes of that decision and of this Act, as if he had not attained the age of eighteen years; and

25 (ii) for the purposes of an order made when that decision is so reviewed, be treated as if he would attain the age of eighteen years on the day next succeeding the making of the order.

30 (3) Where a court delivers a decision with respect to a child or young person and the Director is satisfied that, at the time the decision was delivered

35 delivered

Child Welfare (Amendment).

5 delivered, the court was misled as to the age of the child or young person, and where that child or young person is, at the time the Director is so satisfied, still affected by, or is being treated as being affected by, that decision—

10 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

15 (b) that child or young person shall, if he attains the age of eighteen years before that decision is reviewed pursuant to this section, be treated as is provided by paragraph (b) of subsection two of this section.

20 (4) An officer authorised by the Minister in that behalf may, upon instructions given by the Director pursuant to subsection two or three of this section, apply to a court to review the decision to which the instructions relate and, upon any such application being made, the court may order—

25 (a) that the decision under review be varied, in such manner as the court thinks fit, in so far as it appears that the purported age of the person in respect of whom that decision was made was material in relation to the term or period for which the decision was to be effective; or

30 (b) that the application be dismissed.

(e) (i) by inserting immediately before the definition of "Neglected child" in section seventy-two the following new definition :—

Sec. 72.
(Definition of neglected child.)

35 "Drug" means drug of addiction or prohibited drug, as defined in section

four

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four of the Poisons Act, 1966, as subsequently amended, and includes any substance injurious to health.

5 (ii) by omitting paragraph (h) of the same definition and by inserting in lieu thereof the following paragraph :—

(h) who is found—

10 (i) in any place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied; or

15 (ii) administering, consuming, using or smoking any drug, and is in need of care, protection or control by reason thereof;

(iii) by omitting from paragraph (o) of the same definition the word “regularly.” and by inserting in lieu thereof the following words :—

20 regularly; or

25 (p) who tattoos himself, or allows himself to be tattooed by another person, in any manner on any part of his body without having first obtained the written permission of his parent or guardian to be tattooed in that manner on that part of his body.

(f) by omitting from subsection one of section ^{Sec. 75.} seventy-five the words “where opium or any preparation thereof is smoked” and by inserting ^(Warrant to search in brothel.) in lieu thereof the words “is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

(g)

Child Welfare (Amendment).

- (g) by omitting from section seventy-six the words "or where opium or any preparation thereof is smoked" and by inserting in lieu thereof the words ", or is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place"; Sec. 76. (Apprehension of child in brothel, etc.)
- 5
- (h) by omitting section seventy-seven and by inserting in lieu thereof the following section :— Sec. 77. (Where child in brothel or opium den, keeper guilty of an offence.)
- 10
77. Where a child or young person is found in a brothel, or in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, the keeper or person in charge, or apparently in charge, of the brothel or place shall be guilty of an offence against this Act. Where child or young person in brothel, etc., keeper guilty of offence.
- 15
- (i) (i) by omitting from subsection one of section eighty-one the words ", or is charged with being,"; Sec. 81. (Procedure of court.)
- 20
- (ii) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";
- 25
- (iii) by omitting from subsection two of the same section the words ", or is charged with being,";
- (iv) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";
- 30

(v)

Child Welfare (Amendment).

- (v) by inserting in subsection seven of the same section after the word "may" where firstly occurring the words ", in accordance with the directions of the court,";
- 5 ~~(vi) by omitting from the same subsection the words "may be admitted to bail" and by inserting in lieu thereof the words "discharged upon his entering into a recognizance";~~
- 10 (j) (i) by omitting from paragraph (e) of subsection ^{Sec. 83.} two of section eighty-three the word "condi- ^(Powers of court.) tions" and by inserting in lieu thereof the words "terms and conditions";
- 15 (ii) by omitting from paragraph (c) of subsection three of the same section the word "conditions" and by inserting in lieu thereof the words "terms and conditions";
- 20 (iii) by inserting next after subsection four of the same section the following new subsections :—
- 25 (4A) A court shall not make payment of a sum of money by way of compensation a condition of any order, but nothing in this subsection shall be construed as affecting the power of a court to specify the conditions of a recognizance.
- 30 (4B) The provisions of subsections three, four, five and six of section five hundred and fifty-four of the Crimes Act, 1900, as amended by subsequent Acts, shall apply to a children's court dealing with a young person but shall not otherwise apply to a children's court and, where those provisions apply to a children's court, a conviction referred to in that section shall be deemed to include a finding of guilt,
- 35 and an order made, under subsection one or two of this section.

(4c)

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(4C) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a children's court.

5 (4D) An order made under subsection three of this section shall be deemed not to be an acquittal of, or the dismissal of an information against, a person within the meaning of section four of the Criminal Injuries Compensation Act, 1967.

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(iv) by inserting next after subsection five of the same section the following new subsection :—

15 (5A) Where it is within the knowledge of the person who executes a warrant of commitment in default of payment of a penalty, compensation, damages or costs that the person named in the warrant has, in the case of a warrant of commitment to a shelter or an institution, attained the age of eighteen years or has not, in the case of a warrant of commitment to a prison, attained that age, the warrant shall—

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(a) in the case of a warrant of commitment to a shelter or an institution, be deemed to be directed to the governor of the prison nearest the place where the warrant was executed; or

25

(b) in the case of a warrant of commitment to a prison, be deemed to be directed to the keeper of the shelter nearest the place where the warrant was executed.

30

(v) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

35

(6) Where a person has been discharged under paragraph (e) of subsection two, or paragraph (c) of subsection three, or subsection

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subsection four, of this section, the court may, at any time after his discharge and before or after he attains the age of eighteen years, by notice given to that person, or to his parent and his surety, in such manner as the court may direct, give a direction for that person to appear before the court at a time and place specified in the notice and may, in default of his appearance in accordance with the direction, issue a warrant for his apprehension.

(7) Where a person who has attained the age of eighteen years appears before a court in accordance with a direction, or pursuant to a warrant for his apprehension, under subsection six of this section and the court is satisfied that he has failed to comply with the terms and conditions of his recognizance, the court may, in relation to that person, exercise any of the powers conferred upon it by section eighty-two of this Act (paragraph (d) excepted) or by subsection one, two or three of this section (paragraph (d) of subsection one and paragraph (c) of subsection two excepted) in respect of a child or young person.

- (k) (i) by omitting from subsection one of section eighty-five the words "in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed" and by inserting in lieu thereof the words "by the finding, order or direction of a court liable to pay a penalty, or compensation, damages or costs, in respect of an offence";
- (ii) by inserting in subsection two of the same section after the word "penalty," the word "compensation,";
- (iii) by inserting in subsection three of the same section after the word "may" where firstly occurring the words "if not paid to the clerk of the court,";
- (1)

Sec. 85.
(Court may order parent to pay penalty, damages or costs.)

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(o) by omitting from paragraph (b) of subsection two of section ninety the word "order." where secondly occurring and by inserting in lieu thereof the following words :—

Sec. 90.
(Probation:
Who shall
have custody
and
control.)

5 order; and

(c) except in the case of an order made under paragraph (e) of subsection two, or under subsection four, of section eighty-three of this Act that otherwise directs, the child or young person shall, as terms and conditions of his release—

10

(i) accept the supervision of any officer authorised by the Minister in that behalf; and

15

(ii) obey all reasonable directions of any such officer.

(p) (i) by omitting subsection one of section ninety-one and by inserting in lieu thereof the following subsections :—

Sec. 91.
(Breach of
terms of
probation.)

20

(1) Where a person who, as a child or young person, was released on probation or was committed to the care of a person breaks or is reasonably suspected of having broken the terms or conditions of his release or committal he may (whether or not a warrant has been issued under subsection (1A) of this section) be apprehended by any constable or by any officer authorised by the Minister in that behalf and shall, upon being so apprehended, be taken to a shelter and as soon as practicable thereafter shall be brought before a court.

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30

35

(1A) Any justice may, upon oath being made before him by any constable or by an officer authorised by the Minister in that behalf that, having made due inquiry, he believes that a person who, as a child or young person, was released on probation or was committed to

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to the care of a person has broken the terms or conditions of his release or committal—

- 5 (a) issue his summons for the appearance of the person so released or committed before a court; or
- (b) in the first instance issue his warrant directing the apprehension of the person so released or committed.

10 (1B) Where a warrant has been issued under paragraph (b) of subsection (1A) of this section, any constable or any officer authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend the person to whom the warrant relates.

15

(ii) by omitting from subsection two of the same section the words “notwithstanding the fact that the person charged has then attained the age of eighteen years” and by inserting in lieu thereof the words “whether or not that breach occurred after he attained the age of eighteen years and, where the breach occurred before he attained that age, whether or not he attained that age after the breach occurred”;

20

(iii) by inserting after the word “person” in subsection three of the same section the words “, or the terms and conditions imposed by a judge or court in respect thereof.”;

25

(iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—

30

(4) Where by the order of a court a child or young person—

(a) has been released on probation on condition that he remain in the care of a person named in the order; or

35

(b)

Child Welfare (Amendment).

(b) has been committed to the care of a person named in the order,

the court may, upon the application of any officer authorised by the Minister in that behalf, vary the order by substituting the name of some other person for that of the person named in the order.

(q) by omitting subsection two of section ninety-four and by inserting in lieu thereof the following subsections :—

Sec. 94.
(Power to detain in institutions.)

(2) An order under subsection one of this section shall, for the purposes of this Act, subsections one and two of section fifty-four excepted, be deemed to be an order committing the person to whom it relates to an institution there to be detained until the expiration of the period of his sentence, or until he is transferred to prison pursuant to this section, whichever first occurs.

(2A) Where a person to whom an order under subsection one of this section applies has been detained in an institution for a period of three years or if he earlier, while so detained, attains the age of twenty-one years, the Minister shall order that he be transferred to prison as soon as practicable thereafter, there to serve the unexpired portion of the term of his sentence, and upon such transfer taking place, that person shall cease to be subject to the provisions of this section.

(r) (i) by inserting next after subsection two of section one hundred and thirty-nine the following new subsection :—

Sec. 139.
(Arrest of absconding ward.)

(2A) Where a ward brought before a magistrate pursuant to paragraph (a) of subsection two of this section is a person who was transferred from prison to an institution, the

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5 the court may, in lieu of exercising its powers under paragraph (b) of that subsection, order that the offender be returned to the prison from which he was transferred and may further order—

- (a) where the offender is a child or young person, that he be detained in prison for a further term; or
- 10 (b) where the offender is of or above the age of eighteen years, impose a sentence of imprisonment for a further term,

15 not exceeding, in either case, three months with hard labour, to commence at the expiration of the original sentence.

(ii) by inserting next after subsection five of the same section the following new subsection :—

- (6) In this section “ward” includes—
 - 20 (a) a person subject to an order made under Part XIV of this Act committing him to an institution; and
 - (b) a person subject to an order made under Part XV of this Act for his transfer from a prison to an institution,
- 25 whether or not that person has attained the age of eighteen years.

(s) by inserting next after section one hundred and thirty-nine the following new section :—

- 139A. (1) In this section—
- 30 “appropriate authority” means person who under the law of—
 - (a) a State of the Commonwealth of Australia other than New South Wales; or
 - 35 (b) a Territory,

New sec. 139A.

Reciprocity between States in relation to wards.

corresponding

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corresponding to this Act is competent to take action equivalent to admission to State control under this Act;

5 “interstate ward” means child or young person entering New South Wales who, immediately before that entry, was under the care or guardianship of an appropriate authority;

10 “Territory” means Territory of the Commonwealth of Australia, including a Territory under the trusteeship of the Commonwealth of Australia.

15 (2) Where an interstate ward enters New South Wales, the Minister may, if the appropriate authority for the interstate ward has requested him to do so, admit the interstate ward to State control under this Act for a period not exceeding that for which he would, but for this subsection, have been under the care or guardianship of that authority.

(3) The Minister—

- 20 (a) may make, with an appropriate authority financial and other arrangements for the care of an interstate ward or a ward;
- 25 (b) may, at his discretion, or in accordance with any such arrangements, return an interstate ward to the care or guardianship of his appropriate authority; and
- 30 (c) shall, where the appropriate authority for an interstate ward requests him to do so, return the interstate ward to the care or guardianship of that appropriate authority.

(4) Where, in the opinion of the Minister, the law of a State of the Commonwealth of Australia other than New South Wales, or of a Territory, makes the like provision for or with respect to a

ward

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ward entering that State as is made by subsections two and three of this section for or with respect to an interstate ward and, upon a request by the Minister, such a provision corresponding to subsection two of this section is applied to a ward who leaves New South Wales, the powers, authorities, duties and functions conferred or imposed by or under this Act upon the Minister and other persons shall be deemed to have been suspended in relation to that ward while he remains under care or guardianship in consequence of the application of that provision, except in so far as they may be exercised or performed in accordance with arrangements made under paragraph (a) of subsection three of this section.

- (t) by omitting section one hundred and forty and by inserting in lieu thereof the following section :—

140. (1) A ward shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion in which he is to be educated.

(2) For the purposes of subsection one of this section, a ward shall, subject to the other provisions of this section, be educated—

- (a) where the ward is illegitimate—in accordance with the wishes of his mother expressed for those purposes in the prescribed manner;
- (b) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, are identical—in accordance with those wishes;
- (c) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, differ, the one from the other—
- (i) in accordance with the wishes of the father; or

(ii)

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- 5 (ii) where the Minister is satisfied that the father has failed to discharge his parental obligations to the ward, in accordance with the wishes of the mother;
- 10 (d) where the ward is legitimate and one of his parents has expressed, in the prescribed manner, his or her wishes for those purposes while the other parent has failed so to express any such wishes or, in the prescribed manner, has declined to express any such wishes—in accordance with the wishes so expressed;
- 15 (e) where the ward is legitimate and only one of his parents is living or can on reasonable inquiry be found—in accordance with the wishes, expressed for those purposes in the prescribed manner, of that parent.
- 20 (3) Subject to the other provisions of this section, where neither parent of a ward is living, or where neither parent of a ward can upon reasonable inquiry be found, or where the parent of a ward in accordance with whose wishes the ward would, if expressed pursuant to subsection two of
- 25 this section, be educated, has failed to express those wishes in the prescribed manner, or has, in the prescribed manner, declined to express those wishes, the ward shall, for the purposes of subsection one of this section, be educated—
- 30 (a) where the ward has, during the period of two years next preceding his admission to State control, been brought up in a particular religious persuasion and no other—in the persuasion in which he has been so
- 35 brought up; or

(b)

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5 (b) where the ward has not, during that period,
been brought up in any religious persuasion,
or where he has, during that period, been
brought up in more than one religious
persuasion and—

10 (i) has not attained the age of twelve
years—in such religious persuasion
as the Minister may, after ascertain-
ing the wishes (if any) of the ward
and, if practicable, the religious
persuasion or persuasions of his
parents—direct; or

15 (ii) has attained the age of twelve years
(whether or not he is a ward in
respect of whom a direction has
been given under subparagraph
(i) of this paragraph)—in such
religious persuasion approved by
the Minister as the ward selects.

20 (4) Notwithstanding anything contained
in subsection two or three of this section, where the
Minister is satisfied that a ward who is a young
person has, in the prescribed manner, genuinely
expressed a wish to be educated in a religious
25 persuasion differing from that in which he is being,
or but for this subsection would be, educated, the
ward shall, for the purposes of subsection one of
this section, be educated in the religious persuasion
so selected by him.

30 (5) Notwithstanding any other provision
of this section, where the Minister is satisfied that
the welfare of a ward would be promoted if the
ward were boarded-out, placed-out or placed
as an adopted boarder and that it is impracticable
35 to direct the removal or transfer of the ward
to the care of a foster parent of the same religious
persuasion

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persuasion as that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, the Minister may—

5 (a) direct that the ward be removed or transferred to the care of a foster parent of a religious persuasion that differs from that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, subject to that
10 foster parent agreeing not to hinder or impede the religious education of the ward as so provided; or

15 (b) where he is satisfied that the welfare of the ward would thereby be promoted, and subject to the observance of any procedures that may be prescribed for the purpose, direct that the ward be removed or transferred to the care of such a foster parent and be educated in such religious persuasion
20 other than that authorised by subsection two, three or four of this section as the Minister may specify when giving the direction.

25 (6) For the purposes of this section, the prescribed manner shall be by writing, signed by the parent or young person concerned and delivered—

30 (a) in the case of the parent of a ward, at or about the time the ward is, or is to be, admitted to State control or as soon as practicable within the period of one year thereafter; or

35 (b) in the case of a young person, as soon as practicable after the expression of his wish, to the Minister or to some person appearing to be authorised by him for the purpose.

(7)

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(7) The provisions of subsection three of section twenty-three of this Act shall, mutatis mutandis, apply to and in respect of the powers conferred upon the Minister by this section.

- 5 (u) by inserting next after subsection two of section one hundred and forty-four the following new subsections :— Sec. 144.
(Medical
examina-
tion.)

10 (3) The Minister or any officer specially authorised by the Minister in that behalf may consent to any surgical or other operation on a person (not being a ward) who is a minor and has, under this Act, been admitted to an establishment under the control of the Minister, or detained at a place of safety where—

- 15 (a) the Minister or officer, as the case may be, is advised by a medical practitioner that the operation is necessary in the interests of the health or welfare of that person; and
- 20 (b) the consent of the parent or guardian of that person cannot, in the circumstances, reasonably be obtained.

25 (4) A medical practitioner carrying out a surgical or other operation pursuant to a consent given under subsection two or three of this section shall not, by carrying out the operation, incur any liability that he would not have incurred had the parent or guardian of the person upon whom the operation is carried out consented thereto.

- 30 (v) by inserting next after section one hundred and forty-eight the following new section :— New
sec. 148A.

148A. A person who in any manner tattoos any part of the body of a child or young person shall be guilty of an offence against this Act unless he has first obtained the written permission of the Offence by
person who
tattoos
a child or
young
person.

parent

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parent or guardian of the child or young person to tattoo the child or young person in that manner on that part of his body.

- 5 (w) by inserting next after section one hundred and eighty-one the following new Part : — New Part XXI.

PART XXI.

WELFARE SERVICES TRAINING COUNCIL.

10 182. (1) There shall be a Welfare Services Training Council, hereinafter in this Part of this Act referred to as "the Council", consisting of not more than twelve members appointed by the Governor. Constitution of Welfare Services Training Council.

(2) Of the members of the Council—

- 15 (a) three shall be officers nominated by the Minister; and
- (b) the remaining members shall be persons nominated in accordance with subsection three of this section.

20 (3) For the purposes of the appointment of the members of the Council referred to in paragraph (b) of subsection two of this section, nominations may be submitted to the Minister in accordance with regulations prescribing—

- 25 (a) persons who, or organisations or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, organisation or class so prescribed; and
- 30 (c) the times within which such nominations may be submitted.

The

Child Welfare (Amendment).

The regulations may provide for the nomination of a number of persons in excess of the number of members of the Council that may be appointed.

5 (4) A member of the Council shall, subject to this Act and the regulations, hold office for such term (not exceeding in any case four years) as the Governor may specify in the instrument of appointment and shall, if otherwise qualified, be eligible for reappointment.

10 (5) In the case of a casual vacancy in the office of a member of the Council, the Governor may appoint a person to the vacant office (being, where the vacancy is in the office of a person who was nominated for membership by the Minister, an officer nominated by the Minister) and the
15 person so appointed shall hold office for the residue of his predecessor's term of office.

(6) A member of the Council shall be deemed to have vacated his office if he—

- 20 (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- 25 (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 30 (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a nominee of the Minister, ceases to be an officer; or
- 35 (g) is removed from office by the Governor.

(7)

Child Welfare (Amendment).

(7) The Council shall, subject to this Act and the regulations, frame rules for the conduct of its business, but no such rules shall be operative until they have been approved by the Minister.

5 (8) Meetings of the Council shall be convened so that at least six meetings are held in every year.

10 (9) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Council, and any member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act, as so amended, during his term of office.

15 183. (1) The Council may make reports and recommendations to the Minister with respect to— **Duties and functions of Council.**

20 (a) the provision of courses of instruction and training for persons employed in, or considering employment in, a welfare service, either in a voluntary or a paid capacity;

25 (b) the status of courses of instruction and training of the kind referred to in paragraph (a) of this subsection that are conducted within or outside New South Wales;

(c) such other matters connected with training of the kind referred to in paragraph (a) of this subsection as may be referred to it by the Minister;

30 (d) any other matter connected with training of the kind referred to in paragraph (a) of this subsection.

(2)

Child Welfare (Amendment).

(2) Subject to subsection one of this section the functions of the Council shall be—

- 5 (a) to recommend courses of instruction and training for approval by the Minister and to encourage the conduct of such courses;
- (b) to recommend to the Minister the accreditation of courses conducted by other organisations;
- 10 (c) to exercise a general supervision over the standards of theoretical and practical training approved or accredited by the Minister;
- (d) to conduct written, practical or oral examinations and to have regard to the results of examinations conducted by other
15 organisations in respect of accredited courses;
- (e) to issue certificates of qualification to persons who have passed examinations or
20 have attained a standard of proficiency acceptable to the Council in respect of courses approved or accredited by the Minister.

(3) The Council may appoint sub-committees to deal with specified matters within the
25 scope of the functions of the Council.

(4) The convenor of each sub-committee shall be a member of the Council and each sub-committee shall consist of such number of other
30 persons, whether members of the Council or not, as the Council may determine.

(5) The Council in appointing persons to a sub-committee shall include amongst the membership of the sub-committee persons who have
35 practical experience in the conduct or administration of one or more kinds of child welfare or social welfare

Child Welfare (Amendment).

welfare service or in the training of persons to provide any such service, selected from one or more of the following classes of persons :—

- 5 (a) medical practitioners (including persons having knowledge of and experience in paediatrics or psychiatry);
- (b) barristers or solicitors;
- (c) persons having knowledge of and experience in education;
- 10 (d) persons having knowledge of and experience in psychology;
- (e) persons having knowledge of and experience in social work;
- 15 (f) persons having knowledge of and experience in recreation;
- (g) persons having knowledge of and experience in religious education; and
- (h) persons having other suitable qualifications or experience.

- 20 184. The Minister shall be the authority to— Minister to be authority to approve or accredit courses.
- (a) approve of courses of instruction and training for welfare services where those courses are not prescribed in accordance with the provisions of any other Act or regulations; and
- 25 (b) extend accreditation for the purposes of this Part to courses of instruction and training that are not so prescribed.

185. The regulations may—

- 30 (a) prescribe the procedure to be followed—
- (i) in appointing a Chairman of the Council; and
- (ii)

Child Welfare (Amendment).

- (ii) in convening and conducting meetings of the Council;
- 5 (b) prescribe the fees to be paid to members of the Council other than officers and the allowances to be paid to members of the Council including officers;
- (c) prescribe such forms and documents as are necessary or expedient for the administration of this Part;
- 10 (d) prescribe the fees to be paid by persons attending courses of instruction and training conducted by or on behalf of the Director or any other officer.

15 (2) Paragraph (w) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. (1) The Child Welfare Act, 1939, as subsequently amended, is further amended by inserting next after subsection one of section eight the following new subsections :—

Further amendment of Act No. 17, 1939.

Sec. 8.

(Advisory council.)

20 (1A) A person appointed pursuant to subsection one of this section shall hold office for such term (not exceeding four years) as the Governor may specify in the instrument of appointment, and shall be eligible for reappointment.

25 (1B) In the case of a casual vacancy in the office of a person appointed pursuant to subsection one of this section, the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.

30 (1C) A member of the council shall be deemed to have vacated his office if he—

(a) dies;

(b)

Child Welfare (Amendment).

- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) absents himself from four consecutive meetings of the council without leave of the council; or
- (f) is removed from office by the Governor.

(2) The persons holding office at the commencement of this section as members of the Child Welfare Advisory Council constituted under section eight of the Child Welfare Act, 1939, as subsequently amended, shall be deemed to have been appointed under that section of that Act, as so amended and as amended by subsection one of this section, for a term expiring on the thirty-first day of January, one thousand nine hundred and seventy-two.

4. The Child Welfare Act, 1939, as subsequently amended, is further amended—

- (a) by inserting next after section eighty-one the following new section :—

25 ~~81A. Where, under subsection three or (3A) of section eighteen or subsection seven of section eighty-one, of this Act, a court has ordered that a child or young person be discharged upon his entering into a recognizance and has fixed the amount in which the principal and any surety or sureties are thereby to be bound, the recognizance may be entered into by the parties before any person authorised in that behalf by the Justices Act, 1902, as amended by subsequent~~ Further amendment of Act No. 17, 1939. New sec. 81A. Recognizance may be entered into before certain persons.

30

Child Welfare (Amendment).

subsequent Acts, or where the child or young person is in the custody of the superintendent of an institution, or of the person for the time being in charge of a shelter, before that superintendent or person in charge and, where a recognizance is entered into before such a superintendent or person in charge, the provisions of that Act, as so amended, relating to recognizances entered into before a person so authorised shall, *mutatis mutandis* apply.

81A. Where a child or young person in the custody of the superintendent of an institution or the keeper of a shelter is entitled to be discharged or liberated upon his entering into a recognizance in such amount, and with such surety or sureties, if any, as may have been ordered according to law, the recognizance may be entered into before that superintendent or keeper as if he were a gaoler.

Recognizance may be entered into before certain persons.

(b) by inserting next after section eighty-three the following new section :—

New sec. 83A.

83A. The provisions of sections ninety-four and ninety-five of the Justices Act, 1902, as amended by subsequent Acts, shall apply to and in respect of a person committed to a shelter, or to an institution, in default of payment of a penalty, or of compensation, damages or costs, and shall so apply as if—

Payment of penalty, etc., to superintendent of institution or keeper of shelter.

(a) that person had been imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices for a term the same as that for which he is to be detained in the shelter or institution; and

(b) the superintendent of the institution or the person for the time being in charge of the shelter, as the case may be, were the keeper of the prison.

5. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further amendment of Act No. 17, 1939.

(a) (i) by omitting subsection two of section one hundred and thirty-three;

Sec. 133.

(ii) by omitting from subsection three of the same section the words "not be released therefrom" and by inserting in lieu thereof the word "not,";

(Child believed to be suffering from venereal disease.)

(iii)

Child Welfare (Amendment).

(iii) by inserting in the same subsection after the word "infection" the following words :—

, be released therefrom except upon license granted—

5 (a) by the Governor, where the Governor would, but for this subsection, be empowered to discharge the child or young person from an institution; or

10 (b) by the Minister, where the Minister would, but for this subsection, be so empowered;

(iv) by inserting next after subsection three of the same section the following new subsections :—

15 (3A) It shall be a condition of a license granted under subsection three of this section that the person released shall obtain treatment for venereal disease and otherwise comply with the provisions of the Venereal Diseases Act, 1918, as amended by subsequent Acts, relating to persons suffering therefrom.

20 (3B) The Minister may revoke a license granted under section three of this Act, whether or not he is the grantor thereof and, upon any such revocation, the person to whom the license relates may be dealt with as if he had absconded from an institution.

25 (v) by omitting from subsection four of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection three of this section";

(vi)

Child Welfare (Amendment).

- (vi) by inserting in subsection five of the same section after the word "certified" the words "or released";
- 5 (b) (i) by omitting subsection one of section one hundred and thirty-four and by inserting in lieu thereof the following subsections :—
- Sec. 134.
(Medical
examina-
tion:
Venereal
disease.)
- 10 (1) No ward shall be transferred from a depot, home or hostel to be boarded-out, placed-out or placed as an adopted boarder, unless he has been—
- (a) examined by a medical practitioner;
and
- 15 (b) certified by such medical practitioner as being, in the opinion of that medical practitioner, apparently free from venereal disease, or no longer liable to convey infection.
- 20 (1A) Where a ward has not been admitted to a depot, home or hostel established under this Act, an examination as provided by subsection one of this section shall be carried out and a certificate obtained as soon as practicable after the ward has been admitted to State control and a further examination may
- 25 be carried out, and a certificate obtained, at any time at the request of an officer authorised in that behalf by the Minister.
- 30 (ii) by omitting from subsection two of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection one or (1A) of this section".

Child Welfare (Amendment).

6. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further amendment of Act No. 17, 1939.

(a) by inserting next after subsection two of section fifty-four the following new subsections :—

Sec. 54. (Discharge of child or young person.)

5 (3) Notwithstanding anything contained in subsections one and two of this section, a person transferred to an institution under section ninety-four of this Act shall not, while under sentence of imprisonment, be discharged from an institution except pursuant to subsection four of this section.

15 (4) The Minister may, by order, discharge from an institution a person referred to in subsection three of this section on such terms and conditions as he deems desirable and specifies in the order and shall, in any such order, specify the period for which the order is to remain in force for the purposes of section 2A of the Parole of Prisoners Act, 1966, as subsequently amended.

20 (5) The Minister shall cause a copy of an order made under subsection four of this section, and a statement of the date of birth of the person to whom it refers, to be served on the Parole Board constituted under the Parole of Prisoners Act, 1966, as subsequently amended.

25 (b) (i) by omitting from section fifty-five the word "ward" and by inserting in lieu thereof the words "other person detained in an institution";

Sec. 55. (Absconder may be apprehended.)

30 (ii) by omitting from the same section the word and symbol "superintendent," and by inserting in lieu thereof the words "superintendent or, being a child or young person, is in breach of the terms and conditions specified in an order for his discharge made under subsection four of section fifty-four of this Act,".

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Child Welfare (Amendment).

7. The Parole of Prisoners Act, 1966, is amended by inserting next after section two the following new section :—

Amendment of Act No. 41, 1966.
New sec. 2A.

5 2A. (1) Where a person is transferred to an institution pursuant to an order made under subsection one of section ninety-four of the Child Welfare Act, 1939, as amended by subsequent Acts, the powers, authorities, duties and functions conferred or imposed upon the Board by this Act shall not be exercised or performed in relation to that person during the period of his detention pursuant to that order.

Limitation of powers of Board in certain circumstances.

15 (2) Subject to this section, an order of discharge under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be a parole order duly made by the Board under section six of this Act.

20 (3) Where a parole order referred to in subsection two of this section relates to a person who, at the time of his discharge from an institution had not attained the age of eighteen years, the powers, authorities, duties and functions that, but for this subsection, would be conferred or imposed by this Act upon the Board in relation to the parole order shall, subject to this section, be exercised and performed by the Minister for the time being administering the Child Welfare Act, 1939, as amended by subsequent Acts, to the exclusion of the Board, until that person attains the age of eighteen years or the parole period earlier expires.

30 (4) Subject to this Act, a parole order referred to in subsection two of this section shall—

- (a) remain in force for the period; and
- (b) be subject to the terms and conditions, specified in the discharge order deemed, by that subsection, to be the parole order.

Child Welfare (Amendment).

5 (5) For the purposes of this Act, discharge from an institution under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be release, on parole, from a prison.

10 (6) The powers conferred by subsection three of section six of this Act shall not be exercised in respect of a parole order referred to in subsection two of this section before the person to whom the parole order relates attains the age of eighteen years.

15 (7) Nothing in this section shall prejudice or affect any power, authority, duty or function conferred or imposed by or under the Child Welfare Act, 1939, as amended by subsequent Acts, upon the Minister for the time being administering that Act, as so amended, or upon any other person.

20 **8.** (1) The Child Welfare (Amendment) Act, 1966, is amended by inserting in paragraph (f) of section two, at the end of section thirty-eight to be inserted in the Child Welfare Act, 1939, as amended by subsequent Acts, the following new subsections :—

Amendment of Act No. 11, 1966. Sec. 2. (Amendment of Act No. 17, 1939.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards. (Regulations.)

25 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part, or from compliance with any part of such a regulation or from compliance with any condition of a license.

30 (2) Subsection one of this section shall commence on the day on which paragraph (f) of section two of the Child Welfare (Amendment) Act, 1966, commences.

Child Welfare (Amendment).

9. (1) The Child Welfare (Amendment) Act, 1967, is amended—

Amendment
of Act No.
27, 1967.

5 (a) by omitting from paragraph (e) of section three, in subsection one of section forty-seven to be inserted in the Child Welfare Act, 1939, as subsequently amended, the words “, or is charged with being,”;

Sec. 3.
(Further
amendment
of Act No.
17, 1939.)

10 (b) by inserting in the same paragraph at the end of section 48M to be inserted in the Child Welfare Act, 1939, as subsequently amended, the following new subsections :—

(Regula-
tions.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

15 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part or from compliance with any part of such a regulation or from compliance with any condition of a license.

20 (2) Subsection one of this section shall commence on the day on which paragraph (e) of section three of the Child Welfare (Amendment) Act, 1967, commences.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 6 March, 1969.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, March, 1969.*

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1969.

An Act relating to certain proceedings before children's courts, the execution of certain warrants and the transfer of persons between prisons and institutions; to provide for the care of wards and persons having the like status who travel or remove between States; to make further provision with respect to the religious teaching of wards; to establish a Welfare Services Training Council; for these and other purposes to amend the Child Welfare Act, 1939, the Parole of Prisoners Act, 1966, and certain other Acts; and for purposes connected therewith.

BE

06105 211—A

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1969". Short title and citation.

(2) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939-1969.

2. (1) The Child Welfare Act, 1939, as subsequently amended, is amended— Amendment of Act No. 17, 1939.

(a) by inserting in section two after the matter relating to Division 8 of Part XX the following new matter :— Sec. 2. (Parts of Act.)

PART XXI.—WELFARE SERVICES TRAINING COUNCIL—ss. 182-185.

(b) (i) by omitting from paragraph (a) of section fifteen the word "or"; Sec. 15. (Children's courts not held in ordinary courts.)
(ii) by omitting from paragraph (b) of the same section the word "Minister." and by inserting in lieu thereof the following words :—

Minister; or

(c) where in the opinion of the court in any particular case it is expedient to hold the court in some other building or room approved in that behalf by the court, in that other building or room.;

(iii) by inserting in the same section after the words "so approved" the words "by the Minister or the court";

(c)

Child Welfare (Amendment).

(c) (i) by omitting from subsection three of section eighteen the word "determination" and by inserting in lieu thereof the word "hearing";

Sec. 18.
(Right of appeal.)

(ii) by inserting next after the same subsection the following new subsection :—

(3A) During the period of any adjournment of the hearing of the appeal the child or young person may, in accordance with the directions of the court hearing the appeal, be detained at any shelter, or permitted to go home with a parent or with any other person who is willing to undertake the care of the child or young person during that period, or discharged upon his entering into a recognizance admitted to bail with or without sureties.

(d) by inserting next after section twenty the following new section :—

New sec. 20A.

20A. (1) In this section—

"court" includes a judge exercising the powers of a court;

Procedure where court misled as to age of person.

"decision" includes finding, order, determination and judgment but does not include—

(a) a finding that a person is a neglected or uncontrollable child or young person;

(b) an order, committing a person to the care of the Minister, under paragraph (d) of subsection one, or paragraph (c) of subsection two, of section eighty-three of this Act;

(c) an order made, after the commencement of section three of the Child Welfare (Amendment) Act, 1967, as subsequently amended, under subsection one of section forty-seven of this Act, as amended by subsequent Acts;

(d)

Child Welfare (Amendment).

- (d) an order, dismissing a charge, under paragraph (e) of subsection one, or paragraph (a) of subsection three, of section eighty-three of this Act;
- 5 (e) the admonishing and discharging of a person under paragraph (b) of subsection three of section eighty-three of this Act.

10 (2) Where a person charged is dealt with by a court as a child or young person and the Director is satisfied that, at the time of the commission of the offence with which he is charged that person had attained the age of eighteen years, and where that person is, at the time the Director is so satisfied, being treated as being affected by that decision—

15 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

20 (b) that person shall—

(i) until that decision is reviewed pursuant to this section, be treated, for the purposes of that decision and of this Act, as if he had not attained the age of eighteen years; and

25 (ii) for the purposes of an order made when that decision is so reviewed, be treated as if he would attain the age of eighteen years on the day next succeeding the making of the order.

30 (3) Where a court delivers a decision with respect to a child or young person and the Director is satisfied that, at the time the decision was delivered

35

Child Welfare (Amendment).

5 delivered, the court was misled as to the age of the child or young person, and where that child or young person is, at the time the Director is so satisfied, still affected by, or is being treated as being affected by, that decision—

10 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

15 (b) that child or young person shall, if he attains the age of eighteen years before that decision is reviewed pursuant to this section, be treated as is provided by paragraph (b) of subsection two of this section.

20 (4) An officer authorised by the Minister in that behalf may, upon instructions given by the Director pursuant to subsection two or three of this section, apply to a court to review the decision to which the instructions relate and, upon any such application being made, the court may order—

25 (a) that the decision under review be varied, in such manner as the court thinks fit, in so far as it appears that the purported age of the person in respect of whom that decision was made was material in relation to the term or period for which the decision was to be effective; or

30 (b) that the application be dismissed.

(e) (i) by inserting immediately before the definition of "Neglected child" in section seventy-two the following new definition :—

Sec. 72.
(Definition of neglected child.)

35 "Drug" means drug of addiction or prohibited drug, as defined in section

Child Welfare (Amendment).

four of the Poisons Act, 1966, as subsequently amended, and includes any substance injurious to health.

5 (ii) by omitting paragraph (h) of the same definition and by inserting in lieu thereof the following paragraph :—

(h) who is found—

10 (i) in any place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied; or

15 (ii) administering, consuming, using or smoking any drug, and is in need of care, protection or control by reason thereof;

(iii) by omitting from paragraph (o) of the same definition the word “regularly.” and by inserting in lieu thereof the following words :—

20 regularly; or

25 (p) who tattoos himself, or allows himself to be tattooed by another person, in any manner on any part of his body without having first obtained the written permission of his parent or guardian to be tattooed in that manner on that part of his body.

30 (f) by omitting from subsection one of section **Sec. 75.** seventy-five the words “where opium or any preparation thereof is smoked” and by inserting ^(Warrant to search in brothel.) in lieu thereof the words “is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

35

(g)

Child Welfare (Amendment).

- (g) by omitting from section seventy-six the words "or where opium or any preparation thereof is smoked" and by inserting in lieu thereof the words ", or is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place"; Sec. 76.
(Apprehension of child in brothel, etc.)
- (h) by omitting section seventy-seven and by inserting in lieu thereof the following section :— Sec. 77.
(Where child in brothel or opium den, keeper guilty of an offence.)
77. Where a child or young person is found in a brothel, or in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, the keeper or person in charge, or apparently in charge, of the brothel or place shall be guilty of an offence against this Act. Where child or young person in brothel, etc., keeper guilty of offence.
- (i) (i) by omitting from subsection one of section eighty-one the words ", or is charged with being,"; Sec. 81.
(Procedure of court.)
- (ii) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";
- (iii) by omitting from subsection two of the same section the words ", or is charged with being,";
- (iv) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";
- (v)

Child Welfare (Amendment).

- (v) by inserting in subsection seven of the same section after the word "may" where firstly occurring the words ", in accordance with the directions of the court,";
- 5 ~~(vi) by omitting from the same subsection the words "may be admitted to bail" and by inserting in lieu thereof the words "discharged upon his entering into a recognizance";~~
- 10 (j) (i) by omitting from paragraph (e) of subsection ^{Sec. 83.} two of section eighty-three the word "condi- (Powers of court.)
tions" and by inserting in lieu thereof the words "terms and conditions";
- 15 (ii) by omitting from paragraph (c) of subsection three of the same section the word "condi-
tions" and by inserting in lieu thereof the words "terms and conditions";
- 20 (iii) by inserting next after subsection four of the same section the following new subsections :—
- 25 (4A) A court shall not make payment of a sum of money by way of compensation a condition of any order, but nothing in this subsection shall be construed as affecting the power of a court to specify the conditions of a recognizance.
- 30 (4B) The provisions of subsections three, four, five and six of section five hundred and fifty-four of the Crimes Act, 1900, as amended by subsequent Acts, shall apply to a children's court dealing with a young person but shall not otherwise apply to a children's court and, where those provisions apply to a children's court, a conviction referred to in that section shall be deemed to include a finding of guilt, and an order made, under subsection one or
- 35 two of this section.

(4c)

Child Welfare (Amendment).

(4c) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a children's court.

5 (4D) An order made under subsection three of this section shall be deemed not to be an acquittal of, or the dismissal of an information against, a person within the meaning of section four of the Criminal Injuries Compensation Act, 1967.

10 (iv) by inserting next after subsection five of the same section the following new subsection :—

15 (5A) Where it is within the knowledge of the person who executes a warrant of commitment in default of payment of a penalty, compensation, damages or costs that the person named in the warrant has, in the case of a warrant of commitment to a shelter or an institution, attained the age of eighteen years or has not, in the case of a warrant of commitment to a prison, attained that age, the warrant shall—

20 (a) in the case of a warrant of commitment to a shelter or an institution, be deemed to be directed to the governor of the prison nearest the place where the warrant was executed; or

25 (b) in the case of a warrant of commitment to a prison, be deemed to be directed to the keeper of the shelter nearest the place where the warrant was executed.

30 (v) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

35 (6) Where a person has been discharged under paragraph (e) of subsection two, or paragraph (c) of subsection three, or subsection

Child Welfare (Amendment).

subsection four, of this section, the court may, at any time after his discharge and before or after he attains the age of eighteen years, by notice given to that person, or to his parent and his surety, in such manner as the court may direct, give a direction for that person to appear before the court at a time and place specified in the notice and may, in default of his appearance in accordance with the direction, issue a warrant for his apprehension.

(7) Where a person who has attained the age of eighteen years appears before a court in accordance with a direction, or pursuant to a warrant for his apprehension, under subsection six of this section and the court is satisfied that he has failed to comply with the terms and conditions of his recognizance, the court may, in relation to that person, exercise any of the powers conferred upon it by section eighty-two of this Act (paragraph (d) excepted) or by subsection one, two or three of this section (paragraph (d) of subsection one and paragraph (c) of subsection two excepted) in respect of a child or young person.

- (k) (i) by omitting from subsection one of section eighty-five the words "in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed" and by inserting in lieu thereof the words "by the finding, order or direction of a court liable to pay a penalty, or compensation, damages or costs, in respect of an offence";
- (ii) by inserting in subsection two of the same section after the word "penalty," the word "compensation,";
- (iii) by inserting in subsection three of the same section after the word "may" where firstly occurring the words "if not paid to the clerk of the court,";

Sec. 85.
(Court may order parent to pay penalty, damages or costs.)

(1)

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- (l) by inserting next after subsection (1A) of section eighty-seven the following new subsection :—
- (1B) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a judge acting pursuant to subsection one or (1A) of this section except where he deals with a young person otherwise than by exercising the powers of a children's court.
- (m) (i) by inserting in subsection three of section eighty-nine after the words "shall not" the words "if tendered";
- (ii) by inserting in the same subsection after the word "Department" the words ", the prosecutor (if any), a barrister or solicitor (if any) appearing for the child or young person";
- (n) by omitting paragraph (a) of subsection one of section ninety and by inserting in lieu thereof the following paragraph :—
- (a) the person to whose care the child or young person is committed shall, as far as practicable, be of an appropriate religious persuasion having regard to the principles upon which section one hundred and forty of this Act is based, and—
- (i) the court may give such directions as to the religious teaching of the ~~ward~~ **child or young person** as might, under that section, be given by the Minister in relation to a ward; and
- (ii) the child or young person shall have the same rights as, by that section, are conferred upon a ward;
- (o)

Sec. 87.

(Child or young person convicted of

indictable offence may be sent to institution.)

Sec. 89.

(Court to hear evidence on behalf of child.)

Sec. 90.

(Probation: Who shall have custody and

control.)

Child Welfare (Amendment).

to the care of a person has broken the terms or conditions of his release or committal—

- 5 (a) issue his summons for the appearance of the person so released or committed before a court; or
- (b) in the first instance issue his warrant directing the apprehension of the person so released or committed.

10 (1B) Where a warrant has been issued under paragraph (b) of subsection (1A) of this section, any constable or any officer authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend the person to whom the

15 warrant relates.

(ii) by omitting from subsection two of the same section the words “notwithstanding the fact that the person charged has then attained the age of eighteen years” and by inserting in

20 lieu thereof the words “whether or not that breach occurred after he attained the age of eighteen years and, where the breach occurred before he attained that age, whether or not he attained that age after the breach occurred”;

25 (iii) by inserting after the word “person” in subsection three of the same section the words “, or the terms and conditions imposed by a judge or court in respect thereof,”;

30 (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—

(4) Where by the order of a court a child or young person—

35 (a) has been released on probation on condition that he remain in the care of a person named in the order; or

(b)

Child Welfare (Amendment).

- (b) has been committed to the care of a person named in the order,
- the court may, upon the application of any officer authorised by the Minister in that behalf, vary the order by substituting the name of some other person for that of the person named in the order.
- (q) by omitting subsection two of section ninety-four and by inserting in lieu thereof the following subsections :—
- (2) An order under subsection one of this section shall, for the purposes of this Act, subsections one and two of section fifty-four excepted, be deemed to be an order committing the person to whom it relates to an institution there to be detained until the expiration of the period of his sentence, or until he is transferred to prison pursuant to this section, whichever first occurs.
- (2A) Where a person to whom an order under subsection one of this section applies has been detained in an institution for a period of three years or if he earlier, while so detained, attains the age of twenty-one years, the Minister shall order that he be transferred to prison as soon as practicable thereafter, there to serve the unexpired portion of the term of his sentence, and upon such transfer taking place, that person shall cease to be subject to the provisions of this section.
- (r) (i) by inserting next after subsection two of section one hundred and thirty-nine the following new subsection :—
- (2A) Where a ward brought before a magistrate pursuant to paragraph (a) of subsection two of this section is a person who was transferred from prison to an institution,
- the

Sec. 94.
(Power to
detain in
institutions.)

Sec. 139.
(Arrest of
absconding
ward.)

Child Welfare (Amendment).

the court may, in lieu of exercising its powers under paragraph (b) of that subsection, order that the offender be returned to the prison from which he was transferred and may further order—

5

(a) where the offender is a child or young person, that he be detained in prison for a further term; or

10

(b) where the offender is of or above the age of eighteen years, impose a sentence of imprisonment for a further term,

15

not exceeding, in either case, three months with hard labour, to commence at the expiration of the original sentence.

(ii) by inserting next after subsection five of the same section the following new subsection :—

(6) In this section “ward” includes—

20

(a) a person subject to an order made under Part XIV of this Act committing him to an institution; and

(b) a person subject to an order made under Part XV of this Act for his transfer from a prison to an institution,

25

whether or not that person has attained the age of eighteen years.

(s) by inserting next after section one hundred and thirty-nine the following new section :—

New sec. 139A.

139A. (1) In this section—

30

“appropriate authority” means person who under the law of—

Reciprocity between States in relation to wards.

(a) a State of the Commonwealth of Australia other than New South Wales; or

35

(b) a Territory,

corresponding

Child Welfare (Amendment).

corresponding to this Act is competent to take action equivalent to admission to State control under this Act;

5 "interstate ward" means child or young person entering New South Wales who, immediately before that entry, was under the care or guardianship of an appropriate authority;

10 "Territory" means Territory of the Commonwealth of Australia, including a Territory under the trusteeship of the Commonwealth of Australia.

15 (2) Where an interstate ward enters New South Wales, the Minister may, if the appropriate authority for the interstate ward has requested him to do so, admit the interstate ward to State control under this Act for a period not exceeding that for which he would, but for this subsection, have been under the care or guardianship of that authority.

(3) The Minister—

- 20 (a) may make, with an appropriate authority financial and other arrangements for the care of an interstate ward or a ward;
- 25 (b) may, at his discretion, or in accordance with any such arrangements, return an interstate ward to the care or guardianship of his appropriate authority; and
- 30 (c) shall, where the appropriate authority for an interstate ward requests him to do so, return the interstate ward to the care or guardianship of that appropriate authority.

(4) Where, in the opinion of the Minister, the law of a State of the Commonwealth of Australia other than New South Wales, or of a Territory, makes the like provision for or with respect to a

ward

Child Welfare (Amendment).

ward entering that State as is made by subsections two and three of this section for or with respect to an interstate ward and, upon a request by the Minister, such a provision corresponding to subsection two of this section is applied to a ward who leaves New South Wales, the powers, authorities, duties and functions conferred or imposed by or under this Act upon the Minister and other persons shall be deemed to have been suspended in relation to that ward while he remains under care or guardianship in consequence of the application of that provision, except in so far as they may be exercised or performed in accordance with arrangements made under paragraph (a) of subsection three of this section.

- (t) by omitting section one hundred and forty and by inserting in lieu thereof the following section :—

140. (1) A ward shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion in which he is to be educated.

(2) For the purposes of subsection one of this section, a ward shall, subject to the other provisions of this section, be educated—

- (a) where the ward is illegitimate—in accordance with the wishes of his mother expressed for those purposes in the prescribed manner;
- (b) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, are identical—in accordance with those wishes;
- (c) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, differ, the one from the other—
- (i) in accordance with the wishes of the father; or

(ii)

Child Welfare (Amendment).

- 5 (ii) where the Minister is satisfied that the father has failed to discharge his parental obligations to the ward, in accordance with the wishes of the mother;
- 10 (d) where the ward is legitimate and one of his parents has expressed, in the prescribed manner, his or her wishes for those purposes while the other parent has failed so to express any such wishes or, in the prescribed manner, has declined to express any such wishes—in accordance with the wishes so expressed;
- 15 (e) where the ward is legitimate and only one of his parents is living or can on reasonable inquiry be found—in accordance with the wishes, expressed for those purposes in the prescribed manner, of that parent.
- 20 (3) Subject to the other provisions of this section, where neither parent of a ward is living, or where neither parent of a ward can upon reasonable inquiry be found, or where the parent of a ward in accordance with whose wishes the ward would, if expressed pursuant to subsection two of this section, be educated, has failed to express those wishes in the prescribed manner, or has, in the prescribed manner, declined to express those wishes, the ward shall, for the purposes of subsection one of this section, be educated—
- 25 (a) where the ward has, during the period of two years next preceding his admission to State control, been brought up in a particular religious persuasion and no other—in the persuasion in which he has been so brought up; or
- 30 (b)
- 35

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5 (b) where the ward has not, during that period,
been brought up in any religious persuasion,
or where he has, during that period, been
brought up in more than one religious
persuasion and—

10 (i) has not attained the age of twelve
years—in such religious persuasion
as the Minister may, after ascertain-
ing the wishes (if any) of the ward
and, if practicable, the religious
persuasion or persuasions of his
parents—direct; or

15 (ii) has attained the age of twelve years
(whether or not he is a ward in
respect of whom a direction has
been given under subparagraph
(i) of this paragraph)—in such
religious persuasion approved by
the Minister as the ward selects.

20 (4) Notwithstanding anything contained
in subsection two or three of this section, where the
Minister is satisfied that a ward who is a young
person has, in the prescribed manner, genuinely
expressed a wish to be educated in a religious
25 persuasion differing from that in which he is being,
or but for this subsection would be, educated, the
ward shall, for the purposes of subsection one of
this section, be educated in the religious persuasion
so selected by him.

30 (5) Notwithstanding any other provision
of this section, where the Minister is satisfied that
the welfare of a ward would be promoted if the
ward were boarded-out, placed-out or placed
as an adopted boarder and that it is impracticable
35 to direct the removal or transfer of the ward
to the care of a foster parent of the same religious
persuasion

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persuasion as that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, the Minister may—

5 (a) direct that the ward be removed or transferred to the care of a foster parent of a religious persuasion that differs from that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, subject to that
10 foster parent agreeing not to hinder or impede the religious education of the ward as so provided; or

15 (b) where he is satisfied that the welfare of the ward would thereby be promoted, and subject to the observance of any procedures that may be prescribed for the purpose, direct that the ward be removed or transferred to the care of such a foster parent and be educated in such religious persuasion
20 other than that authorised by subsection two, three or four of this section as the Minister may specify when giving the direction.

25 (6) For the purposes of this section, the prescribed manner shall be by writing, signed by the parent or young person concerned and delivered—

30 (a) in the case of the parent of a ward, at or about the time the ward is, or is to be, admitted to State control or as soon as practicable within the period of one year thereafter; or

35 (b) in the case of a young person, as soon as practicable after the expression of his wish, to the Minister or to some person appearing to be authorised by him for the purpose.

(7)

Child Welfare (Amendment).

(7) The provisions of subsection three of section twenty-three of this Act shall, mutatis mutandis, apply to and in respect of the powers conferred upon the Minister by this section.

- 5 (u) by inserting next after subsection two of section one hundred and forty-four the following new subsections : — Sec. 144. (Medical examination.)

10 (3) The Minister or any officer specially authorised by the Minister in that behalf may consent to any surgical or other operation on a person (not being a ward) who is a minor and has, under this Act, been admitted to an establishment under the control of the Minister, or detained at a place of safety where—

- 15 (a) the Minister or officer, as the case may be, is advised by a medical practitioner that the operation is necessary in the interests of the health or welfare of that person; and
- 20 (b) the consent of the parent or guardian of that person cannot, in the circumstances, reasonably be obtained.

25 (4) A medical practitioner carrying out a surgical or other operation pursuant to a consent given under subsection two or three of this section shall not, by carrying out the operation, incur any liability that he would not have incurred had the parent or guardian of the person upon whom the operation is carried out consented thereto.

- 30 (v) by inserting next after section one hundred and forty-eight the following new section : — New sec. 148A.

148A. A person who in any manner tattoos any part of the body of a child or young person shall be guilty of an offence against this Act unless he has first obtained the written permission of the Offence by person who tattoos a child or young person.
parent

Child Welfare (Amendment).

parent or guardian of the child or young person to tattoo the child or young person in that manner on that part of his body.

- 5 (w) by inserting next after section one hundred and eighty-one the following new Part :— New Part XXI.

PART XXI.

WELFARE SERVICES TRAINING COUNCIL.

10 182. (1) There shall be a Welfare Services Training Council, hereinafter in this Part of this Act referred to as "the Council", consisting of more than twelve members appointed by the Governor. Constitution of Welfare Services Training Council.

(2) Of the members of the Council—

- 15 (a) three shall be officers nominated by the Minister; and
- (b) the remaining members shall be persons nominated in accordance with subsection three of this section.

20 (3) For the purposes of the appointment of the members of the Council referred to in paragraph (b) of subsection two of this section, nominations may be submitted to the Minister in accordance with regulations prescribing—

- 25 (a) persons who, or organisations or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, organisation or class so prescribed; and
- 30 (c) the times within which such nominations may be submitted.

The

Child Welfare (Amendment).

The regulations may provide for the nomination of a number of persons in excess of the number of members of the Council that may be appointed.

5 (4) A member of the Council shall, subject to this Act and the regulations, hold office for such term (not exceeding in any case four years) as the Governor may specify in the instrument of appointment and shall, if otherwise qualified, be eligible for reappointment.

10 (5) In the case of a casual vacancy in the office of a member of the Council, the Governor may appoint a person to the vacant office (being, where the vacancy is in the office of a person who was nominated for membership by the Minister, an officer nominated by the Minister) and the
15 person so appointed shall hold office for the residue of his predecessor's term of office.

(6) A member of the Council shall be deemed to have vacated his office if he—

- 20 (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- 25 (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 30 (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a nominee of the Minister, ceases to be an officer; or
- 35 (g) is removed from office by the Governor.

(7)

Child Welfare (Amendment).

(7) The Council shall, subject to this Act and the regulations, frame rules for the conduct of its business, but no such rules shall be operative until they have been approved by the Minister.

5 (8) Meetings of the Council shall be convened so that at least six meetings are held in every year.

10 (9) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Council, and any member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act, as so amended, during his term of office.

15 183. (1) The Council may make reports and recommendations to the Minister with respect to— **Duties and functions of Council.**

(a) the provision of courses of instruction and training for persons employed in, or considering employment in, a welfare service, either in a voluntary or a paid capacity;

20 (b) the status of courses of instruction and training of the kind referred to in paragraph (a) of this subsection that are conducted within or outside New South Wales;

25 (c) such other matters connected with training of the kind referred to in paragraph (a) of this subsection as may be referred to it by the Minister;

30 (d) any other matter connected with training of the kind referred to in paragraph (a) of this subsection.

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(2) Subject to subsection one of this section the functions of the Council shall be—

- 5 (a) to recommend courses of instruction and training for approval by the Minister and to encourage the conduct of such courses;
- (b) to recommend to the Minister the accreditation of courses conducted by other organisations;
- 10 (c) to exercise a general supervision over the standards of theoretical and practical training approved or accredited by the Minister;
- (d) to conduct written, practical or oral examinations and to have regard to the results of examinations conducted by other organisations in respect of accredited courses;
- 15 (e) to issue certificates of qualification to persons who have passed examinations or have attained a standard of proficiency acceptable to the Council in respect of courses approved or accredited by the Minister.
- 20

25 (3) The Council may appoint sub-committees to deal with specified matters within the scope of the functions of the Council.

30 (4) The convenor of each sub-committee shall be a member of the Council and each sub-committee shall consist of such number of other persons, whether members of the Council or not, as the Council may determine.

35 (5) The Council in appointing persons to a sub-committee shall include amongst the membership of the sub-committee persons who have practical experience in the conduct or administration of one or more kinds of child welfare or social welfare

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welfare service or in the training of persons to provide any such service, selected from one or more of the following classes of persons :—

- 5 (a) medical practitioners (including persons having knowledge of and experience in paediatrics or psychiatry);
- (b) barristers or solicitors;
- (c) persons having knowledge of and experience in education;
- 10 (d) persons having knowledge of and experience in psychology;
- (e) persons having knowledge of and experience in social work;
- 15 (f) persons having knowledge of and experience in recreation;
- (g) persons having knowledge of and experience in religious education; and
- (h) persons having other suitable qualifications or experience.

20 184. The Minister shall be the authority to—

- (a) approve of courses of instruction and training for welfare services where those courses are not prescribed in accordance with the provisions of any other Act or regulations; and
- 25 (b) extend accreditation for the purposes of this Part to courses of instruction and training that are not so prescribed.

Minister to be authority to approve or accredit courses.

185. The regulations may—

- 30 (a) prescribe the procedure to be followed—
- (i) in appointing a Chairman of the Council; and

(ii)

Child Welfare (Amendment).

- (ii) in convening and conducting meetings of the Council;
- 5 (b) prescribe the fees to be paid to members of the Council other than officers and the allowances to be paid to members of the Council including officers;
- (c) prescribe such forms and documents as are necessary or expedient for the administration of this Part;
- 10 (d) prescribe the fees to be paid by persons attending courses of instruction and training conducted by or on behalf of the Director or any other officer.

15 (2) Paragraph (w) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. (1) The Child Welfare Act, 1939, as subsequently amended, is further amended by inserting next after section one of section eight the following new subsections :—

Further amendment of Act No. 17, 1939. Sec. 8. (Advisory council.)

- 20 (1A) A person appointed pursuant to subsection one of this section shall hold office for such term (not exceeding four years) as the Governor may specify in the instrument of appointment, and shall be eligible for reappointment.
- 25 (1B) In the case of a casual vacancy in the office of a person appointed pursuant to subsection one of this section, the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.
- 30 (1C) A member of the council shall be deemed to have vacated his office if he—
 - (a) dies;

(b)

Child Welfare (Amendment).

- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) absents himself from four consecutive meetings of the council without leave of the council; or
- (f) is removed from office by the Governor.

(2) The persons holding office at the commencement of this section as members of the Child Welfare Advisory Council constituted under section eight of the Child Welfare Act, 1939, as subsequently amended, shall be deemed to have been appointed under that section of that Act, as so amended and as amended by subsection one of this section, for a term expiring on the thirty-first day of January, one thousand nine hundred and seventy-two.

4. The Child Welfare Act, 1939, as subsequently amended, is further amended—

- (a) by inserting next after section eighty-one the following new section :—

81A. Where, under subsection three or (3A) of section eighteen or subsection seven of section eighty-one, of this Act, a court has ordered that a child or young person be discharged upon his entering into a recognizance and has fixed the amount in which the principal and any surety or sureties are thereby to be bound, the recognizance may be entered into by the parties before any person authorised in that behalf by the Justices Act, 1902, as amended by subsequent

Further amendment of Act No. 17, 1939. New sec. 81A.

Recognizance may be entered into before certain persons.

Child Welfare (Amendment).

subsequent Acts, or where the child or young person is in the custody of the superintendent of an institution, or of the person for the time being in charge of a shelter, before that superintendent or person in charge and, where a recognizance is entered into before such a superintendent or person in charge, the provisions of that Act, as so amended, relating to recognizances entered into before a person so authorised shall, mutatis mutandis apply.

81A. Where a child or young person in the custody of the superintendent of an institution or the keeper of a shelter is entitled to be discharged or liberated upon his entering into a recognizance in such amount, and with such surety or sureties, if any, as may have been ordered according to law, the recognizance may be entered into before that superintendent or keeper as if he were a gaoler.

(b) by inserting next after section eighty-three the following new section :—

83A. The provisions of sections ninety-four and ninety-five of the Justices Act, 1902, as amended by subsequent Acts, shall apply to and in respect of a person committed to a shelter, or to an institution, in default of payment of a penalty, or of compensation, damages or costs, and shall so apply as if—

(a) that person had been imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices for a term the same as that for which he is to be detained in the shelter or institution; and

(b) the superintendent of the institution or the person for the time being in charge of the shelter, as the case may be, were the keeper of the prison.

5. The Child Welfare Act, 1939, as subsequently amended, is further amended—

(a) (i) by omitting subsection two of section one hundred and thirty-three;

(ii) by omitting from subsection three of the same section the words "not be released therefrom" and by inserting in lieu thereof the word "not,";

(iii)

Child Welfare (Amendment).

(iii) by inserting in the same subsection after the word "infection" the following words : —

, be released therefrom except upon license granted—

5 (a) by the Governor, — where the Governor would, but for this subsection, be empowered to discharge the child or young person from an institution; or

10 (b) by the Minister, where the Minister would, but for this subsection, be so empowered;

(iv) by inserting next after subsection three of the same section the following new subsections : —

15 (3A) It shall be a condition of a license granted under subsection three of this section that the person released shall obtain treatment for venereal disease and otherwise comply with the provisions of the Venereal Diseases Act, 1918, as amended by subsequent Acts, relating to persons suffering therefrom.

20 (3B) The Minister may revoke a license granted under section three of this Act, whether or not he is the grantor thereof and, upon any such revocation, the person to whom the license relates may be dealt with as if he had absconded from an institution.

25 (v) by omitting from subsection four of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection three of this section";

(vi)

Child Welfare (Amendment).

(vi) by inserting in subsection five of the same section after the word "certified" the words "or released";

5 (b) (i) by omitting subsection one of section one hundred and thirty-four and by inserting in lieu thereof the following subsections :—

Sec. 134.
(Medical
examina-
tion:
Venereal
disease.)

10 (1) No ward shall be transferred from a depot, home or hostel to be boarded-out, placed-out or placed as an adopted boarder, unless he has been—

(a) examined by a medical practitioner;
and

15 (b) certified by such medical practitioner as being, in the opinion of that medical practitioner, apparently free from venereal disease, or no longer liable to convey infection.

20 (1A) Where a ward has not been admitted to a depot, home or hostel established under this Act, an examination as provided by subsection one of this section shall be carried out and a certificate obtained as soon as practicable after the ward has been admitted to State control and a further examination may be carried out, and a certificate obtained, at any time at the request of an officer authorised in that behalf by the Minister.

25
30 (ii) by omitting from subsection two of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection one or (1A) of this section".

Child Welfare (Amendment).

6. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further amendment of Act No. 17, 1939.

(a) by inserting next after subsection two of section fifty-four the following new subsections :—

Sec. 54.
(Discharge of child or young person.)

5 (3) Notwithstanding anything contained in subsections one and two of this section, a person transferred to an institution under section ninety-four of this Act shall not, while under sentence of imprisonment, be discharged from an institution
10 except pursuant to subsection four of this section.

(4) The Minister may, by order, discharge from an institution a person referred to in subsection three of this section on such terms and conditions as he deems desirable and specifies in the order
15 and shall, in any such order, specify the period for which the order is to remain in force for the purposes of section 2A of the Parole of Prisoners Act, 1966, as subsequently amended.

(5) The Minister shall cause a copy of an order made under subsection four of this section, and a statement of the date of birth of the person to whom it refers, to be served on the Parole Board constituted under the Parole of Prisoners Act, 1966,
20 as subsequently amended.

25 (b) (i) by omitting from section fifty-five the word "ward" and by inserting in lieu thereof the words "other person detained in an institution";

Sec. 55.
(Absconder may be apprehended.)

30 (ii) by omitting from the same section the word and symbol "superintendent," and by inserting in lieu thereof the words "superintendent or, being a child or young person, is in breach of the terms and conditions specified in an order for his discharge made under subsection four
35 of section fifty-four of this Act,".

7.

Child Welfare (Amendment).

7. The Parole of Prisoners Act, 1966, is amended by inserting next after section two the following new section :—

Amendment
of Act No.
41, 1966.

New sec.
2A.

5 2A. (1) Where a person is transferred to an institu-
tion pursuant to an order made under subsection one of
section ninety-four of the Child Welfare Act, 1939, as
amended by subsequent Acts, the powers, authorities,
duties and functions conferred or imposed upon the
Board by this Act shall not be exercised or performed
10 in relation to that person during the period of his
detention pursuant to that order.

Limitation
of powers
of Board
in certain
circum-
stances.

15 (2) Subject to this section, an order of discharge
under subsection four of section fifty-four of the Child
Welfare Act, 1939, as amended by subsequent Acts,
shall be deemed to be a parole order duly made by the
Board under section six of this Act.

20 (3) Where a parole order referred to in subsec-
tion two of this section relates to a person who, at the
time of his discharge from an institution had not attained
the age of eighteen years, the powers, authorities, duties
and functions that, but for this subsection, would be
conferred or imposed by this Act upon the Board in
relation to the parole order shall, subject to this section,
25 be exercised and performed by the Minister for the time
being administering the Child Welfare Act, 1939, as
amended by subsequent Acts, to the exclusion of the
Board, until that person attains the age of eighteen years
or the parole period earlier expires.

30 (4) Subject to this Act, a parole order referred
to in subsection two of this section shall—

- (a) remain in force for the period; and
- (b) be subject to the terms and conditions,
specified in the discharge order deemed, by that sub-
section, to be the parole order.

Child Welfare (Amendment).

(5) For the purposes of this Act, discharge from an institution under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be release, on parole, from a prison.

5

(6) The powers conferred by subsection three of section six of this Act shall not be exercised in respect of a parole order referred to in subsection two of this section before the person to whom the parole order relates attains the age of eighteen years.

10

(7) Nothing in this section shall prejudice or affect any power, authority, duty or function conferred or imposed by or under the Child Welfare Act, 1939, as amended by subsequent Acts, upon the Minister for the time being administering that Act, as so amended, or upon any other person.

15

8. (1) The Child Welfare (Amendment) Act, 1966, is amended by inserting in paragraph (f) of section two, at the end of section thirty-eight to be inserted in the Child Welfare Act, 1939, as amended by subsequent Acts, the following new subsections :—

20

Amendment of Act No. 11, 1966. Sec. 2. (Amendment of Act No. 17, 1939.) (Regulations.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

(3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part, or from compliance with any part of such a regulation or from compliance with any condition of a license.

25

(2) Subsection one of this section shall commence on the day on which paragraph (f) of section two of the Child Welfare (Amendment) Act, 1966, commences.

30

Child Welfare (Amendment).

9. (1) The Child Welfare (Amendment) Act, 1967, is amended—

Amendment
of Act No.
27, 1967.

5 (a) by omitting from paragraph (e) of section three, in subsection one of section forty-seven to be inserted in the Child Welfare Act, 1939, as subsequently amended, the words “, or is charged with being,”;

Sec. 3.
(Further
amendment
of Act No.
17, 1939.)

10 (b) by inserting in the same paragraph at the end of section 48M to be inserted in the Child Welfare Act, 1939, as subsequently amended, the following new subsections :—

(Regula-
tions.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

15 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part or from compliance with any part of such a regulation or from compliance with any condition of a license.

20 (2) Subsection one of this section shall commence on the day on which paragraph (e) of section three of the Child Welfare (Amendment) Act, 1967, commences.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

The Board of Directors of the Corporation has approved the following resolution:

Resolved, That the Board of Directors of the Corporation do hereby authorize the President of the Corporation to execute and deliver to the Secretary of the Corporation a certificate of incorporation for the Corporation to be known as the Corporation.

IN WITNESS WHEREOF, the Board of Directors of the Corporation has caused this resolution to be signed by its President and the Secretary of the Corporation, and the same to be attested by its Secretary, this 1st day of January, 1901.

President of the Corporation
Secretary of the Corporation

Attest:
Secretary of the Corporation

Witness my hand and the seal of the Corporation this 1st day of January, 1901.

President of the Corporation

Secretary of the Corporation

ARTICLE I

Section 1. The name of the Corporation shall be the Corporation.

Section 2. The purpose of the Corporation shall be to engage in the business of the Corporation.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 6 March, 1969.*

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1969.

An Act relating to certain proceedings before children's courts, the execution of certain warrants and the transfer of persons between prisons and institutions; to provide for the care of wards and persons having the like status who travel or remove between States; to make further provision with respect to the religious teaching of wards; to establish a Welfare Services Training Council; for these and other purposes to amend the Child Welfare Act, 1939, the Parole of Prisoners Act, 1966, and certain other Acts; and for purposes connected therewith.

BE

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1969". Short title and citation.

(2) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939–1969.

2. (1) The Child Welfare Act, 1939, as subsequently amended, is amended— Amendment of Act No. 17, 1939.

(a) by inserting in section two after the matter relating to Division 8 of Part XX the following new matter :— Sec. 2. (Parts of Act.)

PART XXI.—WELFARE SERVICES TRAINING COUNCIL—ss. 182–185.

(b) (i) by omitting from paragraph (a) of section fifteen the word "or"; Sec. 15. (Children's courts not held in ordinary courts.)

(ii) by omitting from paragraph (b) of the same section the word "Minister." and by inserting in lieu thereof the following words :—

Minister; or

(c) where in the opinion of the court in any particular case it is expedient to hold the court in some other building or room approved in that behalf by the court, in that other building or room.;

(iii) by inserting in the same section after the words "so approved" the words "by the Minister or the court";

(c)

Child Welfare (Amendment).

(c) (i) by omitting from subsection three of section Sec. 18.
eighteen the word "determination" and by (Right of
inserting in lieu thereof the word "hearing"; appeal.)

5 (ii) by inserting next after the same subsection the
following new subsection :—

(3A) During the period of any adjournment
of the hearing of the appeal the child or young
person may, in accordance with the directions
of the court hearing the appeal, be detained at
10 any shelter, or permitted to go home with a
parent or with any other person who is willing
to undertake the care of the child or young
person during that period, or discharged upon
his entering into a recognizance with or
15 without sureties.

(d) by inserting next after section twenty the following New
new section :— sec. 20A.

20A. (1) In this section—

"court" includes a judge exercising the powers of
20 a court; Procedure
where
court
misled as
to age of
person.

"decision" includes finding, order, determination
and judgment but does not include—

25 (a) a finding that a person is a neglected
or uncontrollable child or young
person;

(b) an order, committing a person to the
care of the Minister, under para-
graph (d) of subsection one, or
30 paragraph (c) of subsection two, of
section eighty-three of this Act;

(c) an order made, after the commence-
ment of section three of the Child
Welfare (Amendment) Act, 1967,
as subsequently amended, under
35 subsection one of section forty-seven
of this Act, as amended by subse-
quent Acts;

(d)

Child Welfare (Amendment).

- 5
- (d) an order, dismissing a charge, under paragraph (e) of subsection one, or paragraph (a) of subsection three, of section eighty-three of this Act;
 - (e) the admonishing and discharging of a person under paragraph (b) of subsection three of section eighty-three of this Act.

10 (2) Where a person charged is dealt with by a court as a child or young person and the Director is satisfied that, at the time of the commission of the offence with which he is charged that person had attained the age of eighteen years, and where that person is, at the time the Director is so satisfied, being treated as being affected by that decision—

- 15
- (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and
 - (b) that person shall—
 - 20 (i) until that decision is reviewed pursuant to this section, be treated, for the purposes of that decision and of this Act, as if he had not attained the age of eighteen years; and
 - 25 (ii) for the purposes of an order made when that decision is so reviewed, be treated as if he would attain the age of eighteen years on the day next succeeding the making of the order.
- 30

35 (3) Where a court delivers a decision with respect to a child or young person and the Director is satisfied that, at the time the decision was delivered

Child Welfare (Amendment).

5 delivered, the court was misled as to the age of the child or young person, and where that child or young person is, at the time the Director is so satisfied, still affected by, or is being treated as being affected by, that decision—

- 10 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and
- 15 (b) that child or young person shall, if he attains the age of eighteen years before that decision is reviewed pursuant to this section, be treated as is provided by paragraph (b) of subsection two of this section.

20 (4) An officer authorised by the Minister in that behalf may, upon instructions given by the Director pursuant to subsection two or three of this section, apply to a court to review the decision to which the instructions relate and, upon any such application being made, the court may order—

- 25 (a) that the decision under review be varied, in such manner as the court thinks fit, in so far as it appears that the purported age of the person in respect of whom that decision was made was material in relation to the term or period for which the decision was to be effective; or
- 30 (b) that the application be dismissed.

- (e) (i) by inserting immediately before the definition of "Neglected child" in section seventy-two the following new definition :— Sec. 72.
(Definition of neglected child.)
- 35 "Drug" means drug of addiction or prohibited drug, as defined in section

Child Welfare (Amendment).

four of the Poisons Act, 1966, as subsequently amended, and includes any substance injurious to health.

5 (ii) by omitting paragraph (h) of the same definition and by inserting in lieu thereof the following paragraph :—

(h) who is found—

10 (i) in any place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied; or

15 (ii) administering, consuming, using or smoking any drug, and is in need of care, protection or control by reason thereof;

(iii) by omitting from paragraph (o) of the same definition the word “regularly.” and by inserting in lieu thereof the following words :—

20 regularly; or

25 (p) who tattoos himself, or allows himself to be tattooed by another person, in any manner on any part of his body without having first obtained the written permission of his parent or guardian to be tattooed in that manner on that part of his body.

(f) by omitting from subsection one of section ^{Sec. 75.} seventy-five the words “where opium or any preparation thereof is smoked” and by inserting ^(Warrant to search in brothel.) in lieu thereof the words “is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

(g)

Child Welfare (Amendment).

- (g) by omitting from section seventy-six the words "or where opium or any preparation thereof is smoked" and by inserting in lieu thereof the words ", or is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place";
- 5
- (h) by omitting section seventy-seven and by inserting in lieu thereof the following section :—
- 10
77. Where a child or young person is found in a brothel, or in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, the keeper or person in charge, or apparently in charge, of the brothel or place shall be guilty of an offence against this Act.
- 15
- (i) (i) by omitting from subsection one of section eighty-one the words ", or is charged with being,";
- 20
- (ii) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";
- 25
- (iii) by omitting from subsection two of the same section the words ", or is charged with being,";
- (iv) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";
- 30

Sec. 76.

(Apprehension of child in brothel, etc.)

Sec. 77.

(Where child in brothel or opium den, keeper guilty of an offence.)

Where child or young person in brothel, etc., keeper guilty of offence.

Sec. 81.

(Procedure of court.)

(v)

Child Welfare (Amendment).

- (v) by inserting in subsection seven of the same section after the word "may" where firstly occurring the words ", in accordance with the directions of the court,";
- 5 (vi) by omitting from the same subsection the words "may be admitted to bail" and by inserting in lieu thereof the words "discharged upon his entering into a recognizance";
- 10 (j) (i) by omitting from paragraph (e) of subsection two of section eighty-three the word "conditions" and by inserting in lieu thereof the words "terms and conditions"; Sec. 83.
(Powers of court.)
- 15 (ii) by omitting from paragraph (c) of subsection three of the same section the word "conditions" and by inserting in lieu thereof the words "terms and conditions";
- (iii) by inserting next after subsection four of the same section the following new subsections :—
- 20 (4A) A court shall not make payment of a sum of money by way of compensation a condition of any order, but nothing in this subsection shall be construed as affecting the power of a court to specify the conditions of a recognizance.
- 25 (4B) The provisions of subsections three, four, five and six of section five hundred and fifty-four of the Crimes Act, 1900, as amended by subsequent Acts, shall apply to a children's court dealing with a young person but shall not otherwise apply to a children's court and, where those provisions apply to a children's court, a conviction referred to in that section shall be deemed to include a finding of guilt, and an order made, under subsection one or
- 30 two of this section.
- 35

(4c)

Child Welfare (Amendment).

(4c) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a children's court.

5 (4d) An order made under subsection three of this section shall be deemed not to be an acquittal of, or the dismissal of an information against, a person within the meaning of section four of the Criminal Injuries Compensation Act, 1967.

10

(iv) by inserting next after subsection five of the same section the following new subsection :—

15

(5A) Where it is within the knowledge of the person who executes a warrant of commitment in default of payment of a penalty, compensation, damages or costs that the person named in the warrant has, in the case of a warrant of commitment to a shelter or an institution, attained the age of eighteen years or has not, in the case of a warrant of commitment to a prison, attained that age, the warrant shall—

20

25

(a) in the case of a warrant of commitment to a shelter or an institution, be deemed to be directed to the governor of the prison nearest the place where the warrant was executed; or

30

(b) in the case of a warrant of commitment to a prison, be deemed to be directed to the keeper of the shelter nearest the place where the warrant was executed.

35

(v) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

(6) Where a person has been discharged under paragraph (e) of subsection two, or paragraph (c) of subsection three, or subsection

Child Welfare (Amendment).

subsection four, of this section, the court may, at any time after his discharge and before or after he attains the age of eighteen years, by notice given to that person, or to his parent and his surety, in such manner as the court may direct, give a direction for that person to appear before the court at a time and place specified in the notice and may, in default of his appearance in accordance with the direction, issue a warrant for his apprehension.

(7) Where a person who has attained the age of eighteen years appears before a court in accordance with a direction, or pursuant to a warrant for his apprehension, under subsection six of this section and the court is satisfied that he has failed to comply with the terms and conditions of his recognizance, the court may, in relation to that person, exercise any of the powers conferred upon it by section eighty-two of this Act (paragraph (d) excepted) or by subsection one, two or three of this section (paragraph (d) of subsection one and paragraph (c) of subsection two excepted) in respect of a child or young person.

- (k) (i) by omitting from subsection one of section eighty-five the words "in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed" and by inserting in lieu thereof the words " , by the finding, order or direction of a court liable to pay a penalty, or compensation, damages or costs, in respect of an offence";
- (ii) by inserting in subsection two of the same section after the word "penalty," the word "compensation,";
- (iii) by inserting in subsection three of the same section after the word "may" where firstly occurring the words " , if not paid to the clerk of the court,";
- (1)

Sec. 85.
(Court may order parent to pay penalty, damages or costs.)

Child Welfare (Amendment).

- (l) by inserting next after subsection (1A) of section eighty-seven the following new subsection :— Sec. 87.
(Child or young person convicted of indictable offence may be sent to institution.)
- 5 (1B) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a judge acting pursuant to subsection one or (1A) of this section except where he deals with a young person otherwise than by exercising the powers of a children's court.
- 10 (m) (i) by inserting in subsection three of section eighty-nine after the words "shall not" the words "if tendered"; Sec. 89.
(Court to hear evidence on behalf of child.)
- 15 (ii) by inserting in the same subsection after the word "Department" the words ", the prosecutor (if any), a barrister or solicitor (if any) appearing for the child or young person";
- (n) by omitting paragraph (a) of subsection one of section ninety and by inserting in lieu thereof the following paragraph :— Sec. 90.
(Probation: Who shall have custody and control.)
- 20 (a) the person to whose care the child or young person is committed shall, as far as practicable, be of an appropriate religious persuasion having regard to the principles upon which section one hundred and forty
- 25 of this Act is based, and—
- (i) the court may give such directions as to the religious teaching of the ward as might, under that section, be given by the Minister in relation to a ward; and
- 30 (ii) the child or young person shall have the same rights as, by that section, are conferred upon a ward;
- (o)

Child Welfare (Amendment).

(o) by omitting from paragraph (b) of subsection two of section ninety the word "order." where secondly occurring and by inserting in lieu thereof the following words :—

Sec. 90.
(Probation :
Who shall
have custody
and
control.)

5 order ; and

(c) except in the case of an order made under paragraph (e) of subsection two, or under subsection four, of section eighty-three of this Act that otherwise directs, the child or young person shall, as terms and conditions of his release—

(i) accept the supervision of any officer authorised by the Minister in that behalf ; and

15 (ii) obey all reasonable directions of any such officer.

(p) (i) by omitting subsection one of section ninety-one and by inserting in lieu thereof the following subsections :—

Sec. 91.
(Breach of
terms of
probation.)

20 (1) Where a person who, as a child or young person, was released on probation or was committed to the care of a person breaks or is reasonably suspected of having broken the terms or conditions of his release or committal he may (whether or not a warrant has been issued under subsection (1A) of this section) be apprehended by any constable or by any officer authorised by the Minister in that behalf and shall, upon being so apprehended, be taken to a shelter and as soon as practicable thereafter shall be brought before a court.

25
30
35 (1A) Any justice may, upon oath being made before him by any constable or by an officer authorised by the Minister in that behalf that, having made due inquiry, he believes that a person who, as a child or young person, was released on probation or was committed to

Child Welfare (Amendment).

to the care of a person has broken the terms or conditions of his release or committal—

- 5 (a) issue his summons for the appearance of the person so released or committed before a court; or
- (b) in the first instance issue his warrant directing the apprehension of the person so released or committed.

10 (1B) Where a warrant has been issued under paragraph (b) of subsection (1A) of this section, any constable or any officer authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend the person to whom the

15 warrant relates.

(ii) by omitting from subsection two of the same section the words “notwithstanding the fact that the person charged has then attained the age of eighteen years” and by inserting in

20 lieu thereof the words “whether or not that breach occurred after he attained the age of eighteen years and, where the breach occurred before he attained that age, whether or not he attained that age after the breach occurred”;

25 (iii) by inserting after the word “person” in subsection three of the same section the words “, or the terms and conditions imposed by a judge or court in respect thereof,”;

(iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—

30

(4) Where by the order of a court a child or young person—

35 (a) has been released on probation on condition that he remain in the care of a person named in the order; or

(b)

Child Welfare (Amendment).

(b) has been committed to the care of a person named in the order,

5 the court may, upon the application of any officer authorised by the Minister in that behalf, vary the order by substituting the name of some other person for that of the person named in the order.

(q) by omitting subsection two of section ninety-four **Sec. 94.**
and by inserting in lieu thereof the following **(Power to**
10 subsections :— **detain in**
institutions.)

15 (2) An order under subsection one of this section shall, for the purposes of this Act, subsections one and two of section fifty-four excepted, be deemed to be an order committing the person to whom it relates to an institution there to be detained until the expiration of the period of his sentence, or until he is transferred to prison pursuant to this section, whichever first occurs.

20 (2A) Where a person to whom an order under subsection one of this section applies has been detained in an institution for a period of three years or if he earlier, while so detained, attains the age of twenty-one years, the Minister shall order that he be transferred to prison as soon as practicable thereafter, there to serve the unexpired portion of the term of his sentence, and upon such transfer taking place, that person shall cease to be subject to the provisions of this section.

25 (r) (i) by inserting next after subsection two of section **Sec. 139.**
one hundred and thirty-nine the following new **(Arrest of**
30 subsection :— **absconding**
ward.)

35 (2A) Where a ward brought before a magistrate pursuant to paragraph (a) of subsection two of this section is a person who was transferred from prison to an institution,
the

Child Welfare (Amendment).

5 the court may, in lieu of exercising its powers under paragraph (b) of that subsection, order that the offender be returned to the prison from which he was transferred and may further order—

(a) where the offender is a child or young person, that he be detained in prison for a further term; or

10 (b) where the offender is of or above the age of eighteen years, impose a sentence of imprisonment for a further term,

15 not exceeding, in either case, three months with hard labour, to commence at the expiration of the original sentence.

(ii) by inserting next after subsection five of the same section the following new subsection :—

(6) In this section “ward” includes—

20 (a) a person subject to an order made under Part XIV of this Act committing him to an institution; and

(b) a person subject to an order made under Part XV of this Act for his transfer from a prison to an institution,

25 whether or not that person has attained the age of eighteen years.

(s) by inserting next after section one hundred and thirty-nine the following new section :— **New sec. 139A.**

139A. (1) In this section—

30 “appropriate authority” means person who under the law of— **Reciprocity between States in relation to wards.**

(a) a State of the Commonwealth of Australia other than New South Wales; or

35 (b) a Territory,

corresponding

Child Welfare (Amendment).

corresponding to this Act is competent to take action equivalent to admission to State control under this Act;

5 "interstate ward" means child or young person entering New South Wales who, immediately before that entry, was under the care or guardianship of an appropriate authority;

10 "Territory" means Territory of the Commonwealth of Australia, including a Territory under the trusteeship of the Commonwealth of Australia.

(2) Where an interstate ward enters New South Wales, the Minister may, if the appropriate authority for the interstate ward has requested him to do so, admit the interstate ward to State control under this Act for a period not exceeding that for which he would, but for this subsection, have been under the care or guardianship of that authority.

(3) The Minister—

- 20 (a) may make, with an appropriate authority financial and other arrangements for the care of an interstate ward or a ward;
- 25 (b) may, at his discretion, or in accordance with any such arrangements, return an interstate ward to the care or guardianship of his appropriate authority; and
- 30 (c) shall, where the appropriate authority for an interstate ward requests him to do so, return the interstate ward to the care or guardianship of that appropriate authority.

(4) Where, in the opinion of the Minister, the law of a State of the Commonwealth of Australia other than New South Wales, or of a Territory, makes the like provision for or with respect to a

ward

Child Welfare (Amendment).

ward entering that State as is made by subsections two and three of this section for or with respect to an interstate ward and, upon a request by the Minister, such a provision corresponding to subsection two of this section is applied to a ward who leaves New South Wales, the powers, authorities, duties and functions conferred or imposed by or under this Act upon the Minister and other persons shall be deemed to have been suspended in relation to that ward while he remains under care or guardianship in consequence of the application of that provision, except in so far as they may be exercised or performed in accordance with arrangements made under paragraph (a) of subsection three of this section.

- (t) by omitting section one hundred and forty and by inserting in lieu thereof the following section :—

Sec. 140.
(Religious
teaching.)

140. (1) A ward shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion in which he is to be educated.

Religious
teaching.

(2) For the purposes of subsection one of this section, a ward shall, subject to the other provisions of this section, be educated—

- (a) where the ward is illegitimate—in accordance with the wishes of his mother expressed for those purposes in the prescribed manner;
- (b) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, are identical—in accordance with those wishes;
- (c) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, differ, the one from the other—
- (i) in accordance with the wishes of the father; or

(ii)

Child Welfare (Amendment).

- 5 (ii) where the Minister is satisfied that the father has failed to discharge his parental obligations to the ward, in accordance with the wishes of the mother ;
- 10 (d) where the ward is legitimate and one of his parents has expressed, in the prescribed manner, his or her wishes for those purposes while the other parent has failed so to express any such wishes or, in the prescribed manner, has declined to express any such wishes—in accordance with the wishes so expressed;
- 15 (e) where the ward is legitimate and only one of his parents is living or can on reasonable inquiry be found—in accordance with the wishes, expressed for those purposes in the prescribed manner, of that parent.
- 20 (3) Subject to the other provisions of this section, where neither parent of a ward is living, or where neither parent of a ward can upon reasonable inquiry be found, or where the parent of a ward in accordance with whose wishes the ward would, if expressed pursuant to subsection two of this section, be educated, has failed to express those wishes in the prescribed manner, or has, in the prescribed manner, declined to express those wishes, the ward shall, for the purposes of subsection one of this section, be educated—
- 25
- 30 (a) where the ward has, during the period of two years next preceding his admission to State control, been brought up in a particular religious persuasion and no other—in the persuasion in which he has been so brought up; or
- 35
- (b)

Child Welfare (Amendment).

- 5 (b) where the ward has not, during that period, been brought up in any religious persuasion, or where he has, during that period, been brought up in more than one religious persuasion and—
- 10 (i) has not attained the age of twelve years—in such religious persuasion as the Minister may, after ascertaining the wishes (if any) of the ward and, if practicable, the religious persuasion or persuasions of his parents—direct; or
- 15 (ii) has attained the age of twelve years (whether or not he is a ward in respect of whom a direction has been given under subparagraph (i) of this paragraph)—in such religious persuasion approved by the Minister as the ward selects.
- 20 (4) Notwithstanding anything contained in subsection two or three of this section, where the Minister is satisfied that a ward who is a young person has, in the prescribed manner, genuinely expressed a wish to be educated in a religious persuasion differing from that in which he is being, or but for this subsection would be, educated, the ward shall, for the purposes of subsection one of this section, be educated in the religious persuasion so selected by him.
- 25
- 30 (5) Notwithstanding any other provision of this section, where the Minister is satisfied that the welfare of a ward would be promoted if the ward were boarded-out, placed-out or placed as an adopted boarder and that it is impracticable to direct the removal or transfer of the ward to the care of a foster parent of the same religious
- 35 persuasion

Child Welfare (Amendment).

persuasion as that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, the Minister may—

5 (a) direct that the ward be removed or transferred to the care of a foster parent of a religious persuasion that differs from that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, subject to that
10 foster parent agreeing not to hinder or impede the religious education of the ward as so provided; or

15 (b) where he is satisfied that the welfare of the ward would thereby be promoted, and subject to the observance of any procedures that may be prescribed for the purpose, direct that the ward be removed or transferred to the care of such a foster parent and be educated in such religious persuasion
20 other than that authorised by subsection two, three or four of this section as the Minister may specify when giving the direction.

25 (6) For the purposes of this section, the prescribed manner shall be by writing, signed by the parent or young person concerned and delivered—

30 (a) in the case of the parent of a ward, at or about the time the ward is, or is to be, admitted to State control or as soon as practicable within the period of one year thereafter; or

35 (b) in the case of a young person, as soon as practicable after the expression of his wish, to the Minister or to some person appearing to be authorised by him for the purpose.

(7)

Child Welfare (Amendment).

(7) The provisions of subsection three of section twenty-three of this Act shall, mutatis mutandis, apply to and in respect of the powers conferred upon the Minister by this section.

- 5 (u) by inserting next after subsection two of section one hundred and forty-four the following new subsections : — Sec. 144. (Medical examination.)

10 (3) The Minister or any officer specially authorised by the Minister in that behalf may consent to any surgical or other operation on a person (not being a ward) who is a minor and has, under this Act, been admitted to an establishment under the control of the Minister, or detained at a place of safety where—

- 15 (a) the Minister or officer, as the case may be, is advised by a medical practitioner that the operation is necessary in the interests of the health or welfare of that person; and
20 (b) the consent of the parent or guardian of that person cannot, in the circumstances, reasonably be obtained.

25 (4) A medical practitioner carrying out a surgical or other operation pursuant to a consent given under subsection two or three of this section shall not, by carrying out the operation, incur any liability that he would not have incurred had the parent or guardian of the person upon whom the operation is carried out consented thereto.

- 30 (v) by inserting next after section one hundred and forty-eight the following new section : — New sec. 148A.

148A. A person who in any manner tattoos any part of the body of a child or young person shall be guilty of an offence against this Act unless he has first obtained the written permission of the Offence by person who tattoos a child or young person.

parent

Child Welfare (Amendment).

parent or guardian of the child or young person to tattoo the child or young person in that manner on that part of his body.

- 5 (w) by inserting next after section one hundred and eighty-one the following new Part :— New Part XXI.

PART XXI.

WELFARE SERVICES TRAINING COUNCIL.

10 182. (1) There shall be a Welfare Services Training Council, hereinafter in this Part of this Act referred to as "the Council", consisting of not more than twelve members appointed by the Governor. Constitution of Welfare Services Training Council.

(2) Of the members of the Council—

- 15 (a) three shall be officers nominated by the Minister; and
- (b) the remaining members shall be persons nominated in accordance with subsection three of this section.

20 (3) For the purposes of the appointment of the members of the Council referred to in paragraph (b) of subsection two of this section, nominations may be submitted to the Minister in accordance with regulations prescribing—

- 25 (a) persons who, or organisations or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, organisation or class so prescribed; and
- 30 (c) the times within which such nominations may be submitted.

The

Child Welfare (Amendment).

The regulations may provide for the nomination of a number of persons in excess of the number of members of the Council that may be appointed.

5 (4) A member of the Council shall, subject to this Act and the regulations, hold office for such term (not exceeding in any case four years) as the Governor may specify in the instrument of appointment and shall, if otherwise qualified, be eligible for reappointment.

10 (5) In the case of a casual vacancy in the office of a member of the Council, the Governor may appoint a person to the vacant office (being, where the vacancy is in the office of a person who was nominated for membership by the Minister, an officer nominated by the Minister) and the
15 person so appointed shall hold office for the residue of his predecessor's term of office.

(6) A member of the Council shall be deemed to have vacated his office if he—

- 20 (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- 25 (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 30 (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a nominee of the Minister, ceases to be an officer; or
- 35 (g) is removed from office by the Governor.

(7)

Child Welfare (Amendment).

(7) The Council shall, subject to this Act and the regulations, frame rules for the conduct of its business, but no such rules shall be operative until they have been approved by the Minister.

5 (8) Meetings of the Council shall be convened so that at least six meetings are held in every year.

10 (9) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Council, and any member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act, as so amended, during his term of office.

15 183. (1) The Council may make reports and recommendations to the Minister with respect to— ^{Duties and functions of Council.}

20 (a) the provision of courses of instruction and training for persons employed in, or considering employment in, a welfare service, either in a voluntary or a paid capacity;

25 (b) the status of courses of instruction and training of the kind referred to in paragraph (a) of this subsection that are conducted within or outside New South Wales;

(c) such other matters connected with training of the kind referred to in paragraph (a) of this subsection as may be referred to it by the Minister;

30 (d) any other matter connected with training of the kind referred to in paragraph (a) of this subsection.

(2)

Child Welfare (Amendment).

(2) Subject to subsection one of this section the functions of the Council shall be—

- 5 (a) to recommend courses of instruction and training for approval by the Minister and to encourage the conduct of such courses;
- (b) to recommend to the Minister the accreditation of courses conducted by other organisations;
- 10 (c) to exercise a general supervision over the standards of theoretical and practical training approved or accredited by the Minister;
- (d) to conduct written, practical or oral examinations and to have regard to the results of examinations conducted by other
15 organisations in respect of accredited courses;
- (e) to issue certificates of qualification to persons who have passed examinations or
20 have attained a standard of proficiency acceptable to the Council in respect of courses approved or accredited by the Minister.

25 (3) The Council may appoint sub-committees to deal with specified matters within the scope of the functions of the Council.

(4) The convenor of each sub-committee shall be a member of the Council and each sub-committee shall consist of such number of other persons, whether members of the Council or not,
30 as the Council may determine.

(5) The Council in appointing persons to a sub-committee shall include amongst the membership of the sub-committee persons who have practical experience in the conduct or administration of one or more kinds of child welfare or social
35 welfare

Child Welfare (Amendment).

welfare service or in the training of persons to provide any such service, selected from one or more of the following classes of persons :—

- 5 (a) medical practitioners (including persons having knowledge of and experience in paediatrics or psychiatry);
- (b) barristers or solicitors;
- (c) persons having knowledge of and experience in education;
- 10 (d) persons having knowledge of and experience in psychology;
- (e) persons having knowledge of and experience in social work;
- 15 (f) persons having knowledge of and experience in recreation;
- (g) persons having knowledge of and experience in religious education; and
- (h) persons having other suitable qualifications or experience.

- 20 184. The Minister shall be the authority to— **Minister to be authority to approve or accredit courses.**
- (a) approve of courses of instruction and training for welfare services where those courses are not prescribed in accordance with the provisions of any other Act or regulations; and
- 25 (b) extend accreditation for the purposes of this Part to courses of instruction and training that are not so prescribed.

185. The regulations may—

- 30 (a) prescribe the procedure to be followed—
- (i) in appointing a Chairman of the Council; and
- (ii)

Child Welfare (Amendment).

- (ii) in convening and conducting meetings of the Council;
- 5 (b) prescribe the fees to be paid to members of the Council other than officers and the allowances to be paid to members of the Council including officers;
- (c) prescribe such forms and documents as are necessary or expedient for the administration of this Part;
- 10 (d) prescribe the fees to be paid by persons attending courses of instruction and training conducted by or on behalf of the Director or any other officer.

(2) Paragraph (w) of subsection one of this section
15 shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. (1) The Child Welfare Act, 1939, as subsequently amended, is further amended by inserting next after subsection one of section eight the following new subsections :—

20 (1A) A person appointed pursuant to subsection one of this section shall hold office for such term (not exceeding four years) as the Governor may specify in the instrument of appointment, and shall be eligible for reappointment.

25 (1B) In the case of a casual vacancy in the office of a person appointed pursuant to subsection one of this section, the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.

30 (1C) A member of the council shall be deemed to have vacated his office if he—

(a) dies;

(b)

Further
amendment
of Act No.
17, 1939.
Sec. 8.
(Advisory
council.)

Child Welfare (Amendment).

- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) absents himself from four consecutive meetings of the council without leave of the council; or
- (f) is removed from office by the Governor.

(2) The persons holding office at the commencement of this section as members of the Child Welfare Advisory Council constituted under section eight of the Child Welfare Act, 1939, as subsequently amended, shall be deemed to have been appointed under that section of that Act, as so amended and as amended by subsection one of this section, for a term expiring on the thirty-first day of January, one thousand nine hundred and seventy-two.

4. The Child Welfare Act, 1939, as subsequently amended, is further amended—

- (a) by inserting next after section eighty-one the following new section :—

81A. Where, under subsection three or (3A) of section eighteen or subsection seven of section eighty-one, of this Act, a court has ordered that a child or young person be discharged upon his entering into a recognizance and has fixed the amount in which the principal and any surety or sureties are thereby to be bound, the recognizance may be entered into by the parties before any person authorised in that behalf by the Justices Act, 1902, as amended by subsequent Acts, or where the child or

Further amendment of Act No. 17, 1939.

New sec. 81A.

Recognizance may be entered into before certain persons.

Child Welfare (Amendment).

5 or young person is in the custody of the superintendent of an institution, or of the person for the time being in charge of a shelter, before that superintendent or person in charge and, where a recognizance is entered into before such a superintendent or person in charge, the provisions of that Act, as so amended, relating to recognizances entered into before a person so authorised shall, mutatis mutandis, apply.

10 (b) by inserting next after section eighty-three the following new section :— New sec. 83A.

15 83A. The provisions of sections ninety-four and ninety-five of the Justices Act, 1902, as amended by subsequent Acts, shall apply to and in respect of a person committed to a shelter, or to an institution, in default of payment of a penalty, or of compensation, damages or costs, and shall so apply as if— Payment of penalty, etc., to superintendent of institution or keeper of shelter.

20 (a) that person had been imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices for a term the same as that for which he is to be detained in the shelter or institution; and

25 (b) the superintendent of the institution or the person for the time being in charge of the shelter, as the case may be, were the keeper of the prison.

30 5. The Child Welfare Act, 1939, as subsequently amended, is further amended— Further amendment of Act No. 17, 1939.

(a) (i) by omitting subsection two of section one hundred and thirty-three; Sec. 133. (Child believed to be suffering from venereal disease.)
(ii) by omitting from subsection three of the same section the words "not be released therefrom" and by inserting in lieu thereof the word "not,";

35

(iii)

Child Welfare (Amendment).

(iii) by inserting in the same subsection after the word "infection" the following words :—

, be released therefrom except upon license granted—

5 (a) by the Governor, where the Governor would, but for this subsection, be empowered to discharge the child or young person from an institution; or

10 (b) by the Minister, where the Minister would, but for this subsection, be so empowered;

(iv) by inserting next after subsection three of the same section the following new subsections :—

15 (3A) It shall be a condition of a license granted under subsection three of this section that the person released shall obtain treatment for venereal disease and otherwise comply with the provisions of the Venereal Diseases Act, 1918, as amended by subsequent Acts, relating to persons suffering therefrom.

20 (3B) The Minister may revoke a license granted under section three of this Act, whether or not he is the grantor thereof and, upon any such revocation, the person to whom the license relates may be dealt with as if he had absconded from an institution.

25 (v) by omitting from subsection four of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection three of this section";

30

(vi)

Child Welfare (Amendment).

(vi) by inserting in subsection five of the same section after the word "certified" the words "or released";

5 (b) (i) by omitting subsection one of section one hundred and thirty-four and by inserting in lieu thereof the following subsections:—

Sec. 134.
(Medical
examina-
tion:
Venereal
disease.)

10 (1) No ward shall be transferred from a depot, home or hostel to be boarded-out, placed-out or placed as an adopted boarder, unless he has been—

(a) examined by a medical practitioner;
and

15 (b) certified by such medical practitioner as being, in the opinion of that medical practitioner, apparently free from venereal disease, or no longer liable to convey infection.

20 (1A) Where a ward has not been admitted to a depot, home or hostel established under this Act, an examination as provided by subsection one of this section shall be carried out and a certificate obtained as soon as practicable after the ward has been admitted to State control and a further examination may
25 be carried out, and a certificate obtained, at any time at the request of an officer authorised in that behalf by the Minister.

30 (ii) by omitting from subsection two of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection one or (1A) of this section".

Child Welfare (Amendment).

6. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further amendment of Act No. 17, 1939.

(a) by inserting next after subsection two of section fifty-four the following new subsections :—

Sec. 54.
(Discharge of child or young person.)

5 (3) Notwithstanding anything contained in subsections one and two of this section, a person transferred to an institution under section ninety-four of this Act shall not, while under sentence of imprisonment, be discharged from an institution
10 except pursuant to subsection four of this section.

(4) The Minister may, by order, discharge from an institution a person referred to in subsection three of this section on such terms and conditions as he deems desirable and specifies in the order
15 and shall, in any such order, specify the period for which the order is to remain in force for the purposes of section 2A of the Parole of Prisoners Act, 1966, as subsequently amended.

(5) The Minister shall cause a copy of an order made under subsection four of this section, and a statement of the date of birth of the person to whom it refers, to be served on the Parole Board constituted under the Parole of Prisoners Act, 1966,
20 as subsequently amended.

25 (b) (i) by omitting from section fifty-five the word "ward" and by inserting in lieu thereof the words "other person detained in an institution";

Sec. 55.
(Absconder may be apprehended.)

30 (ii) by omitting from the same section the word and symbol "superintendent," and by inserting in lieu thereof the words "superintendent or, being a child or young person, is in breach of the terms and conditions specified in an order for his discharge made under subsection four
35 of section fifty-four of this Act,".

Child Welfare (Amendment).

7. The Parole of Prisoners Act, 1966, is amended by inserting next after section two the following new section :—

Amendment
of Act No.
41, 1966.
New sec.
2A.

5 2A. (1) Where a person is transferred to an institu-
tion pursuant to an order made under subsection one of
section ninety-four of the Child Welfare Act, 1939, as
amended by subsequent Acts, the powers, authorities,
duties and functions conferred or imposed upon the
Board by this Act shall not be exercised or performed
10 in relation to that person during the period of his
detention pursuant to that order.

Limitation
of powers
of Board
in certain
circum-
stances.

 (2) Subject to this section, an order of discharge
under subsection four of section fifty-four of the Child
Welfare Act, 1939, as amended by subsequent Acts,
15 shall be deemed to be a parole order duly made by the
Board under section six of this Act.

 (3) Where a parole order referred to in subsec-
tion two of this section relates to a person who, at the
time of his discharge from an institution had not attained
20 the age of eighteen years, the powers, authorities, duties
and functions that, but for this subsection, would be
conferred or imposed by this Act upon the Board in
relation to the parole order shall, subject to this section,
be exercised and performed by the Minister for the time
25 being administering the Child Welfare Act, 1939, as
amended by subsequent Acts, to the exclusion of the
Board, until that person attains the age of eighteen years
or the parole period earlier expires.

 (4) Subject to this Act, a parole order referred
30 to in subsection two of this section shall—

(a) remain in force for the period; and

(b) be subject to the terms and conditions,

specified in the discharge order deemed, by that sub-
section, to be the parole order.

Child Welfare (Amendment).

5 (5) For the purposes of this Act, discharge from an institution under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be release, on parole, from a prison.

10 (6) The powers conferred by subsection three of section six of this Act shall not be exercised in respect of a parole order referred to in subsection two of this section before the person to whom the parole order relates attains the age of eighteen years.

15 (7) Nothing in this section shall prejudice or affect any power, authority, duty or function conferred or imposed by or under the Child Welfare Act, 1939, as amended by subsequent Acts, upon the Minister for the time being administering that Act, as so amended, or upon any other person.

20 **8.** (1) The Child Welfare (Amendment) Act, 1966, is amended by inserting in paragraph (f) of section two, at the end of section thirty-eight to be inserted in the Child Welfare Act, 1939, as amended by subsequent Acts, the following new subsections : —

Amendment of Act No. 11, 1966. Sec. 2. (Amendment of Act No. 17, 1939.) (Regulations.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

25 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part, or from compliance with any part of such a regulation or from compliance with any condition of a license.

30 (2) Subsection one of this section shall commence on the day on which paragraph (f) of section two of the Child Welfare (Amendment) Act, 1966, commences.

Child Welfare (Amendment).

9. (1) The Child Welfare (Amendment) Act, 1967, is amended—
- 5 (a) by omitting from paragraph (e) of section three, in subsection one of section forty-seven to be inserted in the Child Welfare Act, 1939, as subsequently amended, the words “, or is charged with being,”;
- 10 (b) by inserting in the same paragraph at the end of section 48M to be inserted in the Child Welfare Act, 1939, as subsequently amended, the following new subsections : —
- (2) A prescribed form of license may provide for the classification of licenses according to specified standards.
- 15 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part or from compliance with any part of such a regulation or from compliance with any condition of a license.
- 20 (2) Subsection one of this section shall commence on the day on which paragraph (e) of section three of the Child Welfare (Amendment) Act, 1967, commences.

Amendment
of Act No.
27, 1967.

Sec. 3.
(Further
amendment
of Act No.
17, 1939.)

(Regula-
tions.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

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No. , 1969.

A BILL

Relating to certain proceedings before children's courts, the execution of certain warrants and the transfer of persons between prisons and institutions; to provide for the care of wards and persons having the like status who travel or remove between States; to make further provision with respect to the religious teaching of wards; to establish a Welfare Services Training Council; for these and other purposes to amend the Child Welfare Act, 1939, the Parole of Prisoners Act, 1966, and certain other Acts; and for purposes connected therewith.

[MR WADDY *on behalf of* MR McCAW—25 February, 1969.]

BE

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1969". Short title and citation.

(2) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939–1969.

2. (1) The Child Welfare Act, 1939, as subsequently amended, is amended— Amendment of Act No. 17, 1939.

(a) by inserting in section two after the matter relating to Division 8 of Part XX the following new matter :— Sec. 2. (Parts of Act.)

PART XXI.—WELFARE SERVICES TRAINING COUNCIL—ss. 182–185.

(b) (i) by omitting from paragraph (a) of section fifteen the word "or"; Sec. 15. (Children's courts not held in ordinary courts.)

(ii) by omitting from paragraph (b) of the same section the word "Minister." and by inserting in lieu thereof the following words :—

Minister; or

(c) where in the opinion of the court in any particular case it is expedient to hold the court in some other building or room approved in that behalf by the court, in that other building or room.;

(iii) by inserting in the same section after the words "so approved" the words "by the Minister or the court";

(c)

Child Welfare (Amendment).

(c) (i) by omitting from subsection three of section Sec. 18.
eighteen the word "determination" and by (Right of
inserting in lieu thereof the word "hearing"; appeal.)

5 (ii) by inserting next after the same subsection the
following new subsection :—

10 (3A) During the period of any adjournment
of the hearing of the appeal the child or young
person may, in accordance with the directions
of the court hearing the appeal, be detained at
any shelter, or permitted to go home with a
parent or with any other person who is willing
to undertake the care of the child or young
person during that period, or discharged upon
his entering into a recognizance with or
15 without sureties.

(d) by inserting next after section twenty the following New
new section :— sec. 20A.

20A. (1) In this section—

20 "court" includes a judge exercising the powers of
a court; Procedure
where
court
misled as
to age of
person.

"decision" includes finding, order, determination
and judgment but does not include—

25 (a) a finding that a person is a neglected
or uncontrollable child or young
person;

30 (b) an order, committing a person to the
care of the Minister, under para-
graph (d) of subsection one, or
paragraph (c) of subsection two, of
section eighty-three of this Act;

35 (c) an order made, after the commence-
ment of section three of the Child
Welfare (Amendment) Act, 1967,
as subsequently amended, under
subsection one of section forty-seven
of this Act, as amended by subse-
quent Acts;

(d)

Child Welfare (Amendment).

(d) an order, dismissing a charge, under paragraph (e) of subsection one, or paragraph (a) of subsection three, of section eighty-three of this Act;

5 (e) the admonishing and discharging of a person under paragraph (b) of subsection three of section eighty-three of this Act.

10 (2) Where a person charged is dealt with by a court as a child or young person and the Director is satisfied that, at the time of the commission of the offence with which he is charged that person had attained the age of eighteen years, and where that person is, at the time the Director is so satisfied, being treated as being affected by that decision—

15 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

20 (b) that person shall—
(i) until that decision is reviewed pursuant to this section, be treated, for the purposes of that decision and of this Act, as if he had not attained the age of eighteen years; and

25 (ii) for the purposes of an order made when that decision is so reviewed, be treated as if he would attain the age of eighteen years on the day next succeeding the making of the order.

30 (3) Where a court delivers a decision with respect to a child or young person and the Director is satisfied that, at the time the decision was
35 delivered

Child Welfare (Amendment).

5 delivered, the court was misled as to the age of the child or young person, and where that child or young person is, at the time the Director is so satisfied, still affected by, or is being treated as being affected by, that decision—

10 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

15 (b) that child or young person shall, if he attains the age of eighteen years before that decision is reviewed pursuant to this section, be treated as is provided by paragraph (b) of subsection two of this section.

20 (4) An officer authorised by the Minister in that behalf may, upon instructions given by the Director pursuant to subsection two or three of this section, apply to a court to review the decision to which the instructions relate and, upon any such application being made, the court may order—

25 (a) that the decision under review be varied, in such manner as the court thinks fit, in so far as it appears that the purported age of the person in respect of whom that decision was made was material in relation to the term or period for which the decision was to be effective; or

30 (b) that the application be dismissed.

(e) (i) by inserting immediately before the definition Sec. 72. of "Neglected child" in section seventy-two (Definition of neglected child.) the following new definition :—

35 "Drug" means drug of addiction or prohibited drug, as defined in section

Child Welfare (Amendment).

four of the Poisons Act, 1966, as subsequently amended, and includes any substance injurious to health.

5 (ii) by omitting paragraph (h) of the same definition and by inserting in lieu thereof the following paragraph :—

(h) who is found—

10 (i) in any place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied; or

15 (ii) administering, consuming, using or smoking any drug, and is in need of care, protection or control by reason thereof;

(iii) by omitting from paragraph (o) of the same definition the word “regularly.” and by inserting in lieu thereof the following words :—

20 regularly; or

25 (p) who tattoos himself, or allows himself to be tattooed by another person, in any manner on any part of his body without having first obtained the written permission of his parent or guardian to be tattooed in that manner on that part of his body.

(f) by omitting from subsection one of section **Sec. 75.** seventy-five the words “where opium or any preparation thereof is smoked” and by inserting ^(Warrant to search in brothel.) in lieu thereof the words “is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

(g)

Child Welfare (Amendment).

- 5 (g) by omitting from section seventy-six the words “or where opium or any preparation thereof is smoked” and by inserting in lieu thereof the words “, or is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”; Sec. 76.
(Apprehension of child in brothel, etc.)

- 10 (h) by omitting section seventy-seven and by inserting in lieu thereof the following section :— Sec. 77.
(Where child in brothel or opium den, keeper guilty of an offence.)

77. Where a child or young person is found in a brothel, or in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, the keeper or person in charge, or apparently in charge, of the brothel or place shall be guilty of an offence against this Act. Where child or young person in brothel, etc., keeper guilty of offence.

- 20 (i) (i) by omitting from subsection one of section eighty-one the words “, or is charged with being,”; Sec. 81.
(Procedure of court.)

- 25 (ii) by omitting from the same subsection the words “or a juvenile offender” and by inserting in lieu thereof the words “or is charged with an offence and is brought before a court”;

- 30 (iii) by omitting from subsection two of the same section the words “, or is charged with being,”;

- (iv) by omitting from the same subsection the words “or a juvenile offender” and by inserting in lieu thereof the words “or is charged with an offence and is brought before a court”;

(v)

Child Welfare (Amendment).

- (v) by inserting in subsection seven of the same section after the word "may" where firstly occurring the words ", in accordance with the directions of the court,";
- 5 (vi) by omitting from the same subsection the words "may be admitted to bail" and by inserting in lieu thereof the words "discharged upon his entering into a recognizance";
- 10 (j) (i) by omitting from paragraph (e) of subsection two of section eighty-three the word "condi-^{Sec. 83. (Powers of court.)} tions" and by inserting in lieu thereof the words "terms and conditions";
- 15 (ii) by omitting from paragraph (c) of subsection three of the same section the word "condi- tions" and by inserting in lieu thereof the words "terms and conditions";
- (iii) by inserting next after subsection four of the same section the following new subsections :—
- 20 (4A) A court shall not make payment of a sum of money by way of compensation a condition of any order, but nothing in this subsection shall be construed as affecting the power of a court to specify the conditions of a recognizance.
- 25 (4B) The provisions of subsections three, four, five and six of section five hundred and fifty-four of the Crimes Act, 1900, as amended by subsequent Acts, shall apply to a children's court dealing with a young person but shall not
- 30 otherwise apply to a children's court and, where those provisions apply to a children's court, a conviction referred to in that section shall be deemed to include a finding of guilt, and an order made, under subsection one or
- 35 two of this section.

(4c)

Child Welfare (Amendment).

(4C) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a children's court.

5 (4D) An order made under subsection three of this section shall be deemed not to be an acquittal of, or the dismissal of an information against, a person within the meaning of
10 section four of the Criminal Injuries Compensation Act, 1967.

(iv) by inserting next after subsection five of the same section the following new subsection :—

15 (5A) Where it is within the knowledge of the person who executes a warrant of commitment in default of payment of a penalty, compensation, damages or costs that the person named in the warrant has, in the case of a
20 warrant of commitment to a shelter or an institution, attained the age of eighteen years or has not, in the case of a warrant of commitment to a prison, attained that age, the warrant shall—

25 (a) in the case of a warrant of commitment to a shelter or an institution, be deemed to be directed to the governor of the prison nearest the place where the warrant was executed; or

30 (b) in the case of a warrant of commitment to a prison, be deemed to be directed to the keeper of the shelter nearest the place where the warrant was executed.

35 (v) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

(6) Where a person has been discharged under paragraph (e) of subsection two, or paragraph (c) of subsection three, or subsection

Child Welfare (Amendment).

subsection four, of this section, the court may, at any time after his discharge and before or after he attains the age of eighteen years, by notice given to that person, or to his parent and his surety, in such manner as the court may direct, give a direction for that person to appear before the court at a time and place specified in the notice and may, in default of his appearance in accordance with the direction, issue a warrant for his apprehension.

(7) Where a person who has attained the age of eighteen years appears before a court in accordance with a direction, or pursuant to a warrant for his apprehension, under subsection six of this section and the court is satisfied that he has failed to comply with the terms and conditions of his recognizance, the court may, in relation to that person, exercise any of the powers conferred upon it by section eighty-two of this Act (paragraph (d) excepted) or by subsection one, two or three of this section (paragraph (d) of subsection one and paragraph (c) of subsection two excepted) in respect of a child or young person.

- (k) (i) by omitting from subsection one of section eighty-five the words "in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed" and by inserting in lieu thereof the words "by the finding, order or direction of a court liable to pay a penalty, or compensation, damages or costs, in respect of an offence";
- (ii) by inserting in subsection two of the same section after the word "penalty," the word "compensation,";
- (iii) by inserting in subsection three of the same section after the word "may" where firstly occurring the words "if not paid to the clerk of the court,";
- (1)

Sec. 85.
(Court may order parent to pay penalty, damages or costs.)

Child Welfare (Amendment).

- (1) by inserting next after subsection (1A) of section eighty-seven the following new subsection :—
- (1B) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a judge acting pursuant to subsection one or (1A) of this section except where he deals with a young person otherwise than by exercising the powers of a children's court.
- (m) (i) by inserting in subsection three of section eighty-nine after the words "shall not" the words "if tendered";
- (ii) by inserting in the same subsection after the word "Department" the words ", the prosecutor (if any), a barrister or solicitor (if any) appearing for the child or young person";
- (n) by omitting paragraph (a) of subsection one of section ninety and by inserting in lieu thereof the following paragraph :—
- (a) the person to whose care the child or young person is committed shall, as far as practicable, be of an appropriate religious persuasion having regard to the principles upon which section one hundred and forty of this Act is based, and—
- (i) the court may give such directions as to the religious teaching of the ward as might, under that section, be given by the Minister in relation to a ward; and
- (ii) the child or young person shall have the same rights as, by that section, are conferred upon a ward;
- (o)

Sec. 87.

(Child or young person convicted of indictable offence may be sent to institution.)

Sec. 89.

(Court to hear evidence on behalf of child.)

Sec. 90.

(Probation: Who shall have custody and control.)

Child Welfare (Amendment).

(o) by omitting from paragraph (b) of subsection two of section ninety the word "order." where secondly occurring and by inserting in lieu thereof the following words :—
Sec. 90.
(Probation:
Who shall
have custody
and
control.)

5 order; and

(c) except in the case of an order made under paragraph (e) of subsection two, or under subsection four, of section eighty-three of this Act that otherwise directs, the child or young person shall, as terms and conditions of his release—

10

(i) accept the supervision of any officer authorised by the Minister in that behalf; and

15

(ii) obey all reasonable directions of any such officer.

(p) (i) by omitting subsection one of section ninety-one and by inserting in lieu thereof the following subsections :—
Sec. 91.
(Breach of
terms of
probation.)

20

(1) Where a person who, as a child or young person, was released on probation or was committed to the care of a person breaks or is reasonably suspected of having broken the terms or conditions of his release or committal he may (whether or not a warrant has been issued under subsection (1A) of this section) be apprehended by any constable or by any officer authorised by the Minister in that behalf and shall, upon being so apprehended, be taken to a shelter and as soon as practicable thereafter shall be brought before a court.

25

30

(1A) Any justice may, upon oath being made before him by any constable or by an officer authorised by the Minister in that behalf that, having made due inquiry, he believes that a person who, as a child or young person, was released on probation or was committed to

35

to

Child Welfare (Amendment).

to the care of a person has broken the terms or conditions of his release or committal—

- 5 (a) issue his summons for the appearance of the person so released or committed before a court; or
- (b) in the first instance issue his warrant directing the apprehension of the person so released or committed.

10 (1B) Where a warrant has been issued under paragraph (b) of subsection (1A) of this section, any constable or any officer authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend the person to whom the

15 warrant relates.

(ii) by omitting from subsection two of the same section the words “notwithstanding the fact that the person charged has then attained the age of eighteen years” and by inserting in lieu thereof the words “whether or not that

20 breach occurred after he attained the age of eighteen years and, where the breach occurred before he attained that age, whether or not he attained that age after the breach occurred”;

25 (iii) by inserting after the word “person” in subsection three of the same section the words “, or the terms and conditions imposed by a judge or court in respect thereof,”;

30 (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—

(4) Where by the order of a court a child or young person—

35 (a) has been released on probation on condition that he remain in the care of a person named in the order; or

(b)

Child Welfare (Amendment).

(b) has been committed to the care of a person named in the order,

the court may, upon the application of any officer authorised by the Minister in that behalf, vary the order by substituting the name of some other person for that of the person named in the order.

(q) by omitting subsection two of section ninety-four and by inserting in lieu thereof the following subsections :—

Sec. 94.
(Power to detain in institutions.)

(2) An order under subsection one of this section shall, for the purposes of this Act, subsections one and two of section fifty-four excepted, be deemed to be an order committing the person to whom it relates to an institution there to be detained until the expiration of the period of his sentence, or until he is transferred to prison pursuant to this section, whichever first occurs.

(2A) Where a person to whom an order under subsection one of this section applies has been detained in an institution for a period of three years or if he earlier, while so detained, attains the age of twenty-one years, the Minister shall order that he be transferred to prison as soon as practicable thereafter, there to serve the unexpired portion of the term of his sentence, and upon such transfer taking place, that person shall cease to be subject to the provisions of this section.

(r) (i) by inserting next after subsection two of section one hundred and thirty-nine the following new subsection :—

Sec. 139.
(Arrest of absconding ward.)

(2A) Where a ward brought before a magistrate pursuant to paragraph (a) of subsection two of this section is a person who was transferred from prison to an institution, the

Child Welfare (Amendment).

the court may, in lieu of exercising its powers under paragraph (b) of that subsection, order that the offender be returned to the prison from which he was transferred and may further order—

5

(a) where the offender is a child or young person, that he be detained in prison for a further term; or

10

(b) where the offender is of or above the age of eighteen years, impose a sentence of imprisonment for a further term,

15

not exceeding, in either case, three months with hard labour, to commence at the expiration of the original sentence.

(ii) by inserting next after subsection five of the same section the following new subsection :—

(6) In this section “ward” includes—

20

(a) a person subject to an order made under Part XIV of this Act committing him to an institution; and

(b) a person subject to an order made under Part XV of this Act for his transfer from a prison to an institution,

25

whether or not that person has attained the age of eighteen years.

(s) by inserting next after section one hundred and thirty-nine the following new section :— **New sec. 139A.**

139A. (1) In this section—

30

“appropriate authority” means person who under the law of—

Reciprocity between States in relation to wards.

(a) a State of the Commonwealth of Australia other than New South Wales; or

35

(b) a Territory,

corresponding

Child Welfare (Amendment).

corresponding to this Act is competent to take action equivalent to admission to State control under this Act;

5 “interstate ward” means child or young person entering New South Wales who, immediately before that entry, was under the care or guardianship of an appropriate authority;

10 “Territory” means Territory of the Commonwealth of Australia, including a Territory under the trusteeship of the Commonwealth of Australia.

15 (2) Where an interstate ward enters New South Wales, the Minister may, if the appropriate authority for the interstate ward has requested him to do so, admit the interstate ward to State control under this Act for a period not exceeding that for which he would, but for this subsection, have been under the care or guardianship of that authority.

(3) The Minister—

20 (a) may make, with an appropriate authority financial and other arrangements for the care of an interstate ward or a ward;

25 (b) may, at his discretion, or in accordance with any such arrangements, return an interstate ward to the care or guardianship of his appropriate authority; and

30 (c) shall, where the appropriate authority for an interstate ward requests him to do so, return the interstate ward to the care or guardianship of that appropriate authority.

(4) Where, in the opinion of the Minister, the law of a State of the Commonwealth of Australia other than New South Wales, or of a Territory, makes the like provision for or with respect to a

ward

Child Welfare (Amendment).

ward entering that State as is made by subsections two and three of this section for or with respect to an interstate ward and, upon a request by the Minister, such a provision corresponding to subsection two of this section is applied to a ward who leaves New South Wales, the powers, authorities, duties and functions conferred or imposed by or under this Act upon the Minister and other persons shall be deemed to have been suspended in relation to that ward while he remains under care or guardianship in consequence of the application of that provision, except in so far as they may be exercised or performed in accordance with arrangements made under paragraph (a) of subsection three of this section.

(t) by omitting section one hundred and forty and by inserting in lieu thereof the following section :—

140. (1) A ward shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion in which he is to be educated.

(2) For the purposes of subsection one of this section, a ward shall, subject to the other provisions of this section, be educated—

(a) where the ward is illegitimate—in accordance with the wishes of his mother expressed for those purposes in the prescribed manner;

(b) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, are identical—in accordance with those wishes;

(c) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, differ, the one from the other—

(i) in accordance with the wishes of the father; or

(ii)

Child Welfare (Amendment).

- 5 (ii) where the Minister is satisfied that the father has failed to discharge his parental obligations to the ward, in accordance with the wishes of the mother;
- 10 (d) where the ward is legitimate and one of his parents has expressed, in the prescribed manner, his or her wishes for those purposes while the other parent has failed so to express any such wishes or, in the prescribed manner, has declined to express any such wishes—in accordance with the wishes so expressed;
- 15 (e) where the ward is legitimate and only one of his parents is living or can on reasonable inquiry be found—in accordance with the wishes, expressed for those purposes in the prescribed manner, of that parent.
- 20 (3) Subject to the other provisions of this section, where neither parent of a ward is living, or where neither parent of a ward can upon reasonable inquiry be found, or where the parent of a ward in accordance with whose wishes the ward would, if expressed pursuant to subsection two of
- 25 this section, be educated, has failed to express those wishes in the prescribed manner, or has, in the prescribed manner, declined to express those wishes, the ward shall, for the purposes of subsection one of this section, be educated—
- 30 (a) where the ward has, during the period of two years next preceding his admission to State control, been brought up in a particular religious persuasion and no other—in the persuasion in which he has been so
- 35 brought up; or

(b)

Child Welfare (Amendment).

- 5 (b) where the ward has not, during that period,
been brought up in any religious persuasion,
or where he has, during that period, been
brought up in more than one religious
persuasion and—
- 10 (i) has not attained the age of twelve
years—in such religious persuasion
as the Minister may, after ascertain-
ing the wishes (if any) of the ward
and, if practicable, the religious
persuasion or persuasions of his
parents—direct; or
- 15 (ii) has attained the age of twelve years
(whether or not he is a ward in
respect of whom a direction has
been given under subparagraph
(i) of this paragraph)—in such
religious persuasion approved by
the Minister as the ward selects.
- 20 (4) Notwithstanding anything contained
in subsection two or three of this section, where the
Minister is satisfied that a ward who is a young
person has, in the prescribed manner, genuinely
expressed a wish to be educated in a religious
25 persuasion differing from that in which he is being,
or but for this subsection would be, educated, the
ward shall, for the purposes of subsection one of
this section, be educated in the religious persuasion
so selected by him.
- 30 (5) Notwithstanding any other provision
of this section, where the Minister is satisfied that
the welfare of a ward would be promoted if the
ward were boarded-out, placed-out or placed
as an adopted boarder and that it is impracticable
35 to direct the removal or transfer of the ward
to the care of a foster parent of the same religious
persuasion

Child Welfare (Amendment).

persuasion as that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, the Minister may—

5 (a) direct that the ward be removed or transferred to the care of a foster parent of a religious persuasion that differs from that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, subject to that
10 foster parent agreeing not to hinder or impede the religious education of the ward as so provided; or

15 (b) where he is satisfied that the welfare of the ward would thereby be promoted, and subject to the observance of any procedures that may be prescribed for the purpose, direct that the ward be removed or transferred to the care of such a foster parent and be educated in such religious persuasion
20 other than that authorised by subsection two, three or four of this section as the Minister may specify when giving the direction.

25 (6) For the purposes of this section, the prescribed manner shall be by writing, signed by the parent or young person concerned and delivered—

30 (a) in the case of the parent of a ward, at or about the time the ward is, or is to be, admitted to State control or as soon as practicable within the period of one year thereafter; or

35 (b) in the case of a young person, as soon as practicable after the expression of his wish, to the Minister or to some person appearing to be authorised by him for the purpose.

(7)

Child Welfare (Amendment).

(7) The provisions of subsection three of section twenty-three of this Act shall, mutatis mutandis, apply to and in respect of the powers conferred upon the Minister by this section.

- 5 (u) by inserting next after subsection two of section one hundred and forty-four the following new subsections : — Sec. 144. (Medical examination.)

10 (3) The Minister or any officer specially authorised by the Minister in that behalf may consent to any surgical or other operation on a person (not being a ward) who is a minor and has, under this Act, been admitted to an establishment under the control of the Minister, or detained at a place of safety where—

15 (a) the Minister or officer, as the case may be, is advised by a medical practitioner that the operation is necessary in the interests of the health or welfare of that person; and

20 (b) the consent of the parent or guardian of that person cannot, in the circumstances, reasonably be obtained.

25 (4) A medical practitioner carrying out a surgical or other operation pursuant to a consent given under subsection two or three of this section shall not, by carrying out the operation, incur any liability that he would not have incurred had the parent or guardian of the person upon whom the operation is carried out consented thereto.

- 30 (v) by inserting next after section one hundred and forty-eight the following new section : — New sec. 148A.

148A. A person who in any manner tattoos any part of the body of a child or young person shall be guilty of an offence against this Act unless he has first obtained the written permission of the Offence by person who tattoos a child or young person.
parent

Child Welfare (Amendment).

parent or guardian of the child or young person to tattoo the child or young person in that manner on that part of his body.

- 5 (w) by inserting next after section one hundred and eighty-one the following new Part :— New Part XXI.

PART XXI.

WELFARE SERVICES TRAINING COUNCIL.

10 182. (1) There shall be a Welfare Services Training Council, hereinafter in this Part of this Act referred to as "the Council", consisting of not more than twelve members appointed by the Governor. Constitution of Welfare Services Training Council.

(2) Of the members of the Council—

- 15 (a) three shall be officers nominated by the Minister; and
- (b) the remaining members shall be persons nominated in accordance with subsection three of this section.

20 (3) For the purposes of the appointment of the members of the Council referred to in paragraph (b) of subsection two of this section, nominations may be submitted to the Minister in accordance with regulations prescribing—

- 25 (a) persons who, or organisations or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, organisation or class so prescribed; and
- 30 (c) the times within which such nominations may be submitted.

The

Child Welfare (Amendment).

The regulations may provide for the nomination of a number of persons in excess of the number of members of the Council that may be appointed.

5 (4) A member of the Council shall, subject to this Act and the regulations, hold office for such term (not exceeding in any case four years) as the Governor may specify in the instrument of appointment and shall, if otherwise qualified, be eligible for reappointment.

10 (5) In the case of a casual vacancy in the office of a member of the Council, the Governor may appoint a person to the vacant office (being, where the vacancy is in the office of a person who was nominated for membership by the Minister, 15 an officer nominated by the Minister) and the person so appointed shall hold office for the residue of his predecessor's term of office.

(6) A member of the Council shall be deemed to have vacated his office if he—

- 20 (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- 25 (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 30 (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a nominee of the Minister, ceases to be an officer; or
- 35 (g) is removed from office by the Governor.

(7)

Child Welfare (Amendment).

(7) The Council shall, subject to this Act and the regulations, frame rules for the conduct of its business, but no such rules shall be operative until they have been approved by the Minister.

5 (8) Meetings of the Council shall be convened so that at least six meetings are held in every year.

10 (9) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Council, and any member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act, as so amended, during his term of office.

15 183. (1) The Council may make reports and recommendations to the Minister with respect to— ^{Duties and functions of Council.}

20 (a) the provision of courses of instruction and training for persons employed in, or considering employment in, a welfare service, either in a voluntary or a paid capacity;

25 (b) the status of courses of instruction and training of the kind referred to in paragraph (a) of this subsection that are conducted within or outside New South Wales;

(c) such other matters connected with training of the kind referred to in paragraph (a) of this subsection as may be referred to it by the Minister;

30 (d) any other matter connected with training of the kind referred to in paragraph (a) of this subsection.

(2)

Child Welfare (Amendment).

(2) Subject to subsection one of this section the functions of the Council shall be—

- 5 (a) to recommend courses of instruction and training for approval by the Minister and to encourage the conduct of such courses;
- (b) to recommend to the Minister the accreditation of courses conducted by other organisations;
- 10 (c) to exercise a general supervision over the standards of theoretical and practical training approved or accredited by the Minister;
- (d) to conduct written, practical or oral examinations and to have regard to the results of examinations conducted by other
15 organisations in respect of accredited courses;
- (e) to issue certificates of qualification to persons who have passed examinations or have attained a standard of proficiency acceptable to the Council in respect of
20 courses approved or accredited by the Minister.

(3) The Council may appoint sub-committees to deal with specified matters within the
25 scope of the functions of the Council.

(4) The convenor of each sub-committee shall be a member of the Council and each sub-committee shall consist of such number of other
30 persons, whether members of the Council or not, as the Council may determine.

(5) The Council in appointing persons to a sub-committee shall include amongst the membership of the sub-committee persons who have practical experience in the conduct or administration of one or more kinds of child welfare or social
35 welfare

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welfare service or in the training of persons to provide any such service, selected from one or more of the following classes of persons :—

- 5 (a) medical practitioners (including persons having knowledge of and experience in paediatrics or psychiatry);
- (b) barristers or solicitors;
- (c) persons having knowledge of and experience in education;
- 10 (d) persons having knowledge of and experience in psychology;
- (e) persons having knowledge of and experience in social work;
- 15 (f) persons having knowledge of and experience in recreation;
- (g) persons having knowledge of and experience in religious education; and
- (h) persons having other suitable qualifications or experience.

- 20 184. The Minister shall be the authority to— Minister to be authority to approve or accredit courses.
- (a) approve of courses of instruction and training for welfare services where those courses are not prescribed in accordance with the provisions of any other Act or regulations; and
- 25 (b) extend accreditation for the purposes of this Part to courses of instruction and training that are not so prescribed.

185. The regulations may—
- 30 (a) prescribe the procedure to be followed—
- (i) in appointing a Chairman of the Council; and
- (ii)

Child Welfare (Amendment).

- (ii) in convening and conducting meetings of the Council;
- 5 (b) prescribe the fees to be paid to members of the Council other than officers and the allowances to be paid to members of the Council including officers;
- (c) prescribe such forms and documents as are necessary or expedient for the administration of this Part;
- 10 (d) prescribe the fees to be paid by persons attending courses of instruction and training conducted by or on behalf of the Director or any other officer.

15 (2) Paragraph (w) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. (1) The Child Welfare Act, 1939, as subsequently amended, is further amended by inserting next after subsection one of section eight the following new subsections :—

Further amendment of Act No. 17, 1939. Sec. 8. (Advisory council.)

20 (1A) A person appointed pursuant to subsection one of this section shall hold office for such term (not exceeding four years) as the Governor may specify in the instrument of appointment, and shall be eligible for reappointment.

25 (1B) In the case of a casual vacancy in the office of a person appointed pursuant to subsection one of this section, the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.

30 (1C) A member of the council shall be deemed to have vacated his office if he—

(a) dies;

(b)

Child Welfare (Amendment).

- (b) resigns his office by writing under his hand addressed to the Minister;
- 5 (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 10 (e) absents himself from four consecutive meetings of the council without leave of the council; or
- (f) is removed from office by the Governor.

(2) The persons holding office at the commencement of this section as members of the Child Welfare Advisory
 15 Council constituted under section eight of the Child Welfare Act, 1939, as subsequently amended, shall be deemed to have been appointed under that section of that Act, as so amended and as amended by subsection one of this section, for a term expiring on the thirty-first day of January, one
 20 thousand nine hundred and seventy-two.

4. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further amendment of Act No. 17, 1939. New sec. 81A.

- (a) by inserting next after section eighty-one the following new section :—

25 81A. Where, under subsection three or (3A) of section eighteen or subsection seven of section eighty-one, of this Act, a court has ordered that a child or young person be discharged upon his entering into a recognizance and has fixed the
 30 amount in which the principal and any surety or sureties are thereby to be bound, the recognizance may be entered into by the parties before any person authorised in that behalf by the Justices Act, 1902, as amended by subsequent Acts, or where the child
 or

Recognizance may be entered into before certain persons.

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5 or young person is in the custody of the superintendent of an institution, or of the person for the time being in charge of a shelter, before that superintendent or person in charge and, where a recognizance is entered into before such a superintendent or person in charge, the provisions of that Act, as so amended, relating to recognizances entered into before a person so authorised shall, mutatis mutandis, apply.

10 (b) by inserting next after section eighty-three the following new section :— New sec. 83A.

15 83A. The provisions of sections ninety-four and ninety-five of the Justices Act, 1902, as amended by subsequent Acts, shall apply to and in respect of a person committed to a shelter, or to an institution, in default of payment of a penalty, or of compensation, damages or costs, and shall so apply as if— Payment of penalty, etc., to superintendent of institution or keeper of shelter.

20 (a) that person had been imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices for a term the same as that for which he is to be detained in the shelter or institution; and

25 (b) the superintendent of the institution or the person for the time being in charge of the shelter, as the case may be, were the keeper of the prison.

30 5. The Child Welfare Act, 1939, as subsequently amended, is further amended— Further amendment of Act No. 17, 1939.

(a) (i) by omitting subsection two of section one hundred and thirty-three; Sec. 133.
 (ii) by omitting from subsection three of the same section the words "not be released therefrom" and by inserting in lieu thereof the word "not,"; (Child believed to be suffering from venereal disease.)

35

(iii)

Child Welfare (Amendment).

(iii) by inserting in the same subsection after the word "infection" the following words :—

, be released therefrom except upon license granted—

5 (a) by the Governor, where the Governor would, but for this subsection, be empowered to discharge the child or young person from an institution; or

10 (b) by the Minister, where the Minister would, but for this subsection, be so empowered;

(iv) by inserting next after subsection three of the same section the following new subsections :—

15 (3A) It shall be a condition of a license granted under subsection three of this section that the person released shall obtain treatment for venereal disease and otherwise comply with the provisions of the Venereal Diseases Act, 1918, as amended by subsequent Acts, relating to persons suffering therefrom.

20 (3B) The Minister may revoke a license granted under section three of this Act, whether or not he is the grantor thereof and, upon such revocation, the person to whom the license relates may be dealt with as if he had absconded from an institution.

25 (v) by omitting from subsection four of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection three of this section";

30

(vi)

Child Welfare (Amendment).

(vi) by inserting in subsection five of the same section after the word "certified" the words "or released";

5 (b) (i) by omitting subsection one of section one hundred and thirty-four and by inserting in lieu thereof the following subsections :—

Sec. 134.
(Medical
examina-
tion:
Venereal
disease.)

(1) No ward shall be transferred from a depot, home or hostel to be boarded-out, placed-out or placed as an adopted boarder, unless he has been—

10

(a) examined by a medical practitioner;
and

15

(b) certified by such medical practitioner as being, in the opinion of that medical practitioner, apparently free from venereal disease, or no longer liable to convey infection.

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(1A) Where a ward has not been admitted to a depot, home or hostel established under this Act, an examination as provided by subsection one of this section shall be carried out and a certificate obtained as soon as practicable after the ward has been admitted to State control and a further examination may be carried out, and a certificate obtained, at any time at the request of an officer authorised in that behalf by the Minister.

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(ii) by omitting from subsection two of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection one or (1A) of this section".

Child Welfare (Amendment).

6. The Child Welfare Act, 1939, as subsequently amended, is further amended—

(a) by inserting next after subsection two of section fifty-four the following new subsections :—

Further amendment of Act No. 17, 1939.

Sec. 54.
(Discharge of child or young person.)

5 (3) Notwithstanding anything contained in subsections one and two of this section, a person transferred to an institution under section ninety-four of this Act shall not, while under sentence of imprisonment, be discharged from an institution
10 except pursuant to subsection four of this section.

15 (4) The Minister may, by order, discharge from an institution a person referred to in subsection three of this section on such terms and conditions as he deems desirable and specifies in the order and shall, in any such order, specify the period for which the order is to remain in force for the purposes of section 2A of the Parole of Prisoners Act, 1966, as subsequently amended.

20 (5) The Minister shall cause a copy of an order made under subsection four of this section, and a statement of the date of birth of the person to whom it refers, to be served on the Parole Board constituted under the Parole of Prisoners Act, 1966, as subsequently amended.

25 (b) (i) by omitting from section fifty-five the word "ward" and by inserting in lieu thereof the words "other person detained in an institution";

Sec. 55.
(Absconder may be apprehended.)

30 (ii) by omitting from the same section the word and symbol "superintendent," and by inserting in lieu thereof the words "superintendent or, being a child or young person, is in breach of the terms and conditions specified in an order for his discharge made under subsection four
35 of section fifty-four of this Act,".

7.

Child Welfare (Amendment).

7. The Parole of Prisoners Act, 1966, is amended by inserting next after section two the following new section :—

Amendment
of Act No.
41, 1966.
New sec.
2A.

5 2A. (1) Where a person is transferred to an institution pursuant to an order made under subsection one of section ninety-four of the Child Welfare Act, 1939, as amended by subsequent Acts, the powers, authorities, duties and functions conferred or imposed upon the Board by this Act shall not be exercised or performed
10 in relation to that person during the period of his detention pursuant to that order.

Limitation
of powers
of Board
in certain
circum-
stances.

(2) Subject to this section, an order of discharge under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts,
15 shall be deemed to be a parole order duly made by the Board under section six of this Act.

(3) Where a parole order referred to in subsection two of this section relates to a person who, at the time of his discharge from an institution had not attained
20 the age of eighteen years, the powers, authorities, duties and functions that, but for this subsection, would be conferred or imposed by this Act upon the Board in relation to the parole order shall, subject to this section, be exercised and performed by the Minister for the time
25 being administering the Child Welfare Act, 1939, as amended by subsequent Acts, to the exclusion of the Board, until that person attains the age of eighteen years or the parole period earlier expires.

(4) Subject to this Act, a parole order referred
30 to in subsection two of this section shall—

(a) remain in force for the period; and

(b) be subject to the terms and conditions,

specified in the discharge order deemed, by that subsection, to be the parole order.

Child Welfare (Amendment).

5 (5) For the purposes of this Act, discharge from an institution under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be release, on parole, from a prison.

10 (6) The powers conferred by subsection three of section six of this Act shall not be exercised in respect of a parole order referred to in subsection two of this section before the person to whom the parole order relates attains the age of eighteen years.

15 (7) Nothing in this section shall prejudice or affect any power, authority, duty or function conferred or imposed by or under the Child Welfare Act, 1939, as amended by subsequent Acts, upon the Minister for the time being administering that Act, as so amended, or upon any other person.

20 8. (1) The Child Welfare (Amendment) Act, 1966, is amended by inserting in paragraph (f) of section two, at the end of section thirty-eight to be inserted in the Child Welfare Act, 1939, as amended by subsequent Acts, the following new subsections :—

Amendment of Act No. 11, 1966. Sec. 2. (Amendment of Act No. 17, 1939.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards. (Regulations.)

25 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part, or from compliance with any part of such a regulation or from compliance with any condition of a license.

30 (2) Subsection one of this section shall commence on the day on which paragraph (f) of section two of the Child Welfare (Amendment) Act, 1966, commences.

Child Welfare (Amendment).

9. (1) The Child Welfare (Amendment) Act, 1967, is amended— Amendment
of Act No.
27, 1967.

5 (a) by omitting from paragraph (e) of section three, in subsection one of section forty-seven to be inserted in the Child Welfare Act, 1939, as subsequently amended, the words “, or is charged with being,”; Sec. 3.
(Further
amendment
of Act No.
17, 1939.)

10 (b) by inserting in the same paragraph at the end of section 48M to be inserted in the Child Welfare Act, 1939, as subsequently amended, the following new subsections : — (Regula-
tions.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

15 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part or from compliance with any part of such a regulation or from compliance with any condition of a license.

20 (2) Subsection one of this section shall commence on the day on which paragraph (e) of section three of the Child Welfare (Amendment) Act, 1967, commences.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

[30c]

Received of the Treasurer of the Board of Education the sum of \$100.00 for the year 1914.

Witness my hand and the seal of the Board of Education this 1st day of January 1914.

Secretary of the Board of Education

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CHILD WELFARE (AMENDMENT) BILL, 1969

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to enable a children's court to be held in a room or building deemed by the court to be expedient for the purpose ;
- (b) to make further provision for the custody or release of an appellant child or young person pending the hearing of his appeal or during any adjournment thereof ;
- (c) to provide for the procedures to be adopted where a children's court is misled as to the age of a person appearing before it ;
- (d) to protect children and young persons from, not only opium (to which the Act is at present limited) but all drugs ;
- (e) to protect children and young persons from the practice of tattooing ;
- (f) to remove from the Act provisions that might imply that a person brought before a children's court as a neglected or uncontrollable child is the subject of a charge ;
- (g) to clarify the provisions of the Act with respect to orders for the making of compensation ;
- (h) to ensure, as far as possible, that the person named in a warrant of commitment is conveyed to a prison where he is of or over the age of eighteen years at the time the warrant is executed or to a shelter if he has not attained that age at that time ;
- (i) to extend the power of a court to deal with persons in breach of the conditions of a recognizance ;
- (j) to enable certain persons to inspect certain reports relating to a child or young person ;
- (k) to make further provision for the apprehension of a person who is in breach of a probation order ;
- (l) to confer certain powers, authorities, duties and functions with respect to persons transferred from prison to an institution ;
- (m) to confer certain powers, authorities, duties and functions with respect to certain examinations for venereal disease and certain surgical and other operations ;
- (n) to enable reciprocal arrangements to be made with other States with respect to the care of wards travelling or removing to or from New South Wales ;
- (o) to constitute a Welfare Services Training Council and to define its powers, authorities, duties and functions ;
- (p) to limit the term of office for which a person may be appointed to the Child Welfare Advisory Council and to provide, in certain circumstances, for the vacation of office by a person so appointed ;
- (q) to confer on the Minister, to the exclusion of the Parole Board, the powers, authorities, duties and functions of that Board in relation to a prisoner who is transferred to and detained in an institution and, after his discharge from an institution, while he remains under the age of eighteen years ;
- (r) to make provisions consequential upon or ancillary to the foregoing.

PROOF

No. , 1969.

A BILL

Relating to certain proceedings before children's courts, the execution of certain warrants and the transfer of persons between prisons and institutions; to provide for the care of wards and persons having the like status who travel or remove between States; to make further provision with respect to the religious teaching of wards; to establish a Welfare Services Training Council; for these and other purposes to amend the Child Welfare Act, 1939, the Parole of Prisoners Act, 1966, and certain other Acts; and for purposes connected therewith.

[MR WADDY *on behalf of* MR McCAW—25 February, 1969.]

BE

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1969". Short title and citation.

(2) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939–1969.

2. (1) The Child Welfare Act, 1939, as subsequently amended, is amended— Amendment of Act No. 17, 1939.

(a) by inserting in section two after the matter relating to Division 8 of Part XX the following new matter :— Sec. 2. (Parts of Act.)

PART XXI.—WELFARE SERVICES TRAINING COUNCIL—ss. 182–185.

(b) (i) by omitting from paragraph (a) of section fifteen the word "or"; Sec. 15. (Children's courts not held in ordinary courts.)

(ii) by omitting from paragraph (b) of the same section the word "Minister." and by inserting in lieu thereof the following words :—

Minister; or

(c) where in the opinion of the court in any particular case it is expedient to hold the court in some other building or room approved in that behalf by the court, in that other building or room.;

(iii) by inserting in the same section after the words "so approved" the words "by the Minister or the court";

(c)

Child Welfare (Amendment).

(c) (i) by omitting from subsection three of section Sec. 18.
eighteen the word "determination" and by (Right of
inserting in lieu thereof the word "hearing"; appeal.)

5 (ii) by inserting next after the same subsection the
following new subsection : —

10 (3A) During the period of any adjournment
of the hearing of the appeal the child or young
person may, in accordance with the directions
of the court hearing the appeal, be detained at
any shelter, or permitted to go home with a
parent or with any other person who is willing
to undertake the care of the child or young
person during that period, or discharged upon
15 his entering into a recognizance with or
without sureties.

(d) by inserting next after section twenty the following New
new section : — sec. 20A.

20A. (1) In this section—

20 "court" includes a judge exercising the powers of
a court; Procedure
where
court
misled as
to age of
person.

"decision" includes finding, order, determination
and judgment but does not include—

25 (a) a finding that a person is a neglected
or uncontrollable child or young
person;

(b) an order, committing a person to the
care of the Minister, under para-
graph (d) of subsection one, or
30 paragraph (c) of subsection two, of
section eighty-three of this Act;

(c) an order made, after the commence-
ment of section three of the Child
Welfare (Amendment) Act, 1967,
as subsequently amended, under
35 subsection one of section forty-seven
of this Act, as amended by subse-
quent Acts;

(d)

Child Welfare (Amendment).

- (d) an order, dismissing a charge, under paragraph (e) of subsection one, or paragraph (a) of subsection three, of section eighty-three of this Act;
- 5 (e) the admonishing and discharging of a person under paragraph (b) of subsection three of section eighty-three of this Act.

(2) Where a person charged is dealt with by a court as a child or young person and the Director is satisfied that, at the time of the commission of the offence with which he is charged that person had attained the age of eighteen years, and where that person is, at the time the Director is so satisfied, being treated as being affected by that decision—

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(a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

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(b) that person shall—

(i) until that decision is reviewed pursuant to this section, be treated, for the purposes of that decision and of this Act, as if he had not attained the age of eighteen years; and

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(ii) for the purposes of an order made when that decision is so reviewed, be treated as if he would attain the age of eighteen years on the day next succeeding the making of the order.

30

(3) Where a court delivers a decision with respect to a child or young person and the Director is satisfied that, at the time the decision was delivered

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Child Welfare (Amendment).

5 delivered, the court was misled as to the age of the child or young person, and where that child or young person is, at the time the Director is so satisfied, still affected by, or is being treated as being affected by, that decision—

10 (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

15 (b) that child or young person shall, if he attains the age of eighteen years before that decision is reviewed pursuant to this section, be treated as is provided by paragraph (b) of subsection two of this section.

20 (4) An officer authorised by the Minister in that behalf may, upon instructions given by the Director pursuant to subsection two or three of this section, apply to a court to review the decision to which the instructions relate and, upon any such application being made, the court may order—

25 (a) that the decision under review be varied, in such manner as the court thinks fit, in so far as it appears that the purported age of the person in respect of whom that decision was made was material in relation to the term or period for which the decision was to be effective; or

30 (b) that the application be dismissed.

(e) (i) by inserting immediately before the definition of "Neglected child" in section seventy-two the following new definition :—

Sec. 72.
(Definition of neglected child.)

35 "Drug" means drug of addiction or prohibited drug, as defined in section

Child Welfare (Amendment).

four of the Poisons Act, 1966, as subsequently amended, and includes any substance injurious to health.

5 (ii) by omitting paragraph (h) of the same definition and by inserting in lieu thereof the following paragraph :—

(h) who is found—

10 (i) in any place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied; or

15 (ii) administering, consuming, using or smoking any drug, and is in need of care, protection or control by reason thereof;

(iii) by omitting from paragraph (o) of the same definition the word “regularly.” and by inserting in lieu thereof the following words :—

20 regularly; or

25 (p) who tattoos himself, or allows himself to be tattooed by another person, in any manner on any part of his body without having first obtained the written permission of his parent or guardian to be tattooed in that manner on that part of his body.

30 (f) by omitting from subsection one of section Sec. 75. seventy-five the words “where opium or any preparation thereof is smoked” and by inserting (Warrant to search in brothel.) in lieu thereof the words “is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

(g)

Child Welfare (Amendment).

- 5 (g) by omitting from section seventy-six the words “or where opium or any preparation thereof is smoked” and by inserting in lieu thereof the words “, or is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”; Sec. 76.
(Apprehension of child in brothel, etc.)

- 10 (h) by omitting section seventy-seven and by inserting in lieu thereof the following section :— Sec. 77.
(Where child in brothel or opium den, keeper guilty of an offence.)

77. Where a child or young person is found in a brothel, or in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, the keeper or person in charge, or apparently in charge, of the brothel or place shall be guilty of an offence against this Act. Where child or young person in brothel, etc., keeper guilty of offence.

- 20 (i) (i) by omitting from subsection one of section eighty-one the words “, or is charged with being,”; Sec. 81.
(Procedure of court.)
- 25 (ii) by omitting from the same subsection the words “or a juvenile offender” and by inserting in lieu thereof the words “or is charged with an offence and is brought before a court”;
- 30 (iii) by omitting from subsection two of the same section the words “, or is charged with being,”;
- (iv) by omitting from the same subsection the words “or a juvenile offender” and by inserting in lieu thereof the words “or is charged with an offence and is brought before a court”;

(v)

Child Welfare (Amendment).

- (v) by inserting in subsection seven of the same section after the word "may" where firstly occurring the words ", in accordance with the directions of the court,";
- 5 (vi) by omitting from the same subsection the words "may be admitted to bail" and by inserting in lieu thereof the words "discharged upon his entering into a recognizance";
- 10 (j) (i) by omitting from paragraph (e) of subsection two of section eighty-three the word "conditions" and by inserting in lieu thereof the words "terms and conditions"; Sec. 83. (Powers of court.)
- 15 (ii) by omitting from paragraph (c) of subsection three of the same section the word "conditions" and by inserting in lieu thereof the words "terms and conditions";
- (iii) by inserting next after subsection four of the same section the following new subsections :—
- 20 (4A) A court shall not make payment of a sum of money by way of compensation a condition of any order, but nothing in this subsection shall be construed as affecting the power of a court to specify the conditions of a recognizance.
- 25 (4B) The provisions of subsections three, four, five and six of section five hundred and fifty-four of the Crimes Act, 1900, as amended by subsequent Acts, shall apply to a children's court dealing with a young person but shall not otherwise apply to a children's court and, where those provisions apply to a children's court, a conviction referred to in that section shall be deemed to include a finding of guilt, and an order made, under subsection one or
- 30
- 35 two of this section.

(4c)

Child Welfare (Amendment).

(4C) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a children's court.

5 (4D) An order made under subsection three of this section shall be deemed not to be an acquittal of, or the dismissal of an information against, a person within the meaning of
10 section four of the Criminal Injuries Compensation Act, 1967.

(iv) by inserting next after subsection five of the same section the following new subsection :—

15 (5A) Where it is within the knowledge of the person who executes a warrant of commitment in default of payment of a penalty, compensation, damages or costs that the person
20 named in the warrant has, in the case of a warrant of commitment to a shelter or an institution, attained the age of eighteen years or has not, in the case of a warrant of commitment to a prison, attained that age, the warrant shall—

25 (a) in the case of a warrant of commitment to a shelter or an institution, be deemed to be directed to the governor of the prison nearest the place where the warrant was executed; or

30 (b) in the case of a warrant of commitment to a prison, be deemed to be directed to the keeper of the shelter nearest the place where the warrant was executed.

(v) by omitting subsection six of the same section and by inserting in lieu thereof the following
35 subsections :—

(6) Where a person has been discharged under paragraph (e) of subsection two, or paragraph (c) of subsection three, or
subsection

Child Welfare (Amendment).

subsection four, of this section, the court may, at any time after his discharge and before or after he attains the age of eighteen years, by notice given to that person, or to his parent and his surety, in such manner as the court may direct, give a direction for that person to appear before the court at a time and place specified in the notice and may, in default of his appearance in accordance with the direction, issue a warrant for his apprehension.

(7) Where a person who has attained the age of eighteen years appears before a court in accordance with a direction, or pursuant to a warrant for his apprehension, under subsection six of this section and the court is satisfied that he has failed to comply with the terms and conditions of his recognizance, the court may, in relation to that person, exercise any of the powers conferred upon it by section eighty-two of this Act (paragraph (d) excepted) or by subsection one, two or three of this section (paragraph (d) of subsection one and paragraph (c) of subsection two excepted) in respect of a child or young person.

- (k) (i) by omitting from subsection one of section eighty-five the words "in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed" and by inserting in lieu thereof the words "by the finding, order or direction of a court liable to pay a penalty, or compensation, damages or costs, in respect of of an offence";
- (ii) by inserting in subsection two of the same section after the word "penalty," the word "compensation,";
- (iii) by inserting in subsection three of the same section after the word "may" where firstly occurring the words "if not paid to the clerk of the court,";
- (1)

Sec. 85.
(Court may order parent to pay penalty, damages or costs.)

Child Welfare (Amendment).

(l) by inserting next after subsection (1A) of section eighty-seven the following new subsection :—

Sec. 87.
(Child or young person convicted of indictable offence may be sent to institution.)

5 (1B) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a judge acting pursuant to subsection one or (1A) of this section except where he deals with a young person otherwise than by exercising the powers of a children's court.

10 (m) (i) by inserting in subsection three of section eighty-nine after the words "shall not" the words "if tendered";

Sec. 89.
(Court to hear evidence on behalf of child.)

15 (ii) by inserting in the same subsection after the word "Department" the words ", the prosecutor (if any), a barrister or solicitor (if any) appearing for the child or young person";

(n) by omitting paragraph (a) of subsection one of section ninety and by inserting in lieu thereof the following paragraph :—

Sec. 90.
(Probation: Who shall have custody and control.)

20 (a) the person to whose care the child or young person is committed shall, as far as practicable, be of an appropriate religious persuasion having regard to the principles upon which section one hundred and forty
25 of this Act is based, and—

(i) the court may give such directions as to the religious teaching of the ward as might, under that section, be given by the Minister in relation
30 to a ward; and

(ii) the child or young person shall have the same rights as, by that section, are conferred upon a ward;

(o)

Child Welfare (Amendment).

(o) by omitting from paragraph (b) of subsection two of section ninety the word "order." where secondly occurring and by inserting in lieu thereof the following words :—

Sec. 90.
(Probation:
Who shall
have custody
and
control.)

5 order; and

(c) except in the case of an order made under paragraph (e) of subsection two, or under subsection four, of section eighty-three of this Act that otherwise directs, the child or young person shall, as terms and conditions of his release—

10

(i) accept the supervision of any officer authorised by the Minister in that behalf; and

15

(ii) obey all reasonable directions of any such officer.

(p) (i) by omitting subsection one of section ninety-one and by inserting in lieu thereof the following subsections :—

Sec. 91.
(Breach of
terms of
probation.)

20

(1) Where a person who, as a child or young person, was released on probation or was committed to the care of a person breaks or is reasonably suspected of having broken the terms or conditions of his release or committal he may (whether or not a warrant has been issued under subsection (1A) of this section) be apprehended by any constable or by any officer authorised by the Minister in that behalf and shall, upon being so apprehended, be taken to a shelter and as soon as practicable thereafter shall be brought before a court.

25

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(1A) Any justice may, upon oath being made before him by any constable or by an officer authorised by the Minister in that behalf that, having made due inquiry, he believes that a person who, as a child or young person, was released on probation or was committed to

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Child Welfare (Amendment).

to the care of a person has broken the terms or conditions of his release or committal—

- 5 (a) issue his summons for the appearance of the person so released or committed before a court; or
- (b) in the first instance issue his warrant directing the apprehension of the person so released or committed.

10 (1B) Where a warrant has been issued under paragraph (b) of subsection (1A) of this section, any constable or any officer authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend the person to whom the

15 warrant relates.

(ii) by omitting from subsection two of the same section the words “notwithstanding the fact that the person charged has then attained the age of eighteen years” and by inserting in

20 lieu thereof the words “whether or not that breach occurred after he attained the age of eighteen years and, where the breach occurred before he attained that age, whether or not he attained that age after the breach occurred”;

25 (iii) by inserting after the word “person” in subsection three of the same section the words “, or the terms and conditions imposed by a judge or court in respect thereof,”;

30 (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—

(4) Where by the order of a court a child or young person—

35 (a) has been released on probation on condition that he remain in the care of a person named in the order; or

(b)

Child Welfare (Amendment).

(b) has been committed to the care of a person named in the order,

5 the court may, upon the application of any officer authorised by the Minister in that behalf, vary the order by substituting the name of some other person for that of the person named in the order.

(q) by omitting subsection two of section ninety-four Sec. 94.
and by inserting in lieu thereof the following (Power to
10 subsections :— detain in
institutions.)

15 (2) An order under subsection one of this section shall, for the purposes of this Act, subsections one and two of section fifty-four excepted, be deemed to be an order committing the person to whom it relates to an institution there to be detained until the expiration of the period of his sentence, or until he is transferred to prison pursuant to this section, whichever first occurs.

20 (2A) Where a person to whom an order under subsection one of this section applies has been detained in an institution for a period of three years or if he earlier, while so detained, attains the age of twenty-one years, the Minister shall order that he be transferred to prison as soon as practicable thereafter, there to serve the unexpired portion of the term of his sentence, and upon such transfer taking place, that person shall cease to be subject to the provisions of this section.

30 (r) (i) by inserting next after subsection two of section Sec. 139.
one hundred and thirty-nine the following new (Arrest of
subsection :— absconding
ward.)

35 (2A) Where a ward brought before a magistrate pursuant to paragraph (a) of subsection two of this section is a person who was transferred from prison to an institution,
the

Child Welfare (Amendment).

5 the court may, in lieu of exercising its powers under paragraph (b) of that subsection, order that the offender be returned to the prison from which he was transferred and may further order—

(a) where the offender is a child or young person, that he be detained in prison for a further term; or

10 (b) where the offender is of or above the age of eighteen years, impose a sentence of imprisonment for a further term,

15 not exceeding, in either case, three months with hard labour, to commence at the expiration of the original sentence.

(ii) by inserting next after subsection five of the same section the following new subsection :—

(6) In this section “ward” includes—

20 (a) a person subject to an order made under Part XIV of this Act committing him to an institution; and

(b) a person subject to an order made under Part XV of this Act for his transfer from a prison to an institution,

25 whether or not that person has attained the age of eighteen years.

(s) by inserting next after section one hundred and thirty-nine the following new section :—

139A. (1) In this section—

30 “appropriate authority” means person who under the law of—

(a) a State of the Commonwealth of Australia other than New South Wales; or

35 (b) a Territory,

corresponding

New sec. 139A.

Reciprocity between States in relation to wards.

Child Welfare (Amendment).

corresponding to this Act is competent to take action equivalent to admission to State control under this Act;

5 “interstate ward” means child or young person entering New South Wales who, immediately before that entry, was under the care or guardianship of an appropriate authority;

10 “Territory” means Territory of the Commonwealth of Australia, including a Territory under the trusteeship of the Commonwealth of Australia.

(2) Where an interstate ward enters New South Wales, the Minister may, if the appropriate authority for the interstate ward has requested him to do so, admit the interstate ward to State control under this Act for a period not exceeding that for which he would, but for this subsection, have been that authority.

(3) The Minister—

20 (a) may make, with an appropriate authority financial and other arrangements for the care of an interstate ward or a ward;

25 (b) may, at his discretion, or in accordance with any such arrangements, return an interstate ward to the care or guardianship of his appropriate authority; and

30 (c) shall, where the appropriate authority for an interstate ward requests him to do so, return the interstate ward to the care or guardianship of that appropriate authority.

(4) Where, in the opinion of the Minister, the law of a State of the Commonwealth of Australia other than New South Wales, or of a Territory, makes the like provision for or with respect to a

ward

Child Welfare (Amendment).

ward entering that State as is made by subsections two and three of this section for or with respect to an interstate ward and, upon a request by the Minister, such a provision corresponding to subsection two of this section is applied to a ward who leaves New South Wales, the powers, authorities, duties and functions conferred or imposed by or under this Act upon the Minister and other persons shall be deemed to have been suspended in relation to that ward while he remains under care or guardianship in consequence of the application of that provision, except in so far as they may be exercised or performed in accordance with arrangements made under paragraph (a) of subsection three of this section.

- (t) by omitting section one hundred and forty and by inserting in lieu thereof the following section :—

140. (1) A ward shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion in which he is to be educated.

(2) For the purposes of subsection one of this section, a ward shall, subject to the other provisions of this section, be educated—

- (a) where the ward is illegitimate—in accordance with the wishes of his mother expressed for those purposes in the prescribed manner;
- (b) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, are identical—in accordance with those wishes;
- (c) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, differ, the one

- (i) in accordance with the wishes of the father; or

(ii)

Child Welfare (Amendment).

5 (ii) where the Minister is satisfied that the father has failed to discharge his parental obligations to the ward, in accordance with the wishes of the mother;

10 (d) where the ward is legitimate and one of his parents has expressed, in the prescribed manner, his or her wishes for those purposes while the other parent has failed so to express any such wishes or, in the prescribed manner, has declined to express any such wishes—in accordance with the wishes so expressed;

15 (e) where the ward is legitimate and only one of his parents is living or can on reasonable inquiry be found—in accordance with the wishes, expressed for those purposes in the prescribed manner, of that parent.

20 (3) Subject to the other provisions of this section, where neither parent of a ward is living, or where neither parent of a ward can upon reasonable inquiry be found, or where the parent of a ward in accordance with whose wishes the ward would, if expressed pursuant to subsection two of
25 this section, be educated, has failed to express those wishes in the prescribed manner, or has, in the prescribed manner, declined to express those wishes, the ward shall, for the purposes of subsection one of this section, be educated—

30 (a) where the ward has, during the period of two years next preceding his admission to State control, been brought up in a particular religious persuasion and no other—in the persuasion in which he has been so
35 brought up; or

(b)

Child Welfare (Amendment).

5 (b) where the ward has not, during that period,
been brought up in any religious persuasion,
or where he has, during that period, been
brought up in more than one religious
persuasion and—

10 (i) has not attained the age of twelve
years—in such religious persuasion
as the Minister may, after ascertain-
ing the wishes (if any) of the ward
and, if practicable, the religious
persuasion or persuasions of his
parents—direct; or

15 (ii) has attained the age of twelve years
(whether or not he is a ward in
respect of whom a direction has
been given under subparagraph
(i) of this paragraph)—in such
religious persuasion approved by
the Minister as the ward selects.

20 (4) Notwithstanding anything contained
in subsection two or three of this section, where the
Minister is satisfied that a ward who is a young
person has, in the prescribed manner, genuinely
expressed a wish to be educated in a religious
25 persuasion differing from that in which he is being,
or but for this subsection would be, educated, the
ward shall, for the purposes of subsection one of
this section, be educated in the religious persuasion
so selected by him.

30 (5) Notwithstanding any other provision
of this section, where the Minister is satisfied that
the welfare of a ward would be promoted if the
ward were boarded-out, placed-out or placed
as an adopted boarder and that it is impracticable
35 to direct the removal or transfer of the ward
to the care of a foster parent of the same religious
persuasion

Child Welfare (Amendment).

persuasion as that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, the Minister may—

- 5 (a) direct that the ward be removed or transferred to the care of a foster parent of a religious persuasion that differs from that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, subject to that
- 10 foster parent agreeing not to hinder or impede the religious education of the ward as so provided; or
- 15 (b) where he is satisfied that the welfare of the ward would thereby be promoted, and subject to the observance of any procedures that may be prescribed for the purpose, direct that the ward be removed or transferred to the care of such a foster parent and be educated in such religious persuasion
- 20 other than that authorised by subsection two, three or four of this section as the Minister may specify when giving the direction.

25 (6) For the purposes of this section, the prescribed manner shall be by writing, signed by the parent or young person concerned and delivered—

- 30 (a) in the case of the parent of a ward, at or about the time the ward is, or is to be, admitted to State control or as soon as practicable within the period of one year thereafter; or
- 35 (b) in the case of a young person, as soon as practicable after the expression of his wish, to the Minister or to some person appearing to be authorised by him for the purpose.

(7)

Child Welfare (Amendment).

(7) The provisions of subsection three of section twenty-three of this Act shall, mutatis mutandis, apply to and in respect of the powers conferred upon the Minister by this section.

- 5 (u) by inserting next after subsection two of section one hundred and forty-four the following new subsections :— Sec. 144. (Medical examination.)

10 (3) The Minister or any officer specially authorised by the Minister in that behalf may consent to any surgical or other operation on a person (not being a ward) who is a minor and has, under this Act, been admitted to an establishment under the control of the Minister, or detained at a place of safety where—

- 15 (a) the Minister or officer, as the case may be, is advised by a medical practitioner that the operation is necessary in the interests of the health or welfare of that person; and
- 20 (b) the consent of the parent or guardian of that person cannot, in the circumstances, reasonably be obtained.

25 (4) A medical practitioner carrying out a surgical or other operation pursuant to a consent given under subsection two or three of this section shall not, by carrying out the operation, incur any liability that he would not have incurred had the parent or guardian of the person upon whom the operation is carried out consented thereto.

- 30 (v) by inserting next after section one hundred and forty-eight the following new section :— New sec. 148A.

148A. A person who in any manner tattoos any part of the body of a child or young person shall be guilty of an offence against this Act unless he has first obtained the written permission of the

parent

Child Welfare (Amendment).

parent or guardian of the child or young person to tattoo the child or young person in that manner on that part of his body.

- 5 (w) by inserting next after section one hundred and eighty-one the following new Part :— New Part XXI.

PART XXI.

WELFARE SERVICES TRAINING COUNCIL.

10 182. (1) There shall be a Welfare Services Training Council, hereinafter in this Part of this Act referred to as "the Council", consisting of not more than twelve members appointed by the Governor. Constitution of Welfare Services Training Council.

(2) Of the members of the Council—

- 15 (a) three shall be officers nominated by the Minister; and
- (b) the remaining members shall be persons nominated in accordance with subsection three of this section.

20 (3) For the purposes of the appointment of the members of the Council referred to in paragraph (b) of subsection two of this section, nominations may be submitted to the Minister in accordance with regulations prescribing—

- 25 (a) persons who, or organisations or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, organisation or class so prescribed; and
- 30 (c) the times within which such nominations may be submitted.

The

Child Welfare (Amendment).

The regulations may provide for the nomination of a number of persons in excess of the number of members of the Council that may be appointed.

5 (4) A member of the Council shall, subject to this Act and the regulations, hold office for such term (not exceeding in any case four years) as the Governor may specify in the instrument of appointment and shall, if otherwise qualified, be eligible for reappointment.

10 (5) In the case of a casual vacancy in the office of a member of the Council, the Governor may appoint a person to the vacant office (being, where the vacancy is in the office of a person who was nominated for membership by the Minister, an officer nominated by the Minister) and the
15 person so appointed shall hold office for the residue of his predecessor's term of office.

(6) A member of the Council shall be deemed to have vacated his office if he—

- 20 (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- 25 (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 30 (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a nominee of the Minister, ceases to be an officer; or
- 35 (g) is removed from office by the Governor.

(7)

Child Welfare (Amendment).

(7) The Council shall, subject to this Act and the regulations, frame rules for the conduct of its business, but no such rules shall be operative until they have been approved by the Minister.

5 (8) Meetings of the Council shall be convened so that at least six meetings are held in every year.

10 (9) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Council, and any member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act, as so amended, during his term of office.

15 183. (1) The Council may make reports and recommendations to the Minister with respect to— ^{Duties and functions of Council.}

20 (a) the provision of courses of instruction and training for persons employed in, or considering employment in, a welfare service, either in a voluntary or a paid capacity;

25 (b) the status of courses of instruction and training of the kind referred to in paragraph (a) of this subsection that are conducted within or outside New South Wales;

(c) such other matters connected with training of the kind referred to in paragraph (a) of this subsection as may be referred to it by the Minister;

30 (d) any other matter connected with training of the kind referred to in paragraph (a) of this subsection.

(2)

Child Welfare (Amendment).

(2) Subject to subsection one of this section the functions of the Council shall be—

- 5 (a) to recommend courses of instruction and training for approval by the Minister and to encourage the conduct of such courses;
- (b) to recommend to the Minister the accreditation of courses conducted by other organisations;
- 10 (c) to exercise a general supervision over the standards of theoretical and practical training approved or accredited by the Minister;
- (d) to conduct written, practical or oral examinations and to have regard to the results of examinations conducted by other
15 organisations in respect of accredited courses;
- (e) to issue certificates of qualification to persons who have passed examinations or have attained a standard of proficiency acceptable to the Council in respect of
20 courses approved or accredited by the Minister.

(3) The Council may appoint sub-committees to deal with specified matters within the
25 scope of the functions of the Council.

(4) The convenor of each sub-committee shall be a member of the Council and each sub-committee shall consist of such number of other persons, whether members of the Council or not,
30 as the Council may determine.

(5) The Council in appointing persons to a sub-committee shall include amongst the membership of the sub-committee persons who have practical experience in the conduct or administration of one or more kinds of child welfare or social
35 welfare

Child Welfare (Amendment).

welfare service or in the training of persons to provide any such service, selected from one or more of the following classes of persons : —

- 5 (a) medical practitioners (including persons having knowledge of and experience in paediatrics or psychiatry);
- (b) barristers or solicitors;
- (c) persons having knowledge of and experience in education;
- 10 (d) persons having knowledge of and experience in psychology;
- (e) persons having knowledge of and experience in social work;
- 15 (f) persons having knowledge of and experience in recreation;
- (g) persons having knowledge of and experience in religious education; and
- (h) persons having other suitable qualifications or experience.

- 20 184. The Minister shall be the authority to—
- (a) approve of courses of instruction and training for welfare services where those courses are not prescribed in accordance with the provisions of any other Act or regulations; and
- 25 (b) extend accreditation for the purposes of this Part to courses of instruction and training that are not so prescribed.

Minister to be authority to approve or accredit courses.

185. The regulations may—
- 30 (a) prescribe the procedure to be followed—
- (i) in appointing a Chairman of the Council; and

(ii)

Child Welfare (Amendment).

- (ii) in convening and conducting meetings of the Council;
- 5 (b) prescribe the fees to be paid to members of the Council other than officers and the allowances to be paid to members of the Council including officers;
- (c) prescribe such forms and documents as are necessary or expedient for the administration of this Part;
- 10 (d) prescribe the fees to be paid by persons attending courses of instruction and training conducted by or on behalf of the Director or any other officer.

15 (2) Paragraph (w) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. (1) The Child Welfare Act, 1939, as subsequently amended, is further amended by inserting next after subsection one of section eight the following new subsections :—

Further amendment of Act No. 17, 1939.

Sec. 8.

(Advisory council.)

20 (1A) A person appointed pursuant to subsection one of this section shall hold office for such term (not exceeding four years) as the Governor may specify in the instrument of appointment, and shall be eligible for reappointment.

25 (1B) In the case of a casual vacancy in the office of a person appointed pursuant to subsection one of this section, the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.

30 (1C) A member of the council shall be deemed to have vacated his office if he—

(a) dies;

(b)

Child Welfare (Amendment).

- (b) resigns his office by writing under his hand addressed to the Minister ;
- 5 (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit ;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts ;
- 10 (e) absents himself from four consecutive meetings of the council without leave of the council ; or
- (f) is removed from office by the Governor.

(2) The persons holding office at the commencement of this section as members of the Child Welfare Advisory
15 Council constituted under section eight of the Child Welfare Act, 1939, as subsequently amended, shall be deemed to have been appointed under that section of that Act, as so amended and as amended by subsection one of this section, for a term expiring on the thirty-first day of January, one
20 thousand nine hundred and seventy-two.

4. The Child Welfare Act, 1939, as subsequently amended, is further amended—

- (a) by inserting next after section eighty-one the following new section :—

25 81A. Where, under subsection three or (3A) of section eighteen or subsection seven of section eighty-one, of this Act, a court has ordered that a child or young person be discharged upon his entering into a recognizance and has fixed the amount in which the principal and any surety or sureties are thereby to be bound, the recognizance
30 may be entered into by the parties before any person authorised in that behalf by the Justices Act, 1902, as amended by subsequent Acts, or where the child
or

Further amendment of Act No. 17, 1939.

New sec. 81A.

Recognizance may be entered into before certain persons.

Child Welfare (Amendment).

5 or young person is in the custody of the superintendent of an institution, or of the person for the time being in charge of a shelter, before that superintendent or person in charge and, where a recognizance is entered into before such a superintendent or person in charge, the provisions of that Act, as so amended, relating to recognizances entered into before a person so authorised shall, mutatis mutandis, apply.

10 (b) by inserting next after section eighty-three the following new section :— New sec. 83A.

15 83A. The provisions of sections ninety-four and ninety-five of the Justices Act, 1902, as amended by subsequent Acts, shall apply to and in respect of a person committed to a shelter, or to an institution, in default of payment of a penalty, or of compensation, damages or costs, and shall so apply as if— Payment of penalty, etc., to superintendent of institution or keeper of shelter.

20 (a) that person had been imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices for a term the same as that for which he is to be detained in the shelter or institution; and

25 (b) the superintendent of the institution or the person for the time being in charge of the shelter, as the case may be, were the keeper of the prison.

30 5. The Child Welfare Act, 1939, as subsequently amended, is further amended— Further amendment of Act No. 17, 1939.

(a) (i) by omitting subsection two of section one hundred and thirty-three; Sec. 133.
 (ii) by omitting from subsection three of the same section the words "not be released therefrom" and by inserting in lieu thereof the word "not,"; (Child believed to be suffering from venereal disease.)

35

(iii)

Child Welfare (Amendment).

(iii) by inserting in the same subsection after the word "infection" the following words :—

, be released therefrom except upon license granted—

5 (a) by the Governor, where the Governor would, but for this subsection, be empowered to discharge the child or young person from an institution; or

10 (b) by the Minister, where the Minister would, but for this subsection, be so empowered;

(iv) by inserting next after subsection three of the same section the following new subsections :—

15 (3A) It shall be a condition of a license granted under subsection three of this section that the person released shall obtain treatment for venereal disease and otherwise comply with the provisions of the Venereal Diseases Act, 1918, as amended by subsequent Acts, relating to persons suffering therefrom.

20 (3B) The Minister may revoke a license granted under section three of this Act, whether or not he is the grantor thereof and, upon any such revocation, the person to whom the license relates may be dealt with as if he had absconded from an institution.

25 (v) by omitting from subsection four of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection three of this section";

(vi)

Child Welfare (Amendment).

(vi) by inserting in subsection five of the same section after the word "certified" the words "or released";

5 (b) (i) by omitting subsection one of section one hundred and thirty-four and by inserting in lieu thereof the following subsections :—

Sec. 134.
(Medical
examina-
tion:
Venereal
disease.)

10 (1) No ward shall be transferred from a depot, home or hostel to be boarded-out, placed-out or placed as an adopted boarder, unless he has been—

(a) examined by a medical practitioner;
and

15 (b) certified by such medical practitioner as being, in the opinion of that medical practitioner, apparently free from venereal disease, or no longer liable to convey infection.

20 (1A) Where a ward has not been admitted to a depot, home or hostel established under this Act, an examination as provided by subsection one of this section shall be carried out and a certificate obtained as soon as practicable after the ward has been admitted to State control and a further examination may be carried out, and a certificate obtained, at any time at the request of an officer authorised in that behalf by the Minister.

25
30 (ii) by omitting from subsection two of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection one or (1A) of this section".

Child Welfare (Amendment).

6. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further amendment of Act No. 17, 1939.

(a) by inserting next after subsection two of section fifty-four the following new subsections :—

Sec. 54.
(Discharge of child or young person.)

5 (3) Notwithstanding anything contained in subsections one and two of this section, a person transferred to an institution under section ninety-four of this Act shall not, while under sentence of imprisonment, be discharged from an institution
10 except pursuant to subsection four of this section.

(4) The Minister may, by order, discharge from an institution a person referred to in subsection three of this section on such terms and conditions as he deems desirable and specifies in the order
15 and shall, in any such order, specify the period for which the order is to remain in force for the purposes of section 2A of the Parole of Prisoners Act, 1966, as subsequently amended.

(5) The Minister shall cause a copy of an order made under subsection four of this section, and a statement of the date of birth of the person to whom it refers, to be served on the Parole Board constituted under the Parole of Prisoners Act, 1966,
20 as subsequently amended.

25 (b) (i) by omitting from section fifty-five the word "ward" and by inserting in lieu thereof the words "other person detained in an institution";

Sec. 55.
(Absconder may be apprehended.)

30 (ii) by omitting from the same section the word and symbol "superintendent," and by inserting in lieu thereof the words "superintendent or, being a child or young person, is in breach of the terms and conditions specified in an order for his discharge made under subsection four
35 of section fifty-four of this Act."

Child Welfare (Amendment).

7. The Parole of Prisoners Act, 1966, is amended by inserting next after section two the following new section :—

Amendment of Act No. 41, 1966.
New sec. 2A.

5 2A. (1) Where a person is transferred to an institution pursuant to an order made under subsection one of section ninety-four of the Child Welfare Act, 1939, as amended by subsequent Acts, the powers, authorities, duties and functions conferred or imposed upon the Board by this Act shall not be exercised or performed
10 in relation to that person during the period of his detention pursuant to that order.

Limitation of powers of Board in certain circumstances.

15 (2) Subject to this section, an order of discharge under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be a parole order duly made by the Board under section six of this Act.

20 (3) Where a parole order referred to in subsection two of this section relates to a person who, at the time of his discharge from an institution had not attained the age of eighteen years, the powers, authorities, duties and functions that, but for this subsection, would be conferred or imposed by this Act upon the Board in relation to the parole order shall, subject to this section, be exercised and performed by the Minister for the time
25 being administering the Child Welfare Act, 1939, as amended by subsequent Acts, to the exclusion of the Board, until that person attains the age of eighteen years or the parole period earlier expires.

30 (4) Subject to this Act, a parole order referred to in subsection two of this section shall—

- (a) remain in force for the period; and
- (b) be subject to the terms and conditions,

specified in the discharge order deemed, by that subsection, to be the parole order.

Child Welfare (Amendment).

5 (5) For the purposes of this Act, discharge from an institution under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be release, on parole, from a prison.

10 (6) The powers conferred by subsection three of section six of this Act shall not be exercised in respect of a parole order referred to in subsection two of this section before the person to whom the parole order relates attains the age of eighteen years.

15 (7) Nothing in this section shall prejudice or affect any power, authority, duty or function conferred or imposed by or under the Child Welfare Act, 1939, as amended by subsequent Acts, upon the Minister for the time being administering that Act, as so amended, or upon any other person.

20 **8.** (1) The Child Welfare (Amendment) Act, 1966, is amended by inserting in paragraph (f) of section two, at the end of section thirty-eight to be inserted in the Child Welfare Act, 1939, as amended by subsequent Acts, the following new subsections :—

Amendment
of Act No.
11, 1966.
Sec. 2.
(Amend-
ment of
Act No. 17,
1939.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

(Regula-
tions.)

25 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part, or from compliance with any part of such a regulation or from compliance with any condition of a license.

30 (2) Subsection one of this section shall commence on the day on which paragraph (f) of section two of the Child Welfare (Amendment) Act, 1966, commences.

Child Welfare (Amendment).

9. (1) The Child Welfare (Amendment) Act, 1967, is amended—

Amendment
of Act No.
27, 1967.

5 (a) by omitting from paragraph (e) of section three, in subsection one of section forty-seven to be inserted in the Child Welfare Act, 1939, as subsequently amended, the words “, or is charged with being,”;

Sec. 3.
(Further
amendment
of Act No.
17, 1939.)

10 (b) by inserting in the same paragraph at the end of section 48M to be inserted in the Child Welfare Act, 1939, as subsequently amended, the following new subsections :—

(Regula-
tions.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

15 (3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part or from compliance with any part of such a regulation or from compliance with any condition of a license.

20 (2) Subsection one of this section shall commence on the day on which paragraph (e) of section three of the Child Welfare (Amendment) Act, 1967, commences.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 27, 1969.

An Act relating to certain proceedings before children's courts, the execution of certain warrants and the transfer of persons between prisons and institutions; to provide for the care of wards and persons having the like status who travel or remove between States; to make further provision with respect to the religious teaching of wards; to establish a Welfare Services Training Council; for these and other purposes to amend the Child Welfare Act, 1939, the Parole of Prisoners Act, 1966, and certain other Acts; and for purposes connected therewith. [Assented to, 9th April, 1969.]

BE

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and citation.

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1969".

(2) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939–1969.

Amendment
of Act No.
17, 1939.

2. (1) The Child Welfare Act, 1939, as subsequently amended, is amended—

Sec. 2.
(Parts of
Act.)

(a) by inserting in section two after the matter relating to Division 8 of Part XX the following new matter :—

PART XXI.—WELFARE SERVICES TRAINING
COUNCIL—ss. 182–185.

Sec. 15.
(Children's
courts not
held in
ordinary
courts.)

(b) (i) by omitting from paragraph (a) of section fifteen the word "or";
(ii) by omitting from paragraph (b) of the same section the word "Minister." and by inserting in lieu thereof the following words :—

Minister; or

(c) where in the opinion of the court in any particular case it is expedient to hold the court in some other building or room approved in that behalf by the court, in that other building or room.;

(iii) by inserting in the same section after the words "so approved" the words "by the Minister or the court";

(c)

Child Welfare (Amendment).

(c) (i) by omitting from subsection three of section eighteen the word "determination" and by inserting in lieu thereof the word "hearing"; Sec. 18. (Right of appeal.)

(ii) by inserting next after the same subsection the following new subsection : —

(3A) During the period of any adjournment of the hearing of the appeal the child or young person may, in accordance with the directions of the court hearing the appeal, be detained at any shelter, or permitted to go home with a parent or with any other person who is willing to undertake the care of the child or young person during that period, or admitted to bail with or without sureties.

(d) by inserting next after section twenty the following new section : — New sec. 20A.

20A. (1) In this section—

"court" includes a judge exercising the powers of a court;

"decision" includes finding, order, determination and judgment but does not include—

(a) a finding that a person is a neglected or uncontrollable child or young person;

(b) an order, committing a person to the care of the Minister, under paragraph (d) of subsection one, or paragraph (c) of subsection two, of section eighty-three of this Act;

(c) an order made, after the commencement of section three of the Child Welfare (Amendment) Act, 1967, as subsequently amended, under subsection one of section forty-seven of this Act, as amended by subsequent Acts;

(d)

Procedure where court misled as to age of person.

Child Welfare (Amendment).

- (d) an order, dismissing a charge, under paragraph (e) of subsection one, or paragraph (a) of subsection three, of section eighty-three of this Act;
- (e) the admonishing and discharging of a person under paragraph (b) of subsection three of section eighty-three of this Act.

(2) Where a person charged is dealt with by a court as a child or young person and the Director is satisfied that, at the time of the commission of the offence with which he is charged that person had attained the age of eighteen years, and where that person is, at the time the Director is so satisfied, being treated as being affected by that decision—

- (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and
- (b) that person shall—
 - (i) until that decision is reviewed pursuant to this section, be treated, for the purposes of that decision and of this Act, as if he had not attained the age of eighteen years; and
 - (ii) for the purposes of an order made when that decision is so reviewed, be treated as if he would attain the age of eighteen years on the day next succeeding the making of the order.

(3) Where a court delivers a decision with respect to a child or young person and the Director is satisfied that, at the time the decision was delivered

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delivered, the court was misled as to the age of the child or young person, and where that child or young person is, at the time the Director is so satisfied, still affected by, or is being treated as being affected by, that decision—

- (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and
- (b) that child or young person shall, if he attains the age of eighteen years before that decision is reviewed pursuant to this section, be treated as is provided by paragraph (b) of subsection two of this section.

(4) An officer authorised by the Minister in that behalf may, upon instructions given by the Director pursuant to subsection two or three of this section, apply to a court to review the decision to which the instructions relate and, upon any such application being made, the court may order—

- (a) that the decision under review be varied, in such manner as the court thinks fit, in so far as it appears that the purported age of the person in respect of whom that decision was made was material in relation to the term or period for which the decision was to be effective; or
 - (b) that the application be dismissed.
- (e) (i) by inserting immediately before the definition of "Neglected child" in section seventy-two the following new definition :—
- Sec. 72.
(Definition of neglected child.)
- "Drug" means drug of addiction or prohibited drug, as defined in section

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four of the Poisons Act, 1966, as subsequently amended, and includes any substance injurious to health.

(ii) by omitting paragraph (h) of the same definition and by inserting in lieu thereof the following paragraph :—

(h) who is found—

(i) in any place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied; or

(ii) administering, consuming, using or smoking any drug, and is in need of care, protection or control by reason thereof;

(iii) by omitting from paragraph (o) of the same definition the word “regularly.” and by inserting in lieu thereof the following words :—

regularly; or

(p) who tattoos himself, or allows himself to be tattooed by another person, in any manner on any part of his body without having first obtained the written permission of his parent or guardian to be tattooed in that manner on that part of his body.

Sec. 75.
(Warrant to search in brothel.)

(f) by omitting from subsection one of section seventy-five the words “where opium or any preparation thereof is smoked” and by inserting in lieu thereof the words “is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

(g)

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(g) by omitting from section seventy-six the words “or where opium or any preparation thereof is smoked” and by inserting in lieu thereof the words “, or is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

Sec. 76.
(Apprehension of child in brothel, etc.)

(h) by omitting section seventy-seven and by inserting in lieu thereof the following section :—

Sec. 77.
(Where child in brothel or opium den, keeper guilty of an offence.)

77. Where a child or young person is found in a brothel, or in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, the keeper or person in charge, or apparently in charge, of the brothel or place shall be guilty of an offence against this Act.

Where child or young person in brothel, etc., keeper guilty of offence.

(i)

(i) by omitting from subsection one of section eighty-one the words “, or is charged with being,”;

Sec. 81.
(Procedure of court.)

(ii) by omitting from the same subsection the words “or a juvenile offender” and by inserting in lieu thereof the words “or is charged with an offence and is brought before a court”;

(iii) by omitting from subsection two of the same section the words “, or is charged with being,”;

(iv) by omitting from the same subsection the words “or a juvenile offender” and by inserting in lieu thereof the words “or is charged with an offence and is brought before a court”;

(v)

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(v) by inserting in subsection seven of the same section after the word "may" where firstly occurring the words ", in accordance with the directions of the court,";

Sec. 83.
(Powers of
court.)

(j) (i) by omitting from paragraph (e) of subsection two of section eighty-three the word "conditions" and by inserting in lieu thereof the words "terms and conditions";

(ii) by omitting from paragraph (c) of subsection three of the same section the word "conditions" and by inserting in lieu thereof the words "terms and conditions";

(iii) by inserting next after subsection four of the same section the following new subsections :—

(4A) A court shall not make payment of a sum of money by way of compensation a condition of any order, but nothing in this subsection shall be construed as affecting the power of a court to specify the conditions of a recognizance.

(4B) The provisions of subsections three, four, five and six of section five hundred and fifty-four of the Crimes Act, 1900, as amended by subsequent Acts, shall apply to a children's court dealing with a young person but shall not otherwise apply to a children's court and, where those provisions apply to a children's court, a conviction referred to in that section shall be deemed to include a finding of guilt, and an order made, under subsection one or two of this section.

(4C) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a children's court.

(4D)

Child Welfare (Amendment).

(4D) An order made under subsection three of this section shall be deemed not to be an acquittal of, or the dismissal of an information against, a person within the meaning of section four of the Criminal Injuries Compensation Act, 1967.

- (iv) by inserting next after subsection five of the same section the following new subsection :—

(5A) Where it is within the knowledge of the person who executes a warrant of commitment in default of payment of a penalty, compensation, damages or costs that the person named in the warrant has, in the case of a warrant of commitment to a shelter or an institution, attained the age of eighteen years or has not, in the case of a warrant of commitment to a prison, attained that age, the warrant shall—

- (a) in the case of a warrant of commitment to a shelter or an institution, be deemed to be directed to the governor of the prison nearest the place where the warrant was executed; or
- (b) in the case of a warrant of commitment to a prison, be deemed to be directed to the keeper of the shelter nearest the place where the warrant was executed.

- (v) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

(6) Where a person has been discharged under paragraph (e) of subsection two, or paragraph (c) of subsection three, or
subsection

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subsection four, of this section, the court may, at any time after his discharge and before or after he attains the age of eighteen years, by notice given to that person, or to his parent and his surety, in such manner as the court may direct, give a direction for that person to appear before the court at a time and place specified in the notice and may, in default of his appearance in accordance with the direction, issue a warrant for his apprehension.

(7) Where a person who has attained the age of eighteen years appears before a court in accordance with a direction, or pursuant to a warrant for his apprehension, under subsection six of this section and the court is satisfied that he has failed to comply with the terms and conditions of his recognizance, the court may, in relation to that person, exercise any of the powers conferred upon it by section eighty-two of this Act (paragraph (d) excepted) or by subsection one, two or three of this section (paragraph (d) of subsection one and paragraph (c) of subsection two excepted) in respect of a child or young person.

Sec. 85.
(Court
may order
parent
to pay
penalty,
damages
or costs.)

- (k) (i) by omitting from subsection one of section eighty-five the words "in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed" and by inserting in lieu thereof the words ", by the finding, order or direction of a court liable to pay a penalty, or compensation, damages or costs, in respect of an offence";
- (ii) by inserting in subsection two of the same section after the word "penalty," the word "compensation,";
- (iii) by inserting in subsection three of the same section after the word "may" where firstly occurring the words ", if not paid to the clerk of the court,";
- (1)

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- (l) by inserting next after subsection (1A) of section eighty-seven the following new subsection :—
- Sec. 87.
(Child or young person convicted of indictable offence may be sent to institution.)
- (1B) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a judge acting pursuant to subsection one or (1A) of this section except where he deals with a young person otherwise than by exercising the powers of a children's court.
- (m) (i) by inserting in subsection three of section eighty-nine after the words "shall not" the words "if tendered";
- Sec. 89.
(Court to hear evidence on behalf of child.)
- (ii) by inserting in the same subsection after the word "Department" the words ", the prosecutor (if any), a barrister or solicitor (if any) appearing for the child or young person";
- (n) by omitting paragraph (a) of subsection one of section ninety and by inserting in lieu thereof the following paragraph :—
- Sec. 90.
(Probation: Who shall have custody and control.)
- (a) the person to whose care the child or young person is committed shall, as far as practicable, be of an appropriate religious persuasion having regard to the principles upon which section one hundred and forty of this Act is based, and—
- (i) the court may give such directions as to the religious teaching of the child or young person as might, under that section, be given by the Minister in relation to a ward; and
- (ii) the child or young person shall have the same rights as, by that section, are conferred upon a ward;
- (o)

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Sec. 90.
(Probation:
Who shall
have custody
and
control.)

- (o) by omitting from paragraph (b) of subsection two of section ninety the word "order." where secondly occurring and by inserting in lieu thereof the following words :—

order; and

- (c) except in the case of an order made under paragraph (e) of subsection two, or under subsection four, of section eighty-three of this Act that otherwise directs, the child or young person shall, as terms and conditions of his release—

(i) accept the supervision of any officer authorised by the Minister in that behalf; and

(ii) obey all reasonable directions of any such officer.

Sec. 91.
(Breach of
terms of
probation.)

- (p) (i) by omitting subsection one of section ninety-one and by inserting in lieu thereof the following subsections :—

(1) Where a person who, as a child or young person, was released on probation or was committed to the care of a person breaks or is reasonably suspected of having broken the terms or conditions of his release or committal he may (whether or not a warrant has been issued under subsection (1A) of this section) be apprehended by any constable or by any officer authorised by the Minister in that behalf and shall, upon being so apprehended, be taken to a shelter and as soon as practicable thereafter shall be brought before a court.

(1A) Any justice may, upon oath being made before him by any constable or by an officer authorised by the Minister in that behalf that, having made due inquiry, he believes that a person who, as a child or young person, was released on probation or was committed
to

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to the care of a person has broken the terms or conditions of his release or committal—

- (a) issue his summons for the appearance of the person so released or committed before a court; or
- (b) in the first instance issue his warrant directing the apprehension of the person so released or committed.

(1B) Where a warrant has been issued under paragraph (b) of subsection (1A) of this section, any constable or any officer authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend the person to whom the warrant relates.

- (ii) by omitting from subsection two of the same section the words “notwithstanding the fact that the person charged has then attained the age of eighteen years” and by inserting in lieu thereof the words “whether or not that breach occurred after he attained the age of eighteen years and, where the breach occurred before he attained that age, whether or not he attained that age after the breach occurred”;
- (iii) by inserting after the word “person” in subsection three of the same section the words “, or the terms and conditions imposed by a judge or court in respect thereof,”;
- (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—
 - (4) Where by the order of a court a child or young person—
 - (a) has been released on probation on condition that he remain in the care of a person named in the order; or

(b)

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(b) has been committed to the care of a person named in the order,

the court may, upon the application of any officer authorised by the Minister in that behalf, vary the order by substituting the name of some other person for that of the person named in the order.

Sec. 94.
(Power to detain in institutions.)

(q) by omitting subsection two of section ninety-four and by inserting in lieu thereof the following subsections :—

(2) An order under subsection one of this section shall, for the purposes of this Act, subsections one and two of section fifty-four excepted, be deemed to be an order committing the person to whom it relates to an institution there to be detained until the expiration of the period of his sentence, or until he is transferred to prison pursuant to this section, whichever first occurs.

(2A) Where a person to whom an order under subsection one of this section applies has been detained in an institution for a period of three years or if he earlier, while so detained, attains the age of twenty-one years, the Minister shall order that he be transferred to prison as soon as practicable thereafter, there to serve the unexpired portion of the term of his sentence, and upon such transfer taking place, that person shall cease to be subject to the provisions of this section.

Sec. 139.
(Arrest of absconding ward.)

(r) (i) by inserting next after subsection two of section one hundred and thirty-nine the following new subsection :—

(2A) Where a ward brought before a magistrate pursuant to paragraph (a) of subsection two of this section is a person who was transferred from prison to an institution,
the

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the court may, in lieu of exercising its powers under paragraph (b) of that subsection, order that the offender be returned to the prison from which he was transferred and may further order—

- (a) where the offender is a child or young person, that he be detained in prison for a further term; or
- (b) where the offender is of or above the age of eighteen years, impose a sentence of imprisonment for a further term,

not exceeding, in either case, three months with hard labour, to commence at the expiration of the original sentence.

(ii) by inserting next after subsection five of the same section the following new subsection :—

(6) In this section “ward” includes—

- (a) a person subject to an order made under Part XIV of this Act committing him to an institution; and
- (b) a person subject to an order made under Part XV of this Act for his transfer from a prison to an institution,

whether or not that person has attained the age of eighteen years.

(s) by inserting next after section one hundred and thirty-nine the following new section :—

New sec.
139A.

139A. (1) In this section—

“appropriate authority” means person who under the law of—

Reciprocity
between
States in
relation
to wards.

- (a) a State of the Commonwealth of Australia other than New South Wales; or
- (b) a Territory,

corresponding

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corresponding to this Act is competent to take action equivalent to admission to State control under this Act;

“interstate ward” means child or young person entering New South Wales who, immediately before that entry, was under the care or guardianship of an appropriate authority;

“Territory” means Territory of the Commonwealth of Australia, including a Territory under the trusteeship of the Commonwealth of Australia.

(2) Where an interstate ward enters New South Wales, the Minister may, if the appropriate authority for the interstate ward has requested him to do so, admit the interstate ward to State control under this Act for a period not exceeding that for which he would, but for this subsection, have been under the care or guardianship of that authority.

(3) The Minister—

- (a) may make, with an appropriate authority financial and other arrangements for the care of an interstate ward or a ward;
- (b) may, at his discretion, or in accordance with any such arrangements, return an interstate ward to the care or guardianship of his appropriate authority; and
- (c) shall, where the appropriate authority for an interstate ward requests him to do so, return the interstate ward to the care or guardianship of that appropriate authority.

(4) Where, in the opinion of the Minister, the law of a State of the Commonwealth of Australia other than New South Wales, or of a Territory, makes the like provision for or with respect to a

ward

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ward entering that State as is made by subsections two and three of this section for or with respect to an interstate ward and, upon a request by the Minister, such a provision corresponding to subsection two of this section is applied to a ward who leaves New South Wales, the powers, authorities, duties and functions conferred or imposed by or under this Act upon the Minister and other persons shall be deemed to have been suspended in relation to that ward while he remains under care or guardianship in consequence of the application of that provision, except in so far as they may be exercised or performed in accordance with arrangements made under paragraph (a) of subsection three of this section.

- (t) by omitting section one hundred and forty and by inserting in lieu thereof the following section :—

140. (1) A ward shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion in which he is to be educated.

(2) For the purposes of subsection one of this section, a ward shall, subject to the other provisions of this section, be educated—

- (a) where the ward is illegitimate—in accordance with the wishes of his mother expressed for those purposes in the prescribed manner;
- (b) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, are identical—in accordance with those wishes;
- (c) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, differ, the one from the other—

- (i) in accordance with the wishes of the father; or

(ii)

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- (ii) where the Minister is satisfied that the father has failed to discharge his parental obligations to the ward, in accordance with the wishes of the mother;
- (d) where the ward is legitimate and one of his parents has expressed, in the prescribed manner, his or her wishes for those purposes while the other parent has failed so to express any such wishes or, in the prescribed manner, has declined to express any such wishes—in accordance with the wishes so expressed;
- (e) where the ward is legitimate and only one of his parents is living or can on reasonable inquiry be found—in accordance with the wishes, expressed for those purposes in the prescribed manner, of that parent.

(3) Subject to the other provisions of this section, where neither parent of a ward is living, or where neither parent of a ward can upon reasonable inquiry be found, or where the parent of a ward in accordance with whose wishes the ward would, if expressed pursuant to subsection two of this section, be educated, has failed to express those wishes in the prescribed manner, or has, in the prescribed manner, declined to express those wishes, the ward shall, for the purposes of subsection one of this section, be educated—

- (a) where the ward has, during the period of two years next preceding his admission to State control, been brought up in a particular religious persuasion and no other—in the persuasion in which he has been so brought up; or

(b)

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- (b) where the ward has not, during that period, been brought up in any religious persuasion, or where he has, during that period, been brought up in more than one religious persuasion and—
- (i) has not attained the age of twelve years—in such religious persuasion as the Minister may, after ascertaining the wishes (if any) of the ward and, if practicable, the religious persuasion or persuasions of his parents—direct; or
 - (ii) has attained the age of twelve years (whether or not he is a ward in respect of whom a direction has been given under subparagraph (i) of this paragraph)—in such religious persuasion approved by the Minister as the ward selects.

(4) Notwithstanding anything contained in subsection two or three of this section, where the Minister is satisfied that a ward who is a young person has, in the prescribed manner, genuinely expressed a wish to be educated in a religious persuasion differing from that in which he is being, or but for this subsection would be, educated, the ward shall, for the purposes of subsection one of this section, be educated in the religious persuasion so selected by him.

(5) Notwithstanding any other provision of this section, where the Minister is satisfied that the welfare of a ward would be promoted if the ward were boarded-out, placed-out or placed as an adopted boarder and that it is impracticable to direct the removal or transfer of the ward to the care of a foster parent of the same religious persuasion

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persuasion as that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, the Minister may—

- (a) direct that the ward be removed or transferred to the care of a foster parent of a religious persuasion that differs from that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, subject to that foster parent agreeing not to hinder or impede the religious education of the ward as so provided; or
- (b) where he is satisfied that the welfare of the ward would thereby be promoted, and subject to the observance of any procedures that may be prescribed for the purpose, direct that the ward be removed or transferred to the care of such a foster parent and be educated in such religious persuasion other than that authorised by subsection two, three or four of this section as the Minister may specify when giving the direction.

(6) For the purposes of this section, the prescribed manner shall be by writing, signed by the parent or young person concerned and delivered—

- (a) in the case of the parent of a ward, at or about the time the ward is, or is to be, admitted to State control or as soon as practicable within the period of one year thereafter; or
- (b) in the case of a young person, as soon as practicable after the expression of his wish, to the Minister or to some person appearing to be authorised by him for the purpose.

(7)

Child Welfare (Amendment).

(7) The provisions of subsection three of section twenty-three of this Act shall, mutatis mutandis, apply to and in respect of the powers conferred upon the Minister by this section.

- (u) by inserting next after subsection two of section one hundred and forty-four the following new subsections : — Sec. 144.
(Medical examination.)

(3) The Minister or any officer specially authorised by the Minister in that behalf may consent to any surgical or other operation on a person (not being a ward) who is a minor and has, under this Act, been admitted to an establishment under the control of the Minister, or detained at a place of safety where—

- (a) the Minister or officer, as the case may be, is advised by a medical practitioner that the operation is necessary in the interests of the health or welfare of that person ; and
- (b) the consent of the parent or guardian of that person cannot, in the circumstances, reasonably be obtained.

(4) A medical practitioner carrying out a surgical or other operation pursuant to a consent given under subsection two or three of this section shall not, by carrying out the operation, incur any liability that he would not have incurred had the parent or guardian of the person upon whom the operation is carried out consented thereto.

- (v) by inserting next after section one hundred and forty-eight the following new section : — New sec. 148A.

148A. A person who in any manner tattoos any part of the body of a child or young person shall be guilty of an offence against this Act unless he has first obtained the written permission of the Offence by person who tattoos a child or young person.

parent

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parent or guardian of the child or young person to tattoo the child or young person in that manner on that part of his body.

New Part XXI.

(w) by inserting next after section one hundred and eighty-one the following new Part :—

PART XXI.

WELFARE SERVICES TRAINING COUNCIL.

Constitution of Welfare Services Training Council.

182. (1) There shall be a Welfare Services Training Council, hereinafter in this Part of this Act referred to as "the Council", consisting of not more than twelve members appointed by the Governor.

(2) Of the members of the Council—

- (a) three shall be officers nominated by the Minister; and
- (b) the remaining members shall be persons nominated in accordance with subsection three of this section.

(3) For the purposes of the appointment of the members of the Council referred to in paragraph (b) of subsection two of this section, nominations may be submitted to the Minister in accordance with regulations prescribing—

- (a) persons who, or organisations or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, organisation or class so prescribed; and
- (c) the times within which such nominations may be submitted.

The

Child Welfare (Amendment).

The regulations may provide for the nomination of a number of persons in excess of the number of members of the Council that may be appointed.

(4) A member of the Council shall, subject to this Act and the regulations, hold office for such term (not exceeding in any case four years) as the Governor may specify in the instrument of appointment and shall, if otherwise qualified, be eligible for reappointment.

(5) In the case of a casual vacancy in the office of a member of the Council, the Governor may appoint a person to the vacant office (being, where the vacancy is in the office of a person who was nominated for membership by the Minister, an officer nominated by the Minister) and the person so appointed shall hold office for the residue of his predecessor's term of office.

(6) A member of the Council shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a nominee of the Minister, ceases to be an officer; or
- (g) is removed from office by the Governor.

(7)

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(7) The Council shall, subject to this Act and the regulations, frame rules for the conduct of its business, but no such rules shall be operative until they have been approved by the Minister.

(8) Meetings of the Council shall be convened so that at least six meetings are held in every year.

(9) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Council, and any member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act, as so amended, during his term of office.

Duties and
functions
of Council.

183. (1) The Council may make reports and recommendations to the Minister with respect to—

- (a) the provision of courses of instruction and training for persons employed in, or considering employment in, a welfare service, either in a voluntary or a paid capacity;
- (b) the status of courses of instruction and training of the kind referred to in paragraph (a) of this subsection that are conducted within or outside New South Wales;
- (c) such other matters connected with training of the kind referred to in paragraph (a) of this subsection as may be referred to it by the Minister;
- (d) any other matter connected with training of the kind referred to in paragraph (a) of this subsection.

(2)

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(2) Subject to subsection one of this section the functions of the Council shall be—

- (a) to recommend courses of instruction and training for approval by the Minister and to encourage the conduct of such courses;
- (b) to recommend to the Minister the accreditation of courses conducted by other organisations;
- (c) to exercise a general supervision over the standards of theoretical and practical training approved or accredited by the Minister;
- (d) to conduct written, practical or oral examinations and to have regard to the results of examinations conducted by other organisations in respect of accredited courses;
- (e) to issue certificates of qualification to persons who have passed examinations or have attained a standard of proficiency acceptable to the Council in respect of courses approved or accredited by the Minister.

(3) The Council may appoint sub-committees to deal with specified matters within the scope of the functions of the Council.

(4) The convenor of each sub-committee shall be a member of the Council and each sub-committee shall consist of such number of other persons, whether members of the Council or not, as the Council may determine.

(5) The Council in appointing persons to a sub-committee shall include amongst the membership of the sub-committee persons who have practical experience in the conduct or administration of one or more kinds of child welfare or social welfare

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welfare service or in the training of persons to provide any such service, selected from one or more of the following classes of persons :—

- (a) medical practitioners (including persons having knowledge of and experience in paediatrics or psychiatry);
- (b) barristers or solicitors;
- (c) persons having knowledge of and experience in education;
- (d) persons having knowledge of and experience in psychology;
- (e) persons having knowledge of and experience in social work;
- (f) persons having knowledge of and experience in recreation;
- (g) persons having knowledge of and experience in religious education; and
- (h) persons having other suitable qualifications or experience.

Minister to be authority to approve or accredit courses.

184. The Minister shall be the authority to—

- (a) approve of courses of instruction and training for welfare services where those courses are not prescribed in accordance with the provisions of any other Act or regulations; and
- (b) extend accreditation for the purposes of this Part to courses of instruction and training that are not so prescribed.

185. The regulations may—

- (a) prescribe the procedure to be followed—
 - (i) in appointing a Chairman of the Council; and

(ii)

Child Welfare (Amendment).

- (ii) in convening and conducting meetings of the Council;
- (b) prescribe the fees to be paid to members of the Council other than officers and the allowances to be paid to members of the Council including officers;
- (c) prescribe such forms and documents as are necessary or expedient for the administration of this Part;
- (d) prescribe the fees to be paid by persons attending courses of instruction and training conducted by or on behalf of the Director or any other officer.

(2) Paragraph (w) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. (1) The Child Welfare Act, 1939, as subsequently amended, is further amended by inserting next after subsection one of section eight the following new subsections :—

Further amendment of Act No. 17, 1939.
Sec. 8.
(Advisory council.)

(1A) A person appointed pursuant to subsection one of this section shall hold office for such term (not exceeding four years) as the Governor may specify in the instrument of appointment, and shall be eligible for reappointment.

(1B) In the case of a casual vacancy in the office of a person appointed pursuant to subsection one of this section, the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.

(1C) A member of the council shall be deemed to have vacated his office if he—

(a) dies;

(b)

Child Welfare (Amendment).

- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) absents himself from four consecutive meetings of the council without leave of the council; or
- (f) is removed from office by the Governor.

(2) The persons holding office at the commencement of this section as members of the Child Welfare Advisory Council constituted under section eight of the Child Welfare Act, 1939, as subsequently amended, shall be deemed to have been appointed under that section of that Act, as so amended and as amended by subsection one of this section, for a term expiring on the thirty-first day of January, one thousand nine hundred and seventy-two.

4. The Child Welfare Act, 1939, as subsequently amended, is further amended—

- (a) by inserting next after section eighty-one the following new section :—

81A. Where a child or young person in the custody of the superintendent of an institution or the keeper of a shelter is entitled to be discharged or liberated upon his entering into a recognizance in such amount, and with such surety or sureties, if any, as may have been ordered according to law, the recognizance may be entered into before that superintendent or keeper as if he were a gaoler.

(b)

Further amendment of Act No. 17, 1939.

New sec. 81A.

Recognizance may be entered into before certain persons.

Child Welfare (Amendment).

- (b) by inserting next after section eighty-three the following new section :—

New sec.
83A.

83A. The provisions of sections ninety-four and ninety-five of the Justices Act, 1902, as amended by subsequent Acts, shall apply to and in respect of a person committed to a shelter, or to an institution, in default of payment of a penalty, or of compensation, damages or costs, and shall so apply as if—

Payment of
penalty,
etc., to
superinten-
dent of
institution
or keeper
of shelter.

- (a) that person had been imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices for a term the same as that for which he is to be detained in the shelter or institution; and
- (b) the superintendent of the institution or the person for the time being in charge of the shelter, as the case may be, were the keeper of the prison.

5. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further
amendment
of Act No.
17, 1939.

- (a) (i) by omitting subsection two of section one hundred and thirty-three;
- (ii) by omitting from subsection three of the same section the words "not be released therefrom" and by inserting in lieu thereof the word "not,";
- (iii) by inserting in the same subsection after the word "infection" the following words :—

Sec. 133.
(Child
believed to
be suffering
from
venereal
disease.)

, be released therefrom except upon license granted—

- (a) by the Governor, where the Governor would, but for this subsection,

Child Welfare (Amendment).

subsection, be empowered to discharge the child or young person from an institution; or

(b) by the Minister, where the Minister would, but for this subsection, be so empowered;

(iv) by inserting next after subsection three of the same section the following new subsections :—

(3A) It shall be a condition of a license granted under subsection three of this section that the person released shall obtain treatment for venereal disease and otherwise comply with the provisions of the Venereal Diseases Act, 1918, as amended by subsequent Acts, relating to persons suffering therefrom.

(3B) The Minister may revoke a license granted under section three of this Act, whether or not he is the grantor thereof and, upon any such revocation, the person to whom the license relates may be dealt with as if he had absconded from an institution.

(v) by omitting from subsection four of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection three of this section";

(vi)

Child Welfare (Amendment).

(vi) by inserting in subsection five of the same section after the word "certified" the words "or released";

(b) (i) by omitting subsection one of section one hundred and thirty-four and by inserting in lieu thereof the following subsections:—

Sec. 134.
(Medical
examina-
tion:
Venereal
disease.)

(1) No ward shall be transferred from a depot, home or hostel to be boarded-out, placed-out or placed as an adopted boarder, unless he has been—

(a) examined by a medical practitioner;
and

(b) certified by such medical practitioner as being, in the opinion of that medical practitioner, apparently free from venereal disease, or no longer liable to convey infection.

(1A) Where a ward has not been admitted to a depot, home or hostel established under this Act, an examination as provided by subsection one of this section shall be carried out and a certificate obtained as soon as practicable after the ward has been admitted to State control and a further examination may be carried out, and a certificate obtained, at any time at the request of an officer authorised in that behalf by the Minister.

(ii) by omitting from subsection two of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection one or (1A) of this section".

Child Welfare (Amendment).

Further amendment of Act No. 17, 1939. Sec. 54. (Discharge of child or young person.)

6. The Child Welfare Act, 1939, as subsequently amended, is further amended—

(a) by inserting next after subsection two of section fifty-four the following new subsections :—

(3) Notwithstanding anything contained in subsections one and two of this section, a person transferred to an institution under section ninety-four of this Act shall not, while under sentence of imprisonment, be discharged from an institution except pursuant to subsection four of this section.

(4) The Minister may, by order, discharge from an institution a person referred to in subsection three of this section on such terms and conditions as he deems desirable and specifies in the order and shall, in any such order, specify the period for which the order is to remain in force for the purposes of section 2A of the Parole of Prisoners Act, 1966, as subsequently amended.

(5) The Minister shall cause a copy of an order made under subsection four of this section, and a statement of the date of birth of the person to whom it refers, to be served on the Parole Board constituted under the Parole of Prisoners Act, 1966, as subsequently amended.

Sec. 55. (Absconder may be apprehended.)

- (b) (i) by omitting from section fifty-five the word “ward” and by inserting in lieu thereof the words “other person detained in an institution”;
- (ii) by omitting from the same section the word and symbol “superintendent,” and by inserting in lieu thereof the words “superintendent or, being a child or young person, is in breach of the terms and conditions specified in an order for his discharge made under subsection four of section fifty-four of this Act.”.

Child Welfare (Amendment).

7. The Parole of Prisoners Act, 1966, is amended by inserting next after section two the following new section :—

Amendment
of Act No.
41, 1966.
New sec.
2A.

2A. (1) Where a person is transferred to an institution pursuant to an order made under subsection one of section ninety-four of the Child Welfare Act, 1939, as amended by subsequent Acts, the powers, authorities, duties and functions conferred or imposed upon the Board by this Act shall not be exercised or performed in relation to that person during the period of his detention pursuant to that order.

Limitation
of powers
of Board
in certain
circum-
stances.

(2) Subject to this section, an order of discharge under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be a parole order duly made by the Board under section six of this Act.

(3) Where a parole order referred to in subsection two of this section relates to a person who, at the time of his discharge from an institution had not attained the age of eighteen years, the powers, authorities, duties and functions that, but for this subsection, would be conferred or imposed by this Act upon the Board in relation to the parole order shall, subject to this section, be exercised and performed by the Minister for the time being administering the Child Welfare Act, 1939, as amended by subsequent Acts, to the exclusion of the Board, until that person attains the age of eighteen years or the parole period earlier expires.

(4) Subject to this Act, a parole order referred to in subsection two of this section shall—

- (a) remain in force for the period; and
- (b) be subject to the terms and conditions, specified in the discharge order deemed, by that subsection, to be the parole order.

(5)

Child Welfare (Amendment).

(5) For the purposes of this Act, discharge from an institution under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be release, on parole, from a prison.

(6) The powers conferred by subsection three of section six of this Act shall not be exercised in respect of a parole order referred to in subsection two of this section before the person to whom the parole order relates attains the age of eighteen years.

(7) Nothing in this section shall prejudice or affect any power, authority, duty or function conferred or imposed by or under the Child Welfare Act, 1939, as amended by subsequent Acts, upon the Minister for the time being administering that Act, as so amended, or upon any other person.

Amendment
of Act No.
11, 1966.
Sec. 2.
(Amend-
ment of
Act No. 17,
1939.)
(Regula-
tions.)

8. (1) The Child Welfare (Amendment) Act, 1966, is amended by inserting in paragraph (f) of section two, at the end of section thirty-eight to be inserted in the Child Welfare Act, 1939, as amended by subsequent Acts, the following new subsections :—

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

(3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part, or from compliance with any part of such a regulation or from compliance with any condition of a license.

(2) Subsection one of this section shall commence on the day on which paragraph (f) of section two of the Child Welfare (Amendment) Act, 1966, commences.

Child Welfare (Amendment).

9. (1) The Child Welfare (Amendment) Act, 1967, is amended—

Amendment
of Act No.
27, 1967.

(a) by omitting from paragraph (e) of section three, in subsection one of section forty-seven to be inserted in the Child Welfare Act, 1939, as subsequently amended, the words “, or is charged with being,”;

Sec. 3.

(Further
amendment
of Act No.
17, 1939.)

(b) by inserting in the same paragraph at the end of section 48M to be inserted in the Child Welfare Act, 1939, as subsequently amended, the following new subsections :—

(Regula-
tions.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

(3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part or from compliance with any part of such a regulation or from compliance with any condition of a license.

(2) Subsection one of this section shall commence on the day on which paragraph (e) of section three of the Child Welfare (Amendment) Act, 1967, commences.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

(Title of Report)

(Author's Name)

(Abstract or Summary)

(Introduction)

(Methodology)

(Results)

(Conclusions)

(References)

(Appendices)

(Footnotes)

(Bibliography)

(Index)

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 April, 1969.*

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 27, 1969.

An Act relating to certain proceedings before children's courts, the execution of certain warrants and the transfer of persons between prisons and institutions; to provide for the care of wards and persons having the like status who travel or remove between States; to make further provision with respect to the religious teaching of wards; to establish a Welfare Services Training Council; for these and other purposes to amend the Child Welfare Act, 1939, the Parole of Prisoners Act, 1966, and certain other Acts; and for purposes connected therewith. [Assented to, 9th April, 1969.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Child Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and citation.

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1969".

(2) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939–1969.

Amendment
of Act No.
17, 1939.

2. (1) The Child Welfare Act, 1939, as subsequently amended, is amended—

Sec. 2.
(Parts of
Act.)

(a) by inserting in section two after the matter relating to Division 8 of Part XX the following new matter :—

PART XXI.—WELFARE SERVICES TRAINING
COUNCIL—ss. 182–185.

Sec. 15.
(Children's
courts not
held in
ordinary
courts.)

(b) (i) by omitting from paragraph (a) of section fifteen the word "or";

(ii) by omitting from paragraph (b) of the same section the word "Minister." and by inserting in lieu thereof the following words :—

Minister; or

(c) where in the opinion of the court in any particular case it is expedient to hold the court in some other building or room approved in that behalf by the court, in that other building or room.;

(iii) by inserting in the same section after the words "so approved" the words "by the Minister or the court";

(c)

Child Welfare (Amendment).

(c) (i) by omitting from subsection three of section eighteen the word "determination" and by inserting in lieu thereof the word "hearing";

Sec. 18.
(Right of appeal.)

(ii) by inserting next after the same subsection the following new subsection : —

(3A) During the period of any adjournment of the hearing of the appeal the child or young person may, in accordance with the directions of the court hearing the appeal, be detained at any shelter, or permitted to go home with a parent or with any other person who is willing to undertake the care of the child or young person during that period, or admitted to bail with or without sureties.

(d) by inserting next after section twenty the following new section : —

New
sec. 20A.

20A. (1) In this section—

"court" includes a judge exercising the powers of a court;

Procedure
where
court
misled as
to age of
person.

"decision" includes finding, order, determination and judgment but does not include—

(a) a finding that a person is a neglected or uncontrollable child or young person;

(b) an order, committing a person to the care of the Minister, under paragraph (d) of subsection one, or paragraph (c) of subsection two, of section eighty-three of this Act;

(c) an order made, after the commencement of section three of the Child Welfare (Amendment) Act, 1967, as subsequently amended, under subsection one of section forty-seven of this Act, as amended by subsequent Acts;

(d)

Child Welfare (Amendment).

- (d) an order, dismissing a charge, under paragraph (e) of subsection one, or paragraph (a) of subsection three, of section eighty-three of this Act;
- (e) the admonishing and discharging of a person under paragraph (b) of subsection three of section eighty-three of this Act.

(2) Where a person charged is dealt with by a court as a child or young person and the Director is satisfied that, at the time of the commission of the offence with which he is charged that person had attained the age of eighteen years, and where that person is, at the time the Director is so satisfied, being treated as being affected by that decision—

(a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and

(b) that person shall—

- (i) until that decision is reviewed pursuant to this section, be treated, for the purposes of that decision and of this Act, as if he had not attained the age of eighteen years; and
- (ii) for the purposes of an order made when that decision is so reviewed, be treated as if he would attain the age of eighteen years on the day next succeeding the making of the order.

(3) Where a court delivers a decision with respect to a child or young person and the Director is satisfied that, at the time the decision was delivered

Child Welfare (Amendment).

delivered, the court was misled as to the age of the child or young person, and where that child or young person is, at the time the Director is so satisfied, still affected by, or is being treated as being affected by, that decision—

- (a) the Director shall, as soon as practicable after being so satisfied, instruct an officer authorised by the Minister in that behalf to apply to a court under subsection four of this section for a review of the decision; and
- (b) that child or young person shall, if he attains the age of eighteen years before that decision is reviewed pursuant to this section, be treated as is provided by paragraph (b) of subsection two of this section.

(4) An officer authorised by the Minister in that behalf may, upon instructions given by the Director pursuant to subsection two or three of this section, apply to a court to review the decision to which the instructions relate and, upon any such application being made, the court may order—

- (a) that the decision under review be varied, in such manner as the court thinks fit, in so far as it appears that the purported age of the person in respect of whom that decision was made was material in relation to the term or period for which the decision was to be effective; or
 - (b) that the application be dismissed.
- (e) (i) by inserting immediately before the definition of "Neglected child" in section seventy-two the following new definition :—
- Sec. 72.
(Definition of neglected child.)
- "Drug" means drug of addiction or prohibited drug, as defined in section

Child Welfare (Amendment).

four of the Poisons Act, 1966, as subsequently amended, and includes any substance injurious to health.

(ii) by omitting paragraph (h) of the same definition and by inserting in lieu thereof the following paragraph :—

(h) who is found—

(i) in any place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied; or

(ii) administering, consuming, using or smoking any drug, and is in need of care, protection or control by reason thereof;

(iii) by omitting from paragraph (o) of the same definition the word “regularly.” and by inserting in lieu thereof the following words :—

regularly; or

(p) who tattoos himself, or allows himself to be tattooed by another person, in any manner on any part of his body without having first obtained the written permission of his parent or guardian to be tattooed in that manner on that part of his body.

Sec. 75.
(Warrant to search in brothel.)

(f) by omitting from subsection one of section seventy-five the words “where opium or any preparation thereof is smoked” and by inserting in lieu thereof the words “is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place”;

(g)

Child Welfare (Amendment).

(g) by omitting from section seventy-six the words "or where opium or any preparation thereof is smoked" (Apprehension of child in brothel, etc.) and by inserting in lieu thereof the words ", or is in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, and is in need of care, protection or control by reason of being in such a place";

(h) by omitting section seventy-seven and by inserting in lieu thereof the following section :—

Sec. 77.
(Where child in brothel or opium den, keeper guilty of an offence.)

77. Where a child or young person is found in a brothel, or in a place where any drug is unlawfully manufactured, prepared, administered, consumed, used, smoked, distributed or supplied, the keeper or person in charge, or apparently in charge, of the brothel or place shall be guilty of an offence against this Act.

Where child or young person in brothel, etc., keeper guilty of offence.

- (i) (i) by omitting from subsection one of section eighty-one the words ", or is charged with being,"; (Procedure of court.)
- (ii) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";
- (iii) by omitting from subsection two of the same section the words ", or is charged with being,";
- (iv) by omitting from the same subsection the words "or a juvenile offender" and by inserting in lieu thereof the words "or is charged with an offence and is brought before a court";

(v)

Child Welfare (Amendment).

Sec. 83.
(Powers of court.)

(v) by inserting in subsection seven of the same section after the word "may" where firstly occurring the words ", in accordance with the directions of the court,";

(j) (i) by omitting from paragraph (e) of subsection two of section eighty-three the word "conditions" and by inserting in lieu thereof the words "terms and conditions";

(ii) by omitting from paragraph (c) of subsection three of the same section the word "conditions" and by inserting in lieu thereof the words "terms and conditions";

(iii) by inserting next after subsection four of the same section the following new subsections :—

(4A) A court shall not make payment of a sum of money by way of compensation a condition of any order, but nothing in this subsection shall be construed as affecting the power of a court to specify the conditions of a recognizance.

(4B) The provisions of subsections three, four, five and six of section five hundred and fifty-four of the Crimes Act, 1900, as amended by subsequent Acts, shall apply to a children's court dealing with a young person but shall not otherwise apply to a children's court and, where those provisions apply to a children's court, a conviction referred to in that section shall be deemed to include a finding of guilt, and an order made, under subsection one or two of this section.

(4C) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a children's court.

(4D)

Child Welfare (Amendment).

(4D) An order made under subsection three of this section shall be deemed not to be an acquittal of, or the dismissal of an information against, a person within the meaning of section four of the Criminal Injuries Compensation Act, 1967.

(iv) by inserting next after subsection five of the same section the following new subsection :—

(5A) Where it is within the knowledge of the person who executes a warrant of commitment in default of payment of a penalty, compensation, damages or costs that the person named in the warrant has, in the case of a warrant of commitment to a shelter or an institution, attained the age of eighteen years or has not, in the case of a warrant of commitment to a prison, attained that age, the warrant shall—

(a) in the case of a warrant of commitment to a shelter or an institution, be deemed to be directed to the governor of the prison nearest the place where the warrant was executed; or

(b) in the case of a warrant of commitment to a prison, be deemed to be directed to the keeper of the shelter nearest the place where the warrant was executed.

(v) by omitting subsection six of the same section and by inserting in lieu thereof the following subsections :—

(6) Where a person has been discharged under paragraph (e) of subsection two, or paragraph (c) of subsection three, or
subsection

Child Welfare (Amendment).

subsection four, of this section, the court may, at any time after his discharge and before or after he attains the age of eighteen years, by notice given to that person, or to his parent and his surety, in such manner as the court may direct, give a direction for that person to appear before the court at a time and place specified in the notice and may, in default of his appearance in accordance with the direction, issue a warrant for his apprehension.

(7) Where a person who has attained the age of eighteen years appears before a court in accordance with a direction, or pursuant to a warrant for his apprehension, under subsection six of this section and the court is satisfied that he has failed to comply with the terms and conditions of his recognizance, the court may, in relation to that person, exercise any of the powers conferred upon it by section eighty-two of this Act (paragraph (d) excepted) or by subsection one, two or three of this section (paragraph (d) of subsection one and paragraph (c) of subsection two excepted) in respect of a child or young person.

Sec. 85.
(Court may order parent to pay penalty, damages or costs.)

- (k) (i) by omitting from subsection one of section eighty-five the words "in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed" and by inserting in lieu thereof the words "by the finding, order or direction of a court liable to pay a penalty, or compensation, damages or costs, in respect of an offence";
- (ii) by inserting in subsection two of the same section after the word "penalty," the word "compensation,";
- (iii) by inserting in subsection three of the same section after the word "may" where firstly occurring the words "if not paid to the clerk of the court,"; (1)

Child Welfare (Amendment).

- (1) by inserting next after subsection (1A) of section eighty-seven the following new subsection :—
- Sec. 87.
(Child or young person convicted of indictable offence may be sent to institution.)
- (1B) The provisions of section four hundred and thirty-seven of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply to a judge acting pursuant to subsection one or (1A) of this section except where he deals with a young person otherwise than by exercising the powers of a children's court.
- (m) (i) by inserting in subsection three of section eighty-nine after the words "shall not" the words "if tendered";
- Sec. 89.
(Court to hear evidence on behalf of child.)
- (ii) by inserting in the same subsection after the word "Department" the words ", the prosecutor (if any), a barrister or solicitor (if any) appearing for the child or young person";
- (n) by omitting paragraph (a) of subsection one of section ninety and by inserting in lieu thereof the following paragraph :—
- Sec. 90.
(Probation: Who shall have custody and control.)
- (a) the person to whose care the child or young person is committed shall, as far as practicable, be of an appropriate religious persuasion having regard to the principles upon which section one hundred and forty of this Act is based, and—
- (i) the court may give such directions as to the religious teaching of the child or young person as might, under that section, be given by the Minister in relation to a ward; and
- (ii) the child or young person shall have the same rights as, by that section, are conferred upon a ward;
- (o)

Child Welfare (Amendment).

Sec. 90.
(Probation:
Who shall
have custody
and
control.)

(o) by omitting from paragraph (b) of subsection two of section ninety the word "order." where secondly occurring and by inserting in lieu thereof the following words :—

order; and

(c) except in the case of an order made under paragraph (e) of subsection two, or under subsection four, of section eighty-three of this Act that otherwise directs, the child or young person shall, as terms and conditions of his release—

(i) accept the supervision of any officer authorised by the Minister in that behalf; and

(ii) obey all reasonable directions of any such officer.

Sec. 91.
(Breach of
terms of
probation.)

(p) (i) by omitting subsection one of section ninety-one and by inserting in lieu thereof the following subsections :—

(1) Where a person who, as a child or young person, was released on probation or was committed to the care of a person breaks or is reasonably suspected of having broken the terms or conditions of his release or committal he may (whether or not a warrant has been issued under subsection (1A) of this section) be apprehended by any constable or by any officer authorised by the Minister in that behalf and shall, upon being so apprehended, be taken to a shelter and as soon as practicable thereafter shall be brought before a court.

(1A) Any justice may, upon oath being made before him by any constable or by an officer authorised by the Minister in that behalf that, having made due inquiry, he believes that a person who, as a child or young person, was released on probation or was committed
to

Child Welfare (Amendment).

to the care of a person has broken the terms or conditions of his release or committal—

- (a) issue his summons for the appearance of the person so released or committed before a court; or
- (b) in the first instance issue his warrant directing the apprehension of the person so released or committed.

(1B) Where a warrant has been issued under paragraph (b) of subsection (1A) of this section, any constable or any officer authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend the person to whom the warrant relates.

- (ii) by omitting from subsection two of the same section the words “notwithstanding the fact that the person charged has then attained the age of eighteen years” and by inserting in lieu thereof the words “whether or not that breach occurred after he attained the age of eighteen years and, where the breach occurred before he attained that age, whether or not he attained that age after the breach occurred”;
- (iii) by inserting after the word “person” in subsection three of the same section the words “, or the terms and conditions imposed by a judge or court in respect thereof,”;
- (iv) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—
 - (4) Where by the order of a court a child or young person—
 - (a) has been released on probation on condition that he remain in the care of a person named in the order; or

(b)

Child Welfare (Amendment).

(b) has been committed to the care of a person named in the order,

the court may, upon the application of any officer authorised by the Minister in that behalf, vary the order by substituting the name of some other person for that of the person named in the order.

Sec. 94.
(Power to detain in institutions.)

(q) by omitting subsection two of section ninety-four and by inserting in lieu thereof the following subsections :—

(2) An order under subsection one of this section shall, for the purposes of this Act, subsections one and two of section fifty-four excepted, be deemed to be an order committing the person to whom it relates to an institution there to be detained until the expiration of the period of his sentence, or until he is transferred to prison pursuant to this section, whichever first occurs.

(2A) Where a person to whom an order under subsection one of this section applies has been detained in an institution for a period of three years or if he earlier, while so detained, attains the age of twenty-one years, the Minister shall order that he be transferred to prison as soon as practicable thereafter, there to serve the unexpired portion of the term of his sentence, and upon such transfer taking place, that person shall cease to be subject to the provisions of this section.

Sec. 139.
(Arrest of absconding ward.)

(r) (i) by inserting next after subsection two of section one hundred and thirty-nine the following new subsection :—

(2A) Where a ward brought before a magistrate pursuant to paragraph (a) of subsection two of this section is a person who was transferred from prison to an institution,
the

Child Welfare (Amendment).

the court may, in lieu of exercising its powers under paragraph (b) of that subsection, order that the offender be returned to the prison from which he was transferred and may further order—

- (a) where the offender is a child or young person, that he be detained in prison for a further term; or
- (b) where the offender is of or above the age of eighteen years, impose a sentence of imprisonment for a further term,

not exceeding, in either case, three months with hard labour, to commence at the expiration of the original sentence.

(ii) by inserting next after subsection five of the same section the following new subsection :—

(6) In this section “ward” includes—

- (a) a person subject to an order made under Part XIV of this Act committing him to an institution; and
- (b) a person subject to an order made under Part XV of this Act for his transfer from a prison to an institution,

whether or not that person has attained the age of eighteen years.

(s) by inserting next after section one hundred and thirty-nine the following new section :—

139A. (1) In this section—

“appropriate authority” means person who under the law of—

- (a) a State of the Commonwealth of Australia other than New South Wales; or
- (b) a Territory,

New sec.
139A.

Reciprocity
between
States in
relation
to wards.

corresponding

Child Welfare (Amendment).

corresponding to this Act is competent to take action equivalent to admission to State control under this Act;

“interstate ward” means child or young person entering New South Wales who, immediately before that entry, was under the care or guardianship of an appropriate authority;

“Territory” means Territory of the Commonwealth of Australia, including a Territory under the trusteeship of the Commonwealth of Australia.

(2) Where an interstate ward enters New South Wales, the Minister may, if the appropriate authority for the interstate ward has requested him to do so, admit the interstate ward to State control under this Act for a period not exceeding that for which he would, but for this subsection, have been under the care or guardianship of that authority.

(3) The Minister—

- (a) may make, with an appropriate authority financial and other arrangements for the care of an interstate ward or a ward;
- (b) may, at his discretion, or in accordance with any such arrangements, return an interstate ward to the care or guardianship of his appropriate authority; and
- (c) shall, where the appropriate authority for an interstate ward requests him to do so, return the interstate ward to the care or guardianship of that appropriate authority.

(4) Where, in the opinion of the Minister, the law of a State of the Commonwealth of Australia other than New South Wales, or of a Territory, makes the like provision for or with respect to a

ward

Child Welfare (Amendment).

ward entering that State as is made by subsections two and three of this section for or with respect to an interstate ward and, upon a request by the Minister, such a provision corresponding to subsection two of this section is applied to a ward who leaves New South Wales, the powers, authorities, duties and functions conferred or imposed by or under this Act upon the Minister and other persons shall be deemed to have been suspended in relation to that ward while he remains under care or guardianship in consequence of the application of that provision, except in so far as they may be exercised or performed in accordance with arrangements made under paragraph (a) of subsection three of this section.

- (t) by omitting section one hundred and forty and by inserting in lieu thereof the following section :—

140. (1) A ward shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion in which he is to be educated.

Sec. 140.
(Religious
teaching.)

Religious
teaching.

(2) For the purposes of subsection one of this section, a ward shall, subject to the other provisions of this section, be educated—

- (a) where the ward is illegitimate—in accordance with the wishes of his mother expressed for those purposes in the prescribed manner;
- (b) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, are identical—in accordance with those wishes;
- (c) where the ward is legitimate and the wishes of his parents, expressed for those purposes in the prescribed manner, differ, the one from the other—
 - (i) in accordance with the wishes of the father; or

(ii)

Child Welfare (Amendment).

- (ii) where the Minister is satisfied that the father has failed to discharge his parental obligations to the ward, in accordance with the wishes of the mother;
- (d) where the ward is legitimate and one of his parents has expressed, in the prescribed manner, his or her wishes for those purposes while the other parent has failed so to express any such wishes or, in the prescribed manner, has declined to express any such wishes—in accordance with the wishes so expressed;
- (e) where the ward is legitimate and only one of his parents is living or can on reasonable inquiry be found—in accordance with the wishes, expressed for those purposes in the prescribed manner, of that parent.

(3) Subject to the other provisions of this section, where neither parent of a ward is living, or where neither parent of a ward can upon reasonable inquiry be found, or where the parent of a ward in accordance with whose wishes the ward would, if expressed pursuant to subsection two of this section, be educated, has failed to express those wishes in the prescribed manner, or has, in the prescribed manner, declined to express those wishes, the ward shall, for the purposes of subsection one of this section, be educated—

- (a) where the ward has, during the period of two years next preceding his admission to State control, been brought up in a particular religious persuasion and no other—in the persuasion in which he has been so brought up; or

(b)

Child Welfare (Amendment).

- (b) where the ward has not, during that period, been brought up in any religious persuasion, or where he has, during that period, been brought up in more than one religious persuasion and—
 - (i) has not attained the age of twelve years—in such religious persuasion as the Minister may, after ascertaining the wishes (if any) of the ward and, if practicable, the religious persuasion or persuasions of his parents—direct; or
 - (ii) has attained the age of twelve years (whether or not he is a ward in respect of whom a direction has been given under subparagraph (i) of this paragraph)—in such religious persuasion approved by the Minister as the ward selects.

(4) Notwithstanding anything contained in subsection two or three of this section, where the Minister is satisfied that a ward who is a young person has, in the prescribed manner, genuinely expressed a wish to be educated in a religious persuasion differing from that in which he is being, or but for this subsection would be, educated, the ward shall, for the purposes of subsection one of this section, be educated in the religious persuasion so selected by him.

(5) Notwithstanding any other provision of this section, where the Minister is satisfied that the welfare of a ward would be promoted if the ward were boarded-out, placed-out or placed as an adopted boarder and that it is impracticable to direct the removal or transfer of the ward to the care of a foster parent of the same religious persuasion

Child Welfare (Amendment).

persuasion as that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, the Minister may—

- (a) direct that the ward be removed or transferred to the care of a foster parent of a religious persuasion that differs from that in which the ward is being, or is to be, educated as provided by subsection two, three or four of this section, subject to that foster parent agreeing not to hinder or impede the religious education of the ward as so provided; or
- (b) where he is satisfied that the welfare of the ward would thereby be promoted, and subject to the observance of any procedures that may be prescribed for the purpose, direct that the ward be removed or transferred to the care of such a foster parent and be educated in such religious persuasion other than that authorised by subsection two, three or four of this section as the Minister may specify when giving the direction.

(6) For the purposes of this section, the prescribed manner shall be by writing, signed by the parent or young person concerned and delivered—

- (a) in the case of the parent of a ward, at or about the time the ward is, or is to be, admitted to State control or as soon as practicable within the period of one year thereafter; or
- (b) in the case of a young person, as soon as practicable after the expression of his wish, to the Minister or to some person appearing to be authorised by him for the purpose.

(7)

Child Welfare (Amendment).

(7) The provisions of subsection three of section twenty-three of this Act shall, mutatis mutandis, apply to and in respect of the powers conferred upon the Minister by this section.

- (u) by inserting next after subsection two of section one hundred and forty-four the following new subsections :— Sec. 144.
(Medical examination.)

(3) The Minister or any officer specially authorised by the Minister in that behalf may consent to any surgical or other operation on a person (not being a ward) who is a minor and has, under this Act, been admitted to an establishment under the control of the Minister, or detained at a place of safety where—

- (a) the Minister or officer, as the case may be, is advised by a medical practitioner that the operation is necessary in the interests of the health or welfare of that person; and
- (b) the consent of the parent or guardian of that person cannot, in the circumstances, reasonably be obtained.

(4) A medical practitioner carrying out a surgical or other operation pursuant to a consent given under subsection two or three of this section shall not, by carrying out the operation, incur any liability that he would not have incurred had the parent or guardian of the person upon whom the operation is carried out consented thereto.

- (v) by inserting next after section one hundred and forty-eight the following new section :— New sec. 148A.

148A. A person who in any manner tattoos any part of the body of a child or young person shall be guilty of an offence against this Act unless he has first obtained the written permission of the

parent

Child Welfare (Amendment).

parent or guardian of the child or young person to tattoo the child or young person in that manner on that part of his body.

New
Part XXI.

- (w) by inserting next after section one hundred and eighty-one the following new Part :—

PART XXI.

WELFARE SERVICES TRAINING COUNCIL.

Constitu-
tion of
Welfare
Services
Training
Council.

182. (1) There shall be a Welfare Services Training Council, hereinafter in this Part of this Act referred to as "the Council", consisting of not more than twelve members appointed by the Governor.

(2) Of the members of the Council—

- (a) three shall be officers nominated by the Minister; and
- (b) the remaining members shall be persons nominated in accordance with subsection three of this section.

(3) For the purposes of the appointment of the members of the Council referred to in paragraph (b) of subsection two of this section, nominations may be submitted to the Minister in accordance with regulations prescribing—

- (a) persons who, or organisations or other classes of persons that, may submit nominations;
- (b) the number of nominations that may be submitted by each person, organisation or class so prescribed; and
- (c) the times within which such nominations may be submitted.

The

Child Welfare (Amendment).

The regulations may provide for the nomination of a number of persons in excess of the number of members of the Council that may be appointed.

(4) A member of the Council shall, subject to this Act and the regulations, hold office for such term (not exceeding in any case four years) as the Governor may specify in the instrument of appointment and shall, if otherwise qualified, be eligible for reappointment.

(5) In the case of a casual vacancy in the office of a member of the Council, the Governor may appoint a person to the vacant office (being, where the vacancy is in the office of a person who was nominated for membership by the Minister, an officer nominated by the Minister) and the person so appointed shall hold office for the residue of his predecessor's term of office.

(6) A member of the Council shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) absents himself from four consecutive meetings of the Council without leave of the Council;
- (f) being a nominee of the Minister, ceases to be an officer; or
- (g) is removed from office by the Governor.

(7)

Child Welfare (Amendment).

(7) The Council shall, subject to this Act and the regulations, frame rules for the conduct of its business, but no such rules shall be operative until they have been approved by the Minister.

(8) Meetings of the Council shall be convened so that at least six meetings are held in every year.

(9) The provisions of the Public Service Act, 1902, as amended by subsequent Acts, shall not apply to or in respect of the appointment by the Governor of any member of the Council, and any member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act, as so amended, during his term of office.

**Duties and
functions
of Council.**

183. (1) The Council may make reports and recommendations to the Minister with respect to—

- (a) the provision of courses of instruction and training for persons employed in, or considering employment in, a welfare service, either in a voluntary or a paid capacity;
- (b) the status of courses of instruction and training of the kind referred to in paragraph (a) of this subsection that are conducted within or outside New South Wales;
- (c) such other matters connected with training of the kind referred to in paragraph (a) of this subsection as may be referred to it by the Minister;
- (d) any other matter connected with training of the kind referred to in paragraph (a) of this subsection.

(2)

Child Welfare (Amendment).

(2) Subject to subsection one of this section the functions of the Council shall be—

- (a) to recommend courses of instruction and training for approval by the Minister and to encourage the conduct of such courses;
- (b) to recommend to the Minister the accreditation of courses conducted by other organisations;
- (c) to exercise a general supervision over the standards of theoretical and practical training approved or accredited by the Minister;
- (d) to conduct written, practical or oral examinations and to have regard to the results of examinations conducted by other organisations in respect of accredited courses;
- (e) to issue certificates of qualification to persons who have passed examinations or have attained a standard of proficiency acceptable to the Council in respect of courses approved or accredited by the Minister.

(3) The Council may appoint sub-committees to deal with specified matters within the scope of the functions of the Council.

(4) The convenor of each sub-committee shall be a member of the Council and each sub-committee shall consist of such number of other persons, whether members of the Council or not, as the Council may determine.

(5) The Council in appointing persons to a sub-committee shall include amongst the membership of the sub-committee persons who have practical experience in the conduct or administration of one or more kinds of child welfare or social welfare

Child Welfare (Amendment).

welfare service or in the training of persons to provide any such service, selected from one or more of the following classes of persons :—

- (a) medical practitioners (including persons having knowledge of and experience in paediatrics or psychiatry);
- (b) barristers or solicitors;
- (c) persons having knowledge of and experience in education;
- (d) persons having knowledge of and experience in psychology;
- (e) persons having knowledge of and experience in social work;
- (f) persons having knowledge of and experience in recreation;
- (g) persons having knowledge of and experience in religious education; and
- (h) persons having other suitable qualifications or experience.

Minister to be authority to approve or accredit courses.

184. The Minister shall be the authority to—

- (a) approve of courses of instruction and training for welfare services where those courses are not prescribed in accordance with the provisions of any other Act or regulations; and
- (b) extend accreditation for the purposes of this Part to courses of instruction and training that are not so prescribed.

185. The regulations may—

- (a) prescribe the procedure to be followed—
 - (i) in appointing a Chairman of the Council; and
 - (ii)

Child Welfare (Amendment).

- (ii) in convening and conducting meetings of the Council;
- (b) prescribe the fees to be paid to members of the Council other than officers and the allowances to be paid to members of the Council including officers;
- (c) prescribe such forms and documents as are necessary or expedient for the administration of this Part;
- (d) prescribe the fees to be paid by persons attending courses of instruction and training conducted by or on behalf of the Director or any other officer.

(2) Paragraph (w) of subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

3. (1) The Child Welfare Act, 1939, as subsequently amended, is further amended by inserting next after subsection one of section eight the following new subsections :—

Further amendment of Act No. 17, 1939. Sec. 8. (Advisory council.)

(1A) A person appointed pursuant to subsection one of this section shall hold office for such term (not exceeding four years) as the Governor may specify in the instrument of appointment, and shall be eligible for reappointment.

(1B) In the case of a casual vacancy in the office of a person appointed pursuant to subsection one of this section, the Governor may appoint a person to the vacant office and the person so appointed shall hold office for the residue of his predecessor's term of office.

(1c) A member of the council shall be deemed to have vacated his office if he—

(a) dies;

(b)

Child Welfare (Amendment).

- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes bankrupt, compounds with his creditors or makes any assignment of his salary or estate for their benefit;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (e) absents himself from four consecutive meetings of the council without leave of the council; or
- (f) is removed from office by the Governor.

(2) The persons holding office at the commencement of this section as members of the Child Welfare Advisory Council constituted under section eight of the Child Welfare Act, 1939, as subsequently amended, shall be deemed to have been appointed under that section of that Act, as so amended and as amended by subsection one of this section, for a term expiring on the thirty-first day of January, one thousand nine hundred and seventy-two.

Further amendment of Act No. 17, 1939.

New sec. 81A.

Recognizance may be entered into before certain persons.

4. The Child Welfare Act, 1939, as subsequently amended, is further amended—

- (a) by inserting next after section eighty-one the following new section :—

81A. Where a child or young person in the custody of the superintendent of an institution or the keeper of a shelter is entitled to be discharged or liberated upon his entering into a recognizance in such amount, and with such surety or sureties, if any, as may have been ordered according to law, the recognizance may be entered into before that superintendent or keeper as if he were a gaoler.

(b)

Child Welfare (Amendment).

- (b) by inserting next after section eighty-three the following new section :—

New sec.
83A.

83A. The provisions of sections ninety-four and ninety-five of the Justices Act, 1902, as amended by subsequent Acts, shall apply to and in respect of a person committed to a shelter, or to an institution, in default of payment of a penalty, or of compensation, damages or costs, and shall so apply as if—

Payment of
penalty,
etc., to
superinten-
dent of
institution
or keeper
of shelter.

- (a) that person had been imprisoned for non-payment of an amount adjudged to be paid by the conviction or order of a Justice or Justices for a term the same as that for which he is to be detained in the shelter or institution; and
- (b) the superintendent of the institution or the person for the time being in charge of the shelter, as the case may be, were the keeper of the prison.

5. The Child Welfare Act, 1939, as subsequently amended, is further amended—

Further
amendment
of Act No.
17, 1939.

- (a) (i) by omitting subsection two of section one hundred and thirty-three;
- (ii) by omitting from subsection three of the same section the words "not be released therefrom" and by inserting in lieu thereof the word "not,";
- (iii) by inserting in the same subsection after the word "infection" the following words :—

Sec. 133.
(Child
believed to
be suffering
from
venereal
disease.)

, be released therefrom except upon license granted—

- (a) by the Governor, where the Governor would, but for this subsection,

Child Welfare (Amendment).

subsection, be empowered to discharge the child or young person from an institution; or

(b) by the Minister, where the Minister would, but for this subsection, be so empowered;

(iv) by inserting next after subsection three of the same section the following new subsections :—

(3A) It shall be a condition of a license granted under subsection three of this section that the person released shall obtain treatment for venereal disease and otherwise comply with the provisions of the Venereal Diseases Act, 1918, as amended by subsequent Acts, relating to persons suffering therefrom.

(3B) The Minister may revoke a license granted under section three of this Act, whether or not he is the grantor thereof and, upon any such revocation, the person to whom the license relates may be dealt with as if he had absconded from an institution.

(v) by omitting from subsection four of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection three of this section";

(vi)

Child Welfare (Amendment).

(vi) by inserting in subsection five of the same section after the word "certified" the words "or released";

(b) (i) by omitting subsection one of section one hundred and thirty-four and by inserting in lieu thereof the following subsections:—

Sec. 134.
(Medical
examina-
tion:
Venereal
disease.)

(1) No ward shall be transferred from a depot, home or hostel to be boarded-out, placed-out or placed as an adopted boarder, unless he has been—

(a) examined by a medical practitioner;
and

(b) certified by such medical practitioner as being, in the opinion of that medical practitioner, apparently free from venereal disease, or no longer liable to convey infection.

(1A) Where a ward has not been admitted to a depot, home or hostel established under this Act, an examination as provided by subsection one of this section shall be carried out and a certificate obtained as soon as practicable after the ward has been admitted to State control and a further examination may be carried out, and a certificate obtained, at any time at the request of an officer authorised in that behalf by the Minister.

(ii) by omitting from subsection two of the same section the words "Such certificate" and by inserting in lieu thereof the words "A certificate referred to in subsection one or (1A) of this section".

Child Welfare (Amendment).

Further amendment of Act No. 17, 1939.

Sec. 54.
(Discharge of child or young person.)

6. The Child Welfare Act, 1939, as subsequently amended, is further amended—

(a) by inserting next after subsection two of section fifty-four the following new subsections :—

(3) Notwithstanding anything contained in subsections one and two of this section, a person transferred to an institution under section ninety-four of this Act shall not, while under sentence of imprisonment, be discharged from an institution except pursuant to subsection four of this section.

(4) The Minister may, by order, discharge from an institution a person referred to in subsection three of this section on such terms and conditions as he deems desirable and specifies in the order and shall, in any such order, specify the period for which the order is to remain in force for the purposes of section 2A of the Parole of Prisoners Act, 1966, as subsequently amended.

(5) The Minister shall cause a copy of an order made under subsection four of this section, and a statement of the date of birth of the person to whom it refers, to be served on the Parole Board constituted under the Parole of Prisoners Act, 1966, as subsequently amended.

Sec. 55.
(Absconder may be apprehended.)

(b) (i) by omitting from section fifty-five the word "ward" and by inserting in lieu thereof the words "other person detained in an institution";

(ii) by omitting from the same section the word and symbol "superintendent," and by inserting in lieu thereof the words "superintendent or, being a child or young person, is in breach of the terms and conditions specified in an order for his discharge made under subsection four of section fifty-four of this Act,".

7.

Child Welfare (Amendment).

7. The Parole of Prisoners Act, 1966, is amended by inserting next after section two the following new section :—

Amendment
of Act No.
41, 1966.
New sec.
2A.

2A. (1) Where a person is transferred to an institution pursuant to an order made under subsection one of section ninety-four of the Child Welfare Act, 1939, as amended by subsequent Acts, the powers, authorities, duties and functions conferred or imposed upon the Board by this Act shall not be exercised or performed in relation to that person during the period of his detention pursuant to that order.

Limitation
of powers
of Board
in certain
circum-
stances.

(2) Subject to this section, an order of discharge under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be a parole order duly made by the Board under section six of this Act.

(3) Where a parole order referred to in subsection two of this section relates to a person who, at the time of his discharge from an institution had not attained the age of eighteen years, the powers, authorities, duties and functions that, but for this subsection, would be conferred or imposed by this Act upon the Board in relation to the parole order shall, subject to this section, be exercised and performed by the Minister for the time being administering the Child Welfare Act, 1939, as amended by subsequent Acts, to the exclusion of the Board, until that person attains the age of eighteen years or the parole period earlier expires.

(4) Subject to this Act, a parole order referred to in subsection two of this section shall—

- (a) remain in force for the period; and
- (b) be subject to the terms and conditions,

specified in the discharge order deemed, by that subsection, to be the parole order.

(5)

Child Welfare (Amendment).

(5) For the purposes of this Act, discharge from an institution under subsection four of section fifty-four of the Child Welfare Act, 1939, as amended by subsequent Acts, shall be deemed to be release, on parole, from a prison.

(6) The powers conferred by subsection three of section six of this Act shall not be exercised in respect of a parole order referred to in subsection two of this section before the person to whom the parole order relates attains the age of eighteen years.

(7) Nothing in this section shall prejudice or affect any power, authority, duty or function conferred or imposed by or under the Child Welfare Act, 1939, as amended by subsequent Acts, upon the Minister for the time being administering that Act, as so amended, or upon any other person.

Amendment
of Act No.
11, 1966.
Sec. 2.
(Amend-
ment of
Act No. 17,
1939.)
(Regula-
tions.)

8. (1) The Child Welfare (Amendment) Act, 1966, is amended by inserting in paragraph (f) of section two, at the end of section thirty-eight to be inserted in the Child Welfare Act, 1939, as amended by subsequent Acts, the following new subsections :—

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

(3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part, or from compliance with any part of such a regulation or from compliance with any condition of a license.

(2) Subsection one of this section shall commence on the day on which paragraph (f) of section two of the Child Welfare (Amendment) Act, 1966, commences.

Child Welfare (Amendment).

9. (1) The Child Welfare (Amendment) Act, 1967, is amended—

- (a) by omitting from paragraph (e) of section three, in subsection one of section forty-seven to be inserted in the Child Welfare Act, 1939, as subsequently amended, the words “, or is charged with being,”; Amendment of Act No. 27, 1967. Sec. 3. (Further amendment of Act No. 17, 1939.)
- (b) by inserting in the same paragraph at the end of section 48M to be inserted in the Child Welfare Act, 1939, as subsequently amended, the following new subsections :— (Regulations.)

(2) A prescribed form of license may provide for the classification of licenses according to specified standards.

(3) The Minister may by order exempt any person or licensee from compliance with any regulation made for the purposes of this Part or from compliance with any part of such a regulation or from compliance with any condition of a license.

(2) Subsection one of this section shall commence on the day on which paragraph (e) of section three of the Child Welfare (Amendment) Act, 1967, commences.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 9th April, 1969.*

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE
COMMISSION ON THE
STRUCTURE OF THE
ATOMIC NUCLEUS

BY
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AND
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