

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 27 October, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1977.

An Act to amend the Child Welfare Act, 1939, with respect to the admissibility in evidence of certain statements made by children and young persons; and to vary certain provisions to be inserted in that Act relating to proceedings before, and decisions of, Tribunals to be established under Part IX of that Act.

BE

Child Welfare (Further 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 :—

6 1. This Act may be cited as the "Child Welfare (Further Short title. Amendment) Act, 1977".

2. The Child Welfare Act, 1939, is referred to in this Principal Act as the Principal Act. Principal Act.

3. This Act contains the following Schedules :— Schedules.

10 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE (AMENDMENT) ACT, 1977.

15 4. (1) The Principal Act is amended in the manner set forth in Schedule 1. Amendment of Act No. 17, 1939.

(2) Schedule 2 (3) to the Child Welfare (Amendment) Act, 1977, is amended in the manner set forth in Schedule 2. Amendment of Act No. 20, 1977.

Child Welfare (Further Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 81c—

Omit the section, insert instead :—

- 5 81c. (1) In subsection (3), "proceedings relating to a child or young person" means any proceedings—
- (a) in which a child or young person is; or
- (b) arising out of any other proceedings in which a child or young person was,
- 10 brought before a court as a neglected child or as an uncontrollable child or young person or alleged to have committed an offence.
- (2) In subsection (3), a reference to a
- 15 person acting judicially includes a reference to a person making a determination as to the admissibility of evidence in committal proceedings.
- (3) A person acting judicially in any proceedings relating to a child or young person, when determining, on or after the date of assent to the
- 20 Child Welfare (Further Amendment) Act, 1977, the admissibility in evidence of any statement, confession, admission or information made or given in a police station by the child or young person—
- (a) before that date, shall apply the law relating
- 25 to the admissibility of the statement, confession, admission or information that was in force when it was made or given; or

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) on or after that date, shall not admit the statement, confession, admission or information in evidence unless there was present at the place in the police station where, and throughout the period of time during which, it was made or given—

(i) one of his parents;

10 (ii) a person aged 18 years or upwards who has his guardianship;

15 (iii) in the case of a child or young person, with the consent of a person referred to in subparagraph (i) or (ii) or, in the case of a young person, with his consent—a person aged 18 years or upwards who is neither a person referred to in either of those subparagraphs nor a member of the police force; or

20 (iv) a duly qualified legal practitioner of his own choosing,

25 or unless the person acting judicially is satisfied that there was a proper and sufficient reason for none of the persons referred to in subparagraph (i), (ii), (iii) or (iv) to have been present at the place in the police station where the statement, confession, admission or information was made

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE PRINCIPAL ACT—continued.

5 or given throughout the period of time during which it was made or given and the person so acting considers that, in the particular circumstances of the case, the statement, confession, admission or information should be admitted in evidence in those proceedings.

10 (4) Subsection (3) does not apply in respect of any particulars required to be given by or under any other Act.

(2) Section 146A—

Omit the section.

15

SCHEDULE 2.

Sec. 4 (2).

AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE (AMENDMENT) ACT, 1977.

(1) Section 44F (3)—

Omit the subsection.

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE
(AMENDMENT) ACT, 1977—*continued.*

(2) Section 44G (2)—

- 5 Omit the subsection.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

[8c]

PROOF

No. , 1977.

A BILL

To amend the Child Welfare Act, 1939, to make further provision in relation to neglected children and children who have been assaulted, ill-treated or exposed, and in certain other respects; and to validate certain matters.

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. This Act may be cited as the "Child Welfare Short title. (Amendment) Act, 1977".

2. (1) Except as provided in subsections (2)–(6), this Commence-
Act shall commence on the date of assent to this Act. ment.

10 (2) Section 6 shall, in its application to a provision of Schedules 1–5, commence on the day on which that provision commences.

(3) Schedules 2 and 3 and the several provisions of Schedules 4 and 5 shall commence on such day or days as
15 may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Sections 10 and 11 shall commence on the day on which Schedule 2 commences.

(5) Section 12 (1) shall commence on the day on
20 which Schedule 5 (1) commences.

(6) Section 12 (2) shall commence on the day on which Schedule 5 (2) commences.

3. The Child Welfare Act, 1939, is in this Act referred to Principal
as the Principal Act. Act.

Child Welfare (Amendment).

4. In this Act, "appointed day" means the day on which Schedule 2 commences. Interpre-
tation.

5. This Act contains the following Schedules :— Schedules.

5 SCHEDULE 1.—AMENDMENT TO PART I OF THE
CHILD WELFARE ACT, 1939.

SCHEDULE 2.—AMENDMENTS TO PART IX OF THE
CHILD WELFARE ACT, 1939.

SCHEDULE 3.—AMENDMENTS TO PART X OF THE
CHILD WELFARE ACT, 1939.

10 SCHEDULE 4.—AMENDMENTS TO PART XIV OF THE
CHILD WELFARE ACT, 1939.

SCHEDULE 5.—AMENDMENTS TO PART XVII OF THE
CHILD WELFARE ACT, 1939.

15 6. The Principal Act is amended in the manner set forth
in Schedules 1-5. Amendment
of Act No.
17, 1939.

7. (1) Section 3 of the Child Welfare (Amendment) Act, 1967, shall be deemed to have commenced on 1st January, 1974. Commence-
ment of
certain
enactments.

20 (2) For the purpose of removal of doubt it is declared
that—

25 (a) the provisions of section 10 of the Youth and
Community Services Act, 1973, in so far as they
effect the amendment specified in Part 2 of the
Schedule to that Act, and of Part 2 of that Schedule,
commenced; and

(b) the provisions of Part 1 of that Schedule amending
the Child Welfare (Amendment) Act, 1967, took
effect,

on 1st February, 1974.

Child Welfare (Amendment).

8. (1) In this section, "relevant period" means the Validation of certain appointments, etc.
interval of time commencing with 1st January, 1974, and
continuing until the expiration of the period of 3 months
commencing with the appointed day.

5 (2) Any act, matter or thing that has been, or is, done
or omitted to be done during the relevant period by—

(a) the Governor;

(b) the Minister for the time being administering the
Principal Act; or

10 (c) an officer or employee of the Crown,

that—

(d) would have been, or would be, lawfully done or
omitted to be done—

15 (i) if section 3 of the Child Welfare (Amend-
ment) Act, 1967, had commenced on 1st
January, 1974; or

20 (ii) in relation to a person, if that section had
commenced on 1st January, 1974, and an
order that could have been made in respect
of the person under section 46 or 47 of the
Principal Act had been or were in force in
respect of the person at the time when the
act, matter or thing was, or is, done or
omitted to be done; and

25 (e) would not have been, or would not be, lawfully
done or omitted to be done if this section had not
been enacted,

is validated or authorised, as the case may require.

Child Welfare (Amendment).

9. Any act, matter or thing that has been, or is, done or omitted to be done before the appointed day by persons appointed under section 44 of the Principal Act, that —

Validation
of orders,
etc., of
former
Tribunal.

(a) could have been, or could be, lawfully done or omitted to be done by persons appointed under section 43A of the Principal Act, as amended by section 6 and Schedule 2, if the Principal Act, as so amended, had been or were in force at the time when the act, matter or thing was done or omitted to be done; and

(b) could not have been, or could not be, lawfully done or omitted to be done if this section had not been enacted,

is validated or authorised, as the case may require, and shall be deemed to have had and to have, or to have, the same consequences as if it had been or were lawfully done or omitted to be done.

10. (1) A person who, immediately before the appointed day, held office as a member of the Intellectually Handicapped Persons Review Tribunal under Part IX of the Principal Act shall, on that day, be deemed to have been appointed under section 43A (2) of that Act, as amended by this Act, as a member of the Intellectually Handicapped Persons Review Panel for a term of 3 years commencing with the appointed day.

Certain
persons
deemed
appointed.

(2) A person who, immediately before the appointed day, held office as Chairman or Deputy Chairman of the Intellectually Handicapped Persons Review Tribunal under Part IX of the Principal Act shall, on that day, be deemed to have been appointed under section 43A (4) of that Act, as amended by this Act—

(a) in the case of the person who held office as Chairman—as President of the Intellectually Handicapped Persons Review Tribunals; and

(b)

Child Welfare (Amendment).

- (b) in the case of the person who held office as Deputy Chairman—as Deputy President of the Intellectually Handicapped Persons Review Tribunals.

11. (1) In this section, "Part IX" means Part IX of the **5** Principal Act, as amended by this Act.

Minister may make certain interim orders.

(2) Where at any time during the period of 3 months commencing with the appointed day, the Minister is satisfied that—

10 (a) a person who, at any time occurring after 31st December, 1973, but before the appointed day, has been—

(i) admitted to State control;

(ii) committed to the care of the Minister to be dealt with as a ward admitted to State control; or

15

(iii) committed to an institution within the meaning of the Principal Act, as amended by this Act,

20

is intellectually handicapped to such a degree that he requires, otherwise than for continuous medical treatment or attention in a hospital, care, protection or supervision in his own interests or in the interests of others; and

25

(b) the interests of the person would be promoted if he were dealt with as an intellectually handicapped person under the provisions of Part IX,

30

the Minister may make an order that the person be dealt with under the provisions of Part IX as an intellectually handicapped person and such an order shall, subject to subsection (4), be deemed to have been duly made under section 46 of the Principal Act.

(3)

Child Welfare (Amendment).

(3) Before he makes an order in respect of a person under subsection (2), the Minister shall—

- 5 (a) if he knows the name and address of either parent of the person—serve notice on the parent, either personally or by post, of his intention to make the order; and
- 10 (b) if he has served a notice under paragraph (a)—consider any representations made to him by any person in respect of the firstmentioned person within 10 days of the date of service of the notice.

(4) Where an order is made under this section, Part IX has effect in relation to the order as if that Part had been amended—

- 15 (a) by omitting from section 48A (1) (b) the words “two years,” and by inserting instead the words “two years; or”;
- (b) by inserting after section 48A (1) (b) the following paragraph :—
 - 20 (c) notwithstanding paragraphs (a) and (b), remain in force, if the order has been made under section 11 (2) of the Child Welfare (Amendment) Act, 1977, for a period of 3 months,
- 25 (c) by inserting in section 48A (1) after the words “two years” where secondly occurring, the words “or 3 months”;
- (d) by inserting after section 48A (5) the following subsection :—
 - 30 (5A) A Tribunal may not make an interim determination under subsection (5) renewing an order made under section 11 (2) of the Child Welfare (Amendment) Act, 1977.

Child Welfare (Amendment).

12. (1) Notwithstanding section 126 of the Principal Savings.
Act, as amended by this Act, where a child—

(a) committed an offence before the day on which this
subsection commences; and

5 (b) had, at the time he committed the offence, attained
the age of eight years,

he may be found guilty of the offence.

(2) Notwithstanding section 132 (1) of the Principal
Act, as amended by this Act, a person who, on or after the
10 day on which this subsection commences, is found guilty of
an offence committed against the Principal Act before that
day shall not be liable to any greater penalty than that to
which he would have been liable if he had been found guilty
of the offence immediately after he had committed it.

15

SCHEDULE 1.

Sec. 6.

AMENDMENT TO PART I OF THE CHILD WELFARE ACT, 1939.

Section 4 (3)—

After section 4 (2), insert :—

20 (3) A reference in this Act to a "constable" or a
"constable of police" includes, and shall be deemed to
have always included, a reference to any member of
the police force.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2.

Sec. 6.

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939.

(1) (a) Section 43 (1), definition of "Deputy President"—

5 After the definition of "Court", insert :—

"Deputy President" means the Deputy
President of the Tribunals.

(b) Section 43 (1), definition of "Member"—

10 After the definition of "Intellectually handicapped
person", insert :—

"Member" means a member of the Review
Panel.

(c) Section 43 (1), definitions of "President" and
"Review Panel"—

15 After the definition of "Organisation", insert :—

"President" means the President of the
Tribunals.

20 "Review Panel" means the Intellectually
Handicapped Persons Review Panel
referred to in section 43A (1).

(d) Section 43 (1), definition of "Tribunal"—

Omit the definition, insert instead :—

25 "Tribunal" means an Intellectually Handi-
capped Persons Review Tribunal
established under section 44 (2).

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

(2) Sections 43A–43D—

5 After section 43, insert :—

43A. (1) There shall be an Intellectually Handi- **Review**
capped Persons Review Panel. **Panel.**

10 (2) Subject to this section, the Governor
may appoint persons as members of the Review
Panel.

(3) The members shall be appointed from
one or more of the following classes of persons :—

- (a) medical practitioners;
- (b) barristers and solicitors;
- 15 (c) persons having knowledge of and experience
in administration;
- (d) persons having knowledge of and experience
in education;
- 20 (e) persons having knowledge of and experience
in psychology;
- (f) persons having knowledge of and experience
in social work;
- 25 (g) persons in the opinion of the Governor
having other suitable qualifications or
experience.

(4) Of the members—

- (a) one shall be appointed as President of the
Tribunals; and

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (b) one shall be appointed as Deputy President
of the Tribunals,

in the instrument or instruments appointing them as
members or by a subsequent instrument or instruments
executed by the Governor.

(5) A person—

10 (a) who is a temporary patient, a continued
treatment patient, a protected person or
an incapable person within the meaning of
the Mental Health Act, 1958, or a person
under detention under Part VII of that Act;
15 or

(b) who is bankrupt, is applying to take the
benefit of any law for the relief of bankrupt
or insolvent debtors, whose debts are sub-
ject to a composition with his creditors, or
20 whose fees or allowances would, upon his
appointment, be subject to an assignment
for their benefit,

is not eligible to be appointed as a member.

25 (6) The Public Service Act, 1902, does not
apply to or in respect of the appointment of a member
and a member is not, in his capacity as a member,
subject to that Act while he holds office as a member.

30 43B. (1) Subject to subsection (4), a member
shall hold office for the period of 3 years commencing
with the day from which he is declared to be appointed
in the instrument appointing him or such shorter
period as may be specified in that instrument and
may, if he is otherwise eligible, be re-appointed as a
member.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (2) A member shall be paid such fees and allowances as may from time to time be determined in respect of him by the Governor.

(3) The Governor may, for any cause that to him seems sufficient, remove a member from office.

10 (4) A member shall be deemed to have vacated his office if he—

(a) dies;

(b) resigns his office by writing under his hand addressed to the Governor;

15 (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his fees or allowances, or estate, for their benefit;

20 (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

25 or
(e) is removed from office by the Governor.

30 43c. (1) A President or Deputy President holds his office until he ceases to be a member and is eligible, if he is re-appointed as a member, to be appointed or re-appointed, as the case may be, as President or Deputy President.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (2) A Deputy President may exercise or perform the powers or duties of a President under this Part—

(a) if the President—

10 (i) delegates his powers and duties to the Deputy President (which the President is hereby authorised to do);

(ii) is absent from the State; or

15 (iii) is prevented by illness or other incapacity from exercising or performing his powers or duties under this Part; or

(b) if there is no person holding the office of President.

20 (3) No person shall be concerned to inquire whether or not any occasion has arisen authorising a Deputy President to exercise or perform the powers or duties of a President and all acts or things done or omitted to be done by a Deputy President when exercising or performing those powers or duties shall
25 be as valid and shall have the same consequences as if they had been done or omitted to be done by a President.

30 43D. (1) A delegation under section 43C (2) (a) (i) shall be by instrument in writing and may be made subject to such conditions or such limitations as to the exercise or performance of the power or duty delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

Form and
effect of
delegation.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

- 5 (2) A power or duty, the exercise or performance of which has been delegated under section 43C (2) (a) (i) may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.

(3) Sections 44–44J—

- 10 Omit section 44, insert instead :—

44.(1) The President may establish an Intellectually Handicapped Persons Review Tribunal— Establishment of Tribunals.

- (a) generally for the purposes of section 48A, 48B or 48G; or
- 15 (b) for the purposes of—
- (i) any class of cases; or
- (ii) any particular case,
- that may arise or arises under any one or more of those sections.

- 20 (2) The President establishes a Tribunal by—

- (a) appointing members to the Tribunal so that the Tribunal is constituted in accordance with this section;
- 25 (b) where the President and the Deputy President are not among the members so appointed—nominating one of those members as chairman of the Tribunal; and

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (c) notifying the members so appointed, or causing those members to be notified, of their appointment and the purpose for which the Tribunal has been established.

(3) A Tribunal shall consist of not less than 3 nor more than 5 members.

10 44A. (1) The procedure for the conduct of business of a Tribunal shall, subject to this Part and any rules made under subsection (5), be as determined by the Tribunal. ^{Procedure of Tribunals.}

(2) At a meeting of a Tribunal—

15 (a) if he has been appointed to the Tribunal—the President;

(b) if the President has not been appointed to the Tribunal but the Deputy President has been so appointed—the Deputy President;
20 or

(c) if a chairman for the Tribunal has been nominated under section 44 (2) (b)—that member,

shall preside as chairman of the Tribunal.

25 (3) Subject to section 48A, a Tribunal may from time to time adjourn its proceedings to such times, dates and places and for such reasons as it thinks fit.

30 (4) The chairman of a Tribunal shall, in the event of an equality of votes at a meeting of the Tribunal, have a second or casting vote.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—continued.

5 (5) Five members, who shall include the President or Deputy President, or both, may make rules not inconsistent with this Part for or with respect to the convening of and procedure at meetings of a Tribunal.

10 44B. A Tribunal is not bound by the rules or Evidence. practice as to evidence and may inform itself of any matter in such manner as it thinks fit.

44C. (1) The chairman of a Tribunal may— Powers of a chairman of a Tribunal.
15 (a) by instrument in writing under his hand, require any person on whom the instrument is served personally or by post—

(i) to appear before the Tribunal for the purpose of giving evidence; or
20 (ii) to produce to the Tribunal any document (including a document in the possession of, or belonging to, the Crown) that is relevant to the purpose for which the Tribunal was established,

25 at a time, date and place specified in the instrument;

(b) require a person who appears before the Tribunal to be sworn for the purpose of his giving evidence on oath; and

30 (c) administer an oath referred to in paragraph (b).

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—continued.

5 (2) Where a document is produced to a Tribunal in response to a requirement made under subsection (1), the Tribunal may take possession of the document for such period as it considers necessary for the purposes of the Tribunal.

10 44D. (1) Any member of a Tribunal may require a person (including an officer or employee of the Crown) who appears before the Tribunal to answer a question that is reasonably related to the purpose for which the Tribunal was established. Questions of a member of a Tribunal.

15 (2) A person is not excused from answering a question put to him by a member of a Tribunal on the ground that the answer might tend to incriminate him but, where the person claims, before answering the question, that the answer might tend to incriminate him, neither the question nor the answer is
20 admissible in evidence against him in criminal proceedings other than proceedings under section 44E (c) or in relation to a charge of perjury in respect of the answer.

25 44E. A person who— Offences.
(a) refuses, fails or neglects to comply with a requirement made of him by—
(i) the chairman of a Tribunal under section 44C (1) (a) or (b); or
(ii) any member of a Tribunal under
30 section 44D (1),
to the extent to which he is lawfully able to comply with the requirement;

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (b) in purported compliance with a requirement made of him by the chairman of a Tribunal under section 44c (1) (a) (ii), knowingly furnishes information that is false or misleading in a material particular; or

10 (c) not having been sworn, makes a statement that is a false or misleading in a material particular when he is appearing before the Tribunal,

15 shall be guilty of an offence against this Act and liable to a penalty not exceeding \$100.

20 44F. (1) A person, other than an officer, who is required to appear or to give evidence during proceedings of a Tribunal is entitled to be paid such allowances and expenses as the Minister may determine in respect of him. **Witnesses.**

(2) For the purposes of section 18 of the Defamation Act, 1974, the proceedings of a Tribunal shall be deemed to be an inquiry within the meaning of that section.

25 (3) A duly qualified legal practitioner acting for a person required to give evidence during proceedings of a Tribunal may—

(a) be present during those proceedings; and

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

- 5 (b) to the extent that the chairman of the
Tribunal permits—
- (i) address the Tribunal; and
- (ii) examine the person for whom he is
acting,
- 10 in relation to matters in respect of which
a member of the Tribunal has questioned
that person.

44G. (1) A decision supported by a majority of ^{Decisions} votes cast at a meeting of a Tribunal shall be the ^{of Tribunals.} decision of the Tribunal.

- 15 (2) When a Tribunal makes a decision in the
exercise or performance of its powers or duties under
section 48A or 48B, each of its members shall record
his reasons for casting his vote on the decision and the
chairman of the Tribunal shall then cause a record of
20 those reasons to be conveyed to the Director.

(3) No decision of a Tribunal shall be
vitiated by reason only of any informality or want of
form.

- 25 44H. (1) The chairman of a Tribunal shall cause ^{Record of} a record of the proceedings of a meeting of the ^{proceedings.} Tribunal to be—

- (a) made in the prescribed manner; and
- (b) conveyed to the Director as soon as is
30 practicable after the conclusion of the
meeting.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—continued.**

5 (2) The Director shall cause records conveyed to him under subsection (1) and section 44G (2) to be preserved for the prescribed period of time after he receives them.

10 44I. The President for the time being may dissolve a Tribunal by giving notice or causing notice to be given of its dissolution personally or by post to the members who have been appointed to the Tribunal—

(a) when the purpose for which the Tribunal was established has been achieved; or

(b) on any other reasonable grounds.

15 44J. No proceedings lie against a Tribunal or a member for or on account of any act, matter or thing done or ordered to be done by the Tribunal or member, and purporting to be done for the purposes of carrying out the provisions of this Part, if the Tribunal or member has acted in good faith and with reasonable care.

(4) (a) Section 48A (2)—

Omit “two months”, insert instead “3 months”.

(b) Section 48A (2)—

25 Omit “Tribunal and request for the reasons stated that the order be renewed”, insert instead “President or, if there is no President for the time being, to the Deputy President and request for the reasons stated that the order be renewed by a Tribunal”.

30

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

- (c) Section 48A (2A)—
 5 After section 48A (2), insert :—
 (2A) When the President or Deputy President
 receives reports and a request under subsection
 (2) he shall refer them to a Tribunal.
- (d) Section 48A (3)—
 10 After “Tribunal”, insert “to which the request has
 been referred”.
- (e) Section 48A (4)—
 Omit “the Tribunal” where firstly occurring,
 insert instead “a Tribunal”.
- 15 (f) Section 48A (5)—
 Omit “the order” where firstly occurring, insert
 instead “an order”.
- (g) Section 48A (5), (6)—
 20 Omit “the Tribunal” wherever occurring, insert
 instead “a Tribunal”.
- (5) (a) Section 48B (3)—
 Omit “the Tribunal for”, insert instead “the
 President, or if there is no President for the time
 being, to the Deputy President and request that”.
- 25 (b) Section 48B (3)—
 After “Part”, insert “be made by a Tribunal”.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART IX OF THE CHILD WELFARE ACT,
1939—*continued.*

(c) Section 48B (3A)—

5 After section 48B (3), insert:—

(3A) When the President or Deputy President receives a request under subsection (3) he shall refer it to a Tribunal.

(d) Section 48B (4)—

10 Omit “made to the Tribunal”, insert instead “referred to a Tribunal”.

(e) Section 48B (5)—

Omit “the Tribunal”, insert instead “a Tribunal”.

(f) Section 48B (6)—

15 Omit “The Tribunal if”, insert instead “If”.

(g) Section 48B (6)—

Omit “the Tribunal may”, insert instead “, the Tribunal to which the application has been referred may”.

20 (6) Section 48G (4)—

Omit “the Tribunal” wherever occurring, insert instead “a Tribunal”.

Child Welfare (Amendment).

SCHEDULE 3.

Sec. 6.

AMENDMENTS TO PART X OF THE CHILD WELFARE
ACT, 1939.

(1) Section 54 (1)—

5 Omit the subsection.

(2) Section 54 (2)—

Omit “but has not been so committed for a specified term”.

(3) Section 54 (3)—

10 Omit “subsections one and two of this section”, insert instead “subsection (2)”.

(4) Section 54 (3)—

Omit “section ninety-four of this Act”, insert instead “section 94”.

15 (5) Section 54 (3)—

Omit “subsection four of this section”, insert instead “subsection (4)”.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 4.

Sec. 6.

AMENDMENTS TO PART XIV OF THE CHILD WELFARE
ACT, 1939.

(1) Sections 81B, 81C—

5 After section 81A, insert :—

81B. (1) In this section, "court" includes a court Courts may
hearing or determining an appeal from a determina- act on
tion or an order made by— certain
matters.

- (a) a magistrate; or
10 (b) justices,
exercising the jurisdiction of a children's court.

(2) Where a child has been brought before a
court as a neglected child and—

- 15 (a) the complaint in respect of which he has
been so brought alleges that he has been
ill-treated or exposed; or

- (b) evidence has been presented to the court
that the child has been assaulted,

20 the court, in hearing and determining the matter, may
act upon any statement, document, information or
matter that may, in its opinion, assist it to deal with
the complaint, whether or not the statement,
document, information or matter would be admissible
in evidence.

25 81C. Subject to section 81B, where a child or young
person is—

- (a) brought before a court as a neglected child Certain
or an uncontrollable child or young person; statements,
or etc.,
30 (b) is charged with an offence, inadmissible.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART XIV OF THE CHILD WELFARE ACT,
1939—*continued.*

5 the court, in hearing or determining the matter or
charge, shall not admit in evidence or act upon any
statement, confession, admission or information made
or given by the child or young person at a police
station unless there was present throughout the period
10 of time during which the statement, confession,
admission or information was made or given—

(c) one of his parents;

(d) a person aged 18 years or upwards who has
his guardianship; or

15 (e) with the consent of one of the persons
referred to in paragraph (c) or (d)—a
person aged 18 years or upwards who is
not—

(i) one of those persons; or

(ii) a member of the police force.

20 (2) Section 82 (2)—

At the end of section 82, insert :—

(2) If a court finds that a child is a neglected
child it may release the child—

25 (a) upon such terms and conditions as the court
may think fit and as are willingly undertaken
to be observed by the child's parents, one of
the child's parents or another person
approved by the court; and

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART XIV OF THE CHILD WELFARE ACT,
1939—*continued.*

- 5 (b) for such period of time (whether expiring before or after the date upon which the child attains the age of 16 years) as the court may think fit.
- (3) (a) Section 83 (4)—
10 Omit “paragraph (e) of section eighty-two”, insert instead “section 82 (1) (e)”.
- (b) Section 83 (7)—
Omit “eighty-two of this Act”, insert instead “82 (1)”.
- (4) Section 84 (1)—
15 Omit “eighty-two or section eighty-three of this Act”, insert instead “82 (1) or 83”.
- (5) Section 89 (3)—
Omit “the Intellectually”, insert instead “an Intellectually”.
- 20 (6) (a) Section 90 (1)—
Omit “paragraph (c) of section eighty-two or paragraph (b) of subsection one or paragraph (b) of subsection two of section eighty-three of this Act”, insert instead “section 82 (1) (c) or section 83 (1) (b) or (2) (b)”.
- 25

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART XIV OF THE CHILD WELFARE ACT,
1939—*continued.*

(b) Section 90 (2)—

- 5 Omit “paragraph (b) of section eight-two or paragraph (a) of subsection one or paragraph (a) of subsection two of section eighty-three of this Act”, insert instead “section 82 (1) (b) or (2) or section 83 (1) (a) or (2) (a)”.

10 (7) Section 91 (1), (1A)—

Omit the subsections, insert instead :—

(1) Where—

- 15 (a) a person who, as a child or young person, was, under section 82 (1) or section 83 (1) or (2), 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; or

- 20 (b) a person was, as a child, under section 82 (2), released upon his parents, one of his parents or another person undertaking to observe any terms or conditions that have been broken or are reasonably suspected of having been broken,

- 25 he may (whether or not a warrant has been issued under subsection (1A)) be apprehended by any constable or by any officer authorised by the Minister in that behalf and shall, upon being so apprehended,
30 be taken to a shelter and shall, as soon as practicable thereafter, be brought before a court.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART XIV OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (1A) Any justice, 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—

10 (a) that a person who, as a child or young person, was, under section 82 (1) or section 83 (1) or (2), released on probation or was committed to the care of a person has broken the terms or conditions of his release or committal; or

15 (b) that the terms or conditions upon which a person was, as a child, released under section 82 (2), have been broken,

may—

20 (c) issue his summons for the appearance of the person so released or committed before a court; or

(d) in the first instance issue his warrant directing the apprehension of the person so released or committed.

SCHEDULE 5.

Sec. 6.

25 AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939.

(1) Section 126—

Omit "eight", insert instead "10".

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—*continued.*

(2) Section 132 (1)—

- 5 Omit “two hundred dollars”, insert instead “\$1,000”.

(3) Section 146A—

After section 146, insert :—

146A. (1) When a child or young person is brought into a police station—

Notification
of parent or
guardian by
police.

- 10 (a) at which he is to be questioned about any offence that has been, or may have been, committed; or
- 15 (b) for the purpose of determining whether he is to be brought before a court as a neglected child or an uncontrollable child or young person within the meaning of Part XIV,
- the officer in charge of the police station shall forthwith—
- 20 (c) notify a parent of or any person aged 18 years or upwards who has the guardianship of the child or young person that the child or young person is at the police station; or
- 25 (d) cause a parent of or any person aged 18 years or upwards who has the guardianship of the child or young person to be so notified.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (2) An officer in charge of a police station
who fails to comply with subsection (1) shall be guilty
of an offence against this Act unless he satisfies the
court—

- 10 (a) that he used all reasonable diligence in
attempting to comply with that subsection;
or
(b) that he had a reasonable excuse for failing
to comply with that subsection.

(4) Sections 148B, 148C—

After section 148A, insert :—

15 148B. (1) In this section—

“court”, except in subsection (7) (d), means any
court;

Notification
of certain
injuries to
children.

“prescribed person” means—

- 20 (a) a medical practitioner; and
(b) a person who is a member of any
class of persons prescribed for the
purposes of this paragraph, being a
person who follows a profession,
calling or vocation so prescribed, or
25 who holds any office so prescribed.

(2) Any person who forms the belief upon
reasonable grounds that a child—

- (a) has been assaulted; or
(b) is a neglected child within the meaning of
Part XIV,
- 30

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—*continued.*

may—

5 (c) notify the Director of his belief and the
 grounds therefor either orally or in writing;
 or

 (d) cause the Director to be so notified.

10 (3) A prescribed person who, in the course
of practising his profession, calling or vocation, or in
exercising the functions of his office, as the case may
be, has reasonable grounds to suspect that a child has
been assaulted, ill-treated or exposed shall—

15 (a) notify the Director of the name or a
description of the child and those grounds
either orally or in writing; or

 (b) cause the Director to be so notified,
promptly after those grounds arise.

20 (4) A prescribed person who fails to comply
with subsection (3) shall be guilty of an offence
against this Act.

 (5) Where the Director has been notified
under subsection (2) or (3), he shall—

25 (a) promptly cause an investigation to be made
into the matters notified to him; and

 (b) if he is satisfied that the child in respect of
whom he was notified may have been
assaulted, ill-treated or exposed, take such
action as he believes appropriate, which may
30 include reporting those matters to a
constable of police.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 5—continued.

**AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—continued.**

- 5 (6) Where a person notifies the Director
pursuant to subsection (2) or (3)—
- 10 (a) the notification shall not, in any proceedings
before a court, tribunal or committee, be
held to constitute a breach of professional
etiquette or ethics or a departure from
accepted standards of professional conduct;
- 15 (b) no liability for defamation is incurred by
reason of the making of the notification;
- (c) the notification shall not constitute a
ground for civil proceedings for malicious
prosecution or for conspiracy;
- 20 (d) subject to subsections (7) and (8), the
notification shall not be admissible in
evidence in any proceedings before a court,
tribunal or committee and no evidence of
its contents is admissible; and
- 25 (e) subject to subsection (7), a person shall
not be compelled in any proceedings before
a court, tribunal or committee to produce
the notification, or any copy of, or extract
from the notification (if it is capable of
being produced) or to disclose, or give any
evidence of, any of the contents of the
notification.
- 30 (7) Subsection (6) (d) and (e) does not
apply in relation to—
- (a) the admissibility in, or of, evidence of a
notification made under subsection (2) or
(3);

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (b) the production of such a notification, a copy thereof or an extract therefrom; or

(c) the disclosure or giving of evidence of the contents of such a notification,

either—

10 (d) in any proceedings before a court, within the meaning of section 81B, in which the child to whom the notification relates is brought before the court as a neglected child; or

15 (e) in support of, or in answer to, a charge or allegation made in proceedings referred to in subsection (6) (d) or (e) against any person in relation to his exercising or performing any of his powers, duties or functions in pursuance of this Act.

20 (8) Subsection (6) (d) does not apply where a notification under subsection (2) or (3) is tendered in evidence, or evidence in respect of such a notification is given—

25 (a) by the person by whom the notification was, or was caused to be, made; and

(b) in answer to a charge or allegation made against him in proceedings referred to in subsection (6) (d).

Child Welfare (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—*continued.*

5 148c. (1) Where the Director or a constable of police believes on reasonable grounds (which may consist wholly or partly of information received by him) that a child has suffered injury to his health as a result of the child's having been assaulted, ill-treated or exposed, he may serve a prescribed notice—

Medical
examination:
reputedly
injured
children.

10 (a) naming or describing the child; and

15 (b) requiring the child to be forthwith presented to a medical practitioner specified or described in the notice at a hospital or another place specified in the notice for the purposes of the child's being medically examined,

on the person who appears to him to be a parent of the child or to have the care of the child for the time being.

20 (2) A person who fails to comply with the requirement contained in a notice served on him under subsection (1) shall be guilty of an offence against this Act unless it is proved that the person was not a parent of the child described in the notice and did not have the care of the child at the time the notice was served.

25 (3) Where a person fails to comply with the requirement contained in a notice served under subsection (1), a constable of police or an officer authorised by the Minister in that behalf may present the child in respect of whom the notice was served, or cause the child to be presented, to a medical practitioner at a hospital or another place for the purpose of the child's being medically examined.

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—*continued.*

5 (4) A constable of police or an officer may,
when exercising his powers under subsection (3)—

(a) subject to paragraph (b), use all reasonable
force; and

10 (b) enter (if need be by force) any house,
building or other place but shall not enter
any place occupied as a dwelling except
under the authority of a warrant issued
under section 145 or 146.

(5) Where a child is presented to a medical
practitioner under subsection (1) or (3)—

15 (a) the practitioner may conduct, or cause to be
conducted, such medical examination of the
child as he thinks fit, including examination
at a hospital that is not the place specified
in the request made under subsection (1)
20 in respect of the child; and

(b) the Director shall, commencing with the
time at which the child is presented to the
practitioner and until the expiration of such
period of time as is reasonably necessary for
25 the child to be medically examined in
accordance with paragraph (a) or 72 hours,
whichever period first expires, be deemed to
have custody of the child—

30 (i) if the consent of a parent or any
other person who would, but for this
paragraph, have lawful custody of

SCHEDULE

Child Welfare (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART XVII OF THE CHILD WELFARE ACT,
1939—*continued.*

5 the child to the examination has not
 been obtained or has been revoked;
 and

(ii) for the purpose only of enabling the
 examination to be conducted.

10 (6) No proceedings lie against a medical
 practitioner or a constable of police for or on account
 of any act, matter or thing done or ordered to be done
 by him, and purporting to be done for the purpose of
 carrying out the provisions of this section, if he has
 acted in good faith and with reasonable care.

PROOF

CHILD WELFARE (FURTHER AMENDMENT) BILL, 1977

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

THE objects of this Bill are—

- (a) to make further provision with respect to the admissibility in evidence of certain statements, confessions, admissions or information made or given by children or young persons in police stations (Schedule 1 (1));
 - (b) to repeal section 146A of the Child Welfare Act, 1939 (which relates to the giving of notice of the presence in a police station of a child or young person to his parent or guardian) (Schedule 1 (2));
 - (c) to omit certain provisions to be inserted in the Principal Act by the Child Welfare (Amendment) Act, 1977, that presently provide—
 - (i) that a legal practitioner acting for a person required to give evidence before an Intellectually Handicapped Persons Review Tribunal is entitled to be present during the proceedings of the Tribunal and, in certain circumstances, to address the Tribunal and examine the person for whom he is acting; and
 - (ii) that the members of any such Tribunal shall, in certain circumstances, make a record of the reasons for their decisions, (Schedule 2); and
 - (d) to make other provisions of a minor, consequential or ancillary nature.
-

PROOF

LEGISLATIVE BILL NO. 1077

APPLICATORY NOTE

This Bill is intended to amend the existing law relating to the appointment of judges of the Supreme Court of the State of New York. It is proposed that the Governor shall have the power to appoint and remove judges of the Supreme Court of the State of New York, subject to the approval of the Senate. The Bill also provides that the Governor shall have the power to appoint and remove judges of the Appellate Division of the Court of Appeals, subject to the approval of the Senate. The Bill further provides that the Governor shall have the power to appoint and remove judges of the County Courts, subject to the approval of the Senate. The Bill also provides that the Governor shall have the power to appoint and remove judges of the Justices of the Peace, subject to the approval of the Senate. The Bill is intended to provide for the efficient administration of the judiciary of the State of New York.

PROOF

**CHILD WELFARE (FURTHER AMENDMENT)
BILL, 1977**

No. , 1977.

A BILL FOR

An Act to amend the Child Welfare Act, 1939, with respect to the admissibility in evidence of certain statements made by children and young persons; and to vary certain provisions to be inserted in that Act relating to proceedings before, and decisions of, Tribunals to be established under Part IX of that Act.

[MR JACKSON—26 October, 1977.]

BE

Child Welfare (Further 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 :—

5 1. This Act may be cited as the "Child Welfare (Further Short title. Amendment) Act, 1977".

2. The Child Welfare Act, 1939, is referred to in this Principal Act as the Principal Act.

3. This Act contains the following Schedules :— Schedules.

10 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE (AMENDMENT) ACT, 1977.

15 4. (1) The Principal Act is amended in the manner set Amendment of Act No. 17, 1939. forth in Schedule 1.

(2) Schedule 2 (3) to the Child Welfare (Amend- Amendment of Act No. 20, 1977. ment) Act, 1977, is amended in the manner set forth in Schedule 2.

SCHEDULE

SCHEDULE 1.

Sec. 4 (1).

(1) Section 81c—

Omit the section, insert instead :—

(a) in which a child or young person is; or

10 brought before a court as a neglected child or as an
uncontrollable child or young person or alleged to
have committed an offence.

15 (2) In subsection (3), a reference to a person acting judicially includes a reference to a person making a determination as to the admissibility of evidence in committal proceedings.

20 (3) A person acting judicially in any proceedings relating to a child or young person, when determining, on or after the date of assent to the Child Welfare (Further Amendment) Act, 1977, the admissibility in evidence of any statement, confession, admission or information made or given in a police station by the child or young person—

25 (a) before that date, shall apply the law relating to the admissibility of the statement, confession, admission or information that was in force when it was made or given; or

Child Welfare (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) on or after that date, shall not admit the statement, confession, admission or information in evidence unless there was present at the place in the police station where, and throughout the period of time during which, it was made or given—
- (i) one of his parents;
- 10 (ii) a person aged 18 years or upwards who has his guardianship;
- 15 (iii) in the case of a child or young person, with the consent of a person referred to in subparagraph (i) or (ii) or, in the case of a young person, with his consent—a person aged 18 years or upwards who is neither a person referred to in either of those subparagraphs nor a
- 20 member of the police force; or
- (iv) a duly qualified legal practitioner of his own choosing,
- 25 or unless the person acting judicially is satisfied that there was a proper and sufficient reason for none of the persons referred to in subparagraph (i), (ii), (iii) or (iv) to have been present at the place in the police station where the statement, confession, admission or information was made

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 or given throughout the period of time during which it was made or given and the person so acting considers that, in the particular circumstances of the case, the statement, confession, admission or information should be admitted in evidence in those proceedings.

10 (4) Subsection (3) does not apply in respect of any particulars required to be given by or under any other Act.

(2) Section 146A—

Omit the section.

15

SCHEDULE 2.

Sec. 4 (2).

AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE
(AMENDMENT) ACT, 1977.

(1) Section 44F (3)—

Omit the subsection.

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE
(AMENDMENT) ACT, 1977—*continued.*

(2) Section 44G (2)—

5 Omit the subsection.

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 10 November, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 100, 1977.

An Act to amend the Child Welfare Act, 1939, with respect to the admissibility in evidence of certain statements made by children and young persons; and to vary certain provisions to be inserted in that Act relating to proceedings before, and decisions of, Tribunals to be established under Part IX of that Act. [Assented to, 14th November, 1977.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Child Welfare (Further 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. 1. This Act may be cited as the "Child Welfare (Further Amendment) Act, 1977".

Principal Act. 2. The Child Welfare Act, 1939, is referred to in this Act as the Principal Act.

Schedules. 3. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE (AMENDMENT) ACT, 1977.

Amendment of Act No. 17, 1939. 4. (1) The Principal Act is amended in the manner set forth in Schedule 1.

Amendment of Act No. 20, 1977. (2) Schedule 2 (3) to the Child Welfare (Amendment) Act, 1977, is amended in the manner set forth in Schedule 2.

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 81c—

Omit the section, insert instead :—

81c. (1) In subsection (3), “proceedings relating to a child or young person” means any proceedings—

(a) in which a child or young person is; or

Admissi-
bility of
certain
statements,
etc.

(b) arising out of any other proceedings in which a child or young person was,

brought before a court as a neglected child or as an uncontrollable child or young person or alleged to have committed an offence.

(2) In subsection (3), a reference to a person acting judicially includes a reference to a person making a determination as to the admissibility of evidence in committal proceedings.

(3) A person acting judicially in any proceedings relating to a child or young person, when determining, on or after the date of assent to the Child Welfare (Further Amendment) Act, 1977, the admissibility in evidence of any statement, confession, admission or information made or given in a police station by the child or young person—

(a) before that date, shall apply the law relating to the admissibility of the statement, confession, admission or information that was in force when it was made or given; or

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) on or after that date, shall not admit the statement, confession, admission or information in evidence unless there was present at the place in the police station where, and throughout the period of time during which, it was made or given—

(i) one of his parents;

(ii) a person aged 18 years or upwards who has his guardianship;

(iii) in the case of a child or young person, with the consent of a person referred to in subparagraph (i) or (ii) or, in the case of a young person, with his consent—a person aged 18 years or upwards who is neither a person referred to in either of those subparagraphs nor a member of the police force; or

(iv) a duly qualified legal practitioner of his own choosing,

or unless the person acting judicially is satisfied that there was a proper and sufficient reason for none of the persons referred to in subparagraph (i), (ii), (iii) or (iv) to have been present at the place in the police station where the statement, confession, admission or information was made

SCHEDULE

Act No. 100, 1977.

Child Welfare (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

or given throughout the period of time during which it was made or given and the person so acting considers that, in the particular circumstances of the case, the statement, confession, admission or information should be admitted in evidence in those proceedings.

(4) Subsection (3) does not apply in respect of any particulars required to be given by or under any other Act.

(2) Section 146A—

Omit the section.

SCHEDULE 2.

Sec. 4 (2).

AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE
(AMENDMENT) ACT, 1977.

(1) Section 44F (3)—

Omit the subsection.

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE
(AMENDMENT) ACT, 1977—*continued.*

(2) Section 44G (2)—

Omit the subsection.

*In the name and on behalf of Her Majesty I assent to this
Act.*

A. R. CUTLER,
Governor.

*Government House,
Sydney, 14th November, 1977.*

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.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 10 November, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 100, 1977.

An Act to amend the Child Welfare Act, 1939, with respect to the admissibility in evidence of certain statements made by children and young persons; and to vary certain provisions to be inserted in that Act relating to proceedings before, and decisions of, Tribunals to be established under Part IX of that Act. [Assented to, 14th November, 1977.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Child Welfare (Further 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. 1. This Act may be cited as the "Child Welfare (Further Amendment) Act, 1977".

Principal Act. 2. The Child Welfare Act, 1939, is referred to in this Act as the Principal Act.

Schedules. 3. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE (AMENDMENT) ACT, 1977.

Amendment of Act No. 17, 1939. 4. (1) The Principal Act is amended in the manner set forth in Schedule 1.

Amendment of Act No. 20, 1977. (2) Schedule 2 (3) to the Child Welfare (Amendment) Act, 1977, is amended in the manner set forth in Schedule 2.

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 1.

Sec. 4 (1).

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 81c—

Omit the section, insert instead :—

81c. (1) In subsection (3), “proceedings relating to a child or young person” means any proceedings—

(a) in which a child or young person is; or

Admissi-
bility of
certain
statements,
etc.

(b) arising out of any other proceedings in which a child or young person was,

brought before a court as a neglected child or as an uncontrollable child or young person or alleged to have committed an offence.

(2) In subsection (3), a reference to a person acting judicially includes a reference to a person making a determination as to the admissibility of evidence in committal proceedings.

(3) A person acting judicially in any proceedings relating to a child or young person, when determining, on or after the date of assent to the Child Welfare (Further Amendment) Act, 1977, the admissibility in evidence of any statement, confession, admission or information made or given in a police station by the child or young person—

(a) before that date, shall apply the law relating to the admissibility of the statement, confession, admission or information that was in force when it was made or given; or

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) on or after that date, shall not admit the statement, confession, admission or information in evidence unless there was present at the place in the police station where, and throughout the period of time during which, it was made or given—

(i) one of his parents;

(ii) a person aged 18 years or upwards who has his guardianship;

(iii) in the case of a child or young person, with the consent of a person referred to in subparagraph (i) or (ii) or, in the case of a young person, with his consent—a person aged 18 years or upwards who is neither a person referred to in either of those subparagraphs nor a member of the police force; or

(iv) a duly qualified legal practitioner of his own choosing,

or unless the person acting judicially is satisfied that there was a proper and sufficient reason for none of the persons referred to in subparagraph (i), (ii), (iii) or (iv) to have been present at the place in the police station where the statement, confession, admission or information was made

SCHEDULE

Act No. 100, 1977.

Child Welfare (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

or given throughout the period of time during which it was made or given and the person so acting considers that, in the particular circumstances of the case, the statement, confession, admission or information should be admitted in evidence in those proceedings.

(4) Subsection (3) does not apply in respect of any particulars required to be given by or under any other Act.

(2) Section 146A—

Omit the section.

SCHEDULE 2.

Sec. 4 (2).

AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE
(AMENDMENT) ACT, 1977.

(1) Section 44F (3)—

Omit the subsection.

SCHEDULE

Child Welfare (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO SCHEDULE 2 (3) TO THE CHILD WELFARE
(AMENDMENT) ACT, 1977—*continued.*

(2) Section 44G (2)—

Omit the subsection.

*In the name and on behalf of Her Majesty I assent to this
Act.*

A. R. CUTLER,
Governor.

Government House,
Sydney, 14th November, 1977.

