



ANNO VICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1975

No. 104 of 1975

An Act to amend the Community Welfare Act, 1972-1975.

[Assented to 20th November, 1975]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Community Welfare Act Amendment Act (No. 2), 1975".

(2) The Community Welfare Act, 1972-1975, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Community Welfare Act, 1972-1975".

**Commence-
ment.**

2. This Act shall come into operation on a day to be fixed by proclamation.

**Amendment of
principal Act,
s. 6—
Interpretation.**

3. Section 6 of the principal Act is amended—

(a) by striking out from subsection (1) the definition of "affiliation case" and inserting in lieu thereof the following definition:—

"affiliation case" means proceedings for assistance, maintenance, or preliminary expenses in which it is necessary to establish the paternity of a child born outside marriage;;

(b) by inserting after the definition of "child" the following definition:—

"child born outside marriage" includes a child born to a married woman in consequence of sexual relations with a man other than her lawful spouse;;

(c) by striking out the definition of "near relative" and inserting in lieu thereof the following definition:—

"near relative" in relation to a child means the father, mother, step-father, or step-mother of the child; and in relation to a person who is not a child, means the husband, wife, father, mother, or children, of that person;;

(d) by striking out the definition of "relative" and inserting in lieu thereof the following definition:—

"relative" in relation to a child, means the father, mother, step-father, step-mother, brother, sister, uncle, aunt, grandfather, or grandmother, of the child; and in relation to a person who is not a child, means the husband, wife, father, mother, grandfather, grandmother, child, or grandchild, of that person;

(e) by inserting after the definition of "review board" the following definitions:—

"step-father", in relation to a child, means a person who marries the mother of the child at any time after the birth of the child:

"step-mother", in relation to a child, means a person who marries the father of the child at any time after the birth of the child;

and

(f) by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) A person shall not be recognized under this Act as the father of a child born outside marriage unless—

(a) he is so recognized under the Family Relationships Act, 1975;

or

(b) he is adjudged in proceedings under this Act to be the father of the child.

4. Section 39 of the principal Act is amended by striking out subsection (3) and inserting in lieu thereof the following subsection:—

(3) Except as provided in subsection (4) of this section, no such order shall be made unless the persons recognized on the date of the order as parents of the child under the law of the State have consented to the making of the order.

Amendment of principal Act, s. 39—
Request that child be placed in the care and control of the Minister.

5. Section 98 of the principal Act is amended by striking out paragraphs (a) and (b) and inserting in lieu thereof the following paragraphs:—

(a) father;

(b) mother;

(c) step-father;

(d) step-mother.

Amendment of principal Act, s. 98—
Order of liability of near relatives for maintenance of child.

6. Section 95 of the principal Act is amended by striking out from subsection (3) the passage "of the family" and inserting in lieu thereof the passage "or step-children of the defendant".

Amendment of principal Act, s. 95—
Issue of summons to husband on application of wife.

7. Section 109 of the principal Act is amended by striking out from subsection (1) the word "illegitimate" wherever it occurs.

Amendment of principal Act, s. 109—
Liability of persons admitting sexual intercourse with mother of child.

Amendment of principal Act, s. 110—
Power to lay complaint for support of child born outside marriage against one or more persons.

8. Section 110 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “and the illegitimate child” and inserting in lieu thereof the passage “a child born outside marriage”;
 - (b) by striking out from subsection (1) the passage “the illegitimate child” and inserting in lieu thereof the passage “the child”;
 - (c) by striking out from subsection (2) the word “illegitimate”;
- and
- (d) by striking out from subsection (4) the word “illegitimate” wherever it occurs.

Amendment of principal Act, s. 111—
Power of Director to accept settlement.

9. Section 111 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “an illegitimate child” and inserting in lieu thereof the passage “a child born outside marriage”;
- and
- (b) by striking out from subsection (3) the word “illegitimate”.

Amendment of principal Act, s. 112—
Provision for blood tests.

10. Section 112 of the principal Act is amended by striking out from subsection (3) the word “illegitimate”.

Amendment of principal Act, s. 114—
Power to make order for funeral expenses of child.

11. Section 114 of the principal Act is amended—

- (a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Where a court of summary jurisdiction, upon complaint made by or on behalf of a parent of a child who has died, is satisfied—

- (a) that at the date of death, either the complainant or the child was entitled to maintenance from the other parent of the child;

and

- (b) that the other parent of the child has not made adequate provision for the funeral expenses of the child,

the court may order the other parent to pay such amount as it thinks reasonable towards the funeral expenses of the child.;

- (b) by striking out subsections (3) and (4);

and

- (c) by striking out from subsection (5) the passage “shall not be made under subsection (3) of this section in relation to a still-born child unless” and inserting in lieu thereof the passage “may be made under this section in relation to a still-born child if”.

Amendment of principal Act, s. 115—
Power to make order against father for funeral expenses of a mother of child born outside marriage.

12. Section 115 of the principal Act is amended by striking out from paragraph (a) of subsection (1) the passage “an illegitimate child” and inserting in lieu thereof the passage “a child born outside marriage”.

13. Section 132 of the principal Act is amended by striking out from subsection (1) the passage "a child of the family" and inserting in lieu thereof the passage "the child".

Amendment of principal Act, s. 132—
Ex parte order for maintenance of child.

14. Section 139 of the principal Act is amended—

- (a) by striking out from subparagraph (ii) of paragraph (a) of subsection (1) the passage "a child of the family" and inserting in lieu thereof the passage "a child or a step-child";
 - (b) by striking out from paragraph (b) of subsection (1) the passage "a child of the family" and inserting in lieu thereof the passage "a child, or a step-child";
 - (c) by striking out from subparagraph (ii) of paragraph (a) of subsection (2) the passage "a child of the family" and inserting in lieu thereof the passage "a child or a step-child";
- and
- (d) by striking out from paragraph (b) of subsection (2) the passage "a child of the family" and inserting in lieu thereof the passage "a child, or a step-child".

Amendment of principal Act, s. 139—
Constructive desertion by conduct.

15. Section 140 of the principal Act is amended—

- (a) by striking out the passage "an illegitimate child" and inserting in lieu thereof the passage "a child born outside marriage";
- and
- (b) by striking out the passage "her illegitimate child" and inserting in lieu thereof the passage "her child".

Amendment of principal Act s. 140—
Evidence of mother as to paternity of child born outside marriage, etc

16. Section 141 of the principal Act is amended by striking out the word "Upon" being the first word of that section and inserting in lieu thereof the passage "Subject to section 142 of this Act, upon".

Amendment of principal Act, s. 141—
Proof of marriage.

17. Section 142 of the principal Act is amended by striking out paragraph (d).

Amendment of principal Act, s. 142—
Evidentiary effect of allegations in complaint.

18. Section 145 of the principal Act is amended by striking out from subsection (3) the passage "that any person is the father of an illegitimate child" and inserting in lieu thereof the passage "of paternity made in affiliation proceedings".

Amendment of principal Act, s. 145—
Variation of order against near relative of child.

19. Section 147 of the principal Act is amended by striking out the passage "an illegitimate child" and inserting in lieu thereof the passage "a child".

Amendment of principal Act, s. 147—
Plural births.

Amendment of
principal Act,
s. 149—
Complaints.

20. Section 149 of the principal Act is amended by striking out subsection (4) and inserting in lieu thereof the following subsection:—

(4) Where complaints for maintenance of a child are made against a number of different persons, the complaints may, if the court thinks fit, be heard and determined by the court at the same time.

Amendment of
principal Act,
s. 150—
Complaints in
affiliation
case.

21. Section 150 of the principal Act is amended by striking out the passage “under this Part against the father or alleged father of an illegitimate child” and inserting in lieu thereof the passage “in an affiliation case”.

Amendment of
principal Act,
s. 238—
Restriction of
publication of
reports on
affiliation
proceedings,
etc.

22. Section 238 of the principal Act is amended by striking out from subsection (1) the passage “concerning an illegitimate child or the mother of an illegitimate child” and inserting in lieu thereof the passage “arising from the birth of a child outside marriage”.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor