

Community Services Act 1987

No. 16 of 1987

TABLE OF PROVISIONS

Section

1. Purposes.
2. Commencement.
3. Principal Act.
4. Name of Act.
5. Repeal of obsolete provisions relating to name of Department.
6. Substitution of new section 5.
7. Welfare services.
8. Child care agreements.
9. Miscellaneous repeals.
10. Abolition of Child Development and Family Services Council.
11. Consequential amendments.
12. Other consequential amendments.
13. Transitional provisions.

SCHEDULE 1

Amendments and Repeals concerning title of Principal Act

SCHEDULE 2

Other Consequential Amendments and Repeals



Victoria

No. 16 of 1987

Community Services Act 1987

[Assented to 12 May 1987]

The Parliament of Victoria enacts as follows:

Purposes.

1. The following are the purposes of this Act:
 - (a) To change the title of the *Community Welfare Services Act* 1970 and of the Department of Community Welfare Services, and to make provision concerning the Department's role;
 - (b) To make other amendments to the *Community Welfare Services Act* 1970 and to make consequential amendments to various other Acts.

Commencement.

2. This Act comes into operation on a day or days to be proclaimed.

Principal Act.

3. In this Act the *Community Welfare Services Act* 1970 is called the Principal Act.

No. 8089.
Reprinted to
No. 10152.
Subsequently
amended by
Nos. 10257,
10260, 10262,
5/1986, 37/1986,
41/1986,
47/1986,
117/1986.

Name of Act.

4. (1) In section 1 of the Principal Act for "*Community Welfare Services Act 1970*" substitute "*Community Services Act 1970*".

(2) In—

- (a) any Act other than this Act or the Principal Act; or
- (b) a subordinate instrument made under an Act; or
- (c) a document—

a reference to the *Community Welfare Services Act 1970* is from the date of commencement of this section to be treated as a reference to the *Community Services Act 1970*.

(3) The Acts mentioned in Schedule 1 are amended or repealed as specified in that Schedule.

Repeal of obsolete provisions relating to name of Department.

5. (1) For section 4 (ca) of the Principal Act, substitute—

'(ca) to "*Community Services Victoria*" is deemed to be and must be taken to refer to and mean the Department.'

(2) Section 4A (1), (2), (3) and (4) of the Principal Act is repealed.

Substitution of new section 5.

6. For section 5 of the Principal Act, substitute—

Principles guiding the Department.

"5. The practice and provision of community services by the Department are to be guided by the following principles:

- (a) Communities should be assisted to identify and to meet the continuing and emerging needs of families and individuals within those communities;
- (b) Community services should assist the community in protecting from harm and exploitation those in the community who are vulnerable because of age, disability or circumstances;
- (c) Community services should assist in protecting the community and helping, directing and controlling children and young people who have committed offences and are subject to the order or determination of a court;
- (d) Community services should be developed, and community programmes should be administered, at regional and local levels in co-operation and conjunction with government departments, local government and non-government organisations;

- (e) Community services should be accessible to the public and information about community services should be made widely available;
- (f) The co-ordination of community services planning and delivery should be promoted by co-operating with providers and consumers of community services;
- (g) Voluntary participation and the involvement of self-help groups and consumers should be encouraged in the planning, development and carrying out of community services;
- (h) The provision and future development of community services should attempt to—
 - (i) redress social and economic inequities and in so doing give priority to groups and individuals in greatest need; and
 - (ii) promote choice and maximise the participation of people in decisions which affect their lives; and
 - (iii) protect the rights of individuals in their relationship with services and service providers.”.

Welfare services.

7. (1) In section 3 of the Principal Act, before the definition of “Young person”, insert—

“**“Welfare service”** means any welfare service approved by the Director-General under section 34A.’.

(2) After section 34 of the Principal Act insert—

Welfare services.

“34A. (1) The Director-General may by instrument approve an organisation as a welfare service for the purposes of this Act.

(2) As soon as possible after approving or revoking the approval of an organisation as a welfare service the Director-General must give notice in writing of the approval or revocation to the organisation and must cause notice of the approval or revocation to be published in the *Government Gazette*.

(3) An approval under this section may be general or limited to a particular case or class of cases.”.

(3) After section 203 (x) insert—

“(xa) The approval of organisations as welfare services;”.

Child care agreements.

8. (1) For section 35 of the Principal Act, substitute—

Child care agreements.

'35. (1) In this section "service provider" means the Director-General or the person in charge of a welfare service.

(2) A parent or a guardian or custodian of a child or young person under 17 years of age may enter into a written agreement with a service provider to place the child or young person in the care of the service provider for the purpose of supporting the child or young person and his or her parent or guardian or custodian and encouraging and assisting the child's or young person's parent or guardian or custodian to resume the care of the child or young person.

(3) An agreement under sub-section (2) does not affect the guardianship and custody of a child or young person.

(4) An agreement under sub-section (2) must specify a period not exceeding 6 months, for which the agreement is to have effect.

(5) The parties to an agreement under sub-section (2) may agree to extend the agreement before it expires for a further period not exceeding 6 months after reviewing the agreement and consulting the Director-General, which consultation must be initiated by the service provider.

(6) A child or young person under 17 years of age may not be placed in the care of a service provider by virtue of this section for a period exceeding 12 months, or for periods which in aggregate exceed 12 months in any period of 18 months, except in accordance with sub-section (7).

(7) If a child or young person has been the subject of an agreement under this section for a period of 12 months, or for periods which in aggregate are equal to 12 months in any period of 18 months, another agreement under this section in respect of the child or young person must not be entered into unless—

- (a) the parties have consulted with the Director-General, which consultation must be initiated by the service provider; and
- (b) the Director-General has consented in writing to the making of the agreement.

(8) An agreement under this section is not void or voidable by reason only that a party to it has not attained the age of 18 years.

(9) The wishes of the child or young person must be taken into account in making an agreement under this section.

(10) An agreement under this section may be terminated by either party giving notice in writing to the other party.

(11) Upon the expiry or termination of an agreement under this section, the person having the care of the child or young person must,

as soon as is practicable, cause the child or young person to be returned to the parent or other person who has the custody of the child or young person.

(12) The Director-General may pay to a service provider (other than the Director-General) amounts that the Director-General thinks proper in respect of the expenses of the provider in caring for a child or young person under an agreement under this section.

(2) After section 203 (y) of the Principal Act insert —

“(ya) all matters relating to child care agreements under section 35;”.

Miscellaneous repeals.

9. The Principal Act is amended as follows:

- (a) Section 15 is repealed;
- (b) Section 66 (2) is repealed;
- (c) Sections 150 (3) and 203 (r) are repealed.

Abolition of Child Development and Family Services Council.

10. The Principal Act is amended as follows:

- (a) Sections 12 and 12c (1) (a) are repealed;
- (b) In section 29 (2), for “After considering any relevant report made by the Child Development and Family Services Council the” substitute “The”;
- (c) In section 30 (1), omit “or any member of the Child Development and Family Services Council”;
- (d) In section 30 (2), omit “or member”;
- (e) In section 44 (1), omit the expression beginning “after consideration” and ending “to make”;
- (f) In section 203 (u), omit “of the Child Development and Family Services Council.”.

Consequential amendments.

11. The Principal Act is amended as follows:

- (a) In section 3 (definitions of “Department”, “Director-General” and “Minister”) omit “Welfare”;
- (b) In section 4 (e) omit “Welfare” (where last occurring);
- (c) In section 9 (1) omit “Welfare” (where last occurring);
- (d) In section 9 (2) omit “Welfare” (where last occurring);
- (e) Section 10 (1) is repealed;
- (f) In section 17 (4) omit “stipendiary” (wherever occurring);
- (g) After section 65 (g) insert—
“; or

- (h) a welfare service.”;
- (h) In section 75 the definition of “Municipality” is repealed;
- (i) In section 77 (3) omit “male”;
- (j) In section 92 (b) (i) for “ *Crimes Act 1958*” substitute “*Penalties and Sentences Act 1985*”;
- (k) In section 92 (d) (v) for “Part VI of the *Penalties and Sentences Act 1981*” substitute “Part 6 of the *Penalties and Sentences Act 1985*”;
- (l) In section 147 for “Social Welfare” (wherever occurring) substitute “Community Services”;
- (m) In section 149 omit “welfare” (wherever occurring);
- (n) In section 150 omit “Welfare” (wherever occurring);
- (o) In the heading to Division 2 of Part VII for “welfare” substitute “services”;
- (p) In section 151 (1) for “Welfare” substitute “Services”;
- (q) In section 151 (12) for “social welfare” substitute “community services”;
- (r) In section 200A (1)—
 - (i) after “Secretary for Planning” insert “and Environment”;
 - (ii) for “of Lands” substitute “for Conservation, Forests and Lands”;
- (s) In section 203 (aa) for “social welfare activities” substitute “community services”.

Other consequential amendments.

12. On the commencement of a provision in Schedule 2, the Act mentioned in the provision is amended or repealed as specified in the provision.

Transitional provisions.

13. (1) In this section “relevant provision” means a provision of section 12 of *Penalties and Sentences (Youth Attendance Projects) Act 1984* or section 5 or section 7 of the *Young Offenders (Interstate Transfer) Act 1986*, being a provision which has not come into operation at the date of commencement of section 4 of this Act.

(2) On the commencement of section 4, a reference in a relevant provision to the Principal Act is deemed to be a reference to the *Community Services Act 1970*.

SCHEDULE 1

Section 4

AMENDMENTS AND REPEALS CONCERNING TITLE OF PRINCIPAL ACT

1. The *Adoption Act 1984* is amended as follows:
 - (a) In section 45 (3) (b) omit "Welfare";
 - (b) In section 46 (3) (b) omit "Welfare" (wherever occurring).
2. In section 14 (4) of the *Alcoholics and Drug-dependent Persons Act 1968* omit "Welfare".
3. In section 3 of the *Bail Act 1977*, definition of "Prison", omit "Welfare".
4. (1) The *Children's Court Act 1973* is amended as follows:
 - (a) In section 3 omit "Welfare" (wherever occurring);
 - (b) In section 11 (1) (e) omit "Welfare";
 - (c) In section 14 (1) (e) omit "Welfare";
 - (d) In section 14A (1) omit "Welfare";
 - (e) In section 17 (4) omit "Welfare";
 - (f) In section 19 (a) omit "Welfare";
 - (g) In section 21 (5) omit "Welfare";
 - (h) In section 22 (4) omit "Welfare" (wherever occurring);
 - (i) In section 23 omit "Welfare" (wherever occurring);
 - (j) In section 26 (1) (g) omit "Welfare".

(2) In proposed section 14A (1) in section 5 (4) of the *Children's Court (Amendment) Act 1986* omit "Welfare".
5. In Schedule Three A of the Principal Act omit "Welfare".
6. In the Schedule of the *Commonwealth Powers (Family Law-Children) Act 1986* omit "Welfare".
7. The *Corrections Act 1986* is amended as follows:
 - (a) In section 10 (6) omit "Welfare";
 - (b) In section 11 (6) omit "Welfare";
 - (c) In section 12 (2) and (3) omit "Welfare";
 - (d) In section 13 (7) omit "Welfare";
 - (e) In section 56 (5) omit "Welfare";
 - (f) In section 61 (3), (5) and (6) omit "Welfare";
 - (g) In section 69 (1) omit "Welfare";
 - (h) In section 75 omit "Welfare";
 - (i) In section 106 omit "Welfare";
 - (j) In section 107 omit "Welfare";
 - (k) In section 113 (1), (2) and (3) omit "Welfare";
 - (l) In section 114 (1) omit "Welfare";
 - (m) In Schedule 1—
 - (i) in item 1 (1), (2), (3), (4), (5), (6) and (7) (b) (iii) omit "Welfare"; and
 - (ii) in item 2 (1), (2), (3) and (7) (a) omit "Welfare"; and
 - (iii) in item 3 omit "Welfare" (wherever occurring); and
 - (iv) in item 4 (1) omit "Welfare" (wherever occurring); and
 - (v) in item 5 (1), (2), (3) (wherever occurring), (4) and (5) omit "Welfare".
8. The *Crimes Act 1958* is amended as follows:
 - (a) In section 359 (6) omit "Welfare";
 - (b) In section 476B for "Social Welfare" (wherever occurring) substitute "Community Services";
 - (c) In section 493 omit "Welfare";
 - (d) In section 579 omit "Welfare" (wherever occurring).

9. In section 64(2) of the *Education Act 1958* omit "Welfare".
10. The *Firearms Act 1958* is amended as follows:
 - (a) In section 26 (1) (b) omit "Welfare";
 - (b) In section 31 (2) (c) for "Social Welfare" substitute "Community Services".
11. In section 208A (2) (d) of the *Health Act 1958* omit "Welfare".
12. In section 12 (1) of the *Judgment Debt Recovery Act 1984* omit "Welfare".
13. The *Legal Aid Commission Act 1978* is amended as follows:
 - (a) In section 4 (1) (f) omit "Welfare";
 - (b) In section 4 (5) (b) omit "Welfare".
14. The *Maintenance Act 1965* is amended as follows:
 - (a) In section 5 (3) (b) for "Part V of the *Children's Welfare Act 1958*" substitute "the *Community Services Act 1970*";
 - (b) In section 43 (2A) for "Social Welfare" substitute "Community Services".
15. In section 132 (2) of the *Marriage Act 1958* omit "Welfare".
16. In section 3 of the *Parole Orders (Transfer) Act 1983* omit "Welfare" (wherever occurring).
17. The *Penalties and Sentences Act 1985* is amended as follows:
 - (a) In section 28 omit "Welfare" (wherever occurring);
 - (b) In section 42 (3) omit "Welfare";
 - (c) In section 45 (1), definition of "Superintendent", omit "Welfare";
 - (d) In section 58 (2) (a) omit "Welfare";
 - (e) In section 82 (1) (b) omit "Welfare";
18. In section 122 (3) of the *Police Regulation Act 1958* omit "Welfare".
19. The *Prisoners (Interstate Transfer) Act 1983* is amended as follows:
 - (a) In section 4 omit "Welfare" (wherever occurring);
 - (b) In section 33 (2) omit "Welfare".
20. In section 18 (2) (f) of the *Prostitution Regulation Act 1986* omit "Welfare".
21. In section 119 (4) of the *Supreme Court Act 1986* omit "Welfare".
22. In section 7 (1) (g) of the *Upper Yarra Valley and Dandenong Ranges Authority Act 1976* omit "Welfare".
23. The *Victorian Prison Industries Commission Act 1983* is amended as follows:
 - (a) In section 2 omit "Welfare" (wherever occurring);
 - (b) In section 28 (3) omit "Welfare".

SCHEDULE 2

Section 12

OTHER CONSEQUENTIAL AMENDMENTS AND REPEALS

1. The *Adoption Act 1984* is amended as follows:
 - (a) In section 4 (1), definition of "Director-General", omit "Welfare";
 - (b) In section 5 (2) (a) omit "Welfare";
 - (c) In section 45 (3) (b) omit "Welfare";
 - (d) In section 84 (2) omit "Welfare";
 - (e) In section 102 omit "Welfare".
2. In section 5 (2) of the *Alcoholics and Drug-dependent Persons Act 1968* omit "Welfare" (wherever occurring).
3. The *Bail Act 1977* is amended as follows:
 - (a) Section 4 (2) (d) (ii) is repealed;
 - (b) Section 5 (3) is repealed.

4. The *Children's Court Act 1973* is amended as follows:
 - (a) In section 3 omit "Welfare" (wherever occurring);
 - (b) In section 10 omit "Welfare";
 - (c) In section 22 (4) (b) omit "Welfare".
5. In section 3 of the *Children (Guardianship and Custody) Act 1984*, definition of "Director-General", omit "Welfare".
6. The *Crimes Act 1958* is amended as follows:
 - (a) In section 471 omit "Welfare";
 - (b) In section 476B—
 - (i) for "Minister of Social Welfare" substitute "Minister administering the *Community Services Act 1970*"; and
 - (ii) for "Director-General of Social Welfare" substitute "Director-General of Community Services".
7. Schedule 3 of the *Juries Act 1967* is amended as follows:
 - (a) In item 1 (f)—
 - (i) omit "the Director-General of Social Welfare"; and
 - (ii) omit "Welfare" (where secondly occurring);
 - (b) In item 1 (g)—
 - (i) omit "or the Director-General of Social Welfare"; and
 - (ii) omit "Welfare" (where secondly occurring).
8. In section 30 (1) (a) (iii) of the *Latrobe Regional Commission Act 1983* omit "Welfare".
9. The *Maintenance Act 1965* is amended as follows:
 - (a) In section 5 (3) (a) for "Social Welfare branch of the Chief Secretary's Department" substitute "Department of Community Services";
 - (b) In section 17 (7) for "Social Welfare" substitute "Community Services";
 - (c) In section 45A (1) for "section 20 of the *Gaols Act 1958*" substitute "the *Penalties and Sentences Act 1985*";
 - (d) In section 45A (2)—
 - (i) for "sub-sections (3A), (4), (5), (6), (7), (8), (9) and (10) of section 20 of the *Gaols Act 1958*" substitute "the *Penalties and Sentences Act 1985*"; and
 - (ii) for "the said section 20" substitute "that Act".
10. Section 12 of the *Penalties and Sentences (Youth Attendance Projects) Act 1984* is amended as follows:
 - (a) In paragraph (a) of the definition of "Youth attendance project" in proposed section 100 (1) for "section 66 (1) of the *Penalties and Sentences Act 1981*" substitute "section 58 (1) of the *Penalties and Sentences Act 1985*";
 - (b) In proposed section 103B for "57, 59, 61, 62, 63, 64, 66, 68 and 69, of the *Penalties and Sentences Act 1981*" substitute "49, 51, 53, 54, 55, 56, 58, 60 and 61 of the *Penalties and Sentences Act 1985*".
11. In section 119 (4) of the *Supreme Court Act 1986* after "1970" insert "or the *Corrections Act 1986*".
12. In section 4 (e) of the *Victorian Prison Industries Commission Act 1983* omit "Welfare".
13. Section 8 of the *Young Offenders (Interstate Transfer) Act 1986* is repealed.

NOTES

1. *Minister's second reading speech—*
Legislative Assembly: 23 March 1987
Legislative Council: 28 April 1987
2. The long title for the Bill for this Act was "A Bill to amend the *Community Welfare Services Act 1970*, to make consequential amendments to various Acts and for other purposes."