

# COMMUNITY WELFARE.

No. 5 of 1978.

**AN ACT to amend the Community Welfare Act, 1972.**

[Assented to 11th May, 1978.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Community Welfare Act Amendment Act, 1978*.

Short title  
and  
citation.

(2) In this Act the Community Welfare Act, 1972 is referred to as the principal Act.

Act No. 31  
of 1972.

(3) The principal Act as amended by this Act may be cited as the Community Welfare Act, 1972-1978.

Commence-  
ment.

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

Section 3  
amended.

3. Section 3 of the principal Act is amended by inserting immediately before the interpretation "Department" an interpretation as follows—

"delegate" means a delegate of the Director by reason of a delegation pursuant to section 20 of this Act; .

Section 18  
amended.

4. Section 18 of the principal Act is amended by substituting the word "Act" for the word "Part", in line four.

Section 20  
amended.

5. Section 20 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting a semicolon in lieu of the comma at the end of paragraph (b);

(ii) by adding after paragraph (b) a new paragraph as follows—

(c) to any consultative or advisory or working or standing Committee, council or board (whether a body corporate or voluntary association and whether established pursuant to section 22 of this Act or pursuant to any other Act or otherwise) where that committee, council or board pursuant to this or any other Act or otherwise with the consent or approval of the Minister is performing or is intended to perform any function in relation to the carrying on of a social service or alternatively to some expressly designated members of such a committee, council or board, ;

- (b) by substituting the word “terms” for the word “instrument”, in line one of paragraph (a) of subsection (2);
- (c) by inserting after the word “mind” being the last word in line five of paragraph (b) of subsection (2), the words “of the delegate”;
- (d) by adding after subsection (3) new subsections as follows—

(4) A delegation may be general or specific and if in writing shall be signed by both the Director and the Minister and if the Minister so directs shall be published in the *Government Gazette* as soon as practicable after execution.

(5) Where inconsistency or conflict arises out of the exercise of a function or the performance of a duty by both the Director and a delegate the acts or determinations of the Director prevail and to the extent of any inconsistency or conflict the acts or determinations of a delegate are of no force or effect whether the acts or determinations of the Director occur before, contemporaneously with, or subsequent to, those of the delegate.

(6) A delegate who—

- (a) knowingly and intentionally does any act in excess of the powers, authorities and functions delegated to him pursuant to the applicable instrument of delegation;
- (b) knowingly and intentionally fails or refuses to discharge any duty imposed on him by this Act and the applicable instrument of delegation;
- (c) knowingly and intentionally fails or refuses to carry out lawful directions of the Director given

in writing under his hand in respect of matters arising out of the administration of this Act; or

- (d) counsels, procures, causes or directs any other person to do or omit to do anything which if it was done or not done knowingly and intentionally by the first person would be an offence against this Act,

commits an offence against this Act.

Penalty: Two hundred dollars. .

Section 22  
repealed  
and  
re-enacted.

Establish-  
ment of  
organisa-  
tions.

6. Section 22 of the principal Act is repealed and re-enacted as follows—

22. (1) The Governor may by Order in Council published in the *Government Gazette* establish boards, committees and councils to assist or facilitate the discharge of the functions and duties of the Director and the Department and may dissolve or reconstitute such boards, committees and councils.

(2) Any such Order—

- (a) shall specify the name by which the board, committee or council is to be known and the general objects and powers of that organisation; and
- (b) may specify conditions to which that organisation and the members thereof are to be subject in the discharge of the duties and functions of that organisation and the members thereof.

(3) Any such Order may, by a subsequent Order in Council of the Governor and published in the *Government Gazette*, be altered or varied in respect of the matters for which provision is made in subsection (2) of this section, and thereupon the Order as so altered or varied has effect accordingly.

(4) Each board, committee and council so established and the members thereof are responsible to the Minister for the proper discharge of their duties and functions subject to the conditions, if any, specified pursuant to subsection (2) of this section in respect of that organisation and the members thereof, and the Minister may by instrument in writing appoint and remove members thereof including members appointed in a representative capacity and determine the status and seniority of the members of that organisation.

(5) Members of a board, committee, or council so established may be paid such remuneration and allowances as the Minister, on the recommendation of the Public Service Board, from time to time determines.

7. The principal Act is amended by adding after section 22 new sections as follows—

Sections 23,  
24, and 25  
added.

23. The Director, the deputy of the Director, any officer of the Department, any delegate or any person who is a member or officer of a body that is a delegate, while acting in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties under this Act, is deemed to be the agent of the Minister as the body corporate constituted by section 6 of this Act.

Agents of  
Minister  
in his  
corporate  
capacity.

24. No civil liability shall attach to the Minister in his personal capacity, the Director, the deputy of the Director, any officer of the Department, any delegate, or any person who is a member of or an officer of a body that is a delegate for any act or omission by him or it in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge or purported discharge of his or its duties, under this Act.

Immunity.

Regulations.

25. The Governor may make regulations not inconsistent with this Act—

- (a) specifying the classes or qualifications of persons who may be members of any board, committee or council established pursuant to section 22 of this Act;
- (b) providing for the methods of selection of representative members and the persons who may select and propose nominees to be representative members of such boards, committees and councils;
- (c) providing for meetings of such boards, committees and councils and for the conduct of their meetings and procedures generally;
- (d) regulating the manner in which such boards, committees and councils may deal with persons and property under their administration or control;
- (e) generally and without being limited by the preceding paragraphs (a) to (d) inclusive for or with respect to any matter or thing which is required or permitted or is to be prescribed by this Act,

and any such regulations may confer upon a specified person or body discretionary powers and authorities. .

---