



## ANALYSIS

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1971, No. 60

**An Act to establish a Department of Social Welfare to provide for the development and administration of effective social welfare policies and social welfare services for New Zealand and to promote co-operation in and the co-ordination of social welfare activities**

[25 November 1971]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement—**(1) This Act may be cited as the Department of Social Welfare Act 1971.

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

**2. Interpretation—**In this Act, unless the context otherwise requires,—

“Assistant Director-General” means an Assistant Director-General of Social Welfare appointed in accordance with section 7 of this Act:

“Department” means the Department of Social Welfare established by section 3 of this Act:

“Director-General” means the Director-General of Social Welfare appointed in accordance with subsection (1) of section 6 of this Act; and includes, in relation to any powers and duties of or pertaining to the position of the Director-General which any other officer of the Public Service is for the time being directed under subsection (2) of section 6 of this Act to exercise and perform, that other officer:

“Minister” means the Minister of Social Welfare:

“Social Security Commission” means the Social Security Commission established by the Social Security Act 1964:

“Social Worker” means—

(a) A Social Worker appointed or deemed to be appointed in accordance with section 8 of this Act:

(b) An Honorary Social Worker appointed or deemed to be appointed under section 9 of this Act:

“State Services Commission” means the State Services Commission established by the State Services Act 1962.

## PART I

## DEPARTMENT OF SOCIAL WELFARE

**3. Department of Social Welfare**—There is hereby established a Department of State, to be called the Department of Social Welfare.

**4. Functions of Department**—(1) The Department shall be charged with the administration of the following enactments, namely:

- (a) This Part of this Act, and the Child Welfare Act 1925, under the control of the Minister:
  - (b) Part I of the Social Security Act 1964, in accordance with section 2 of that Act:
  - (c) The Family Benefits (Home Ownership) Act 1964, in accordance with section 4 of that Act.
- (2) The Department shall—
- (a) Advise the Minister on the development of social welfare policies for New Zealand:
  - (b) Provide such social welfare services as the Minister may from time to time direct:
  - (c) Provide for the training of such persons as the Minister may direct (whether employed in the service of Her Majesty or by any agencies of the Crown or by any other organisations) to undertake social welfare activities:
  - (d) Maintain close liaison with and encourage co-operation and co-ordination among any organisations and individuals (including Departments of State and other agencies of the Crown) engaged in social welfare activities:
  - (e) Undertake and promote research into aspects of social welfare:
  - (f) Provide such administrative services as the Minister may from time to time direct to such boards, councils, committees, and agencies as he may direct.

(3) The Department shall have such other functions as may from time to time be lawfully conferred on it.

**5. Powers of Minister**—The Minister may, for the purpose of enabling the Department to carry out any of its functions in respect of which it is under his control, give to the Director-General such directions as he thinks fit.

**6. Director-General of Social Welfare—**(1) There shall from time to time be appointed under the State Services Act 1962 a Director-General of Social Welfare, who shall be the administrative head of the Department.

(2) On the occurrence from any cause of a vacancy in the office of Director-General (whether by reason of death, resignation, or otherwise), and in the case of absence of the Director-General (from whatever cause arising), and from time to time while such vacancy or absence continues, all or any of the powers and duties of the Director-General or pertaining to his position may be exercised and performed by any other officer of the Public Service who is for the time being directed by the State Services Commission to exercise and perform them, whether the direction has been given before the vacancy or absence occurs or while it continues.

(3) No direction given by the State Services Commission under subsection (2) of this section and no acts done by an officer acting pursuant to any such direction shall in any proceedings be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that such officer had not been appointed to the office of Director-General.

**7. Assistant Directors-General of Social Welfare—**There shall from time to time be appointed under the State Services Act 1962 one or more Assistant Directors-General of Social Welfare as may be necessary for the effective and efficient carrying out of the functions of the Department.

**8. Social Workers—**(1) There shall from time to time be appointed under the State Services Act 1962 such officers and employees of the Department, to be known as Social Workers, as may be necessary for the effective and efficient carrying out of the functions of the Department.

(2) Every person who, at the commencement of this Act, is—

(a) A social worker of the Social Security Department;  
or

(b) A Child Welfare Officer appointed under section 2 of the Child Welfare Act 1925—

shall be deemed without further appointment to hold office as a Social Worker in accordance with subsection (1) of this section.

**9. Honorary Social Workers—**(1) The Director-General may from time to time, by notice in the *Gazette*, appoint such persons as he thinks fit to be Honorary Social Workers.

(2) Every person who, at the commencement of this Act, is an honorary Child Welfare Officer appointed under section 2 of the Child Welfare Act 1925 shall be deemed without further appointment to hold office as an Honorary Social Worker in accordance with subsection (1) of this section.

(3) No person shall, by reason only that he is an Honorary Social Worker, be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962.

(4) Every Honorary Social Worker shall, in respect of the exercise and performance by him of the powers, duties, and functions conferred or imposed on him, act in accordance with any directions that the Director-General may give to him.

(5) The Director-General may at any time revoke the appointment of any person as an Honorary Social Worker.

**10. Other officers and employees of the Department—**

(1) There shall from time to time be appointed under the State Services Act 1962 such other officers and employees of the Department as may be necessary for the effective and efficient carrying out of the functions of the Department.

(2) Every person who, at the commencement of this Act, is an officer or employee of—

(a) The Social Security Department; or

(b) The Child Welfare Division of the Department of Education—

shall be deemed without further appointment to hold office as an officer or employee, as the case may be, of the Department of Social Welfare under subsection (1) of this section.

**11. Delegation of powers by Minister—**(1) The Minister may from time to time, either generally or particularly, delegate to the Director-General or to the Social Security Commission all or any of the powers conferred on him as Minister by any enactment, including powers delegated to him under any enactment, but not including the power to delegate under this section, or the power to consent to a delegation under section 12 of this Act or section 10 of the Social Security Act 1964.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Director-General

or the Social Security Commission may exercise any powers delegated to him or to it, as the case may be, under this section in the same manner and with the same effect as if they had been conferred on him or on it directly by this section and not by delegation.

(3) Until any such delegation is revoked, it shall continue in force according to its tenor; and in the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister.

(4) In the event of the Director-General or any member of the Social Security Commission to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person who is for the time being Director-General or, as the case may be, to the members who for the time being constitute the Social Security Commission.

(5) Where the Director-General or the Social Security Commission or any other person purports to act pursuant to any delegation under this section, he or it, as the case may be, shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(6) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

**12. Delegation of powers by Director-General—**(1) The Director-General may from time to time, either generally or particularly, delegate to such officer or officers or employee or employees of the Department as he thinks fit all or any of the powers exercisable by him under any enactment, including any powers delegated to him under any enactment but not including this present power of delegation:

Provided that the Director-General shall not delegate any powers delegated to him by the Minister without the written consent of the Minister, or any power delegated to him under the State Services Act 1962 without the written consent of the State Services Commission.

(2) Subject to any general or special directions given or conditions attached by the Director-General, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director-General.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding that the Director-General by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Director-General.

**13. Committees—**(1) The Minister may from time to time appoint such committees as he thinks fit to advise or otherwise assist the Minister or the Director-General on such aspects of social welfare as the Minister may specify.

(2) The members of any such committee shall hold office at the pleasure of the Minister.

(3) Subject to any regulations made under this Act, every such committee may regulate its own procedure.

(4) Every such committee is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(5) There may, if the Minister so directs, be paid to the members of any such committee, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances in accordance with the Fees and Travelling Allowances Act 1951.

(6) There shall be paid to the members of every such committee, out of money appropriated by Parliament for the purpose, travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951 in respect of time spent travelling in the service of such committee.

(7) The Fees and Travelling Allowances Act 1951 shall apply accordingly.

(8) No person shall, by reason only that he is a member of any such committee, be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956.

**14. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Providing for the procedures to be followed by any committees appointed by the Minister under section 13 of this Act:
- (b) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

## PART II

### AMENDMENTS TO OTHER ENACTMENTS

#### *Social Security*

**15. Administration of Part I of Social Security Act 1964**—

(1) The Social Security Act 1964 is hereby amended by repealing section 2, and substituting the following section:

“2. Subject to the control and direction of the Minister of Social Welfare, this Part of this Act shall be administered in the Department of Social Welfare by the Social Security Commission.”

(2) Section 3 of the said Act is hereby amended by omitting from the definition of the term “Commission”, in subsection (1), the words “appointed under”, and substituting the words “established by”.

(3) The said section 3 is hereby further amended by repealing the definition of the term “Department” in subsection (1), and substituting the following definition:

“‘Department’ means the Department of Social Welfare established by the Department of Social Welfare Act 1971:”.

(4) Section 4 of the Social Security Act 1964 is hereby repealed.

**16. Social Security Commission**—The Social Security Act 1964 is hereby further amended by repealing section 6, and substituting the following section:

“6. (1) For the purposes of this Act there shall be a permanent Commission called the Social Security Commission.

“(2) The Commission shall, from the commencement of the Department of Social Welfare Act 1971, consist of—

“(a) The Director-General of Social Welfare under that Act, who shall be the Chairman of the Commission:

“(b) The Assistant Directors-General of Social Welfare under that Act.



“(3) One member of the Commission, other than the Chairman, shall be designated as the Deputy Chairman of the Commission by the State Services Commission.

“(4) The Chairman shall preside at all meetings of the Commission at which he is present.

“(5) In the absence of the Chairman from any meeting, the Deputy Chairman shall preside.

“(6) At any meeting of the Commission, the Commissioner who is presiding shall have a deliberative vote, and shall also in the case of an equality of votes have a casting vote.”

**17. Acting Commissioners**—(1) Section 7 of the Social Security Act 1964 is hereby amended by inserting in subsection (1), after the word “appointed”, the words “under the State Services Act 1962”.

(2) Section 8 of the Social Security Act 1964 is hereby repealed.

**18. Consequential amendments**—(1) The Social Security Act 1964 is hereby further amended by omitting from section 5, and also from subsection (1) of section 10, the words “Minister of Social Security”, and substituting in each case the words “Minister of Social Welfare”.

(2) Section 124 of the said Act is hereby amended by omitting from paragraph (d) of subsection (1), and also from paragraph (dd) of that subsection (as inserted by section 19 (1) of the Social Security Amendment Act 1969), the words “Minister of Social Security”, and substituting in each case the words “Minister of Social Welfare”.

(3) The said section 124 is hereby further amended by repealing paragraph (b), and substituting the following paragraph:

“(b) All other expenditure incurred in the administration of this Act.”

(4) Section 134 of the Social Security Act 1964 is hereby repealed.

### *Family Benefits (Home Ownership)*

**19. Amendments to Family Benefits (Home Ownership) Act 1964**—(1) Section 2 of the Family Benefits (Home Ownership) Act 1964 is hereby amended by omitting from the definition of the term “Commission”, in subsection (1), the words “appointed under”, and substituting the words “established by”.

(2) The said section 2 is hereby further amended by repealing the definition of the term "Department" in subsection (1), and substituting the following definition:

"'Department' means the Department of Social Welfare established by the Department of Social Welfare Act 1971:".

(3) The said Act is hereby further amended—

(a) By omitting from section 4 the words "Social Security Department", and substituting the words "Department of Social Welfare":

(b) By omitting from section 4, and also from subsection (1) of section 5, the words "Minister of Social Security", and substituting in each case the words "Minister of Social Welfare".

#### *War Pensions*

**20. Amendments to War Pensions Act 1954**—Section 2 of the War Pensions Act 1954 is hereby amended by repealing the definition of the term "Department" in subsection (1), and substituting the following definition:

"'Department' means the Department of Social Welfare established by the Department of Social Welfare Act 1971:".

#### *Child Welfare*

**21. Amendments to Child Welfare Act 1925**—(1) Section 2 of the Child Welfare Act 1925 (as amended by section 12 (6) of the Child Welfare Amendment Act 1948) is hereby further amended by repealing the definitions of the terms "Child Welfare Division", "Child Welfare Officer", "Department", "Director", "Minister", and "Superintendent", "Deputy Superintendent" and "Deputy", and substituting, in their appropriate alphabetical order, the following definitions:

"'Department' means the Department of Social Welfare established by the Department of Social Welfare Act 1971:

"'Director-General' means the Director-General of Social Welfare under the Department of Social Welfare Act 1971:

"'Minister' means the Minister of Social Welfare:

"'Social Worker' means a Social Worker under the Department of Social Welfare Act 1971."

(2) The said section 2 is hereby further amended by omitting from the definition of the term "inmate" the word

“Superintendent”, in both places where it occurs, and substituting in each case the word “Director-General”.

(3) The following enactments are hereby repealed, namely:

- (a) Sections 5 and 6, and paragraph (c) of section 45, of the Child Welfare Act 1925;
- (b) Section 37 of the Child Welfare Amendment Act 1927;
- (c) Section 12 of the Child Welfare Amendment Act 1948.

(4) Subject to the foregoing provisions of this section, and unless the context otherwise requires, every reference in the Child Welfare Act 1925 and its amendments—

- (a) To the Child Welfare Division shall hereafter be read as a reference to the Department;
- (b) To the Superintendent of Child Welfare shall hereafter be read as a reference to the Director-General;
- (c) To a Child Welfare Officer shall hereafter be read as a reference to a Social Worker.

### *Infants*

**22. Amendments to Infants Act 1908**—(1) Section 39 of the Infants Act 1908 is hereby amended by repealing the definition of the term “Minister”, and substituting the following definition:

“‘Minister’ means the Minister of Social Welfare:”.

(2) The said section 39 (as amended by section 48 (3) of the Child Welfare Act 1925 and section 12 (7) of the Child Welfare Amendment Act 1948) is hereby further amended by repealing the definition of the term “Superintendent”, and by inserting, before the definition of the term “foster parent”, the following definition:

“‘Director-General’ means the Director-General of Social Welfare under the Department of Social Welfare Act 1971:”.

(3) Subject to the foregoing provisions of this section, and unless the context otherwise requires, every reference in the Infants Act 1908 and its amendments to the Superintendent of Child Welfare shall hereafter be read as a reference to the Director-General.

### *Adoption*

**23. Amendments to Adoption Act 1955**—(1) Section 2 of the Adoption Act 1955 is hereby amended by repealing the definition of the term “Child Welfare Officer” (as in-

serted by section 2 (b) of the Adoption Amendment Act 1962), and by inserting, after the definition of the term "relative", the following definition:

“Social Worker”—

“(a) In relation to any application or proposed application by a Maori, whether jointly or singly, for an adoption order in respect of a Maori child, means a Welfare Officer appointed under section 4 of the Maori Welfare Act 1962:

“(b) In relation to any other application or proposed application for an adoption order, means a Social Worker under the Department of Social Welfare Act 1971; and includes, where the Court so directs, a Welfare Officer appointed under section 4 of the Maori Welfare Act 1962.”

(2) Section 2 of the Adoption Act 1955 is hereby further amended by repealing the definition of the term “Superintendent of Child Welfare”, and by inserting, after the definition of the term “Court”, the following definition:

“‘Director-General’ means the Director-General of Social Welfare under the Department of Social Welfare Act 1971:”.

(3) Section 2 of the Adoption Amendment Act 1962 is hereby consequentially amended by repealing paragraph (b).

(4) Subject to the foregoing provisions of this section, and unless the context otherwise requires, every reference in the Adoption Act 1955 and its amendments—

(a) To the Superintendent of Child Welfare shall hereafter be read as a reference to the Director-General:

(b) To a Child Welfare Officer shall hereafter be read as a reference to a Social Worker.

### *Maori Welfare*

**24. Amendment to Maori Welfare Act 1962**—Section 34 of the Maori Welfare Act 1962 is hereby amended by repealing paragraph (e) of subsection (2), and substituting the following paragraph:

“(e) A Social Worker under the Department of Social Welfare Act 1971:”.

### *Matrimonial Proceedings*

**25. Amendments to Matrimonial Proceedings Act 1963**—Section 50 of the Matrimonial Proceedings Act 1963 is hereby amended—

- (a) By omitting from subsection (1) the words "Child Welfare Officer appointed under the Child Welfare Act 1925", and substituting the words "Social Worker under the Department of Social Welfare Act 1971":
- (b) By omitting from subsection (1) the words "The Officer," and substituting the words "The Social Worker or Officer":
- (c) By inserting in subsection (4), after the words "any such", the words "Social Worker or".

### *Domestic Proceedings*

#### **26. Amendments to Domestic Proceedings Act 1968—**

(1) Section 2 of the Domestic Proceedings Act 1968 is hereby amended by repealing the definition of the term "Child Welfare Officer", and by adding to the section the following definition:

"'Social Worker' means a Social Worker under the Department of Social Welfare Act 1971; and includes a Welfare Officer appointed under the Maori Welfare Act 1962."

(2) Section 8 of the Domestic Proceedings Act 1968 is hereby amended by omitting from subsection (2) the words "Social Security Department", and substituting the words "Department of Social Welfare".

(3) Section 116 of the Domestic Proceedings Act 1968 is hereby amended—

- (a) By omitting from subsection (3) the words "Superintendent of the Child Welfare Division of the Department of Education", and substituting the words "Director-General of Social Welfare under the Department of Social Welfare Act 1971":
- (b) By omitting from that subsection the word "Superintendent", and substituting the word "Director-General".

(4) Subject to the foregoing provisions of this section, and unless the context otherwise requires, every reference in the Domestic Proceedings Act 1968 to a Child Welfare Officer shall hereafter be read as a reference to a Social Worker.

### *Guardianship*

**27. Amendments to Guardianship Act 1968—**(1) Section 2 of the Guardianship Act 1968 is hereby amended by repeal-

ing the definition of the term "Child Welfare Officer", and by inserting, after the definition of the term "prescribed", the following definition:

"'Social Worker' means a Social Worker under the Department of Social Welfare Act 1971:".

(2) The said section 2 is hereby further amended by repealing the definition of the term "Superintendent of Child Welfare", and by inserting, after the definition of the term "Court", the following definition:

"'Director-General' means the Director-General of Social Welfare under the Department of Social Welfare Act 1971:".

(3) Subject to the foregoing provisions of this section, and unless the context otherwise requires, every reference in the Guardianship Act—

(a) To the Superintendent of Child Welfare shall hereafter be read as a reference to the Director-General:

(b) To a Child Welfare Officer shall hereafter be read as a reference to a Social Worker.

#### *Parliamentary Commissioner (Ombudsman)*

**28. Amendment to Parliamentary Commissioner (Ombudsman) Act 1962**—The Parliamentary Commissioner (Ombudsman) Act 1962 is hereby amended by repealing the item "The Social Security Department" in Part I of the Schedule, and by inserting, after the item "The Department of Scientific and Industrial Research" in that Part, the following item: "The Department of Social Welfare".

#### *State Services*

**29. Amendments to State Services Act 1962**—(1) The State Services Act 1962 is hereby amended by repealing the item "Social Security Department" in the Second Schedule, and by inserting after the item "Department of Lands and Survey." in that Schedule the following item:

"Department of Social Welfare".

(2) The said Act (as amended by section 134 of the Social Security Act 1964) is hereby further amended by repealing the item relating to the Social Security Department in the Third Schedule, and substituting the following item:

"Social Welfare . . . Director-General of Social Welfare.

Assistant Director-General of Social Welfare."

*Consequential Amendments*

**30. General consequential amendments**—Subject to the foregoing provisions of this Part of this Act, and unless in any case the context otherwise requires, every reference in any enactment, regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever in force at the commencement of this Act,—

- (a) To the Minister of Social Security shall hereafter be read as a reference to the Minister of Social Welfare:
- (b) To the Social Security Department or to the Child Welfare Division of the Department of Education shall hereafter be read as a reference to the Department of Social Welfare:
- (c) To the Superintendent or Deputy Superintendent of Child Welfare shall hereafter be read as a reference to the Director-General of Social Welfare:
- (d) To a Child Welfare Officer shall hereafter be read as a reference to a Social Worker.

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This Act is administered in the Department of Social Welfare.

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