

Hon. Miss Howard

CHILD WELFARE AMENDMENT

ANALYSIS

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A BILL INTITULED

Title.

AN ACT to Amend the Child Welfare Act, 1925.

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

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Short Title.
See Reprint
of Statutes,
Vol. III,
p. 1091

1. This Act may be cited as the Child Welfare Amendment Act, 1948, and shall be read together with and deemed part of the Child Welfare Act, 1925 (hereinafter referred to as the principal Act).

PART I

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CARE AND DISPOSITION OF IMMIGRANT CHILDREN

Interpretation.

2. (1) In this Part of this Act, unless the context otherwise requires,—

“Immigrant child” means any child who has not attained the age of eighteen years who is either a refugee child or a child who comes to New Zealand in accordance with an arrangement between the Government of New Zealand and the parents or guardian of the child that the child will live in New Zealand subject to the provisions of this Part of this Act:

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“Refugee child” means any child who comes to New Zealand as an immigrant pursuant to an arrangement made for that purpose between the Government of New Zealand and the International Refugee Organization.

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(2) No person who comes to New Zealand accompanied by and in the charge of his parent or any of his relatives shall be deemed to be either an immigrant child or a refugee child within the meaning of this Part of this Act.

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Immigrant children to be under care of Superintendent on arrival in New Zealand.

3. Every immigrant child shall, immediately upon arrival in New Zealand, be deemed to have been placed under the care and guardianship of the Superintendent in all respects as if an order of committal in respect of the child had been made under the principal Act.

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Superintendent may arrange for immigrant children to be placed in care of suitable persons.

4. (1) The Superintendent, or any officer of the Child Welfare Division authorized by the Superintendent in that behalf, may arrange for any suitable person to take charge of any immigrant child placed under the care and guardianship of the Superintendent under section *three* hereof.

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(2) Where any child is placed in the charge of any person pursuant to this section, every such person, while he retains the custody of the child, shall—

- 5 (a) Maintain the child at his own cost and in his own home, and provide the child with all proper food, clothing, and attention:
- 10 (b) In the case of a child of school age, ensure the regular attendance of the child at school, or otherwise provide for the education of the child in accordance with the Education Act, 1914, and the regulations thereunder:
- 15 (c) In the case of a child above school age who is enrolled as a student of any post-primary school or other educational institution, take all proper steps to ensure that the child regularly attends his classes and afford him all proper opportunities to pursue his studies:
- 20 (d) Ensure that the child will not be required, out of school hours or during school holidays, to perform any duties other than the duties that a child of the same age and condition of health could in like circumstances be reasonably called on to perform in or about his own home:
- 25 (e) Provide for the proper physical, mental, and moral training of the child:
- (f) Allow the child reasonable opportunities for play and for participation in organized games:
- 30 (g) Afford proper opportunities for the religious training of the child:
- 35 (h) At all reasonable times allow the Superintendent or any Child Welfare Officer or any person authorized in writing in that behalf by the Superintendent to inspect the accommodation, food, and clothing provided for the child, and comply with all reasonable requirements of the Superintendent or of a Child Welfare Officer in respect thereto:
- 40 (i) At all reasonable times allow the Superintendent or any Child Welfare Officer or any person authorized in writing in that behalf by the Superintendent to interview the child, alone

See Reprint
of Statutes,
Vol. II, p. 1007

if so desired, and comply with all reasonable requirements of the Superintendent or of the Child Welfare Officer with respect to medical or dental examination or treatment or otherwise with respect to the physical or mental welfare of the child: 5

(j) In the case of a child who has ceased to attend school as a full-time pupil,—

(i) Not employ the child or permit the child to be employed without the prior consent of the Superintendent; 10

(ii) Ensure that any wages earned by the child will be paid in accordance with section thirty-seven of the principal Act;

(iii) Ensure that the hours of work, the nature of the employment, the rate of wages, and generally the terms and conditions relating to any work in which the child may be employed shall be such as may from time to time be approved by the Superintendent, being not less favourable to the child in any case than the terms and conditions applicable to other employees of the same status engaged in the industry or occupation in which the child is employed. 15 20 25

Person having care of immigrant child may apply for guardianship.

5. (1) Where a child has been in charge of any person under section *four* hereof for a continuous period of at least six months, that person may apply in writing to the Superintendent for the guardianship of the child. 30

(2) The Superintendent, if he is satisfied that the applicant is a suitable person to be the guardian of the child, and that the child, if over the age of twelve years, consents to the applicant being his guardian, may, in his discretion, grant the application in a form to be prescribed for the purpose. 35

See Reprint of Statutes, Vol. III, p. 1070

(3) On any such application being granted the applicant shall forthwith become the guardian of the child in all respects as if he had been appointed the guardian by the Supreme Court under Part I of the Infants Act, 1908, and the powers, rights, and obligations of the Superintendent under this Part of this Act in respect of the child shall thereupon cease. 40

6. Notwithstanding the provisions of any Act or rule of law, where any person becomes the guardian of an immigrant child pursuant to section *five* hereof, the provisions of subsection *two* of section *four* hereof (with the exception of the provisions contained in paragraphs (*h*), (*i*), and (*j*) of that subsection) shall continue to apply to that person and that child as if the child were still under the care of that person pursuant to the said section *four*.
- 10 7. (1) The Supreme Court may, in its discretion, on being satisfied that it is for the welfare of the child, remove from his office any person appointed as the guardian of a child under section *five* hereof.
- (2) Any guardian appointed pursuant to this Act shall cease to be the guardian of the child in respect of whom he was appointed when the child attains the age of twenty-one years.
- 15 8. For the purposes of section eight of the Guardianship of Infants Act, 1926, any person who is for the time being the guardian of a child pursuant to this Act shall be the person whose consent is required to the marriage of that child.
- 19 9. Nothing in the foregoing provisions of this Act shall be construed to affect any powers conferred on the Superintendent or any Child Welfare Officer by the principal Act.
- 25 10. Notwithstanding the provisions of section eighteen of the Infants Act, 1908, a Judge, before making an order of adoption of a refugee child, shall not, if the Superintendent is for the time being the guardian of the child under this Part of this Act, be required to ascertain whether either of the parents of the child is living, and while he remains the guardian of the child the Superintendent shall be deemed to be the only person whose consent to the adoption of the child is required under that section.
- 30 11. For the purposes of section eleven of the Land and Income Tax Amendment Act, 1939, a child, while in the charge or under the guardianship of any person pursuant to section *four* or section *five* of this Act, shall be deemed to be a relative of that person.

Obligations of guardians.

Termination of guardianship.

Guardian under this Part of this Act may give consent to marriage.
See Reprint of Statutes, Vol. III, p. 1132

Rights of Superintendent not affected.

Superintendent may consent to adoption of refugee child.
Ibid., p. 1075

Right of guardian to receive exemption from income-tax in respect of child.
1939, No. 34

PART II

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

Constitution of
Child Welfare
Division and
consequential
amendments.

12. (1) There shall be a Division of the Department of Education to be called the Child Welfare Division. 5

(2) The Child Welfare Division shall consist of—

(a) The Superintendent, who, under the control of the Minister and the Director, shall be charged with the administration of the principal Act: 10

(b) The Deputy Superintendent:

(c) Such officers and servants as may be required for the purposes of the principal Act. 15

(3) The person who at the commencement of this Act holds office as the Superintendent of the Child Welfare Branch of the Department of Education shall, without further appointment, be deemed to have been appointed as the Superintendent of the Child Welfare Division, and shall hold office accordingly. 15

(4) All persons who at the commencement of this Act hold office in connection with the Child Welfare Branch of the Department of Education shall be deemed to have been appointed to like offices in connection with the Child Welfare Division. 20

Repeals.

(5) Sections three and four and subsection two of section six of the principal Act are hereby consequentially repealed. 25

(6) Section two of the principal Act is hereby amended as follows:—

(a) By omitting the definition of the term “ Child Welfare Branch ”, and substituting the following definition:— 30

“ ‘ Child Welfare Division ’ means the Child Welfare Division of the Department of Education ”:

(b) By omitting from the definition of the term “ Superintendent ” the words “ Child Welfare Branch ”, and substituting the words “ Child Welfare Division ”. 35

(7) All references to the Child Welfare Branch of the Department of Education in the principal Act or in any other Act, regulation, Order, or other enactment, or in any contract, agreement, deed, instrument, or other document whatsoever, shall, unless inconsistent with the context, be hereafter read as references to the Child Welfare Division of the Department of Education.

13. (1) The powers and rights conferred on the Superintendent by the principal Act in respect of any child shall continue so long as the child remains an inmate within the meaning of that Act, whether or not the child is for the time being in an institution.

Superintendent to retain guardianship and other rights over inmate whether in institution or not.

(2) The principal Act is hereby consequentially amended as follows:—

- 15 (a) By repealing subsection two of section sixteen:
- (b) By omitting from section eighteen the words “ of an institution under this Act ”, and also the words “ of an institution as aforesaid ”:
- 20 (c) By omitting from section twenty-one the words “ of an institution under this Act ”:
- (d) By omitting from section twenty-one the words “ from the institution ”, and substituting the words “ from the care and guardianship of the Superintendent ”:
- 25 (e) By omitting from subsection one of section twenty-two the words “ of an institution under this Act ”, and also the words “ of institutions ”:
- 30 (f) By omitting from section twenty-three the words “ from an institution under this Act at any time before he has attained the age of twenty-one years ”, and substituting the words “ from his care and guardianship at any time before the inmate has attained the age of twenty-one years ”:
- 35 (g) By omitting from subsection one of section thirty-six the words “ as defined, of any such institution ”:
- 40 (h) By omitting from subsection two of section thirty-six the words “ of an institution under this Act ”, the words “ by the institution ”, and also the words “ by an institution ”:
- (i) By omitting from subsection one of section thirty-seven the words “ of an institution ”:

Superintendent may enter into agreements for maintenance of inmates.

14. (1) The Superintendent may agree with any person who is responsible for the maintenance of a child that that person will pay the cost or a portion of the cost of the maintenance of the child while the child remains an inmate.

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(2) The provisions of section forty-four of the principal Act shall apply to any agreement made under this section.

Section 13 of principal Act amended.

15. Section thirteen of the principal Act is hereby amended by repealing subsection five thereof.

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Section 31 of principal Act amended.

16. (1) Section thirty-one of the principal Act as amended by section twenty-three of the Child Welfare Amendment Act, 1927, is hereby further amended by omitting the words "it shall not be necessary for the Court to hear and determine the charge. Whether or not in any such case the Court determines the charge, it may, in its discretion", and substituting the words "the Court shall hear and determine the charge and, if the charge is proved, may,".

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Repeal.
See Reprint of Statutes, Vol. III, p. 1121

(2) Section twenty-three of the Child Welfare Amendment Act, 1927, is hereby repealed.

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Amending provisions as to disposition of wages of inmates.

17. Section thirty-seven of the principal Act is hereby amended by repealing subsection four thereof, and substituting the following subsections:—

"(4) All moneys standing to the credit of an inmate in any such account in the Post Office Savings-bank may be paid to the inmate on his discharge from the care and guardianship of the Superintendent, or at any time before his discharge, or the Superintendent may in any case, with the approval of the Minister, continue to hold the whole or any part of the moneys in trust for the inmate after his discharge, to be paid to him at such times and in such manner as the Superintendent thinks fit.

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"(5) If any inmate cannot be found any moneys standing to his credit as aforesaid may, with the approval of the Minister be paid into the Consolidated Fund and, in the event of the death of any inmate, any such

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moneys may, with the like approval, be applied in payment of any expenses incurred in connection with the funeral of the inmate and the balance, if any, paid to any relative or other person who, in the opinion of the
5 Minister, is entitled thereto or, in the absence of any such person, to the Consolidated Fund."

18. Section thirty-six of the Child Welfare Amendment Act, 1927, is hereby amended by inserting, after the words "illegitimate child," the words "or of an
10 unmarried woman who is with child," and by inserting, after the word "eight", the words "or section nine".

Superintendent
may initiate
maintenance
proceedings on
behalf of
unmarried
woman.

See Reprint
of Statutes,
Vol. III, p. 1124