

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 21 March 1990

SOCIAL WELFARE (TRANSITIONAL PROVISIONS) BILL

Proposed Amendments

Hon. Dr MICHAEL CULLEN, in Committee, to move the following amendments:

Clause 2: To insert, after the word "requires," (page 2, line 10), the words "'Minister' means the Minister of Social Welfare and".

Clause 28 (2): To insert, after the expression "section 22 (3) (b)", the expression "and (c)".

Clause 36: To omit subclause (3) (page 32, lines 12 to 15).

Clause 37: To insert, after subclause (1), the following subclauses:

(1A) Section 283 of the Children, Young Persons, and Their Families Act 1989 is hereby amended by repealing paragraph (i), and substituting the following paragraph:

"(i) Make an order under section 293A of this Act:"

(1B) The Children, Young Persons, and Their Families Act 1989 is hereby amended by inserting, after section 293, the following section:

"293A. **Disqualification from driving**—(1) Where a charge against a young person is proved before a Youth Court, and the offence or the circumstances in which it was committed are such that a District Court would, on entering a conviction for that offence,—

"(a) Be empowered under section 83 of the Criminal Justice Act 1985 to make an order disqualifying the offender from holding or obtaining a driver's licence; or

"(b) Be required or empowered under section 30 or section 30AA or section 30AB of the Transport Act 1962 to make an order disqualifying the offender from holding or obtaining a driver's licence; or

"(c) Be required to make an order under section 30A of the Transport Act 1962 requiring the offender to attend an Assessment Centre and disqualifying the person from holding or obtaining a driver's licence,—

then the Youth Court may make such order (being an order of any of the kinds referred to in any of paragraphs (a) to (c) of this subsection) as would have been obligatory or could have been ordered under any of those sections if the young person were an adult and had been convicted of the offence in a Court other than a Youth Court.

"(2) Where a Youth Court makes an order pursuant to subsection (1) (a) of this section, the provisions of section 83 of the Criminal Justice Act 1985 shall apply accordingly.

“(3) Subject to subsection (5) of this section, where a Youth Court makes an order pursuant to subsection (1) (b) or (c) of this section, sections 30B to 30D and 33 to 41 of the Transport Act 1962 shall apply, so far as applicable and with any necessary modifications, as if the order had been made under Part IV of that Act.

“(4) In determining, for the purposes of paragraph (b) or paragraph (c) of subsection (1) of this section, whether any order would have been obligatory or could have been ordered under any of the sections referred to in either of those paragraphs, a finding (whether made before or after the commencement of this section), by a Children and Young Persons Court or a Youth Court, that a young person is proved to have committed an offence referred to in section 30AA (4) or section 30A (1) (a) of the Transport Act 1962 (not being an offence in respect of which an order has been made under section 282 of this Act or section 35 of the Children and Young Persons Act 1974) shall be deemed to be a conviction for that offence.

“(5) Where a Youth Court makes an order pursuant to subsection (1) (c) of this section in respect of a young person, that young person shall not be required to pay the Assessment Centre fee payable under section 30B (1) of the Transport Act 1962 in respect of that order unless the Youth Court, being satisfied that the young person has the capacity to pay that fee within a period of 12 months from the date on which the fee is payable, so orders.”

Clause 40: To insert, after subclause (2), the following subclause:

(2A) Section 101 (1) of the Social Security Act 1964 is hereby amended by adding the following proviso:

“Provided that this subsection shall not apply to any payments made by the Department of Social Welfare to any area health board in respect of long-term hospital treatment provided by the board for any intellectually handicapped person or physically handicapped person.”

New clause 41B: To insert in Part II, after clause 41A, the following clause:

41B. Validation of exercise of Director-General's powers pursuant to a purported delegation—If any officer of the Department has, at any time before the commencement of this section, purported to exercise any power, function, or discretion of the Director-General under the Social Security Act 1964, and the exercise of that power, function, or discretion would have been valid if it had been carried out pursuant to a valid delegation by the Director-General (with the written consent of the Minister of Social Welfare) pursuant to section 10 of the Social Security Act 1964, the exercise of that power, function, or discretion shall be deemed to have been valid.

EXPLANATORY NOTE

Clause 2: The proposed amendment makes it clear that the term “Minister” in the Bill means the Minister of Social Welfare.

Clause 28 (2): The proposed amendment corrects a cross-reference.

Clause 36: The proposed amendment omits subclause (3). The omitted subclause amended section 10 of the Social Security Act 1964, relating to the delegation of the powers of the Director-General of Social Welfare. The amendment empowered the Director-General to delegate his or her powers under other Acts as well as under the Social Security Act 1964. The amendment

is considered to be unnecessary as the Director-General has power to delegate his or her powers under other Acts pursuant to section 41 of the State Sector Act 1988.

Clause 37: The proposed amendment inserts a new section 293A into the Children, Young Persons, and Their Families Act 1989.

Youth Courts currently have no power to disqualify a young person from driving where the offence proved is an offence against the Transport Act 1962. Their power is limited to the circumstances in which such an order might be made under section 83 of the Criminal Justice Act 1985.

The effect of the new section is to empower a Youth Court to make an order disqualifying a young person from holding or obtaining a driver's licence and an order requiring the young person to attend an Assessment Centre where a charge against a young person is proved and such an order would have been obligatory or could have been made if the young person were an adult and had been convicted of the offence in a Court other than a Youth Court.

Clause 40 amends section 101 of the Social Security Act 1964. That section prohibits an area health board from demanding, accepting, or being entitled to recover from the patient or any other person any payment for hospital treatment afforded to a hospital patient who is entitled to receive hospital benefits under Part II of the Social Security Act 1964.

The amendment provides that that provision is not to apply to any payments made by the Department of Social Welfare to any area health board in respect of long-term hospital treatment provided by the board for any intellectually handicapped person or physically handicapped person.

New clause 41B: The new clause provides that if any officer of the Department of Social Welfare has, at any time before the commencement of the clause (1 April 1990), purported to exercise any power, function, or discretion of the Director-General of Social Welfare under the Social Security Act 1964, and the exercise of that power, function, or discretion would have been valid if it had been carried out pursuant to a valid delegation by the Director-General (with the written consent of the Minister of Social Welfare) pursuant to section 10 of the Social Security Act 1964, the exercise of that power, function, or discretion shall be deemed to have been valid.