

EXPLANATORY STATEMENT

CHILDREN'S SERVICES ORDINANCE 1986 CHILDREN'S SERVICES (MISCELLANEOUS AMENDMENTS) ORDINANCE 1986

No 14, 1986

The Children's Services Ordinance 1986 is based on the Australian Law Reform Commission's Report on Child Welfare in the ACT, and the House of Assembly's consideration of that Report.

Whilst the underlying policy of the Australian Law Reform Commission has been adopted, the draft Ordinance annexed to the Commission's Report has been recast to reflect present drafting practice, and to adopt recent reforms to criminal procedure and sentencing.

The Children's Services Ordinance 1986 repeals existing child welfare legislation in the ACT and reforms the law in relation to child welfare as follows:

- welfare services

- . provision for the establishment of the Director of Welfare, the Youth Advocate, the Children's Services Council and the Standing Committee of that Council
- . a policy of an integrated approach to the special needs and problems of children is expressly adopted.

- young offenders

- . clear legislative guidelines are placed on the procedures relating to arrest, interview and taking of fingerprints and photographs of children;
- . the policy of diverting children from the Court system by the police (or other authorised persons), whenever appropriate, is adopted and express recognition is given to the system of police warnings as a specific alternative to Court proceedings;
- . where it is appropriate that a child be brought before a Court, the Court is required to adapt its processes to the child's understanding;
- . when a child is prosecuted he or she is to be given all the protection of an adult facing a similar charge;
- . the appointment of a specialist Children's Magistrate is provided for;
- . existing ineffective and antiquated penalties are replaced by an extensive range of sentencing options designed to protect the community but at the same time reflect the special needs of children;

- . a system of on-going review of children remaining subject to Court orders by the Youth Advocate is provided to ensure that the changing needs of children can be accommodated.
- children in need of care
 - . existing antiquated procedures which result in children who are in need of care being charged with a criminal offence are abolished;
 - . a new procedure to deal efficiently and effectively with children who are genuinely in need of care is provided;
 - . the Office of the Youth Advocate with the full range of powers, functions and responsibilities envisaged by the Australian Law Reform Commission is created to oversight this area;
 - . reliance on court proceedings is minimised.
- abused children
 - . emergency procedures are provided to protect children who are at risk of being abused;
 - . compulsory reporting of abused children is provided;
 - . offences for abusing children are created.
- child care services
 - . a new licensing system is provided which has been designed to protect children placed in child care facilities and control the operating of these facilities without creating an unnecessarily bureaucratic system.
- children in employment
 - . new procedures to protect children, who are particularly liable to exploitation in employment, are introduced.

The Children's Services (Miscellaneous Amendments) Ordinance 1986 makes amendments to a number of Ordinances and the Remand Centres Regulations consequential to the proposed repeal of the Child Welfare Ordinance 1957.

Details of the Children's Services Ordinance 1986 are set out in Attachment "A" and details of the Children's Services (Miscellaneous Amendments) Ordinance 1986 are set out in Attachment "B".

CHILDREN'S SERVICES (MISCELLANEOUS AMENDMENTS) ORDINANCE 1986

Clause 1 provides that the short title of the proposed Ordinance in the Children's Services (Miscellaneous Amendments) Ordinance 1986.

Clause 2 provides for the Ordinance to come into operation on a date to be fixed by the Minister for Territories.

Clause 3 repeals section 429 of the Crimes Act 1900.

Clause 4 amends section 66 of the Evidence Ordinance 1971 by replacing references to the Child Welfare Ordinance 1957 with a reference to the Children's Services Ordinance.

Clause 5 amends section 5 of the Hawkers Ordinance 1936 by replacing the reference to the Child Welfare Ordinance 1957 with a reference to the Children's Services Ordinance.

Clause 6 amends sections 5 and 18 of the Education Ordinance 1937 by replacing the references in that Ordinance to procedures under the Child Welfare Ordinance 1957 with a reference to procedures under the Children's Services Ordinance 1986.

Clause 7 amends section 10G of the Magistrates Court Ordinance 1930 to permit the Chief Magistrate to make administrative arrangements relating to the Children's Court under the Children's Services Ordinance.

Clause 8 amends section 4 of the Magistrates Court (Civil Jurisdiction) Ordinance 1982 to omit paragraph (b).

Clause 9 amends section 23 of the Maintenance Ordinance 1968 to replace the reference to wards under the Child Welfare Ordinance 1957 with a reference to wards under the Children's Services Ordinance 1986.

Clause 10 amends section 3 and 15 of the Remand Centres Ordinance 1976 to replace references to the Child Welfare Ordinance 1957 with references to the Children's Services Ordinance 1986 and to remove the obsolete definition of juvenile.

Clause 11 amends the Second Schedule to the Seat of Government (Administration) Ordinance 1930 to replace references to the Child Welfare Ordinance 1957 with references to the Children's Services Ordinance 1986.

Clause 12 amends the Testamentary Guardianship Ordinance 1984 to include a reference to the Director of Welfare.

Clause 13 amends regulation 2 of the Remand Centres Regulations to replace the reference to the Child Welfare Ordinance 1957 with a reference to the Children's Services Ordinance 1986. The reference to juvenile detainees is substituted by reference to detainees under the age of 18 years.