

*Subdivision 4—General*

**227.** While a maintenance order is enforceable in this State under Subdivision 2 or Subdivision 3 of this Division, all moneys directed by the order to be paid are payable and shall be paid by the person against whom the order is made to the Collector, and the receipt of the Collector for any such moneys shall be a sufficient discharge of the liability of the person to pay those moneys in accordance with the order.

Payments to be made to Collector.

**228.** Where the operation of a South Australian order enforceable in another Australian State or in a reciprocating country, or the operation of an interstate order or overseas order enforceable in this State, is affected by an order (other than a provisional order), event or other matter made, occurring or arising in this State of which the Collector has notice, the Collector shall send to the Collector for the other Australian State, or to an appropriate authority in that reciprocating country, a certified copy of the order, or a notice in writing giving particulars of the event or other matter, by which the operation of the order so enforceable has been so affected.

Collector to notify changes in orders enforceable in other Australian States or reciprocating countries.

**229.** (1) Where the Collector receives from the Collector for another Australian State or from an appropriate authority in a reciprocating country a certified copy of an order (other than a provisional order), or a notice in writing giving particulars of an event or other matter, made, occurring or arising in that other Australian State or in that reciprocating country and affecting, in a manner appearing from the certified copy or notice, the operation of a South Australian order enforceable in that other Australian State or in that reciprocating country, or of an interstate order or overseas order enforceable in this State under this Division, the Collector shall—

Collector to note changes in orders made or enforceable in South Australia.

(a) file the certified copy or notice in the court in which the order affected was made or confirmed or is registered;

and

(b) if the complainant or defendant is resident in this State, cause a copy of the certified copy or notice to be served on the complainant or defendant, as the case may require.

(2) Where a certified copy or notice is filed in accordance with subsection (1) of this section in relation to a maintenance order, the order, event or matter shall have the like effect in this State as it appears from the certified copy or notice to have in the other Australian State or reciprocating country.

**PART VI**  
**DIVISION VIII**

(3) This section shall not apply in relation to an order (in this subsection referred to as "the first-mentioned order") made in a reciprocating country affecting a maintenance order in a manner adverse to the defendant unless it appears from the documents received by the Collector that the defendant appeared on the hearing of the proceedings in connection with which the first-mentioned order was made.

**Conversion of  
currency.**

**230.** (1) For the purposes of this Division, an overseas order (including a provisional order) or a certificate or notice originating in a reciprocating country, that refers to an amount of money (including an amount of arrears) expressed in the currency of a reciprocating country shall be deemed to refer to the amount that was the equivalent amount in Australian currency on the prescribed date on the basis of the telegraphic transfer rate of exchange that prevailed on that date.

(2) For the purposes of this section, a certificate signed by the Collector, or the Collector for another Australian State, and purporting to be based on information obtained by him from a bank, stating that a specified amount in Australian currency was, on a specified date, the equivalent of a specified amount in another currency on the basis of the telegraphic transfer rate of exchange prevailing on that date shall be evidence of the matter stated in the certificate.

(3) Where a certificate of a Collector in accordance with subsection (2) of this section has been filed in a court in this State in relation to an order, certificate or notice, every copy of that order, certificate or notice served on any person shall be accompanied by a copy of the first-mentioned certificate.

(4) Where, under this Division, the Collector is required to remit an amount of money to a country outside the Commonwealth, he shall remit such amount in the currency of that country as he is able to remit by the expenditure of that first-mentioned amount.

(5) In this section "the prescribed date" means—

(a) in relation to a maintenance order registered under this Division, or a certificate with respect to the arrears payable under a maintenance order sought to be so registered—the day upon which the order is registered;

(b) in relation to a provisional order confirmed under this Division—the day upon which the order is confirmed;

or

- (c) in relation to an order or notice referred to in subsection (1) of section 239 of this Act—the day upon which the certified copy of the order or the notice is filed in a court in accordance with that subsection,

231. Where a certified copy of an order of a court (including a provisional order), a record of the evidence of a witness or other document arising out of, or relating to, proceedings in a court outside the Commonwealth is not in the English language, it shall not be used for the purpose of registering an order under this Division or received in evidence in a court in this State in proceedings under this Division, unless it is accompanied by a translation of the document into the English language certified under the hand of an officer of the court outside the Commonwealth to be a correct translation, or bearing the seal of that court, and where such a document is accompanied by such translation—

Translation of orders and records.

- (a) the translation may be received in evidence to the same extent as the document of which it is a translation and shall, unless the contrary is proved, be deemed to be a correct translation;
- (b) all notations made on the document shall be made also on the translation;
- and
- (c) any copy of the document served on any person shall be accompanied by a copy of the translation.

232. In any proceedings under or for the purposes of this Division, a certificate purporting to be signed by the Collector or the Collector for another Australian State, or the like officer of a reciprocating country in which a maintenance order was made or is enforceable, concerning amounts paid or unpaid under a maintenance order shall be evidence of the facts stated in the certificate.

Certificate of payment of arrears.

233. (1) For the purposes of this Division and in proceedings under or arising out of this Division, a document purporting to be—

Evidentiary.

- (a) a certified copy of an order (including a provisional order) of a court;
- (b) the record, or a certified copy of the record, of the evidence of a witness in proceedings before a court;

or

(c) a certificate or notice of a kind referred to in this Division, shall, unless the contrary is proved, be taken to be such a certified copy, record, certificate or notice, and shall be admitted in evidence without proof of the signature of the person purporting to have signed it or of his official position.

**PART VI  
DIVISION VIII**

(2) The depositions of a witness in proceedings before a court in another Australian State or in a reciprocating country, received in this State for the purposes of this Act, shall be admissible in evidence in proceedings under this Act in a court in this State.

**Service of documents.**

**234.** (1) Except where the contrary intention appears in this Division, any document required or permitted by this Division to be served on a person shall be served on that person personally.

(2) A document required by subsection (4) of section 201, subsection (5) of section 213, subsection (4) of section 216 or subsection (1) of section 229 of this Act to be served on a person may be served on that person—

(a) personally;

or

(b) by post at his usual or last-known place of residence or business.

(3) Where, under this Division, any document is required or permitted to be served on a person personally, it may be served by—

(a) delivering a copy of the document to that person;

or

(b) leaving a copy of the document at the usual or last-known place of residence or business of that person with some person who apparently resides therein or is employed thereat, and is apparently over the age of sixteen years.

**Audit.**

**235.** The accounts of the Collector shall, once at least in every year be audited by the Auditor-General and, for the purposes of this section, the Audit Act, 1921, as amended, shall apply and have effect as if the moneys received or held by the Collector were public moneys as defined by that Act.

## PART VII

PART VII

## PROVISIONS OF GENERAL APPLICATION

236. No liability in tort shall attach to the Minister or any officer of the Department in respect of an act or omission on the part of a child under the care and control of the Minister unless the act or omission occurs while the child is acting as the servant or agent of the Minister, or that officer and within the scope of his employment or authority as such.

Limitation upon tortious liability.

237. (1) Where in any proceedings there are circumstances that make it desirable, in the interests of the proper administration of justice, that the proceedings, or any part of the proceedings should not be heard in open court, the court may order that any persons (not being party to the proceedings, their counsel or solicitors, or officers of the Department) be excluded during the hearing of those proceedings, or that part of the proceedings.

Exclusion of persons from the hearing of certain cases.

(2) At the hearing of a complaint in an affiliation case no person shall be permitted to be present in the court, except the following:—

- (a) the adjudicating judge, magistrate, or justices, and the officers of the court;
- (b) the complainant and the defendant and their respective counsel and solicitors, and the clerks of the counsel or solicitors;
- (c) the mother, sister, or friend of the complainant, if the complainant desires the presence of any such person;
- (d) any person while being examined as a witness;
- (e) the mother, sister, or female friend of any female witness if she desires the presence of any such person while she is being examined as a witness;

and

- (f) officers of the Department,

unless the court thinks fit to permit any other person to be present.

238. (1) Any person who prints or publishes or causes or procures to be printed or published any particulars whatsoever in relation to any complaint or proceedings under this Act concerning an illegitimate child or the mother of an illegitimate child or concerning an affiliation case, or in relation to any proceedings incidental to such a complaint or proceedings, shall be guilty of an offence against this section.

Restriction on publication of reports on affiliation proceedings, etc.

(2) Any person who sells, or distributes or causes or procures to be sold or distributed or who has in his possession for sale or distribution any newspaper or document containing or purporting to contain any matter or details or particulars the printing or publication of which would be a contravention of the provisions of this section shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, in respect of each offence, be liable to a penalty not exceeding one thousand dollars or to imprisonment for a term not exceeding six months.

(4) This section does not apply to—

(a) the printing, sale, distribution or possession of any pleading, transcript of evidence or other document for the purposes of the proceedings;

(b) the printing or publishing of any notice or report in pursuance of the directions of the adjudicating court;

(c) any matter that forms part of a genuine series of reports of proceedings in courts of law which reports do not form part of any other publication;

or

(d) any publication of a technical character primarily intended for circulation amongst members of the legal or medical professions or amongst persons engaged in community welfare work.

(5) No prosecution for an offence against this section shall be commenced by any person without the authority in writing of the Minister.

**Institution and  
conduct of  
proceedings.**

**239.** (1) Where a person is entitled to bring proceedings under this Act, the Director-General may, upon the request of that person, institute and conduct those proceedings in the name, and on behalf, of that person.

(2) Any proceedings under the provisions of this Act that may be taken by or on behalf of the Minister, or the Director-General (including proceedings under subsection (1) of this section) may be taken by an officer of the Department who is authorized by the Director-General to take the proceedings, and any such proceedings may be conducted by that officer, or by any other officer of the Department.

(3) It shall be competent for the Crown Solicitor to represent any party in proceedings under this Act.

(4) The Director-General, or an officer of the Department, shall be entitled to be present in any proceedings in which a child is alleged to have committed an offence, and may examine or cross-examine witnesses, and shall be entitled to make representations upon any matter arising for determination in those proceedings.

**240.** (1) An apparently genuine document purporting to be an order, authorization or document under the hand or seal of the Minister, or under the hand of the Director-General, shall, in any legal proceedings, be deemed, in the absence of evidence to the contrary to be an order, authorization or document duly made or executed by the Minister or the Director-General, as the case may require.

Evidentiary provision.

(2) In any proceedings under this Act taken by an officer of the Department, an allegation that any premises or place referred to in the complaint were or was a childrens home or an assessment centre established or licensed under this Act shall, in the absence of evidence to the contrary, be deemed to be proved.

**241.** (1) Where the Minister is of the opinion that any person who has been received into a home under this Act, or any child under the care and control of the Minister, is incapable of properly managing his affairs, he may grant to the Public Trustee an authority under this section.

Power of Director-General to act in the affairs of certain persons.

(2) The Public Trustee may, subject to any terms and conditions upon which the authority is granted take possession of any real or personal property of the person to whom the authority relates and may transact any business on behalf of that person, and act in the administration of his affairs, in such manner as the Public Trustee considers in the best interests of that person.

**242.** (1) The Director-General may require any person whom he believes to be in a position to do so, to furnish him with a report as to the financial circumstances or transactions of—

The Director-General may require report.

- (a) any person who has applied for financial assistance under this Act, or on whose behalf such an application has been made;
- (b) any person who is in receipt of any such assistance;
- (c) a near relative of any such person;
- (d) any person from whom maintenance is sought under this Act;

or

(e) any person who is pursuant to any provision of this Act, or the order of any court, required to pay any moneys to the Director-General.

(2) A person who fails to comply with a requirement under subsection (1) of this section or who furnishes a report that is false or misleading in any material particular shall be guilty of an offence and be liable to a penalty not exceeding two hundred dollars.

**Ascertainment  
of earnings.**

**243.** (1) Where in any proceedings under this Act, it is material to ascertain the earnings of a person, the court may receive as evidence of those earnings a statement in writing signed by—

(a) the employer of that person;

(b) a person employed by that employer as manager, secretary, accountant, or in such other capacity as, in the opinion of the court, qualifies him to testify of his own knowledge to the earnings of the person whose earnings are in question;

or

(c) a member of the police force of this State, any other State or Territory of the Commonwealth, or of the Commonwealth, who has ascertained, or claims in the statement to have ascertained, from a person referred to in paragraph (a) or (b) of this section, any information as to the earnings of that person.

(2) Where in any proceedings under this Act, it is material to ascertain the financial position of any person, the court may receive as evidence of his financial position a statement in writing signed by him.

(3) A document purporting to be a statement in writing under subsection (1) or subsection (2) of this section shall, in any proceedings under this Act, in the absence of evidence to the contrary, be accepted without further proof as a statement under this section.

**Appropriation  
of maintenance  
payments.**

**244.** Any moneys paid in pursuance of an order for maintenance, (whether made in pursuance of this Act, or any other Act or law) shall, subject to any order of a court, or any direction of the defendant, as to the appropriation of the moneys, be deemed to have been paid towards the discharge—

(a) first, of any liability (apart from a liability to pay costs) arising under the order, a liability falling due at an earlier date being discharged before the moneys are applied towards the discharge of a liability falling due at a later date;

and

- (b) secondly, towards the discharge of any liability to pay costs in the proceedings in which the order was made.

**245.** The wife or husband of any person shall be competent and compellable to give evidence for or against that person in any proceedings under this Act.

Evidence of husbands and wives.

**246.** No officer of the Department, or other person holding any office or position under this Act, shall, in any proceedings before a court, be compelled to give evidence, or produce any document relating to any matter in connection with which any officer of the Department or other person has in the course of his duties given advice to, or been consulted by, any person, except—

Officer of Department not to be compelled to give certain evidence, etc.

- (a) where the evidence or document relates specifically to the payment or non-payment of maintenance or financial assistance;

or

- (b) where the evidence relates to, or the document constitutes, correspondence between an officer of the Department and a party to the proceedings who is not represented by an officer of the Department.

**247.** (1) Subject to the Service and Execution of Process Act, 1901, as amended, of the Commonwealth, the obligations created by this Act may be enforced against defendants who reside outside the boundaries of this State.

Application of Act to persons residing outside the State.

(2) A summons or other process issued under this Act may be served either in this State or in any other State or Territory of the Commonwealth.

**248.** Subject to this Act, an order made pursuant to this Act is not revoked by a subsequent order unless the subsequent order expressly or by necessary implication revokes or varies the former order.

Continuity of order.

**249.** Except as otherwise expressly provided by this Act, an order shall be valid notwithstanding that no copy of the order or any minute thereof has been served on the defendant.

Orders need not be served.

**250.** (1) Any person who obtains or attempts to obtain from the Minister, the Director-General, the Department or any officer of the Department any pecuniary or other assistance or benefit by

Protection of property of the Minister.

PART VII

means of any false pretence shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(2) Any person who wilfully wastes or damages any property of the Minister shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars or imprisonment for three months.

(3) The provisions of this section are in addition to, and do not derogate from, the provisions of any other Act or law.

**Regulations.**

**251.** The Governor may make such regulations as are contemplated by this Act, or as he thinks necessary or expedient for the purposes of this Act and, without limiting the generality of the foregoing, regulations may be made with respect to the following matters—

- (a) the duties, powers authorities, and privileges, of persons employed in the administration of this Act;
- (b) the meetings and proceedings of community welfare advisory committees and consultative councils;
- (c) the management, control and supervision of homes;
- (d) the management, control and supervision of Aboriginal reserves;
- (e) the care, maintenance, education, employment and supervision of children under the care and control of the Minister;
- (f) the visitation of children in homes, or in the custody of foster-parents, or in child care centres;
- (g) communication and correspondence with children in homes or in the custody of foster parents;
- (h) the manner in which children under the care and control of the Minister may be dealt with;
- (i) the provision of wages and rewards for children under the care and control of the Minister;
- (j) the management and control of property vested in, or in the control of the Minister;
- (k) the issue of licences in respect of homes and child care centres, and the approval of foster parents;
- (l) the record to be kept in respect of homes and child care centres;
- (m) the manner in which a person may apply for assistance under this Act;

- (n) the regulation of any matters relating to blood tests made for the purposes of affiliation cases;
- (o) the regulation of any matters or procedures relating to the recovery of moneys in connection with maintenance;
- (p) the establishment and constitution of Aboriginal councils, and associations in respect of Aboriginal reserves, and the definition of the rights, duties, powers and functions of those councils and associations;
- (q) providing for the establishment, constitution, incorporation, management, regulation and registration of Aboriginal organizations for carrying on industries, trades or businesses;
- (r) prescribing penalties, not exceeding two hundred dollars for breach of, or non-compliance with, any regulation.

**252.** (1) Proceedings in respect of offences under this Act (not being misdemeanours) shall be disposed of summarily. Offences.

(2) Where a person contravenes or fails to comply with any provision of this Act and no penalty is prescribed in relation to a contravention of or failure to comply with that provision, he shall (whether or not a contravention of, or failure to comply with, that provision is declared to be an offence) be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

---

## THE SCHEDULE

The Acts repealed by this Act are as follows:—

the Aboriginal Affairs Act, 1962;  
the Aboriginal Affairs Act Amendment Act, 1966-1967;  
the Aboriginal Affairs Act Amendment Act, 1968;  
the Children's Protection Act, 1936;  
the Children's Protection Act Amendment Act, 1961;  
the Children's Protection Act Amendment Act, 1969;  
the Maintenance Act, 1926;  
the Maintenance Act Amendment Act, 1930;  
the Maintenance Act, 1937;  
the Maintenance Act Amendment Act, 1937;  
the Maintenance Act Amendment Act, 1941;  
the Maintenance Act Amendment Act, 1946;  
the Maintenance Act Amendment Act, 1948;  
the Maintenance Act Amendment Act, 1950;  
the Maintenance Act Amendment Act, 1952;  
the Maintenance Act Amendment Act, 1957;  
the Maintenance Act Amendment Act, 1958;  
the Maintenance Act Amendment Act, 1963;  
the Maintenance Act Amendment Act, 1965.

In the name and on behalf of Her Majesty, I hereby assent  
to this Bill.

J. M. NAPIER, Governor's Deputy

Acts of the Parliament of South Australia [electronic resource]  
Corporate Author: South Australia

AIATSIS Library, ELECTRONIC ACCESS ONLY  
vn1622047-16x