

IMMIGRATION (GUARDIANSHIP OF
CHILDREN).

No. 45 of 1946.

An Act to make provision for and in connexion
with the Guardianship of certain Children
from outside Australia.

[Assented to 15th August, 1946.]

BE it enacted by the King's Most Excellent Majesty, the Senate,
and the House of Representatives of the Commonwealth of
Australia, as follows :—

Short title.

1. This Act may be cited as the *Immigration (Guardianship of
Children) Act 1946*.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3.—(1.) The National Security (Overseas Children) Regulations are repealed. Repeal.

(2.) Any person who, at the commencement of this Act, is the custodian of any child by virtue of the Regulations repealed by this section shall continue to be the custodian of that child, and the provisions of this Act shall apply as if that person had become the custodian in pursuance of this Act.

4. In this Act, unless the contrary intention appears— Definitions.

“custodian” means a person who, by or under this Act, is the custodian of an immigrant child;

“evacuee child” means a person under the age of twenty-one years who has, in pursuance of the arrangement made for that purpose during the year One thousand nine hundred and forty between the Government of the United Kingdom and the Government of the Commonwealth, been received into Australia for custody and care by the Government of the Commonwealth;

“immigrant child” means—

(a) an evacuee child; or

(b) a person under the age of twenty-one years who comes to Australia as an immigrant otherwise than in the charge of, or for the purpose of living in Australia under the care of, any parent or relative of that person.

5.—(1.) The Minister may, in relation to any matters or class of matters, or in relation to any immigrant child or class of immigrant children, by writing under his hand, delegate to any officer or authority of the Commonwealth or of any State or Territory of the Commonwealth all or any of his powers and functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters, or the child or class of children, specified in the instrument of delegation. Delegation.

(2.) Where under this Act the exercise of any power or function by the Minister or the operation of any provision of this Act is dependent upon the opinion or state of mind of the Minister in relation to any matter, that power or function may be exercised by the delegate or that provision may operate (as the case may be) upon the opinion or state of mind of the delegate in relation to that matter.

(3.) A delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power or function by the Minister.

6. The Minister shall be the guardian of the person of—

(a) every evacuee child; and

(b) every immigrant child who arrives in Australia after the commencement of this Act,

Guardianship
of immigrant
children.

to the exclusion of the father and mother and every other guardian of the child, and shall have, as guardian, the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have, until the child reaches the age of twenty-one years or leaves Australia permanently, or until the provisions of this Act cease to apply to and in relation to the child, whichever first happens.

Custody of
immigrant
children.

7.—(1.) Where the Minister is satisfied that a person, representing any authority or organization approved by the Minister, who has applied to be the custodian of any immigrant children is a suitable person to be such a custodian, the Minister may place those children in the custody of that person, and that person shall thereupon become the custodian of those children.

(2.) The Minister may, at any time, if he considers it necessary so to do in the interests of an immigrant child, remove the child from the custody of his custodian and place the child in the custody of some other person, who shall thereupon be the custodian of that child.

Saving of
application of
State laws.

8. Except as prescribed, nothing in this Act shall affect the operation in relation to immigrant children of any provision of the laws of any State or Territory of the Commonwealth relating to child welfare.

Offences in
respect of
immigrant
child.

9. A person shall not, without lawful excuse (proof whereof shall lie upon him)—

(a) remove any immigrant child, or counsel or cause any immigrant child to be withdrawn or to abscond, from the custody of his custodian; or

(b) knowing any immigrant child to have been so removed or withdrawn or to have so absconded, harbour or conceal the child or prevent him from returning to his custodian.

Penalty: One hundred pounds or imprisonment for six months.

False
statements in
application.

10. A person shall not, in any application made for the purposes of this Act, make any statement which is false in any material particular.

Penalty: One hundred pounds or imprisonment for six months.

Minister may
exempt child
from Act

11. The Minister may, by order, direct that the provisions of this Act shall cease to apply to and in relation to any immigrant child, or to any class of immigrant children, specified in the order, and this Act shall thereupon cease to apply accordingly.

Regulations.

12. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for—

(a) prescribing the principles to be observed in relation to the placing of immigrant children with custodians;

- (b) regulating the placing of such children with custodians and the transfer of such children from one custodian to another ;
 - (c) prescribing provisions to be observed by custodians in relation to the custody, control, welfare, care, education, training and employment of immigrant children ;
 - (d) providing that any provision of the laws of any State or Territory of the Commonwealth relating to child welfare shall not apply in relation to immigrant children, and making provision in lieu of any such provision ;
 - (e) regulating the return to the United Kingdom of evacuee children ; and
 - (f) prescribing penalties, not exceeding Twenty pounds, for any offence against the regulations.
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