

Queensland



ANNO TRICESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 77 of 1981

An Act to amend the Health Act 1937–1980 in certain
particulars

[ASSENTED TO 22ND OCTOBER, 1981]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Health Act Amendment Act 1981*.

(2) In this Act the *Health Act 1937–1980* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Health Act 1937–1981*.

2. Amendment of s. 76L. Temporary custody of children. Section 76L of the Principal Act is amended by—

(a) omitting subsection (2) and substituting the following subsections:—

“(2) Where—

(a) a child has presented itself or been presented at a hospital; and

(b) the prescribed medical officer suspects upon reasonable grounds the maltreatment or neglect of the child in such a manner as to subject or be likely to subject it to unnecessary injury, suffering or danger,

the prescribed medical officer—

(c) may order in writing the admission of that child as a patient to, and the detention of that child in, that hospital for a period not exceeding 96 hours from the time of that presentation; or

(d) if prior to the making of that order the child leaves or is removed from the hospital without the permission of the prescribed medical officer, may order in writing that the child be taken into custody and conveyed to such hospital as that officer directs and detained there for a period not exceeding 96 hours from the time of the making of the order.

(2A.) If whilst a child is a patient in a hospital the prescribed medical officer suspects upon reasonable grounds the maltreatment or neglect of the child in such a manner as to subject or be likely to subject it to unnecessary injury suffering or danger, the prescribed medical officer—

(a) may order in writing the detention of that child in hospital for a period not exceeding 96 hours from the time of the making of that order; or

(b) if prior to the making of that order or at any time within the duration of that order the child leaves or is removed from the hospital without the permission of the prescribed medical officer, may order in writing that the child be taken and conveyed to such hospital as that officer directs and detained there as a patient for a period not exceeding 96 hours from the time of the making of that order.

(2B.) Where the prescribed medical officer who makes an order in writing pursuant to either subsection (2) or (2A.) is of the opinion that the assistance of a member of the police force is necessary for the purpose of enforcing the order, he may certify as to his opinion by endorsement upon the order.

It shall be the duty of a member of the police force to whose notice that endorsement is brought to assist the prescribed medical officer as required and in accordance with this Act and a member so assisting may without other authority than this Act detain or assist in detaining in hospital, prevent any person from removing from hospital or take and convey or assist in taking and conveying to such hospital as the prescribed medical officer directs that child, for the purpose of enforcing that order.

(2C.) It is lawful for any member of the police force acting in accordance with any authority vested in him by this section and all persons acting in aid of him to use such force as is necessary to detain or assist in detaining in hospital, prevent any person removing from hospital or take and convey or assist in taking and conveying to hospital a child, for the purpose of enforcing an order made pursuant to this section with respect to that child.

(2D.) (a) A Justice who is satisfied upon the complaint of a member of the police force acting in accordance with authority vested in him by this section, that there is reasonable cause to suspect—

(i) that an order has been made by a prescribed medical officer in respect of a child pursuant to either subsection (2) or (2A.); and

(ii) that the child has left or been removed from the hospital without the permission of that prescribed medical officer,

may issue his warrant authorising all police officers to search for that child and for that purpose to enter any place or premises and to take into custody that child and to convey him to the hospital.

(b) For the purpose of executing the warrant made pursuant to paragraph (a) the person executing the same—

(i) may enter any place or premises wherein the person executing the warrant reasonably suspects that child to be;

(ii) may search that place or those premises;

(iii) may exercise therein the powers conferred upon a member of the police force by this Act; and

(iv) may use such force as may reasonably be necessary to perform any of the things referred to therein.

For the purpose of gaining entry to any place or premises a member of the police force may call to his aid those persons that he thinks necessary and those persons, while acting in aid of the member in the lawful exercise by him of his power of entry and search shall have a like power of entry and search.

(2E.) Where an order has been made by a prescribed medical officer in respect of a child pursuant to either subsection (2) or (2A.) that officer shall cause the parent, guardian or person entitled to custody of the child to be informed of the whereabouts, from time to time, of the child unless that officer is of opinion that the giving of that information is not in the best interests of the child.

(2F.) A person who—

- (a) without the permission of the prescribed medical officer removes from a hospital a child in respect of which an order has been made pursuant to either subsection (2) or (2A.);
- (b) aids, counsels or procures that child to leave a hospital; or
- (c) knowing that child to have left or been removed from a hospital and that an order pursuant to either subsection (2) or (2A.), has been made with respect to that child, harbours or conceals that child,

commits an offence against this Act.”;

(b) in subsection (3) inserting—

(i) after the word, expression and figure “subsection (2)” the words expression and figure “or subsection (2A.)”;

(ii) in paragraph (a) after the words “detained in” the expression and words “ , or taken into custody and conveyed to and detained in,”.