

Act No. 41, 1901.

An Act to consolidate the Acts relating to
Apprentices. [5th November, 1901.]

APPRENTICES.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

Preliminary.

1. This Act may be cited as the "Apprentices Act, 1901," and short title.
is divided into the following Parts :—

PART I.—*Preliminary*—*ss. 1-3.*

PART

*Apprentices.*PART II.—*Masters and Apprentices*—ss. 4–16.PART III.—*Procedure and Penalties*—ss. 17–25.

Repeal.

2. (1) The Acts mentioned in the First Schedule hereto are, to the extent therein expressed, hereby repealed.

Saving.

(2) All indentures and assignments, made or executed under any Act hereby repealed, shall be as valid as if this Act had been in force when they were so made or executed, and they had been made hereunder.

Interpretation.

57 Vic. No. 22, s. 3.

3. (1) In this Act, unless the context or subject-matter otherwise indicates or requires,—

“Apprentice” means any child who is bound apprentice by indenture or assignment of indenture under this Act.

“Justice” means justice of the peace.

“Master” means any person or official, male or female, or company to whom any child may be bound apprentice by indenture or assignment of indenture under this Act.

“Parent” includes guardian.

“Two justices” means two justices or a stipendiary or police magistrate.

Exception.

(2) Nothing in this Act shall extend to any solicitor, or to any person engaged in the tuition of any professional or scientific branch of learning or pursuit, or to any articled clerk of such solicitor, or to any clerk or apprentice of such person.

PART II.

Masters and Apprentices.

Limitation.

Ibid. ss. 5, 6, 7, &c.

4. No child shall be bound apprentice under this Act unless he has attained the age of fourteen years, and the term of apprenticeship shall not in any case exceed seven years.

Orphan apprentices.

Ibid. s. 5.

5. Any person having the principal control or management of any orphan school, or other public institution, or department of an eleemosynary nature, may by indenture bind, or cause to be bound, any child under his care or control, to be apprentice to any master.

Child may be bound, although his parent desires his custody.

15 Vic. No. 2, s. 1.

6. In any case where any child has been convicted of vagrancy, or of any criminal offence, or has been for three years maintained in any institution supported at the public expense, or supported wholly or in part by charitable subscriptions, or endowment, the parent shall not be entitled to remove such child from such institution, unless with the consent of the person having the management or control thereof, and such person may, if he thinks fit, withhold such consent, and may in respect of any such child exercise all the powers mentioned in the last preceding section.

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7. Where any apprentice is bound under the last preceding section, the parent of such apprentice may make application to any two justices for the custody of such apprentice, and the said justices may, in a summary way, order such apprentice to be restored to such parent, on such terms and conditions and upon payment of such sum of money as they deem equitable and just, and upon compliance with such terms, and upon payment of such sum the said justices may cancel the indentures of such apprentice, and order him to be restored to his parent.

Parent may in such case apply for custody of child.
15 Vic. No. 2, s. 2.

8. Any two justices, may by indenture bind or cause to be bound any child in respect of whose maintenance an order has been made under any Act enabling justices to make orders for the maintenance of children deserted or left without means of support to be apprentice to any master.

Justices may in certain cases bind apprentices.
57 Vic. No. 22, s. 6.

9. Any father, resident in New South Wales, of any child, or if the father is dead, or the inmate of any prison, lunatic asylum, or benevolent institution of any kind, then the mother so resident and not under any such disability, or if the child has not such parent but has a guardian, then such guardian, and if there is no guardian, any two justices, may by indenture bind or cause to be bound any such child to any master to be instructed by him in any trade, art, business, or manual occupation.

Where child has no parent or guardian justices may act.
Ibid. s. 7.

10. Any person resident in and exercising any trade, art, business, or manual occupation, upon his own account within New South Wales may by indenture take any apprentice coming within any of the preceding sections to be instructed in such trade, art or occupation.

Persons who may take apprentices.
Ibid. s. 3, 8.

11. Any official in the service of the Government of New South Wales having the direction and control of persons engaged in any trade, art, or manual occupation exercised therein on behalf of that Government, may take so many apprentices coming within any of the preceding sections as he may require to serve under him and his successors in office.

Government apprentices.
Ibid. s. 9.

12. The manager of any company established and registered in New South Wales having the direction and control of persons engaged in any trade, art, or manual occupation, exercised therein on behalf of such company, may by indenture take so many apprentices coming within any of the preceding sections as he may require to serve under him and his successors in office.

Apprentices to companies.
Ibid. s. 10.

13. Before any child is bound or taken as apprentice, he may be admitted as and become a probationer on such terms as may be agreed upon for a period of three months to the proposed master in the trade, art, business, or manual occupation as to which it is contemplated to bind him; and the proposed master or proposed apprentice, or the parent or the other person authorised, may at the end of such period of three

Proposed apprentice to become a probationer for three months, then indenture of apprenticeship to be entered into.
Ibid. s. 11.

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three months terminate such engagement, if any or either so desires and signifies; but if no such desire is expressed, then an indenture of apprenticeship in writing or print, with a counterpart thereof, shall be entered into, signed, and sealed by the apprentice, as of the first part; by the parent, or by such person, guardian, or justices, as the case may be, of the second part; and by the intended master of the third part; and such indenture shall specify the particular trade, art, business, or occupation in which the apprentice is to be instructed, and the period for which he is to serve, and shall be in the form, as nearly as may be, set out in the Second Schedule hereto; and every such indenture shall be binding both on the master and on the apprentice in like manner as it would have been if the apprentice had been of full age at the time of his entering into and signing and sealing the same.

Master or executor in certain cases may assign indenture of apprenticeship for remainder of term.
57 Vic. No. 22, s. 12.

14. Any master, or if he is then dead, the executor or administrator of the master of any such apprentice may, by endorsement set out upon the indenture of apprenticeship, or on the counterpart thereof, or if both are lost, then by any other sufficient instrument in writing under his hand and seal, but by and with the consent of two justices, testified by their joining as parties to such endorsement, and after reasonable notice to, and hearing such apprentice, and with the consent of such apprentice, assign that indenture and the services of the apprentice thereunder, to any fit person (who shall also join as a party to such endorsement) for the remainder of the term mentioned in that indenture:

Proviso.

Provided that such endorsement, or other instrument as aforesaid, shall be in the form as nearly as can be, and contain the declaration and acknowledgment set out in the Third Schedule hereto; and in such case such apprentice shall be deemed to be the apprentice of such assignee to all intents and purposes.

Terms of apprenticeship to expire in certain cases.
Ibid. s. 13.

15. Notwithstanding any provision contained herein, or in any such indenture of apprenticeship or assignment, the term of apprenticeship specified shall, if it is not sooner completed by effluxion of time, be taken to expire, and shall expire when the apprentice attains the age of twenty-one years, or, marries with the consent of the person appointed to give consent to the marriage of minors under the provisions of any Act for that purpose.

Hours of labour.
Ibid. s. 14.

16. No apprentice shall be bound to serve his master for more than forty-eight hours during any one week:

Provided that this restriction shall not apply to apprentices bound to farming occupations or to other servants in husbandry, or to domestic service.

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PART III.

Procedure and penalties.

17. In case of any difference or dispute between any master and any apprentice arising under any indenture or assignment, the party aggrieved may cause a summons to be issued out of the court of petty sessions of the district in which the difference or dispute arose, specifying the wrong or injury complained of and the redress sought, and calling upon the other party to show cause upon a given day before such court why that party should not be ordered to give or make that redress; and thereupon any two justices, may hear the complaint and make such order upon such difference or dispute as in their discretion equity and right requires, and may impose any fine not exceeding ten pounds upon such master or apprentice as a penalty for any proved misconduct or breach of contract. Such justices may also discharge such apprentice if they think proper, by certificate under their hands, from the services of such master; and may cancel the indenture of apprenticeship or any assignment thereof, which certificate shall be a bar to any action brought on such indenture or agreement, and may award such costs of the proceeding as they may think reasonable, and may order the payment of any wages then owing by the master to the apprentice.

Court may settle disputes arising between master and apprentice, and award costs, &c.
57 Vic. No. 22, s. 15.

18. (1) If any apprentice, before the expiration of his apprenticeship, absents himself without leave from his master's service for more than one week, such apprentice may at any time be compelled to serve such master for so long a time as he has so absented himself, or to make reasonable satisfaction to his master for the loss the latter has sustained by such absence, and so from time to time as often as such apprentice so absents himself.

Apprentice absenting himself without leave, and proceedings thereon.
Ibid. s. 16.

(2) If such apprentice refuses to serve as hereby required, or to make reasonable satisfaction as aforesaid, or cannot then be found, his master may make complaint of such offence on oath to any justice, and such justice may thereupon issue his warrant for the apprehension of such apprentice. Any two justices may hear such complaint in a summary way, and determine what satisfaction shall be made to such master, and if such apprentice does not make, or give security to make, such satisfaction according to such determination, such justices may commit him to any gaol or house of correction for any period not exceeding one month, and he shall also be bound to serve his master for the period during which he so absented himself.

Warrant may be issued and security ordered.
Ibid.

19. It shall not be lawful for any such master as aforesaid to put away or transfer any such apprentice as aforesaid to any other person, or in any way discharge such apprentice from his service without such consent as is specified in section fourteen or under the certificate

Penalty in cases where master transfers or discharges apprentice without his consent.
Ibid. s. 17.

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certificate provided for by section seventeen hereof; and any master violating the provisions of this section shall be liable to a penalty of ten pounds.

Persons enticing, employing, or harbouring apprentices liable to a fine of not exceeding £10.
57 Vic. No. 22, s. 18.
Procedure under this Act.
Ibid. s. 19.

20. Any person who entices or takes away or employs or harbours or aids, or is concerned in enticing or taking away or employing or harbouring any apprentice, shall be liable to a penalty not exceeding ten pounds.

21. Any fine, penalty, costs, or wages paid or recovered under this Act shall be applied and disposed of at the discretion of the court, either towards the funds of any charitable institution existing in the district where the defendant resides, or to and for the use and benefit of the complainant or prosecutor as compensation for the wrong or injury sustained by him.

Exemptions from imprisonment.
Ibid. s. 20.

22. No imprisonment shall be inflicted under this Act upon any apprentice under sixteen years of age, or upon any female apprentice.

Supervision of orphan apprentices.
Ibid. s. 21.

23. Any apprentices bound in accordance with the provisions of the fifth section shall be liable to inspection by any officer authorised by the Colonial Secretary, and such officer shall act as guardian to the aforesaid apprentices, and he shall have full power to initiate and carry out legal proceedings on their behalf and otherwise provide that the conditions of all indentures and agreements made between such apprentices and their masters are faithfully carried out, and such officer shall report annually upon the operations of the Act, so far as he is herein empowered to exercise supervision thereunder, to the Colonial Secretary :

Provided that nothing in this section shall be taken to apply to any child apprenticed under the provisions of the Reformatory and Industrial Schools Act of 1901.

As to appeals.
Ibid. s. 22.

24. Any person aggrieved by any conviction or order under this Act may appeal against the same.

Saving.

25. This Act shall be read and construed subject to the Act number seventy-one, one thousand nine hundred.

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SCHEDULES.

FIRST SCHEDULE.

Year, &c.	Title or short title.	Extent of repeal.
15 Vic. No. 2	An Act to make further provision for the Apprenticing of the children in the Male and Female Orphan Schools, and other poor children.	The unrepealed portion.
57 Vic. No. 22	Apprentices Act, 1894	The whole.

SECOND SCHEDULE.

Section 13.

THIS indenture, made the _____ day of _____, one thousand nine hundred _____, between _____, son of _____, of _____, and hereinafter designated apprentice, of the first part ; _____, of the second part (as consenting hereto) ; and _____, of _____, carrying on business as _____ at _____, and hereinafter designated master, of the third part : Witnesseth that the said _____ puts himself apprentice to the said master to learn the trade, art, business, or occupation of _____ and everything relating thereto, for the space of _____ years, and for so many additional days as is hereinafter provided for—such term to be computed from the day of _____, one thousand nine hundred _____. And the said apprentice hereby agrees and engages with the said master, and his executors and administrators, that during such term he will faithfully, diligently, and assiduously serve and obey all lawful commands of his said master, and his said executors and administrators, or those he or they may please to set over him in the said trade, art, business, or occupation : that he will at no time absent himself therefrom without proper consent ; and that he will not be accessory to, nor commit or permit any hurt or damage to his said master or his property, nor conceal any such hurt or damage if known to him, but shall do everything in his power to prevent the same ; and that for every day's absence during the said term from attention to the said trade, art, business, or occupation, without such consent, he shall serve one day at the end of each year of his apprenticeship, and such year shall not be considered complete until the said additional day or days shall have been served. And the said master hereby agrees, engages, and binds himself with and to the said apprentice, and his executors and administrators, that he, the said master or his executors or administrators, shall, during the aforesaid term, duly teach and instruct the said apprentice, or cause him to be taught and instructed, in the trade, art, business, or occupation aforesaid, and do his utmost to make him skilled and expert therein ; and shall also make payment to the said apprentice at the following rate of wages per _____, during which he shall diligently and faithfully labour in the said trade, art, business, or occupation, that is to say :— shillings per _____ for the first year ; shillings per _____ for the second year ; shillings per _____ for the third year ; shillings per _____ for the fourth year ; shillings per _____ for the fifth year ; shillings per _____ for the sixth year ; and shillings per _____ for the seventh year from the said _____ day of _____ one thousand nine hundred _____. The said apprentice further agrees with his said master that he will be responsible for all tools, patterns, and other property that may be in his charge or under his care ; and that in the event of any such tools, patterns, and other property being damaged _____

Negotiable Instruments Procedure.

damaged or lost through his neglect or default, it shall be lawful for his said master to deduct a fair charge for the same from the wages above mentioned. And that in all respects he will conform to the reasonable rules and regulations for the time being in force in the establishment of the said master. And the said and , each for himself, his executors and administrators, covenants and agrees with the other, and his executors and administrators, that he shall in all respects well and faithfully observe and perform all the covenants and agreements contained in these presents on his part to be observed and performed.

In witness whereof the said parties to these presents have herunto set their hands and seals the day and year first above written.

Signed, sealed, and delivered by the said
in the presence of

Section 14.

THIRD SCHEDULE.

Assignment of the within indenture.

THE within named master doth hereby, with the consent of assign the within indenture and the services thereunder of the within named apprentice unto of his executors and administrators, for the unexpired portion of the within-named term of years: And the said doth hereby declare his acceptance of such apprentice, and acknowledges himself, and his executors and administrators, to be bound by the agreements, engagements, obligations, and covenants on the part of the master of such apprentice, to be done and performed as fully as if he himself had entered into the same as a party under that indenture.

In witness whereof the parties hereto have set their hands and seals this day of one thousand nine hundred

Signed, sealed, and delivered by the }
said or his executors }
or administrators. }

Master.
Consenting party or parties.
Proposed assignee.