

# Child Welfare Bill.

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## THE SCHEDULE.

No. , 1921.

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# A BILL

To amend and consolidate certain Acts relating  
to children.

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**B**E it enacted by the King's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows :—

**1.** This Act may be cited as the "Child Welfare Act, Short title  
and com-  
mencement.  
1921," and shall come into operation on a date to be  
proclaimed by the Governor in the Gazette.

25498

308—A (6)

**2.**

Parts of Act.	<b>2.</b> This Act is divided into Parts as follows :—	
	PART I.—PRELIMINARY— <i>ss.</i> 3-5.	
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	PART IX.—COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR JUVENILE OFFENDERS— <i>ss.</i> 55-74.	15
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PART I.

PRELIMINARY.

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Repeal and savings.

**3.** (1) The Acts mentioned in the Schedule hereto are to the extent therein expressed hereby repealed.

(2) All persons appointed under any Act hereby repealed and holding office at the commencement of this Act shall be deemed to have been appointed thereunder. 30

(3) All schools declared to be public industrial schools under any Act hereby repealed shall continue to be such schools subject to the provisions of this Act relating to institutions constituted thereunder.

(4)

(4) The provisions of this Act shall apply to all children apprenticed or boarded-out under any Act hereby repealed as if such children had been apprenticed or boarded-out under this Act.

5 (5) All proclamations, regulations, rules and licenses issued or made under the authority of any Act hereby repealed and in force at the commencement of this Act shall, in so far as they are not inconsistent with this Act, be deemed to have been made or issued  
10 thereunder, and references in any such regulations to the provisions of the Acts repealed shall be construed as references to the corresponding provisions of this Act.

4. The powers and authorities of the State Children's Relief Board, which is hereby dissolved, are vested in  
15 the Minister. State Children Relief Board.

5. In this Act, unless the context otherwise Interpreta-  
tion. requires,—

- “Age” means, in the absence of positive evidence as to age, the apparent age.
- 20 “Apprentice” means any boarded-out child under articles of indenture.
- “Asylum” includes the Benevolent Asylum, every asylum for destitute children, or industrial asylum, and every charitable institution supported wholly or in part by grants from the  
25 Consolidated Revenue.
- “Boarded-out” means placed in the care of some person for the purpose of being nursed or maintained by such person or in such person's  
30 home.
- “Child” means boy or girl under sixteen years of age, and in Part IX means boy or girl under eighteen years of age.
- 35 “Committee” means advisory committee appointed under this Act.
- “Court” means Children's Court, and includes a magistrate or justices exercising the jurisdiction of a children's court.
- 40 “Institution” means institution established under this Act, and includes special school for truants established under the Public Instruction (Amendment) Act, 1916. “Justice”

- “Justice” means justice of the peace.
- “Juvenile offender” means child who has committed an offence.
- “Local authority” means council of a municipality or shire and includes the governing body of a local government area, constituted or to be constituted. 5
- “Lying-in home” means house in which more than one woman is received for confinement with or without payment of money. 10
- “Magistrate” means stipendiary or police magistrate.
- “Maintenance” includes clothing, support, training, and education.
- “Medical practitioner” means legally qualified medical practitioner. 15
- “Minister” means Minister of Public Instruction.
- “Near relative” means, except as regards an illegitimate child, father, mother, step-father, or step-mother of the child; and as regards an illegitimate child—the mother and the person 20 admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.
- “Neglected child” means child— 25
- (a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons 30 or prostitutes are the parents of such child or not; or
  - (b) who has no visible lawful means of support or has no fixed place of abode; or
  - (c) who begs in any public place, or habitually 35 wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; or
- (d)



- (d) who without reasonable excuse is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed by his parent :  
 5            Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child ; or
- 10           (e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered ; or
- (f) who, not being duly licensed for that purpose, is engaged in street trading ; or
- 15           (g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard ; or
- 20           (h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place ; or
- (i) who is in any place where opium or any preparation thereof is smoked ; or
- 25           (j) who is living under such conditions as indicate that the child is lapsing or likely to lapse into a career of vice and crime.
- "Offence" includes any matter punishable summarily or by indictment.
- 30           "Officer" includes any person acting under the instructions of the Minister.
- "Parent" when used in relation to a child, includes a step-parent, guardian, any person cohabiting with a parent of the child, and any person who is by law liable to maintain the child.
- 35           "Placed out" means placed in employment without being apprenticed.
- "Preliminary expenses" means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her child, reasonable medical and nursing expenses
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- expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and child for three months immediately succeeding its birth.
- “ Prescribed ” means prescribed by this Act or by any regulations made hereunder. 5
- “ Proclamation ” means proclamation in the Gazette.
- “ Public place ” means place to which the public have the right of access, or which the public are allowed to use, and includes a vessel or vehicle, and any part of premises licensed under Part III of the Liquor Act, 1912, which is open to the public. 10
- “ Shelter ” includes a place of safety within the meaning of section forty-nine. 15
- “ Still-born child ” means a child born dead after the commencement of the sixth month of pregnancy.
- “ Street ” includes any highway or other public place, whether a thoroughfare or not. 20
- “ Street trading ” includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoe-blackening, and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity. 25
- “ Superintendent ” includes manager or person in charge.
- “ Uncontrollable,” as applied to a child, means child whom his parents cannot control. 35
- “ Ward ” means child who, under the provisions of this Act, has been received into an asylum or institution, adopted or apprenticed, or boarded-out, or placed out.

PART II.

AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

6. The Governor may, upon the recommendation of the Public Service Board, appoint such officers as are necessary for the administration of this Act. Appointment of officers.

7. Such officers shall receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office. Payment of officers.

10 8. (1) The Governor may from time to time appoint such persons as he thinks fit to form an advisory committee, or advisory committees. Advisory committees.

(2) Such committee or committees shall exercise such powers and duties as may be prescribed.

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PART III.

BOARDING-OUT OF CHILDREN.

9. In all matters appertaining to the boarding-out of children under this Act, the Ministers shall be the authority to direct the removal of such children, to apprentice any child boarded-out or placed out, at or before the end of his term of residence, to any person approved by the Minister, to approve of persons applying for the custody of children and to arrange the terms of such custody, and to direct the restoration of any child to his parent or guardian upon such terms as the Minister may think proper. Authority of Minister.

10. The Minister may remove any child from an asylum and cause him to be boarded-out, as hereinafter provided, for any period not extending beyond the time when such ward shall attain the age of fourteen years. Boarding-out of child.

11. The Minister may remove any ward from an institution, and cause him to be boarded-out. Removal of ward from an institution.

12. The Minister shall compel the attendance at some public school, where reasonably practicable, of all children boarded-out under this Act, except in cases where the Minister is satisfied that the children are otherwise properly educated without charge to the State. Boarded-out children to attend school.

13.

Children entitled to travel free while attending school.

**13.** All children shall during the term of such boarding-out be entitled to attend any public school, and to travel free on all Government railways whilst going to and from such school.

Extension of period of supervision.

**14.** The Minister may cause to be visited and inspected all children for two years after their official period of boarding-out, placing-out, or apprenticeship has terminated, and during such period of two years may cause such children to be removed from their existing guardians or custodians. 5

Payment for outfits.

**15.** The Minister may at his discretion compel parents to pay on the restoration of their children, the value of the outfits of such children. 10

Deduction from payments to guardian.

**16.** The Minister may deduct from the payments due to any guardian such amount as may be deemed equivalent to the loss occasioned by the neglect of such guardian to keep outfits up to regulation standard. 15

Children may be boarded-out to mothers.

**17.** The Minister may in his discretion board out her own children to any widow, deserted wife, or wife whose husband is incapacitated through mental or bodily infirmity, or to the mother of an illegitimate child. 20

Cottage homes.

**18.** The Minister may place invalid or sick children under his control in cottage-homes in approved localities.

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#### PART IV.

#### INSTITUTIONS.

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Governor may establish institutions.

**19.** The Governor may, by proclamation, establish and constitute, as institutions under this Act—

- (a) shelters for the reception and temporary detention and maintenance of children;
- (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;
- (c) homes for children committed to an institution, but whose case calls for segregation or special treatment. 35

Minister to have control of institutions.

**20.** Every institution shall be controlled and administered under the direction of the Minister, and shall once at least in every three months, be visited and inspected by a person appointed by the Minister. **21.**

**21.** (1) An order duly endorsed committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent, and shall be sufficient warrant for the detention of the child.

Order to be forwarded to superintendent.

(2) The production of—

Certain orders and copies to be evidence.

- (a) such order so endorsed; or
- 10 (b) a copy of such order so endorsed with a memorandum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of signing thereof detained in such institution, or has been otherwise disposed of according to law; or
- 15 (c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy,

shall, without proof of the signature of the person purporting to have signed the same, be evidence in all courts and proceedings—

- (d) of the due making and signing of any such order, memorandum, or certificate; and
- 25 (e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

**22.** All children committed to or inmates of an institution shall, subject to the directions of the Minister, be in the custody and under the control of the superintendent of the institution until they attain the age of eighteen years, or are discharged, removed from the institution, apprenticed, or placed out:

Children in institutions to be under control of superintendent.

35 Provided that a child committed to an institution on being charged with an indictable offence shall be detained in such institution until the expiration of the period named in the order of committal, or until he is lawfully discharged, removed from the institution, apprenticed, or placed out.

**23.**

Powers and  
duties of  
Minister.

**23.** The Minister, with respect to any child who has been committed to or is an inmate of any institution—

- (a) shall determine the particular institution in which the child shall be placed and detained, provided that no child may remain in a shelter for more than one month, except by permission of the Minister; 5
- (b) may remove a child from one institution to another;
- (c) may remove any child from an institution and place him in an asylum, or may board him out. 10

Child may be  
removed to an  
institution.

**24.** The Minister may, on due cause being shown, take a boarded-out child or a child who has been placed in an asylum, and place him in an institution.

Religious  
teaching.

**25.** (1) Every child, an inmate of any institution, shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up. 15

(2) In the event of such parents or their religious persuasion not being known, and of the child not having been brought up in any religious persuasion, then as far as religious teaching is concerned— 20

- (a) such child shall, if of or over the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, unless such child states some persuasion in which he desires to be educated; 25
- (b) such child shall, if under the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, but may on attaining the age of twelve years select the persuasion in which he desires to be educated; 30 35
- (c) provided that if at any time the religious persuasion of any such child or of his parents become known to the Minister, he shall at once order the child to be placed under the guidance and control, as far as religious teaching is concerned, of clergymen of such persuasion. 40

**26.** (1) The superintendent of any institution may, subject to the approval of the Minister, by indenture bind or cause to be bound any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 1901. Child may be apprenticed.

(2) The superintendent also, subject to the approval of the Minister, may, under an approved form of agreement, place a child out in suitable employment in cases where apprenticeship conditions are not applicable. Child may be placed-out.

(3) Any child so apprenticed or placed-out shall be liable to be proceeded against and punished for absconding, or for other misconduct, in the same way as any child apprenticed by his father with such child's consent. Punishment for misconduct.

**27.** Upon complaint made by the superintendent of any institution to the Minister that any person to whom any such child has been apprenticed or placed-out is not performing the conditions of such indenture or agreement, or is unfit to have the further care or control of such child, the Minister may call upon such person to answer such complaint, and on proof thereof to his satisfaction the Minister may order such apprenticeship or agreement to be put an end to, and may direct the child to be sent back to an institution. Minister may put an end to apprenticeship or agreement.

**28.** The Minister may discharge any child from an institution and restore him to the custody of his parent or other suitable person on such terms and conditions as to him may seem desirable, or as may be prescribed. Discharge of child by Minister.

**29.** (1) If it appears to a court on complaint by or on behalf of the Minister that any near relative is of ability to maintain or to contribute to the maintenance of a ward, the court may on summons order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards— Cost of maintenance of ward may be recovered from near relatives.

- (a) the past maintenance of such ward, whether such ward be alive or not at the time of the application;
- (b) the future maintenance of such ward.

(2)

(2) A like order against a near relative may, with his consent, be made on the committal of a ward to an institution by the court so committing him.

(3) Such order, when made against a father or mother, may include the cost of bringing such parent 5 back to the place where the order is made from any other place where he or she may for the time being reside.

(4) Where an order under this section is made in respect of a person against whom an order has been 10 made in respect of the child under Part X of this Act, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay twice for the maintenance of the same child.

(5) Any order made under this section may be 15 enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part X of this Act. And the court may issue a warrant for the arrest of any person absconding from the State with a view to evade compliance with any 20 order under this section.

Offences in  
respect of  
children.

**30.** Any person who—

- (a) ill-treats, terrorises, or injures any child committed to or an inmate of an institution ;
- (b) counsels, or causes or attempts to cause, any 25 such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is boarded-out, placed out or apprenticed ;
- (c) knowing any such child to have so withdrawn 30 or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person ;
- (d) having the charge of any such child—
  - (i) illegally discharges or dismisses or attempts 35 to discharge or dismiss him from an institution ;
  - (ii) neglects such child ;
  - (iii) does not well and truly observe, perform, and keep all the covenants, conditions, and 40 agreements contained in any indenture or agreement



agreement entered into by him respecting any child and which by such indenture or agreement he has bound himself or agreed to observe, perform or keep,

5 shall be liable to a penalty not exceeding *fifty* pounds or to be imprisoned for a period not exceeding *six* months.

10 **31.** Any child committed to or an inmate of any institution who absconds therefrom, or neglects or refuses to conform to the rules thereof, may be taken before a court, and on proof on oath of such absconding, neglect or refusal, the court may commit such child to gaol for any period not exceeding *three* months, such period of imprisonment to be passed as far as practicable in strict separation. Such child shall at the termination of such imprisonment be returned to such institution and there detained, subject to this Act, for the remainder of the term for which he was committed.

Absconder from institution may be punished.

20 **32.** If any child committed to or an inmate of any institution be absent therefrom without the leave of the superintendent, any constable may apprehend and convey such child to such institution to be delivered into the custody of the superintendent thereof.

Child deserting may be apprehended.

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PART V.

PLACES USED FOR RECEPTION OF CHILDREN.

30 **33.** The person in charge of any place established or used for the reception and care of one or more children under the age of seven years, apart from their mothers, shall make application to the Minister in the prescribed form and manner for a license in respect of such place.

Licensing of place used for reception of children.

The Minister shall thereupon cause inquiry to be made respecting such application and a report to be furnished by an officer.

The

The Minister upon receiving such report may grant or refuse to grant to the person in charge a license in respect of such place.

Every license granted shall be granted subject to such conditions and requirements as are prescribed. 5

Officer may inspect place.

**34.** For the purpose of making any inquiry and report as aforesaid respecting any place, or for the purpose of ensuring that the prescribed conditions and requirements are complied with and fulfilled in respect of any licensed place, any officer may, at any time, enter 10 the place and inspect it and the children who are inmates thereof, and the person in charge of the place shall, during the course of such inspection, afford all reasonable facilities for such inspection.

In making such inspection the officer may, if he thinks 15 fit, be accompanied by a medical practitioner or a police officer, or by both.

Any person who delays, hinders, or obstructs any officer in making such inspection shall be liable to a penalty not exceeding *twenty-five* pounds. 20

Where conditions of license not observed, Minister may cancel license.

**35.** Where, on any inspection of a licensed place, the officer finds that any of the prescribed conditions or requirements are not complied with or fulfilled, directions may be given to the person in charge to ensure a compliance with and fulfilment of such conditions or 25 requirements, failing which the license of such place may be cancelled by the Minister, and any children or inmates of such place may be removed therefrom and placed in such place as the Minister may approve.

Penalties on person in charge of unlicensed place.

**36.** Where any place is established or used for the 30 reception and care of one or more children under the age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable to a penalty not exceeding *twenty-five* pounds, and any children who are 35 inmates of such place may be removed therefrom and placed in such care as the Minister may approve of: Provided that nothing in this Part shall apply when bona fide blood relationship or guardianship approved by the Minister exists between the said children and the 40 persons by whom they are cared for.

**37.**

**37.** (1) No person shall, without a written order of a court specifying the terms on which the child may be received, receive into his care, charge, or custody any child under the age of seven years to rear, nurse, or otherwise maintain, apart from its mother, in consideration of the payment to such person of any sum of money or other valuable consideration otherwise than by way of periodical instalments; and no such instalment shall be paid for more than four weeks in advance, nor exceed the sum of twenty shillings per week. Any person receiving or agreeing to receive payment for the rearing, nursing, or maintenance of any child contrary to this section shall be guilty of an offence.

Regulating reception of children under seven years.

(2) This section shall not apply to any person being the legal or natural guardian of such child; nor to the manager or officers of any institution supported wholly or in part by public subscription, or bona fide by private charity where such institution is open to State inspection, or controlled by the State; nor to any person exempted for the time being from the operation of this section by the Minister.

(3) The Minister shall, if required, receive from anyone wishing to place a child in the care of such person a sum of money from which he shall make to the caretaker of such child such payments as are permitted under this Act.

(4) Every court when giving an order under this section shall in each case report to the Minister that it has given such order.

**38.** (1) Every person who receives into his care, charge, or custody any child under the age of seven years to rear, nurse, or otherwise maintain the same for payment under this Part shall register or cause to be registered the particulars in the form prescribed, at the office of the district registrar of births, deaths, and marriages, appointed under the provisions of the Act No. 17, 1899, for the district in which such person then resides, within seven days from the date of such child's reception if such office is within a distance of two miles from his place of abode, or within fourteen days if such office is not within two miles as aforesaid, and such registrar shall furnish such particulars to the Minister. (2)

Registration of reception of children.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

Change of  
address to be  
registered.

**39.** (1) No person who has in his care, charge, or custody any child in accordance with the provisions of this Part shall change his place of abode, or relinquish the care, charge, or custody of such child without forthwith notifying such change or relinquishment to the district registrar as aforesaid, and such registrar shall register the same in the form prescribed, and shall at once report such particulars to the Minister. When such change of abode is made to a place out of the district of such registrar he shall forward a copy of such registration of removal to the registrar of the district to which the child is removed, and upon receipt of such copy the said registrar shall enter the particulars therein set forth in a book provided for that purpose. 5

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence.

Notice to be  
given of  
death of  
child.

**40.** (1) Every person having charge of a child registered under this Part shall, immediately after the death of any such child, if such death occurs elsewhere than in the city of Sydney, or any municipality included in the suburbs thereof, give or cause to be given notice of such death to the officer in charge of the nearest police station, and such officer shall make inquiry and report to the coroner for the district, or if the exigencies of the case so require to a justice, whether an inquest or magisterial inquiry respecting the cause of death is necessary, and in addition to such notice such person shall by registered letter report such death to the Minister. 20 25 30

(2) When the death of any such child occurs in the city of Sydney, or any municipality included in the suburbs thereof, such notice shall be given to the Minister, who may cause an inquest or inquiry to be held. 35

(3) The body of a child registered under this Part shall not be buried without the production of a certificate under the hand of the coroner or the justice who held the inquiry, or of a stipendiary or police magistrate, authorising such burial, or of a medical practitioner who has attended such child during its last illness, 40

illness, certifying the cause of death, and also that such cause was in no way consequent on the neglect or ill-treatment of such child.

(4) Any person having charge of a child registered as aforesaid who neglects, refuses, or omits to give notice of the death of such child in accordance with the provisions of this section shall be guilty of an offence.

(5) Where the death occurs at a greater distance than fifteen miles from the nearest police station, satisfactory evidence that the omission to give such notice was not the result of wilful neglect on the part of the person in charge of such registered child shall entitle such person to the dismissal of the charge.

**41.** Any person, whether the parent of such child or not, who, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid, or lodging for any child in his care or custody, or assaults, ill-treats, or exposes any child, or causes or procures any child to be neglected, assaulted, ill-treated, or exposed, if such neglect, assault, ill-treatment, or exposure has resulted, or appears likely to result, in bodily suffering or permanent or serious injury to the health of such child, shall be guilty of an offence.

Neglect or ill-treatment of child.

## PART VI.

25

### LYING-IN HOMES.

**42.** Every person in charge of a lying-in home shall furnish records in the form prescribed, and forward the same to the registrar for the district in which such person resides, within a period of forty-eight hours from the occurrence of each birth in such home, and any such person who fails to comply with the provisions herein contained, or wilfully falsifies such records, shall be guilty of an offence.

Keepers of lying-in homes to furnish records.

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**43.**

Removal of  
child from  
lying-in  
home.

**43.** No person in charge of a lying-in home shall permit any child to be taken from such home unless in the charge of the mother of such child, without first obtaining the written consent of the Minister, or a person authorised by him. Any such person who violates the provisions of this section shall be guilty of an offence. 5

Registration  
of births by  
householder.

**44.** Any person in charge of a lying-in home shall be responsible for the registration, in accordance with the provisions of the Act No. 17, 1899, of all births occurring in such house; and any such person who omits, neglects, or refuses to register the birth of any such child, shall be liable to the punishment provided by that Act. 10

Still-born  
child not to  
be interred  
without a  
certificate.

**45.** (1) When a woman is delivered in a lying-in home of a still-born child, no interment of such child shall take place without its being authorised by the certificate of a medical practitioner, magistrate, or officer of police, who has made personal inquiry into the circumstances. 15 20

(2) Any person interring any such still-born child without first obtaining such certificate shall be guilty of an offence.

(3) But any such still-born child, born in a lying-in home situated more than fifteen miles from the nearest such practitioner, magistrate, or officer of police, may be interred without such authority, but the birth of the child so buried shall be reported within seven days from the date of the burial, by the person who interred the body, to the nearest police officer, who shall forthwith make a full inquiry into the circumstances of the case, with the view of taking further action if necessary; and if the person who so buried the body shall fail to report as required, he shall be guilty of an offence. 25 30 35

## PART VII.

## PROTECTION OF CHILDREN.

- 46.** (1) Any person who causes or allows any child Employment of child in dangerous performances. under the age of fourteen years to take part in any public exhibition or performance whereby, in the opinion of a court, the life or limbs of such child is or are endangered, and the parent or any person having the custody of such child who aids or abets such first-mentioned person therein, shall be guilty of an offence.
- 10** (2) Where in the course of a public exhibition or performance which in its nature is dangerous to the life or limb of a child under such age as aforesaid taking part therein, any accident causing actual bodily harm occurs to such child, the employer of such child, **15** whether its parent or not, shall be guilty of an offence; and if such employer is not the parent of such child, the court before which such employer is convicted may award as compensation a sum not exceeding *one hundred* pounds, to be paid by such employer to the **20** child or to some person named by the court on behalf of the child for the bodily harm so occasioned.
- 47.** (1) Any person who—
- 25** (a) causes or procures, or having the custody or charge thereof, allows any child under the age of sixteen years to be in any place for the purpose of begging or receiving alms, or inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or
- 30** (b) causes or procures, or having the custody or charge thereof, allows any child under the age of sixteen years to be in any place or in any premises licensed according to law for public entertainments, for the purpose of **35** singing, playing, or performing for profit, or offering anything for sale between ten o'clock at night and six o'clock in the morning; or
- (c)

(c) causes or procures, or who, having the custody or charge thereof, allows any child under the age of ten years to be at any time in any place, or in any premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale,

shall be guilty of an offence :

Provided that in the case of any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid, where it is shown to the satisfaction of the Minister that proper provision has been made to secure the health and kind treatment of any children proposed to be employed thereat, the Minister may, notwithstanding anything in this Act, grant a license for such time and during such hours and subject to such restrictions and conditions as he may think fit, for any child exceeding seven years of age, of whose fitness to take part in such entertainment or series of entertainments without injury the Minister is satisfied, to take part in such entertainment or series of entertainments, and such license at any time be varied, added to, or rescinded by the said Minister upon sufficient cause being shown ; and such license shall be sufficient protection to all persons acting under or in accordance with the same.

(2) The Minister may appoint any person that the restrictions and conditions of any license under this section are duly complied with ; and such person shall have power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this section.

(3) This section shall not apply in the case of any occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or to any charitable object.

**48.** For the purposes of the last two preceding sections any person who is the parent of a child, or any person

Custody or  
charge  
defined.



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*Child Welfare.*

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person to whose charge a child is committed by its parent, or any person having actual possession or control of a child, shall be deemed to have the custody or charge thereof.

5 **49.** Any constable or any officer appointed under this Act may take any child under eighteen years of age in respect of whom there is reason to believe that an offence under this Act has been committed to a place of safety, and a child so taken to a place of safety, and  
10 also any child under eighteen years of age who seeks refuge in a place of safety, may be there detained until the child can be brought before a court.

Removal of child to a place of safety.

**50.** Where it appears to a court or any justice that an offence under this Act has been committed in the case of  
15 any child under eighteen years of age brought before such court or justice, and that the health or safety of the child will be endangered unless an order is made under this section, the court or justice may, without prejudice to any power under this Act, make such order as circumstances  
20 require for the care and detention of the child until a reasonable time has elapsed for the bringing and disposing of any charge against the person who it appears has committed the offence; and an order under this section may be enforced, notwithstanding that any  
25 person claims the custody of the child.

Care of child pending trial of offender.

**51.** (1) Any constable may take into custody without warrant any person who commits, or who is reasonably suspected by such constable to have committed, an offence under this Act, if the name and residence of such  
30 person are unknown to such constable and cannot be ascertained by him.

Arrests without warrant.

(2) Where such an arrest is made, the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release  
35 of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child in respect of whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in  
40 his judgment be required to secure the attendance of such person upon the hearing of the charge.

Disposal of  
child by  
court.

**52.** Whenever steps have been taken under any of the last three preceding sections to secure the safety or well-being of a child, and the person charged with committing an offence in respect of such child has been convicted, such child may be disposed of as the court 5  
so convicting may direct.

## PART VIII.

### STREET TRADING LICENSE.

Issue of  
licenses.

**53.** (1) A written license authorising a male child of or over the age of twelve years to engage, subject to 10  
the regulations, in a specified description of street trading may be issued—

(a) by the Minister or by any officer acting under his authority; or

(b) in respect of its district by a local authority or 15  
some officer of such authority appointed in that behalf with the approval of the Minister.

(2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during 20  
such trading.

(3) Such license shall not be issued unless it is shown that the moral or material welfare of the child will not suffer by such trading.

(4) Every license shall be granted for a term of six months, but may be renewed from time to time, and 25  
may at any time be cancelled by the Minister or by the authority which has issued it. No charge shall be made for any license or badge.

Penalty for  
employing  
child in street  
trading in  
contravention  
of Act.

**54.** If any person employs a child in street trading—

(a) who is not duly licensed under this Act; or 30

(b) who, although so licensed, is employed by him in trading of a description not authorised by the license,

he shall be liable to a penalty not exceeding *two* pounds, or in case of a second or subsequent offence to a penalty 35  
not exceeding *five* pounds.

PART

PART IX.

COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR JUVENILE OFFENDERS.

55. Any justice may, upon oath being made before him by an officer or other person appointed by the Minister in that behalf that, having made due inquiry, he believes any child to be a neglected or uncontrollable child,—

Warrant for apprehension.

- 10 (a) issue his summons for the appearance of such child before a court; or  
(b) in the first instance, issue his warrant directing such child to be apprehended.

56. A constable or any person authorised by the Minister in that behalf may, although the warrant is not at the time in his possession, apprehend any child for whose apprehension a warrant has been issued under the last preceding section.

Apprehension of child.

57. (1) If it appears to any justice on information laid before him on oath by any credible person, that there is reasonable cause to suspect that a child is in a place which is a brothel, or where opium or any preparation thereof is smoked, such justice may issue his warrant authorising any person named therein to search in such place for any child, and to take such child to a shelter to be dealt with under this Act.

Warrant to search for child suspected in brothel or place where opium is smoked.

(2) Any person authorised by warrant under this section to search for a child may enter (if need be by force) into any house, building, or other place specified in the warrant, and may remove such child therefrom.

(3) Every such warrant shall be addressed to and executed by some officer of police, who shall be accompanied by the person making the information (if such person so desire), unless the justice issuing the warrant otherwise directs.

(4) It shall not be necessary in the information or warrant to name the child.

58. Any person authorised by the Minister in that behalf, or any officer of police may without warrant apprehend

Apprehension of child in brothel, &c.

apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child.

Where child in brothel or opium den keeper guilty of an offence.

**59.** Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or person in charge or apparently in charge of such brothel or place shall be guilty of an offence. 5

Child placed in shelter.

**60.** Any child apprehended as a neglected or uncontrollable child or juvenile offender shall be taken to a shelter and there detained pending the determination of a court. 10

Child to be brought before a court or discharged.

**61.** If within forty-eight hours after the admission to a shelter of a child apprehended or placed in the shelter as a neglected or uncontrollable child, or juvenile offender, or within such further time as the court may allow, an application is made to a court having jurisdiction in the place where the shelter is situate, to commit the child to an institution, the child shall be brought before the court by the superintendent of the shelter, but if no such application is made within the said time or further time, the child shall be discharged. 15

Application to commit uncontrollable child to institution.

**62.** Any person having the actual care and custody of a child may apply to a court to commit the child to an institution upon the ground that the child is an uncontrollable child. Such child may be detained at a shelter pending the determination of the court. 25

Procedure of court.

**63.** Where any child is brought before a court as a neglected or uncontrollable child or juvenile offender or where an application is made under the last preceding section, the court may, if a parent of the child is present, thereupon hear and determine the matter. 30

If a parent of the child is not present, the court in its discretion may hear and determine the matter or require the parent to be present and remand the child for the purpose of securing the attendance of the parent if practicable. 35

If the parent refuses to attend without reasonable excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted 40

admitted to bail on entering into recognizances, with or without sureties, to attend at the court at the hearing of the matter.

**64.** If on the hearing the court finds that a child is a neglected or uncontrollable child or juvenile offender it may—

Power of court on the hearing.

- (a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or
- 10 (b) commit the child for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution :

15 Provided that no order of committal of an uncontrollable child on the application of a near relative shall be made unless—

- (a) he proves that he has not by neglect lost control of the child; and
- 20 (b) security is given to the satisfaction of the court for the making of such payment as, in the opinion of the court, the applicant is able to afford towards the maintenance of such child.

**65.** Where a child is summarily convicted of an offence for which the penalty is punishment by imprisonment, or imprisonment in default of payment of a fine, the court may—

Power with respect to child liable to be summarily convicted.

- (a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or
- 30 (b) commit the child for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- 35 (c) commit the child to an institution; or
- (d) sentence the child according to law.

If the court sentences a child it shall forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for passing sentence.

40 The Minister may, with the concurrence of the Attorney-General, order the removal to an institution of the child so sentenced.

**66.**

Court may order parent to pay penalty, damages, or costs in certain cases.

**66.** (1) Where a child is summarily convicted before a court of an offence in respect of which a penalty, damages, or costs are imposed, and there is reason to believe that his parent has contributed to the commission of the offence by wilful default or by habitually neglecting to exercise due care of the child, the court may, on information, issue a summons against such parent, charging him with so contributing to the commission of the offence. 5

(2) If the court is satisfied that the parent has contributed to the commission by the child of the offence by wilful default, or by habitually neglecting to exercise due care of him, the court may order that the penalty, damages, or costs shall be paid by the parent instead of by the child, and may also order the parent to give security for the good behaviour of the child. 10 15

(3) Any sums so imposed and ordered to be paid may be recovered from the parent in the same manner as sums ordered by justices to be paid may be recovered under the Justices Act, 1902. 20

(4) Proceedings in the nature of an appeal may be taken by the parent, under Part V of the Justices Act, 1902, from any order made against him in pursuance of this section.

Power with respect to child charged with certain indictable offences.

**67.** (1) Where a child is charged before a court with an indictable offence other than homicide or rape, and is not dealt with summarily, the court may— 25

- (a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or 30
- (b) commit the child for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution; or 35
- (d) commit the child to take his trial according to law.

If the court commits a child to take his trial it shall forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for its decision. 40

(2)

(2) When a court has committed a child to take his trial for an indictable offence, the Minister may commit the child to an institution, if the Attorney-General shall have entered a nolle prosequi in regard to proceedings against the child :

Provided that the Minister may exercise his powers under this section only if the child or his parent consents, or if evidence on behalf of the child has been given before the court.

10 **68.** Where a child is charged before a court with any offence, or is brought before a court as a neglected or uncontrollable child, the court, before making any order or committal, shall give the child or his parent an opportunity to call evidence, and shall hear any evidence 15 that may be tendered by or on behalf of the child.

Court to hear evidence on behalf of child.

**69.** When a child has been dealt with under paragraph (a) or (b) of section sixty-four or sixty-five, or paragraph (a) or (b) of subsection one of section sixty-seven, the following provisions shall apply :—

As to sections 64, 65, or 67.

20 (1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person in charge of the asylum or the person to whose care he has been committed.

25 (2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.

30 (3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of *five* pounds, and the child may be removed from his custody and control by the Minister.

35 **70.** If a child who has been released upon probation breaks the terms or conditions of the release, he may be apprehended and brought before a court.

As to breach of terms of probation.

If it shall appear that such breach has occurred, the court may deal with him under the provisions of this Act, in the same manner as if he had not been released upon 40 probation.

Child convicted of indictable offence may be sent to institution.

**71.** Where a child upon his trial has pleaded guilty to or has been convicted of an indictable offence, the judge may, in addition to any other sentence for the offence, commit the child at the expiration of such sentence to an institution, or may, instead of any other sentence, commit the child forthwith to an institution. 5

Form of committal.

**72.** A court or a judge in committing a child to an institution shall do so in general terms, but may recommend to the Minister that the child be sent to an institution of a particular class. 10

Child may be placed in shelter.

**73.** A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter pending the Minister's decision as to his destination.

Name of institution to be endorsed on order.

**74.** The Minister as soon as practicable shall endorse on the order of committal the name of the institution and the place where the child is to be detained. 15

## PART X.

### AFFILIATION PROCEEDINGS.

#### *Proceedings begun before birth.*

20

Single woman with child may take proceedings against father.

See Imperial Act 35 & 36 Vic., c. 65, s. 3.

**75.** Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses of and incidental to and immediately succeeding the birth of the child, or the expenses of the future maintenance of the child, she, or with her consent an officer, or any other reputable person on her behalf, may make complaint in writing on oath to any magistrate that she is with child by the said man, and that he has made no adequate provision for the payment of the expenses aforesaid; and shall when making 30



making such complaint produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the child.

5 The magistrate may thereupon summon the man to appear before the court to answer such complaint; or, if the circumstances seem to require it, may issue a warrant for his apprehension.

10 **76.** The court shall hear and determine so much of such complaint as relates to the paternity of the child, and may—

- (a) order the defendant to deposit with the court a sum not exceeding twenty pounds for preliminary expenses; and
- 15 (b) further order the defendant to enter into a recognizance with one or more good and sufficient sureties to the satisfaction of the court for such amount as the court determines, as a security that within four months from the birth of the child, and on such day as any magistrate, at any time not later than three months from the said birth, determines, and of which at least fourteen days' notice shall be given to the defendant by or on behalf of the complainant, the defendant will appear and show cause why he should not make such adequate provision as the court determines for the payment of the expenses of the maintenance and education of the child after it has reached the age of three months. Every such order shall specify a date not later than six months thereafter when the order shall lapse if the child has not been born, and if upon such date the child has not been born the order shall lapse and the defendant and his surety or sureties shall be deemed to be released from their recognizances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

20  
25  
30  
35  
40 The court shall not make an order under this section against the defendant unless it be proved by the evidence of

Court may require defendant to pay preliminary expenses.  
See S.A. Act, No. 702, ss. 3, 4; Vic. Act, No. 1,684, ss. 2, 3; Imperial Act, 35 and 36 Vic., c. 65, s. 4.  
See S.A. Act 702, s. 7.  
See S.A. Act 702, s. 6.

of some medical practitioner that the woman is quick with child, and unless her evidence be corroborated in some material particular, or if the court be satisfied that at the time the child was begotten the mother was a common prostitute. 5

In default of compliance with any order as aforesaid, the court may commit the defendant to prison for any term not exceeding twelve months: Provided that upon compliance with such order, at any time during such term of imprisonment, the defendant shall be released 10 from prison.

Forfeiture of recognizance where defendant does not appear.

**77.** If upon the day on which the defendant is bound to show cause as aforesaid, or upon any later day to which the proceedings are adjourned he does not appear, and it is proved to the satisfaction of the court that the child 15 has been born, and that the order binding the defendant to show cause has not lapsed, the recognizances entered into by the defendant and sureties before the birth shall be forfeited, and the moneys so secured shall be applicable for the benefit of the mother and child. 20

Order after birth where the defendant does appear.

**78.** If upon the day or later day mentioned in the last preceding section the defendant appears, and it is proved to the satisfaction of the court that the child has been born, and that the order binding the defendant to show cause has not lapsed, the court shall make an 25 order for the payment by the defendant of a sum for the maintenance and education of the child.

*Proceedings begun after birth.*

Complaint may be made against father of illegitimate child for leaving it without means of support.

(See local Act No. 17, 1901, s. 4; Imperial Act, 35 & 36 Vic., c. 65, s. 3.)

**79.** In any case where the father of an illegitimate child has left it without means of support, the mother 30 of the child, or an officer, or any other reputable person on behalf of the child, may make complaint on oath to a magistrate; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of 35 any allegation in such complaint as to the paternity of the child; and upon such complaint being made, the magistrate may summon the defendant to appear before the court to answer such complaint, or if the circumstances seem to require it, may issue a warrant 40 for his apprehension. In

In any case where the mother of an illegitimate child has left it without means of support, the secretary or any reputable person on behalf of the infant may make complaint in writing on oath to a magistrate, and upon 5 such complaint being made the magistrate may summon the defendant to appear before the court to answer such complaint, or, if the circumstances seem to require it, may issue a warrant for her apprehension.

10 **80.** The court shall hear and determine the complaint, and may make an order for the payment by the defendant of a sum for the maintenance and education of the child.

Court shall hear and determine complaint and may make order for maintenance.

In any order made under this section in respect of a complaint brought within twelve months from the birth 15 of the child, the court may further order that the preliminary expenses to an amount not exceeding twenty pounds shall be paid by the defendant.

20 **81.** Where any complaint has been made under this Part by a woman for expenses in respect of a child of which she is about to be or has been delivered, she may, at the hearing of the complaint, be compelled to give evidence; and where complaint has been made by an officer or other reputable person on behalf of a woman for such expenses, she may, at the hearing of 25 the complaint, be compelled to give evidence if it has first been proved to the satisfaction of the court that she has made an allegation as to the paternity of the child. The admissions of a woman in giving evidence under this section shall not be used against her in any 30 criminal prosecution, except for perjury committed while so giving evidence.

Women may in certain cases be compelled to testify.

35 **82.** In any order made after the birth of a child under this Part in respect of proceedings begun before or after birth, the court may further order the payment by the defendant of the funeral expenses of the mother if she has died during parturition, or in consequence of parturition, within one month from the birth of the child, and the funeral expenses of the child if it has died prior to the making of the order.

Court may order payment of funeral expenses of mother and child. (See 35 & 36 Vic., c. 65, s. 4.)

40 **83.** In any order under this Part the court may further order the payment of such costs by such persons as it thinks fit.

Court may order payment of costs.

**84.**

Mother also to contribute to expenses of maintenance.

(See Deserted Wives and Children Act, No. 17, 1901, s. 7; N.Z. Act, 58 Vic. No. 22, s. 10.)

**84.** If it appears to the court that both the father and mother of an illegitimate child are able to contribute to any of the expenses mentioned in the preceding sections of this Part, the court, in making any order, may direct the payment of such expenses by both the father and mother in such proportions and in such manner as it thinks fit; and if it appears to the court that the mother only is able to so contribute, it may direct the payment by her alone. 5

Period for which orders for maintenance may be made.

(cf. Imperial Act, 35 & 36, Vic., c. 65, s. 5; N.Z. Act, 58 Vic. No. 22, s. 9.)

**85.** Every order adjudging any sum to be paid for the maintenance of a child may be made to take effect from a date not earlier than three months immediately preceding the date of the order, or, if a previous order has been made, from the date when the last preceding order ceased to have effect, and shall be of full force and validity until the child has, if a male, attained the age of fourteen years, or has, if a female, attained the age of sixteen years, or until the death of such child if such death occurs within the respective periods above mentioned: 20

Provided that the court may in the order direct that the payments to be made under it in respect of a male child shall continue until the child attains the age of sixteen years, in which case such order shall be in force until that period: 25

Provided also that for the purpose of recovering money previously due under an order it shall always remain of full force and validity.

Security for payment of amount may be ordered.

Deserted Wives and Children Act, No. 17, 1901, s. 8.

**86.** When an order is made under this Part for the payment of any expenses other than preliminary expenses the court may, immediately after pronouncing its decision, require the defendant to enter into a recognizance with sureties for the due performance for a period not exceeding twelve months of such order, and in default of the defendant's immediately entering into such recognizance with the required sureties the court may commit the defendant to prison, there to remain for any term not exceeding *twelve* months or until such recognizance has been entered into or the said order complied with. 30-35

**87.**

**87.** Where an order has been made under this Part for the payment of expenses, or of moneys secured under recognizances, the court may, in a summary way and with or without any application for that purpose, make such 5 orders in writing as it thinks necessary for better securing the payment and regulating the receipt of the expenses or moneys ordered to be paid, or for investing and applying the proceeds of the goods or rents ordered and directed to be sold or collected, or for ensuring the due 10 appropriation of such expenses or moneys or for causing the child in respect of whom the order was made to be properly brought up and educated.

Further orders may be made as to mode of payment of expenses.

Deserted Wives and Children Act, No. 17, 1901, s. 10.

**88.** In making any order under this Part, the court may further, by the said order, authorise and direct 15 some person forthwith to seize and sell the defendant's goods and to demand and receive his rents or such portions of the said goods or rents as the court thinks fit, and to appropriate the proceeds towards the payment of the expenses aforesaid in such manner as it from time 20 to time directs, and if it appears on oath that the defendant has theretofore usually resided in New South Wales and has left the said State, the like order may be made and authority given by such court although no warrant or summons has been issued.

Seizure of defendant's goods.

*Ibid.* s. 9.

**89.** The court may at any time, in a summary way, inquire into any alleged disobedience of or non-compliance with any order made under this Part, and for such purpose may summon and examine all proper parties and witnesses, and may enforce compliance or 30 may punish non-compliance with such order, by the committal of the offender until such order has been complied with.

Disobedience of order may be punished.

**90.** The court from time to time may, upon application made by or on behalf of the mother or child or by 35 or on behalf of the father, and upon notice given in such manner as the court shall direct to all parties to be affected thereby, vary any order made under this Part.

Court may vary order.

**91.** (1) Every summons or notice under this Part may be served on the defendant personally, or, if he 40 cannot be found, by leaving the same at his last or most usual place of residence.

Service of summons or notice.

(2) The person serving the summons or notice may make an affidavit stating the mode and time and place of such service, and such affidavit may be received by the court as proof of the due service of the summons or notice. 5

Court may proceed ex parte.

**92.** (1) If a defendant against whom a summons has been issued under this Part does not appear in accordance therewith the court, upon proof of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case ex parte. 10

(2) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case ex parte.

Warrant may issue in certain cases.

**93.** Any magistrate on being satisfied by oath that any defendant is about to remove out of New South Wales, or to remote parts thereof, to defeat any of the provisions of this Part or any order made hereunder, may issue his warrant for the apprehension of such defendant to be dealt with under this Part. 15 20

Certain breaches of Act indictable when offender leaves New South Wales. (See N.Z., 1894, No. 22, s. 17; Vic. 1901, No. 1,737, s. 4.)

**94.** (1) Every person who wilfully refuses or neglects to comply with an order made against him under this Part, and goes or attempts or makes preparation to go beyond New South Wales, or to reside or is resident either permanently or temporarily beyond New South Wales, shall be deemed to be guilty of an indictable offence, punishable by imprisonment with hard labour for a term not exceeding *twelve* months. 25

(2) No person convicted of an offence against this section shall be liable to any other penalty or punishment for such offence. 30

Committal to prison not to prevent making or operation of orders.

**95.** A committal to prison or conviction of an offence under this Part shall not prevent the making or operation of any order for the payment of money or the doing of any act by such person which may be lawfully made. 35

Persons deserting children in other colony, &c., may be arrested in New South Wales. (See Vic., 1901, No. 1,737, s. 5; N.Z. Act, 58 Vic. No. 22, s. 23.)

**96.** Whenever the Legislature of any British possession beyond the limits of the United Kingdom of Great Britain and Ireland, the Channel Islands, and the Isle of Man, and other than New South Wales, makes 40

makes provision whereby the offence of desertion of children, and going to reside beyond the limits of such possession, is constituted an offence whether punishable on indictment or otherwise by imprisonment for a term of *twelve* months or more, then and in every such case every person accused of such offence and coming to New South Wales may be there arrested and dealt with under and pursuant to the provisions of the Act of the Imperial Parliament of Great Britain and Ireland, 44 & 45 Vic., c. 69; 7 V.S. 321.  
 10 intitled the Fugitive Offenders Act, 1881, or any Act amending the same.

**97.** Every person aggrieved by an order of a court under this Part may appeal to a court of quarter sessions against such order in the manner provided by the 15 Justices Act, 1902, in respect of appeals to courts of quarter sessions :

Provided that where an order is made by the court at any place, and a district court is held nearer to that place than a court of quarter sessions, such appeal may 20 be made to such district court in the same manner as an appeal may be made to a court of quarter sessions under the said Act :

Provided also that where an order is made before birth respecting the paternity of a child, and the party 25 aggrieved by the order gives notice of intention to appeal to a court of quarter sessions or district court, as the case may be, and desires that the appeal shall not be heard before the birth of the child, such party shall state his or her desire in the notice, and in such case the appeal 30 shall be heard at the first court of quarter sessions or district court, as the case may be, held after a period of one month from the birth has elapsed, or at any court of quarter sessions or district court succeeding such first held court and to which the hearing is postponed, but 35 no appeal shall in such case be heard earlier than such first held court :

Provided also that at the request of either party the child shall be produced in court. Where an appeal 40 respecting the paternity of a child is to be heard after the birth of the child, no order shall be made under section seventy-eight of this Act until and unless such appeal has been heard and determined.

**98.**

Evidence  
necessary for  
order for  
maintenance.

**98.** Where any proceedings are taken under this Act, in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order shall be made—

- (a) upon the evidence of the mother, unless her evidence be corroborated in some material particular; or
- (b) if the court is satisfied that at the time the child was begotten the mother was a common prostitute.

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## PART XI.

### CHILDREN'S COURTS.

Governor  
may establish  
special courts  
for dealing  
with  
children.

**99.** (1) The Governor shall by proclamation establish special courts to be called children's courts.

Every such court shall consist of a special magistrate and shall have jurisdiction within the area named in a proclamation.

(2) In places not within any such area the jurisdiction of a court shall be exercised by a special magistrate, or any two justices.

20

Powers of  
court.

**100.** Within the area so named a court and the magistrate constituting such court—

- (a) shall exercise the powers and authorities which are possessed by stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children;
- (b) shall exercise the powers and authorities of a justice or justices to hear and determine complaints under the Deserted Wives and Children Act, 1901;
- (c) shall hear and determine complaints, informations, and applications under this Act.

**101.**



**101.** On and after the establishing of a court, the jurisdiction of every court of petty sessions in respect of the matters as to which the court has jurisdiction, except those matters in which a justice or justices has or have jurisdiction under the Deserted Wives and Children Act, 1901, shall cease to be exercised within the area proclaimed:

Provided that nothing in this section shall abridge or prejudice the ministerial powers of magistrates or justices in cases of committal for trial, or their powers to take any information or issue any summons, or grant, issue, or endorse any warrant, or admit to bail:

Provided also that no conviction, order, judgment, or proceeding made or given by or had before a court of petty sessions in contravention of this section shall be invalidated or affected by reason only of such contravention.

**102.** A court shall be held—

- (a) where practicable, in the proximity of a shelter;
- (b) in some building or room approved of in that behalf by the Minister: Provided that if a court room or police office is so approved of, the hearing shall not take place at an hour when the ordinary court business is being transacted.

Children's courts not held in ordinary courts.

**103.** (1) At any hearing or trial by a court under this Act, the court may order that any persons not directly interested in the case shall be excluded from the court-room or place of hearing or trial.

Exclusion of persons from hearing.

(2) Upon and during the hearing of any complaint made under Part X of this Act, no person shall be or be permitted to be present in court except the following—

- (a) the adjudicating magistrate, the secretary, or an officer deputed by him, the officers of the court, and a member of the police force;
- (b) the complainant and the defendant, and their respective barristers and solicitors;
- (c) the mother or sister, or other relative or friend of the complainant, if desired by such complainant;

(d)

(d) any person whilst being examined as a witness;  
and

(e) the mother or sister or female friend of any  
female witness, if desired by such witness  
whilst being examined, 5

unless the court shall, in the interests of justice, permit  
any other person to be present.

Appeal from  
children's  
court.

**104.** Proceedings in the nature of appeal to the  
Supreme Court or a judge thereof, or to a judge of the  
District Court, from any determination, conviction, or 10  
order of a court may be taken by a child or by a parent  
on behalf and in the name of his child under Part V of  
the Justices Act, 1902. The provisions of the said Part  
applicable to justices in the exercise of their summary  
jurisdiction shall apply to a court: 15

Provided that in place of the release of the appellant  
from custody upon entering into recognizances or  
depositing any money with the court, he may be com-  
mitted by the court from which the appeal is made to a  
shelter pending the determination of the appeal: 20

Provided also that this section shall not apply to an  
order committing a child to take his trial.

The judge hearing the appeal may order that any  
person not directly interested in the case shall be  
excluded from the court-room. 25

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PART XII.

REGULATIONS.

- 105.** (1) The Governor may make regulations for carrying out the objects and purposes of this Act. Governor may make regulations.
- 5 (2) Such regulations may provide for the payment of fees and may impose a penalty not exceeding *thirty* pounds for any breach thereof. Any such penalty may be enforced by and recovered before a court.
- 10 (3) Such regulations shall—
- (i) be published in the Gazette;
- (ii) take effect from the date of publication or from a later date to be specified in such regulations; and
- 15 (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.
- 20 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

## PART XIII.

## GENERAL AND SUPPLEMENTAL.

Offences.

**106.** (1) Every person charged with committing an offence against the provisions of this Act may be prosecuted before a court.

5

(2) Every person guilty of an offence against the provisions of this Act shall be liable, upon conviction before a court, unless some other penalty or punishment is expressly provided, to a penalty not exceeding *one hundred* pounds, or to imprisonment for 10 a period not exceeding *two* years, or to both penalty and imprisonment.

When information on oath, warrant may be issued to search premises.

**107.** If it be made to appear to any magistrate, on information laid before him on oath, that there is reason to believe that any person is offending against 15 the provisions of this Act in any house or place, or that any of the provisions of this Act are being infringed in any house or place, such magistrate may issue his warrant authorising an officer to search any house or place therein named, at any hour of the day, 20 or at any hour of the night not later than ten o'clock, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

Such officer may, if he thinks it necessary, be 25 accompanied by a medical practitioner, or by a police officer, or by both.

Power of search and arrest, and to place child in safety.

**108.** (1) Whenever it appears to any magistrate, or to any justice, on information made before him on oath by any person who, in the opinion of the 30 magistrate or justice, is *bona fide* acting in the interest of any child, that there is reasonable cause to suspect that such child, being a child under the age of eighteen years, has been or is being ill-treated or neglected in a manner likely to cause the child unnecessary suffering, 35 or to be injurious to its health, such magistrate or justice may issue a warrant authorising any officer or police officer named therein to search for such child; and if it is found to have been or is then being ill-treated or neglected in manner aforesaid, to take it to and detain 40

it

it in a place of safety until it can be brought before a court; and the court before whom the child is brought may commit the child to the custody of some person named by the court, or make such other order as to the  
5 custody of the child as the court may think fit.

(2) The magistrate or justice issuing such warrant may, by the same warrant, cause any person accused of any offence in respect of the child to be apprehended, and proceedings to be taken for punishing  
10 such person according to law.

(3) Any person authorised by warrant under this section to search for any child, and to take it to and detain it in a place of safety, may enter (if need be by force) any house, building, or other place specified in  
15 the warrant, and may remove the child therefrom.

(4) Every warrant issued under this section shall be addressed to and executed by an officer of police, who shall be accompanied by the person giving the information, if such person so desire, unless the magistrate  
20 or justice otherwise directs; and the person to whom the warrant is addressed may be accompanied by a medical practitioner.

(5) It shall not be necessary in any information or warrant issued under this section to name any particular child.  
25

**109.** (1) Where a person is charged with committing an offence under this Act in respect of two or more children the same information or summons may charge the offence in respect of all or any of them, but the  
30 person charged shall not be liable to a separate penalty in respect of each child unless upon separate informations or summonses.

(2) The same information or summons may also charge the offences of assault, ill-treatment, neglect,  
35 abandonment or exposure, together or separately, but when charged together the person charged shall not be liable to separate penalties.

(3) Where an offence charged is a continuous offence, it shall not be necessary to specify in the information or summons the date of the acts constituting the  
40 offence.

Evidence in  
certain cases.

**110.** (1) Where in any proceeding against any person for an offence under this Act the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may be received though not given upon oath if in the opinion of the court such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. And the evidence of such child, though not given on oath, but otherwise taken and reduced into writing as a deposition, shall be deemed to be a deposition to all intents and purposes.

A person shall not be convicted of the offence charged unless the testimony admitted by virtue of this section, and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof implicating the accused.

Any child whose evidence is received as aforesaid, and who wilfully gives false evidence, shall be guilty of a misdemeanour, but no prosecution shall be instituted under this section without the leave of the court before which such evidence was given.

(2) Where a justice is satisfied by the evidence of a medical practitioner that the attendance before a court of any child in respect of whom an offence under this Act is alleged to have been committed would be injurious or dangerous to its health, the justice may take in writing the statement of such child in pursuance of section four hundred and six of the Crimes Act, 1900, as if the child were dangerously ill, and in the opinion of the medical practitioner, not likely to recover.

(3) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance before the court of any child in respect of whom an offence is alleged to have been committed would be injurious or dangerous to its health, any deposition taken under section four hundred and six of the Crimes Act, 1900, or any statement of the child taken under this

this section, may be read in evidence, and shall have effect in like manner as if it were proved that the child were so ill as to be unable to travel, or (in the case of any such statement) that there was no reasonable  
 5 probability that the child would ever be able to travel or give evidence; but the same proviso shall apply as in the case of the reception of evidence under the first subsection.

(4) Where in any proceedings with relation to  
 10 an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance for the purpose of giving evidence before the court of any child in respect of whom the offence is alleged to have been committed would be injurious or dangerous  
 15 to its health, and is further satisfied that the evidence of the child is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

**111.** If any person makes any false representation,  
 20 or forges any certificate, or makes use of any forged certificate knowing it to be forged, with intent to obtain the registration either of such person or of any other person under this Act, or falsifies any register kept in pursuance of this Act, or furnishes false particulars of  
 25 any matter which is required to be entered in such register, such person shall be guilty of an offence and on conviction thereof shall be liable to a penalty not exceeding *twenty-five* pounds or to imprisonment for a period not exceeding *six* months.

Forgery of certificate, &c.

30 **112.** Any person who hinders or obstructs any person in the exercise of his duty under this Act, shall be guilty of an offence.

Obstruction of person carrying out provisions of Act.

**113.** Any justice may issue a warrant for the arrest  
 of any child boarded-out, placed-out, apprenticed, or  
 35 adopted who has absconded or been illegally removed.

Arrest of absconding child.

**114.** Any person who ill-uses or neglects to perform his duty towards any child boarded-out, placed-out, apprenticed or adopted, or violates any regulation concerning such child, shall be guilty of an offence.

Penalty for ill-usage of child.

**115.**

Presumption  
of age of  
child.

**115.** Where a person is charged with an offence under this Act in respect of a child who is alleged in the charge or indictment to be under any specified age, and the child appears to the court to be under that age, such child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved. 5

Saving  
parental  
right of  
punishment.

**116.** Nothing in this Act contained shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer punishment to such child. 10

A person not  
to be twice  
punished  
for the same  
offence.

**117.** Where a person is charged with an offence under this Act, for which he is also punishable under any other Act or at Common Law, he may be prosecuted and punished either under this Act or under any other Act, or at Common Law, but no person shall be punished twice for the same offence. 15

Minister may  
order that  
Act shall  
not apply.

**118.** The Minister may at any time by writing under his hand order that the Act shall not apply in any particular case where he is satisfied that it is undesirable or unnecessary that it should apply. Any court may in any particular case suspend the operation of the provisions of this Act for a period of eight days to enable such order to be obtained. 20

Minister  
may take  
proceedings  
for  
maintenance.

**119.** The Minister may institute legal proceedings— 25

- (a) against any parents for moneys expended in the maintenance of their children, when satisfied that such parents are in a position to pay for such maintenance; and
- (b) against the parents of illegitimate children for the recovery of maintenance money, and such parents shall be liable jointly and severally. 30

Money of  
ward to be  
placed to  
separate  
fund.

**120.** All money and other property to which any ward shall be entitled shall be placed to a separate fund and shall be under the control of the Minister for the benefit and maintenance of such ward. 35

Expenditure  
of money  
appropriated  
by Parlia-  
ment.

**121.** All sums of money appropriated by Parliament for the purposes of this Act shall be expended by the Minister under the provisions thereof.

**122.**



**122.** The Minister shall furnish a report to Parliament every year on the working of this Act.

Report to be  
furnished to  
Parliament

PART XIV.

ADOPTION OF CHILDREN.

**123.** In this Part, unless the context otherwise requires,— Interpre-  
tation

“Adopted child” means child in respect of whom an order of adoption has been made.

10 “Adopting parent” means any person who by an order of adoption is authorised to adopt a child, and in case of any such order being made in favour of a husband and wife on their joint application, includes both husband and wife.

15 “Court” means the Supreme Court in its equitable jurisdiction.

**124.** Upon application made to the court by—

- (a) husband and wife jointly ; or
- (b) a married woman, with the written consent of her husband ; or

By whom  
female child  
may be  
adopted.

20 (c) a woman, whether married or unmarried, who, in the opinion of the court, is at least eighteen years older than the child ; or

See W.A.  
Act, 1896,  
No. 6, s. 3.

(d) a married man who, in the opinion of the court, is at least thirty years older than the child,  
25 an order of adoption of a female child may be made in favour of the applicant in the form prescribed.

**125.** Upon application made to the court by—

- (a) husband and wife jointly ; or
- (b) a married man alone, but with the written consent of his wife ; or

By whom  
male child  
may be  
adopted.

30 (c) a man, whether married or unmarried, who, in the opinion of the court, is at least eighteen years older than the child ; or

*Ibid.* s. 4.

(d) a woman, whether married or unmarried, who,  
35 in the opinion of the court, is at least thirty years older than the child,

an order of adoption of a male child may be made in favour of the applicant in the form prescribed.

**126.**

Matters to be proved before order made.

See W.A. Act, 1896, No. 6, s. 5.

**126.** An order of adoption shall not be made unless the court is satisfied—

- (a) that the person applying for the order is of good repute and a fit and proper person to have the care and custody of the child, and of sufficient ability to bring up, maintain, and educate the child; and
- (b) that the welfare and interest of the child will be promoted by the adoption; and
- (c) if the child is over the age of twelve years, that the child consents to the adoption; and
- (d) that the parents of the child or such one of them as is living consent or consents to the adoption, or if the child is illegitimate that the mother consents to the adoption, or if the child has a guardian, that such guardian consents to the adoption:

Provided that the consent of any person whose consent is required to be given by this paragraph may be dispensed with if the court is of opinion that such person has deserted or abandoned the child.

Effect of order.

*Ibid.* ss. 7, 8.

**127.** When an order of adoption is made, for all purposes civil and criminal, and as regards all legal and equitable rights and liabilities, the adopted child shall be deemed to be a child of the adopting parent, and the adopting parent shall be deemed to be a parent of the adopted child, as if such child had been born to such adopting parent in lawful wedlock, and the order of adoption shall terminate all rights and liabilities existing between the child and his natural parents other than the right of the child to take property as heir or next of kin of his natural parents or of their lineal collateral kindred:

Provided always that such adopted child shall not acquire any right, title, or interest in any property under any deed, will, or instrument whatsoever made or executed prior to the date of such order of adoption unless it is expressly so stated in such deed, will, or instrument;

- (a) acquire any right, title, or interest in any property under any deed, will, or instrument whatsoever made or executed prior to the date of such order of adoption unless it is expressly so stated in such deed, will, or instrument;

- 5 (b) be entitled to take any property limited to the heirs of the body of the adopting parent ; nor  
(c) be entitled to take any property as next of kin to any lineal or collateral kindred of the adopting parent ; nor  
(d) be entitled to take any property as next of kin to any child of the adopting parent.

**128.** When an order of adoption is made the adopted child shall take the surname of the adopting parent in addition to his proper name.

Child to take surname of adopting parent.  
See W.A. Act, 1896, No. 6, s. 10,

**129.** (1) The judges of the Supreme Court or any three of them may make rules for carrying into effect the provisions and objects of this Part and for providing for the registration of orders of adoption and the payment of fees.

Power to make rules.

(2) Until such rules are made any application under this Part shall be by motion, and the practice of the Equity Court shall apply thereto.

## THE SCHEDULE.

Date of Act.	Name of Act.	Extent of repeal.
Act No. 40, 1900	Crimes Act, 1900 ...	So much of s. 429 as is inconsistent with this Act. 5
Act No. 17, 1901	Deserted Wives and Children Act, 1901.	So much of the Act as relates to complaints in respect of illegitimate children, and to proceedings consequent upon or incidental to such complaints. 10
Act No. 61, 1901	State Children Relief Act, 1901.	The whole.
Act No. 47, 1902	Children's Protection Act, 1902.	The whole. 15
Act No. 27, 1904	Infant Protection Act, 1904.	The whole.
Act No. 16, 1905	Neglected Children and Juvenile Offenders Act, 1905.	The whole. 20