

No. , 1936.

A BILL

To consolidate and amend the law relating to children and young persons; to repeal the Child Welfare Act, 1923, and the Child Welfare (Amendment) Act, 1924; to amend the Interstate Destitute Persons Relief Act, 1919, and certain other Acts; to validate certain matters; and for purposes connected therewith.

[Mr. DRUMMOND;—24 *March*, 1936.]

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
5 the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Child Welfare Act (No. 2), 1936."
- 74561 6—A (2)
- Short title and commencement.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Parts
of Act.

2. This Act is divided into Parts as follows:—

- PART I.—PRELIMINARY—ss. 1-4. 5
- PART II.—AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT—ss. 5-12.
- PART III.—CHILDREN'S COURTS—ss. 13-22.
- PART IV.—ESTABLISHMENT OF DEPOTS, HOMES AND HOSTELS—ss. 23, 24. 10
- PART V.—BOARDING-OUT OF CHILDREN AND YOUNG PERSONS—ss. 25-28.
- PART VI.—ALLOWANCES IN RESPECT OF DESTITUTE CHILDREN AND YOUNG PERSONS LIVING WITH PARENTS—s. 29. 15
- PART VII.—LICENSED HOMES USED FOR THE RECEPTION OF CHILDREN APART FROM THEIR PARENTS—ss. 30-40.
- PART VIII.—LYING-IN HOMES—ss. 41-44.
- PART IX.—MENTALLY DEFECTIVE CHILDREN—ss. 20 45-50.
- PART X.—INSTITUTIONS—ss. 51-57.
- PART XI.—PUNISHMENT OF INMATES IN INSTITUTIONS—ss. 58, 59.
- PART XII.—MAINTENANCE OF CHILDREN BY THEIR RELATIVES—ss. 60-67. 25
- PART XIII.—EMPLOYMENT OF CHILDREN—ss. 68-74.
- PART XIV.—COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR YOUNG PERSONS OR OF JUVENILE OFFENDERS—ss. 75-97. 30
- PART XV.—TRANSFER OF PERSONS FROM A PRISON TO AN INSTITUTION—s. 98.
- PART XVI.—AFFILIATION PROCEEDINGS—ss. 99-127.
- PART XVII.—PROCEDURE, PENALTIES AND GENERAL PROVISIONS—ss. 128-162. 35

PART

PART XVIII.—REGULATIONS—s. 163.

PART XIX.—ADOPTION OF CHILDREN—ss. 164-175.

PART XX.—AMENDMENT OF VARIOUS ACTS—ss. 176-182.

5 DIVISION 1.—*Amendment of Interstate Destitute Persons Relief Act, 1919*—s. 176.

DIVISION 2.—*Amendment of Deserted Wives and Children Act, 1901-1931*—s. 177.

10 DIVISION 3.—*Amendment of the Criminal Appeal Act of 1912*—s. 178.

DIVISION 4.—*Amendment of Public Instruction (Amendment) Act, 1916*—s. 179.

DIVISION 5.—*Amendment of Venereal Diseases Act, 1918*—s. 180.

15 DIVISION 6.—*Amendment of Pawnbrokers Act, 1902*—s. 181.

DIVISION 7.—*Amendment of Second-hand Dealers and Collectors Act, 1906*—s. 182.

SCHEDULES.

20 3. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed. Repeal and savings.

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

(3) All institutions and shelters constituted or established under any Act hereby repealed and in existence at the commencement of this Act shall be deemed to have been constituted or established under
30 this Act.

(4) This Act shall apply to all children apprenticed, boarded-out, placed-out or placed as adopted boarders under any Act hereby repealed as if such children had been apprenticed, boarded-out, placed-out or placed as
35 adopted boarders under this Act.

(5) All proclamations, regulations, rules, licenses, orders, directions and instruments issued, made or executed under any Act hereby repealed, or having force

or

or effect thereunder shall, if not inconsistent with this Act, remain in force and be deemed to have been issued, made or executed under this Act.

(6) A reference in any regulation made under any Act hereby repealed to the provisions of the Act repealed shall be construed as a reference to the corresponding provisions of this Act. 5

(7) All children's courts established, and all limits of jurisdiction defined under the authority of any Act repealed by this Act, and existing immediately before the commencement of this Act, shall be deemed to have been established and defined respectively under this Act. 10

Interpreta-
tion.

4. In this Act unless the context otherwise requires:—

"Admitted to State control" means admitted to the control of the Director for the purpose of being apprenticed, boarded-out, placed-out or placed as an adopted boarder. 15

"Adopted boarder" means a child who, if under the age of fourteen years, is allowed by authority of the Minister to remain with a foster parent without payment of an allowance by the Child Welfare Department, or, if over the age of fourteen years, is allowed by authority of the Minister, and with the consent of the child or young person, to remain with the foster parent without payment of wages by such foster parent. 20 25

"Adopting parent" means an adopting parent as defined in section one hundred and sixty-four of this Act, and, except in Part XIX, includes a person who has adopted a child under a deed of adoption. 30

"Age" means, in the absence of positive evidence as to age, the apparent age.

"Boarded-out" means placed in the care of some foster parent for the purpose of being nursed, maintained, trained or educated by such person or in such person's home. 35

"Care" includes custody and control.

"Child" means person under sixteen years of age.

"Court

- “ Court ” means children’s court, and includes a magistrate or justices exercising the jurisdiction of a children’s court.
- 5 “ Director ” includes an officer authorised by the Director.
- “ Foster parent ” means any person with whom any child or young person is boarded-out or placed as an adopted boarder.
- 10 “ Institution ” means institution established under this Act, and includes any special school for truants established under the Public Instruction (Amendment) Act, 1916.
- “ Justice ” means justice of the peace.
- 15 “ Juvenile offender ” means child or young person who has committed an offence.
- “ Lying-in home ” means house in which more than one woman is received for confinement with or without payment of money.
- 20 “ Magistrate ” means stipendiary or police magistrate.
- “ Maintenance ” includes clothing, support, training and education.
- “ Medical practitioner ” means legally qualified medical practitioner.
- 25 “ Offence ” means offence punishable summarily or by indictment under this or any other Act or at common law.
- 30 “ Officer ” means an officer of the Child Welfare Department, and includes any person acting under the instruction of the Minister or of the Director but does not include any special or other magistrate.
- 35 “ Parent ” when used in relation to a child or young person includes step-parent, adopting parent, guardian, and any person who is by law liable to maintain the child or young person.
- 40 “ Place of safety ” means home, police station, hospital or any other place the occupier of which is willing temporarily to receive a child or young person.

“Placed-out”

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- “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 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. 5
- “Prescribed” means prescribed by this Act or by the regulations. 10
- “Proclamation” means proclamation published in the Gazette.
- “Public place” includes a vessel, vehicle, room or any field or other place whatsoever to which the public for the time being have or are permitted to have access, whether on payment or otherwise. 15
- “Regulations” means regulations made under this Act. 20
- “Shelter” includes a place of safety.
- “Street” includes any highway or other public place whether a thoroughfare or not.
- “Street trading” includes the hawking of newspapers, matches, flowers and other articles, shoe-blackening and any other like occupation carried on in any public place. 25
- “Superintendent” includes the person for the time being in charge of an institution. 30
- “Uncontrollable” where used in reference to a child or young person means child or young person who is not being or cannot be controlled by his parent or by any person having his care.
- “Ward” means any child or young person who has been— 35
- (a) admitted to State control;
 - (b) committed to an institution;
 - (c) admitted into a hostel for expectant and nursing mothers;
 - (d) admitted into a home for mentally defective children. 40
- “Young

“ Young person ” means a person who has attained the age of sixteen years and is under the age of eighteen years.

PART II.

5 AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

5. The Governor may, on the recommendation of the Public Service Board, appoint a Director of the Child Welfare Department, and it shall be the duty of the Director, under the direction of the Minister, to carry
10 into operation the provisions of this Act so far as the execution thereof is not expressly committed to any other person.

Appointment of Director.

6. The Governor may, on the recommendation of the Public Service Board, appoint an assistant director,
15 inspectors, welfare officers and such other officers as are necessary for the administration of this Act. The powers and duties of such officers may be prescribed.

Appointment of assistant director, inspectors and officers.

7. The Director, assistant director, inspectors, welfare officers and other officers shall receive such
20 remuneration and allowances as shall be fixed by the Public Service Board.

Remuneration. Act No. 21, 1923, s. 7.

8. The Minister may appoint persons not being officers or employees of the Child Welfare Department, to be visitors to any of the institutions, homes, depots, hostels,
25 and shelters established under this Act.

Appointment of visitors.

9. The Director may appoint honorary welfare officers and honorary lady visitors to carry out such duties as may be prescribed.

Appointment of honorary welfare officers and lady visitors.

The Director shall issue to such welfare officers and
30 lady visitors an authority card indicating the nature of their appointment.

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

Advisory committees. Ibid. s. 8.

35 Such committee or committees shall exercise such powers and duties as may be prescribed.

11. (1) Notwithstanding any other law relating to the guardianship or custody of children the Director shall
be

Director to be guardian of wards.

be and become the guardian of every child or young person who becomes a ward to the exclusion of the parent or other guardian and shall continue to be such guardian until the child or young person ceases to be a ward.

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cf. 2 Geo.
V, No. 11,
s. 10 (Qld.).

(2) Subject to this Act the Director shall have the care of the person of all wards, except during the period when they are inmates of an institution or of a home for mentally defective children or are boarded out or placed as adopted boarders with foster parents or placed-out or apprenticed with any other persons.

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Guardian of
ex-wards.

(3) The Minister, on or before the discharge of a ward, may empower the Director to remain guardian until the ward attains the age of twenty-one years, and the ex-ward shall during such period be subject to the supervision of the Director.

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Director to
report
annually to
Minister.

12. The Director shall, at the end of each financial year, furnish a report to the Minister on the working of this Act, and shall in such report distinguish under prescribed headings the expenditure incurred by the Department during that year at each institution, home, depot, hostel, and shelter established under this Act and any other particulars which the Minister may direct to be included in such report.

20

PART III.

25

CHILDREN'S COURTS.

Governor
may estab-
lish special
courts.

cf. Act No.
21, 1923,
s. 96.

13. (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 the proclamation.

30

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

(3) Such special magistrate shall possess the qualifications required for the office of police or stipendiary magistrate under the Public Service Act, 1902.

14.

14. (1) A children's court and the magistrate or justices constituting such court— Powers of court.

- 5 (a) shall exercise the powers and authorities which are possessed by magistrates, courts of petty sessions or justices in respect of children and young persons and of offences committed by or against children and young persons;
- 10 (b) may, where a child or young person is charged with an indictable offence (other than homicide, rape or other offence punishable by death), hear and determine the said charge in a summary manner in accordance with the provisions of this Act;
- 51 (c) shall exercise the powers and authorities of a justice or justices to hear and determine complaints, informations and applications under the Deserted Wives and Children Act, 1901-1931;
- (d) shall hear and determine complaints, informations and applications under this Act;
- 20 (e) shall exercise the powers and authorities of justices to hear and determine applications or complaints under sections one hundred and forty-two to one hundred and forty-six, both inclusive, of the Lunacy Act of 1898.

25 (2) A children's court consisting of a special magistrate shall exercise the powers and authorities which are conferred upon courts of petty sessions by the Infants' Custody and Settlements Act, 1899-1934.

Any order for the payment of money or costs made by
 30 a court in the exercise of the powers and authorities conferred by this subsection shall have the effect of an order for the payment of money under the Small Debts Recovery Act, 1912, made by the court of petty sessions named in the order, and shall be enforceable as such
 35 under the provisions of that Act.

15. (1) If it appears to a court that any complaint, application, proceeding or information under Part XII Change of venue. or Part XVI before the court can be more conveniently, economically or fairly heard and determined by a court
 40 sitting at some other place the court may adjourn the hearing of such complaint, application, proceeding or information and remand any person charged before it to a court sitting at some other place specified and appoint a day for the hearing. (2)

(2) The clerk of the first-mentioned court shall thereupon transmit to the clerk of the court to which the hearing has been adjourned all documents and depositions in his possession relating to the complaint, application, proceeding or information.

Jurisdiction
of other
courts to
cease.
cf. Act No.
21, 1923, s.
98.

16. (1) On and after the establishment 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, 1901-1931, shall cease to be exercised.

(2) 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.

(3) 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.

Children's
courts not held
in ordinary
courts.
Ibid. s. 99.

17. A court shall be held—

- (a) where practicable, in the proximity of a shelter;
- (b) in some building or room approved in that behalf by the Minister.

If a court-room is so approved, the hearing shall not take place at an hour when the ordinary court business is being transacted.

Exclusion of
persons from
hearing
generally.
Ibid. s. 100.

18. (1) At any hearing or trial by a court any persons not directly interested in the case shall be excluded from the court-room or place of hearing or trial unless the court otherwise directs.

(2) The court may, if it is of opinion that in the interest of the child or young person such a direction should be given, direct a child or young person to leave the court at any time during such hearing or trial or may direct any person to leave the court during the examination of any witness.

Exclusion of
persons
from
hearing
under
Part XVI.
Ibid.

(3) During the hearing of any complaint under Part XVI of this Act, no person shall be or be permitted to be present in court except the following—

- (a) the adjudicating magistrate, the Director, the officers of the court, and a member of the police force;
- (b)

- (b) the complainant and the defendant, and their respective barristers and solicitors;
 (c) the mother, sister or other relative or friend of the complainant, if desired by such complainant;
 5 (d) any person whilst being examined as a witness; and
 (e) the mother, sister or female friend of any female witness, if desired by such witness whilst
 10 being examined,
 unless the court shall permit any other person to be present.

15 **19.** The provisions of section eighteen of this Act shall apply, *mutatis mutandis*, to the hearing of an appeal to a court of quarter sessions against any decision of a children's court.

Exclusion of persons from hearing of appeal.

cf. Act No. 21, 1923, s. 100 (3).

20. (1) An appeal shall lie from any determination, finding of guilt or order of a court (not being a committal for trial or a determination, conviction or order under Part XII or Part XVI of this Act) by the persons and in the manner provided by Part V of the Justices Act, 1902.

Right of appeal.

(2) Where an appellant is a child or young person the appeal may be taken by him or by his parent on his behalf and in his name.

25 (3) Where an appellant is a child or young person in place of the release of the appellant from custody upon entering into recognizances or depositing any money with the court, he may be committed by the court from which the appeal is made to a shelter pending the
 30 determination of the appeal.

21. The Justices Act, 1902, so far as it is not inconsistent with this Act, shall apply to a court and to proceedings before a court, other than proceedings under Part XVI of this Act.

Application of Justices Act, 1902.

Ibid. s. 102.

35 **22.** (1) Where a charge is made jointly against a child or young person and a person who has attained the age of eighteen years the hearing of the charge against the child or young person may be adjourned until the charge against the person who has attained the age of
 40 eighteen years has been heard and determined.

Child or young person charged jointly with adult.

(2) A court may exercise jurisdiction in cases where the person charged is over the age of eighteen years, if, at the time of the commission of the offence, the person charged had not attained the age of eighteen years, and such person shall, for the purposes of this Act, be deemed to be a young person. 5

PART IV.

ESTABLISHMENT OF DEPOTS, HOMES AND HOSTELS.

Establish-
ment of
depots,
homes and
hostels.
cf. Act No.
21, 1923,
s. 16.

23. (1) The Governor may, by proclamation, establish— 10

- (a) depots for the temporary accommodation and maintenance of children and young persons;
- (b) homes for the reception and maintenance of— 15
 - (i) physically defective children or young persons;
 - (ii) invalid and sick children or young persons;
 - (iii) nursing infants;
 - (iv) children or young persons admitted to State control; 20
- (c) hostels for the accommodation and maintenance of—
 - (i) expectant and nursing mothers for a prescribed period before and after confinement; 25
 - (ii) wards and ex-wards for the terms and purposes prescribed.

(2) The establishment before the commencement of this Act of any depot, home or hostel, which could lawfully have been established if subsection one of this section had been in operation at the date the same was established, is hereby validated. 30

Any depot, home or hostel, the establishment of which is validated by this subsection, and which is in existence immediately before the commencement of this Act, shall for all purposes of this Act be deemed to have been established under this Act. 35

Inspection.
Ibid. s. 17.

24. All depots, homes and hostels established or deemed to have been established under this Part shall be controlled by the Minister and shall be inspected once 40
at

at least in every six months by an officer appointed for that purpose by the Director. Such officer shall, after such inspection, submit to the Director a report dealing with the matters prescribed.

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PART V.

BOARDING-OUT OF CHILDREN AND YOUNG PERSONS.

25. (1) The Director shall be the authority to—
- 10 (a) admit a child or young person to State control;
 - (b) provide for the accommodation and maintenance of any child or young person admitted to State control until he is apprenticed, boarded-out, placed-out, or placed as an adopted boarder;
 - 15 (c) pay foster parents such rates as may be prescribed;
 - (d) direct the removal or transfer of any ward other than a ward who has been committed to an institution;
 - 20 (e) apprentice, board-out, place-out, or place as an adopted boarder any ward;
 - (f) approve of persons applying for the custody of wards and of the homes of such persons;
 - (g) arrange the terms and conditions of the custody of any ward;
 - 25 (h) direct the restoration of any ward (other than a ward who has been committed to an institution) to the care of his parent or of any other person;
 - 30 (i) direct the absolute discharge of any ward (other than a ward who has been committed to an institution) from supervision and control.

Authority of
Director.
cf. Act No.
21, 1923,
s. 9.

- 35 (2) The Director, upon such terms and conditions as may be prescribed or as the Minister may, in any special case, approve, may place a ward as an adopted boarder in the care of a foster parent.

When such ward is over the age of fourteen years and the foster parent is unable to pay the prescribed rate of wages, the consent of the ward shall be obtained before he is so placed in the care of a foster parent.

(3).

Limitation
of payment
for wards.

(3) Payment to a foster parent for any ward shall not extend beyond the time when the ward shall have attained the age of fourteen years unless—

(a) the ward is an invalid or is otherwise incapacitated; or

(b) the case possesses unusual features which call for special consideration,

and the Minister, upon the recommendation of the Director, authorises such payment.

Appren-
ticeship or
placing-out.

(4) On attaining the age of fourteen years a ward shall, except in the circumstances referred to in subsections two and three of this section, or except in such other circumstances as may be prescribed, be placed-out or apprenticed.

Boarding-out
from charitable
institutions
or homes.
cf. Act No. 21,
1923, s. 10.

26. The Director may remove any child from any charitable institution or home supported wholly or in part by grants from the Consolidated Revenue Fund and cause him to be apprenticed, boarded-out, placed-out, or placed as an adopted boarder.

Extension of
period of
supervision.
Ibid. s. 12.

27. The Minister may cause to be visited and inspected any child or young person who has been a ward for any period not exceeding two years after his discharge.

Deduction from
payments to
foster-parent.
Ibid. s. 13.

28. The Director may deduct from the payments due to any foster-parent such amount as may be deemed equivalent to the loss occasioned by the neglect of such foster parent to keep outfits up to the standard prescribed.

PART VI.

ALLOWANCES IN RESPECT OF DESTITUTE CHILDREN AND YOUNG PERSONS LIVING WITH PARENTS.

Persons
eligible to
receive aid.
Ibid. s. 14.

29. (1) The Minister, out of moneys provided by Parliament, may in such circumstances and subject to such conditions as may be prescribed grant an allowance for the support of a destitute child or young person to—

(a) the mother when such child or young person is living with her and when such mother is—

(i) a widow, or

(ii) a deserted wife, or

(iii)

-
- (iii) a wife whose husband is—
- (a) incapacitated from following his usual or any occupation, or
 - (b) in gaol, or
 - 5 (c) an old-age pensioner, or
- (iv) a single woman, or
- (v) a woman living apart from her husband—
- (a) under any decree of judicial separation, or
 - 10 (b) under any deed of separation, or
 - (c) where a decree nisi in divorce has been made, or
- (vi) a woman whose marriage has been dissolved by a decree absolute in divorce, or
- 15 (vii) a woman whose marriage is void or has been annulled by any decree or order of the Supreme Court in its matrimonial causes jurisdiction;
- (b) a single woman who has adopted such child or young person when such child or young person is living with her;
- 20 (c) the father, where such child or young person is living with him and where such father is incapacitated from following his usual or any occupation, and is—
- 25 (i) a widower, or
- (ii) a deserted husband, or
- (iii) a husband whose wife is—
- (a) incapacitated through mental or
 - 30 bodily infirmity, or
 - (b) in gaol, or
 - (c) an old-age pensioner.
- (2) This section shall not extend to authorise the granting of an allowance to any widow who is in receipt of a pension under the Widows' Pensions Act, 1925-1932, where any part of the pension is paid to her in respect of the child or young person for whom an allowance is sought under this section.

Relation to
widows'
pensions.

Relation to
family
endowment.

(3) If any person referred to in subsection one of this section is in receipt of family endowment in respect of any child or young person for whom an allowance is sought under this section, an allowance may be granted under this section in respect of such child or young person, but any payments received by way of family endowment shall be taken into consideration. 5

Limitation
of payment.

(4) Payment of an allowance under this Part shall not extend beyond the time when the person in respect of whom the allowance is granted shall have attained the age of fourteen years unless— 10

(a) the child or young person is an invalid or is otherwise incapacitated; or

(b) the case possesses unusual features which call for special consideration, 15

and the Minister, upon the recommendation of the Director, authorises such payment.

PART VII.

LICENSED HOMES USED FOR THE RECEPTION OF CHILDREN APART FROM THEIR PARENTS. 20

Licensing of
place.

cf. Act No.
21, 1923, s.
29.

30. (1) 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 mother or other parent, shall make application to the Director in the prescribed form and manner for a license in respect of such place. 25

Inquiry to
be made.

(2) The Director shall thereupon cause inquiry to be made respecting such application and a report to be furnished by an officer.

Licenses.

(3) The Director upon receiving such report may grant or refuse a license in respect of such place; and such license when granted shall remain in force until cancelled by order of a court. 30

(4) Every license shall be subject to such conditions and requirements as may be prescribed. 35

31. (1) In every place licensed under this Part the person in charge shall keep a register in a form prescribed in which shall be entered forthwith by such person the names, sex and age of each child received into the
5 care or charge of such person and the date when such child was so received, and such other particulars as may be prescribed.

Register to be kept.
cf. Act No.
3,654 (1928),
s. 98 (Vic.).

(2) Every such register shall be produced by the person in charge at all reasonable times when the pro-
10 duction of the same is demanded by the Director, and may be examined and (if the Director thinks fit) copies of any entries therein may be made by the Director.

Register to be produced.

(3) Forthwith after the removal of any child from a place licensed as aforesaid whether before or
15 on attaining the age of seven years, the person in charge shall enter in such register the time of such removal and the names, addresses and calling or occupation of the person or persons to whom the child is delivered, and if any such person is a married woman the address and
20 calling of her husband; and shall forthwith forward notice of such removal to the Director.

Removal of child.

(4) Any person in charge who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Penalty.

32. (1) For the purpose of making any inquiry and report under section thirty of this Act respecting any place, or for the purpose of ensuring that the prescribed conditions and requirements are complied with, the
25 Director may, at any time, enter the place and inspect it and the children who are inmates thereof; and the person in charge of the place shall afford all reasonable facilities for such inspection.

Officer may inspect.
cf. Act No.
21, 1923, s.
30.

(2) In making any inspection the Director may, if he thinks fit, be accompanied by a medical practitioner
35 or a police constable, or by both.

(3) The Minister at any time, by writing under his hand, may order that the provisions of this section shall not apply in any case where he is satisfied that its application is unnecessary.

Exemption by Minister.

Where
conditions of
license not
observed.
Act No. 21,
1923, s. 31.

33. (1) Where, on any inspection of a licensed place, the Director finds that any of the prescribed conditions or requirements are not complied with, the Director may give directions in writing to the person in charge to ensure a compliance with such conditions or requirements, failing which the license of such place may be cancelled by a court. 5

(2) The person in charge of any such licensed place who fails to comply with such directions shall be guilty of an offence against this Act and upon conviction 10 the license may be cancelled by a court.

Disposal of
children.

(3) The court, on cancellation of the license, may direct that any child who is an inmate of such place, be—

- (a) restored to the custody of a parent; or
- (b) released to the care of the Director to be 15 dealt with as a ward admitted to State control.

Penalties on
person in
charge of
unlicensed
place.
cf. *Ibid.* s. 32.

34. The person in charge of any place which is required to be licensed under this Part and is not licensed shall be liable to a penalty not exceeding *twenty-five* pounds, and any child who is an inmate of such place 20 may be removed therefrom by the Director and taken to a shelter, there to remain until a court orders him to be returned to his parent, or dealt with as a ward admitted to State control, or released to the care of any other person. 25

Regulating
reception of
children under
seven years.
Ibid. s. 33.

35. (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 any child under the age of seven years to rear, nurse, or otherwise maintain, apart from his mother or other parent, in consideration 30 of the payment to such person of any sum of money or other valuable consideration otherwise than by way of periodical instalments. No such instalment shall be paid for more than four weeks in advance, nor exceed the sum of fifty shillings per week. Any person receiving or 35 agreeing to receive payment contrary to this section shall be guilty of an offence against this Act.

A court having made an order under this section shall forthwith forward a copy of the order to the Director.

(2)

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

(3) The Director shall, if required, receive from anyone wishing to place a child under the age of seven years in the care of the person in charge of any place
10 licensed under section thirty of this Act, a sum of money from which he shall make to such person such payments as are permitted under this Act.

36. (1) Every person who receives into his care in any place licensed under this Part, any child under
15 the age of seven years to rear, nurse, or otherwise maintain for payment shall within seven days register or cause to be registered with the Director in the prescribed form the particulars prescribed.

Registration
of reception
of children.
cf. Act No. 21,
1923, s. 34.

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

37. (1) If the person in charge of any place licensed under this Part changes his place of abode, or relinquishes the care of any child in such place, he shall forthwith
25 forward a notice of such change or relinquishment to the Director in the form prescribed.

Change of
address to be
registered.
cf. *Ibid.* s. 35.

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

38. (1) The person in charge of any place licensed
30 under this Part shall, immediately after the death in such place of any child required to be registered in accordance with this Part, give notice of such death to the officer in charge at the nearest police station and to the Director.

Notice to be
given of
death of
child.
Ibid. s. 36.

(2) Such officer in charge of police shall make
35 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.

Notices may be
forwarded by
post.

cf. Act No.
3,654 (1928),
s. 98 (Vic.).

39. Where by the provisions of this Part any person is required to forward a notice to, or to effect a registration of particulars with, the Director, such notice or particulars of registration shall be in writing, and, unless delivered personally by such person, shall be forwarded by registered post. 5

Exemption.

40. The provisions of this Part shall not apply to an incorporated hospital or separate institution within the meaning of the Public Hospitals Acts, 1929-1934, or to a private hospital licensed under the Private Hospitals Act, 1908, or in a case where the person having the care of a child is a relation by blood of the child or is a person to whom the custody of the child has been given by any competent court or by deed or will or whose guardianship of the child is approved by the Minister. 10
15

PART VIII.

LYING-IN HOMES.

Register to be
kept.

cf. Act No. 21,
1923, s. 37.
Act No. 3,654
(1928), s. 93
(Vic.).

41. (1) The person in charge of a lying-in home shall keep a register in which shall be entered forthwith the particulars prescribed and shall forward to the Director within twenty-four hours after each birth in such home the particulars prescribed. 20

Penalty.

(2) Any person who fails to comply with the provisions of this section shall be guilty of an offence against this Act. 25

Exemption.

cf. Act No.
47, 1902, s. 4.

42. The Minister, at any time in writing, may order that any person in charge of a lying-in home shall not be required to forward the particulars prescribed.

Right to
inspect
register.

43. The Director may at all reasonable times enter a lying-in home for the purposes of inspecting the register required to be kept, and, where necessary, interviewing a mother and examining a child. 30

44.

44. (1) The person in charge of a lying-in home shall not 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 Director.

Removal of
child from
lying-in home.
cf. Act No. 21,
1923, s. 38.

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

PART IX.

MENTALLY DEFECTIVE CHILDREN.

10 **45.** In this Part, unless the context otherwise requires,— Interpretation.

“Home” means a home established under this Part.

15 “Mental defectiveness” means a condition of arrested or incomplete development or degeneration of mind from whatsoever cause arising.

20 “Mentally defective child” includes a child or young person (not being an insane person within the meaning of the Lunacy Act of 1898) who has been admitted to State control or committed to the care of the Director or committed to an institution in whom there exists mental defectiveness so pronounced that he requires supervision and control for his own protection, or for the protection of others.

25 **46.** (1) The Governor, by proclamation, may establish and constitute homes for the reception, detention, maintenance, education and training of mentally defective children, Establish-
ment of
homes.

children, whose cases call for segregation and special treatment, and may by such proclamation assign any name to such home.

(2) Every such home shall be inspected once at least in every six months by an officer appointed for that purpose by the Director. Such officer shall, after such inspection, submit to the Director a report dealing with the matters prescribed. 5

Medical
certificates

47. Where the Minister is satisfied by the certificates of two medical practitioners, one of whom shall be the principal medical officer of the Department of Public Instruction or a medical officer of that Department authorised by such principal medical officer, after separate examination, apart from each other, that any child or young person is a mentally defective child, the Minister may order that such child or young person be admitted to a home. 10 15

Superin-
tendent to
have
custody and
control of
inmates.

48. Any mentally defective child admitted to a home shall be in the care of the superintendent; and such mentally defective child, notwithstanding that he has attained the age of eighteen years, may be detained at such home until he is discharged in pursuance of the provisions of section forty-nine of this Act. 20

Discharge
by Minister.

49. (1) The Minister, on being satisfied, upon medical or other evidence, that it is no longer necessary that any person who has been admitted to a home as a mentally defective child should be further detained in any home, may, by order under his hand, in the prescribed form, direct that he be discharged. 25

Release on
license.

(2) Where the Minister is satisfied on medical evidence and on such other evidence (if any) as he may deem necessary, that any person who has been admitted to a home as a mentally defective child, might, in the interest of such person, be released on license, he may release such person on license subject to such conditions as may be prescribed or as he may, in any special case, think fit. 30 35

(3).

(3) Where the Minister is satisfied that any person released on license pursuant to subsection two of this section has failed to comply with any of the conditions specified in the license, the license may be revoked
 5 by the Minister, and the Minister may, by order under his hand in the prescribed form, direct that such person shall be detained in a home for a further period, and thereupon and without further warrant any officer or employee of the Child Welfare Department or any mem-
 10 ber of the police force may arrest such person and convey him to the home specified in the order to be there received and detained until the Minister otherwise directs.

Re-admission for breach of conditions of license.

50. The superintendent of a home, and every officer or other employee of such home authorised in writing by
 15 the superintendent, for the purpose of conveying any person who has been admitted to a home as a mentally defective child, to or from the home, or of apprehending him and bringing him back to the home in case of his escape and refusal to return, shall, for that purpose and
 20 while engaged in that duty, have all the powers, immunities, and privileges of a police constable.

Powers of superintendent and officers of home.

PART X.

INSTITUTIONS.

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

Governor may establish institutions.

- (a) shelters for the reception and temporary detention and maintenance of children or young persons;
- 30 (b) schools for the reception, detention, maintenance, discipline, education and training of children and young persons committed to such institutions,

cf. Act No. 21, 1923, s. 16.

and may assign a name to such institutions.

52. Every such institution shall be controlled by the
 35 Minister and shall be inspected once at least in every six months by an officer appointed for that purpose by the Director. Such officer shall, after such inspection, submit to the Director a report dealing with the matters prescribed.

Minister to have control. *Ibid.* s. 17.

53.

Order to be
forwarded
to superin-
tendent.
cf. Act No.
21, 1923,
s. 18.

53. (1) An order committing a child or young person to an institution, duly endorsed, as provided in section ninety-seven of this Act, or a direction in writing signed by the Minister for the transfer of a child or young person from one institution to another, shall be forwarded to the superintendent and shall be sufficient warrant in respect of the child or young person named therein— 5

- (a) to convey him to the institution specified in the endorsement on the order; or 10
- (b) to transfer him from one institution to another in accordance with the direction of the Minister; or
- (c) to detain him in the institution specified in the endorsement on the order or specified in the 15 direction of the Minister, as the case may be.

Certain
orders and
copies to be
evidence.

(2) The production of—

- (a) any such order so endorsed; or
- (b) a copy of such order so endorsed with a memorandum purporting to be signed by the 20 superintendent of any such institution, stating that the child or young person 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 25 law; or
- (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 by him to be a correct copy; or 30
- (d) a copy of any such direction of the Minister purporting to be signed by the superintendent and certified by him to be a correct copy,

shall, without proof of the signature of the person purporting to have signed the same, be evidence in all 35 courts and proceedings—

- (i) of the due making and signing of any such order, memorandum, or certificate; and

(ii)

- (ii) of the committal, detention, and identity of the child or young person named in any such order, memorandum, or certificate; and
- (iii) of any other matters stated in such order.

5 **54.** All children or young persons committed to, or inmates of, an institution shall 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, transferred from the institution, apprenticed or placed-out:

Children and young persons to be under control of superintendent.
cf. Act No. 21, 1923, s. 19.

Provided that a child or young person committed to an institution shall, notwithstanding that he has attained the age of eighteen years, be detained therein until the expiration of the period, if any, named in the order of committal, or until he is lawfully discharged, transferred from the institution, apprenticed, or placed-out.

55. (1) The Minister, with respect to any child or young person who has been committed to or is an inmate of any institution—

Powers and duties of Minister.
cf. *Ibid.* s. 20.

- 20 (a) shall determine the particular institution in which the child or young person shall be placed and detained;
- (b) may transfer a child or young person from one institution to another;
- 25 (c) may authorise the Director to remove a child or young person from an institution and apprentice him, board him out, place him out, or place him as an adopted boarder.

(2) No ward who has not been committed to an institution by a court shall be placed in or transferred to an institution set apart for the detention, discipline and training of juvenile offenders.

56. (1) The Governor may discharge from any institution any child or young person who has been committed to an institution for a specified term and restore him to the custody of his parent or other suitable person absolutely or on such terms and conditions as he may deem desirable.

Discharge of child or young person.
Ibid. s. 25.

(2) The Minister may discharge from any institution any child or young person who has been committed thereto but has not been so committed for a specified term and restore him to the custody of his parent or other suitable person absolutely or on such terms and conditions as may be prescribed or as he may, in any special case, deem desirable. 5

Abseonder
may be
appre-
hended.
Act No. 21,
1923, s. 28.

57. If any ward or any person transferred to an institution pursuant to section ninety-eight of this Act absconds or is absent from an institution without the leave of the superintendent, any constable may apprehend and convey him to such institution to be delivered into the custody of the superintendent thereof. 10

PART XI.

PUNISHMENT OF INMATES IN INSTITUTIONS. 15

Interpreta-
tion.

58. (1) In this Part, unless the context otherwise requires—

“Inmate” means a child or young person committed to an institution by a court, or placed in an institution by direction of the Minister in pursuance of the provisions of section twenty-one of the Child Welfare Act, 1923, and any person committed to an institution in pursuance of this Act. 20

Discipline.

(2) The superintendent of any institution shall investigate complaints touching any of the following acts of misconduct by any inmate:— 25

- (a) disobedience of the rules of the institution;
- (b) assaults by one inmate upon another where no dangerous wound or bruise is given; 30
- (c)

- (c) insulting, obscene, indecent, or profane words;
- (d) threatening words to an officer, instructor, or inmate;
- 5 (e) indecent behaviour, not amounting to an indictable offence;
- (f) irreverent behaviour at or during divine service or prayer;
- (g) idleness or negligence in work or wilful mismanagement of work;
- 10 (h) lying or petty thieving;
- (i) conduct to the prejudice of good order and discipline.

Where any inmate is found guilty of any of the foregoing said acts of misconduct, the superintendent may order
 15 one or more of the following methods of punishment:— Superintendents' powers of punishment.

- (i) forfeiture of rewards or privileges, forfeiture or reduction of status or temporary loss of recreation;
- 20 (ii) alteration of meals for a period not exceeding three days—provided that any such alteration shall be within the limits of a special dietary scale approved by the Director;
- (iii) isolated detention from other inmates in a room constructed for the purpose—
- 25 (a) in the case of an inmate over the age of fourteen years and under the age of sixteen years—for any period not exceeding twenty-four hours;
- (b) in the case of an inmate of or over the
 30 age of sixteen years—for any period not exceeding forty-eight hours;
- (iv) fatigue duty for any period not exceeding seven days;
- 35 (v) physical exercises, with proper rests, under the supervision of an officer or instructor for a period not exceeding thirty minutes on any one day, and not extending beyond a total period of seven days;
- 40 (vi) corporal punishment, not exceeding a maximum of three strokes on each hand.

(3) Every effort shall be made to enforce discipline without the use of corporal punishment.

(4) Punishment by way of isolated detention shall be used only in exceptional cases, and subject to the following conditions:—

5

- (a) no inmate under fourteen years of age shall be placed in isolated detention;
- (b) the room used for the purpose shall be light and airy and kept dimly lighted after nightfall;
- (c) some form of useful occupation shall be provided; 10
- (d) some means of communication with a member of the staff shall be provided;
- (e) if the isolated detention is to be continued for more than twenty-four hours the circumstances 15 shall immediately be reported to the Director;
- (f) no inmate shall be placed in isolated detention for two or more consecutive periods in any one fortnight.

Conditions
governing
corporal
punishment.

(5) Corporal punishment shall be subject to the following conditions:— 20

- (a) it shall be inflicted only with an instrument of a form and kind prescribed by the Director with the approval of the Minister;
- (b) it shall be inflicted by an officer or instructor 25 appointed by the superintendent and in his presence;
- (c) it shall not be inflicted in the presence of other inmates.

Corporal
punishment:
Under 16
years of age.

(6) Where any male inmate is charged with any offence enumerated in section fifty-nine of this Act, the superintendent— 30

- (a) shall inquire into and decide whether the inmate is or is not guilty;
- (b) may order any one or more of the methods of punishment enumerated in paragraphs (i) to (v) inclusive of subsection two of this section; 35 and

(c)

- (c) may, in addition to, or in lieu of any other method of punishment, direct that the inmate be subjected to corporal punishment, not exceeding a maximum of three strokes on each hand.

5 The powers conferred by this subsection may be exercised in respect of—

- (i) an inmate under the age of sixteen years;
(ii) an inmate of or over the age of sixteen years where the Director has notified the superintendent that it is not advisable that such inmate should be taken before a court.

10

(7) Where any punishment (other than forfeiture of rewards or privileges, forfeiture or reduction of status, temporary loss of recreation and punishments imposed by a school teacher in respect of minor disciplinary misconduct in school) is ordered the superintendent shall record particulars thereof in the punishment book.

The punishment book shall be in or to the effect of the form prescribed.

20 (8) Striking, cuffing, shaking, or any other form of physical violence, other than that permitted by this Act, or under the general rules of law, is prohibited.

A school teacher for minor disciplinary misconduct in school may administer, with a cane, not more than two strokes on each hand.

25 No inmate shall be punished by being dosed with medicine or any other substance.

No inmate shall be punished by being compelled to hold himself in a constrained or fatiguing position.

30 No inmate, without legal justification or excuse, shall be handcuffed or otherwise forcibly restrained.

No inmate shall be allowed to administer any form of punishment to any other inmate.

35 (9) In the case of an inmate with any physical or mental disability, corporal punishment shall not be ordered or inflicted unless a medical officer has sanctioned the infliction of corporal punishment on such inmate either generally or in any particular case, but the superintendent of the institution may order any of the other punishments enumerated in subsection two of this section.

(10)

Females:
Exemption.

(10) In the case of female inmates, corporal punishment shall not be ordered or inflicted, but the superintendent of any institution may order any of the other punishments enumerated in subsection two of this section.

5

Serious
misconduct
by inmates.

(11) Except as authorised in this Part, the superintendent of an institution shall not impose or inflict or allow any officer or instructor to impose or inflict any punishment for acts which constitute an offence punishable summarily or on indictment.

10

Serious
misconduct.

59. (1) Where any inmate of or over the age of sixteen years is charged with—

- (a) gross insubordination; or
- (b) attempted absconding; or
- (c) wanton destruction, damage or disfigurement of 15
any government property; or
- (d) assaulting an officer or instructor or a member
of the domestic staff; or
- (e) cruelly maiming, wounding, or injuring any
animal; or
- (f) persistent neglect or refusal to conform to the
rules or routine of the institution; or
- (g) inciting other inmates to neglect or refuse to
conform to such rules or routine,

20

he shall, subject to subsection four of this section as soon 25
as practicable, be taken before a magistrate sitting as and
constituting a children's court, who shall hear and deter-
mine the matter.

Powers of
court.

(2) If the magistrate finds that the charge is
proved, he may—

30

- (a) order the offender to be punished by any one or
more of the methods of punishment referred to
in subsection six of section fifty-eight of this
Act; or
- (b) order the offender to be punished by isolated 35
detention within the institution for any term not
exceeding seventy-two hours; or

(c)

- (c) order that the offender be detained for a specified term in a prison and kept to hard labour for any period not exceeding three months and—
- 5 (i) direct that, on the expiration of the period of detention, the offender be returned to his former custody; or
- (ii) direct that the offender, if he is being detained in an institution in lieu of undergoing a sentence of imprisonment, be committed to prison to complete the unexpired
- 10 portion of his sentence.
- (3) If during the hearing any serious irregularity, misconduct or ill-treatment by any officer or instructor be proved or alleged, the magistrate shall forward a report
- 15 to the Minister setting out the matters admitted proved or alleged.
- (4) Where an inmate of or over the age of sixteen years is charged with any of the acts of serious misconduct specified in this section the Director may if
- 20 he deems it advisable in the interests of such inmate that such inmate should not be taken before a court notify the superintendent accordingly.

PART XII.

MAINTENANCE OF CHILDREN BY THEIR RELATIVES.

2 60. In this Part, unless the context otherwise requires—

Interpretation.

“Near relative” means—

- (a) in the case of a lawful child—father, mother, step-father, or step-mother;
- 30 (b) in the case of an illegitimate child—
- (i) a person admitting himself to be or adjudged by a court to be the father;
- (ii)

- (ii) the husband of the mother of such child where the child was born before his marriage to such mother; or
- (iii) the mother; 5
- (c) in the case either of a lawful or an illegitimate child, any person who is by law liable to maintain the child, including an adopting parent but not including any other person whose liability for such maintenance is occasioned by or under this Act. 10

Liability of
near rela-
tives.

cf. W.A. No.
31, 1907.

Imp. Act, 23
Geo. V, ch.
12, s. 86.

Vic. No.
3,654, s. 45.
N.S.W. 21,
1923, ss. 26,
119.

61. (1) Where an order has been made by a court, committing a child—

- (a) to the care of any person; or 15
- (b) to the care of the Director; or
- (c) to an institution,

the near relatives shall be liable to pay, or contribute towards his maintenance, according to their several abilities, and, in the following order:— 20

- (i) in the case of a lawful child—father, mother, step-father, step-mother;
- (ii) in the case of an illegitimate child—
 - (a) person admitting himself to be or adjudged by a court to be the father; 25
 - (b) husband of the mother of such child where the child was born before his marriage to such mother; or
 - (c) mother;
- (iii) in the case either of a lawful or an illegitimate child, any other near relative: 30

Provided that the person referred to in subparagraph (b) of paragraph (ii) of this subsection shall not be liable to pay or contribute towards the maintenance of an illegitimate child of his wife in any case where he satisfies the court that, at the time of his marriage, he was not aware of the child's existence. 35

Contribution
order.

(2) The court may at any time during the currency of the order of committal on complaint by the Director

or

or by the person to whose care the child has been committed inquire into the ability of any near relative to maintain or contribute to the maintenance of the child, and—

- 5 (a) shall make an order (in this Part referred to as a “contribution order”) for the payment of a reasonable sum towards the future maintenance of such child; or
- 10 (b) shall certify that such near relative is unable to maintain or contribute to the maintenance of the said child.

- (3) The issue of such certificate shall not pre-
 15 a further application to a court under this section for a contribution order towards the maintenance of any such child.
- Right of Director to apply for order.

- (4) A contribution order against a near relative may be made at the time of making the order of
 20 committal:
- Contribution order at time of order of committal.

Provided that no such contribution order shall be made unless the near relative consents, or has been afforded an opportunity to show cause why such an order should not be made.

- 25 If the near relative so desires the hearing shall be adjourned until a future date to be determined by the court.

- (5) Where the child has been committed to the care of any person, contributions under the contribution
 30 order shall be paid to that person, to be applied by him in or towards the maintenance or otherwise for the benefit of the child.
- Moneys to be applied towards maintenance of child.

- (6) Where the child has been committed to the care of the Director, or to an institution, the contribu-
 35 tions under the contribution order shall be paid to the Director.
- Moneys to be paid to Director.

(7) A contribution order shall, subject to this Part, remain in force in the case of a child—

Duration of order.

- 40 (a) committed to the care of any person—so long as the order for his committal remains in force;
- (b) committed to the care of the Director—until he attains the age of sixteen years or until his earlier discharge from control;

(c) committed to an institution—until his discharge from such institution.

Recovery of money expended for past maintenance of wards.
cf. Act No. 21, 1923, ss. 26, 119.

62. (1) If it appears to a court, on complaint by the Director, that any near relative is of ability to contribute towards the past maintenance of a ward or of a child committed to the care of the Director, the court may order such near relative to pay to the Director a reasonable sum by instalments or otherwise as the court directs as reimbursement of moneys paid for the past maintenance of the ward or child whether or not such ward or child be alive at the time of the hearing: 5 10

Provided that no such order shall be made against a person referred to in subparagraph (ii) of paragraph (b) of section sixty of this Act in respect of the past maintenance of an illegitimate child of his wife in any case where he satisfies the court that, at the time of his marriage, he was not aware of the child's existence. 15

The like in respect of allowances.

(2) The provisions of this section shall apply where moneys have been expended in allowances to relatives under section twenty-nine of this Act as if such moneys were moneys paid for the past maintenance of a ward. 20

Near relative not to pay twice in respect of same child.

(3) Where an order under this section is made in respect of any near relative against whom an order has been made for payment of preliminary expenses or expenses of maintenance under Part XVI of this Act, or under the Child Welfare Act, 1923, or for payment of maintenance under the Deserted Wives and Children Act, 1901-1931, the court may vary, suspend or discharge the last-mentioned order so as to secure that the said near relative shall not pay twice for the maintenance of the same child. 25 30

(4) The Director may, in addition to the powers contained in subsections one, two and three of this section, institute legal proceedings— 35

(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. 40

63.

63. (1) Any order under this Part may be enforced, appealed from, confirmed, suspended, varied, or discharged in the same manner in all respects as orders made under Part XVI of this Act.

Order may
be varied or
discharged.
Act No. 21,
1923, s. 26.

5 (2) Where a child in respect of whose maintenance a contribution order has been made becomes self-supporting the Director shall make an application under subsection one of this section—

10 (a) in any case where contributions under the order are paid to the Director—as soon as practicable after the child becomes self-supporting;

(b) in any other case—as soon as practicable after he receives the notice referred to in subsection three of this section.

15 (3) Where contributions under a contribution order are paid to any person other than the Director such person shall as soon as practicable after the child in respect of whom the contributions are paid becomes self-supporting give notice in writing
20 of the fact to the Director, and any such person who wilfully neglects to give such notice shall be guilty of an offence against this Act.

64. A magistrate or court may, upon complaint by the Director or by the person to whose care a child has been
25 committed that any person has absconded or is about to abscond from New South Wales to evade the provisions of this Part or compliance with a contribution order, issue a warrant for the arrest of such person.

Person
absconding.

65. A complaint may allege that a near relative is
30 able to maintain or contribute towards the maintenance of two or more wards or children. Any order made on such complaint shall specify the amount payable in respect of each ward or child.

Complaint
may include
two children.

66. (1) An allegation in any complaint under this
35 Part that—

(a) any person is a near relative liable to maintain, and able to maintain or contribute towards the maintenance of any ward or child; or

40 (b) that the sum specified in the complaint has been expended upon or is due or owing for or in respect of maintenance,

Allegations
in complaint
to be prima
facie
evidence.

shall,

shall, except as regards any allegation specified in a notice given pursuant to subsection two of this section, be prima facie evidence of any such allegation.

(2) In any case where the defendant intends to contest any such allegation he shall, at least seven days before the day appointed for the hearing of the complaint, give notice in writing of that fact to the Director, and shall in such notice specify the allegation which he intends to contest. 5

(3) A copy of this section shall be endorsed upon any summons issued in pursuance of the provisions of this Part. 10

Summons.

67. (1) On complaint in writing on oath being made to a magistrate or court against any near relative under this Part, such magistrate or court may summon such near relative to appear before a court to answer such complaint. 15

(2) Any summons under this Part shall be served on the defendant at least fourteen days before the day appointed for the hearing of the complaint. 20

PART XIII.

EMPLOYMENT OF CHILDREN.

Issue of
street-
trading
licenses.

cf. Act No.
21, 1923, s.
48.

68. (1) A written license authorising a male child of or over the age of fifteen years to engage, subject to the regulations, in a specified description of street trading may be issued by the Director. 25

(2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during 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. 30

(4) Every license shall be granted for a period not exceeding twelve months and shall terminate on the thirtieth day of June in each year, but may be renewed from time to time, and may at any time be cancelled by the Director. 35

(5)

(5) No charge shall be made for any license or badge.

69. Any person who employs a child in street trading—

- 5 (a) who is not duly licensed in that behalf; or
 (b) who, although so licensed, is employed by him in trading of a description, or during hours not authorised by the license,

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

cf. Act No. 21, 1923, s. 49.

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

70. (1) Any person who causes or allows any child under the age of fourteen years to take part in any public exhibition or performance or in any preparation, training
 15 or rehearsal whereby the life or limbs of such child is or are endangered, and the parent or any person having the care of such child who aids or abets such firstmentioned person therein, shall be guilty of an offence against this Act.

Entertainments and performances.

Ibid. s. 41.

20 (2) Where in the course of a public exhibition or performance, or in any preparation or training or rehearsal, which in its nature is dangerous to the life or limb of a child under such age as aforesaid who is employed to take part therein, any accident causing
 25 actual bodily harm occurs to such child, the employer of such child, whether his parent or not, shall be guilty of an offence against this Act; and if such employer is not the parent of such child, the court before which such employer is convicted may award as compensation for
 30 the bodily harm so occasioned, a sum not exceeding one hundred pounds to be paid by such employer to the child or to some person named by the court on behalf of the child.

The recovery of compensation awarded under this
 35 section shall not deprive the child of any other legal remedy, but any sum so awarded shall be taken into account in any other proceedings by or on behalf of the child for or in respect of the same bodily harm.

71.

Prohibition of
employment of
children for
certain
purposes
without
license.

Act No. 21,
1923, s. 42.

71. (1) Any person who causes or procures, or having the care thereof allows any child—

(a) unless duly licensed as provided in section seventy-two of this Act to be—

- (i) in any place whatsoever used for broad- 5
casting purposes; or
- (ii) in any premises licensed according to law
for public entertainments; or
- (iii) in any circus; or
- (iv) in any other place of public amusement; 10
or
- (v) in any place whatsoever used for the
photographing of scenes to be depicted in
a cinematograph film,

for the purpose of singing, playing or perform- 15
ing, or of offering anything for sale; or

(b) to be in any place whatsoever for the purpose
of—

- (i) begging or receiving alms; or
- (ii) inducing the giving of alms, whether 20
under the pretence of singing, playing,
performing, offering anything for sale or
otherwise;

shall be guilty of an offence against this Act:

Provided that paragraph (a) of this subsection shall 25
not apply in the case of any occasional entertainment, the
net proceeds of which are wholly applied for the benefit
of any school or to any charitable object.

cf. 23 Geo.
V, ch. 12,
s. 4.

(2) If a person having the care of a child not
licensed as provided in section seventy-two of this Act 30
is charged with an offence under this section, and it is
proved that the child was in any place for any such
purpose as is referred to in paragraph (b) of subsection
one of this section, and that the person charged allowed
the child to be in the place, he shall be presumed to have 35
allowed him to be in the place for that purpose unless
the contrary is proved.

(3) If any person while singing, playing, per-
forming, or offering anything for sale in a street or public
place has with him a child not licensed under section 40
seventy-two

seventy-two of this Act the child shall for the purposes of this section be deemed to be in that street or place for the purpose of inducing the giving of alms.

72. (1) The Director, notwithstanding anything contained in this Part may grant a license authorising any child exceeding seven years of age to be in any place or premises mentioned in paragraph (a) of subsection one of section seventy-one of this Act for the purposes therein specified.

Licenses to take part in public entertainments.
cf. Act No. 21, 1923, s. 42.

10 (2) A license shall not be granted unless the Director is satisfied that the child is fit to be in any such place or premises for the purposes specified, and that proper provision has been made to safeguard the health, welfare and education of the child.

15 (3) A license shall be issued for such time, during such periods and subject to such conditions as the Director may approve, and such times, periods and conditions shall be endorsed on the license.

2 (4) A license may, at any time, be varied or cancelled by the Director.

73. (1) The Director may appoint any officer to see that the restrictions and conditions of any license under section seventy-two of this Act are duly observed.

25 (2) Such officer shall have power to enter and inspect any place of public entertainment for the purpose of ascertaining whether any child is therein in contravention of the provisions of this Part.

30 74. For the purposes of this Act a child who assists in any trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour.

Meaning of employment.

PART XIV.

COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR YOUNG PERSONS OR OF JUVENILE OFFENDERS.

35 75. In this Part of this Act—

“Neglected child” means child or young person—

(a) who is in a brothel, or lodges, lives, resides or wanders about with reputed thieves or with persons who have no visible

Definition of neglected child.

visible means of support, or with common prostitutes, whether such reputed thieves, persons 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 5
- (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or habitually sleeps in the open air in any public place; 10
or
- (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; or 15
- (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 under this Act for that purpose, is engaged in street 20
trading; or
- (g) whose parents are drunkards, or, if one be dead, insane, unknown, undergoing imprisonment, or not exercising proper care of the child or young person, whose other 25
parent is a drunkard; or
- (h) who is in any place where opium or any preparation thereof is smoked; or
- (i) who is living under such conditions as indicate that the child or young person 30
is lapsing or likely to lapse into a career of vice or crime; or
- (j) who in the opinion of the court is under incompetent or improper guardianship; 35
or
- (k) who is destitute; or
- (l) whose parents are unfit to retain the child or young person in their care, or, if one parent be dead, insane, unknown, undergoing imprisonment, or not exercising 40
proper

- proper care of the child or young person, whose other parent is unfit to retain the child or young person in his care; or
- 5 (m) who is suffering from venereal disease and is not receiving adequate medical treatment; or
- (n) who is falling into bad associations or is exposed to moral danger; or
- 10 (o) who, without lawful excuse, does not attend school regularly.

76. Any justice may, upon oath being made before him by the Director or by any constable of police, that, having made due inquiry, he believes any child or young person to be a neglected or uncontrollable child or young person—

15 person—

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

20 77. The Director or any constable of police may, although the warrant is not at the time in his possession, apprehend any child or young person for whose apprehension a warrant has been issued under section seventy-six of this Act.

25 78. (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 or young person is in a place which is a brothel, or where opium or any preparation thereof is smoked, such justice may

30 issue his warrant authorising any constable of police or any other person named therein to search in such place for any child or young person, and to take such child or young person to a place of safety there to be detained until dealt with pursuant to this Act.

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

(3)

(3) Such constable of police or person may be accompanied by—

- (a) a medical practitioner, or
- (b) the person giving the information if he so desires, unless the justice otherwise directs. 5

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

Apprehen-
sion
of child in
brothel, etc.
Act No. 21,
1923, s. 53.

79. The Director or any constable of police may without warrant apprehend any child or young person 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 or young person. 10

Where child
in brothel or
opium den,
keeper guilty
of an offence.
Ibid. s. 54.

80. Where a child or young person 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 against this Act. 15

Child placed in
shelter and to
be brought
before court.
cf. *Ibid.* s. 55.

81. Any child or young person apprehended as a neglected or uncontrollable child or young person or juvenile offender shall be taken to a shelter and as soon as practicable thereafter shall be brought before a court. 20

Child
deemed to be
uncontrollable.

82. Any child or young person who solicits any person for immoral purposes or otherwise behaves in an indecent manner shall be deemed an uncontrollable child or young person. 25

Application to
commit uncon-
trollable child
to institution.
Ibid. s. 56.

83. Any person having the care of a child or young person may apply to a court to commit the child or young person to an institution upon the ground that he is an uncontrollable child or young person. Such child or young person may be detained at a shelter pending the determination of the application by the court. 30

Procedure
of court.
cf. Act No.
21, 1923,
s. 57.

84. (1) Where any child or young person is brought before a court as, or is charged with being, a neglected or uncontrollable child or young person or a juvenile offender, the court may thereupon hear and determine the matter or charge. 35

cf. 23 Geo. V,
ch. 12, s. 34

(2) Where a child or young person is brought before a court as, or is charged with being, a neglected
or

or uncontrollable child or young person or a juvenile offender his parent or guardian may in any case, and shall if he can be found and resides within a reasonable distance, be required to attend at the court before which
5 the matter or charge is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(3) Where a child or young person is arrested or taken to a shelter, the constable by whom he is
10 arrested or the officer of police in charge of the police station to which he is brought, or the person by whom he is taken to the shelter, as the case may be, shall cause the parent or guardian of the child or young person, if he can be found, to be warned to attend at the
15 court before which the child or young person will appear.

(4) If the parent without reasonable excuse refuses to attend, the court may direct a warrant to issue to bring him before the court at the hearing; but the parent may be admitted to bail on entering into a recog-
20 nizance, with or without sureties, to attend the court at the hearing of the matter or charge.

(5) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of
25 the child or young person:

Provided that if that person is not the father, the attendance of the father may also be required.

(6) The attendance of the parent of a child or young person shall not be required under this section in
30 any case where the child or young person was before the institution of the proceedings removed from the custody or charge of that parent by an order of any court.

(7) During the period of any adjournment of the hearing of the matter or charge the child or young person
35 may be detained at any shelter, or permitted to go home with a parent or with any other person who is willing to undertake the care of the child or young person during such period, or may be admitted to bail with or without sureties.

40 85. (1) Where a child or young person is brought before a court as a neglected or uncontrollable child or
young
Remand to another court.

young person or a juvenile offender, and it appears that the charge could be more conveniently, economically or fairly heard and determined by a court sitting at some other place, the court may adjourn the hearing of such charge and remand any child or young person before it to a court sitting at some other place specified, and appoint a day for the hearing. 5

(2) Any evidence committed to writing at the first-mentioned court may be accepted as evidence by the court to which the child or young person has been remanded if, on the deposition taken by the said first-mentioned court, there appears a certificate by such court that the said deposition was read over at the hearing in the presence of the said child or young person, and that he was afforded an opportunity to cross-examine the witness or witnesses. 5

Power
of court at
hearing.

cf. Act No.
21, 1923, s.
58.

86. If a court finds that a child or young person is a neglected or uncontrollable child or young person it may—

- (a) admonish and discharge the child or young person; or 20
- (b) release the child or young person on probation upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or 25
- (c) commit the child or young person to the care of some person who is willing to undertake such care upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or 30
- (d) commit the child or young person to the care of the Director to be dealt with as a ward admitted to State control; or 40

(e)

- (e) commit the child or young person to an institution, either generally or for some specified term (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) not exceeding three years.

5

87. (1) Where a child or young person is in a summary manner found guilty of an offence for which the penalty is detention or detention in default of payment of a fine the court may—

Summary offences.
Powers of court.
cf. Act. No. 21, 1923, s. 59.

10

- (a) release the child or young person on probation upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or

15

- (b) commit the child or young person to the care of some person who is willing to undertake such care upon such terms and conditions as may be prescribed or as the court, in any special case, may think fit and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or

20

25

- (c) commit the child or young person to an institution either generally or for some specified term (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) not exceeding three years; or

30

- (d) order that the child or young person be dealt with according to law.

(2) Where a child or young person is charged before a court with an indictable offence (other than homicide, rape or other offence punishable by death), and the charge is heard and determined in a summary manner, the court may if the child or young person admits the offence, or the court finds that the charge is proved—

Indictable offences.

35

- (a) release the child or young person on probation upon such terms and conditions as may be prescribed or as the court may, in any special case, think

40

think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or

- (b) commit the child or young person to the care of 5
some person who is willing to undertake such care upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit and for such period of time (whether expiring before or after the date upon 10
which the child or young person attains the age of eighteen years) as the court may think fit; or

- (c) commit the child or young person to an institution either generally or for some specified term (whether expiring before or after the date upon 15
which the child or young person attains the age of eighteen years) not exceeding three years.

(3) Where a child or young person is brought before a court and charged with an offence (other than homicide, rape or other offence punishable by death), the 20
court, if the child or young person admits the offence, or if it finds that the charge is proved but that, having regard to all the circumstances and to the welfare of the child or young person, it is inexpedient to inflict any punishment, or any other than a nominal punishment, 25
without proceeding to a finding of guilt, may admonish and discharge the child or young person or may make an order—

- (a) dismissing the charge; or

- (b) discharging the child or young person conditionally on his entering into a recognizance with 30
or without sureties to be of good behaviour and comply with any conditions the court may specify and appear for a finding of guilt and to be further dealt with in accordance with the 35
provisions of this section if called on at any time during such period not exceeding three years as may be specified in the order.

(4) Where a child or young person is dealt with under paragraph (d) of subsection one of this section 40
and is ordered to be detained for any specified term or

for

for a specified term in default of payment of any penalty, damages, compensation or costs, such child or young person shall be committed to a shelter or to an institution or to prison. But no such child or young
5 person shall be committed to a prison unless the court certifies that he is of so unruly a character that he cannot be detained in a shelter or an institution or that he is of so depraved a character that he is not a fit person to be so detained:

10 Provided that committal to a shelter shall not exceed thirty days.

(5) Where a child or young person has been discharged under paragraph (b) of subsection three of this section, the court, at any time by notice given in such
15 manner as the court shall direct to the parent of such child or young person, and to the surety or to the child or young person himself, may direct that such child or young person appear before the court, at a time and place named in the notice; and if such child or young
20 person does not so appear, the court may issue a warrant for his apprehension.

88. (1) Any child or young person committed to an institution under the provisions of section eighty-six or section eighty-seven of this Act by a court other than
25 the Metropolitan Children's Court at Sydney, shall be conveyed to the shelter for boys or girls (as the case may be) at Sydney, or at such other centre as may be prescribed, and there submitted to a medical examination and mental survey.

Transfer to
Sydney of
children and
young
persons for
mental
survey.

30 (2) The Director may bring the child or young person before the Metropolitan Children's Court or before a children's court at such other centre as may be prescribed, together with the order of committal, and the report disclosing the medical, physical and mental con-
35 dition of the child or young person, and make application to have the order of committal reviewed.

(3) In such cases the court to which such application is made shall admit as evidence the depositions of witnesses at the court by which the child or young person
40 was committed and shall consider all the circumstances,
the

the report disclosing the medical, physical and mental condition of the child or young person and such fresh evidence as may be available, and may—

- (a) confirm the order of committal; or
- (b) revoke the order of committal and make any other order which might have been made under section eighty-six or section eighty-seven of this Act. 5

Court may order parent to pay penalty, damages or costs. cf. Act No. 21, 1923, s. 60.

89. (1) Where a child or young person is in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed, and there is reason to believe that his parent or guardian has contributed to the commission of the offence by wilful default or by habitually neglecting to exercise due care of the child or young person a justice may, on information, issue a summons against such parent or guardian charging him with contributing to the commission of the offence. 10 15

(2) Unless the parent or guardian satisfies the court that he has not contributed to the commission by the child or young person 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 or guardian instead of by the child or young person. 20 25

(3) Where a child or young person is in a summary manner found guilty of an offence, the court may also order his parent or guardian to forthwith enter into his own recognisance for the good behaviour of the child or young person for any period not exceeding twelve months, and in default of such recognisance being entered into accordingly may order the said parent or guardian to be imprisoned for a period not exceeding *three* months. 30

(4) Any sums so imposed and ordered to be paid may be recovered from the parent or guardian in the same manner as sums ordered by justices to be paid may be recovered under the Justices Act, 1902. 35

(5) The court, on due proof that the conditions of any such recognisance have not been complied with, may forfeit such recognisance, which shall thereupon be dealt with 40

with as a forfeited recognisance in the manner provided by the Fines and Forfeited Recognisances Recovery Act, 1902.

- (6) The parent or guardian may appeal from any
5 order made in pursuance of subsection two or subsection three of this section under the provisions of Part V of the Justices Act, 1902.

90. (1) Where a child or young person is charged before a court with homicide, rape or other offence
10 punishable by death, the court may commit the child or young person to take his trial according to law.

Power with respect to child or young person charged with certain indictable offences.

cf. Act No. 21, 1923, s. 61.

- (2) Where a child or young person is charged before a court with any other indictable offence and is not dealt with under section eighty-seven of this Act, the
15 court may commit the child or young person to take his trial according to law.

In any such case the court shall forthwith transmit to the Attorney-General and to the Minister of Public Instruction a statement of the reasons for its decision.

- (3) If a child or young person be committed for
20 trial and not admitted to bail he shall be detained in a shelter.

91. Where a child or young person upon his trial has pleaded guilty to, or has been convicted, of an indictable
25 offence, the judge may exercise any of the powers of a children's court enumerated in section eighty-seven of this Act, or may sentence him according to law, and in the latter case may direct that the child or young person be detained in an institution for the period specified in
30 the sentence.

Child or young person convicted of indictable offence may be sent to institution.

92. A judge or a court in directing that a child or young person be committed to or detained in an institution shall do so in general terms, but may recommend to the Minister that the child or young person be sent to an
35 institution of a particular class.

Form of committal.
Ibid. s. 66.

Court to hear
evidence on
behalf of
child.

Act No. 21,
1923, s. 62.
cf. 23 Geo.
V, ch. 12,
s. 35 (2).

Act No. 61,
1927, s. 31
(N.Z.).

93. (1) Where a child or young person is charged before a court with any offence, or is brought before a court as a neglected or uncontrollable child or young person the court, if satisfied that a prima facie case has been made out, shall give the child or young person or his parent an opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child or young person. 5

(2) The court, if satisfied that the child or young person has committed the offence, or is a neglected or uncontrollable child or young person, shall, before making any order, give consideration to reports, if tendered, setting out the details and results of investigation into the antecedents, home environment, companions, education, school attendance, habits, recreation, character, reputation, disposition, medical history and physical or mental characteristics and defects, if any, of the child or young person. 15

Probation:
Who shall have
custody and
control.
cf. Act No. 21,
1923, s. 63.

94. When a child or young person has been dealt with under paragraph (b) or paragraph (c) of section eighty-six or paragraph (a) or paragraph (b) of subsection one or of subsection two of section eighty-seven of this Act, the following provisions shall apply:— 20

(a) the child or young person shall not be committed to the care of a person of a religious faith to which the father or other person having the right to direct in what religion the child or young person shall be educated objects or in which it would not be the duty of the Director to direct the child or young person to be educated; 25 30

(b) the child or young person shall be in the custody and under the control of the person to whose care he has been committed for the period stated in the order of committal;

(c) the child or young person and the premises wherein he resides or whereto he has been committed shall be subject to inspection by officers or other persons appointed in that behalf; 35

(d)

(d) a copy of the order containing the particulars prescribed shall be forwarded to the Director by the court making the order.

95. (1) If a child or young person who has been released upon probation, or committed to the care of any person, breaks or is reasonably suspected of having broken the terms or conditions of his release, he may be apprehended by a police constable or by any officer authorised by the Director and brought before a court.

Breach of terms of probation. cf. Act No. 21, 1923, s. 64.

(2) If it be proved that such breach has occurred, the court may, notwithstanding the fact that such person has then attained the age of eighteen years, deal with him in the manner provided in section eighty-six or section eighty-seven of this Act.

(3) A period of probation or of committal to the care of any person may be varied or terminated at any time by the judge or court imposing the same.

Power to terminate probation.

(4) The judge or court by whose order a child or young person has been released on probation to a person specified in the order of release may upon the application of the Director vary such order by substituting some other person for the person so specified.

Power to vary order of release on probation.

96. A child or young person on being committed to an institution shall be placed in a shelter pending the Minister's decision as to his destination:

Child may be placed in shelter. *Ibid.* s. 67.

Provided that no child or young person shall remain in a shelter for more than one month, except by permission of the Minister.

97. 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.

Name of institution to be endorsed on order. *Ibid.* s. 63.

PART XV.

TRANSFER OF PERSONS FROM A PRISON TO AN INSTITUTION.

98. (1) The Minister of Justice may, with the consent of the Minister of Public Instruction, by order in writing direct the transfer of any prisoner who is under the age of twenty-one years and undergoing sentence of imprisonment for any term with or without hard labour, from any prison or place of detention, to an institution.

Transfers from prisons to institutions.

(2)

Power to
detain in
institutions.

(2) Any person so transferred shall be detained in such institution for the period mentioned in his sentence, and shall be subject to the discipline and routine of such institution.

Any such order shall be the authority for the detention in such institution of the person to whom it relates until the expiration of the period mentioned in his sentence. 5

Penalty for
misconduct.

(3) If any such person is charged with any of the offences referred to in subsection one of section fifty-nine of this Act he may be taken by the superintendent of the institution before a magistrate sitting as and constituting a children's court, who shall hear and determine the charge, and, if the charge is proved, may direct that the person charged be returned to the prison from which he was transferred, there to serve the unexpired portion of his sentence, and may, where such person is a child or young person, order that he be detained in prison for a further term, or, where such person is of or above the age of eighteen years, impose a sentence of imprisonment for a further term. Such further term shall not exceed three months with hard labour, to commence at and from the termination of the original sentence. 10 15 20

PART XVI.

AFFILIATION PROCEEDINGS.

25

Single woman
with child may
take proceed-
ings against
father.

cf. 35 and 36
Vic., ch. 65,
s. 3.

Act No. 21,
1923, s. 69.

99. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses, or the expenses of the future maintenance of the child, she, or with her consent the Director, or any reputable person on her behalf, may make complaint in writing on oath to a magistrate or court 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 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. 30 35

The

The magistrate or court 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.

5 **100.** (1) The court shall hear and determine so much of such complaint as relates to the paternity of the child, and may—

Court may require defendant to pay preliminary expenses.

10 (a) order the defendant to deposit with the court a sum not exceeding thirty pounds for preliminary expenses; and

cf. S.A. Act, No. 702, ss. 3, 4; Vic. Act, No. 1,684, ss. 2, 3; 35 and 36 Vic., chap. 65, s. 4; Act No. 21, 1923, s. 70.

15 (b) direct that the defendant, unless he deposit with the court the sum awarded for preliminary expenses, be committed to prison for a period of one day for every four shillings or part of four shillings included in such amount unless the said order be complied with; and

20 (c) order the defendant to pay weekly and every week a sum for the expenses of the maintenance of the child after such child has reached the age of three months.

Every order made under this subsection shall specify a date not later than six months from the date of the order when the order shall lapse if the child has not been born, and when the unexpended portion of any moneys deposited by the defendant for preliminary expenses shall be repaid to him.

30 (2) If the mother has been delivered of a still-born child (born dead after the commencement of the sixth month of pregnancy) before the date specified in the order, the court may direct that the whole or such portion of the amount deposited, as it thinks fit, be paid out to her.

35 (3) The court shall not make an order under this section against the defendant unless it be proved by the evidence of some medical practitioner or by the certificate of some medical practitioner admitted as such evidence with the consent of the defendant that the woman is quick with child, and unless her evidence be corroborated in some material particular, or if the court
40 be satisfied that at the time the child was begotten the mother was a common prostitute.

(4)

(4) Where an order has been made under this section for the payment of preliminary expenses, the clerk of the court at any time during the currency of the said order may give such direction, in writing, as he thinks necessary, for the disbursement of the said expenses, provided that no more than one-half of the said amount shall be paid out prior to the birth of the child. 5

Duration
of order.
cf. Act No.
21, 1923,
s. 79.

101. (1) An order made under section one hundred of this Act, adjudging any sum to be paid for the expenses of the maintenance of a child— 10

- (a) shall be of full force and validity until the child has attained the age of sixteen years, or until the death of such child if such death occurs before that age;
- (b) shall not be enforceable unless and until a certified copy of the registration of the birth of such child has been lodged with the clerk of the court at which the order was made; 15
- (c) shall, for the purpose of recovering money due thereunder, always remain of full force and validity. 20

(2) Such certified copy of registration of birth shall be filed with the record of the proceedings.

(3) The first payment under any such order shall be due and payable on the first Monday after the day on which such child attains the age of three months. 25

Plural births:
variation
of order.

102. Where an order has been made under section one hundred of this Act adjudging any sum to be paid for the expenses of the maintenance of a child, and two or more living children are born, an application to vary the order may be made under section one hundred and twenty of this Act to provide for the expenses of the maintenance of any such additional child. 30

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

cf. Act
No. 17, 1901,
s. 4.

Act No. 21,
1923, s. 73.

103. (1) In any case where the father of an illegitimate child has left such child without means of support, the mother of the child, or the Director or any reputable person on behalf of the child, may make complaint on oath to a magistrate or court; and shall, when making such complaint, produce evidence on oath, either oral or on affidavit, in corroboration in some material particular of 35 40 of

of any allegation in such complaint as to the paternity of the child; and upon such complaint being made, the magistrate or court may summon the father of the child to appear before the court to answer such complaint, or
5 if the circumstances seem to require it, may issue a warrant for his apprehension.

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

104. A complaint may allege that a man or a woman has left without means of support two or more children, and the court may make an order in respect of all or any of them and shall therein specify the amount payable in
20 respect of each child.

Complaint may include two or more children.

105. (1) In any proceedings under subsection one of section one hundred and three of this Act, the complaint shall indicate whether preliminary expenses are to be claimed at the hearing.

Claim for preliminary expenses to be indicated.

(2) Failure to do so shall not prevent such claim being made at the hearing, subject to the right of the defendant to apply for an adjournment.

106. The court shall hear and determine the complaint, and may—

Court shall hear and determine complaint and may make order. cf. Act No. 21, 1923, s. 74.

30 (a) make an order for the payment by the defendant—

(i) weekly and every week of a sum for the expenses of the maintenance of the child; and
35 (ii) of a sum for preliminary expenses to an amount not exceeding thirty pounds in respect of each child:

40 Provided that, in the case of plural births, the amount ordered for preliminary expenses shall not exceed thirty pounds;

(b)

- (b) direct that the defendant, in default of payment of the amount so awarded for preliminary expenses be committed to prison for a period of one day for every four shillings or part of four shillings included in such amount unless the said order be complied with. 5

Effect of non-payment of preliminary expenses.
cf. Act No. 21, 1923, s. 74.

107. For the purposes of subsection one of section one hundred and three of this Act any defendant who has failed to pay an adequate sum for preliminary expenses shall be deemed to have left the child without means of support. 10

Order where complainant dies.

108. On any complaint made under section ninety-nine, section one hundred and three, or section one hundred and nine of this Act an order may be made notwithstanding the death of the mother of the child or of the complainant prior to the hearing. 15

Funeral expenses of child.
cf. *Ibid.* s. 76.

109. (1) Where any illegitimate child has been still-born after the commencement of the sixth month of pregnancy, or having been born alive has died before attaining the age of sixteen years, and the father of such child has not paid an adequate sum— 20

(a) for preliminary expenses; or

(b) for the funeral expenses of such child,

the mother of such child, or the Director or any reputable person, on behalf of the mother, may make complaint in writing on oath to any magistrate or court that the father of such child has failed to make any such payments, and shall, when making such complaint, produce evidence upon oath, either oral or on affidavit, in corroboration in some material particular of the allegation as to the paternity of the child. 25 30

Funeral expenses of mother.

(2) Where the mother of any illegitimate child (including a child which has been still-born after the commencement of the sixth month of pregnancy) has died during parturition, or in consequence of parturition, and the father of such child has not paid an adequate sum for the funeral expenses of the mother, the Director or any reputable person may make complaint in writing on oath to any magistrate or court that the father has failed to pay. 35

pay an adequate sum for the funeral expenses of the mother of the child, and shall, when making such complaint, produce evidence upon oath, either oral or on affidavit, in corroboration in some material particular of
5 the allegation as to the paternity of the child.

(3) Such magistrate or court may thereupon summon the father of the child to appear before a court to answer such complaint; or if the circumstances seem to require it, may issue a warrant for his apprehension.

10 (4) The court shall hear and determine any complaint under this section and may make an order for payment by the father of such child of—

(a) a sum not exceeding thirty pounds for preliminary expenses; or

15 (b) a reasonable sum for the funeral expenses of such child or his mother.

(5) No order for preliminary expenses shall be made under this section unless the complaint be made within twelve months of the birth of such child.

20 (6) No order for funeral expenses shall be made unless complaint be made within twelve months of the death of such child or his mother.

(7) A complaint under this section may include all or any of the expenses mentioned herein.

25 (8) The court may direct that the defendant, in default of payment of any sum so ordered, be committed to prison for a period of one day for every four shillings or part of four shillings included in such amount unless the said order be complied with.

30 (9) No order for preliminary expenses or for funeral expenses shall be made under this section unless evidence on oath is produced in corroboration in some material particular of the allegation as to the paternity of the child, or if the court be satisfied that at the time
35 the child was begotten the mother was a common prostitute.

(10)

(10) Where the defendant has been adjudged by any court to be the father of any such child no further proof of paternity shall be required under this section.

Mother also to contribute to expenses.

cf. Act No. 17, 1901, s. 7; Act 58 Vic. No. 22, s. 10 (N.Z.); Act No. 21, 1923, s. 78.

110. If it appears to the court that both the father and the mother of an illegitimate child are able to contribute to any of the expenses referred to in 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 so to contribute, it may direct payment by her alone.

Period for which orders for maintenance may be made.

cf. 35 and 36 Vic., ch. 65, s. 5; Act 58 Vic. No. 22, s. 9 (N.Z.); Act No. 21, 1923, s. 79.

111. (1) An order under section one hundred and six of this Act adjudging any sum to be paid for the expenses of 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 attained the age of sixteen years, or until the death of such child if such death occurs before that age.

(2) For the purpose of recovering money due under an order it shall always remain of full force and validity.

Security for payment may be ordered.

cf. Act No. 17, 1901, s. 8; Act No. 21, 1923, s. 80.

112. (1) When an order is made or deemed to have been made under this Part for payment of maintenance the court may, at any time during the currency of the order, upon application, and upon notice of such application, given in such manner as the court shall direct, to the defendant, require the defendant to enter into a recognizance with or without 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, if any, 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 for the period required by the court.

Any

Any such application may in the case of an order made under this Part, be made immediately or at any time after the court has pronounced its decision.

(2) The court, on due proof that the conditions of such recognizance have not been complied with by the defendant may ex parte forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance in the manner provided by the Fines and Forfeited Recognizances Recovery Act, 1902.

Forfeiture of recognizances.

(3) The money so secured shall be applied in accordance with the order for maintenance.

113. The court may in any order made under this Part or at any time during the currency of any order made or deemed to have been made under this Part, upon application and upon notice of such application, given in such manner and to such persons as the court shall direct, authorise and direct some person forthwith to seize and sell the defendant's goods and to demand and to receive his rents or any annuity or other income payable to him, or any money received or receivable or held by any person in trust to be paid periodically or by instalments to or for such defendant or any moneys to which he is entitled or about to become entitled, or such portion of the goods, rent, annuity, income or moneys as the court thinks fit, and to appropriate the proceeds towards the payment of the moneys ordered in such manner as it from time to time directs.

Seizure of defendant's goods.
cf. Act No. 21, 1923, s. 82; Act No. 17, 1901, ss. 8A and 9.

114. Where an order has been made or is deemed to have been made under this Part for payment of any of the expenses referred to in this Part or of moneys secured under any recognizance the court may, by the order made under this Part, or at any time during the currency of the order made or deemed to have been made under this Part, upon application, and upon notice of such application, given in such manner and to such persons as the court shall direct, make such orders as it thinks necessary for better securing the payment and regulating the receipt and disbursement of the expenses or moneys or for investing and applying the proceeds

Further orders as to payment and disbursement of maintenance or expenses.
cf. Act No. 17, 1901, s. 10; Act No. 21, 1923, s. 81.

proceeds of the goods or rents ordered to be sold or collected or any annuity or money payable to the defendant or for ensuring the due 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. 5

Service
of orders.

115. (1) A copy of any order made and authority given under section one hundred and thirteen or section one hundred and fourteen of this Act, certified by the clerk of the court, shall be served on any person affected thereby: Provided that if the defendant has removed from the State of New South Wales, it shall not be necessary to serve a copy of the said order on him. 10

(2) Any person who neglects or refuses to comply with any such order served on him shall be guilty of an offence against this Act. 15

Authority
when
defendant
has left
State.

(3) If it appears that the defendant has theretofore usually resided in New South Wales and has left the said State, orders may be made and authority given under the provisions of section one hundred and thirteen or of section one hundred and fourteen of this Act, although notice of such application has not been given to the defendant. 20

Evidence
necessary
for order for
maintenance.
cf. Act No.
21, 1923,
s. 93.

116. Where any proceedings are taken under this Act, in respect of the expenses of maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order shall be made— 25

- (a) upon the evidence of the mother, unless her evidence be corroborated in some material particular; or 30
- (b) where the mother dies before the hearing, unless evidence on oath is produced in corroboration in some material particular of the allegation as to the paternity of the child; or
- (c) if the court is satisfied that at the time the child was begotten the mother was a common prostitute. 35

Further
complaint
after
dismissal
in certain
cases.

117. (1) Where a complaint for preliminary expenses or for the expenses of maintenance under this Part has been dismissed by a court or where an order of a court made on any such complaint has been quashed or an order of 40

of dismissal of any such complaint has been confirmed by a court of quarter sessions on appeal, a further complaint may be made in respect of the same child, provided that such complaint contains an allegation that fresh
5 evidence material to the question of the paternity of the said child is available, which was not produced upon the hearing of the previous complaint, or upon the hearing of the appeal.

(2) The court shall receive and consider the
10 evidence recorded at the original hearing or on appeal as well as the fresh evidence submitted.

(3) If at the conclusion of the evidence submitted by the complainant no fresh evidence material to the question of paternity has been produced, the com-
15 plaint shall be dismissed.

118. (1) On complaint in writing on oath being made to a magistrate or court that any person has disobeyed or has not complied with any order for payment of the expenses of maintenance, such magistrate or court may
20 summon such person to answer the complaint, or if the circumstances seem to require may issue his warrant for the apprehension of such person.

Disobedience of order may be punished.
Act No. 21, 1923, s. 83.
cf. Act No. 17, 1901, s. 11.

(2) The court upon the hearing of the complaint may enforce compliance with the order by the committal
25 of the offender to prison for a period of one day for every four shillings or part of four shillings found to be due, including the costs incidental to the hearing of the complaint, unless the said order be complied with; but no defendant shall be detained for a longer period than
30 twelve months, and the period of detention shall in every case be subject to the provisions of section ninety-four of the Justices Act, 1902.

(3) Where it appears that the arrears have
35 been paid since the service of the summons or the issue of a warrant the court may order the person summoned or apprehended to pay the costs of and incidental to the proceedings, and such costs may be recovered in a summary way under the provisions of the Justices Act, 1902.

Costs.

(4) The court may refuse to enforce an order or
40 may enforce it to such extent as the court thinks fit having regard to all the circumstances of the case, particularly with

Discretion of court with respect to arrears.

with reference to the inability of the offender to obtain employment, or to comply with the order owing to continued ill health.

Warrant
may lie
in office.

(5) The court may direct that the warrant of committal shall lie in the office for such time as the court thinks proper, or may order the amount found to be due, and any costs awarded, to be paid, by such instalments and upon such conditions as the court thinks fit to the person to whom the amount due under the order is payable. 5

Warrant to
issue on
failure to
pay or com-
ply with
conditions.

(6) Upon the production of a certificate by such person that any instalment has not been paid, or that any condition of the direction has not been complied with, and of the amount then due on the order, any justice may direct that the warrant committing the offender to prison be executed, or issue a warrant in accordance with the terms of the order. 10

Execution
of warrant
may be
postponed.

(7) Any justice to whom an application is made for a direction that the warrant be issued or executed may postpone the issue or execution of the warrant upon such terms and conditions as he thinks fit, and if the offender breaks any term or condition upon which such postponement is made, the justice may then direct the issue or execution of the warrant. 15

Effect of
imprison-
ment on non-
payment.

119. (1) Subject to the provisions of section 16A of the Prisons Act, 1899, the period of imprisonment served by a defendant under any order of committal made under this Part of this Act, shall not discharge the defendant from payment of any preliminary expenses or expenses of maintenance for the non-payment of which he has been committed, but during such period the order in so far as it relates to the payment of expenses of maintenance shall be suspended. 20

(2) No defendant shall be liable to be imprisoned a second time for non-payment of preliminary expenses or expenses of maintenance for which he shall have actually suffered imprisonment, but such moneys shall thereafter be a civil debt only, recoverable in any court of competent jurisdiction by the person to whom they are due. 35

(3)

40

(3) A committal to prison or conviction of any person for an offence under this Part shall not prevent the making or, except where otherwise expressly provided, affect the operation of any order for the payment of money or for the doing of any Act by such person.

Committal to prison not to prevent making of orders.
cf. Act No. 21, 1923, s. 89.

120. (1) The court from time to time may, upon application made by or on behalf of the mother or child, or father, and upon notice given in such manner to the Director and to such other persons as the court shall direct, vary, suspend, or discharge any order made or deemed to have been made under this Part.

Court may vary order.
cf. *Ibid.* s. 84.

(2) The question of the paternity of the child shall not be raised upon an application to vary, suspend or discharge an order.

(3) An application under this section may be heard and determined by a court sitting at a place agreed upon by the parties or at the place where the order, the subject of the application, was made.

Place of hearing.
cf. Act No. 17, 1901, s. 21.

(4) An order may be varied, suspended, or discharged as from a date prior to the application, and may be varied or suspended from time to time.

Date of variation, suspension or discharge.

(5) The court may entertain an application to vary, suspend, or discharge an order notwithstanding that the applicant is in default in complying therewith if it is satisfied that there are good and sufficient reasons for such default.

Default not a bar in certain cases.

121. (1) Every summons or notice shall be served by a constable or other person upon the person to whom it is directed personally or if he cannot conveniently be met with, then by leaving it for him at his last or most usual place of abode with some person apparently of or above the age of sixteen years and apparently residing at such place of abode.

Service of summons or notice.
cf. Act No. 21, 1923, s. 85.

(2) Service of a summons or notice in manner aforesaid may be proved by the oath of the person who served it or by affidavit or otherwise.

122. (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.

Court may proceed ex parte.
Ibid. s. 86.

(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.

cf. Act No.
21, 1923,
s. 87.

123. (1) Any magistrate or court on being satisfied 5
by complaint on oath that the whereabouts of any defendant who is not complying with any order made or deemed to have been made under this Part is not known, or that any defendant has removed or is about to remove out of New South Wales or to remote parts thereof to 10
defeat any of the provisions of this Part or any order made or deemed to have been made thereunder may issue a warrant for the apprehension of such defendant to be dealt with according to law.

(2) In lieu of issuing such warrant the magis- 15
trate or court may issue a summons requiring such defendant to appear before the court to answer such complaint. Upon the appearance of such defendant he may be ordered to enter into a recognizance with or without sureties for the due performance for a period not 20
exceeding twelve months of such order; and in default of the defendant immediately entering into such recognizance 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 25
said order so complied with.

Forfeiture
of recog-
nizance.

(3) The court on due proof that the conditions of such recognizance have not been complied with by the defendant may *ex parte* forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance 30
in the manner provided by the Fines and Forfeited Recognizances Recovery Act, 1902.

(4) The moneys so secured shall be applied for the benefit of the mother or child in accordance with the order made or deemed to have been made under this 35
Part.

Annulment
of order.

124. (1) A man adjudged to be the father of a child may make an *ex parte* application to a magistrate to annul an order for preliminary expenses or expenses of maintenance made or deemed to have been made under 40
this Part.

(2)

(2) If the applicant produces to the magistrate evidence by witnesses on oath, given either orally or on affidavit—

5 (a) showing that evidence material to the question of the paternity of the child is available which was not produced at the time the order was made, and

(b) disclosing the nature of such evidence and the names and addresses of the witnesses who are
10 to be called to give such evidence,

the magistrate shall, upon such terms as he thinks fit, issue a notice directed to all persons to be affected thereby, calling upon them to show cause why the order should not be annulled.

15 (3) Where the person to whom such notice is directed is living elsewhere than in New South Wales the magistrate shall state a place and time for the hearing which will allow the person to whom the notice is directed to attend, regard being had to the distance of
20 the place of residence from the place fixed for the hearing.

(4) An application under this section shall be heard and determined by a magistrate sitting as and constituting a children's court at a place agreed upon by
25 the parties or at the place where the order, the subject of the application was made.

(5) The court shall entertain an application to annul an order notwithstanding that the applicant is in default in complying therewith.

30 (6) The court shall receive and consider the evidence recorded at the original hearing or on appeal as well as the fresh evidence submitted.

(7) If at the conclusion of the evidence in chief submitted by the applicant, no fresh evidence material to
35 the question of paternity has been produced, the application shall be dismissed.

(8) At the hearing the onus shall be upon the applicant to prove that he is not the father of the child.

(9) If the court finds that the applicant is not
40 the father of the child such court shall so declare and annul the said order; otherwise the application shall be dismissed.

(10)

(10) If the order be annulled the defendant shall be released from payment of any amount due and unpaid under the order, but shall not be entitled to recover from any person any amount paid under and by virtue of the order.

5

(11) If the order be annulled the annulment shall not otherwise affect the previous operation of the order or anything duly suffered or done thereunder.

Appeals.
Act No. 21,
1923, s. 91.

125. (1) Any person affected by any order or varied order of a court or by the annulment of any order or by the dismissal of a complaint or the grant, dismissal or refusal of any application under this Part may appeal in the manner provided by Part V of the Justices Act, 1902, and the provisions of that Part, so far as not inconsistent with this Act, shall mutatis mutandis apply to and in respect of such appeal.

15

(2) 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 and an appeal is made to a court of quarter sessions the appellant may include in the notice of appeal a request that the appeal be heard and determined at the place appointed for the holding of such district court, and in such case the appeal—

20

(a) shall be heard and determined by the judge of the district court sitting as a chairman of quarter sessions;

25

(b) shall be set down for hearing at the place appointed for the holding of the district court as soon as practicable after the expiration of fourteen days after the day upon which the notice of appeal was given.

30

(3) Where an order is made before birth respecting the paternity of a child, and the party affected by the order gives notice of intention to appeal to a court of quarter sessions, and desires that the appeal shall not be heard before the birth of the child, such party shall state his desire in the notice, and in such case the appeal shall be heard at the first court of quarter sessions held after

35

after a period of one month from the birth has elapsed, or at any court of quarter sessions succeeding such first held court and to which the hearing is postponed, but no appeal shall in such case be heard earlier than such first
5 held court.

(4) At the request of either party the child shall be produced in court.

(5) Where any order has been made ex parte under section one hundred and twenty-two of this Act the
10 defendant may appeal as in this section provided, at any time within twenty-one days—

- (a) of the time when the fact of such order having been made first came to his knowledge;
- (b) after his return to New South Wales, if he were
15 absent from that State when the fact of such order having been made first came to his knowledge.

The onus of proving such times shall lie upon the defendant.

20 **126.** (1) Sections sixty-one, sixty-two, sixty-four, sixty-five, sixty-six, sixty-eight, sixty-nine, seventy, seventy-one, seventy-four, seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five,
25 eighty-seven, eighty-nine, ninety, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six, one
30 hundred and thirty-seven, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-four, one hundred and forty-five, and one hundred and fifty-three of the Justices Act, 1902, shall mutatis mutandis apply
35 to proceedings under this Part of this Act, so far as such sections are not inconsistent with such Part or the Deserted Wives and Children Act, 1901-1931:

Provided that subsection two of section eighty-two of the Justices Act, 1902, shall not affect the provisions
40 relating to periodical payments under such Part, or to amounts

Application
of Justices
Act, No. 27,
1902.
cf. Act No.
21, 1923,
s. 94.

amounts ordered to be paid under sections one hundred, one hundred and six, and one hundred and nine of this Act.

(2) A magistrate or court for the purpose of dealing with proceedings under sections ninety-nine, one hundred and three, and one hundred and nine of this Act, and for the purpose of procuring the evidence of any person able to give evidence in corroboration in some material particular of the allegation in a complaint as to the paternity of any child, shall have all the powers of a justice or justices under sections sixty-one, sixty-six, and seventy-one of the Justices Act, 1902, and the provisions of sections sixty-two, sixty-three, and sixty-four of that Act shall, *mutatis mutandis*, apply to the forms, service and proof of service of any summons or warrant issued by the magistrate or court under this Part.

Costs.

cf. Act No.
17, 1901,
s. 25.

127. In any order under this Part the court may order the payment of such costs by such persons, being parties to the proceedings, as it thinks fit.

PART XVII.

PROCEDURE, PENALTIES AND GENERAL PROVISIONS.

Authority of
Director
presumed.

128. (1) In the absence of proof to the contrary, the authority of the Director to do any act or to take any proceedings shall be presumed.

Director
may appear
in cases.

2 Geo. V,
No. 11, s. 65,
(Qld.), s. 25.

(2) At the hearing of any complaint, application, proceeding or information against any child or young person or of any appeal in respect thereof, the Director shall be entitled to appear and to be heard.

Averments.

(3) An averment in any complaint or information made or laid under this Act—

(a) that any proclamation or regulation has been published in the Gazette; or

(b) that any officer has been appointed, authorised or directed by the Minister or Director as stated in the averment; or

(c)

- (c) that any child or young person is or was a ward or has been committed to or is an inmate of any institution, shelter, depot, home or hostel; or
- 5 (d) that any person is a foster parent; or
- (e) that any person is an officer; or
- (f) that any person is not the holder of a license; or
- (g) that any sum of money has been paid to any person by the Minister or by the Director; or
- 10 (h) that any sum for wages is due by any person to any ward or child or young person committed to the care of the Director and is unpaid;

shall be prima facie evidence of the facts alleged.

- 129.** The words "conviction," "sentence" and "imprisonment" shall cease to be used in relation to children and young persons dealt with summarily, and any reference in any enactment to a person convicted, a conviction, a sentence or imprisonment shall, in the case of a child or young person, be construed as a reference to a person found guilty of an offence, a finding of guilt, an order made upon such a finding or a detention as the case may be.

Use of certain expressions to cease.
cf. Act 23 Geo. V, c. 12, s. 59 (1).

- 130.** (1) Where an order to pay maintenance for the support of a child or for the use of a wife and the support of a child has been made under the Deserted Wives and Children Act, 1901-1931, or where an order to pay preliminary expenses or maintenance for the support of an illegitimate child or maintenance for the support of a child has been or is deemed to have been made under this Act, and—

Power to divert payment under existing orders to Director.

- 30 (a) monetary assistance is being or has been given under this Act or any Act repealed by this Act in respect of any such child; or
- (b) accommodation and maintenance has been or is being provided for any such child or for its mother in a hostel for expectant and nursing mothers; or
- 35 (c) any such child has been committed to an institution or provided with accommodation and maintenance at any home, hostel, shelter or depot,
- 40 the Director may apply to the court to vary the order.

(2)

(2) Upon notice of this application being given to such persons and in such manner as the court shall direct, the court may make such order as it thinks fit for variation of the order in so far as it relates to the receipt or disbursement of moneys payable under the order. 5

(3) In any case in which an order may be varied under subsection one of this section, the person who, under the terms of the order, is entitled to any moneys received thereunder may give to the Director an authority in or to the effect of the form in the Second Schedule to 10 this Act directed to the person who by the order is appointed to receive moneys paid thereunder, to pay to the Director all moneys then held or thereafter received in pursuance of the order.

(4) The Director shall lodge the authority or 15 cause the same to be lodged with the officer to whom it is directed.

(5) The officer to whom the authority is directed shall register the same with his records relating to the order. 20

(6) From the date of such lodgment of the authority and until the authority is cancelled by written notice from the Director, any payment made in accordance with such authority by the officer to whom the authority is directed, shall be a sufficient discharge for 25 such officer.

(7) In any case where an authority has been lodged in pursuance of subsection four of this section, the person who signed such authority shall not be entitled, except with the consent of the Director, to waive payment 30 of or allow credit for, any amount due and unpaid under the order.

(8) Any authority to pay money to the Director given before the commencement of this Act, and still in force at such commencement, which could validly have 35 been given if this section had been in operation at the time such authority was given, is hereby validated, and shall have effect according to its tenour as if given under this section notwithstanding that it is not in or to the effect of the form in the Second Schedule. 40

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

Presumption
of age.

132. (1) Where in any proceeding against any person for an offence against this Act the child in respect of
10 whom the offence is alleged 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
15 the court such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth.

Evidence of
children of
tender years.
cf. Act No.
21, 1923, s.
110.

(2) The evidence of such child, though not given on oath, but otherwise taken and reduced into writing
20 as a deposition, shall be deemed to be a deposition to all intents and purposes.

(3) No person shall be convicted of the offence charged unless the testimony admitted by virtue of this section, and given on behalf of the prosecution, is
25 corroborated by some other material evidence in support thereof implicating the accused.

(4) Any child whose evidence is received as aforesaid, and who gives false evidence, shall be liable if found guilty in a summary manner by a court to be
30 dealt with in accordance with section eighty-seven of this Act, but no prosecution shall be instituted under this section without the leave of the court before which such evidence was given.

(5) Where a justice is satisfied by the evidence
35 of a medical practitioner that the attendance before a court of any child in respect of whom an offence against 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

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.

(6) Where in any proceedings with relation to an offence against 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 the 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 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 probability that the child would ever be able to travel or give evidence; but the same conditions shall apply as in the case of the reception of evidence under subsections one, two, three and four of this section.

(7) Where in any proceedings with relation to an offence against 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 to its health, and it 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.

Offences.
Act No. 21,
1923, s. 101.

133. (1) Any person guilty of an offence against this Act shall be liable upon summary 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 *twelve* months or to both penalty and imprisonment.

(2) Penalties imposed by this Act or by any regulation made thereunder may be recovered in a summary manner before a court.

(3)

(3) Where any person is charged with an offence against this Act it shall be a sufficient defence if the person charged satisfies the court that he had a reasonable excuse for the act or omission which constitutes the offence charged.

134. (1) If a court has reason to believe that a child or young person is, or may be, suffering from venereal disease, the court may at any time order an examination to be made of such child or young person by a medical practitioner, either male or female.

Child believed to be suffering from venereal disease.
cf. Act No. 21, 1923, s. 107.

(2) In the event of the medical practitioner reporting that any child or young person is so suffering, the court shall forthwith notify the Commissioner appointed under the provisions of the Venereal Diseases Act, 1918, in writing, and the provisions of the said Act applicable to a child or young person shall apply to such child or young person.

(3) If any child or young person suffering from venereal disease be committed to an institution such child or young person shall not be released therefrom unless the child or young person has been examined by a medical practitioner and certified by such practitioner to be free from venereal disease or no longer liable to convey infection.

Detention until certified free from disease.

(4) Such certificate shall be obtained at the expense of the Child Welfare Department and retained by the Director.

(5) Any such child or young person in an institution may be detained in the custody and under the control of the superintendent of the institution after he has reached the age of eighteen years and until certified in accordance with the provisions of this section.

Detention beyond age of eighteen years.

135. (1) No ward shall be apprenticed, boarded-out, placed-out or discharged, unless he has been—

- (a) examined by a medical practitioner; and
- (b) certified by such medical practitioner as being free from venereal disease, or no longer liable to convey infection.

Medical examination: Venereal disease.
cf. Act No. 46, 1918; Act No. 21, 1923, s. 108.

(2) Such certificate shall be obtained at the expense of the Child Welfare Department, and retained by the Director.

(3)

(3) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding *twenty* pounds.

Removal of
child to a
place of
safety.
cf. Act No.
21, 1923, s.
44.

136. The Director or any constable of police may take any child or young person, in respect of whom there is reason to believe that an offence has been committed, to a shelter, and such child or young person, and any child or young person who seeks refuge in a shelter, may be there detained until he can be brought before a court. 5

Care of
child
pending
investiga-
tion.
Ibid. s. 45.

137. (1) Where it appears to a court or any justice that an offence has been committed in the case of any child or young person brought before such court or justice, and that the health, welfare or safety of the child or young person is likely to be endangered unless an order is made under this section, the court or justice may, without prejudice to any other power under this Act, make such order as circumstances require for the care of the child or young person until a reasonable time has elapsed for the bringing and disposing of any charge against the person who appears to have committed the offence. 15 20

(2) An order under this section may be enforced notwithstanding that any person claims the custody of the child or young person.

Arrests
without
warrant.
cf. *ibid.*
s. 46.

138. (1) Any constable may arrest without warrant any person who commits, or who is reasonably suspected by such constable to have committed, an offence against this Act if the name and residence of such person are unknown to such constable and cannot be ascertained by him. 25 30

Release on
recogniz-
ance.

(2) Where such an arrest is made, the officer in charge of the police station to which such person is conveyed shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child or young person in respect of whom the offence is alleged to have been committed, release the person arrested upon such person entering into a recognizance, with or without sureties, to attend upon the hearing of the charge. 35

139.

139. Whenever steps have been taken under section one hundred and thirty-six, section one hundred and thirty-seven, or section one hundred and thirty-eight of this Act to secure the safety or well-being of a child or
5 young person, and the charge against any person has been heard and determined the court may make an order as to the care of the child or young person.

Disposal of
child by
court.
Act No. 21,
1923, s. 47.

140. (1) Any magistrate or justice may issue a warrant for the arrest of any ward who has absconded or
10 been illegally removed from his proper custody.

Arrest of
absconding
ward.

(2) Any such ward on apprehension shall, as soon as practicable, be brought before a magistrate sitting as and constituting a children's court.

cf. *Ibid.*
s. 113.

(3) Any ward who absconds shall be guilty of
15 an offence against this Act, and the court may—

(a) order the offender to be punished by one or more of the methods of punishment referred to in Part XI of this Act; or

(b) make an order pursuant to section eighty-seven
20 of this Act; or

(c) return the ward to his former custody.

141. (1) Every ward 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
25 such ward belong, or in which he has been brought up.

Religious
teaching.
cf. *Ibid.*
s. 22.

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

(a) he 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 Director may order, unless such ward states some
35 persuasion in which he desires to be educated;

(b) he shall, if under the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Director may order, but may, on attaining the age of
40 twelve years, select the persuasion in which he desires to be educated.

(3)

(3) If at any time the religious persuasion of such ward or of his parents becomes known to the Director, he shall at once order the ward to be placed under the guidance and control, as far as religious teaching is concerned, of clergymen of such persuasion.

Ward may be
apprenticed or
placed-out.
cf. Act No. 21,
1923, s. 23.

142. The Director may by indenture bind or cause to be bound as an apprentice any ward or may place any ward in suitable employment in cases where apprenticeship conditions are not applicable or desirable.

Apprentice-
ship
conditions.
2 Geo. V,
No. 11,
ss. 39-44, 65
(Qld.).

143. (1) The indentures of apprenticeship and agree- 10
ments for placing out of wards shall be in the forms
prescribed, and shall contain provisions to the satisfac-
tion of the Director for the maintenance and religious
instruction of such wards, and for the due payment of
such wages as are payable thereunder. 15

Such indentures and agreements shall be exempt from the provisions of the Stamp Duties Act, 1920-1933.

Wages.

(2) All wages earned by a ward, except such part thereof as the employer is required to pay to the ward personally as pocket money, shall be paid by the 20
employer to the Director, and shall be disposed of by him as prescribed.

(3) The wages due by any person on account of any ward may be sued for and recovered by and in the name of the Director in any court of competent juris- 25
diction for the benefit of such ward.

Property
of wards.

144. (1) If any ward is or at any time becomes entitled to any property or any interest therein the Public Trustee shall be entitled, on the application of the Director, to take possession of such property and to 30
apply the same for the maintenance and benefit of the ward.

(2) The Public Trustee shall have and may exercise in respect of such property or interest the same rights and powers as if such property or interest formed 35
part of an intestate estate of which he was duly appointed the administrator and as if such property or interest were the share of the ward in such estate.

145.

145. (1) The Director may, at any time, order that any child or young person admitted to an establishment under the control of the Minister be examined to determine his medical, physical or mental characteristics or defects.

Medical
examina-
tion.

(2) The Director, notwithstanding the objection of any parent whose child has become a ward, may consent to any surgical or other operation which he is advised by a medical practitioner is necessary in the interests of the health or welfare of the ward.

Consent to
operations.

146. (1) If it be made to appear to any magistrate or justice, on information laid before him on oath, that there is reason to believe that any person is offending against the provisions of this Act in any house, building or place, or that any of the provisions of this Act are being infringed in any house, building or place, such magistrate or justice may issue his warrant authorising any officer or constable of police named therein to search any house, building or place therein named, at any hour of the day or night, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

When
information
on oath
warrant may
be issued to
search
premises.
cf. Act No.
21, 1923,
s. 105.

(2) Such officer or constable may be accompanied by—

- (a) a medical practitioner, or
- (b) the person giving the information if such person so desires, unless the magistrate or justice otherwise directs.

147. (1) Whenever it appears to any magistrate or justice, on information made before him on oath by any person who, in the opinion of the magistrate or justice, is bona fide acting in the interest of any child or young person, that there is reasonable cause to suspect that such child or young person is a neglected child within the meaning of Part XIV of this Act, or has been or is being ill-treated or neglected in a manner likely to cause the child or young person unnecessary suffering, or to be injurious to his health or welfare, such magistrate or justice may issue

Power of
search and
arrest, and
to place
child in
safety.
cf. *Ibid.*
s. 106.

a warrant authorising any constable of police or any officer named therein to search for such child or young person; and if he is found to have been or is then being ill-treated or neglected in manner aforesaid, to take him to and detain him in a place of safety until he can be brought before a court; and the court before whom the child or young person is brought may commit the child or young person to the custody of some person named by the court, or make such other order as to the custody of the child or young person as the court may think fit.

(2) The magistrate or justice issuing such warrant may, by the same warrant, authorise the apprehension of any person accused of any offence in respect of the child or young person.

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

(4) Every warrant issued under this section shall be addressed to and executed by any constable of police or any officer named therein; and he may be accompanied by—

- (a) a medical practitioner; or
- (b) the person giving the information if such person so desires, unless the magistrate or justice otherwise directs.

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

Court may
put an end
to
agreement.
cf. Act No.
21, 1923, s.
24.

148. Upon complaint made by the Director that any person with whom any ward has been placed out is not performing the conditions of the agreement or is unfit to have the further care of such ward, any magistrate or justice may call upon such person to answer such complaint, and on proof thereof a court may order such agreement to be terminated and may direct the ward to be sent to a shelter pending arrangements for further employment.

149.

- 149.** (1) Any person who—
- (a) ill-treats, terrorises, overworks, or injures any ward;
- (b) counsels, or causes or attempts to cause, any ward to be withdrawn or to abscond from any institution or from the charge of any person with whom such ward is boarded-out, placed-out, or apprenticed, or placed as an adopted boarder;
- (c) knowing any ward to have so withdrawn or to have so absconded, harbours or conceals such ward or prevents him from returning to such institution or person;
- (d) having the care of any ward—
- (i) illegally discharges or dismisses or attempts to discharge or dismiss him from an institution or from a home established under Part IX of this Act;
- (ii) illegally detains him in an institution or in a home established under Part IX of this Act;
- (iii) neglects him;
- (iv) does not well and truly observe, perform, and keep all the covenants, conditions, and agreements contained in any indenture or agreement entered into by him respecting any ward, and which by such indenture or agreement he has bound himself, or agreed, to observe, perform or keep,
- shall be guilty of an offence against this Act.
- (2) Any person, whether the parent of the child or young person or not, who without reasonable excuse neglects to provide adequate and proper food, nursing, clothing, medical aid, or lodging for any child or young person in his care shall be guilty of an offence against this Act.
- 150.** (1) Any person who assaults, ill-treats, or exposes any child or young person, or causes or procures any child or young person to be assaulted, ill-treated or exposed, if such assault, ill-treatment or exposure has resulted

Offences in respect of wards.

cf. Act No. 21, 1923, s. 27.

Ill-treatment.
cf. *Ibid.* s. 118.

resulted, or appears likely to result, in bodily suffering or permanent or serious injury to the health of such child or young person shall be guilty of an offence against this Act.

cf. 23 Geo.
V, ch. 12,
s. 14 (2).

(2) The same information or summons may 5
charge any person with the offences of assault, ill-treatment or exposure, together or separately, and may charge him with committing all or any of those offences in a manner likely to cause unnecessary suffering or injury to health or permanent injury to health, alternatively or 10
together, but when those offences are charged together the person charged shall not, if he is convicted, be liable to a separate penalty for each.

Unauthorised
communication with
inmates of
institutions,
depots, etc.

cf. 2 Geo.
V, No. 11,
s. 69 (Qld.).

151. Whosoever, without the authority or permission of the Director or of the superintendent, matron or officer 15
in charge of an institution, shelter, depot, hostel, or home, as the case may be, holds or attempts to hold any communication with any inmate, or enters any institution, shelter, depot, hostel or home, or any premises belonging thereto or used in connection therewith, and 20
does not depart therefrom when required so to do by the superintendent, matron, or officer in charge of such institution, shelter, depot, hostel or home, or, after being forbidden by the Director or superintendent, matron or officer in charge, as the case may be, so to do, 25
holds or attempts to hold any communication directly or indirectly with any inmate shall be guilty of an offence against this Act.

False
statements
in
applications.

152. Any person who, in any application under this Act, makes any wilfully false statement as to his pro- 30
perty or income, or as to the income, property, or earnings of any member of his family shall be guilty of an offence against this Act.

Imposition
or attempted
imposition.

153. (1) Any person who imposes or endeavours to impose upon the Director or any officer or employee of 35
the Child Welfare Department by any false or fraudulent representations with a view to obtaining money or any other advantage shall be guilty of an offence against this Act.

(2)

(2) Any person who, in respect of any child, receives and retains any money purporting to be paid under the provisions of Part V or Part VI of this Act, after he has become disentitled by any cause whatever to receive any such payment, shall be guilty of an offence against this Act.

(3) Any person who hinders or obstructs the Director or any officer or employee in the exercise of his duty under this Act shall be guilty of an offence against this Act.

Obstruction of officer or employee.
cf. Act No. 21, 1923, s. 112.

154. (1) If any person—

- (a) makes any false representation; or
- (b) forges any certificate; or
- (c) makes use of any forged certificate knowing it to be forged,

Forgery of certificate.
cf. Act No. 21, 1923, s. 111.

with intent to obtain the issue of a license, either to such person, or to any other person, under this Act, he shall be guilty of an offence against this Act.

(2) Any person who—

- (a) falsifies any register kept in pursuance of this Act; or
 - (b) furnishes false particulars of any matter which is required to be entered in such register,
- shall be guilty of an offence against this Act.

155. Any dealer in second-hand books who purchases from any child or young person any text book, reference book, or library book bearing a stamp in or to the effect that such book is the property of the Department of Education or of any school or college, whether such book is offered for sale by that child or young person on his own behalf or on behalf of any other person, shall be liable on summary conviction to a fine not exceeding ten pounds.

Purchase of books from children or young persons.

156. Any person, not being an officer or employee of the Child Welfare Department, who, for any fraudulent purpose—

Person falsely representing himself as an officer.

- (a) assumes or uses the designation of officer, or inspector, or falsely represents himself to be officially associated in any capacity with the Child Welfare Department; or

6—F

(b)

(b) uses any designation which he previously held in the said Department, shall be guilty of an offence against this Act.

Contempt of court.
cf. Act No. 27, 1902, s. 152.

157. If any person shall, during any proceedings before a court, be guilty of contempt, such person may be punished in a summary way by such court by a fine not exceeding *ten* pounds or by imprisonment for a period not exceeding *twenty-one* days. 5

Right to administer punishment: Parent or teacher.
cf. Act No. 21, 1923, s. 116.

158. 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 care of a child or young person, to administer punishment to such child or young person. 10

A person not to be twice punished for the same offence.
Ibid. s. 117.

159. Where a person is charged with an offence against 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

No action to lie against person who has acted in good faith, etc.
cf. Act No. 45, 1898, s. 172.

160. (1) No suit or action shall lie against the Director or any officer or employee of the Child Welfare Department for or on account of any act, matter or thing done or commanded to be done by him, and purporting to be done for the purpose of carrying out the provisions of this Act, if the Director, officer or employee has acted in good faith and with reasonable care. 20 25

Or where action not commenced within three months.

(2) No such suit or action as aforesaid shall be commenced but within three months after the alleged cause of action, or, in the case of a suit or action by a person who has been a ward, but within three months next after the absolute discharge of such ward. 30

Stay of proceedings.

(3) Proceedings in such suit or action as aforesaid may, on application to the court in which such suit or action was commenced, be stayed upon such terms as to costs or otherwise as the court may think fit, if the court is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care, or that the suit or action was commenced after the expiration of the three months aforesaid, 35

(5)

161.

161. The expenses incurred in respect of the administration of this Act shall be defrayed from such moneys as Parliament shall appropriate for that purpose, and if there are no such moneys available, such expenses shall
 5 be defrayed out of the Consolidated Revenue Fund by warrant under the hand of the Governor directed to the Colonial Treasurer.

Expenditure of money appropriated by Parliament.
cf. Act No. 21, 1923, s. 121.

The said Treasurer shall pay out of the said fund only such charges as are certified to be correct under the hand
 10 of the Minister and countersigned by the Director, and all payments in pursuance of such warrants shall be credited to the said Treasurer, and the receipt of the person to whom the same are paid shall be his discharge
 15 in respect of the sum therein mentioned in the passing of his accounts. All payments made under any such warrant shall be recouped out of the vote for the purposes of this Act as soon as there are sufficient funds to the credit of such vote.

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

Minister to report to Parliament.
Ibid. s. 122.

PART XVIII.

REGULATIONS.

163. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which
 25 are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular and without prejudice to the generality of the foregoing provisions may make regulations with respect to—

Regulations.
cf. 2 Geo. V, No. 11, s. 81 (Qld.).
Act No. 21, 1923, s. 103.

- 30 (a) the duties, powers, authorities, and privileges of officers, welfare officers, visitors, and other persons engaged in the administration of this Act;
- 35 (b) the management, control, and supervision of institutions, shelters, depots, homes and hostels;
- (c)

-
- (c) the custody, maintenance, education, religious instruction, recreation, employment, placing-out, and apprenticing of wards; the visitation of such wards; the discipline of such wards; wages and rewards of such wards; the management and control of the property of such wards; and the after care of discharged wards; 5
 - (d) records to be kept at and reports to be made from institutions, shelters, homes, depots and hostels; 10
 - (e) the form and contents of agreements, appointments, apprenticeship articles, authorities, complaints, licenses, notices, orders, summonses, and all other instruments and documents, and the mode of executing, serving or delivering the same; 15
 - (f) the fees to be paid in respect of matters arising under this Act;
 - (g) the free transport on all Government railways of wards, inmates of establishments controlled by the Child Welfare Department, together with their attendants (if any), and of ex-wards proceeding from such establishments to their homes or to places of employment; 20
 - (h) medical, dental and nursing attention to any ward; 25
 - (i) the rates of payment to foster parents;
 - (j) the rates of allowances which may be granted under Part VI of this Act;
 - (k) the inspection of places established or used for the reception and care of children; 30
 - (l) the conditions governing street trading or the taking part in public entertainments by children or young persons;
 - (m) the conditions governing the release on probation or the committal to the care of any person or the discharge of children or young persons and 35

- and the visitation, inspection, education, religious instruction, recreation, employment and after care of such children or young persons;
- 5 (n) the liabilities of persons in respect of the welfare of children or young persons who are apprenticed, boarded-out, placed-out, placed as adopted boarders, committed, released on probation or released conditionally to them;
- 10 (o) providing for the punishment to be imposed upon persons (other than inmates as defined in section fifty-eight of this Act) who are inmates of establishments controlled by the Child Welfare Department;
- 15 (p) the time and manner in which any act, matter, or thing required by this Act to be done, and as to which the time or procedure is not provided, is to be done or performed.
- (2) The regulations may impose penalties not exceeding thirty pounds for any breach of the regulations.
- 20 (3) All regulations shall—
- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- 25 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.
- 30 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
- 35 regulation or part shall thereupon cease to have effect.

PART XIX.

ADOPTION OF CHILDREN.

Interpreta-
tion.
cf. Act No.
21, 1923, s.
123.

164. In this Part, unless the context otherwise re-
quires,—

“ Adopted child ” means person in respect of whom 5
an order of adoption has been made.

“ Adopting parent ” means any person who by an
order of adoption under the provisions of this
Part has adopted a child or other person, and
in case of any such order being made in favour 10
of a husband and wife on their joint application,
includes both husband and wife.

“ Court ” means Supreme Court in its equitable
jurisdiction.

Who may
apply.
cf. *Ibid.*
ss. 124, 125.

165. (1) Applications under this Part may be made 15
to the court by—

- (a) husband and wife jointly;
- (b) a married woman;
- (c) a married man;
- (d) any other person of or above the age of twenty- 20
one years;
- (e) the Minister on behalf of any person within any
of the foregoing classes who has given to him an
authority in writing to make the application.

(2) In the case of an application made by or on 25
behalf of a married woman or a married man, the consent
in writing of the spouse of the applicant shall be fur-
nished except where the applicant is living apart from
such spouse.

(3) Any applicant may be represented by coun- 30
sel or attorney at the hearing of the application.

Court may
make order
Ibid.

166. (1) The court may, in the prescribed form, make
an order of adoption of any child in favour of the person
by whom or on whose behalf the application was made.

Adoption of
person over
sixteen
years of
age.

(2) The court may make an order of adoption 35
in favour of the person by whom or on whose behalf the
application was made in respect of a person who has
reached the age of sixteen years but has not reached the
age of twenty-one years if the court is of opinion that
good reasons exist to justify such order. 40

167. 41

167. (1) Applications under this Part of this Act may be heard by the court in open court or in public or private chambers.

Hearing of applications.
cf. Act No. 21, 1923, s. 125A.

(2) At the hearing of any application under this Part of this Act, the court may order that any person other than the parties thereto and the persons representing them upon the application, shall be excluded from the court-room or other place of hearing.

168. (1) For all purposes connected with any application under this Part of this Act, the Minister may be represented by an officer of the Child Welfare Department who is authorised in that behalf by an instrument in writing in or to the effect of the form prescribed by rules of court.

Minister may be represented by officer appointed therefor.
cf. *Ibid.* s. 125B.

(2) The authority may authorise the person so appointed to represent the Minister either generally in applications under this Part of this Act or for the purposes of any particular application.

(3) The instrument shall be lodged in the office of the Master in Equity, and where the authority authorises the officer to represent the Minister generally shall remain in force until revoked by another instrument under the hand of the Minister lodged in the said office.

(4) The court shall take judicial notice of the signature of the Minister to any such instrument as is mentioned in this section.

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

- (a) that the person in whose favour it is proposed that the order should be made is of good repute and a fit and proper person to have the care of the child or person proposed to be adopted and of sufficient ability to maintain, clothe, support, train and educate the child or person proposed to be adopted; and
- (b) that the welfare and interest of the child or person proposed to be adopted will be promoted by the adoption; and
- (c) that the person proposed to be adopted, or (when the child is over the age of twelve years) the child consents to the adoption; and
- (d)

Matters to be proved before order made.
cf. Act No. 6, 1896, s. 5 (W.A.).
Act No. 21, 1923, s. 126.

- (d) that the parents of the child or person proposed to be adopted or such one of them as is living consent or consents to the adoption, or if the child or person proposed to be adopted is illegitimate that the mother consents to the adoption, or if the child or person proposed to be adopted has a guardian, that such guardian consents to the adoption: 5

Provided that—

- (i) the court may dispense with the consent referred to in paragraph (c) of this section where in any special circumstances it deems it expedient so to do; 10
- (ii) the consent of any person whose consent is required to be given under paragraph (d) of this section may be dispensed with if the court is of opinion that such person has deserted or abandoned the child or person proposed to be adopted or is deceased, or has been deprived of the legal custody of the child or person proposed to be adopted by the order of a court of competent jurisdiction. 20

Effect of
order.

cf. Act No.
6, 1896, ss.
7, 8 (W.A.).
Act No. 21,
1923, s. 127.

170. 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 or collateral kindred: 25

Provided always that such adopted child shall not by such adoption— 35

- (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; 40

(b)

- (b) be entitled to take any property limited to the heirs of the body of the adopting parent;
- (c) be entitled to take any property as next of kin to any lineal or collateral kindred of the adopting parent;
- 5 (d) be entitled to take any property as next of kin to any child of the adopting parent.

171. When an order of adoption is made the adopted child shall take the surname of the adopting parent in
10 substitution for his own surname.

Child to take surname of adopting parent.

cf. Act No. 6, 1896, s. 10 (W.A.); Act No. 69, 1924, s. 2F; Act No. 21, 1923, s. 128.

172. The court, on the application of an adopting parent or of a reputable person on behalf of an adopted child, may vary or discharge any order of adoption subject to such terms and conditions as it thinks fit.

Order may be reversed. cf. Act No. 86, 1908, s. 22 (N.Z.).

15 When an order of adoption is discharged, then, subject to the conditions, if any, named in the discharging order, the child or person in respect of whom the order of adoption was made and its natural parents shall be deemed for all purposes to be restored to the same position
20 inter se as existed immediately before the order of adoption was made:

Provided that such restoration shall not affect anything lawfully done whilst the order of adoption was in force.

25 **173.** It shall not be lawful for any person adopting a child under this Part to receive any premium or other consideration in respect of such adoption except with the consent of the court.

Receipt of premium unlawful. cf. *Ibid.* s. 20.

30 **174.** The Registrar-General shall register orders of adoption in the manner for the time being prescribed by rules of court.

Registrar-General shall register orders of adoption.

cf. Act No. 21, 1923, s. 128A.

175. 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
35 for the registration of orders of adoption and the payment of fees, and for regulating the costs chargeable by solicitors in connection with applications under this Part,

Power to make rules. *Ibid.* s. 129.

and

and for preventing the publication of the names of the child or person proposed to be adopted and the applicant or either of them in cases in which such publication would be inexpedient.

PART XX.

5

AMENDMENT OF VARIOUS ACTS.

DIVISION 1.—*Amendment of Interstate Destitute Persons Relief Act, 1919.*

Amend-
ment of Act
No. 33,
1919, s. 16.

176. The Interstate Destitute Persons Relief Act, 1919, is amended by inserting next after subsection one of section sixteen the following new subsection:— **10**

(1A) Where the order so made enforceable in this State is an order which, if made in this State, might have been made under—

(a) the Deserted Wives and Children Act, 1901-1931; or **15**

(b) the Child Welfare Act, 1936,

the provisions of such Act relating to the enforcement of orders shall, mutatis mutandis, apply to and in respect of the order so made enforceable in this State. **20**

DIVISION 2.—*Amendment of Deserted Wives and Children Act, 1901-1931.*

Amendment
of Act No.
17, 1901.
Sec. 21.
(Variation
of orders.)

177. The Deserted Wives and Children Act, 1901-1931, is amended— **25**

(a) by inserting in subsection one of section twenty-one after the word "direct" the words "to the Director of the Child Welfare Department and";

(b) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:— **30**

(2) An application under this section shall be heard and determined by justices sitting at

a

a place agreed upon by the parties or at the place where the order the subject of the application was made:

5 Provided that the justices may postpone the hearing of the application and direct that it shall be heard and determined by justices sitting at some other place specified by them and appoint a day for the hearing.

10 DIVISION 3.—*Amendment of the Criminal Appeal Act of 1912.*

15 **178.** The Criminal Appeal Act of 1912 as amended by subsequent Acts is amended by omitting from section 5B the words "A court of quarter sessions may submit any question of law arising on any appeal coming before it" and by inserting in lieu thereof the words "A chairman of quarter sessions may submit any question of law arising on any appeal to a court of quarter sessions coming before him."

Amendment of Act No. 16, 1912.
Sec. 5B.
(Case stated from Quarter Sessions.)

20 DIVISION 4.—*Amendment of Public Instruction (Amendment) Act, 1916.*

25 **179.** The Public Instruction (Amendment) Act, 1916, is amended—

Amendment of Act No. 51, 1916.

30 (a) by omitting from subsection one of section two the definition of "The Court" and by inserting in lieu thereof the following definition:—

Sec. 2.
(Interpretation.)

35 "The Court" means a children's court established under the Child Welfare Act, 1936, and includes a stipendiary or police magistrate or justices exercising the jurisdiction of a children's court.

40 (b) (i) by omitting from subsection one of section four the word "seven" and by inserting in lieu thereof the word "six";

Sec. 4.
(Compulsory attendance at school.)

45 (ii) by omitting from subsection two of the same section the word "seven" and by inserting in lieu thereof the word "six";

50 (iii) by omitting paragraph (a) of subsection four of the same section;

(iv)

Sec. 6.
(Exemption
certificates.)

(iv) by inserting in paragraph (c) of the same subsection after the word "Minister" the words "or any officer authorised by him";

(c) (i) by inserting in section six after the word "Minister" the words "or any officer authorised by him"; 5

(ii) by inserting at the end of paragraph (c) of the same section the following word and new paragraph:—

or

16

(d) that the child is of the age of thirteen years or more, and has received a certificate in the form of Schedule One, and that the home conditions are such as to warrant exemption. 15

Sec. 8.
(Truants.)

(d) (i) by inserting in subsection one of section eight after the words "it may" the words "release the child on probation on such terms and conditions as may be applicable under the Child Welfare Act, 1936, to a neglected or uncontrollable child or young person or juvenile offender released on probation under that Act, or as the court may, in any special case, think fit, and for such period of time as the court may think fit, or may"; 20

(ii) by inserting at the end of the same section the following new subsection:—

(5) If a child, who has been released upon probation, breaks or is reasonably suspected of having broken the terms or conditions of his release, the court at any time by notice given in such manner as the court shall direct, to the parent or guardian of such child, or to the child himself, may direct that such child appear or be brought before such court at a time and place named in the notice; and if such child does not so appear or is not so brought before the court, it may issue a summons for the appearance 30 35 40

appearance of such child, or if the circumstances so require issue a warrant for the apprehension of such child.

5 If it be proved that such breach has occurred, the court may deal with the child in the same manner as if he had not been released upon probation.

10 (e) (i) by omitting from subsection one of section ten the word "seven" and by inserting in thereof the word "six";

Sec. 10.
(Registration of schools.)

(ii) by omitting from subsection two of the same section the word "seven" and by inserting in lieu thereof the word "six";

15 (f) by omitting from section fourteen the word "seven" and by inserting in lieu thereof the word "six";

Sec. 14.
(Form of return to be filled in by parent.)

(g) by omitting from section fifteen the word "seven" and by inserting in lieu thereof the word "six";

Sec. 15.
(Attendance officer authorised by Minister may accost children.)

20 (h) by omitting section twenty, and by inserting in lieu thereof the following section:—

Substituted s. 20.

25 20. (1) Any person appointed by the Minister for the purpose may in writing authorise any other person to institute and conduct proceedings or prosecutions under this Act.

Proceedings.

30 (2) An averment in any complaint or information made or laid under the provisions of this Act that any person has been so appointed by the Minister and that the complainant or informant has been so authorised shall be prima facie evidence of the facts alleged.

35 (i) (i) by omitting from Schedule Two the words "scholars between the ages of seven" and by inserting in lieu thereof the words "children between the ages of six";

Schedule Two.

(ii) by omitting from the same Schedule the words "other scholars" and by inserting in lieu thereof the words "other children";

(j)

Schedule
Three.

- (j) by omitting from Schedule Three the word "seven" and by inserting in lieu thereof the word "six."

DIVISION 5.—Amendment of Venereal Diseases Act, 1918.

Amend-
ment of
Act No. 46,
1918, s. 2.
(Defini-
tions.)

180. The Venereal Diseases Act, 1918, is amended— 5

- (a) by inserting at the end of section two the following definition:—

"Young person" means a person who has attained the age of sixteen years and is under the age of eighteen years. 10

Secs. 11
and 16.

- (b) by inserting, in sections eleven and sixteen, after the word "child" wherever occurring the words "or young person."

DIVISION 6.—Amendment of Pawnbrokers Act, 1902.

Amendment
of Act No.
66, 1902.
Sec. 24.
(Pledges not
to be taken
from
children.)

181. The Pawnbrokers Act, 1902, is amended— 15

- (a) by omitting from section twenty-four the words "fourteen years" and by inserting in lieu thereof the words "sixteen years";
- (b) by omitting from the same section the words "ten pounds" and by inserting in lieu thereof 20 the words "twenty-five pounds."

DIVISION 7.—Amendment of Second-hand Dealers and Collectors Act, 1906.

Amendment
of Act No.
30, 1906.

182. The Second-hand Dealers and Collectors Act, 1906, as amended by subsequent Acts, is amended— 25

Sec. 9.
(Old wares not
to be purchased
from children.)

- (a) by omitting from paragraph five of section nine the words "fourteen years" and by inserting in lieu thereof the words "sixteen years";

Sec. 10.
(Collector's
licenses.)

- (b) by omitting from subsection two of section ten the words "fourteen years" and by inserting in 30 lieu thereof the words "sixteen years";

Fifth
Schedule.
(Form of ap-
plication for
collector's
license.)

- (c) by omitting from the Fifth Schedule the words "fourteen years" and by inserting in lieu thereof the words "sixteen years."

SCHEDULES.

SCHEDULES.

Sec. 3 (1)

FIRST SCHEDULE.

Date of Act.	Name of Act.	Extent of repeal.
Act No. 21, 1923	Child Welfare Act, 1923 ...	The whole.
5 Act No. 69, 1924	Child Welfare (Amendment) Act, 1924.	The whole.
Act No. 23, 1925	Widows' Pensions Act, 1925 ...	Section 4.
Act No. 24, 1930	Government Relief Administration Act, 1930.	Section 7, sub section 2.
10 Act No. 46, 1918	Venereal Diseases Act, 1918 ...	Sections 31 and 32.

SECOND SCHEDULE.

CHILD WELFARE ACT, 1936, s. 130.

Sec. 130.

Child Welfare Department,
Education Building,
Bridge-street, Sydney.

15

Case No.....

..... v.
Complainant. Defendant.

To

20 I,

of
do hereby authorise you to pay to the Director, Child Welfare Department, all moneys now held or hereafter received by you in pursuance of the order whereby the abovenamed

25

is liable to contribute towards the maintenance of his

I also authorise the Director, in his discretion, to recoup the funds of the Child Welfare Department from the payments received in pursuance of the order to an amount not exceeding any allowances made or the cost of any services provided by that Department.

30

This authority is to remain in force until the Director notifies you that he deems it no longer necessary to operate under this authority.

Signed this day of, 19..

35

Witness.....
(Signature.)

Sydney: Alfred James Kent, I.S.O., Government Printer—1936.

[5s.]

