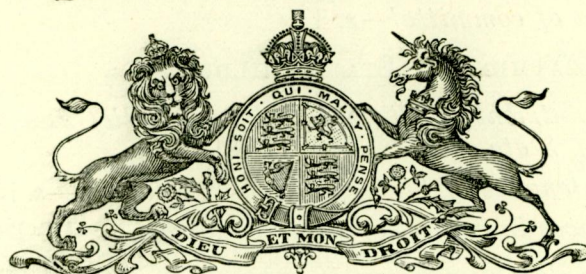


This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 12th November, 1902.*)

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SECUNDO

EDWARDI VII REGIS.

Act No. , 1902.

An Act to make better provision for the protection, control, education, and reformation of neglected or uncontrollable children and juvenile offenders; to constitute children's courts; and to provide for the licensing of children offering things for sale.

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

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "State Children's Act, 1902," and shall come into operation on the first day of January, one thousand nine hundred and three. Short title and commencement.

21730

118—A (c 140)

2.

State Children's.

2. This Act is divided into the following Parts and Divisions :— Division into Parts and Divisions.

PART I.—PRELIMINARY—*ss.* 1-4.

PART II.—THE CONSTITUTING OF STATE CHILDREN—

5 DIVISION 1.—*Committal by Court of neglected or uncontrollable children—ss.* 5-7.

DIVISION 2.—*Committal by Court of juvenile offenders—s.* 8.

DIVISION 3.—*Committal by Attorney-General of children committed for indictable offences—s.* 9.

10 DIVISION 4.—*Committal by Judge of juvenile offenders—s.* 10.

DIVISION 5.—*Effect of committal—s.* 11.

PART III.—THE TREATMENT OF STATE CHILDREN—

DIVISION 1.—*Appointment of State Children's Relief Board as guardians of State children—ss.* 12-14.

15 DIVISION 2.—*Maintenance of State children by relatives—s.* 15.

DIVISION 3.—*Offences in respect of State children—ss.* 16-18.

PART IV.—CHILDREN'S COURTS—*ss.* 19-22.

PART V.—LICENSING OF CHILDREN SELLING GOODS IN PUBLIC PLACES—*ss.* 23-26.

PART VI.—GENERAL AND SUPPLEMENTARY—*ss.* 27-30.

20 3. The enactments specified in the Schedule are hereby Repeal and savings. repealed.

4. In this Act, unless the context or subject-matter otherwise Interpretation. indicates or requires,—

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

"Board" means State Children's Relief Board.

"Child" means boy or girl under the age of eighteen years.

30 "Court" means children's court established under this Act, or stipendiary or police magistrate in any place not within an area within which a children's court has jurisdiction.

"Guardian" means person who is by law the natural or appointed guardian of the child, not being the State Children's Relief Board.

35 "Infant" means child under or apparently under the age of three years.

40 "Institution" means building or place where State children are received, taught, housed, or maintained, and includes the State Children's Relief Board and a reformatory, and a public industrial school under the Reformatory and Industrial Schools Act, 1901.

"Justice"

State Children's.

- “Justice” means justice of the peace.
- “Juvenile offender” means child found guilty or convicted of any crime or offence punishable by imprisonment.
- 5 “Maintenance” includes clothing, support, training, and education.
- “Minister” means Colonial Secretary.
- “Near relative” means, except as regards an illegitimate child, father, mother, stepfather, or stepmother of any child; and as regards an illegitimate child—the mother and putative father of such child, and the husband of the mother of such child if born before their marriage.
- 10 “Neglected child” means child—
- (a) who habitually begs or receives alms, whether under the pretext of sale or otherwise, or frequents any public place for the purpose of so begging or receiving alms;
- 15 (b) who wanders about or frequents any public place, or sleeps in the open air, and does not satisfy the court that he has a home or settled place of abode;
- (c) who resides in a reputed brothel, or associates or dwells with any person known to the police or reputed to be a prostitute, whether such person is the mother of such child or not;
- 20 (d) who associates or dwells with any person who has been convicted of vagrancy, or is known to the police as of bad repute, or who has been or is reputed to be a thief or habitual drunkard whether such person is a parent of such child or not;
- 25 (e) who, being under the age of fourteen, is employed without the permission of the Board away from home in any employment not being employment the lawful period of which is regulated by any Act of Parliament or award or order of the Court of Arbitration or industrial agreement filed with the registrar under the Industrial Arbitration Act, 1901;
- 30 (f) who is illegitimate and whose mother is dead or is unable to maintain or take charge of such child, and whose father is not known or cannot be found or is unable to maintain such child or is out of the State;
- 35 (g) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without reasonable cause in a public place;
- 40 (h) in respect of whom an offence under sections nine, twenty-two, or twenty-three of the Children's Protection Act, 1902, has been committed;
- (i) in respect of whom an offence involving bodily injury to the child, and punishable with penal servitude, has been committed by a person having custody or control of the child;
- 45 (j)

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- (j) in respect of an offence against whom, under section nine of the Children's Protection Act, 1902, a person having custody or control of the child has been committed for trial;
- 5 (k) in respect of an offence against whom, involving bodily injury to the child and punishable with penal servitude, a person having custody or control of the child has been committed for trial;
- 10 (l) towards whom any person having custody or control of the child has been bound over to keep the peace;
- (m) who, being under any of the respective ages mentioned in sections twenty-two or twenty-three of the Children's Protection Act, 1902, and not in the custody or charge of any person, is in any street, place, or premises mentioned in those sections for any of the purposes therein mentioned;
- 15 or
- (n) who has no sufficient means of subsistence, and whose parent or guardian is in indigent circumstances and unable to support such child, or is dead or unknown or cannot be found, or is out of the State, or is in the custody of the law.
- 20 "Prescribed" means prescribed by this Act or regulations made thereunder.
- "Proclamation" means proclamation in the Gazette.
- 25 "Public place" means erection, building, or place to which free access is permitted by the express or tacit consent of the owner, or to which the public are admitted upon payment of money, and the test of the right to admission to which is the payment of money only; and also road, street, thoroughfare, footway, court, or alley to which the public have the right of access, or which the public are allowed to use.
- 30 "Putative father" means person adjudged to be the father of an illegitimate child.
- "Street" includes any highway or public place, whether a thoroughfare or not.
- 35 "Uncontrollable child" means child whom his guardian cannot control.

State Children's.

PART II.

THE CONSTITUTING OF STATE CHILDREN.

DIVISION 1.—*Committal by court of neglected or uncontrollable children.*

5 5. A constable or person authorised by the Governor under this Act may without warrant apprehend any child appearing or suspected to be a neglected child, and notwithstanding the provisions of any Act shall take such child to a receiving-house pending a determination of the court in respect of the child, and the manager of the house shall
10 bring such child before the court within forty-eight hours of the admission of such child to the receiving-house, or within any successive period of forty-eight hours which the court has allowed on the application of the manager made before the period of forty-eight hours next following the admission, or any extended period has expired.

Apprehension of neglected children.

15 6. Any parent or guardian may apply to the court to commit a child to an institution upon the ground that the child is uncontrollable.

Application by parent or guardian.

 7. Where any child is brought before the court as a neglected child or where an application is made under the last preceding section the court may proceed to hear and determine the matter, and if it
20 find that a child is a neglected or uncontrollable child it may by order forthwith commit such child to an institution.

Court may hear and determine and commit child to institution.

 Provided that no order of committal shall be made in the case of an uncontrollable child unless security be given to the satisfaction of the court for the payment of such sum as, in the opinion of the
25 court, the applicant is able to afford towards the maintenance of such child.

 The court may, in the case of a neglected child, grant an adjournment of the hearing for a period not longer than forty-eight hours, and in such case shall commit such child to a receiving-house.

30 DIVISION 2.—*Committal by court of juvenile offenders.*

 8. In any case in which but for this Act a child would be liable to be convicted before justices of an offence for which the penalty is punishment by imprisonment for fourteen days or longer, or would be committed to prison in default of payment of a fine, the court shall
35 commit such child to an institution.

Committal of juvenile offender

DIVISION 3.—*Committal by Attorney-General of children committed for indictable offences.*

 9. Whenever the court commits a child for an indictable offence, the Attorney-General may direct that such child shall be committed
40 to an institution, and shall thereupon enter a nolle prosequi to the proceedings against such child.

Committal by Attorney-General.

DIVISION

*State Children's.*DIVISION 4.—*Committal by Judge of juvenile offenders.*

10. Whenever a child has been convicted of an indictable offence the Judge may, in lieu of any other sentence, direct that such child be committed to an institution, and be confined in a reformatory for such period not exceeding five years, as to the Board may seem desirable in the interests of the child. Committal by Judge constitute State children.

DIVISION 5.—*Effect of committal.*

11. The committal of a child to an institution shall have the effect of constituting the child a State child for the purposes of this Act. Committal to constitute State children.

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PART III.

THE TREATMENT OF STATE CHILDREN.

DIVISION I.—*Appointment of State Children's Relief Board as guardians of State children.*

12. (1) The State Children's Relief Board is hereby made the guardian, to the exclusion of the parent and of every other guardian, of every male and female State child respectively who— Over whom Board may exercise guardianship.

(a) has been committed to an institution by the court or a Judge or the Attorney-General under this Act ;

20 (b) has been committed to a reformatory or industrial school by virtue of the provisions of the Reformatory and Industrial Schools Act, 1901, the Children's Protection Act, 1902, the Crimes Act, 1900, or any Act repealed by or amending any of the said Acts, and is at the commencement of this Act an inmate of such school or apprenticed under the provisions of the first-mentioned Act or any Act repealed thereby ;

25 (c) is at the commencement of this Act a State child within the meaning of the State Children Relief Act, 1901 ; or

(d) has been removed from an asylum or reformatory school under the provisions of the last-mentioned Act or any Act repealed thereby, or has otherwise come under the control of the State Children's Relief Board under any of those Acts, and has been apprenticed or boarded out or placed at service by the said Board under any of those Acts, or has been adopted by any person by arrangement with the said Board under any of those Acts, and is at the commencement of this Act so apprenticed, boarded out, placed at service, or adopted ;

30 and such guardianship shall continue until it is determined by the Governor or until the child attains the age of eighteen years : Provided that

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State Children's.

that if at the date on which the guardianship begins the child is upwards of sixteen years of age, the child shall be under the guardianship of the State guardian for a period of two years from such date, unless the guardianship is determined by the Governor within that 5 period.

13. A determination of guardianship by the Governor shall have the effect of placing the child in the guardianship of the person who, but for this Act, would be the guardian of such child, or in such person as the Governor may from time to time direct; and such 10 guardianship shall continue until the child attain the age of eighteen years, or if the child at the date of the commencement of the guardianship was upwards of sixteen years of age, until a period of two years from such date has expired.

Effect of
determination of
guardianship.

14. The Board, in addition to the rights and obligations conferred 15 and imposed upon it by the State Children Relief Act of 1901, shall stand in loco parentis to all State children, and shall so dispose of such children as to it shall seem most conducive to their moral and material welfare. And more particularly, but without limiting the generality of the authority hereinbefore conferred, and notwithstanding anything 20 contained in the Reformatory and Industrial Schools Act of 1901, may, in respect of any State child,—

Powers and duties of
Board.

- (a) place such child in a shelter until a decision is arrived at as to the custody of such child, provided that no child may remain in a shelter for more than three months, except by 25 permission of the Governor;
- (b) board out such child or place such child for adoption with some suitable person;
- (c) place such child at service with or apprentice such child to some suitable person, other than a parent of such child, 30 either on land or at sea;
- (d) place such child in an institution;
- (e) and remove such child from any institution or from the charge of any person with or to whom the child has been boarded out, placed for adoption, placed at service, or apprenticed, and 35 (f) restore such child to the custody of his or her parent or guardian, or other suitable person, on such terms and conditions as to the Board may seem from time to time desirable.

DIVISION 2.—Maintenance of State children by relatives.

40 15. (1) If it appear to a court on complaint by or on behalf of the Board that any near relative is of ability to maintain or to contribute to the maintenance of a State child, the court may order such near 45 relative

Cost of maintenance
of State child may
be recovered from
near relatives.

State Children's.

relative to pay to the Board a reasonable sum, in instalments or otherwise, as the court directs for or towards—

- (a) the past maintenance of such child, whether such child be alive or not at the time of the application ;
- 5 (b) the future maintenance of such child.
- (2) And where such order is made against a parent, such order may include the cost of bringing the parent back to the place where the said order is made from any other place where he or she may for the time being be residing.
- 10 (3) Upon the hearing of a complaint against any person in respect of the maintenance of an illegitimate State child, if it be alleged in the complaint that such person is the father of the child, the court may adjudge him to be the putative father thereof ; but shall not so adjudge him—
- 15 (a) upon the evidence of the mother, unless her evidence be corroborated in some material particular ;
- (b) if the court is satisfied that at the time the child was begotten the mother was a common prostitute.
- (4) When any person is adjudged under this section to be
- 20 the putative father of an illegitimate child, the court may order that the whole or any part of the expenses incidental to the birth of the child (including the cost of the maintenance of the mother during a period of one month prior to the birth of the child), and during a further period not exceeding six months subsequent to the said birth,
- 25 shall be paid to the Board by such putative father in such instalments, or otherwise, as the court directs.
- (5) Orders made under this section shall be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under the Deserted Wives and Children
- 30 Act, 1901, or any Act passed, or to be passed, amending or consolidating the same. And the court may issue a warrant for the arrest of any person absconding from the State with a view to evade compliance with any order under this section.

DIVISION 3.—*Offences in respect of State children.*

- 35 16. Any person who—
- (a) assaults, illtreats, terrorises, or injures any State child ;
- (b) counsels, or causes or attempts to cause, any State child to withdraw or to abscond from any institution or from the charge of any person with or to whom such child is boarded out, placed at service, or apprenticed ;
- 40 (c) knowing any State child to have been so withdrawn or to have so absconded, harbours or conceals such child or prevents such child from returning to such institution or person ;
- (d)

Offence in respect
of State children.

State Children's.

- (d) having the charge of any State child, whether in an institution or boarded out, placed at service or for adoption, or apprenticed—
- 5 (i) discharges or dismisses or attempts to discharge or dismiss such child from the institution or from the charge of the person with or to whom such child is boarded out, placed at service or for adoption, or apprenticed ;
- (ii) neglects such child ;
- 10 (iii) does not well and truly observe, perform, and keep all the covenants, conditions, and agreements contained in any indenture or agreement entered into between such person and the Board respecting any State child and which such person by such indenture or agreement has bound himself or agreed to observe, perform, and keep,
- 15 shall be liable to a penalty not exceeding fifty pounds or to be imprisoned for a period not exceeding six months.

17. (1) The Governor may, by proclamation, establish as a public institution under this Act any building or place as—

Governor may establish public institutions.

- 20 (a) a receiving-house for the reception, detention, and maintenance of male neglected children or youthful offenders, or of female neglected children or youthful offenders, pending a determination by the court in respect of such children ;
- (b) a shelter for the reception, detention, and maintenance of male State children or of female State children, after committal by the Court, or a Judge, or the Attorney-General, pending the dealing with such children by the Board under this Act ;
- 25 (c) a nursery school for the reception, detention, maintenance, and care of infant State children ;
- (d) a day industrial school for the reception, detention, education, industrial training and maintenance, between the hours of six ante meridiem and six post meridiem, of State children, who, in the opinion of the State guardian, should not be entirely removed from home influences ;
- 30 (e) an industrial school for the reception, detention, maintenance, education, and industrial training of State children ;
- 35 (f) a reformatory school for the reception, detention, education, maintenance, industrial training, and reformation of State children.

See Act No. 38, 1901, s. 4.

(2) Every institution so established shall be under the control of the Minister, except the day industrial schools, which shall be under the control of the Minister for Public Instruction.

(3) For the purposes of this section the term female State children shall be deemed to include male State children under the age of six years.

State Children's.

(4) Not more than thirty children shall be lodged during the night in any building which forms the whole or part of any institution, other than a reformatory or public industrial school, or receiving-house, or shelter.

- 5 **18.** Notwithstanding anything in the Reformatory and Industrial Schools Act of 1901, every institution shall be visited and inspected by an officer or member of the Board, or person appointed by the Minister, once at least in every three months. Visitation and inspection.

PART IV.

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CHILDREN'S COURTS.

- 19.** For the purpose of dealing with neglected children and juvenile offenders, and with offences committed by or in respect of children, the Governor shall by proclamation establish in Sydney, Newcastle, and Broken Hill, special courts to be called children's courts, and may in like manner establish such courts in other places. Governor may establish special courts for dealing with children.

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

- 20.** A children's court shall be held— Children's courts must not be held in ordinary courts.
- (a) where practicable, in the proximity of a receiving-house ;
- (b) in Sydney, Newcastle, Broken Hill, and such other place as the Governor by proclamation appoints, in some room or place approved of in that behalf by the Minister, and not in any police office or court-house ;
- 25 (c) in any other place at the court-house of such place, but so that the hearing or trial shall take place at an hour other than that at which the ordinary business of the court is taken, unless the Minister by writing under his hand otherwise directs.

- 21.** (1) Every children's court shall— Powers of court.
- (a) exclusively exercise the powers and authorities which are possessed by stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against or in respect of children ;
- 35 (b) hear and determine all complaints, informations, and applications under this Act.

- (2) The court so established shall, accordingly as it is constituted by a stipendiary or police magistrate, possess, within the area in which it has jurisdiction and in addition to the powers and authorities hereby conferred, all the powers and authorities possessed by a stipendiary or police magistrate within the said area.

State Children's.

22. Upon the publication of a proclamation as aforesaid, the jurisdiction of every magistrate, court of petty sessions, and justice as aforesaid shall, within the area named in the proclamation, cease and determine in respect of the powers and authorities hereby conferred upon the children's court :

Jurisdiction of other courts to cease.

Provided that no conviction, order, judgment, or proceeding whatsoever shall be invalidated or in any way affected by reason of the wrongful or erroneous exercise of any jurisdiction hereby made to cease and determine.

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PART V.

LICENSING OF CHILDREN SELLING GOODS IN PUBLIC PLACES.

23. No child under the age of sixteen years shall sell or offer or expose for sale anything in any public place unless he holds a license from the Minister, and wears a prescribed badge.

Child under sixteen selling goods to obtain license and badge.

24. The Minister, or person appointed by him in that behalf, may grant written licenses to children under the age of sixteen, to sell and offer and expose for sale in public places the thing or things specified in the said license, or to engage or carry on in public places within the prescribed hours and under the prescribed conditions any occupation or business specified in the license, and shall also deliver to the child with the license the prescribed badge to be worn during such occupation in the manner prescribed.

Minister to grant licenses and badges.

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

Term of license.

No license shall be granted to any child unless the Minister is satisfied that the education or moral or material welfare of the child will not suffer by such occupation.

26. Any child under the age of sixteen years who—

Unlicensed child to be deemed a neglected child.

- (a) sells or offers or exposes for sale anything in a public place, or engages in or carries on in any public place any business or occupation, without holding a license as aforesaid, or without wearing a badge as prescribed ;
- (b) though holding a license as aforesaid, sells or offers or exposes for sale in a public place anything other than a thing specified in the license, or engages in or carries on in any public place any business or occupation other than that specified in the license ;
- (c)

State Children's.

(c) sells or offers or exposes for sale anything in a public place, or engages in or carries on in any public place any business or occupation, and on being asked by any constable or officer of the Board to produce a license as aforesaid authorising the child to sell and offer and expose for sale the said thing, or to engage in or carry on the said business, fails to do so, shall be deemed to be a neglected child within the meaning of this Act: Provided that for the purposes of this section no shop shall be deemed to be a public place.

PART VI.

GENERAL AND SUPPLEMENTARY.

27. At any hearing or trial under this Act the court may order that all persons not directly interested in the case shall be excluded from the court-room or place of hearing or trial.

Exclusion of persons from hearing.

28. All penalties under this Act shall be imposed and recovered before the Court in the same manner as penalties are imposed and recovered under the Justices Act, 1902.

Recovery of penalties.

29. No child shall be boarded out under section sixteen of the State Children Relief Act, 1901, until the Board has referred the case of such child to the court for an inquiry upon oath, whether it is desirable to so board out such child, and unless the court gives a direction to that effect.

Boarding out of children under section 16 of State Children Relief Act.

30. (1) The Governor may make regulations—

- (a) for regulating the management of institutions established under this Act;
- (b) providing for the visitation and inspection of State children and of institutions and places where State children are boarded out, placed at service, placed for adoption, or apprenticed;
- (c) prescribing the duties of officers employed in the administration of the Act;
- (d) providing for the attendance at school, whenever practicable, of State children;
- (e) providing for the discipline and punishment of State children;
- (f) providing for the medical attendance of State children, and for the burial of any State child who has died;
- (g) providing for the conditions under which licenses shall be issued to and held by children, the hours during which such licenses shall have force and effect, and the form and manner of wearing badges to be worn by children so licensed;
- (h) for carrying this Act into effect;
- (i) for the imposition of a penalty not exceeding twenty pounds for the breach of any regulation made under this Act.

Regulations.

State Children's.

(2) All regulations made under this Act shall be published in the Gazette, and shall thereupon be in force, and shall be laid upon the table of both Houses of Parliament within fourteen days of such publication, or if Parliament is not then sitting within fourteen days of the commencement of the next ensuing session.

SCHEDULE.

Children's Protection Act, 1902	...	...	...	Sections 29, 30, 31, and 32.
Reformatory and Industrial Schools Act, 1901	...	...	...	Sections 8, 9, 10, 11, 12, 17, 18, 19, 20, 21, 24, 25, 26.
10 State Children Relief Act, 1901	...	...	...	Sections 25, 27, 28.
Crimes Act, 1900	...	...	...	So much of section 429 as authorises the court to direct an offender to be sent to a reformatory school.

Sydney: William Applegate Gullick, Government Printer.—1902.

[1s.]

State (Militiamen) Act

(2) All regulations made under this Act shall be published in the Gazette and shall be in force, and shall be laid upon the table of both Houses of Parliament within fourteen days after the publication of the regulations, unless the contrary is expressed in the regulations.

1902 (Militiamen) Act, 1902. Section 10. (1) The Governor may, if he thinks fit, direct that any of the provisions of this Act shall apply to any person or persons named in the order, and may also direct that any of the provisions of this Act shall apply to any person or persons named in the order, and may also direct that any of the provisions of this Act shall apply to any person or persons named in the order.

1902 (Militiamen) Act, 1902. Section 11. (1) The Governor may, if he thinks fit, direct that any of the provisions of this Act shall apply to any person or persons named in the order, and may also direct that any of the provisions of this Act shall apply to any person or persons named in the order.

1902 (Militiamen) Act, 1902. Section 12. (1) The Governor may, if he thinks fit, direct that any of the provisions of this Act shall apply to any person or persons named in the order, and may also direct that any of the provisions of this Act shall apply to any person or persons named in the order.

1902 (Militiamen) Act, 1902. Section 13. (1) The Governor may, if he thinks fit, direct that any of the provisions of this Act shall apply to any person or persons named in the order, and may also direct that any of the provisions of this Act shall apply to any person or persons named in the order.

