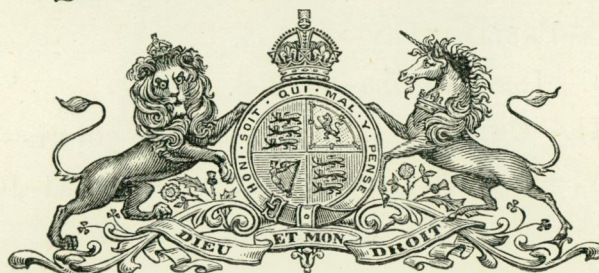


New South Wales.



ANNO QUINTO

EDWARDI VII REGIS.

Act No. 16, 1905.

An Act to make better provision for the protection, control, education, maintenance, and reformation of neglected and uncontrollable children and juvenile offenders; to provide for the establishment and control of institutions and for contribution by near relatives towards the support of children in institutions; to constitute children's courts and to provide for appeals from such courts; to provide for the licensing and regulation of children trading in streets and in certain places open to the public; to amend the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Crimes Act, 1900; to repeal the Reformatory and Industrial Schools Act, 1901; and for purposes consequent thereon or incidental thereto. [Assented to, 26th September, 1905.]

BE

Neglected Children and Juvenile Offenders.

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

PART I.

PRELIMINARY.

Short title and
commencement.

1. This Act may be cited as the "Neglected Children and Juvenile Offenders Act, 1905," and shall come into operation on the first day of October, one thousand nine hundred and five.

Division into Parts.

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

PART I.—PRELIMINARY—ss. 1-5.

PART II.—INSTITUTIONS—ss. 6-8.

PART III.—CHILDREN AND CHILDREN'S COURTS—ss. 9-33.

PART IV.—CHILDREN IN INSTITUTIONS—ss. 34-46.

PART V.—LICENSING OF CHILDREN—ss. 47, 48.

PART VI.—GENERAL AND SUPPLEMENTAL—ss. 49-52.

Repeal and savings.

3. The enactments specified in the Schedule are to the extent therein mentioned repealed.

Persons appointed
under repealed Acts.

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 (1) All persons appointed under any Act hereby repealed, and holding office at the commencement of this Act, shall be deemed to have been appointed hereunder.

Reformatory schools
or public industrial
schools.

(2) All schools declared to be reformatory schools, or public industrial schools, under any Act hereby repealed, shall continue to be such schools, subject, however, to the provisions of this Act relating to institutions constituted thereunder.

Interpretation.

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

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

"Asylum" has the meaning given to that word in the State Children Relief Act, 1901.

"Board" means State Children's Relief Board.

"Child" means boy or girl under sixteen and over five years of age.

"Court" means children's court established under this Act, and includes a magistrate or justices exercising the jurisdiction of a children's court.

"Institution" means institution established under this Act, and includes a reformatory and a public industrial school established under the Reformatory and Industrial Schools Act, 1901.

"Justice"

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- “Justice” means justice of the peace.
- “Juvenile offender” means child who has committed an offence.
- “Local Authority” means council of a municipality, and includes the governing body of a local government area, constituted or to be constituted.
- “Maintenance” includes clothing, support, training, and education.
- “Near relative” means, except as regards an illegitimate child, father, mother, stepfather, or stepmother of the child; and as regards an illegitimate child—the mother and the person admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.
- “Neglected child” means child—
- (a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or No. 38 of 1901, s. 17 (a).
 - (b) who has no visible lawful means of support or has no fixed place of abode; or Ibid. (b).
 - (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; or Ibid. (c).
 - (d) who without reasonable excuse is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed by his parent: No. 47 of 1902, s. 9.
 Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or
 - (e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or Ibid. s. 22 (1).
 - (f) who, not being duly licensed for that purpose, is engaged in street trading; or
 - (g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or
 - (h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or
 - (i) who is in any place where opium or any preparation thereof is smoked; or
 - (j) who is living under such conditions as indicate that the child is lapsing into a career of vice and crime.
- “Offence” includes any matter punishable summarily or by indictment. “Prescribed”

Neglected Children and Juvenile Offenders.

"Prescribed" means prescribed by this Act or by regulations made thereunder.

"Proclamation" means proclamation in the Gazette.

"Public place" means road, street, thoroughfare, court, or alley to which the public have the right of access, or which the public are allowed to use, and includes any part of premises licensed under Part III of the Liquor Act, 1898, which is open to the public.

"Shelter" shall include a place of safety within the meaning of section twenty-five of Children's Protection Act, 1902.

"Street trading" includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoe-blackening and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.

"Superintendent" includes manager or person in charge.

"The Minister" shall mean the Minister of Public Instruction.

"Uncontrollable child" means child whom his parent cannot control.

3 Ed. VII, c. 45,
s. 13.

PART II.

INSTITUTIONS.

Governor may
establish institutions.
See Act No. 38,
1901, s. 4.

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

- (a) shelters for the reception and temporary detention and maintenance of children;
- (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;
- (c) reformatory schools for the reception, detention, maintenance, and reformation of children committed to such institutions.

Minister to have
direction of
institutions.

7. Every institution shall be controlled and administered under the direction of the Minister, and shall be maintained by such moneys as may be appropriated by Parliament for that purpose.

Visitation and
inspection.

8. Every institution shall once at least in every three months, be visited and inspected by a person appointed by the Minister.

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PART III.

CHILDREN AND CHILDREN'S COURTS.

Constitution and powers of courts.

9. (1) The Governor shall by proclamation establish special courts to be called children's courts. Governor may establish special courts for dealing with children.

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

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

10. Within the area so named a children's court and the magistrate constituting such court— Powers of court.

- (a) shall exercise the powers and authorities which are possessed by stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children ;
- (b) shall exercise the powers and authorities of a court of petty sessions or of a justice under the Children's Protection Act, 1902, or of a magistrate under the Infant Protection Act, 1904 ; and
- (c) shall hear and determine complaints, informations, and applications under this Act.

11. On and after the establishing of a children's court, the jurisdiction of every court of petty sessions in respect of the matters as to which the children's court has jurisdiction shall cease to be exercised within the area proclaimed : Jurisdiction of other courts to cease.

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

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

12. A court shall be held—

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

Children's courts not held in ordinary courts.

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

(2)

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Section 32 of Act of
1904.

(2) Section thirty-two of the Infant Protection Act, 1904, shall apply to the hearing of a complaint under Part II of that Act, but in no other case.

Appeal from
children's court.

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

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

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

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

Committal of neglected or uncontrollable children or juvenile offenders.

Warrant for
apprehension.
Act No. 33, 1901,
s. 18.

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

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

Apprehension of
child.

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

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

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

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

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

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

18. Any person authorised by the Governor in that behalf, or any officer of police of or above the rank of senior-constable, may without warrant apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child.

Apprehension of child in brothel, &c.

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

Child placed in shelter.

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

Child to be brought before a court or discharged.

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

Application to commit uncontrollable child to institution.

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

Procedure of court.

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

If the parent refuses to attend without reasonable excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognisances, with or without sureties, to attend at the court at the hearing of the matter.

23. If on the hearing the court finds that a child is a neglected or uncontrollable child it may—

Power of court with respect to neglected or uncontrollable children.

(a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or

(b)

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- (b) commit the child for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution :

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

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

Power with respect to child liable to be summarily convicted.

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

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

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

The Minister may order the removal to an institution of the child so sentenced.

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

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

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

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

(4)

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

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

Power with respect to child charged with certain indictable offences.

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

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

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

Child committed for trial may be sent to institution.

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

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

Court to hear evidence on behalf of child.

28. When a child has been dealt with under paragraph (a) or (b) of section twenty-three, twenty-four, or twenty-six, the following provisions shall apply:—

As to sections 23, 24, or 26.

- (1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person in charge of the asylum or to whose care he has been committed.
- (2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.
- (3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of five pounds, and the child may be removed from his custody and control by the Minister.

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As to breach of
terms of probation.

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

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

Child convicted of
indictable offence
may be sent to
institution.

Act No. 32, 1901,
s. 13.

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

Form of committal.
Act No. 38, 1901,
s. 14.

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

Provided that in the case of a child charged with an indictable offence, such committal may be made to a reformatory school, and if so made, shall be for the period named, being not less than one nor more than five years.

Children be placed
in shelter.

32. A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter.

Child placed in
institution.

33. 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.

PART IV.

CHILDREN IN INSTITUTIONS.

Custody and control.

Children in institu-
tions under control
of superintendent.

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

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

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35. The Minister, with respect to any child who has been committed to or is an inmate of any institution,— Powers and duties of Minister.

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

36. The Minister may at the request of the board or of the governing body of an asylum take any child from the custody of the board or from the asylum, and place him in any institution other than a reformatory school. Child removed from board or asylum to an institution.

37. (1) Every child, an inmate of any institution, shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up. Religious teaching. Act No. 38, 1901, s. 32.

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

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

38. (1) The superintendent of any institution may by indenture bind or cause to be bound any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 1901. Child may be apprenticed. Act No. 33, 1901, s. 34.

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

Neglected Children and Juvenile Offenders.

Court may put
an end to
apprenticeship.
Act No. 38, 1901,
s. 35.

39. A court, upon complaint made by the superintendent of any institution that any person to whom any such child has been apprenticed is not performing the conditions of such indenture, or is unfit to have the further care or control of such apprentice, may summon such person to answer such complaint, and on proof thereof on oath may order such apprenticeship to be put an end to, and may direct the apprentice to be sent back to such institution, and such child shall thereupon be subject to the like custody and control as under the original order by which he was sent to such institution.

Discharge of child
by Governor.

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

Maintenance of children by relatives.

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

41. (1) If it appears to a court on complaint by or on behalf of the Minister that any near relative is of ability to maintain or to contribute to the maintenance of a child in an institution, the court may on summons order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards—

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

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

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

(4) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child under the Infant Protection Act, 1904, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay twice for the maintenance of the same child.

(5) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part II of the Infant Protection Act, 1904. 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.

Neglected Children and Juvenile Offenders.

42. Where any proceedings are taken under the Infant Protection Act, 1904, or this Act, in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under any such Act shall be made—

Evidence necessary for order for maintenance.

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

Offences in respect of children in institutions.

43. Any person who—

- (a) illtreats, terrorises, or injures any child committed to or an inmate of an institution;
- (b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is apprenticed;
- (c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;
- (d) having the charge of any such child—
 - (i) illegally discharges or dismisses or attempts to discharge or dismiss him from the institution;
 - (ii) neglects such child;
 - (iii) 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 child and which by such indenture or agreement he has bound himself or agreed to observe, perform, or keep,

Offences in respect of State children.

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

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

Absconder from reformatory may be punished.
Act No. 38, 1901, s. 27.

45. If any child committed to or an inmate of any institution before his discharge or apprenticing be absent therefrom without the leave of the superintendent, any constable may apprehend and convey such child to such institution to be delivered into the custody of the superintendent thereof.

Child deserting may be apprehended.
Act No. 38, 1901, s. 29.

46.

Neglected Children and Juvenile Offenders.

Keeper of brothel or
opium den in which
child is found guilty
of misdemeanour.

46. Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or the person in charge or apparently in charge of such brothel or place shall be guilty of a misdemeanour.

PART V.

LICENSING OF CHILDREN.

Issue of licenses.

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

- (a) by the Minister or by any officer acting under his authority;
or
- (b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.

Badges.

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

Conditions of issue
of licenses.

(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.

Term of license.

(4) 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 or by the authority which has issued it. No charge shall be made for any license or badge.

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

48. If any person employs a child in street trading—
(a) who is not duly licensed under this Act; or
(b) who, although so licensed, is employed by him in trading of a description not authorised by the license,
he shall be liable to a penalty not exceeding two pounds, or in case of a second or subsequent offence to a penalty not exceeding five pounds.

PART VI.

GENERAL AND SUPPLEMENTAL.

Recovery of
penalties.

49. All orders and penalties under this Act shall be enforced, imposed, and recovered by and before a court.

Order forwarded to
an institution.

Act 38 of 1901, s. 37.

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

(2)

Neglected Children and Juvenile Offenders.

(2) The production of—

- (a) such order so endorsed ; or
- (b) a copy of such order so endorsed with a memorandum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of the signing thereof detained in such institution, or has been otherwise disposed of according to 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 to be a correct copy,

Certain orders and
copies to be evidence.
Act 33 of 1901, s. 39.

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

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

51. 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 a 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.

52. (1) The Governor may make regulations—

Regulations.

- (a) for regulating the management of institutions ;
- (b) providing for the visitation and inspection of institutions and places where children are placed or apprenticed under this Act ;
- (c) prescribing the duties of officers employed in the administration of this Act ;
- (d) providing for the employment, education, discipline, and punishment of children in institutions ;
- (e) providing for the medical care of children in institutions and for the burial of any child who has died ;
- (f) providing for the conditions under which, the purposes for which, and the ages during which licenses under this Act may be issued to and held by children, the hours during which such licenses shall have force and effect, and the form of badges and manner of wearing them.
- (g) for carrying this Act into effect ;
- (h) for the imposition of a penalty not exceeding twenty pounds for the breach of any regulation made under this Act.

(2)

Neglected Children and Juvenile Offenders.

(2) All such regulations 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.

Date of Act.	Name of Act.	Extent of repeal.
Act No. 40, 1900	Crimes Act, 1900	So much of section 429 as is inconsistent with this Act.
Act No. 38, 1901	Reformatory and Industrial Schools Act, 1901.	The whole.
Act No. 47, 1902	Children's Protection Act, 1902	Sections 29, 30, 31, and 32, and so much of the rest of the Act as is inconsistent with this Act.

By Authority : WILLIAM APPLEGATE GULLICK, Government Printer, Sydney, 1905.

[1s.]

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Assembly Chamber,
Sydney, 20 September, 1905. }*

*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

New South Wales.



ANNO QUINTO

EDWARDI VII REGIS.

Act No. 16, 1905.

An Act to make better provision for the protection, control, education, maintenance, and reformation of neglected and uncontrollable children and juvenile offenders; to provide for the establishment and control of institutions and for contribution by near relatives towards the support of children in institutions; to constitute children's courts and to provide for appeals from such courts; to provide for the licensing and regulation of children trading in streets and in certain places open to the public; to amend the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Crimes Act, 1900; to repeal the Reformatory and Industrial Schools Act, 1901; and for purposes consequent thereon or incidental thereto. [Assented to, 26th September, 1905.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

*W. H. WOOD,
Chairman of Committees of the Legislative Assembly.*

Neglected Children and Juvenile Offenders.

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

PART I.

PRELIMINARY.

Short title and
commencement.

1. This Act may be cited as the "Neglected Children and Juvenile Offenders Act, 1905," and shall come into operation on the first day of October, one thousand nine hundred and five.

Division into Parts.

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

PART I.—PRELIMINARY—ss. 1-5.

PART II.—INSTITUTIONS—ss. 6-8.

PART III.—CHILDREN AND CHILDREN'S COURTS—ss. 9-33.

PART IV.—CHILDREN IN INSTITUTIONS—ss. 34-46.

PART V.—LICENSING OF CHILDREN—ss. 47, 48.

PART VI.—GENERAL AND SUPPLEMENTAL—ss. 49-52.

Repeal and savings.

3. The enactments specified in the Schedule are to the extent therein mentioned repealed.

Persons appointed
under repealed Acts.

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

Reformatory schools
or public industrial
schools.

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

Interpretation.

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

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

"Asylum" has the meaning given to that word in the State Children Relief Act, 1901.

"Board" means State Children's Relief Board.

"Child" means boy or girl under sixteen and over five years of age.

"Court" means children's court established under this Act, and includes a magistrate or justices exercising the jurisdiction of a children's court.

"Institution" means institution established under this Act, and includes a reformatory and a public industrial school established under the Reformatory and Industrial Schools Act, 1901.

"Justice"

Neglected Children and Juvenile Offenders.

- “Justice” means justice of the peace.
- “Juvenile offender” means child who has committed an offence.
- “Local Authority” means council of a municipality, and includes the governing body of a local government area, constituted or to be constituted.
- “Maintenance” includes clothing, support, training, and education.
- “Near relative” means, except as regards an illegitimate child, father, mother, stepfather, or stepmother of the child; and as regards an illegitimate child—the mother and the person admitting himself to be or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.
- “Neglected child” means child—
- (a) who is in a brothel, or lodges, lives, resides, or wanders No. 38 of 1901, s. 17 about with reputed thieves or with persons who have no (a). visible lawful 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 *Ibid.* (b). place of abode; or
 - (c) who begs in any public place, or habitually wanders about *Ibid.* (c). public places in no ostensible occupation, or sleeps in the open air in any public place; or
 - (d) who without reasonable excuse is not provided with sufficient No. 47 of 1902, s. 9. and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed by his parent :
 Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or
 - (e) who takes part in any public exhibition or performance *Ibid.* s. 22 (1). whereby the life or limb of such child is endangered; or
 - (f) who, not being duly licensed for that purpose, is engaged in street trading; or
 - (g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or
 - (h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or
 - (i) who is in any place where opium or any preparation thereof is smoked; or
 - (j) who is living under such conditions as indicate that the child is lapsing into a career of vice and crime.
- “Offence” includes any matter punishable summarily or by indictment. “Prescribed”

Neglected Children and Juvenile Offenders.

"Prescribed" means prescribed by this Act or by regulations made thereunder.

"Proclamation" means proclamation in the Gazette.

"Public place" means road, street, thoroughfare, court, or alley to which the public have the right of access, or which the public are allowed to use, and includes any part of premises licensed under Part III of the Liquor Act, 1898, which is open to the public.

"Shelter" shall include a place of safety within the meaning of section twenty-five of Children's Protection Act, 1902.

3 Ed. VII, c. 45,
s. 13.

"Street trading" includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoe-blackening and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.

"Superintendent" includes manager or person in charge.

"The Minister" shall mean the Minister of Public Instruction.

"Uncontrollable child" means child whom his parent cannot control.

PART II.

INSTITUTIONS.

Governor may
establish institutions.
See Act No. 38,
1901, s. 4.

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

- (a) shelters for the reception and temporary detention and maintenance of children;
- (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;
- (c) reformatory schools for the reception, detention, maintenance, and reformation of children committed to such institutions.

Minister to have
direction of
institutions.

7. Every institution shall be controlled and administered under the direction of the Minister, and shall be maintained by such moneys as may be appropriated by Parliament for that purpose.

Visitation and
inspection.

8. Every institution shall once at least in every three months, be visited and inspected by a person appointed by the Minister.

Neglected Children and Juvenile Offenders.

PART III.

CHILDREN AND CHILDREN'S COURTS.

Constitution and powers of courts.

9. (1) The Governor shall by proclamation establish special courts to be called children's courts. Governor may establish special courts for dealing with children.

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

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

10. Within the area so named a children's court and the magistrate constituting such court— Powers of court.

(a) shall exercise the powers and authorities which are possessed by stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children ;

(b) shall exercise the powers and authorities of a court of petty sessions or of a justice under the Children's Protection Act, 1902, or of a magistrate under the Infant Protection Act, 1904 ; and

(c) shall hear and determine complaints, informations, and applications under this Act.

11. On and after the establishing of a children's court, the jurisdiction of every court of petty sessions in respect of the matters as to which the children's court has jurisdiction shall cease to be exercised within the area proclaimed : Jurisdiction of other courts to cease.

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

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

12. A court shall be held—

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

Children's courts not held in ordinary courts.

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

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Section 32 of Act of
1904.

(2) Section thirty-two of the Infant Protection Act, 1904, shall apply to the hearing of a complaint under Part II of that Act, but in no other case.

Appeal from
children's court.

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

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

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

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

Committal of neglected or uncontrollable children or juvenile offenders.

Warrant for
apprehension.
Act No. 38, 1901,
s. 18.

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

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

Apprehension of
child.

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

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

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

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

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

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

18. Any person authorised by the Governor in that behalf, or any officer of police of or above the rank of senior-constable, may without warrant apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child. Apprehension of child in brothel, &c.

19. Any child apprehended as a neglected or uncontrollable child or juvenile offender shall be taken to a shelter and there detained pending the determination of a court. Child placed in shelter.

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

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

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

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

If the parent refuses to attend without reasonable excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognisances, with or without sureties, to attend at the court at the hearing of the matter.

23. If on the hearing the court finds that a child is a neglected or uncontrollable child it may— Power of court with respect to neglected or uncontrollable children.

- (a) release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or
- (b)

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- (b) commit the child for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution:

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

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

Power with respect to child liable to be summarily convicted.

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

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

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

The Minister may order the removal to an institution of the child so sentenced.

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

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

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

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

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

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

Power with respect to child charged with certain indictable offences.

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

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

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

Child committed for trial may be sent to institution.

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

27. Where a child is charged before a court with any offence other than homicide or rape, or is brought before a court as a neglected or uncontrollable child, the court, before making any order or commitment, shall give the child or his parent an opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child.

Court to hear evidence on behalf of child.

28. When a child has been dealt with under paragraph (a) or (b) of section twenty-three, twenty-four, or twenty-six, the following provisions shall apply:—

As to sections 23, 24, or 26.

- (1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person in charge of the asylum or to whose care he has been committed.
- (2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.
- (3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of five pounds, and the child may be removed from his custody and control by the Minister.

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As to breach of
terms of probation.

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

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

Child convicted of
indictable offence
may be sent to
institution.

Act No. 32, 1901,
s. 13.

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

Form of committal.
Act No. 38, 1901,
s. 14.

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

Provided that in the case of a child charged with an indictable offence, such committal may be made to a reformatory school, and if so made, shall be for the period named, being not less than one nor more than five years.

Children be placed
in shelter.

32. A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter.

Child placed in
institution.

33. 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.

PART IV.

CHILDREN IN INSTITUTIONS.

Custody and control.

Children in institu-
tions under control
of superintendent.

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

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

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

Powers and duties of Minister.

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

36. The Minister may at the request of the board or of the governing body of an asylum take any child from the custody of the board or from the asylum, and place him in any institution other than a reformatory school.

Child removed from board or asylum to an institution.

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

Religious teaching. Act No. 38, 1901, s. 32.

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

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

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

Child may be apprenticed. Act No 38, 1901, s. 34.

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

Punishment for misconduct.

Neglected Children and Juvenile Offenders.

Court may put
an end to
apprenticeship.
Act No. 38, 1901,
s. 35.

39. A court, upon complaint made by the superintendent of any institution that any person to whom any such child has been apprenticed is not performing the conditions of such indenture, or is unfit to have the further care or control of such apprentice, may summon such person to answer such complaint, and on proof thereof on oath may order such apprenticeship to be put an end to, and may direct the apprentice to be sent back to such institution, and such child shall thereupon be subject to the like custody and control as under the original order by which he was sent to such institution.

Discharge of child
by Governor.

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

Maintenance of children by relatives.

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

41. (1) If it appears to a court on complaint by or on behalf of the Minister that any near relative is of ability to maintain or to contribute to the maintenance of a child in an institution, the court may on summons order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards—

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

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

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

(4) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child under the Infant Protection Act, 1904, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay twice for the maintenance of the same child.

(5) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part II of the Infant Protection Act, 1904. 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.

Neglected Children and Juvenile Offenders.

42. Where any proceedings are taken under the Infant Protection Act, 1904, or this Act, in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under any such Act shall be made—

Evidence necessary for order for maintenance.

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

Offences in respect of children in institutions.

43. Any person who—

- (a) illtreats, terrorises, or injures any child committed to or an inmate of an institution;
- (b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is apprenticed;
- (c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;
- (d) having the charge of any such child—
 - (i) illegally discharges or dismisses or attempts to discharge or dismiss him from the institution;
 - (ii) neglects such child;
 - (iii) 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 child and which by such indenture or agreement he has bound himself or agreed to observe, perform, or keep,

Offences in respect of State children.

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

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

Absconder from reformatory may be punished.
Act No. 38, 1901, s. 27.

45. If any child committed to or an inmate of any institution before his discharge or apprenticing be absent therefrom without the leave of the superintendent, any constable may apprehend and convey such child to such institution to be delivered into the custody of the superintendent thereof.

Child deserting may be apprehended.
Act No. 38, 1901, s. 29.

Neglected Children and Juvenile Offenders.

Keeper of brothel or
opium den in which
child is found guilty
of misdemeanour.

46. Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or the person in charge or apparently in charge of such brothel or place shall be guilty of a misdemeanour.

PART V.

LICENSING OF CHILDREN.

Issue of licenses.

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

- (a) by the Minister or by any officer acting under his authority ;
or
- (b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.

Badges.

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

Conditions of issue
of licenses.

(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.

Term of license.

(4) 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 or by the authority which has issued it. No charge shall be made for any license or badge.

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

48. If any person employs a child in street trading—
(a) who is not duly licensed under this Act ; or
(b) who, although so licensed, is employed by him in trading of a description not authorised by the license,
he shall be liable to a penalty not exceeding two pounds, or in case of a second or subsequent offence to a penalty not exceeding five pounds.

PART VI.

GENERAL AND SUPPLEMENTAL.

Recovery of
penalties.

49. All orders and penalties under this Act shall be enforced, imposed, and recovered by and before a court.

Order forwarded to
an institution.
Act 38 of 1901, s. 37.

50. (1) An order duly endorsed committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent, and shall be a sufficient warrant for the detention of the child.
(2)

Neglected Children and Juvenile Offenders.

(2) The production of—

- (a) such order so endorsed; or
- (b) a copy of such order so endorsed with a memorandum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of the signing thereof detained in such institution, or has been otherwise disposed of according to 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 to be a correct copy,

Certain orders and
copies to be evidence.
Act 33 of 1901, s. 39.

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

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

51. 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 a 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.

52. (1) The Governor may make regulations—

Regulations.

- (a) for regulating the management of institutions;
- (b) providing for the visitation and inspection of institutions and places where children are placed or apprenticed under this Act;
- (c) prescribing the duties of officers employed in the administration of this Act;
- (d) providing for the employment, education, discipline, and punishment of children in institutions;
- (e) providing for the medical care of children in institutions and for the burial of any child who has died;
- (f) providing for the conditions under which, the purposes for which, and the ages during which licenses under this Act may be issued to and held by children, the hours during which such licenses shall have force and effect, and the form of badges and manner of wearing them.
- (g) for carrying this Act into effect;
- (h) for the imposition of a penalty not exceeding twenty pounds for the breach of any regulation made under this Act.

(2)

Neglected Children and Juvenile Offenders.

(2) All such regulations 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.

Date of Act.	Name of Act.	Extent of repeal.
Act No. 40, 1900	Crimes Act, 1900	So much of section 429 as is inconsistent with this Act.
Act No. 38, 1901	Reformatory and Industrial Schools Act, 1901.	The whole.
Act No. 47, 1902	Children's Protection Act, 1902	Sections 29, 30, 31, and 32, and so much of the rest of the Act as is inconsistent with this Act.

In the name and on the behalf of His Majesty I assent to this Act.

State Government House,
Sydney, 26th September, 1905.

FREDK. M. DARLEY,
Lieutenant-Governor.

NEGLECTED CHILDREN AND JUVENILE OFFENDERS BILL.

SCHEDULE showing the Legislative Assembly's Disagreements from the Legislative Council's Amendments, referred to in Message of 19th September, 1905.

RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.

Page 8, clause **23**, lines 1 and 2. *Omit* "upon such terms and conditions and"
Page 8, clause **24**, lines 21 and 22. *Omit* "upon such terms and conditions and"
Page 9, clause **26**, lines 14 and 15. *Omit* "upon such terms and conditions and"

NEGLECTED CHILDREN AND JUVENILE OFFENDERS BILL.

SCHEDULE of the Amendments referred to in Message of 13th September, 1905.

- Page 2, clause 1, line 9. *Omit "September" insert "October"*
- Page 3, clause 5, line 9. *After "person" insert "admitting himself to be or"*
- Page 3, clause 5, line 35. *After "dead" insert "insane"*
- Page 3, clause 5, line 42. *After "smoked" insert "or"*
- "*(j) who is living under such conditions as indicate that the child is lapsing into a career of vice and crime.*"
- Page 4, clause 8, line 36. *After "Minister" omit remainder of clause.*
- Page 6, clause 15, line 22. *After "board" insert "or other person appointed by the Minister in that behalf"*
- Page 7. *After clause 17 insert new clause 18.*
- Page 7, clause ~~22~~, ~~23~~, lines 43 and 44. *Omit "send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or" insert "release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or"*
- Page 8, clause ~~22~~, ~~23~~, line 1. *Omit "for a specified period" insert "upon such terms and conditions and for such period of time as the court may think fit, either"*
- Page 8, clause ~~23~~, ~~24~~, lines 17 and 18. *Omit "send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or" insert "release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or"*
- Page 8, clause ~~23~~, ~~24~~, line 21. *Omit "for a specified period" insert "upon such terms and conditions and for such period of time as the court may think fit, either"*
- Page 9, clause ~~25~~, ~~26~~, lines 10 and 11. *Omit "send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or" insert "release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or"*
- Page 9, clause ~~25~~, ~~26~~, line 14. *Omit "for a specified period" insert "upon such terms and conditions and for such period of time as the court may think fit, either"*
- Page 9. *After clause ~~26~~, ~~27~~ insert new clauses 28 and 29.*
- Page 15, clause ~~49~~, ~~52~~, line 27. *After "are" insert "placed or"*

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

*Legislative Assembly Chamber,
Sydney, 19 July, 1905. }*

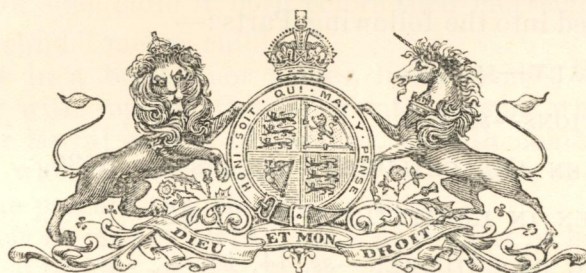
*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

*Legislative Council Chamber,
Sydney, 13th September, 1905. }*

*JOHN J. CALVERT,
Clerk of the Parliaments.*

New South Wales.



ANNO QUINTO

EDWARDI VII REGIS.

Act No. , 1905.

An Act to make better provision for the protection, control, education, maintenance, and reformation of neglected and uncontrollable children and juvenile offenders; to provide for the establishment and control of institutions and for contribution by near relatives towards the support of children in institutions; to constitute children's courts and to provide for appeals from such courts; to provide for the licensing and regulation of children trading in streets and in certain places open to the public; to amend the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Crimes Act, 1900; to repeal the Reformatory and Industrial Schools Act, 1901; and for purposes consequent thereon or incidental thereto.

Neglected Children and Juvenile Offenders.

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 "Neglected Children and Juvenile Offenders Act, 1905," and shall come into operation on the first day of ~~September~~ **October**, one thousand nine hundred and five. Short title and commencement.

10

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

Division into Parts.

PART I.—PRELIMINARY—ss. 1-5.

PART II.—INSTITUTIONS—ss. 6-8.

PART III.—CHILDREN AND CHILDREN'S COURTS—ss. 9-30.

PART IV.—CHILDREN IN INSTITUTIONS—ss. 31-43.

15

PART V.—LICENSING OF CHILDREN—ss. 44, 45.

PART VI.—GENERAL AND SUPPLEMENTAL—ss. 46-49.

3. The enactments specified in the Schedule are to the extent therein mentioned repealed. Repeal and savings.

20 4. (1) All persons appointed under any Act hereby repealed, and holding office at the commencement of this Act, shall be deemed to have been appointed hereunder. Persons appointed under repealed Acts.

(2) All schools declared to be reformatory schools, or public industrial schools, under any Act hereby repealed, shall continue to be such schools, subject, however, to the provisions of this Act relating to institutions constituted thereunder. Reformatory schools or public industrial schools.

25

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

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

30

"Asylum" has the meaning given to that word in the State Children Relief Act, 1901.

"Board" means State Children's Relief Board.

"Child" means boy or girl under sixteen and over five years of age.

35

"Court" means children's court established under this Act, and includes a magistrate or justices exercising the jurisdiction of a children's court.

40

"Institution" means institution established under this Act, and includes a reformatory and a public industrial school established under the Reformatory and Industrial Schools Act, 1901.

"Justice"

Neglected Children and Juvenile Offenders.

“Justice” means justice of the peace.

“Juvenile offender” means child who has committed an offence.

“Local Authority” means council of a municipality, and includes the governing body of a local government area, constituted or to be constituted.

“Maintenance” includes clothing, support, training, and education.

“Near relative” means, except as regards an illegitimate child, father, mother, stepfather, or stepmother of the child; and as regards an illegitimate child—the mother and the person **admitting himself to be** or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.

“Neglected child” means child—

(a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or

(b) who has no visible lawful means of support or has no fixed place of abode; or

(c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; 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 by his parent:

Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or

(e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or

(f) who, not being duly licensed for that purpose, is engaged in street trading; or

(g) whose parents are habitual drunkards, or if one of these be dead, **insane**, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or

(h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or

(i) who is in any place where opium or any preparation thereof is smoked; or

(j) **who is living under such conditions as indicate that the child is lapsing into a career of vice and crime.**

“Offence” includes any matter punishable summarily or by indictment.

“Prescribed”

Neglected Children and Juvenile Offenders.

- “Prescribed” means prescribed by this Act or by regulations made thereunder.
- “Proclamation” means proclamation in the Gazette.
- 5 “Public place” means road, street, thoroughfare, court, or alley to which the public have the right of access, or which the public are allowed to use, and includes any part of premises licensed under Part III of the Liquor Act, 1898, which is open to the public.
- 10 “Shelter” shall include a place of safety within the meaning of section twenty-five of Children’s Protection Act, 1902.
- “Street trading” includes the hawking of newspapers, matches, ^{3 Ed. VII, c. 45, s. 13.} flowers and other articles, playing, singing, or performing for profit, shoe-blackening and any other like occupation carried on in any public place. But this definition does not
- 15 include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.
- “Superintendent” includes manager or person in charge.
- “The Minister” shall mean the Minister of Public Instruction.
- 20 “Uncontrollable child” means child whom his parent cannot control.

PART II.

INSTITUTIONS.

- 25 6. The Governor may, by proclamation, establish and constitute, ^{Governor may establish institutions.} as institutions under this Act,—
- (a) shelters for the reception and temporary detention and maintenance of children;
- (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;
- 30 (c) reformatory schools for the reception, detention, maintenance, and reformation of children committed to such institutions.
7. Every institution shall be controlled and administered under ^{Minister to have direction of institutions.} the direction of the Minister, and shall be maintained by such moneys as may be appropriated by Parliament for that purpose.
- 35 8. Every institution shall once at least in every three months, ^{Visitation and inspection.} be visited and inspected by a person appointed by the Minister ~~having direction of the same.~~

PART

Neglected Children and Juvenile Offenders.

PART III.

CHILDREN AND CHILDREN'S COURTS.

Constitution and powers of courts.

9. (1) The Governor shall by proclamation establish special
5 courts to be called children's courts. Governor may establish special courts for dealing with children.

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

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

10. Within the area so named a children's court and the
magistrate constituting such court— Powers of court.

(a) shall exercise the powers and authorities which are possessed
15 by stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children ;

(b) shall exercise the powers and authorities of a court of petty sessions or of a justice under the Children's Protection Act, 1902, or of a magistrate under the Infant Protection Act, 1904; and
20

(c) shall hear and determine complaints, informations, and applications under this Act.

11. On and after the establishing of a children's court, the
jurisdiction of every court of petty sessions in respect of the matters
25 as to which the children's court has jurisdiction shall cease to be exercised within the area proclaimed : Jurisdiction of other courts to cease.

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

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

35 12. A court shall be held—

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

Children's courts not held in ordinary courts.

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

(2)

Neglected Children and Juvenile Offenders.

(2) Section thirty-two of the Infant Protection Act, 1904, shall apply to the hearing of a complaint under Part II of that Act, but in no other case. Section 32 of Act of 1904.

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

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

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

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

Committal of neglected or uncontrollable children or juvenile offenders.

15. Any justice may, upon oath being made before him by an officer of the board or other person appointed by the Minister in that behalf that, having made due inquiry, he believes any child to be a neglected or uncontrollable child,— Warrant for apprehension. Act No. 38, 1901, s. 18.

25 (a) issue his summons for the appearance of such child before a court ; or

(b) in the first instance, issue his warrant directing such child to be apprehended.

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

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

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

Neglected Children and Juvenile Offenders.

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

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

18. Any person authorised by the Governor in that behalf, or any officer of police of or above the rank of senior-constable, may without warrant apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child.

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

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

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

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

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

If the parent refuses to attend without reasonable excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognisances, with or without sureties, to attend at the court at the hearing of the matter.

23. If on the hearing the court finds that a child is a neglected or uncontrollable child it may—

(a) ~~send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or~~

(b)

Neglected Children and Juvenile Offenders.

- (b) commit the child ~~for a specified period~~ upon such terms and conditions and for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- 5 (c) commit the child to an institution :
 Provided that no order of committal of an uncontrollable child on the application of a near relative shall be made unless—
- (a) he proves that he has not by neglect lost control of the child ; and
- 10 (b) security is given to the satisfaction of the court for the making of such payment as, in the opinion of the court, the applicant is able to afford towards the maintenance of such child.
- ~~23.~~ 24. Where a child is summarily convicted of an offence for 15 which the penalty is punishment by imprisonment, or imprisonment in default of payment of a fine, the court may—
- (a) ~~send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or release the child on probation upon such terms and conditions~~ and for such period of time as the court may think fit; or
- 20 (b) commit the child ~~for a specified period~~ upon such terms and conditions and for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- 25 (c) commit the child to an institution; or
- (d) sentence the child according to law.

Power with respect to child liable to be summarily convicted.

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

- 30 The Minister may order the removal to an institution of the child so sentenced.

24. 25. (1) Where a child is summarily convicted before a court of an offence in respect of which a penalty, damages, or costs are imposed, and there is reason to believe that his parent has contributed 35 to the commission of the offence by wilful default or by habitually neglecting to exercise due care of the child, the court may, on information, issue a summons against such parent, charging him with so contributing to the commission of the offence.

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

- (2) If the court is satisfied that the parent has contributed 40 to the commission by the child of the offence by wilful default, or by habitually neglecting to exercise due care of him, the court may order that the penalty, damages, or costs shall be paid by the parent instead of by the child, and may also order the parent to give security for the good behaviour of the child.

(3)

Neglected Children and Juvenile Offenders.

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

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

25. 26. (1) Where a child is charged before a court with an indictable offence other than homicide or rape, and is not dealt with summarily, the court may—

Power with respect to child charged with certain indictable offences.

- 10 (a) ~~send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or~~
release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or
- 15 (b) commit the child for a specified period upon such terms and conditions and for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution; or
- (d) commit the child to take his trial according to law.

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

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

Child committed for trial may be sent to institution.

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

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

Court to hear evidence on behalf of child.

28. When a child has been dealt with under paragraph (a) or (b) of section twenty-three, twenty-four, or twenty-six, the following provisions shall apply:—

As to ss. 23, 24, or 26.

- 40 (1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person in charge of the asylum or to whose care he has been committed.
- (2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.
- 45

(3)

Neglected Children and Juvenile Offenders.

- (3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of five pounds, and the child may be removed from his custody and control by the Minister.
- 5 29. If a child who has been released upon probation breaks the terms or conditions of the release, he may be apprehended and brought before the court. As to breach of terms of probation.
- If it shall appear that such breach has occurred, the court may commit him under the provisions of this Act, in the same manner as
- 10 if he had not been released upon probation.
27. 30. Where a child upon his trial has pleaded guilty to or has been convicted of an indictable offence, the judge may, in addition to any other sentence for the offence, commit the child at the expiration of such sentence to an institution, or may, instead of any other sentence, Child convicted of indictable offence may be sent to institution. Act No. 38, 1901, s. 13.
- 15 commit the child forthwith to an institution.
28. 31. A court or a judge in committing a child to an institution shall do so in general terms, but may recommend to the Minister that the child be sent to an institution of a particular class : Form of committal. Act No. 38, 1901, s. 14.
- Provided that in the case of a child charged with an indictable
- 20 offence, such committal may be made to a reformatory school, and if so made, shall be for the period named, being not less than one nor more than five years.
29. 32. A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter. Children be placed in shelter.
- 25 30. 33. 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. Child placed in institution.

PART IV.

CHILDREN IN INSTITUTIONS.

30

Custody and control.

31. 34. All children committed to or inmates of an institution shall, subject to the directions of the Minister, be in the custody and under the control of the superintendent of the institution until they attain the age of eighteen years, or are discharged, removed from the
- 35 institution, or apprenticed :
- Provided that a child committed to a reformatory school on being charged with an indictable offence shall be detained in such school or in such other institution to which he may be removed until the expiration of the period named in the order of committal, or until
- 40 he is lawfully discharged, removed from the institution, or apprenticed.

Neglected Children and Juvenile Offenders.

32. 35. The Minister, with respect to any child who has been committed to or is an inmate of any institution,— Powers and duties of Minister.

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

33. 36. The Minister may at the request of the board or of the governing body of an asylum take any child from the custody of the board or from the asylum, and place him in any institution other than a reformatory school. Child removed from board or asylum to an institution.

34. 37. (1) Every child, an inmate of any institution, shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up. Religious teaching. Act No. 38, 1901, s. 32.

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

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

35. 38. (1) The superintendent of any institution may by indenture bind or cause to be bound any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 1901. Child may be apprenticed. Act No. 38, 1901, s. 34.

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

Neglected Children and Juvenile Offenders.

36. 39. A court, upon complaint made by the superintendent of any institution that any person to whom any such child has been apprenticed is not performing the conditions of such indenture, or is unfit to have the further care or control of such apprentice, may
 5 summon such person to answer such complaint, and on proof thereof on oath may order such apprenticeship to be put an end to, and may direct the apprentice to be sent back to such institution, and such child shall thereupon be subject to the like custody and control as under the original order by which he was sent to such institution.
- 10 37. 40. The Governor may discharge any child from an institution and restore him to the custody of his parent or other suitable person on such terms and conditions as to him may seem desirable, or as may be prescribed.

Court may put an end to apprenticeship. Act No. 38, 1901, s. 35.

Discharge of child by Governor.

Maintenance of children by relatives.

- 15 38. 41. (1) If it appears to a court on complaint by or on behalf of the Minister that any near relative is of ability to maintain or to contribute to the maintenance of a child in an institution, the court may on summons order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for
 20 or towards—
- (a) the past maintenance of such child, whether such child be alive or not at the time of the application ;
- (b) the future maintenance of such child.
- (2) A like order against a near relative may, with his
 25 consent, be made on the committal of the child to an institution by the court so committing him.
- (3) Such order, when made against a father or mother, may include the cost of bringing such parent back to the place where the order is made from any other place where he or she may for the time
 30 being reside.
- (4) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child under the Infant Protection Act, 1904, the court may rescind or amend the last-mentioned order so as to secure that the said person
 35 do not pay twice for the maintenance of the same child.
- (5) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part II of the Infant Protection Act, 1904. And the court may issue a warrant for the arrest of any
 40 person absconding from the State with a view to evade compliance with any order under this section.

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

Neglected Children and Juvenile Offenders.

~~39.~~ 42. Where any proceedings are taken under the Infant Protection Act, 1904, or this Act, in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under any such Act shall be made—

Evidence necessary for order for maintenance.

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

Offences in respect of children in institutions.

10 ~~40.~~ 43. Any person who—

- (a) illtreats, terrorises, or injures any child committed to or an inmate of an institution; Offences in respect of State children.
 (b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is apprenticed;
 15 (c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;
 20 (d) having the charge of any such child—
 (i) illegally discharges or dismisses or attempts to discharge or dismiss him from the institution;
 (ii) neglects such child;
 25 (iii) 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 child and which by such indenture or agreement he has bound himself or agreed to observe, perform, or keep,
 shall be liable to a penalty not exceeding fifty pounds or to be
 30 imprisoned for a period not exceeding six months.

~~41.~~ 44. Any child committed to or an inmate of any reformatory school who absconds therefrom, or neglects or refuses to conform to the rules thereof, may be taken before a court, and on proof on oath of such absconding, neglect, or refusal, the court may commit such child to gaol for any period not exceeding three months, such period of imprisonment to be passed as far as practicable in strict separation. Such child shall at the termination of such imprisonment be returned to such reformatory school and there detained, subject to this Act, for the remainder of the term for which he was committed.

Absconder from reformatory may be punished.
 Act No. 38, 1901, s. 27.

40 ~~42.~~ 45. If any child committed to or an inmate of any institution before his discharge or apprenticing be absent therefrom without the leave of the superintendent, any constable may apprehend and convey such child to such institution to be delivered into the custody of the superintendent thereof.

Child deserting may be apprehended.
 Act No. 38, 1901, s. 29.

Neglected Children and Juvenile Offenders.

43. 46. Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or the person in charge or apparently in charge of such brothel or place shall be guilty of a misdemeanour. Keeper of brothel or opium den in which child is found guilty of misdemeanour.

5

PART V.

LICENSING OF CHILDREN.

44. 47. (1) A written license authorising a male child of or over the age of ten years to engage, subject to the regulations, in a specified description of street trading may be issued— Issue of licenses.

- 10 (a) by the Minister or by any officer acting under his authority ;
or
(b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.

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

(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. Conditions of issue of licenses.

20 (4) 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 or by the authority which has issued it. No charge shall be made for any license or badge. Term of license.

45. 48. If any person employs a child in street trading—

- 25 (a) who is not duly licensed under this Act ; or
(b) who, although so licensed, is employed by him in trading of a description not authorised by the license, Penalty for employing child in street trading in contravention of Act.
he shall be liable to a penalty not exceeding two pounds, or in case of a second or subsequent offence to a penalty not exceeding five pounds.

30

PART VI.

GENERAL AND SUPPLEMENTAL.

46. 49. All orders and penalties under this Act shall be enforced, imposed, and recovered by and before a court. Recovery of penalties.

35 47. 50. (1) An order duly endorsed committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent, and shall be a sufficient warrant for the detention of the child. Order forwarded to an institution. Act 38 of 1901, s. 37.
(2)

Neglected Children and Juvenile Offenders.

(2) The production of—

Certain orders and
copies to be evidence.
Act 38 of 1901, s. 39.

- (a) such order so endorsed ; or
 - 5 (b) a copy of such order so endorsed with a memorandum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of the signing thereof detained in such institution, or has been otherwise disposed of according to law ; or
 - 10 (c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy,
- shall, without proof of the signature of the person purporting to have signed the same, be evidence in all courts and proceedings—
- 15 (d) of the due making and signing of any such order, memorandum, or certificate ; and
 - (e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

48. 51. No child shall be boarded out under section sixteen of the Boarding out of children under section 16 of State Children Relief Act.
20 State Children Relief Act, 1901, until the board has referred the case of such child to a 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.

49. 52. (1) The Governor may make regulations—

Regulations.

- 25 (a) for regulating the management of institutions ;
- (b) providing for the visitation and inspection of institutions and places where children are placed or apprenticed under this Act ;
- (c) prescribing the duties of officers employed in the administration of this Act ;
- 30 (d) providing for the employment, education, discipline, and punishment of children in institutions ;
- (e) providing for the medical care of children in institutions and for the burial of any child who has died ;
- 35 (f) providing for the conditions under which, the purposes for which, and the ages during which licenses under this Act may be issued to and held by children, the hours during which such licenses shall have force and effect, and the form of badges and manner of wearing them.
- (g) for carrying this Act into effect ;
- 40 (h) for the imposition of a penalty not exceeding twenty pounds for the breach of any regulation made under this Act.

(2)

Neglected Children and Juvenile Offenders.

(2) All such regulations 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 5 commencement of the next ensuing session.

SCHEDULE.

Date of Act.	Name of Act.	Extent of repeal.
10 Act No. 40, 1900	Crimes Act, 1900	So much of section 429 as is inconsistent with this Act.
Act No. 38, 1901	Reformatory and Industrial Schools Act, 1901.	The whole.
Act No. 47, 1902	Children's Protection Act, 1902	Sections 29, 30, 31, and 32, and so much of the rest of the Act as is inconsistent with this Act.

Sydney : William Applegate Gullick, Government Printer. —1905.

[1s.]

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

*Legislative Assembly Chamber,
Sydney, 19 July, 1905.* }

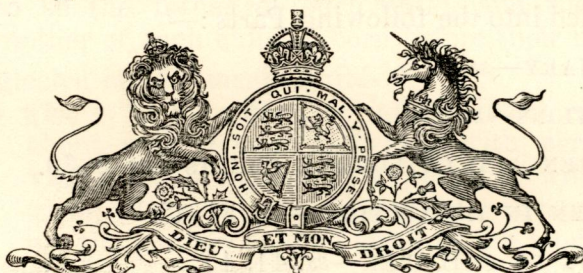
*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

*Legislative Council Chamber,
Sydney, September, 1905.* }

Clerk of the Parliaments.

New South Wales.



ANNO QUINTO

EDWARDI VII REGIS.

Act No. , 1905.

An Act to make better provision for the protection, control, education, maintenance, and reformation of neglected and uncontrollable children and juvenile offenders; to provide for the establishment and control of institutions and for contribution by near relatives towards the support of children in institutions; to constitute children's courts and to provide for appeals from such courts; to provide for the licensing and regulation of children trading in streets and in certain places open to the public; to amend the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Crimes Act, 1900; to repeal the Reformatory and Industrial Schools Act, 1901; and for purposes consequent thereon or incidental thereto.

Neglected Children and Juvenile Offenders.

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 "Neglected Children and Juvenile Offenders Act, 1905," and shall come into operation on the first day of ~~September~~ **October**, one thousand nine hundred and five.

10

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

Division into Parts.

PART I.—PRELIMINARY—ss. 1-5.

PART II.—INSTITUTIONS—ss. 6-8.

PART III.—CHILDREN AND CHILDREN'S COURTS—ss. 9-30.

PART IV.—CHILDREN IN INSTITUTIONS—ss. 31-43.

15

PART V.—LICENSING OF CHILDREN—ss. 44, 45.

PART VI.—GENERAL AND SUPPLEMENTAL—ss. 46-49.

3. The enactments specified in the Schedule are to the extent therein mentioned repealed.

20 4. (1) All persons appointed under any Act hereby repealed, and holding office at the commencement of this Act, shall be deemed to have been appointed hereunder.

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

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

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

30 "Asylum" has the meaning given to that word in the State Children Relief Act, 1901.

"Board" means State Children's Relief Board.

"Child" means boy or girl under sixteen and over five years of age.

35 "Court" means children's court established under this Act, and includes a magistrate or justices exercising the jurisdiction of a children's court.

40 "Institution" means institution established under this Act, and includes a reformatory and a public industrial school established under the Reformatory and Industrial Schools Act, 1901.

"Justice"

Neglected Children and Juvenile Offenders.

"Justice" means justice of the peace.

"Juvenile offender" means child who has committed an offence.

"Local Authority" means council of a municipality, and includes the governing body of a local government area, constituted or to be constituted.

"Maintenance" includes clothing, support, training, and education.

"Near relative" means, except as regards an illegitimate child, father, mother, stepfather, or stepmother of the child; and as regards an illegitimate child—the mother and the person **admitting himself to be** or adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.

"Neglected child" means child—

(a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or

(b) who has no visible lawful means of support or has no fixed place of abode; or

(c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; 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 by his parent:

Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or

(e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or

(f) who, not being duly licensed for that purpose, is engaged in street trading; or

(g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or

(h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or

(i) who is in any place where opium or any preparation thereof is smoked; or

(j) who is living under such conditions as indicate that the child is lapsing into a career of vice and crime.

"Offence" includes any matter punishable summarily or by indictment.

"Prescribed"

Neglected Children and Juvenile Offenders.

- “Prescribed” means prescribed by this Act or by regulations made thereunder.
- “Proclamation” means proclamation in the Gazette.
- 5 “Public place” means road, street, thoroughfare, court, or alley to which the public have the right of access, or which the public are allowed to use, and includes any part of premises licensed under Part III of the Liquor Act, 1898, which is open to the public.
- 10 “Shelter” shall include a place of safety within the meaning of section twenty-five of Children’s Protection Act, 1902.
- “Street trading” includes the hawking of newspapers, matches, ^{3 Ed. VII, c. 45, s. 13.} flowers and other articles, playing, singing, or performing for profit, shoe-blackening and any other like occupation carried on in any public place. But this definition does not
- 15 include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.
- “Superintendent” includes manager or person in charge.
- “The Minister” shall mean the Minister of Public Instruction.
- 20 “Uncontrollable child” means child whom his parent cannot control.

PART II.

INSTITUTIONS.

6. The Governor may, by proclamation, establish and constitute, ^{Governor may establish institutions.} as institutions under this Act,—
- (a) shelters for the reception and temporary detention and maintenance of children;
- (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;
- 30 (c) reformatory schools for the reception, detention, maintenance, and reformation of children committed to such institutions.
7. Every institution shall be controlled and administered under ^{Minister to have direction of institutions.} the direction of the Minister, and shall be maintained by such moneys as may be appropriated by Parliament for that purpose.
- 35 8. Every institution shall once at least in every three months, ^{Visitation and inspection.} be visited and inspected by a person appointed by the Minister ~~having direction of the same.~~

PART

Neglected Children and Juvenile Offenders.

PART III.

CHILDREN AND CHILDREN'S COURTS.

Constitution and powers of courts.

9. (1) The Governor shall by proclamation establish special
5 courts to be called children's courts. Governor may establish special courts for dealing with children.

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

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

10. Within the area so named a children's court and the
magistrate constituting such court— Powers of court.

(a) shall exercise the powers and authorities which are possessed
15 by stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children;

(b) shall exercise the powers and authorities of a court of petty sessions or of a justice under the Children's Protection Act, 1902, or of a magistrate under the Infant Protection Act,
20 1904; and

(c) shall hear and determine complaints, informations, and applications under this Act.

11. On and after the establishing of a children's court, the
jurisdiction of every court of petty sessions in respect of the matters
25 as to which the children's court has jurisdiction shall cease to be exercised within the area proclaimed: Jurisdiction of other courts to cease.

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

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

35 12. A court shall be held—

(a) where practicable, in the proximity of a shelter;

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

Children's courts not held in ordinary courts.

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

(2)

Neglected Children and Juvenile Offenders.

(2) Section thirty-two of the Infant Protection Act, 1904, shall apply to the hearing of a complaint under Part II of that Act, but in no other case. Section 32 of Act of 1904.

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

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

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

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

20 *Committal of neglected or uncontrollable children or juvenile offenders.*

15. Any justice may, upon oath being made before him by an officer of the board or other person appointed by the Minister in that behalf that, having made due inquiry, he believes any child to be a neglected or uncontrollable child,— Warrant for apprehension. Act No. 38, 1901, s. 18.

25 (a) issue his summons for the appearance of such child before a court ; or

(b) in the first instance, issue his warrant directing such child to be apprehended.

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

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

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

(3)

Neglected Children and Juvenile Offenders.

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

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

18. Any person authorised by the Governor in that behalf, or any officer of police of or above the rank of senior-constable, may without warrant apprehend a child who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child.

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

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

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

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

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

If the parent refuses to attend without reasonable excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognisances, with or without sureties, to attend at the court at the hearing of the matter.

22. 23. If on the hearing the court finds that a child is a neglected or uncontrollable child it may—

(a) ~~send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or~~ release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or

(b)

Child placed in shelter.

Child to be brought before a court or discharged.

Application to commit uncontrollable child to institution.

Procedure of court.

Power of court with respect to neglected or uncontrollable children.

Neglected Children and Juvenile Offenders.

- (b) commit the child ~~for a specified period~~ **upon such terms and conditions and for such period of time as the court may think fit, either** to an asylum, or to the care of some person who is willing to undertake such care; or

- 5 (c) commit the child to an institution :

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

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

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

Power with respect to child liable to be summarily convicted.

- (a) ~~send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or~~ **release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or**
- 20 (b) commit the child ~~for a specified period~~ **upon such terms and conditions and for such period of time as the court may think fit, either** to an asylum, or to the care of some person who is willing to undertake such care; or
- 25 (c) commit the child to an institution; or
- (d) sentence the child according to law.

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

30 The Minister may order the removal to an institution of the child so sentenced.

24. 25. (1) Where a child is summarily convicted before a court of an offence in respect of which a penalty, damages, or costs are imposed, and there is reason to believe that his parent has contributed to the commission of the offence by wilful default or by habitually neglecting to exercise due care of the child, the court may, on information, issue a summons against such parent, charging him with so contributing to the commission of the offence.

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

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

Neglected Children and Juvenile Offenders.

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

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

25. 26. (1) Where a child is charged before a court with an indictable offence other than homicide or rape, and is not dealt with summarily, the court may—

Power with respect to child charged with certain indictable offences.

- 10 (a) ~~send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or~~ release the child on probation upon such terms and conditions and for such period of time as the court may think fit; or
- 15 (b) commit the child ~~for a specified period~~ upon such terms and conditions and for such period of time as the court may think fit, either to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution; or
- (d) commit the child to take his trial according to law.

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

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

Child committed for trial may be sent to institution.

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

26. 27. Where a child is charged before a court with any offence other than homicide or rape, or is brought before a court as a neglected or uncontrollable child, the court, before making any order or commitment, shall give the child or his parent an opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child.

Court to hear evidence on behalf of child.

28. When a child has been dealt with under paragraph (a) or (b) of section twenty-three, twenty-four, or twenty-six, the following provisions shall apply:—

As to ss. 23, 24, or 26.

- 40 (1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person in charge of the asylum or to whose care he has been committed.
- (2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.

(3)

Neglected Children and Juvenile Offenders.

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

5 29. If a child who has been released upon probation breaks the terms or conditions of the release, he may be apprehended and brought before the court. As to breach of terms of probation.

If it shall appear that such breach has occurred, the court may commit him under the provisions of this Act, in the same manner as 10 if he had not been released upon probation.

27- 30. Where a child upon his trial has pleaded guilty to or has been convicted of an indictable offence, the judge may, in addition to any other sentence for the offence, commit the child at the expiration of such sentence to an institution, or may, instead of any other sentence, 15 commit the child forthwith to an institution. Child convicted of indictable offence may be sent to institution. Act No. 38, 1901, s. 13.

28- 31. A court or a judge in committing a child to an institution shall do so in general terms, but may recommend to the Minister that the child be sent to an institution of a particular class : Form of committal. Act No. 38, 1901, s. 14.

20 Provided that in the case of a child charged with an indictable offence, such committal may be made to a reformatory school, and if so made, shall be for the period named, being not less than one nor more than five years.

29- 32. A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter. Children be placed in shelter.

25 30- 33. 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. Child placed in institution.

PART IV.

CHILDREN IN INSTITUTIONS.

30 *Custody and control.*

31- 34. All children committed to or inmates of an institution shall, subject to the directions of the Minister, be in the custody and under the control of the superintendent of the institution until they attain the age of eighteen years, or are discharged, removed from the 35 institution, or apprenticed : Children in institutions under control of superintendent.

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

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32. 35. The Minister, with respect to any child who has been committed to or is an inmate of any institution,— Powers and duties of Minister.

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

33. 36. The Minister may at the request of the board or of the governing body of an asylum take any child from the custody of the board or from the asylum, and place him in any institution other than a reformatory school. Child removed from board or asylum to an institution.

15 34. 37. (1) Every child, an inmate of any institution, shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up. Religious teaching. Act No. 38, 1901, s. 32.

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

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

35. 38. (1) The superintendent of any institution may by indenture bind or cause to be bound any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 1901. Child may be apprenticed. Act No 38, 1901, s. 34.

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

Neglected Children and Juvenile Offenders.

- 36- 39. A court, upon complaint made by the superintendent of any institution that any person to whom any such child has been apprenticed is not performing the conditions of such indenture, or is unfit to have the further care or control of such apprentice, may Court may put an end to apprenticeship. Act No. 38, 1901, s. 35. summon such person to answer such complaint, and on proof thereof on oath may order such apprenticeship to be put an end to, and may direct the apprentice to be sent back to such institution, and such child shall thereupon be subject to the like custody and control as under the original order by which he was sent to such institution.
- 10 37- 40. The Governor may discharge any child from an institution Discharge of child by Governor. and restore him to the custody of his parent or other suitable person on such terms and conditions as to him may seem desirable, or as may be prescribed.

Maintenance of children by relatives.

- 15 38- 41. (1) If it appears to a court on complaint by or on behalf of the Minister that any near relative is of ability to maintain or to contribute to the maintenance of a child in an institution, the court Cost of maintenance of State child may be recovered from near relatives. may on summons order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for
20 or towards—
- (a) the past maintenance of such child, whether such child be alive or not at the time of the application ;
 - (b) the future maintenance of such child.
- (2) A like order against a near relative may, with his
25 consent, be made on the committal of the child to an institution by the court so committing him.
- (3) Such order, when made against a father or mother, may include the cost of bringing such parent back to the place where the order is made from any other place where he or she may for the time
30 being reside.
- (4) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child under the Infant Protection Act, 1904, the court may rescind or amend the last-mentioned order so as to secure that the said person
35 do not pay twice for the maintenance of the same child.
- (5) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part II of the Infant Protection Act, 1904. And the court may issue a warrant for the arrest of any
40 person absconding from the State with a view to evade compliance with any order under this section.

Neglected Children and Juvenile Offenders.

39. 42. Where any proceedings are taken under the Infant Protection Act, 1904, or this Act, in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under any such Act shall be made—

Evidence necessary
for order for
maintenance.

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

Offences in respect of children in institutions.

10 40. 43. Any person who—

- (a) illtreats, terrorises, or injures any child committed to or an inmate of an institution;
(b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is apprenticed;
(c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;
15 (d) having the charge of any such child—
(i) illegally discharges or dismisses or attempts to discharge or dismiss him from the institution;
(ii) neglects such child;
20 (iii) 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 child and which by such indenture or agreement he has bound himself or agreed to observe, perform, or keep,
25 shall be liable to a penalty not exceeding fifty pounds or to be imprisoned for a period not exceeding six months.

Offences in respect
of State children.

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

Absconder from
reformatory may be
punished.

Act No. 38, 1901,
s. 27.

40 42. 45. If any child committed to or an inmate of any institution before his discharge or apprenticing be absent therefrom without the leave of the superintendent, any constable may apprehend and convey such child to such institution to be delivered into the custody of the superintendent thereof.

Child deserting may
be apprehended.
Act No. 38, 1901,
s. 29.

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43. 46. Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or the person in charge or apparently in charge of such brothel or place shall be guilty of a misdemeanour. Keeper of brothel or opium den in which child is found guilty of misdemeanour.

5

PART V.

LICENSING OF CHILDREN.

44. 47. (1) A written license authorising a male child of or over the age of ten years to engage, subject to the regulations, in a specified description of street trading may be issued— Issue of licenses.
- 10 (a) by the Minister or by any officer acting under his authority ;
or
(b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.
- 15 (2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during such trading. Badges.
- (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. Conditions of issue of licenses.
- 20 (4) 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 or by the authority which has issued it. No charge shall be made for any license or badge. Term of license.
45. 48. If any person employs a child in street trading— Penalty for employing child in street trading in contravention of Act.
- 25 (a) who is not duly licensed under this Act ; or
(b) who, although so licensed, is employed by him in trading of a description not authorised by the license,
he shall be liable to a penalty not exceeding two pounds, or in case of a second or subsequent offence to a penalty not exceeding five pounds.

30

PART VI.

GENERAL AND SUPPLEMENTAL.

46. 49. All orders and penalties under this Act shall be enforced, imposed, and recovered by and before a court. Recovery of penalties.
47. 50. (1) An order duly endorsed committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent, and shall be a sufficient warrant for the detention of the child. Order forwarded to an institution.
Act 38 of 1901, s. 37.
- (2)

Neglected Children and Juvenile Offenders.

(2) The production of—

Certain orders and
copies to be evidence.
Act 38 of 1901, s. 39.

- (a) such order so endorsed ; or
 - 5 (b) a copy of such order so endorsed with a memorandum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of the signing thereof detained in such institution, or has been otherwise disposed of according to law ; or
 - 10 (c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy,
- shall, without proof of the signature of the person purporting to have signed the same, be evidence in all courts and proceedings—
- 15 (d) of the due making and signing of any such order, memorandum, or certificate ; and
 - (e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

48. 51. 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 a 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.

49. 52. (1) The Governor may make regulations—

Regulations.

- 25 (a) for regulating the management of institutions ;
- (b) providing for the visitation and inspection of institutions and places where children are placed or apprenticed under this Act ;
- (c) prescribing the duties of officers employed in the administration of this Act ;
- 30 (d) providing for the employment, education, discipline, and punishment of children in institutions ;
- (e) providing for the medical care of children in institutions and for the burial of any child who has died ;
- 35 (f) providing for the conditions under which, the purposes for which, and the ages during which licenses under this Act may be issued to and held by children, the hours during which such licenses shall have force and effect, and the form of badges and manner of wearing them.
- (g) for carrying this Act into effect ;
- 40 (h) for the imposition of a penalty not exceeding twenty pounds for the breach of any regulation made under this Act.

(2)

Neglected Children and Juvenile Offenders.

(2) All such regulations 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 5 commencement of the next ensuing session.

SCHEDULE.

Date of Act.	Name of Act.	Extent of repeal.
Act No. 40, 1900	Crimes Act, 1900	So much of section 429 as is inconsistent with this Act.
10 Act No. 38, 1901	Reformatory and Industrial Schools Act, 1901.	The whole.
Act No. 47, 1902	Children's Protection Act, 1902	Sections 29, 30, 31, and 32, and so much of the rest of the Act as is inconsistent with this Act.

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

*Legislative Assembly Chamber,
Sydney, 19 July, 1905. }*

*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

New South Wales.



ANNO QUINTO

EDWARDI VII REGIS.

Act No. , 1905.

An Act to make better provision for the protection, control, education, maintenance, and reformation of neglected and uncontrollable children and juvenile offenders; to provide for the establishment and control of institutions and for contribution by near relatives towards the support of children in institutions; to constitute children's courts and to provide for appeals from such courts; to provide for the licensing and regulation of children trading in streets and in certain places open to the public; to amend the State Children Relief Act, 1901, the Children's Protection Act, 1902, the Infant Protection Act, 1904, and the Crimes Act, 1900; to repeal the Reformatory and Industrial Schools Act, 1901; and for purposes consequent thereon or incidental thereto.

Neglected Children and Juvenile Offenders.

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 "Neglected Children and Juvenile Offenders Act, 1905," and shall come into operation on the first day of September, one thousand nine hundred and five.

Short title and commencement.

10

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

Division into Parts.

PART I.—PRELIMINARY—ss. 1-5.

PART II.—INSTITUTIONS—ss. 6-8.

PART III.—CHILDREN AND CHILDREN'S COURTS—ss. 9-30.

PART IV.—CHILDREN IN INSTITUTIONS—ss. 31-43.

15

PART V.—LICENSING OF CHILDREN—ss. 44, 45.

PART VI.—GENERAL AND SUPPLEMENTAL—ss. 46-49.

3. The enactments specified in the Schedule are to the extent therein mentioned repealed.

Repeal and savings.

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

Persons appointed under repealed Acts.

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

Reformatory schools or public industrial schools.

25

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

Interpretation.

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

30

"Asylum" has the meaning given to that word in the State Children Relief Act, 1901.

"Board" means State Children's Relief Board.

"Child" means boy or girl under sixteen and over five years of age.

35

"Court" means children's court established under this Act, and includes a magistrate or justices exercising the jurisdiction of a children's court.

"Institution" means institution established under this Act, and includes a reformatory and a public industrial school established under the Reformatory and Industrial Schools Act, 1901.

4

"Justice"

Neglected Children and Juvenile Offenders.

"Justice" means justice of the peace.

"Juvenile offender" means child who has committed an offence.

"Local Authority" means council of a municipality, and includes the governing body of a local government area, constituted or to be constituted.

"Maintenance" includes clothing, support, training, and education.

"Near relative" means, except as regards an illegitimate child, father, mother, stepfather, or stepmother of the child; and as regards an illegitimate child—the mother and the person adjudged by a competent court to be the father of such child, and the husband of the mother of such child if born before their marriage.

"Neglected child" means child—

(a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or

(b) who has no visible lawful means of support or has no fixed place of abode; or

(c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; 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 by his parent:

Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or

(e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or

(f) who, not being duly licensed for that purpose, is engaged in street trading; or

(g) whose parents are habitual drunkards, or if one of these be dead, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard; or

(h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place; or

(i) who is in any place where opium or any preparation thereof is smoked.

"Offence" includes any matter punishable summarily or by indictment.

"Prescribed" means prescribed by this Act or by regulations made thereunder.

"Proclamation"

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"Proclamation" means proclamation in the Gazette.

"Public place" means road, street, thoroughfare, court, or alley to which the public have the right of access, or which the public are allowed to use, and includes any part of premises licensed under Part III of the Liquor Act, 1898, which is open to the public.

"Shelter" shall include a place of safety within the meaning of section twenty-five of Children's Protection Act, 1902.

"Street trading" includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoe-blackening and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.

"Superintendent" includes manager or person in charge.

"The Minister" shall mean the Minister of Public Instruction.

"Uncontrollable child" means child whom his parent cannot control.

PART II.

INSTITUTIONS.

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

- (a) shelters for the reception and temporary detention and maintenance of children;
- (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions;
- (c) reformatory schools for the reception, detention, maintenance, and reformation of children committed to such institutions.

7. Every institution shall be controlled and administered under the direction of the Minister, and shall be maintained by such moneys as may be appropriated by Parliament for that purpose.

8. Every institution shall once at least in every three months, be visited and inspected by a person appointed by the Minister having direction of the same.

PART

Neglected Children and Juvenile Offenders.

PART III.

CHILDREN AND CHILDREN'S COURTS.

Constitution and powers of courts.

5 9. (1) The Governor shall by proclamation establish special courts to be called children's courts. Governor may establish special courts for dealing with children.

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

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

10 10. Within the area so named a children's court and the magistrate constituting such court— Powers of court.

15 (a) shall exercise the powers and authorities which are possessed by stipendiary or police magistrates, courts of petty sessions, or justices in respect of children and of offences committed by or against children;

20 (b) shall exercise the powers and authorities of a court of petty sessions or of a justice under the Children's Protection Act, 1902, or of a magistrate under the Infant Protection Act, 1904; and

(c) shall hear and determine complaints, informations, and applications under this Act.

25 11. On and after the establishing of a children's court, the jurisdiction of every court of petty sessions in respect of the matters as to which the children's court has jurisdiction shall cease to be exercised within the area proclaimed: Jurisdiction of other courts to cease.

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

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

35 12. A court shall be held—

(a) where practicable, in the proximity of a shelter;

40 (b) in some building or room approved of in that behalf by the Minister: Provided that if a court room or police office is so approved of, the hearing shall not take place at an hour when the ordinary court business is being transacted. Children's courts not held in ordinary courts.

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

(2)

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(2) Section thirty-two of the Infant Protection Act, 1904, shall apply to the hearing of a complaint under Part II of that Act, but in no other case. Section 32 of Act of 1904.

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

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

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

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

20 *Committal of neglected or uncontrollable children or juvenile offenders.*

15. Any justice may, upon oath being made before him by an officer of the board that, having made due inquiry, he believes any child to be a neglected or uncontrollable child,— Warrant for apprehension. Act No. 38, 1901, s. 18.

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

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

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

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

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

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

18. Any child apprehended as a neglected or uncontrollable child or juvenile offender shall be taken to a shelter and there detained pending the determination of a court. Child placed in shelter.

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

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

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

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

If the parent refuses to attend without reasonable excuse, the court may issue a warrant to bring him before the court at the hearing, but the parent may be admitted to bail on entering into recognisances, with or without sureties, to attend at the court at the hearing of the matter.

22. If on the hearing the court finds that a child is a neglected or uncontrollable child it may— Power of court with respect to neglected or uncontrollable children.

- (a) send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or
- (b) commit the child for a specified period to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution:

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

- (a) he proves that he has not by neglect lost control of the child; and
- (b)

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(b) security is given to the satisfaction of the court for the making of such payment as, in the opinion of the court, the applicant is able to afford towards the maintenance of such child.

5 23. Where a child is summarily convicted of an offence for which the penalty is punishment by imprisonment, or imprisonment in default of payment of a fine, the court may— Power with respect to child liable to be summarily convicted.

- (a) send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or
- 10 (b) commit the child for a specified period to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution; or
- (d) sentence the child according to law.

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

The Minister may order the removal to an institution of the child so sentenced.

20 24. (1) Where a child is summarily convicted before a court of an offence in respect of which a penalty, damages, or costs are imposed, and there is reason to believe that his parent has contributed to the commission of the offence by wilful default or by habitually neglecting to exercise due care of the child, the court may, on information, issue a summons against such parent, charging him with Court may order parent to pay penalty, damages, or costs in certain cases.

25 so contributing to the commission of the offence.

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

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

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

40 25. (1) Where a child is charged before a court with an indictable offence other than homicide or rape, and is not dealt with summarily, the court may— Power with respect to child charged with certain indictable offences.

- (a) send the child home to his parents with a reprimand, or on receiving the promise of the child to be of good behaviour; or
- (b)

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- (b) commit the child for a specified period to an asylum, or to the care of some person who is willing to undertake such care; or
- (c) commit the child to an institution; or
- (d) commit the child to take his trial according to law.

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

(2) When a court has committed a child to take his trial for an indictable offence other than homicide or rape, the Minister 10 may commit the child to an institution, if the Attorney-General shall have entered a nolle prosequi in regard to proceedings against the child:

Child committed for trial may be sent to institution.

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

26. Where a child is charged before a court with any offence other than homicide or rape, or is brought before a court as a neglected or uncontrollable child, the court, before making any order or committal, shall give the child or his parent an opportunity to call 20 evidence, and shall hear any evidence that may be tendered by or on behalf of the child.

Court to hear evidence on behalf of child.

27. Where a child upon his trial has pleaded guilty to or has been convicted of an indictable offence, the judge may, in addition to any other sentence for the offence, commit the child at the expiration 25 of such sentence to an institution, or may, instead of any other sentence, commit the child forthwith to an institution.

Child convicted of indictable offence may be sent to institution.
Act No. 38, 1901, s. 13.

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

Form of committal.
Act No. 38, 1901, s. 14.

30 Provided that in the case of a child charged with an indictable offence, such committal may be made to a reformatory school, and if so made, shall be for the period named, being not less than one nor more than five years.

29. A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter.

Children be placed in shelter.

30. 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.

Child placed in institution.

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PART IV.

CHILDREN IN INSTITUTIONS.

Custody and control.

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

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

32. The Minister, with respect to any child who has been Powers and duties of Minister.
 15 committed to or is an inmate of any institution,—

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

33. The Minister may at the request of the board or of the Child removed from board or asylum to an institution.
 25 governing body of an asylum take any child from the custody of the board or from the asylum, and place him in any institution other than a reformatory school.

34. (1) Every child, an inmate of any institution, shall, so far Religious teaching. Act No. 38, 1901, s. 32.
 as religious teaching is concerned, be placed under the guidance and
 30 control of clergymen of the persuasion to which the parents of such child belong; or in which such child has been brought up.

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

- (a) such child shall, if of or over the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, unless such child states some persuasion in which he desires to be educated ;
- 40 (b) such child shall, if under the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, but may on attaining the age of twelve years select the persuasion in which he desires to be educated :

(c)

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(c) provided that if at any time the religious persuasion of any such child or of his parents become known to the Minister, he shall at once order the child to be placed under the guidance and control, as far as religious teaching is concerned, of clergymen of such persuasion.

5 **35.** (1) The superintendent of any institution may by indenture bind or cause to be bound any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 1901. Child may be apprenticed.
Act No. 38, 1901,
s. 34.

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

15 **36.** A court, upon complaint made by the superintendent of any institution that any person to whom any such child has been apprenticed is not performing the conditions of such indenture, or is unfit to have the further care or control of such apprentice, may summon such person to answer such complaint, and on proof thereof on oath may order such apprenticeship to be put an end to, and may
20 direct the apprentice to be sent back to such institution, and such child shall thereupon be subject to the like custody and control as under the original order by which he was sent to such institution. Court may put an end to apprenticeship.
Ibid. s. 35.

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

Maintenance of children by relatives.

30 **38.** (1) If it appears to a court on complaint by or on behalf of the Minister that any near relative is of ability to maintain or to contribute to the maintenance of a child in an institution, the court may on summons order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards— Cost of maintenance of State child may be recovered from near relatives.

35 (a) the past maintenance of such child, whether such child be alive or not at the time of the application ;

(b) the future maintenance of such child.

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

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

45 (4) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child

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child under the Infant Protection Act, 1904, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay twice for the maintenance of the same child.

(5) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part II of the Infant Protection Act, 1904. 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.

10 **39.** Where any proceedings are taken under the Infant Protection Act, 1904, or this Act, in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under any such Act shall be made—

Evidence necessary
for order for
maintenance.

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

Offences in respect of children in institutions.

40. Any person who—

- 20 (a) illtreats, terrorises, or injures any child committed to or an inmate of an institution; Offences in respect
of State children.
(b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is
25 apprenticed;
(c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;
(d) having the charge of any such child—
30 (i) illegally discharges or dismisses or attempts to discharge or dismiss him from the institution;
(ii) neglects such child;
(iii) does not well and truly observe, perform, and keep all the covenants, conditions, and agreements contained in any
35 indenture or agreement entered into by him respecting any child and which by such indenture or agreement he has bound himself or agreed to observe, perform, or keep,

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

40 **41.** Any child committed to or an inmate of any reformatory school who absconds therefrom, or neglects or refuses to conform to the rules thereof, may be taken before a court, and on proof on oath of such absconding, neglect, or refusal, the court may commit such child

Absconder from
reformatory may be
punished.

Act No. 38, 1901,
s. 27.

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child to gaol for any period not exceeding three months, such period of imprisonment to be passed as far as practicable in strict separation. Such child shall at the termination of such imprisonment be returned to such reformatory school and there detained, subject to this Act, for 5 the remainder of the term for which he was committed.

42. If any child committed to or an inmate of any institution before his discharge or apprenticing be absent therefrom without the leave of the superintendent, any constable may apprehend and convey such child to such institution to be delivered into the custody of the 10 superintendent thereof.

Child deserting may be apprehended.
Act No. 38, 1901, s. 29.

43. Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or the person in charge or apparently in charge of such brothel or place shall be guilty of a misdemeanour.

Keeper of brothel or opium den in which child is found guilty of misdemeanour.

15

PART V.

LICENSING OF CHILDREN.

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

Issue of licenses.

- 20 (a) by the Minister or by any officer acting under his authority ;
or
(b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister.

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

Badges.

(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.

Conditions of issue of licenses.

30 (4) 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 or by the authority which has issued it. No charge shall be made for any license or badge.

Term of license.

45. If any person employs a child in street trading—

- 35 (a) who is not duly licensed under this Act ; or
(b) who, although so licensed, is employed by him in trading of a description not authorised by the license,

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

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

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PART VI.

GENERAL AND SUPPLEMENTAL.

46. All orders and penalties under this Act shall be enforced, imposed, and recovered by and before a court. Recovery of penalties.

5 47. (1) An order duly endorsed committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent, and shall be a sufficient warrant for the detention of the child. Order forwarded to an institution. Act 38 of 1901, s. 37.

(2) The production of—

10 (a) such order so endorsed ; or

(b) a copy of such order so endorsed with a memorandum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of the signing thereof detained in such institution, or has been otherwise disposed of according to law ; or

15

(c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy,

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

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

25

(e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

48. 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 a 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.

49. (1) The Governor may make regulations—

Regulations.

(a) for regulating the management of institutions ;

35

(b) providing for the visitation and inspection of institutions and places where children are apprenticed under this Act ;

(c) prescribing the duties of officers employed in the administration of this Act ;

(d) providing for the employment, education, discipline, and punishment of children in institutions ;

40

(e) providing for the medical care of children in institutions and for the burial of any child who has died ;

(f)

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- (f) providing for the conditions under which, the purposes for which, and the ages during which licenses under this Act may be issued to and held by children, the hours during which such licenses shall have force and effect, and the form of badges and manner of wearing them.
- 5 (g) for carrying this Act into effect ;
- (h) for the imposition of a penalty not exceeding twenty pounds for the breach of any regulation made under this Act.
- (2) All such regulations shall be published in the Gazette, 10 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.

15	Date of Act.	Name of Act.	Extent of repeal.
	Act No. 40, 1900	Crimes Act, 1900	So much of section 429 as is inconsistent with this Act.
20	Act No. 38, 1901	Reformatory and Industrial Schools Act, 1901.	The whole.
	Act No. 47, 1902	Children's Protection Act, 1902	Sections 29, 30, 31, and 32, and so much of the rest of the Act as is inconsistent with this Act.
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REMARKS

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