

## TASMANIA.

## THE INFANTS' WELFARE ACT 1935.

## ANALYSIS.

1. Short title.
2. Repeal.

## PART I.—PRELIMINARY.

3. Interpretation.

## PART II.—THE INFANTS' WELFARE DEPARTMENT.

4. The Department.
5. Administration.
6. Inspectors and other officers.
7. Visitors.
8. Director to be guardian of children of the State.  
Guardianship of inmates of State institution.  
Guardianship of inmates of certified institutions.  
Governor may transfer guardianship.
9. Minister may prolong guardianship beyond discharge.
10. General powers of Director.
11. Record of children of the State to be kept.
12. Annual report.

## PART III.—MANAGEMENT OF PROPERTY OF CHILDREN OF THE STATE.

13. Provisions where child of the State entitled to property.  
Public Trustee to take possession and convert into money.  
Payments out of proceeds.  
Application of balance of moneys.  
Order for maintenance not barred by subsection (1).  
Application of moneys paid under order.

## PART IV.

*Division I.—State Institutions.*

14. Governor may establish institutions.

*Division II.—Private Institutions.*

15. Mode of certifying private institutions.
16. Withdrawal of certificate.
17. Certificate may be resigned.
18. Effect of withdrawal of certificate.
19. Disposal of inmates on withdrawal of certificate.

20. Liabilities of managers.
21. State aid to certified institutions.

## PART V.—CHILDREN'S COURTS AND CHILDREN OF THE STATE.

*Division I.—Children's Courts.*

22. Children's courts.
23. Special magistrates.
24. Constitution of children's courts.  
Proviso.
25. Powers of court.
26. Jurisdiction of other courts excluded.  
Proviso.
27. Children's courts to have powers of courts of petty sessions.
28. Place of sitting.
29. Appointment of probation officers.
30. Probation officer subject to directions and orders of children's court.
31. Duties of probation officers.  
Powers of probation officers.
32. Child released conditionally to be under supervision of probation officer.  
When probation officer to have powers of police officer.  
Probation officer may bring child before court for further action.
33. Powers of court with respect to children released on probation, &c.
34. Powers of court in cases of children placed under supervision of probation officer.
35. Exclusion of public from court.  
Penalty for disobeying order for exclusion.  
Reporting proceedings.
36. Register of children's court.  
Certified extracts to be evidence.  
Justices to sign register.  
Register open for inspection.

*Division II.—Admission or Committal of Children of the State.*

37. Children admitted on application.
38. Warrant for apprehension.
39. Apprehension of child.
40. Warrant to search for child suspected to be in brothel or place where opium is smoked, &c.
41. Apprehension of child in brothel.

42. Procedure when child apprehended.  
Disposal of child pending hearing.  
Absconders may be placed in gaol  
Warrant not necessary to detain child.
43. Application to commit uncontrollable child.
44. Parent's attendance in court.  
Parent may appear on behalf of child.  
Enforcement of parent's attendance in court by summons.  
By warrant.  
Child to be present when charge heard.
45. Power of court with respect to neglected or uncontrollable child.
46. Powers with respect to child liable to be summarily convicted.
47. Procedure where parent deemed to have contributed to commission of child's offence.  
Court may direct institution of proceedings against parent.  
When parent present.  
When parent not present.
48. May adjudge parent to pay penalty, damages, or costs instead of child.  
Child excused from payment.
49. Term of imprisonment corresponding to penalty.
50. Order for detention.
51. Summary trial of children not over the age of fourteen years for certain indictable offences.
52. Powers of children's court to deal with children over the age of fourteen years charged with certain indictable offences.  
Child may elect to be tried by a jury.
53. Child may be detained in an institution pending trial.
54. Form of order.  
Statement of age and religion to be *primâ facie* evidence.
55. Procedure on requiring appearance before the court for punishment of a child who has been released on a surety so to appear.  
Notice in writing.  
Service of notice.  
On child's failure to appear recognisance to be forfeited and warrant of apprehension issued.
56. Power of children's court to deal with children charged with murder, &c.
57. How child convicted of indictable offence may be dealt with.
58. Form of committal.
59. Children to be placed in receiving home.
60. Minister to determine particular institution.
61. Child placed in institution.
62. Child may be removed from one institution to another.
63. No detention after age of eighteen.  
Child over sixteen may be detained for three years.
64. Mode of imprisonment.
65. Provisions as to release of child detained according to directions of Governor.
66. Discharge of convicted child.
67. Inspection of premises by probation officers.
68. State children absconding, &c., may be apprehended without warrant.
69. The Department or managers may apprentice children.
70. Director or governing authority may place out children.
71. State children to attend school regularly.
72. Certain children not to be placed out.
73. The apprenticing or placing out of children to be subject to regulations.
74. Provisions in indentures.
75. Wages may be paid into savings bank.
76. Moneys banked may be expended for the child's benefit.
77. Guardian may recover wages.
78. Disposal at death.
79. Indentures of apprenticeship, agreement, or placing-out may be assigned with consent of Director.
80. Minister may order return of child apprenticed or placed out.
81. Change of residence to be notified by foster-parent.
82. Notice to be given if child absconds, becomes ill, or dies.
83. Department to have general supervision of State children.
84. Children of the State to be visited.
85. Payments for maintenance of State children to foster-mother.

#### PART VI.—MAINTENANCE OF CHILDREN BY THEIR RELATIVES.

86. Order of liability of near relatives for maintenance of any child.
87. On complaint court to issue summons.  
Court may order payment of maintenance.
88. Order to take effect from pronouncement.
89. Allegations in complaint *primâ facie* evidence.
90. Application of certain sections of 12 Geo. V. No. 40.

91. Court may require security for compliance with order.
92. Power to increase amount.
93. Orders may be varied, &c., on further inquiry.
94. Collection by the police of moneys due to the Director.
95. Who may complain.

#### PART VII.—FOSTER-MOTHERS AND NURSING HOMES.

96. All orders, &c., in force under 9 Geo. V. No. 15 to remain in force.
97. Application of this Part.
98. Interpretation.
99. Foster-mothers to be licensed and nursing homes registered.  
Payments by Director for keep of child.
100. Method of licensing and registration.  
Register to be kept.  
Duration of licence.  
Renewals.  
Issue of licence.
101. Director may refuse to license any foster-mother.
102. Roll of nursing home.  
Receipt of infant to be notified to Director.  
Production of roll to police officer.
103. Duty and responsibility of foster-mother.
104. Licences and registrations may be cancelled.  
Removal of children of the State.  
Order for removal of other children.  
Director may remove infants not being children of the State.
105. Notice to be given of death of infant; inquest to be held and report made to Minister.
106. Inspection.  
Penalty for refusing to permit inspection.

#### PART VIII.—OFFENCES.

107. Ill-treating children.
108. Ill-treatment of children placed out or apprenticed.
109. Restrictions on employment of children.
110. Forgery of licences, &c.
111. Removing, harbouring, &c., State children.  
Communicating with children in institutions.
112. Disobeying maintenance order.  
Desertion of child.  
Court may determine matter in summary way.  
Court may issue warrant for arrest of deserter upon complaint on oath.
113. General penalty.

#### PART IX.—MISCELLANEOUS.

114. Children maintained in certified institution for two years without objection by father not removable without consent or order.
115. Officer of Department may take part in all trials against children.
116. Order may be set aside.
117. Order to be forwarded to institution.  
Certain orders and copies to be evidence.
118. Search warrant.
119. Persons in charge of State children to have privilege of constables.
120. Proof of age.
121. Limit of costs to be paid by child.
122. Costs.
123. Expenses of administration.
124. Act to be construed liberally.

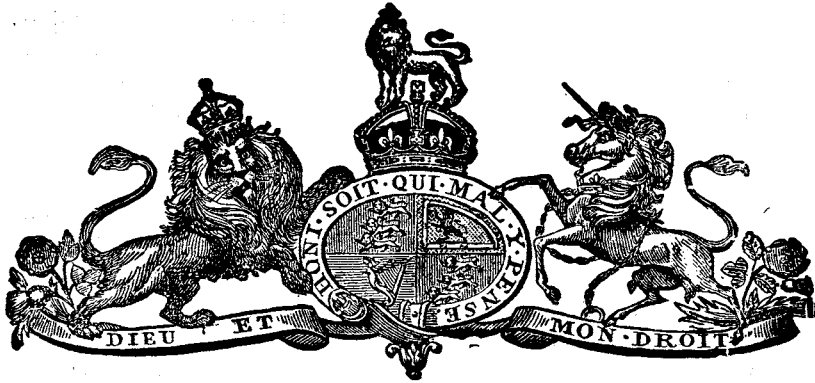
#### PART X.—REGULATIONS AND FORMS.

125. Regulations.
126. Forms.



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TASMANIA.



1935.

ANNO VICESIMO SEXTO

GEORGII V. REGIS.

No. 96.

AN ACT to consolidate and amend the Law relating to Welfare of Children and the Protection of Infant Life.

A.D.  
1935.

[31 January, 1936.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

- 1 This Act may be cited as the *Infants' Welfare Act 1935*. Short title.
- 2 The Acts enumerated in the first schedule are hereby repealed. Repeal.
- 3 In this Act, unless the contrary intention appears— Interpretation,  
"Age" means, in the absence of positive evidence as to age, the apparent age:

*Infants' Welfare.*

A.D. 1935.

- “ Authorised officer ” means an officer of the Department authorised either generally under this Act or for any particular purpose by the Director or the Minister :
- “ Certified institution ” means a private institution certified or deemed to be certified for the purposes of this Act :
- “ Child ” means any boy or girl under the age of seventeen years :
- “ Child of the State ” means a convicted child or neglected child or any other child received into or committed to an institution, or to the care of the Department, or apprenticed or placed out under the authority of this Act, or any Act hereby repealed :
- “ Children’s court ” means a children’s court established, or deemed to have been established, for the purposes of this Act, and includes a police magistrate or justices exercising the jurisdiction of a children’s court :
- “ Clerk ” or “ clerk of petty sessions ” means the person officiating as clerk of petty sessions at the place of holding petty sessions at or nearest to the place at which the children’s court is held :
- “ Court ” means a children’s court, or the Supreme Court, or a judge thereof, as the case may be :
- “ Convicted ” means found guilty or convicted of any crime or offence punishable by imprisonment :
- “ Department ” means the Social Services Department :
- “ Director ” means the Director of Social Services :
- “ Foster-mother ” means any person licensed as a foster-mother under and for the purpose of Part VII. :
- “ Foster-parent ” means any person to or with whom a child of the State is apprenticed or placed out under this Act, or under any enactment hereby repealed, and includes the assignee of such person :
- “ Inmate ” means a child of the State maintained in an institution :
- “ Institution ” means any institution established, or deemed to have been established, by the Governor under section fourteen, and a certified institution :
- “ Maintenance ” includes food, clothing, lodging, nursing, medical treatment, necessaries, training, and education :
- “ Maintenance order ” means an order made by a children’s court for payment of money by any near relative in respect of the maintenance of a child :
- “ Managers ” means the persons for the time being having the management or control of any private institution :
- “ Near relative,” as regards a legitimate child, means father, mother, stepfather, stepmother, brother, sister, or any grandparent 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 :

*Infants' Welfare.*

“Neglected child” means a child—

A.D. 1935.

- i. Who is found in a brothel or reputed brothel, or a place where opium or any preparation thereof is smoked, or who is known to associate with or be in the company of a person known to the police to be, or reputed to be, a prostitute, whether such person is the mother of the child or not :
- ii. Who associates or dwells with any person known to the police to be, or reputed to be, a thief or drunkard, or with any person who has no apparent lawful means of support :
- iii. Who begs in any public place, or habitually wanders about public places, being in no ostensible occupation, or sleeps at night in the open air in any public place :
- iv. Who is not provided with necessary food, nursing, clothing, medical aid, and lodging, or who is neglected, ill-treated, or exposed by his parents or either of them :
- v. Who, being of the compulsory school age, is an habitual truant from day school, or whose parent has been convicted at least twice of neglecting to cause such child to attend school :
- vi. Who is illegitimate, and whose mother is dead, or is unable to maintain or take charge of such child :
- vii. Who takes part in any public exhibition or performance whereby the life or limb of such child is endangered :
- viii. Who, being a female, solicits men, or otherwise behaves in an indecent, improper, or disorderly manner, or habitually wanders at night without sufficient cause in a public place :
- ix. Under the age of fifteen years found doing any of the things referred to in division (a) of paragraph i. of section one hundred and nine, or a child under the age of fourteen years found doing any of the things referred to in division (b) of the same paragraph :
- x. Who is found by a children's court to be an uncontrollable child :
- xi. Whose home, by reason of the neglect, cruelty, or depravity of his parents, or either of them, is an unfit place for such child : or
- xii. Who dwells with, or in the same house as, any person known to the Director to be suffering from a venereal enthetic disease or from pul-

*Infants' Welfare.*

A.D. 1935.

monary consumption, in conditions which a medical officer of health has certified to be dangerous to the health of such child :

“ Nursing home ” means any home registered as a nursing home under Part VII :

“ Parent ” includes a guardian and every person who is by law liable to maintain a child, or with whom the child lives and upon whom he is dependent :

“ Place-out ” means to entrust a child of the State to the care and charge of some person approved of by the Director or the managers, as the case may be, for the purpose of his being maintained by such person, or in such person's house, or for the purpose of training or hire :

“ Private institution ” means a children's home, orphanage, reformatory school, and any other establishment or institution for the detention, maintenance, employment, and benefit of neglected or convicted children, established, or wholly or in part maintained, by private benevolence or contributions :

“ Public place ” means a public place as defined by section three of the *Police Offences Act 1935* :

“ Receiving home ” means a receiving depôt or shelter for the temporary detention of children in accordance with the provisions of this Act :

“ Roll ” means a roll required to be kept by a foster-mother under Part VII. :

“ Special magistrate ” means a justice of the peace appointed or deemed to be have been appointed as a special magistrate by the Governor for the purposes of this Act, or any police magistrate :

“ State institution ” means any institution established, or deemed to have been established, by the Governor under section fourteen.

26 Geo. V. No.  
44.

## PART II.

## THE INFANTS' WELFARE DEPARTMENT.

The Department. **4** The duties under this Act which formerly devolved on the Department known as the Children of the State Department shall hereafter devolve on and be committed to the Social Services Department.

Administration. **5** It shall be the duty of the Director, under the direction of the Minister, to carry this Act into operation, so far as the execution thereof is not expressly committed to any other person.



*Infants' Welfare.*

**6—**(1) The Governor may appoint inspectors, inspecting nurses, and other officers, with such powers and functions as he deems necessary to carry out the purposes of this Act.

A.D. 1935.

Inspectors and other officers.

(2) The Governor may appoint superintendents, matrons, warders, and other servants of State institutions under this Act.

**7—**(1) The Director, with the approval of the Minister, may appoint such and so many persons as he thinks proper to be honorary visitors of the Department.

Visitors.

(2) Honorary visitors shall, in accordance with the regulations, assist the Department in procuring and supervising boarding-out homes and in the care of the children of the State sent to such homes, or placed out for hire or discharged or released on probation under this Act.

**8—**(1) The Director shall be the guardian of every child of the State to the exclusion of the parent or other guardian, and shall, except during the time the child is lawfully detained in any certified institution, and except as hereinafter provided, continue to be such guardian, unless the Governor otherwise directs, until the child is discharged. The Director shall as such guardian have (except as aforesaid) the sole right to the custody of every child of the State, and shall deal with such child as directed by this Act.

Director to be guardian of children of the State.

(2) While any child of the State is detained in any State institution the superintendent or matron of the institution may exercise the powers of the Director as guardian of such child.

Guardianship of inmates of State institution.

(3) While any child of the State is lawfully detained in any certified institution, the powers of the Director as guardian, with the sole right to the custody of the person of such child, shall be reposed in and exercisable by the managers of the institution, who shall also continue to be guardians of the child while such child is in the custody of any person with whom he has been placed out by such managers, or during the period of any apprenticeship of such child to which they are parties as hereinafter provided.

Guardianship of inmates of certified institutions.

(4) The Governor may at any time make an order transferring the guardianship of any inmate of a certified institution from the managers to such person as the Governor by the order appoints.

Governor may transfer guardianship.

**9** The Minister may empower the Director or the managers to continue to be guardian of any child of the State until he attains the age of twenty-one years, or for such shorter period as the Minister determines, and the child shall, during such period, be subject to the supervision of the Department or the managers as the case may be.

Minister may prolong guardianship beyond discharge.

**10** Subject to the regulations, every child of the State may be—

General powers of Director:

i. Placed in some receiving home;

ii. Detained in an institution;

iii. Transferred with the approval of the Minister from one institution to another institution:

*Infants' Welfare.*

A.D. 1935.

- iv. Boarded-out, apprenticed, or placed at service with some suitable person : or
- v. Placed in the custody of some suitable person who is willing to take charge of such child—

by the Director.

Record of children of the State to be kept.

**11** The Director shall keep records of all moneys received and paid under this Act, and so far as known of the names, ages, dates of reception, near relatives, nationality, sex, religion, and dates of discharge of all children of the State, and of all dispositions of and dealings with such children.

Annual report.

**12** The Director shall in every year report to the Minister on the working of this Act, and shall, in such report—

- i. Specify the number of children in the several institutions :
- ii. Specify the number of children placed out and apprenticed during the period covered by the report :
- iii. Set out a summary of the receipts and expenditure of the Department during the same period : and
- iv. Set out any other particulars which the Minister may direct from time to time to be included in such report—

and all such reports shall be laid before Parliament

PART III.<sup>a</sup>

## MANAGEMENT OF PROPERTY OF CHILDREN OF THE STATE.

Provisions where child of the State entitled to property.

**13**—(1) Subject to the provisions of this Act, if any child of the State is or becomes at any time entitled to any real or personal property in this State, or to any interest therein, whether the same is vested in such child or in any trustee on his behalf, or otherwise howsoever, then and in such case, and whether or not any order for contribution to the maintenance of such child has been made, and whether or not the moneys payable under any such order have been duly paid—

Public Trustee to take possession and convert into money.

- i. The Minister may, by notice in the Gazette, in general terms direct the Public Trustee to take possession of all such property and apply the same for the benefit of such child of the State :
- ii. Thereupon the Public Trustee shall have and may exercise in respect of all such property the same rights and powers as if such property formed part of an intestate estate of which he was the duly appointed administrator :

*Infants' Welfare.*

- iii. The Public Trustee may demand, sue for, recover, get in, sell, and convert into money the said property at such times and in such manner as in his absolute discretion he thinks fit, with power to postpone conversion, and in the meantime to lease or otherwise deal with the unconverted property as he thinks fit, without being liable for any loss or damage that may be occasioned thereby : A.D. 1935.
- iv. The Public Trustee shall apply all moneys coming to his hands under the foregoing provisions of this section in the manner and priority following, that is to say :— Payments out of proceeds.
- Firstly, in paying all costs and expenses incurred by him in exercising the abovementioned powers, including his own usual and proper charges of management, realisation, and otherwise :
- Secondly, in or towards defraying, to the extent of seven years' maintenance, the cost of the past maintenance, if any, of such child of the State which has been borne out of the Consolidated Revenue, and not repaid :
- Thirdly, in or towards defraying, to the extent of the funds available, the current maintenance of such child of the State, by paying to the Director such sum per week as the Minister directs :
- Fourthly, by accumulating the residue, if any, of such moneys until such child of the State finally ceases to be maintained out of the Consolidated Revenue, when such accumulations shall, until the child attains the age of twenty-one years, and, in so far as may be necessary for that purpose, be applied for his benefit in such manner as the Public Trustee, subject to the Minister's approval, thinks fit : and
- v. Upon such child attaining the age of twenty-one years, the Public Trustee shall stand possessed of the balance of all such moneys and accumulations, and of the unconverted property of the child, if any, in his hands or under his control, upon trust for such child absolutely. Application of balance of moneys.

(2) Nothing in subsection (1) of this section shall be a bar to an order for or towards the maintenance of any child of the State being made by any court of competent jurisdiction against any person who would, but for the provisions of subsection (1) hereof, be liable for such maintenance, nor affect the amount of such order nor prevent the enforcement thereof, nor of any like order heretofore made. Order for maintenance not barred by subsection (1).

(3) All moneys received by the Director, on behalf of a child of the State under any such order as last aforesaid, shall be applied in repayment *pro tanto* to the Public Trustee of the moneys, if any, expended by him under paragraph iv. of subsection (1) hereof, and, subject thereto, such moneys as first aforesaid shall be applied by the Director in payment of the past or current maintenance of the child in respect of whom such order has been made. Application of moneys paid under order.

*Infants' Welfare.*

A.D. 1935.

## PART IV.

*Division I.—State Institutions.*Governor may  
establish institu-  
tions.

**14**—(1) The Governor may, by order-in-council, establish and abolish receiving homes, children's homes, foundling homes, industrial schools, probationary schools, reformatories, farm schools, and other institutions for the care and maintenance of children of the State.

(2) The several institutions specified in the second schedule shall be deemed to have been established as institutions under and for the purposes of this Act.

*Division II.—Private Institutions.*Mode of certifying private  
institutions.

**15**—(1) The Minister may, upon the application of the managers of any private institution, examine into the condition and rules or regulations of the institution, and may, by writing under his hand, certify that it is fit for the reception of such children of the State as may be sent there in pursuance of this Act, and the same shall be deemed to be a certified institution for the purposes of this Act.

(2) No substantial addition or alteration shall be made in or to the buildings of any such certified institution as aforesaid without the approval in writing of the Minister.

(3) The several institutions specified in the third schedule shall be deemed to be certified institutions for the purposes of this Act, and certificates given in respect thereof by the Governor under any repealed Act shall continue in force as if the same had been given by him under this Act.

Withdrawal of  
certificate.

**16**—(1) The Minister, if dissatisfied with the conditions, rules, regulations, management, or superintendence of any certified institution may, at any time, by notice under his hand served on the managers, declare that the certificate of the certified institution is withdrawn as from a time specified in the notice, being not less than six months after the date of the notice; and at that time the withdrawal of the certificate shall take effect, and the certified institution shall cease to be a certified institution.

(2) The Minister may, if he thinks fit, instead of so withdrawing the certificate, by notice served on the managers, prohibit the admission of children of the State to the institution for such time as may be specified in the notice or until the notice is revoked.

Certificate may  
be resigned.

**17** The managers, or the executors or administrators of a deceased manager if there is only one manager, of any certified institution may give notice in writing to the Minister of their intention to resign the certificate of the certified institution, and at the expiration, in the case of managers of six months, and in the case of executors or administrators of one month, from the receipt of such notice by the Minister, the certificate shall be deemed to be resigned accordingly, unless before that time the notice is withdrawn.

*Infants' Welfare.*

**18** A child of the State shall not be received into a certified institution after the date of the receipt by the managers of the notice of withdrawal of the certificate for their certified institution, or after the date of the notice of resignation of the certificate; but the obligation of the managers to maintain any children of the State detained in their institution at the respective dates aforesaid shall, except so far as the Minister otherwise directs, continue until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money provided by Parliament towards the expenses of the children detained in the certified institution, whichever may first happen.

A.D. 1935.

Effect of withdrawal of certificate

**19** Where an institution ceases to be a certified institution, the children of the State detained therein shall be, by order of the Minister, either discharged or transferred to some other institution.

Disposal of inmates on withdrawal of certificate.

**20** The managers of any certified institution may decline to receive any child of the State proposed to be sent to it under this Act, but, when they have once received him, they shall be deemed to have undertaken the maintenance of such child during the whole period for which he is liable to be detained in the certified institution, or until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money provided by Parliament towards the expenses of the children detained in the institution, whichever may first happen.

Liabilities of managers.

**21** The managers of every certified institution shall be entitled to receive out of any moneys which may be provided by Parliament for that purpose, for every child of the State maintained in the certified institution during the preceding year, or any part thereof, a sum calculated at such rate per week as the Minister approves.

State aid to certified institutions.

## PART V.

## CHILDREN'S COURTS AND CHILDREN OF THE STATE.

*Divison I.—Children's Courts.*

**22**—(1) The Governor may, by proclamation, establish for the purposes of this Act special courts to be called children's courts. Children's courts.

(2) A children's court shall be deemed to have been established for the purposes of this Act, and may be held at any place within the State where a court of petty sessions is, or has been appointed to be, held.

**23**—(1) The Governor may appoint one or more justices to be a special magistrate or special magistrates for any district.

Special magistrates.

(2) Every special magistrate appointed for any district under any Act hereby repealed, and who was in office as such special magistrate

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*Infants' Welfare.*

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- A.D. 1935. at the commencement of this Act, shall be deemed to have been appointed under this Act as special magistrate for such district.  
 (3) For the purposes of this section and section twenty-four "district" means a city and a municipality.
- Constitution of children's courts. **24** Every children's court shall consist—  
 I. Where situate in any district for which a special magistrate has been appointed as hereinbefore provided, of one or more special magistrates for that district: and  
 II. Where situate in any district for which no special magistrate has been appointed, of any two or more justices for such district.
- Proviso. Provided, however, that, if at any time within any district for which a special magistrate has been appointed no special magistrate is present when a children's court is required to be held, any two justices for that district may exercise the jurisdiction of, and while so doing shall constitute, a children's court.
- Powers of court. **25** A children's court and the magistrate or justices constituting such court, in addition to any other jurisdiction, powers, and authorities conferred upon them by this Act, shall have and may exercise in respect of offences committed by children all the powers and authorities for the time being possessed by police magistrates, courts of petty sessions, or justices.
- Jurisdiction of other courts excluded. **26** No court of petty sessions, and no justice, other than a special magistrate or a police magistrate or justices sitting as a children's court, shall exercise any jurisdiction in respect of the matters as to which a children's court has jurisdiction: Provided that nothing in this section shall abridge or prejudice the powers of justices to receive any complaint or issue any summons, or to grant, issue, or endorse any warrant, or admit to bail.
- Proviso.
- Children's courts to have powers of courts of petty sessions  
 10 Geo. V. No. 55. **27** Subject to this Act, and so far as may be consistent with the jurisdiction hereby conferred on children's courts, all the provisions of the *Justices Procedure Act* 1919 shall apply to children's courts and to every proceeding therein, and to the police magistrates, special magistrates, and justices constituting such courts, whether sitting in court or acting ministerially out of court, as fully and effectually as if the said provisions were repeated in this Act with the words "children's court" substituted for the words "court of petty sessions," or "justices," and the words "clerk of the children's court," for the word "clerk" or "clerk of petty sessions," wherever they respectively occur.  
 (2) The clerk of petty sessions at the place of holding petty sessions at or nearest to the place at which a children's court is held shall be the clerk of the children's court.
- Place of sitting. **28** Every children's court shall hold its sittings—  
 I. In some room of the building in which the court of petty sessions of the place usually sits, but the children's court

*Infants' Welfare.*

shall not be held in the same room as that in which the court of petty sessions is at the time sitting for the transaction of its business or in which a justice or justices are sitting out of sessions : or

A.D. 1935.

ii. In any other building or room.

**29** The Governor may appoint for any children's court or courts, or for the Supreme Court, one or more fit and proper persons, male or female, to be called "probation officers," who are willing to perform the duties assigned by this Act to probation officers.

Appointment of probation officers.

**30** Every probation officer shall comply with the directions of the court for which he has been appointed, and shall obey all the lawful orders of such court with respect to any child under his supervision or his care and control.

Probation officer subject to directions and orders of children's court.

**31**—(1) It shall be the duty of every probation officer when required by a court—

Duties of probation officers

- i. To investigate the circumstances of any complaint, charge, information, or application made in respect of any child and endeavour to ascertain his address and that of his parents :
- ii. To inquire and furnish the court with information as to the child's habits, conduct, and mode of living :
- iii. To render to the court such assistance as it may require :
- iv. To visit and supervise any child before and after the hearing and determination of the case as may be directed by the court : and
- v. To perform any other duties that the Governor may by regulation direct.

(2) It shall be the duty of every probation officer, under whose supervision a child has been placed, to advise, assist, and befriend such child, and when necessary to endeavour to find him suitable employment.

(3) Every probation officer may appear in any such court to represent the interests of any child, and when a child is not represented by a legal practitioner the probation officer may be heard in any such court on such child's behalf.

Powers of probation officers.

**32**—(1) Any child may be released by a court on probation, and, if so released, or if discharged on surety to appear for punishment when called upon, or to be of good behaviour, such child shall, if the court so orders, be under the supervision of a probation officer of the court making such order, or of a probation officer of some other court, who shall for that purpose be deemed to be a probation officer of the court making the order as if he had been appointed for that court.

Child released conditionally to be under supervision of probation officer.

(2) Every probation officer shall have as to the child under his supervision or care and control the powers of a police officer.

When probation officer to have powers of police officers.

*Infants' Welfare.*

A.D. 1935.

Probation officer  
may bring child  
before court for  
further action.

Powers of court  
with respect to  
children released  
on probation, &c.

(3) At any time in his own discretion such probation officer may apprehend without warrant and bring any child under his supervision before the court which made the order respecting such child for further or other action as the court may see fit to exercise.

**33**—(1) Where any child who, under this Act—

- i. Has been released on probation:
- ii. Has been discharged on his entering into a recognisance to appear for punishment when called upon, or to be of good behaviour—

fails to observe any terms or conditions imposed upon him by a court at the time of his release or discharge, the court may, by notice given to the parent of such child, or the person with whom he is living, or the probation officer, direct that such child be brought before the court at a time named in the notice; and if such child is not so brought before the court may issue a warrant to apprehend such child and to bring him before such court.

(2) If it appears to any court that such failure has occurred, the court may deal with such child in the same manner as if he had not been so released or discharged.

(3) This section shall be read and construed as in aid and not in derogation of any other provisions of this Act.

Powers of court  
in cases of  
children placed  
under supervision  
of probation  
officer

**34** Where a child has been placed by a court under the supervision of a probation officer the court, if satisfied on the report of such probation officer that the parent of the child or the person with whom he is living has failed, neglected, or refused to comply with any condition imposed by the court for the child's welfare and health, may remove the child from the care of such parent or person and cancel any order already made by it, and further deal with the child according to law.

Exclusion of  
public from court.

**35**—(1) Where any charge, complaint, or application under this Act is being heard, the children's court may order any person who, in the opinion of the court, is not directly interested in the proceedings to leave the court-room or place in which such hearing is taking place and the precincts thereof.

Penalty for  
disobeying order  
for exclusion.

(2) If any person ordered as aforesaid to leave such court-room or place and the precincts thereof, or, having obeyed the same, returns to such court-room or place, or the precincts thereof, during such hearing, the court may direct a police officer to remove such person, and such person shall be liable to a penalty of two pounds, or to imprisonment for forty-eight hours, and the court may impose either of such penalties upon its own knowledge of the commission of the offence.

(3) An order shall not be made under subsection (1) hereof in respect of any person who is—

- i. Counsel or solicitor for any of the parties to the proceedings or clerk to such solicitor:



*Infants' Welfare.*

- ii. A probation officer :  
 iii. A parent of the defendant :  
 iv. The mother or sister of any female defendant or of a female witness whose age is less than eighteen years : or  
 v. A female friend for whose presence such defendant as last aforesaid has asked : Provided that only one such friend shall be exempted hereunder.

A.D. 1935.

(4) No person shall publish a report of the proceedings before the court or the result of any such proceedings, if such publication has been prohibited by the court. Reporting proceedings,

Penalty : Twenty pounds.

**36**—(1) The clerk shall keep a register independently of that used in the court of petty sessions of the minutes or memoranda of all convictions, orders, and proceedings of the children's court, in the prescribed form and with the prescribed particulars, and such register shall be distinguished by the name of the place at which such court is held as in the said form prescribed. Register of children's court.

(2) Such register, and also any document purporting to be an extract from such register, certified by the clerk keeping the same to be a true extract, shall be *prima facie* evidence of the matters entered therein. Certified extracts to be evidence.

(3) The minutes or memoranda of every day's sitting of the children's court shall be signed by the special magistrate, police magistrate, or justices constituting such court by and before whom the convictions, orders, or proceedings referred to in the minutes or memoranda were made or had. Justices to sign register.

(4) Every such register shall be open for inspection, without fee, by any justice, and by any person authorised in that behalf by a justice, or by a law officer of the Crown, or, so far as relates to the proceedings in any particular case, by any party to the proceedings, or by the parent of the child in respect of whom the entry is made. Register open for inspection.

*Division II.—Admission or Committal of Children of the State.*

**37**—(1) Subject to the approval of the Minister, any child under the age of seventeen years may, on the application of its parent or near relative, be admitted by the Director as a child of the State. Children admitted on application.

(2) Every child so admitted may be dealt with in the same way as any neglected child committed by a children's court to the care of the Department.

**38** Any justice may, upon oath being made before him by an officer of the Department or other person appointed by the Director in that behalf that having made due inquiry, he believes any child to be a neglected or uncontrollable child— Warrant for apprehension

- i. Issue his summons for the appearance of such child before a children's court : or
- ii. In the first instance, issue his warrant to a police officer or a probation officer directing such child to be apprehended.

*Infants' Welfare.*

A.D. 1935.

Apprehension of child.

**39** A police officer or any person authorised by the Director 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 section thirty-eight.

Warrant to search for child suspected to be in brothel or place where opium is smoked, &c.

**40**—(1) If it appears to any justice, on complaint made before him on oath by any person of good repute, that there is reasonable cause to suspect that a child is in a place which is or is reputed or suspected to be a brothel, or where opium or any preparation thereof is smoked, or where he is associated with a thief, or where there is reasonable cause to suspect he is being ill-treated or neglected, such justice may issue his warrant authorising the person named therein to search in such place for any child, and to take such child to a receiving home 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.

(3) Every such warrant shall be addressed to and executed by some police officer of or above the rank of sergeant, who shall be accompanied by the person laying the complaint (if such person so desires), unless the justice issuing the warrant otherwise directs.

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

Apprehension of child in brothel.

**41** Any person authorised by the Director in that behalf, or any police officer, of or above the rank of senior constable, may without warrant apprehend a child—

- i. Who is in a place which is a brothel, or where opium or any preparation thereof is smoked: or
- ii. Who, such person or officer, as the case may be, has reason to believe, is a neglected or uncontrollable child.

Procedure when child apprehended.

**42**—(1) Where a child is apprehended as a neglected or uncontrollable child, or upon a charge of any offence, such child shall, if practicable, be taken within twenty-four hours before a children's court, or before some justice acting ministerially to be dealt with as herein after provided.

Disposal of child pending hearing.

(2) When a child is apprehended as aforesaid, such court or justice as aforesaid may make an order directing that such child, pending the hearing of the charge or complaint against him, shall be—

- i. Taken to and detained in a receiving home, if that course is deemed practicable, expedient, and convenient:
- ii. Placed in charge of some respectable person to be named in such order:
- iii. Placed in charge of a married probation officer and his wife, or a married police officer and his wife:

*Infants' Welfare.*

iv. Kept in a gaol, or in the lock-up at a police station, if the charge is of so serious a nature that his safe custody is of first importance: or

A.D. 1935.

v. Admitted to bail.

(3) A probation officer or police officer if so directed may make such arrangements, and enter into such agreements, as may be necessary for giving effect to an order under paragraph II. of subsection (2) hereof, and in respect of an order under paragraph III. thereof he shall be entitled to be paid a reasonable sum for the keep of the child so placed in his charge.

(4) If any such child escapes from the custody of any such person as aforesaid or from any such place of detention, he may be re-arrested as an absconder and placed in a gaol till the charge or complaint is dealt with by the children's court.

Absconders may be placed in gaol.

(5) In any of the abovementioned cases no warrant shall be necessary to authorise the detention of any such child, but, if the right to the custody of any such child is called in question by *habeas corpus* or otherwise, it shall be sufficient to give in evidence the said order of the children's court or justice and the authority granted by the provisions of this Act to the persons abovenamed.

Warrant not necessary to detain child.

**43** Any person having the actual care and custody of a child may apply to a children's court to commit the child to an institution upon the ground that the child is an uncontrollable child. The provisions of section forty-two shall apply to such child as if he were a child apprehended as an uncontrollable child.

Application to commit uncontrollable child.

**44**—(1) Where any child is charged before a children's court with being a neglected or uncontrollable child or with an indictable offence or with an offence punishable on summary conviction, or when any application is made to the court with respect to any child under the provisions of section forty-three—

Parent's attendance in court.

i. The child and the parent of such child shall be entitled to be heard on his behalf either personally or by a legal practitioner and may cross-examine witnesses for the prosecution and examine and re-examine witnesses testifying on behalf of such child:

Parent may appear on behalf of child.

ii. If the parent of such child is not present, the court may hear the charge or application in his absence, or may order a summons to be issued for the attendance of such parent before such court, and may adjourn the hearing of the case in the meantime: and

Enforcement of parent's attendance in court by summons.

iii. If the parent after being duly served with such summons neglects or refuses to attend accordingly without furnishing to the court a reasonable excuse, the court may order a warrant to be issued to bring him before the court at the hearing of the case, and on his arrest he may be admitted to bail on entering into recognisances, with or without sureties, to attend the court at the hearing.

By warrant.

*Infants' Welfare.*

A.D. 1935.

Child to be present when charge heard.

(2) A children's court shall not hear any charge against or application in respect of a child in his absence, and, in the event of the absence of any child at the time appointed for such hearing, the court shall adjourn the hearing, and if necessary from time to time, until the child appears or is brought before it.

Power of court with respect to neglected or uncontrollable child.

**45** If on the hearing a children's court finds that any child charged with being a neglected or uncontrollable child is a neglected or uncontrollable child, it may—

- i. Release the child on probation upon such terms and conditions and for such period as the court may think fit :
- ii. Commit the child to the care of the Department: or
- iii. Commit the child to an institution.

Provided that, where a near relative applies for an order of committal of an uncontrollable child, the court may decline to make the order unless security is given to the satisfaction of the court for the making of such payments as, in the opinion of the court, the applicant is able to afford for or towards the maintenance of such child.

Powers with respect to child liable to be summarily convicted.

**46**—(1) Where a child is summarily convicted by a children's court of an offence, other than an indictable offence, punishable by penalty or imprisonment, the court may—

- i. Release the child on probation upon such terms and conditions and for such period of time as the court may think fit :
- ii. Commit the child to the care of the Department :
- iii. Commit the child to an institution :
- iv. Upon convicting the child, discharge him conditionally on his entering into recognisances for a nominal sum with a surety or sureties to the satisfaction of the court, in such sum as the court thinks reasonable and proper, to appear for punishment when called upon or be of good behaviour for a term of not more than twelve months, and also, if it thinks fit, in addition, order him to pay such damages and costs or either of them as the court thinks reasonable :
- v. Adjudge the child to pay a penalty not exceeding five pounds: or
- vi. If the age of the child is fourteen years or over, sentence the child according to law, but in no case to a longer term of imprisonment than three months.

(2) When a sentence is imposed on a child under this section, the court shall forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for imposing such sentence, and the Minister may order the removal of such child to an institution.

*Infants' Welfare.*

(3) When a child is dealt with under this section, the court may, if there is no previous conviction against such child, order that no conviction shall be recorded against him, and any such order may, in the discretion of the court, be subject to the condition that he shall pay such damages and costs, or either of them, as the court directs.

A.D. 1935.

**47**—(1) Where a child is summarily convicted by a children's court of an offence in respect of which a penalty, damages, or costs, or any one or more of them, is or are adjudged to be paid, and the court has reason to believe that such child's parent has contributed to the commission of the said offence by wilful default or by habitually neglecting to exercise due care of the said child, the children's court may direct a police officer forthwith to charge such parent with so contributing to the commission of the said offence, and, if the parent is present and does not ask for an adjournment of the hearing of the charge to enable him to answer it, such court may hear the charge there and then, and on being satisfied that it is proved may convict the said parent thereof: Provided, however, that, where it is shown that the parent's want of pecuniary means is the cause of such default or neglect, the charge shall be held not proved.

Procedure where parent deemed to have contributed to commission of child's offence.

Court may direct institution of proceedings against parent.

When parent present.

(2) If the said parent is not present the children's court may direct a police officer to obtain a summons on such charge against the parent of such child, and upon the day appointed by the summons for the hearing of such charge, and after due service thereof on the said parent, the court, on being satisfied that the charge is proved, may convict the said parent thereof.

When parent not present.

**48**—(1) Where a children's court convicts the parent of the charge as aforesaid, it may, in and by its conviction, adjudge the said parent instead of his child, to pay the penalty, damages, or costs, or any one or more of them, that such child has been adjudged to pay, and may in addition order the said parent to forthwith enter into his own recognisance with or without surety for the good behaviour of such child for any period not less than three months nor more than twelve months, and, in default of such recognisance being entered into accordingly, may order the said parent to be imprisoned for a term of three months

May adjudge parent to pay penalty, damages, or costs instead of child.

(2) Where the parent is so adjudged to pay all or any of such sums as aforesaid, the children's court shall not enforce against the child the payment of the said sums so adjudged to be paid by him in the first instance, but this provision shall not prejudice the right of the court to deal with the said child as a "neglected child" under this Act, in which event the said parent shall not be ordered to enter in to a recognisance as aforesaid for the child's good behaviour.

Child excused from payment.

**49** Where any child over the age of fourteen years has been adjudged by a children's court to pay any sum or sums of money by way of penalty, damages, or costs, the court may, in default of payment thereof, forthwith, or within such time as the court may direct, order

Term of imprisonment corresponding to penalty

*Infants' Welfare.*

A.D. 1935.

the child to be imprisoned for such period as the court may order, not exceeding in any case the maximum period fixed by the following scale :—

Where the amount of the sum or sums adjudged to be paid—	The said period shall not exceed—
Does not exceed twenty shillings . . . . .	Three days
Exceeds twenty shillings, but does not exceed forty shillings . . . . .	Seven days
Exceeds forty shillings, but does not exceed five pounds . . . . .	Fourteen days
Exceeds five pounds . . . . .	One month

Order for detention.

**50** Whenever a child is committed to the care of the Department, the order of committal shall be sufficient authority to any police officer, probation officer, or officer of the Department to take the child to such institution as the Director may direct, or in default of any such direction to such receiving home as may be nearest or most convenient.

Summary trial of children not over the age of fourteen years for certain indictable offences.

**51** Where any child whose age does not exceed fourteen years is charged before a children's court with any indictable offence other than murder or attempt to murder, rape, manslaughter, or wounding with intent to do grievous bodily harm, the court shall not commit such child for trial at the Supreme Court, but shall deal summarily with the offence and, if it finds the charge to be proved, may at its discretion deal with the case in any of the modes specified in paragraphs 1. to v. of section forty-six which the court is empowered to adopt in respect of offences referred to in that section.

Powers of children's court to deal with children over the age of fourteen years charged with certain indictable offences.

**52—(1)** When a child over the age of fourteen years is charged before a children's court with an indictable offence other than murder or attempt to murder, rape, manslaughter, or wounding with intent to do bodily harm, the children's court—

1. If it finds the charge to be proved, may—

- (a) Release the child on probation upon such terms and conditions and for such period as the court may think fit :
- (b) Commit the child to the care of the Department :
- (c) Commit the child to an institution :
- (d) Sentence the child according to law in the case of any offence for which an adult might be sentenced on summary conviction :

*Infants' Welfare.*

(e) In the case of any indictable offence other than an offence such as is referred to in division (d) hereof, without entering a conviction, commit the child to take his trial at law : or

A.D. 1935.

ii. If, in the opinion of the court, the evidence is sufficient to put the child upon his trial for an indictable offence, or raises a strong or probable presumption of the guilt of the child, but the court is not of opinion that the charge has been proved beyond all reasonable doubt, then the court shall commit the child to take his trial according to law.

(2) Notwithstanding anything in subsection (1) of this section to the contrary, where a child is charged under that subsection with any indictable offence such as is referred to in subsection (1) of section sixty-one of the *Police Offences Act* 1935, he may elect to be, or his parent on his behalf may elect that he be, tried by a jury in any case in which an adult charged with a like offence would be entitled to so elect, and the provisions of subsection (3) of section sixty-one of the last-mentioned Act and of Part IV. of the *Justices Procedure Act* 1919 shall, with the necessary modifications and in so far as such provisions are not inconsistent with this Act, apply to the procedure of the children's court in respect of such charge.

Child may elect to be tried by a jury.

26 Geo. V. No. 44.

10 Geo.V. No. 55.

**53** Where a children's court has committed a child to take his trial according to law for any indictable offence, the Minister may, if the child has not been admitted to bail, order that, pending his presentment for trial or the sooner abandonment of the proceedings against him, the child be detained in an institution, or, if he is in legal custody awaiting his trial, that the child be transferred from such custody to an institution and there detained as aforesaid.

Child may be detained in an institution pending trial.

**54**—(1) Every order committing a child to the care of the Department or to an institution shall contain a statement of the age and religion, so far as can be ascertained, of such child, and the cause for which the child is to be detained.

Form of order.

(2) The statement in any order that the child therein named is of a certain age and religion may, for the purposes of this Act, be taken to be true, unless within six months from the date of the order the Director shall be satisfied to the contrary, and shall endorse on the order the correct age or religion.

Statement of age and religion to be *prima facie* evidence.

**55**—(1) Where any child has been convicted under this Act and discharged conditionally upon his entering into a recognisance in a nominal sum with a surety or sureties to appear before the children's court for punishment when called upon, and the said court at any time thinks fit to call upon such child to appear before the said court for punishment, such call may be effected and shall be sufficient if a notice in writing signed by the clerk of the children's court and addressed to such child and his surety or sureties is served on such surety or sureties commanding such child to so appear, and his said surety or sureties to

Procedure on requiring appearance before the court for punishment of a child who has been released on surety so to appear.

Notice in writing.

*Infants' Welfare.*

- A.D. 1935. — produce him, before some sitting of the court at a time and place therein mentioned to receive punishment for the offence of which he had been convicted by the said court.
- Service of notice. (2) Service of the said notice may be effected by posting the same to the address of the surety or sureties mentioned in the recognisance so as to reach such address by ordinary course of post seventy-two hours before the time named in the said notice for the appearance of such child before the children's court, or as service of a summons may be effected under the *Justices Procedure Act 1919*.
- 10 Geo.V. No. 55. On child's failure to appear recognisance to be forfeited and warrant of apprehension issued. (3) After being so served with such notice if such child does not appear before such court for punishment accordingly, the said court may declare the recognisance to be forfeited and may issue a warrant for the apprehension of such child, and any justice may dispose of him in the manner provided in this Act for the disposal of a child pending the hearing of a charge or information, and order him to be brought before the next sitting of the court to be dealt with according to law.
- Power of children's court to deal with children charged with murder, &c. **56** Where a child is charged before a children's court with murder, attempt to murder, rape, manslaughter, or wounding with intent to do bodily harm, and the court is of opinion that the evidence is sufficient to put the child upon his trial for an indictable offence, or raises a strong or probable presumption of the guilt of the child, then the court shall commit the child to take his trial according to law.
- How child convicted of indictable offence may be dealt with. **57** Where a child upon his trial in the Supreme Court has pleaded guilty to or has been convicted of an indictable offence, the judge may—
- i. Discharge the child on his entering into a recognisance :
  - ii. Release the child on probation upon such terms and conditions and for such period of time as the court or a judge thereof may think fit :
  - iii. Commit the child to the care of the Department :
  - iv. Commit the child to an institution :
  - v. Order the child to pay a fine, damages, or costs :
  - vi. Order the parent or guardian of the child to pay a fine, damages, or costs :
  - vii. Order the parent or guardian of the child to give security for his good behaviour : or
  - viii. Sentence the child according to law.
- Form of committal. **58** A court 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.
- Children to be placed in receiving home. **59** A child on being committed to an institution may be placed temporarily in a receiving home.



*Infants' Welfare.*

- 60** The Minister, with respect to any child who has been committed to or is an inmate of any institution, shall determine the particular institution in which the child shall be placed and detained. A.D. 1935.  
—  
Minister to determine particular institution.  
Child placed in institution.
- 61** 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 may be removed from one institution to another.
- 62** The Minister may direct that any child who has been committed to, or is an inmate of, any institution shall be removed to another institution, and he shall be removed accordingly and there detained. No detention after age of eighteen.  
Child over sixteen may be detained for three years.
- 63** Except as in this Act otherwise provided, no child of the State shall be detained in any institution after attaining the age of eighteen years: Provided that, if any child at the time of being committed to an institution is upwards of sixteen years of age, such child may be ordered to be detained in an institution, or otherwise dealt with under this Act, for a period of not exceeding three years, notwithstanding that such period would extend beyond the time of such child attaining the age of eighteen years. Mode of imprisonment.
- 64** Any child sentenced to imprisonment under this Act may be detained during the term of his sentence in such place and under such conditions as the Governor may direct, and while so detained shall be deemed to be in legal custody. Provisions as to release of child detained according to directions of Governor.
- 65**—(1) A person in detention pursuant to the directions of the Governor under section sixty-four may, at any time, be released by the Governor on licence. Discharge of convicted child
- (2) A licence may be in such form and may contain such conditions as the Governor may direct.
- (3) A licence may at any time be revoked or varied by the Governor, and, where a licence has been revoked, the person to whom the licence related shall, upon notice of such revocation being served upon him, return or go to such place as the Governor may direct, and, if he fails to do so, may be apprehended without warrant and taken to that place by a police officer or officer of the Department.
- 66**—(1) Notwithstanding anything in this Act to the contrary—
- i. The Governor may, upon the recommendation of the Minister, order the discharge of any convicted child: and
  - ii. The Minister may order the discharge of any child, other than a convicted child—
- from the control of the Department or from an institution, and the child shall forthwith be discharged accordingly.
- (2) Such discharge may, if the Governor or Minister, as the case may be, thinks proper, be a discharge on probation on such conditions, if any, as may be imposed, and in such case the child shall be subject

*Infants' Welfare.*

A. D. 1935.

to the care of the Department until he attains the age of twenty-one years, or for such shorter period as the Governor or the Minister, as the case may be, determines.

Inspection of premises by probation officers.

- 67** When a child has been released on probation under this Act—
- i. The child and the premises wherein he resides shall be subject to inspection by the probation officers of the court which released such child, or officers appointed in that behalf by the court, or any officer of the Department: and
  - ii. If any person having the custody or control of a child so released as aforesaid ill-treats or neglects such child, the Minister may remove the child from such custody or control.

State children absconding, &c., may be apprehended without warrant.

**68** Any child of the State who absconds from any institution, or from his foster-mother, or foster-parent, or from any person in whose custody he is placed, or who, whilst liable to detention, refuses or neglects forthwith to return to such institution or custody as the Director may order, may be apprehended without a warrant by any police officer, or by an officer of the Department, and conveyed to such institution or custody as the Director may direct.

The Department or managers may apprentice children.

**69**—(1) The Director, or the managers of any certified institution, as the case may be, may, by indentures of apprenticeship, bind any child of the State apprentice to be taught such trade or calling as the Director or such managers approve.

(2) Such indentures shall be as effectual without being executed by the child as if the child were of full age at the date thereof, and had voluntarily executed the same.

Director or governing authority may place out children.

**70**—(1) Subject to this Act, the Director or the managers of any certified institution, as the case may be, may place out any child of the State for such period as the Director or managers think fit.

(2) A child of the State shall not be placed out with any person who is the holder of an hotel or public-house licence.

(3) Nothing in this section shall authorise the placing out of any child for any time extending beyond the period of detention of such child.

State children to attend school regularly.  
23 Geo. V. No. 22.

**71**—(1) Every child of the State over the age of seven years shall be sent regularly to a State school in compliance with the *Education Act 1932*, or be regularly and efficiently instructed in some other manner until such child attains the age of fourteen years, or such later age as the Minister in any case directs.

(2) No child of the State shall be apprenticed or placed out for hire—

i. If he is under the age of fourteen years: or

ii. Unless a medical certificate of physical fitness for employment has been obtained in respect of such child.

(3) Any parent or foster-parent committing or permitting any breach of this section shall be guilty of an offence against this Act, unless for good cause shown he be specially exempted by the Minister

*Infants' Welfare.*

- 72** No child who is suffering from enthetic disease shall be placed out. A.D. 1935.
- 73** The apprenticing or placing out of a child of the State by the managers of any institution shall be subject in all respects to the regulations. Certain children not to be placed out.  
The apprenticing or placing out of children to be subject to regulations.
- 74**—(1) All agreements for the placing out for hire of children of the State under this Act shall be in a form approved by the Minister. Provisions in indentures.  
11 Geo.V. No. 51.
- (2) All indentures of apprenticeship shall be in the form prescribed by or under the *Wages Boards Act* 1920 (hereinafter called "the said Act"), whenever applicable, but otherwise shall be in such form as the Minister shall approve.
- (3) All such agreements and indentures shall, in addition to the provisions, if any, prescribed under the said Act, contain provisions respecting the maintenance of such children, and for the due payment of such wages as may be payable thereunder, and shall be exempt from stamp duty.
- (4) Any indentures executed in conformity with the provisions of this Act shall be good and valid indentures for all purposes under the said Act and enforceable in the same manner as if the same were in a form prescribed under the said Act.
- 75**—(1) All wages earned by a child of the State, except such part thereof as the employer is required to pay to the child personally as pocket-money, shall be paid by the employer to the guardian of the child or other person mentioned in the indentures or agreement. Wages may be paid into savings bank.
- (2) The guardian or such person shall deposit every amount so paid in a savings bank in trust for the child.
- 76**—(1) All or any part of the money so deposited, and any interest thereon, may be expended for the benefit of the child when and in such manner as his guardian may deem advisable. Moneys banked may be expended for the child's benefit.
- (2) When a child of the State is discharged, his guardian shall pay to him or expend for his benefit, as the guardian thinks fit, such portion of the money earned by the child as aforesaid, and then in the savings bank, as the guardian thinks advisable.
- (3) Any such payments may be made by instalments if considered advisable.
- (4) Any balance not so paid to the child or applied for his benefit shall remain in the savings bank at interest until the child attains the age of twenty-one years, and shall then be transferred to the child on application and proof of his identity.
- 77** The wages or earnings due by any person on account of any child of the State may be sued for and recovered by and in the name of the guardian of the child or of any other person named for that purpose in the indenture or agreement as aforesaid, for the benefit of the child. Guardian may recover wages.

*Infants' Welfare.*

A.D. 1935.

Disposal at death.

**78** On the death of a child of the State, the money held in trust to the credit of the child in any savings bank pursuant to this Act shall, after payment thereof of any funeral or other expenses approved by the Minister, be paid to the personal representative of such child.

Indentures of apprenticeship, agreement, or placing-out may be assigned with consent of Director.

**79**—(1) The foster-parent of any child of the State may, by an assignment bearing the consent of the Director or the managers, as the case may be, but not otherwise, assign the indentures of apprenticeship or agreement for placing out in relation to such child to any fit and proper person.

(2) Every such assignment shall be executed in duplicate by the assignor and assignee, and one part of the assignment so executed shall be forthwith forwarded to the Director or managers by the assignor, and thereafter the indentures or agreement for placing out shall, for the purposes of this Act, be read and construed as if the assignee had originally been party thereto in the place of the assignor.

(3) Any foster-parent who assigns any indentures of apprenticeship or agreement without such consent as aforesaid shall be guilty of an offence against this Act, and the assignment shall be null and void.

Minister may order return of child apprenticed or placed out.

**80**—(1) The Minister may at any time by order require any child of the State placed out or apprenticed forthwith to surrender himself at any institution or to any person to be named in the order.

(2) The Minister may, by the same or a separate order, and without incurring any liability for breach of contract or otherwise, cancel the indentures of apprenticeship or agreement relating to any child of the State, and require the person with or to whom such child is placed out or apprenticed forthwith to deliver such child at an institution or some person to be named in the order.

(3) Any police officer or officer of the Department may, without warrant, take into custody such child and bring him to the institution or person named in the order, and for such purpose may enter upon or into any land, house, building, or vessel whereon or wherein the child is or is supposed to be.

Change of residence to be notified by foster-parent.

**81** No person with or to whom a child of the State is placed out or apprenticed shall change his place of residence without giving to the Director or the managers the prescribed notice.

Notice to be given if child absconds, becomes ill, or dies.

**82** If a child of the State apprenticed or placed out absconds, becomes ill, meets with an accident, or dies, the person with or to whom such child is placed out or apprenticed shall immediately give such notice and do all such further acts and things as may be prescribed.

Department to have general supervision of State children.

**83** The Department shall have general supervision over all children of the State detained in any institution or placed out or apprenticed.

Children of the State to be visited.

**84**—(1) The Director where practicable shall cause every child of the State to be visited once at least in every three months by an officer of the Department, or person appointed for that purpose by the Director, to ascertain whether the conditions of the indentures of apprentice-

*Infants' Welfare.*

ship or agreement respecting such child have been fulfilled, and whether the treatment, education, and care of such child are satisfactory. A.D. 1935.

(2) The managers of any institution or any person authorised by such managers may, for the like purpose, visit any child of the State apprenticed or placed out by such managers.

(3) Every person, with or to whom a child of the State is placed out or apprenticed, shall, at the request of any such officer, managers, or person—

- i. Produce the child and his outfit, or show cause to the satisfaction of the officer, managers, or person for the non-production or absence of such child :
- ii. Permit an examination to be made of such outfit and the sleeping and other accommodation, and food provided for such child : and
- iii. Permit such officer, managers, or person, out of the presence and hearing of such firstmentioned person, to examine and question such child.

**85** The Minister may, out of any moneys which may be appropriated by Parliament for that purpose, pay to the foster-mother of any child for the care and maintenance of such child such sum as he thinks reasonable and proper. Payments for maintenance of State children to foster-mother.

## PART VI.

## MAINTENANCE OF CHILDREN BY THEIR RELATIVES.

**86** The undermentioned near relatives of any child of the State shall be liable to pay or contribute towards the maintenance of such child according to their ability respectively, and in the following order of priority, namely :— Order of liability of near relatives for maintenance of any child.

- i. In the case of a legitimate child—Father, mother, stepfather, stepmother, brothers and sisters, grandparents :
- ii. In the case of an illegitimate child—Father, mother.

**87**—(1) Upon complaint that any persons are near relatives of any child of the State, and are able to pay or contribute towards the maintenance or past maintenance of such child, such persons or any of them may be summoned to appear before a children's court at a time and place to be named in such summons, to show cause why they or he should not pay for or contribute towards the past or future maintenance of such child. On complaint court to issue summons.

(2) The court may adjourn the hearing, and may summon any other persons alleged to be near relatives to appear at the adjourned hearing.

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*Infants' Welfare.*


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A.D. 1935.

Court may order  
payment of  
maintenance.

(3) If the court is satisfied that the persons summoned, or any of them, are near relatives, and are able to, and in the opinion of the court should, pay for or contribute towards the past or future maintenance of such child, the court may order payment to be made to the Director or to the managers of an institution or to such other person as the court thinks fit by such near relatives, or some one or more of them, and, if by more than one, in such proportions, as the court thinks fit—

- i. Of such sum for past maintenance of the child : and
- ii. Of such sum for future maintenance, and for such period, and by such instalments—

as the court deems sufficient.

(4) If a maintenance order is made against two or more near relatives, one order may be made against all of them, or separate orders may be made against each or any of them jointly or severally, as to the court seems fit.

Order to take  
effect from  
pronouncement.

**88** Every maintenance order shall be served personally upon the persons against whom the same is made, or in such manner and at such place as may be prescribed, or as the children's court shall direct ; and the order shall take effect from the time of its pronouncement, notwithstanding that the formal order has not been signed or served.

Allegations in  
complaint *prima*  
*facie* evidence.

**89** Upon the hearing of any complaint under this Act in respect of the maintenance of a child of the State, whose paternity is not in question, the averment in the complaint that any person therein mentioned is a near relative liable to maintain, and is able to pay or contribute towards the maintenance of, such child, and that any sum has been expended upon, or is due, or owing for or in respect of, maintenance, shall be sufficient evidence of the facts so averred.

Application of  
certain sections  
of 12 Geo. V.  
No. 40.

**90** Sections sixty-three to sixty-five of the *Maintenance Act 1921* (hereinafter called "the said Act") shall apply to and in respect of maintenance orders made under this Part, in the same manner as if those sections had been incorporated in this Part, and for the purpose of such application any reference in such sections—

- i. To the said Act, shall be deemed to be a reference to this Part :
- ii. To a court, shall be deemed to be a reference to a children's court : and
- iii. To the clerk of the court, shall be deemed to be a reference to the clerk of such children's court.

Court may  
require security  
for compliance  
with order.

**91**—(1) A children's court, on the hearing of a complaint that any person liable upon any maintenance order made under this Act has made default thereunder, may order that the person liable for the maintenance shall find good and sufficient security that he will comply with the order made against him.

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*Infants' Welfare.*

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(2) The children's court may, by such lastmentioned order or by a further order on the same complaint, adjudge that, in default of such security being found, such person shall be imprisoned for any period not exceeding six months, if the order for security is not sooner complied with. A.D. 1935.

(3) The children's court may determine upon the sufficiency of any proposed security, and in what manner the security shall be given.

**92** The amount of the periodical payments payable in respect of maintenance, under any order made under this Act, may, by any subsequent orders made by a children's court, be increased or diminished upon sufficient cause being shown to the satisfaction of the court. Power to increase amount.

**93**—(1) On the complaint of a near relative liable upon a maintenance order under this Act, all or any of the persons alleged to be near relatives, may be summoned to appear before a children's court. Orders may be varied, &c., on further inquiry.

(2) At the hearing, or at any adjourned hearing, the court may make further inquiry as to the means and ability of the complainant, and as to the relationship to the child of the persons summoned, and as to their ability respectively to maintain or contribute towards the maintenance of such child, and may make such order increasing, reducing, or varying the periodical sum to be thenceforth paid by the complainant, or suspending for a specified time or annulling the previous order, or directing that the persons so summoned, or some or one of them, shall thenceforth pay for or contribute towards the maintenance of the child, or may make such other order in the matter as to the court seems just.

**94** Subject to the provisions of a maintenance order, any officer of the Department, and any police officer when so directed by the Commissioner of Police, may demand, collect, and receive from any person liable to pay the same all sums of money due to the Director under any maintenance order, and the receipt in writing of any such officer for moneys paid to him shall be a sufficient discharge therefor. Collection by the police of moneys due to the Director.

**95** All complaints under this Part, except where otherwise provided, shall be made by the Director or an authorised officer. Who may complain.

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A.D. 1935.

*Infants' Welfare.*

## PART VII.

## FOSTER-MOTHERS AND NURSING HOMES.

All orders, &c.,  
in force under  
9 Geo. V. No. 15  
to remain in  
force.

**96** All orders, registrations, registers, certificates, rolls, and notices in existence or in force under Part VII. of the *Childrens' Act* 1918 at the commencement of this Act shall, in so far as is not inconsistent with this Act, continue as if they had been respectively made, effected, kept, issued, or given under this Act.

Application of  
this Part.

**97** This Part shall not extend to—

- i. The near relatives or lawful guardians of any child, not being a child of the State, retained or received by such relatives or guardians :
- ii. Any person or institution exempted for the time being from the operation of this Part by special order of the Minister.

Interpretation.

**98** In this Part "infant" means any—

- i. Child of the State :
- ii. Infant under the age of five years who is not a child of the State.

Foster-mothers to  
be licensed and  
nursing homes  
registered.

**99**—(1) No person shall receive into or retain in his care or charge in any house any infant for the purpose of nursing or providing for such infant apart from its parents for a longer period than twenty-four hours, unless such person is licensed for that purpose in respect of such house, and such house is also registered as a nursing home under this Act ; or unless the Director being satisfied that it is a case of emergency or necessity has given his approval in writing of such person so doing.

Penalty : Twenty pounds.

Payments by  
Director for keep  
of child.

(2) The Director or any person authorised by him may receive payment of any sum in advance for the keep and care of any such child in a nursing home, and may pay out such money in such monthly instalments as he deems requisite.

(3) In case of the death of such child, any sum unexpended, after payment of the funeral expenses of such child, shall be returned to the person entitled to receive same.

Method of  
licensing and  
registration.

**100**—(1) Any female person may apply to the Director to be licensed as a foster-mother, and to have her home registered as a nursing home under this Part, and the Director may grant such licence and register such nursing home.

Register to be  
kept.

(2) The Director shall cause a register to be kept, in which shall be entered—

- i. The name of every person to whom a licence as a foster-mother has been granted :
- ii. The situation of the nursing home in respect of which the licence has been granted :



*Infants' Welfare.*

- iii. The maximum number of children who may be nursed therein : and A.D. 1935.
- iv. Such other particulars as may be prescribed.
- (3) Every such licence and registration shall, unless cancelled under this Part, remain in force until the thirty-first day of December next following the granting of the licence, but may be renewed annually in the month of December in the year of any such renewal. Duration of licence.
- (4) No fee shall be payable for any such licence, registration or renewal.
- (5) Every renewal shall take effect from the first day of January following such renewal, and shall, unless cancelled under this Part, remain in force for twelve months. Renewals.
- (6) The Director shall issue under his hand to every licensed foster-mother a licence and a certificate of the registration of the nursing home and of any renewal of the same. Issue of licence.
- (7) The certificate in respect of the nursing home shall set out the maximum number of infants permitted to be nursed therein.
- 101**—(1) The Director may refuse to licence any foster-mother or to renew any licence unless he is satisfied that the applicant is of good character, and able properly to nurse and provide for any infants in her care or charge, and is in good health and free from any constitutional disease or any physical or mental disability. Director may refuse to license any foster-mother.
- (2) The Director may refuse to register or renew the registration of any nursing home, unless he is satisfied that the house is suitable for the purpose, and is situated in a suitable locality.
- 102**—(1) Every foster-mother shall keep at her nursing home a roll, on which she shall forthwith enter— Roll of nursing home.
- i. The name, sex, and age of each infant received into her care or charge :
  - ii. Opposite the name of each such infant, the date when such infant was so received :
  - iii. The full names, addresses, and occupations of the parents, and of the person by whom such infant was left with her, or from whom it was received, and, if such lastmentioned person was a married woman, the full name, address, and occupation of the husband of such person : and
  - iv. Particulars of the periodical payments to be made in respect of such infant and by whom they are to be made.
- (2) Every foster-mother shall, forthwith on receiving any infant into her care or charge, forward a notice thereof to the Director. Receipt of infant to be notified to Director.
- (3) In case of default in the making of any such periodical payments as abovementioned, the foster-mother shall, within three days after the same became due, give written notice to the Director of such default.
- (4) If any such infant is removed from such nursing home, whether before or after attaining the age of five years, such foster-mother shall, immediately after such removal, enter in such roll the date of such removal and the full name, address, and occupation of the person by whom the infant was so removed.

*Infants' Welfare.*

A.D. 1935.

(5) Every foster-mother shall cause the person by whom an infant is removed to sign such entry, and shall forward to the Director a copy thereof within three days after the removal of each infant.

Production of roll to police officer.

(6) A foster-mother shall, forthwith upon demand by an officer of the Department or a police officer of or above the rank of sergeant, produce such roll to such officer, who may examine and peruse the same, and, if he thinks proper, retain it.

Duty and responsibility of foster-mother.

**103**—(1) It shall be the duty of every foster-mother to provide every infant, while in her care or charge, with proper and sufficient clothing, food, nursing, and attention, and with all other necessaries of life, and to keep every part of the nursing home at all times in a fit and proper state for the reception of infants, and to do, observe, and carry out all the acts, requirements, and directions prescribed by this Act or by any lawful order of the Director or authorised officer in relation to the nursing home.

(2) The Director or authorised officer is hereby empowered to make any such order having for its object the effectual execution of the foregoing provisions of this section.

(3) Every such foster-mother shall, in respect of the conduct of her nursing home, be responsible not only for her own acts or default but also for any act or default of any member of her family, or of any person employed by her at or in connection with such nursing home.

Licences and registrations may be cancelled.

**104**—(1) If at any time it is made to appear to the Director that any foster-mother has been guilty of neglecting any infant in her care or charge, or is incapable of providing any such infant with proper food or attention, or that the nursing home is unfit for the reception of infants, or if for any other reason it appears to the Director desirable so to do, he may, after at least seven days' notice in writing, served by leaving the same at the nursing home, cancel the licence of such person and the registration of such nursing home.

Removal of children of the State.

(2) The Director shall immediately remove from such nursing home all children of the State and place them in another nursing home, or make other adequate provision for them.

Order for removal of other children.

(3) The Director may, at any time after giving such notice of cancellation to any foster-mother, by order in writing under his hand, addressed to the person who is by contract or otherwise legally responsible for the maintenance of any infant (not being a child of the State) placed in the care of such foster-mother, require such person forthwith to remove such infant from the nursing home of such foster-mother, and place it in another nursing home, or make other adequate provision for it, and, if the person so ordered, upon a copy of such order being served upon him, fails forthwith to obey such order, he shall be guilty of an offence against this Act.

Director may remove infants not being children of the State.

(4) The Director may at his discretion remove from any such nursing home any infant (not being a child of the State), and the Department may take it into its care temporarily, pending the restoration of such infant to its relatives or guardians, or until it can be lawfully disposed of; and in any such case the Director may recover the cost of

*Infants' Welfare.*

the removal, maintenance, and clothing of and medical attendance upon such infant from any person responsible for the maintenance of such infant. A.D. 1935.

(5) The removal of any infant from the nursing home of any foster-mother whose licence has been cancelled under this section shall terminate any contract made by any person with such foster-mother respecting such infant.

**105**—(1) Every foster-mother shall, within twenty-four hours after the death of an infant in her care or charge, give or cause to be given notice thereof to the police officer in charge of the nearest police station, and thereupon an inquest shall be held. Notice to be given of death of infant; inquest to be held and report made to Minister.

(2) The coroner holding such inquest shall inquire, not only into the immediate cause of death, but into all such circumstances as may throw any light upon the treatment and condition of the infant during life, and also into any other matters in his opinion requiring investigation in the public interest; and such coroner, after holding such inquest, shall report to the Minister the cause of death, and shall in such report make such remarks with respect to the matter as to him seem fit.

**106**—(1) The Director or any officer of the Department, accompanied, if necessary, by a legally-qualified medical practitioner, may at any time enter and inspect any nursing home and inspect all infants therein, and examine the foster-mother in order to satisfy himself or the medical practitioner as to the proper care, maintenance, and treatment of any infant, and may give any necessary advice or directions as to such care, maintenance, and treatment. Inspection.

(2) One such inspection at least shall take place in every three months.

(3) No person shall—

i. Refuse to admit the Director or an officer of the Department, or a medical practitioner accompanying either of such officers, to any— Penalty for refusing to permit inspection.

(a) Nursing home:

(b) Premises to which an infant has been removed from a nursing home: or

(c) Premises in which an infant so removed is detained: or

ii. Refuse to answer, or shall answer falsely, any question put to him by the Director or such officer or practitioner concerning such nursing home, premises, or infant.

Penalty: Twenty pounds.

(4) The provisions of subsections (1) and (3) hereof shall apply in respect of any child over the age of five years in the care or charge of a person who, if such child were under that age, would be required to be licensed under this Act before taking charge of such child.

*Infants' Welfare.*

A.D. 1935.

## PART VIII.

## OFFENCES.

Ill-treating children.

**107** Any person over the age of sixteen having the custody care or control of a male child under the age of fifteen, or of a female child under the age of sixteen, wilfully ill-treats, neglects, abandons, or exposes such child, or causes such child to be ill-treated, neglected, abandoned, or exposed, shall be liable to a penalty of twenty-five pounds or to imprisonment for six months, or to both such penalties.

Ill-treatment of children placed out or apprenticed.

**108** Any person who wilfully ill-treats or neglects any child placed out with or apprenticed to him under this Act, or who causes such child to be ill-treated or neglected, shall be liable to a penalty of twenty-five pounds or to imprisonment for six months.

Restrictions on employment of children.

**109**—(1) No person shall cause or procure any child under the age of—

## i. Fifteen years to be—

(a) In any public place for the purpose of begging, or inducing the giving of, or receiving, alms, whether or not under the pretence of singing, playing, performing, offering anything for sale, or otherwise : or

(b) In any street or in any premises licensed for the sale of intoxicating liquor, for the purpose of singing, playing, performing for profit, or offering anything for sale, between the hours of nine of the clock in the afternoon of any day and five of the clock the next following forenoon : or

## ii. Fourteen years to be at any time in any public place or in any premises licensed for the sale of intoxicating liquor for the purpose of singing, playing, or performing for profit, or to be in any street between the hours of seven of the clock in the afternoon of any day and six of the clock in the next following forenoon for the purpose of offering any thing for sale.

Penalty : Twenty-five pounds or three months' imprisonment.

(2) The provisions of subsection (1) shall not apply to any child playing, singing, or performing at an occasional entertainment, the net proceeds of which are applied wholly for the benefit of any school, or of any church or charity, or for any patriotic purpose.

Forgery of licences, &amp;c.

**110** No person shall—

## i. Knowingly furnish any false information to the Director or any other person with reference to any matter with respect to which he is required by this Act to furnish information to the Director or such person :

*Infants' Welfare.*

- ii. Forge any licence or certificate authorised to be issued under Part VII. : **A.D. 1935.**
- iii. Fraudulently make use of any such licence or certificate knowing the same to be forged : or
- iv. Falsify any roll kept in pursuance of Part VII.

Penalty : Twenty-five pounds or three months' imprisonment.

**111** No person shall—

- i. Without the authority of the Minister, take or remove any child of the State from any institution before the expiration of the period of detention of such child, or from its foster-mother or foster-parent to or with whom such child is apprenticed or placed out before the expiration of the term of placing out or apprenticeship :
- ii. Directly or indirectly counsel or induce any child of the State to abscond from any institution, or to break his apprenticeship indentures, or to abscond or escape from his foster-mother or foster-parent before such child has been regularly discharged, or before the expiration of such placing out or apprenticeship :
- iii. Prevent any child of the State from returning to any institution or to his foster-mother or foster-parent, or knowing any child of the State to have been so taken or removed as aforesaid, or to have so absconded or escaped as aforesaid, harbour or conceal, or assist in harbouring or concealing, such child :
- iv. Being an officer or servant of the Department or of the managers of an institution, negligently or knowingly permit any inmate to abscond or escape as aforesaid :
- v. Without the authority or permission of the Director, or of the managers of an institution, as the case may be, hold any communication with any inmate :
- vi. Having entered any institution or any premises belonging thereto or used in connection therewith, fail to depart therefrom when lawfully required so to do by the superintendent, matron, or any officer or servant of such institution : or
- vii. Without the previous permission in writing of the Minister remove any child of the State out of Tasmania, or suffer such child to be removed out of Tasmania.

Removing,  
harbouring, &c.,  
State children.

Communicating  
with children in  
institutions.

Penalty : Under paragraphs i. to iv. or vii. : Twenty pounds or six months' imprisonment ; Under paragraphs v. or vi. : Twenty pounds.

**112**—(1) No person shall—

- i. Refuse, fail, or neglect to comply with any maintenance order made against him under this Act, or leave or attempt to leave the State without making arrangements for future payments to the satisfaction of the Director : or

Disobeying  
maintenance  
order.

*Infants' Welfare.*

A.D. 1935.

Desertion of  
child.

ii. Being a near relative liable to maintain any child—

(a) Desert such child : or

(b) Leave such child without, or fail to provide him  
with, adequate means of support.

Penalty : Six months' imprisonment.

Court may  
determine matter  
in summary way.

(2) Upon the hearing of a complaint under this section, the court, if satisfied that the child has been, or is about to be, deserted by the person complained against, or is actually without adequate means of support, and that such person is a near relative of such child, liable and able to contribute towards his maintenance, may order such person, either immediately or at some adjournment, to find good and sufficient security to the satisfaction of the court that he will not desert or leave such child without adequate means of support.

(3) The court, in default of such security being found, may commit such person to prison for any period not exceeding six months, or until such order be sooner complied with.

Court may issue  
warrant for arrest  
of deserter upon  
complaint on oath.

(4) Upon complaint on oath by the Director, or any other officer of the Department, that he has reasonable grounds for believing that any person has committed or is about to commit an offence under this section, any justice, if satisfied that there are reasonable grounds for believing that such offence has been or is about to be committed, may issue a warrant for the arrest of the person complained against.

General penalty.

**113** Any person who contravenes or makes default in compliance with any provision of this Act or any order made by the court thereunder for which contravention or default no penalty is specifically provided, shall be liable to a penalty of twenty pounds or to imprisonment for three months.

## PART IX.

## MISCELLANEOUS.

Children main-  
tained in certified  
institution for  
two years without  
objection by  
father not re-  
movable without  
consent or order.

**114**—(1) Where any destitute or neglected child has been, without objection on the part of its father or other guardian, received into any certified institution and maintained therein for a period of two years or upwards, such father or other guardian shall not be entitled to remove such child out of the custody or control of the managers of such institution without their consent in writing or the order of the Minister, which may be given if such father or guardian satisfies the Minister that he did not know that such child was being so maintained, and that he has not been guilty of negligence with regard to such child whilst it has been so maintained.

(2) If no such consent is given the managers of such institution shall have the custody of the person of such child until it attains the age of eighteen years.

*Infants' Welfare.*

**115** At the hearing of any complaint under this Act, any one officer of the Department or any one probation officer may be present, and may examine and cross-examine witnesses, and be heard touching the acquittal or punishment of any child.

A.D. 1935.

Officer of Department may take part in all trials against children.  
Order may be set aside.

**116** If contrary to the provisions of this Act any committal order, or conviction is made or entered by a children's court in respect of a child in the absence of his parent or guardian, to whom reasonable notice of the complaint has not been given, such committal order, or conviction may for good cause shown be set aside by the same or another children's court upon the application of such parent or guardian within three months after the making or entering of the committal order, or conviction.

**117**—(1) An order committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent of the institution to which the child has been committed and shall be a sufficient warrant for the detention of the child.

Order to be forwarded to institution.

(2) The production of—

- i. Any such order or a copy thereof endorsed with a memorandum purporting to be signed by the superintendent or matron of any institution, stating 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
- ii. Any order made under this Act, or a copy thereof purporting to be signed by the clerk of the children's court by which the same was made or by the Director in case of a removal order and certified to be a correct copy—

Certain orders and copies to be evidence.

shall, without proof of the signature of the person purporting to have signed the same, be evidence of the due making and signing of such order, memorandum, or certificate, and of the committal, detention, and identity of the child, and of the identity of the parent named in such order or memorandum.

**118** If it be made to appear to any justice by complaint on oath that there is reason to believe that any person is offending against this Act in any house or premises, or that any provision of this Act is being infringed in any house or premises, such justice may issue his warrant authorising any member or members of the police force to search any house or premises therein named, at any hour of the day or night, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of this Act.

Search warrant.

**119** Every person authorised to take charge of any child ordered to be detained under this Act, for the purpose of conveying such child to or from any institution, or to a foster-mother or foster-parent, shall,

Persons in charge of State children to have privilege of constables.

*Infants' Welfare.*

- A.D. 1935.** while engaged in such duty, have all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as any police officer has by common law or statute.
- Proof of age.** **120** In cases where the age of any person is material, a children's court or any other court having jurisdiction in the case may decide, upon its own view and judgment, whether any person charged or present before it has or has not attained any prescribed age, but nothing herein shall be construed to prevent the age of such person being proved.
- Limit of costs to be paid by child.** **121** Where a child is himself ordered by a children's court to pay costs in addition to a penalty, the amount of the costs so ordered to be paid shall in no case exceed the amount of the penalty, and (except so far as the court thinks fit expressly to order otherwise) all fees payable or paid by the complainant in excess of the amount of costs so ordered to be paid shall be remitted or repaid to him, and the court may also order the penalty, or any part thereof, to be paid to the complainant in or towards the payment of his costs.
- Costs.** **122** No costs shall be ordered against the Director or other officer of the Department in any proceedings taken under this Act if the court having cognisance thereof is of opinion that the Director or other officer has acted in good faith in his official capacity.
- Expenses of administration.** **123** All expenses incurred in administering, carrying out, and enforcing the provisions of this Act shall be defrayed out of moneys to be provided by Parliament for the purpose.
- Act to be construed liberally.** **124** This Act shall be liberally construed to the end that its purpose may be carried out, to wit, that the care and custody and discipline of a child of the State shall approximate as nearly as may be that which should be given by its parents, and that, as far as is practicable and expedient, every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help, and assistance.

**PART X.****REGULATIONS AND FORMS.**

- Regulations.** **125** The Governor may make regulations for the purposes of this Act.
- Forms.** **126** Where any form is required to be used under this Act, and no appropriate form is prescribed, a form approved by the Director, and which substantially complies with the relevant provisions, may, until a form is prescribed, be used and shall be sufficient for its purpose.



*Infants' Welfare.***THE FIRST SCHEDULE.**

A.D. 1935.

Section 2.

Regnal Year and Number.	Title of Act.
59 Vict. No. 10	<i>The Prevention of Cruelty to, and Protection of, Children Act 1895</i>
9 Geo. V. No. 15	<i>The Children's Act 1918</i>
12 Geo. V. No. 62	<i>The Children's Charter Act 1921</i>
13 Geo. V. No. 21	<i>The Children's Charter Act 1923</i>

**THE SECOND SCHEDULE.**

Section 14.

The Ashley Home for Boys, Deloraine.  
 The New Town Rest Home.  
 The Receiving Home at Hobart.  
 The Receiving Home at Launceston.  
 The Home for Mental Defectives, New Town.

**THE THIRD SCHEDULE.**

Section 15.

The St. Joseph's Roman Catholic Orphanage, Hobart.  
 The Kennerley Boys' Home, Hobart.  
 The Girls' Industrial School, Hobart.  
 The Girls' Home, Launceston.  
 The Northern Tasmanian Home for Boys.

