

THE STATE CHILDREN ACT, 1907.

(No. 31 of 1907.)

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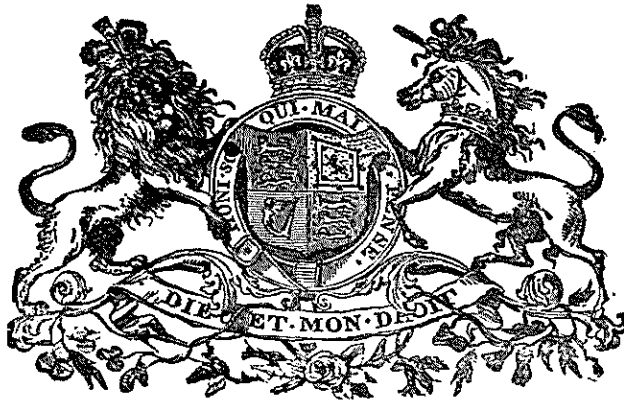
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WESTERN AUSTRALIA.



ANNO SEPTIMO

EDWARDI SEPTIMI REGIS,

XXXI.

No. 31 of 1907.

AN ACT to make better provision for the Protection, Control, Maintenance, and Reformation of Neglected and Destitute Children, and for other purposes.

[Assented to 20th December, 1907.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *State Children Act, 1907.* Short title.

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

PART I.—PRELIMINARY, ss. 1-4.

PART II.—THE STATE CHILDREN DEPARTMENT, ss. 5-12.

PART III.—INSTITUTIONS, ss. 13-17.

PART IV.—STATE CHILDREN AND CHILDREN'S COURTS, ss. 18-58.

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PART VII.—LICENSING OF CHILDREN, ss. 94-95.

PART VIII.—LYING-IN HOMES AND FOSTER MOTHERS,
ss. 96-107.

PART IX.—PROCEDURE, PENALTIES, AND GENERAL
PROVISIONS, ss. 108-133.

Repeal.

3. The Acts specified in the First Schedule are hereby repealed to the extent therein stated: Provided that—

- (1.) Any appointment or order made, any license granted, and any indenture of apprenticeship or contract entered into under any enactment hereby repealed, shall continue in force as if the same had been made, granted, or entered into under this Act:
- (2.) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to the corresponding provisions of this Act:
- (3.) Except as aforesaid, this repeal shall not affect any right, interest, or liability already created, incurred, or existing, nor anything lawfully done or suffered under any enactment hereby repealed; and any proceeding in respect of any such right, interest, or liability may be carried on as if this Act had not been passed.

Interpretation.

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

- “Board out” means to place a State child in the care or charge of some person for the purpose of being nursed or maintained by such person, or in such person’s house.
- “Child” means any boy or girl under the age of eighteen years; and, in the absence of positive evidence as to age, means any boy or girl under the apparent age of eighteen years;
- “Court” means a Children’s Court established under this Act;
- “Department” means the State Children Department constituted under this Act;
- “Destitute child” means any child who has no sufficient means of subsistence apparent to the Court, and whose near relatives are, in the opinion of the Court, in indigent circumstances and unable to support such child, or are dead, or unknown, or cannot be found, or are out of the jurisdiction, or in the custody of the law;

- “Foster-mother” means a female having the care, charge, or custody of a child under three years of age to adopt, rear, nurse, or otherwise maintain such child apart from his or her parent, and not being a near relative of such child;
- “Foster-parent” means any person to or with whom a State child is apprenticed or placed out under this Act, or under any enactment by this Act repealed, and includes the assignee of such person;
- “Governing authority” means the manager or committee of management of any subsidised institution;
- “Industrial school” means an institution approved and certified by the Governor for the purposes of this Act, for the detention, maintenance and training of children found guilty of an offence punishable by imprisonment, or of children transferred from another institution under this Act, and includes a reformatory;
- “Inmate” means a State child maintained in an institution;
- “Institution” means and includes any Government industrial school, and all orphanages, industrial or reformatory schools established under the Industrial Schools Act, 1874, every receiving depot, or shelter, established under this Act, and all other places for the time being under the supervision of the Department;
- “Judge” means a Judge of the Supreme Court;
- “Lying-in home” means a place for the accommodation of females during their confinement and lying-in, and includes any home maintained for such purpose by the Government.
- “Maintenance” includes clothing, support, training, and education;
- “Maintenance order” means an order made by the Court for payment of money by any near relative in respect of the maintenance of a child;
- “Minister” means the Minister for the time being charged with the administration of this Act;
- “Near relative” means, except as regards an illegitimate child, father, mother, step-father, step-mother, brother, sister, or any grand parent of the child; and as regards an illegitimate child, the mother and the person admitting himself to be or adjudged by a competent Court to be the father of such child, and the husband of the mother of such child, if born before their marriage;
- “Neglected child” means any child who—
- (1.) Habitually begs or receives alms, whether under the pretext of sale or otherwise, or frequents any public place for the purpose of so begging or receiving alms; or

- (2.) Wanders about, or frequents any public place, or sleeps in the open air, and does not satisfy the Court that he or she has a home or settled place of abode; or
- (3.) Resides in any reputed brothel, or associates or dwells with any person known to the police or reputed to be a prostitute, whether such person is the mother of such child or not; or
- (4.) Associates or dwells with any person who has been convicted of vagrancy, or is known to the police as of bad repute, or who has been or is reputed to be a thief or habitual drunkard; or
- (5.) Is under the guardianship of any person whom the Court shall consider unfit to have such guardianship; or
- (6.) Is illegitimate, and whose mother is dead or is unable to maintain or take charge of such child; or
- (7.) Is living under such conditions as to indicate that the child is lapsing or likely to lapse into a career of vice or crime; or
- (8.) Not being duly licensed for that purpose, is engaged in street trading;

“Orphanage” means an institution for the detention, maintenance, training, education and employment of destitute or neglected children, and which has been approved and certified by the Governor for the purposes of this Act;

“Police Officer” includes any constable or officer of police;

“Prescribed” means prescribed by this Act or the regulations;

“Proclamation” means proclamation by the Governor published in the “Government Gazette;”

“Regulations” means the regulations in force for the time being under this Act;

“Secretary” means the Secretary of the Department appointed under this Act;

“Special magistrate” means a police magistrate, government resident, or resident magistrate, or a Justice of the Peace nominated by the Governor for the purposes of this Act;

“State child” means a “destitute child” or “neglected child” received into a Government institution or a subsidised institution, or apprenticed or placed out under the authority of this Act;

“Subsidised Institution” means an institution maintained wholly or partially by contributions from the Consolidated Revenue Fund;

“This Act” includes regulations.

PART II.—THE STATE CHILDREN DEPARTMENT.

5. For the purposes of this Act there is hereby constituted a State Children Department, under the control of the Minister, to be called the State Children Department.

6. The Governor may, from time to time, appoint a Secretary of the Department, and it shall be the duty of the Secretary, under the direction of the Minister to carry into operation the provisions of this Act so far as the execution thereof is not expressly committed to any other person.

7. (1.) The Governor may, from time to time, appoint inspectors and other officers, with such powers and functions as he deems necessary to carry out the purposes of this Act.

(2.) The Governor may declare that the Public Service Act, 1904, shall not apply to any inspector or officer appointed under this Act, and in such case the Public Service Act, 1904, shall not apply to such officer.

8. The Minister may, from time to time, appoint so many fit and proper persons as he thinks necessary to be visitors of Government institutions.

9. (1.) The Minister may, from time to time, appoint so many fit and proper persons as he thinks necessary to form boarding-out committees.

(2.) The persons appointed as members of such committees shall, in accordance with the regulations, assist the Department in procuring and supervising boarding-out homes and in the care of the State children sent to such homes under this Act.

10. (1.) Subject to the regulations and the direction of the Minister, the Secretary shall have the care, management, and control of the persons and property of all State children, and the supervision of all children nursed by foster-mothers.

(2.) All children committed to the care of the Department may from time to time be dealt with by the Secretary in any of the following ways:—

- (a.) Placed in some receiving depot.
- (b.) Detained in an institution.
- (c.) Transferred with the approval of the Minister from one institution to another institution.
- (d.) Boarded out, apprenticed, or placed at service with some suitable person.

(e.) Placed in the custody of some suitable person who may be willing to take charge of such child.

Record of State children to be kept.

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

Annual report.

12. The Secretary shall in every year report to the Minister on the working of this Act, and shall in such report specify the number of children in the several institutions, the number placed out and apprenticed during the period covered by the report, and set out a summary of the receipts and expenditure of the Department during the same period, and any other particulars which the Minister may direct from time to time to be included in such report. All such reports shall be laid before Parliament.

PART III.—INSTITUTIONS.

Government institutions.

13. (1.) The Governor may declare any building or place to be a Government institution, and such building or place so proclaimed shall thereupon be a Government institution within the meaning and for the purposes of this Act.

(2.) The Governor may discontinue and close any Government institution, and direct the removal of the inmates to some other institution.

(3.) Any order under this section may be altered or revoked by the Governor.

Subsidised institutions.

14. (1.) The Governor may declare any building or place to be a subsidised institution, and such building or place so proclaimed shall thereupon be a subsidised institution within the meaning and for the purposes of this Act.

(2.) The Governor may discontinue any such institution as a subsidised institution, whereupon all State children being inmates thereof, and all State children apprenticed or placed out by the governing authority thereof, shall be sent to and detained in any other institution, or otherwise dealt with under this Act.

(3.) Any order under this section may be altered or revoked by the Governor.

Existing institutions continued.

15. (1.) The Government Industrial School at Subiaco, established before the commencement of this Act, is hereby declared to be a Government institution within the meaning and for the purposes of this Act.

(2.) The orphanages and industrial and reformatory schools established before the commencement of this Act, specified in the Second Schedule, are hereby declared to be subsidised institutions within the meaning and for the purposes of this Act.

16. No person shall be appointed or continue to be the manager or have the chief control of any subsidised institution unless approved by the Governor. Manager to be approved.

17. If any institution is established and maintained for the children of any particular religious denomination exclusively, the Governor may limit the same as an institution for such children only, and in such case no child shall be committed to such institution who is not of the denomination mentioned in the order-in-council. Institutions may be established for particular religious denominations.

PART IV.—STATE CHILDREN AND CHILDREN'S COURTS.

Constitution and powers of Court.

18. (1.) The Governor may establish special courts, to be called Children's Courts. Children's Courts.

(2.) Every such court shall consist of a special magistrate, and shall have jurisdiction within the area named in the order-in-council.

(3.) In the absence of the special magistrate, or in places not within such area, the jurisdiction of a Children's Court may be exercised by any two or more Justices of the Peace.

19. A Children's Court and the magistrate or justices constituting such Court— Powers of Court.

(a.) shall exercise the powers and authorities which are possessed by resident magistrates or two or more justices under the Justices Act, 1902, in respect of children, and of offences committed by or against children; and

(b.) shall hear and determine all complaints and applications under this Act, and under sections ten and twelve of the Public Education Act, 1899, and section three of the Public Education Amendment Act, 1905.

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

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

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

21. (1.) The Children's Court shall be held within the city of Perth and in such other places as the Governor may direct, in some building approved or appointed in that behalf by the Minister, and not in any police or other court-house. Children's Courts not to be held in ordinary courts.

(2.) Subject as hereinbefore provided a Children's Court shall be held in some building or place approved of in that behalf by the Minister :

Provided that if a court-house or magistrate's office is so approved of, the hearing shall not take place at an hour when the ordinary court business is being transacted.

Exclusion of persons from hearing.

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

(2.) It shall not be lawful to publish a report of the proceedings before the Court, or of the result of any such proceedings, if such publication has been prohibited by the Court.

Committal of destitute or neglected children.

Power to apprehend neglected or destitute children.

23. Any officer of the Department authorised by the Minister, and any police officer may, without warrant, apprehend any child appearing or suspected to be a destitute or neglected child, and when any such child is apprehended, pending the hearing of the charge or information, or during any adjournment thereof, such child shall be disposed of in one of the following ways:—

- (a.) Taken to a receiving depot, shelter, or other Government institution and placed therein;
- (b.) Placed with some respectable person, and such arrangement or agreement may be made as may be necessary or proper for the care and maintenance of such child;
- (c.) Placed in the dwelling of a police officer at prescribed charges; or
- (d.) Placed in a police gaol or lock-up and kept apart from other prisoners: Provided that no child shall be detained in a police gaol or lock-up unless the charge pending is of so serious a nature that his safe custody is of paramount importance.

Powers of court with respect to destitute or neglected children.

24. The Court upon complaint being made, and upon being satisfied that any child charged with being a destitute child or a neglected child, is in fact a destitute child or a neglected child, may order such child to be—

- (a.) Committed to the care of the Department; or
- (b.) Sent to some institution to be specified in the order, there to be detained or otherwise dealt with under this Act, until such child attains the age of eighteen years.

Order for detention.

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

26. If any child is brought before the Court, charged by his parent or near relative with being an uncontrollable or incorrigible child the Court, upon being satisfied that the charge is well founded, may—

How uncontrollable child may be dealt with.

- (a.) Order the child to be sent to an institution to be there detained or otherwise dealt with under this Act until eighteen years of age ; or
- (b.) If a child is a male under the age of sixteen years, order him to be whipped ; or
- (c.) Release the child on probation, on such conditions, if any, as the Court may order, and in such case the child shall be subject to the supervision of the Department until he attains the age of eighteen years:

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

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

27. If any child is brought before the Court charged by an officer of the Department or a police officer with being an uncontrollable or incorrigible child, the Court upon being satisfied that the charge is well founded, may exercise the jurisdiction conferred upon it by the last preceding section in the same manner and to the same extent as if the charge had been made by the parent or near relative of the child.

Uncontrollable children may be charged by Department.

28. If any child is found guilty of any offence punishable by imprisonment, the Court in lieu of sentencing such child to imprisonment may—

How convicted children may be dealt with.

- (a.) Order such child to be sent to an industrial school and to be there detained or to be otherwise dealt with under this Act until eighteen years of age; or
- (b.) Order the parent to give security for the good behaviour of such child until the child attains the age of eighteen years, or during such shorter period as the Court may think sufficient, and upon being satisfied that such security has been given, may dismiss the charge ; or
- (c.) Adjourn the case on a near relative undertaking to punish the child in such reasonable or moderate manner as the Court may approve, and on being satisfied that such punishment has been duly inflicted may dismiss the charge ; or

(d.) Release the child on probation on such conditions, if any, as the court may order, and in such case the child shall be subject to the supervision of the Department until he attains the age of eighteen years :

Provided that no order for security shall be made against a parent under this section unless such parent has been summoned to attend before the Court and has had an opportunity of being heard.

When probationer may be arrested.

29. If any child released on probation pursuant to section twenty-six or twenty-eight fails to observe the conditions of his release, or if the Secretary shall not be satisfied with his conduct while on probation, the Secretary may without any warrant cause him to be arrested and brought before the Court, and the Court may exercise any of the powers specified in sections twenty-six or twenty-eight as the case may be.

Child over sixteen years of age at time of committal may be detained for two years.

30. 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 the period of two years, notwithstanding that such period would extend beyond the time of such child attaining the age of eighteen years.

No detention after age of eighteen.

31. Except as in this Act otherwise provided, no State child shall be detained in any institution or be under the control of the Department after attaining the age of eighteen years.

Institution to which children to be sent.

32. (1.) Every child found guilty of an offence and committed to an institution shall be sent to an industrial school.

(2.) Destitute children and neglected children shall be sent to institutions other than industrial schools:

Provided that if any neglected or destitute child in the opinion of the Court under the special circumstances of the case ought to be sent to an industrial school, the Court may order such child to be committed to an industrial school accordingly:

Provided also that under special circumstances, and with the approval of the Minister, an inmate of any institution may be transferred for misconduct to an industrial school, and in like manner any inmate of an industrial school may, for good conduct, be transferred to any other institution.

Habitual truants.

33. (1.) Any order made by justices under section three of the Public Education Amendment Act, 1905, shall direct the child to be sent to an institution other than an industrial school.

(2.) After a detention of not less than two months any child may be given a license to live out of the institution, but the license shall be conditional upon the child attending regularly some school named in the license being a Government school or efficient school :

Provided that such license may be revoked by direction of the Minister whenever the child ceases to attend at such school regularly, and it shall be the duty of the teacher in charge of the school named in the license to notify the Department weekly of the attendance of the child.

34. (1.) Every order of the Court committing a child to the care of the Department or to an institution shall be in the prescribed form setting forth the age and religion, so far as known, of such child, and the cause for which the child is to be detained. Form of order.

(2.) In the absence of evidence as to the age of any child, the Court may on view determine the age of such child, and shall insert in the order the age so determined.

35. The statement in any order that the child therein named is of a certain age and religion shall, for the purposes of this Act, be taken to be true, unless within six months from the date of the order the Secretary shall be satisfied to the contrary, and shall indorse on the order the correct age or religion. Statement of age and religion to be *prima facie* evidence.

36. A certificate indorsed upon or annexed to any order and signed by the Secretary or the superintendent or matron of any institution, stating that the child named in such order was duly received into such institution, and was at the signing thereof detained in an institution or had been otherwise dealt with under this Act, shall in all proceedings whatsoever be *prima facie* evidence of the facts stated in such certificate, and of the identity of the child therein named. Certificate of secretary, etc., indorsed on order to be *prima facie* evidence.

37. Any State child who absconds from any institution, or from his foster-parent, or who, whilst liable to detention, shall refuse or neglect at the end or determination of the term of his apprenticeship or placing out forthwith to return to the institution in which he was last detained, or to such other institution as the Secretary may order, may be apprehended without a warrant by any police officer, or by an officer of the Department, and conveyed to such institution as the Secretary may direct. State children absconding, etc., may be apprehended without warrant.

38. The Governor may, on the recommendation of the Minister, order the release of any State child from the control of the Department or from any institution, and upon production to the Secretary Governor may release State child.

or, in the case of an institution, to the superintendent or matron thereof, of such order, the child shall be forthwith released accordingly.

Removal of inmates from one institution to another.

39. Any inmate of an institution may, for any reason which appears to the Minister sufficient, and subject to the provisions of this Act, be removed to and detained in any other institution.

Governor may extend period of detention.

40. The Governor may order that the period of supervision or of detention of any female State child specified in any order shall be extended until such child shall attain the age of twenty-one years or for any shorter period, and such child shall be supervised or detained accordingly.

The Department or governing authority may apprentice children.

41. The Secretary or the governing authority of any institution, as the case may be, may, by indenture of apprenticeship, bind any State child apprentice to any suitable person, to be taught such trade or calling as the Secretary or such governing authority shall approve; and such binding shall be as effectual as if the child were of full age at the date of the indenture, and had voluntarily executed the same; but the period of any such apprenticeship shall not exceed five years, nor extend beyond the day of the child attaining the age of twenty-one years.

Secretary or governing authority may place out children.

42. The Secretary or the governing authority of any institution, as the case may be, may place out any State child to reside and board with any relative of such child, or with a suitable person approved by the Secretary or governing body, for such period, subject to this Act, as the Secretary or governing authority thinks fit; or may place out for such period as aforesaid any State child with any suitable person willing to receive such child for adoption or service, and who, in the opinion of the Secretary or governing authority, is able to provide for such child.

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.

43. (1.) Every State child over the age of six years placed out shall be sent regularly to school until fourteen years old, or until he shall pass the compulsory standard required by the Public Education Act, 1899, or any Act amending the same or substituted therefor.

(2.) No State child shall be apprenticed or placed out for service under the age of fourteen years unless such child has passed such compulsory standard.

(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 shall be specially exempted by the Minister.

44. The apprenticing or placing out of a State child by any governing authority shall be subject in all respects to the regulations made under this Act.

The apprenticing or placing out of children to be subject to regulations.

45. All indentures of apprenticeship and agreements for the placing out of State children under this Act shall be in the forms prescribed and shall contain provisions to the satisfaction of the Minister for the proper keeping, maintaining, clothing, and (where necessary) educating such child, and for the due payment of such wages as may be payable thereunder.

Provisions in indentures.

46. The Secretary or governing authority may in any indenture or agreement provide that all, or such portion as may be specified, of any wages to become due to the child shall be deposited in the Government Savings Bank in the name of such child, and every such payment shall be deemed to be a payment to such child:

Wages may be paid into Government Savings Bank.

Provided that no money deposited pursuant to this section shall be withdrawn without the consent of the Minister until the child attains the age of eighteen years.

47. (1.) All or any part of the money so deposited, and any interest thereon, may, with the consent of the Minister, be expended for the benefit of the child when and in such manner as the Secretary or governing authority may from time to time deem advisable.

Moneys banked may be expended for the child's benefit.

(2.) All moneys so deposited, and not expended as aforesaid, shall be payable to the child upon his attaining the age of eighteen years.

Provided that on the death of any such child any debt due to the Department in respect of such child shall be a first charge on moneys so deposited, and shall be payable to the Department on demand.

48. The wages or earnings due by any person to any State child, whether payable to such child or not, may be sued for and recovered by and in the name of the Secretary or of the governing authority, as the case may be, for the benefit of such child.

Secretary or governing authority may recover wages.

49. (1.) The foster-parent of any State child may, by an assignment bearing the consent of the Minister or the governing authority, as the case may be, but not otherwise, assign the indenture of apprenticeship or license respecting such child to any fit and proper person.

Indentures of apprenticeship and licenses may be assigned with consent of Minister.

(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 Secretary or governing authority by the assignor, and thereafter the indenture or license 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.) Every foster parent who assigns any indenture of apprenticeship or license without such consent as aforesaid shall be guilty of an offence against this Act, and the assignment shall be null and void.

On death of foster-parent, widow, etc., may nominate new foster-parent.

50. (1.) On the death of the foster-parent of any State child, the widow, widower, executor, or administrator of such foster-parent may, at any time within three months after such death, apply, in writing, to the Secretary for an order directing such child to be bound or placed out for the residue of the term to some fit and proper person nominated in and consenting to such application.

(2.) The Secretary may make an order accordingly, and thereupon a new indenture or license shall be executed by the person so nominated for the unexpired term of the original indenture or license, and upon the like term and conditions, or upon such other terms and conditions, subject to this Act, as the secretary may deem advisable.

Indentures and licenses may be cancelled.

51. If the foster-parent of any State child shall become bankrupt or become unable to maintain and employ such child, or shall be about to remove from the State, the Secretary or governing authority, as the case may be, may, on application by or on behalf of the foster-parent or child, make an order releasing and discharging the foster-parent and the child, respectively, from the indenture of apprenticeship or agreement, and from every covenant and agreement therein contained or thereby implied; and, by the same or any other order, may direct the child to be placed in an institution to be therein named.

Change of residence to be notified by foster-parent.

52. No foster parent shall change his place of residence without in every case giving to the Secretary or the governing authority such notice as may be prescribed.

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

53. If a State child apprenticed or placed out absconds, becomes ill, meets with an accident, or dies, the foster-parent of such child shall immediately give such notice and do all such further acts and things in every such case as may be prescribed.

Penalty for ill-treating State child apprenticed, etc.

54. Every foster-parent who ill-treats, injures, or neglects any State child placed out with or apprenticed to him shall be liable to a penalty of not exceeding twenty pounds, or to imprison-

ment with or without hard labour for any term not exceeding six months, and the Court may discharge the child from the apprenticeship or license, and order him to be sent to an institution.

55. The Department shall have general supervision over all State children detained in any institution or placed out for adoption or otherwise, or apprenticed by the governing authority of any institution.

Department to have general supervision of State children.

56. (1.) The Secretary shall cause all State children apprenticed or placed out to be visited once at least in every six months by an officer of the Department, or person appointed for that purpose by the Secretary, to ascertain whether the stipulations of the indentures of apprenticeship respecting such children have been fulfilled, and that the treatment, education, and care of such children are satisfactory.

Apprenticed and placed-out children to be visited.

(2.) The governing authority of any institution or any person authorised by such governing authority may for the like purpose visit any State child apprenticed or boarded out by such governing authority.

(3.) Every foster-parent shall, at the request of any such officer, governing authority, or person, personally produce the child apprenticed or placed out to, or with him, or show cause to the satisfaction of the officer, governing authority, or person, for the non-production or absence of such child.

57. The Minister may pay to the governing authority of any subsidised institution, for the maintenance therein of any State child, such sum and for such periods as may be prescribed.

Minister may pay for maintenance of child.

58. The Minister may pay to the foster-parent or foster-mother of any State child for the care and maintenance of such child, until he shall attain the age of fourteen years, such sum as may be prescribed.

Payments for maintenance of State children to foster-parents.

PART V.—MAINTENANCE OF CHILDREN BY THEIR RELATIVES.

59. The near relatives of any State child shall be liable to pay or contribute towards the maintenance of such child according to their several abilities, and in the following order, namely—

Order of liability of near relatives for maintenance of any child.

(a.) In the case of a legitimate child—Father, mother, step-father, stepmother, brothers and sisters, grand-parents;

(b.) In the case of an illegitimate child—Father, mother's husband, mother.

60. (1.) Upon complaint that any persons are near relatives of any State child, 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 the Court at a time

On complaint Court to issue summons.

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.

(2.) All complaints under this Part of this Act, except where otherwise expressly provided, shall be made by or on behalf of the Secretary.

Court may order payment of maintenance.

61. (1.) At the time and place appointed for the hearing of such complaint the Court may adjourn the hearing, and may summon any other persons alleged to be near relatives to appear at the adjourned hearing; and may, at the original or any adjourned hearing, if the Court is satisfied that the persons so summoned, or any of them, are near relatives of the child, and are able to pay for or contribute towards the past or future maintenance of such child, order payment to be made by such near relatives, or some one or more of them to the Department, or to the governing authority, as the Court may think fit—

(a.) Of such sum for past maintenance of the child as may seem sufficient; and

(b.) Of such sum for future maintenance, and for such period as may seem sufficient, but not being more than twelve shillings and sixpence per week.

(2.) If an 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 may seem fit, so that such persons shall not be liable to pay more than twelve shillings and sixpence a week in the aggregate in respect of any one child.

(3.) No order shall be made for payment in advance for future maintenance, otherwise than by periodical instalments not exceeding four weeks in advance, without the consent of the Minister.

Order to take effect from pronouncement.

62. Every maintenance order shall be served upon the persons against whom the same is made personally, or in such manner and at such place as may be prescribed, or as the Court shall direct; but the order shall take effect from the time of its pronouncement, notwithstanding that the formal order may not have been signed or served.

Allegations in complaint *prima facie* evidence.

63. Upon the hearing of any complaint in respect of the maintenance of a legitimate child, the allegations in the complaint that the person complained against is a near relative liable to maintain, and is of sufficient means to maintain the child, and that any sum has been expended upon, or is due, or owing for, or in respect of the maintenance of the child, shall be received as *prima facie* proof of such allegations respectively; and the onus of proving that such person is not a near relative, as stated in the complaint, or is not of sufficient means to maintain such child, or that some other person

is prior in order of liability, or that the sum stated in the complaint to be expended, or due, or owing is not due, or owing, or was not expended, shall lie upon the defendant.

64. Upon the hearing of a complaint against any person in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under this section shall be made—

Court may adjudge person to be father of illegitimate child.

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

65. (1.) An order for confinement expenses may be made on complaint therefor, or such order may be made therefor without any complaint in any proceedings against the father for the maintenance of the child, and such order may be made separately or included in any other order against the father.

Confinement expenses.

(2.) Proceedings may be had against the father of an illegitimate child for maintenance or for the confinement expenses either before or after the birth of the child.

(3.) Every order for confinement expenses or for maintenance made before the birth of a child, shall direct that payment shall be made to the Department, and such moneys shall be retained until the birth of the child, when the same shall be applied towards confinement expenses and maintenance.

(4.) The words "Confinement expenses" mean and include reasonable medical and nursing expenses attendant upon the confinement of the mother and the cost of clothing necessary for the child for two months after its birth.

66. (1.) Upon complaint made under section sixty of this Act, notice may be given by the Secretary to any banker or other person having, or supposed to have, the care, custody, or control of any money or property of, or belonging or payable to, any person complained against, not to pay or part with the possession of such money or property until such complaint has been heard and determined, and such money and property shall thereby become and be attached in the hands of the person having the care, custody, or control thereof, who shall be compellable to give evidence on the hearing of such complaint as to all matters relating to or concerning such money or property.

Attachment of property of persons against whom order is sought.

(2.) Any person who, after receipt of any such notice, pays or hands over any such money or property otherwise than in accordance with the order made by the Court, or who neglects or refuses to comply with the order made, shall be personally liable to

pay to the Department the amount of money or the value of the property ordered to be paid or handed over, and such amount or value may be recovered before the Court in a summary way.

Court may make orders for delivery, etc., of attached property.

67. The Court hearing any such complaint may direct that the money or property attached, or any portion thereof, shall be paid or handed over to the Department or to the person to whom the maintenance money is ordered to be paid, and the person having the care, custody, or control thereof shall pay or hand over the same accordingly, and shall be thereby discharged from all liability to the owner thereof, or any person claiming under him in respect of the money or property so paid or handed over.

Court may require security for compliance with order.

68. The Court on complaint being made that any person liable upon any maintenance order has made default thereunder, or intends to evade compliance therewith, may, by a subsequent order, require the person liable for the maintenance to find good and sufficient security that he will comply with the order made against him, and the Court may, in default of such security being found, commit such person to prison for any period not exceeding six months, if the order for security is not sooner complied with:

Provided that it shall be lawful for the Court to determine upon the sufficiency of any proposed security, and in what manner the security shall be given.

Power to increase amount.

69. The amount of the weekly payments payable under any order may, by any subsequent orders from time to time made by the Court, be increased to any amount not exceeding the maximum if the near relatives are able to pay such greater amount.

Orders may be varied, etc., on further inquiry

70 (1.) On the complaint of a near relative liable upon a maintenance order, all or any of the persons alleged in the complaint to be near relatives of the child named in the order may be summoned to appear before the Court at a time and place to be named in the summons.

(2.) At the time and place so appointed, 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 such child of the persons summoned, and as to their several abilities to maintain or contribute to 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 not inconsistent with the provisions of this Act as shall appear just.

71. 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 Department 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 Department.

72. (1.) If any person against whom a maintenance order has been made is the registered proprietor of any land, or of any estate, or interest in land subject to the Transfer of Land Act, 1893, or the Land Act, 1898, the Secretary may lodge with the Registrar of Titles or the Under Secretary for Lands, as the case may be, a caveat against any dealings with such land, estate, or interest.

Caveats.

(2.) Particulars of the order shall be set out in the caveat, and the Registrar of Titles or the Under Secretary for Lands, as the case may be, shall forthwith register such caveat, and it shall not be lawful for the Registrar of Titles or the Under Secretary for Lands, without the consent of the Secretary, to remove or discharge such caveat unless and until he is satisfied that all moneys due under such order have been paid and satisfied, or unless he is ordered by the Supreme Court or a Judge thereof to remove such caveat.

73. If any money payable under a maintenance order is in arrear for one month, the Court may issue a warrant authorising the Department, or some person named in such warrant, to receive the whole or so much of the rents, profits, and income of the real and personal estate of the person against whom such order was made, or to sell the estate and interest of such person in such real and personal estate or any part thereof.

Warrants may be granted to enforce payment under orders.

74. Every such warrant may be registered in the same manner as a writ of *feri facias*, and shall, from the time of registration, bind the estate or interest of the person liable under the order for maintenance in his real estate and chattel real property.

Warrant when registered to bind land.

75. Any sale under such warrant may be by public auction or private contract, and subject to such special or other conditions as the Department shall deem expedient.

Sale may be by auction or private contract.

76. The Department or person authorised by the warrant to sell may execute to the purchaser all such conveyances, assignments, transfers or other assurances of the property sold as the person against whom the order was made might have executed but for this Act, and the property so conveyed, transferred or otherwise assured shall vest in the purchaser accordingly; and the Registrar of Deeds, the Registrar of Titles, or the Under Secretary for Lands,

Authority to sell includes power to execute assurances to purchaser.

as the case may be, shall forthwith register a memorial of every such conveyance, and every such transfer, and cause all certificates of title to be issued or cancelled, and entries to be made and acts to be done as may be necessary for giving effect to the sale.

Warrant may be issued without previous demand.

77. (1.) No notice or demand whatsoever shall be requisite before issuing any such warrant as is mentioned in section seventy-three or before exercising all or any of the powers thereby conferred.

(2.) The warrant shall, so far as regards any purchase or person dealing with the Department, or person authorised by such warrant, be conclusive evidence that the power to sell is vested in the Department or person therein named.

Payment under warrant to discharge persons paying.

78. The payment to the Department or person named in any such warrant shall be a good discharge to any purchaser or other person for all moneys paid by him pursuant to such warrant.

Application of moneys received under warrant.

79. The rents, profits, and income, and the proceeds of any sale received under any such warrant, shall be applied first in payment of the costs of collection or sale; next, in payment of the costs of obtaining such warrant; thirdly, in paying any money due under the original order; and the balance shall be applied in or towards future maintenance, or in such other manner as the Court may direct.

PART VI.—COMMITTAL TO THE CARE OF PRIVATE PERSONS OR SOCIETIES.

Governor may approve of private persons or societies having care of children.

80. (1.) Any private person, and any society formed by private persons, desirous of taking charge of, protecting, or assisting any destitute or neglected child or children, without subsidy or aid from the Consolidated Revenue Fund, may from time to time be approved by the Governor as a person or society to whose care destitute or neglected children may be committed under the provisions of this Act, and the Governor may revoke any such order.

(2.) Every order approving of any such society, and every such revocation of any such order, shall be published in the "Government Gazette."

Manager of societies to be approved by Governor.

81. Every order approving any society as a society to the care of which destitute or neglected children may be committed shall name some person as the manager of such society, and when from time to time the manager of any such society is changed the name of every new manager shall be submitted to the Governor for his approval, and the order approving of such manager shall be published in the "Government Gazette," and any copy of the "Govern-

ment Gazette" purporting to contain any such order shall be conclusive evidence that the person named therein on that behalf is the manager of any such society.

82. Where under this Act the Court is empowered to commit any child to the care of the Department, the Court may commit such child to the care of any person or society for the time being approved by the Governor as a person or society to whose care destitute or neglected children may be committed, upon such person or society consenting in writing to accept the care of such child.

Power of Court to commit to such person or society.

83. Whenever any child is committed to the care of any person or society, such person or the manager of such society shall become the guardian of the person of such child to the exclusion of the father and every other guardian until such child attains the age of eighteen years or in the case of females such greater age not exceeding twenty-one years as the Governor may direct, unless such child is sooner discharged, and such person shall have the sole right to the custody of such child, and such manager shall have the sole right to the custody of such child as on behalf of such society, subject in both cases to the provisions of this Act and to the regulations.

The person or manager of society to whose care child committed to become guardian.

84. Upon the publication of any order of the Governor hereunder in the "Government Gazette" approving of any person as the manager of any such society in the place of any other person, the manager so approved shall become the guardian of the person of every child of whose person the manager in whose place he is so approved was the guardian under the provisions of this Part of this Act in the place of the manager in whose place he is so approved.

New managers to succeed to guardianship.

85. The Court shall not commit any child to the care of any such person or society if the father or other person having the right to direct in what religion such child shall be educated objects, or so that such child may be educated in a religion different from that in which it would be the duty of any guardian of such child appointed by the Supreme Court to direct such child to be educated.

Child not to be committed contrary to objection of father on ground of religion.

86. The father of any child, or the mother of any child being the guardian of such child, may, by writing signed before a special magistrate, commit the care of such child to any person or society approved by the Governor as a person or society to whose care destitute or neglected children may be committed, and such person or society by writing under his hand or the hand of its manager (as the case may be) may consent to accept the care of such child, and thereupon such person or the manager of such society on be-

Committal by parent.

half of such society shall become the guardian of the person of such child during its minority, to the exclusion of such father or mother and every other guardian.

Children may be visited.

87. Every person or society to whose care any child is committed under this Part of this Act, whether by the Court or by the father or mother of such child, and every person intrusted with the care of any such child by any such person or society shall from time to time permit such child to be visited and any place where such child may be or reside to be inspected by the Secretary or any officer of the Department.

Transmission of guardianship upon death or revocation of order.

88. (1.) Upon the death of any person having the care of any child by virtue of any order made under this Part of this Act, or upon the revocation of the order approving of any such person or of any society, the Governor may appoint some other person or society approved as aforesaid in place of the person so dying or the person or society the order approving of whom or which is revoked, and thereupon the same consequences shall ensue as upon an order of the Court made under the provisions of this Part of this Act committing the care of every child of whom such person or society was guardian by virtue of any order made under this part of this Act to the care of the person or society so appointed; and in the meantime, unless and until such other person or society is so appointed, the same consequences shall ensue as if upon the date of such death, or of the revocation of such order, an order had been made committing every child to the care of the Department.

(2.) A person or society may be appointed in the place of a person or society the order approving of whom or which is revoked by the order by which the revocation is made or by any subsequent order.

(3.) The order appointing a society in the place of another society shall be published in the "Government Gazette."

Guardianship to cease on revocation of order.

89. Upon the revocation of any order approving of any person or society as a person or society to whose care neglected children may be committed, such person or the manager of such society shall cease to be guardian of any child under the provisions of this Part of this Act, whether such child is under the care of such person or society by virtue of any order made under this Part of this Act, or of any writing signed as aforesaid by the father or mother of such child.

Form of order.

90. Every order committing a child to the care of any approved person or society hereunder may be in such form as may be prescribed by the regulations or to the like effect, and such order, or an office copy thereof, without any warrant, shall be a sufficient authority for any police officer to take such child to such person or society.

91. No warrant shall be necessary to authorise the detention of any child in the care of any approved person or society, but if the right to the custody of such child is called in question by habeas corpus or otherwise, it shall be sufficient to give in evidence the order committing such child to the care of such person or society, and to show that such child is detained by the authority of such person or society, or the manager of such society.

Order of commitment sufficient warrant for detention.

92 If any person or society having the care of any child by virtue of any order made under this Part of this Act, or the manager of any such society, desires for any cause sufficient in the opinion of the Court to be relieved of the care of such child, the Court may order such child to be committed to the care of the Department.

Power to transfer child to care of Department.

93. No person who, whether as manager of any society or otherwise, is guardian of the person of any child by virtue of any order under this Part of this Act, shall remove such child or suffer such child to be removed out of Western Australia without the consent of the Minister being first obtained.

Child not to be removed out of Western Australia.

PART VII.—LICENSING OF CHILDREN.

94. (1.) A written license authorising a child of or over the age of ten years to engage, within prescribed hours and subject to the regulations, in a specified description of street trading may be issued by the Department.

Issue of licenses.

(2.) Such license shall be delivered to the child, who shall produce such license, on demand, to any inspector.

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

(4.) Every license shall be granted for a term not exceeding six months, but may be renewed from time to time, and may at any time be cancelled by the Department.

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

Any child engaged in street trading without a license or in contravention of the conditions on which the same is granted shall be guilty of an offence against this Act.

95. If any person employs, in street trading, a child—

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

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

Penalty for employing child in contravention of Act.

such person shall be guilty of an offence against this Act.

PART VIII.—LYING-IN HOMES AND FOSTER-MOTHERS.

Power to assist women in lying-in homes.

96. The Minister may, under special circumstances, and subject to the regulations, contribute towards the support of any woman in a lying-in home for a period not exceeding twelve months after her confinement, or partly before and partly after her confinement, and on such terms and conditions as may be prescribed, and may maintain Government homes for the same purpose.

Lying-in homes kept for gain to be licensed.

97. No person shall, for gain or reward, keep any building, structure, or apartment as a lying-in home unless such premises are licensed by the Department for that purpose.

Department may license lying-in homes.

98. The Department may, on payment of the prescribed fee, grant and revoke annual licenses in respect of any buildings, structures, or apartments kept or used, or intended to be kept or used, as a lying-in home.

Penalty on keeping unlicensed lying-in homes.

99. (1.) Every person who shall, for reward or gain, keep any building, structure, or apartment as a lying-in home, unless such building, structure, or apartment is licensed for that purpose, shall be guilty of an offence against this Act, and shall on conviction be liable to a penalty not exceeding twenty pounds for the first offence, and for any second offence shall be liable to be imprisoned with or without hard labour for any period not exceeding six months.

(2.) Proof that any building, structure, or apartment was let, hired, or engaged by any person for the accommodation of a female during her confinement or lying-in, shall be prima facie evidence that such building, structure, or apartment is kept as a lying-in home within the meaning of this section.

Foster-mothers to be licensed.

100. No person other than a near relative shall be or act as foster-mother, for gain or reward, to any child under the age of three years without being licensed by the Department for that purpose.

Department may license foster-mothers.

101. (1.) The Department may, on payment of the prescribed fee, grant annual licenses to fit and proper persons to be foster-mothers to children under the age of three years, and may by any such license fix the number of children authorised to be kept by the foster-mother therein named.

(2.) The Department may, in its discretion, revoke any licenses granted under this section.

Penalty on unlicensed foster-mothers.

102. (1.) Every person other than a near relative of the child, who, not being licensed as a foster-mother by the Department, shall take the care, charge, or custody of any child under the age of three years to maintain for gain or reward such child apart from

his parent, shall be guilty of an offence against this Act, and shall, on conviction, be liable to a penalty not exceeding ten pounds, or in case of a second or subsequent offence to a penalty not exceeding twenty pounds or to imprisonment with or without hard labour for not exceeding three months.

(2.) No information shall be laid for any such offence under this section except by the Secretary or an officer of the Department or other person authorised by the Secretary.

103. Any person who shall act as foster-mother to any greater number of children than shall be fixed in the license shall be guilty of an offence against this Act.

Penalty on licensed foster-mother taking charge of more children than allowed by license.

104. (1.) Every lying-in home, and the home or place of residence of every licensed foster-mother, shall, at all times, be open to inspection by the Secretary or any officer of the Department.

Lying-in homes to be open for inspection.

(2.) Every person who resists or obstructs any such inspection shall be guilty of an offence against this Act.

Penalty for obstructing inspection.

105. Every licensee of a lying-in home shall keep a register in the prescribed form containing the names, usual residences, and the dates of confinement of all women confined in such home, and giving particulars of the disposal of all children born there, and also stating the name of the medical practitioner by whom such women were attended during their confinement, and shall produce to and allow the Secretary or any officer or other person appointed by him to inspect the same at any time when demanded.

Register to be kept by licensee of lying-in home.

106. (1.) Every licensed foster-mother shall keep a register in the prescribed form containing in respect of every State child received by her the prescribed particulars, and in respect of every other child received by her the following particulars, so far as such particulars are capable of being ascertained by her, that is to say:—

Register to be kept by foster-mother.

- (a.) The name, age, religion, and place of birth of the child;
- (b.) The names, addresses, and description of the parents;
- (c.) The name, address, and description of any persons other than the parents from or to whom the child was received or delivered over;
- (d.) The dates of receipt and delivery over;
- (e.) Particulars of any accident to or illness of the child, and the name of the medical practitioner (if any) by whom attended.

(2.) Such register shall at all times be open to inspection by the Department or any officer thereof, and the foster-mother shall every three months forward a copy thereof to the Department.

Provided such register shall at all times be open to an accredited officer of the Department and at such other times to such persons as the Minister may direct.

Returns and records.

107. Every licensee of a lying-in home, and every licensed foster-mother, shall keep all such books and records, and furnish to the Department true and correct returns of all such matters and things as may be prescribed.

PART IX.—PROCEDURE, PENALTIES, AND GENERAL PROVISIONS.

Officer of Department may take part in all trials against children.

108. At the hearing of any complaint against any child, the Secretary or some officer of the Department may be present, and examine and cross-examine witnesses, and be heard touching the acquittal or punishment of the child.

Officer of Department may conduct cases where complaint made.

109. (1.) All cases under this Act heard on complaint by or on behalf of the Department may be conducted by any person appointed by the Minister in that behalf.

(2.) The production of an appointment, in writing, signed by the Minister, shall be prima facie evidence that the person therein named has been duly appointed and authorised to lay such complaint and to conduct the case.

Order may be set aside.

110. If an order is made under this Act in respect of a child in the absence of his parent or guardian, to whom reasonable notice of the complaint had not been given, such order may for good cause shown be set aside by the Court by which it was made upon the application of such parent or guardian within three months after the making of the order.

Returns of complaints and convictions.

111. The governing authority of every institution shall forthwith report to the Department all convictions against, and consequent punishments inflicted upon, any inmate of such institution, and the Secretary shall cause a return to be made annually, to the Minister of all convictions against and consequent punishments inflicted upon State children.

Penalty for taking, removing, harbouring, etc., State children.

112. Any person who—

- (a.) without the authority of the Minister, takes or removes any State child from any institution before the expiration of the period of detention of such child, or from its foster mother, or from the foster parent to or with whom such child is apprenticed or placed out before the expiration of the term of apprenticeship or placing out; or
- (b.) directly or indirectly counsels or induces any State child to abscond or escape from any institution, or to break his apprenticeship indentures, or to abscond

from his foster-parent, before such child had been regularly discharged, or before the expiration of such apprenticeship or placing out ; or

- (c.) aids or abets any State child in so absconding or escaping, or who prevents any State child from returning to any institution or to his foster-parent, or who, knowing any State child to have been so taken or removed, or to have so absconded or escaped, harbours or conceals, or assists in harbouring or concealing, such child; or
- (d.) without the authority of the Minister, takes or removes any child from the care of any person to whom or society to which such child is committed under Part VI. of this Act,

shall be guilty of an offence against this Act and liable to a penalty of not exceeding twenty pounds, or may, at the discretion of the Court, be imprisoned with or without hard labour for not exceeding three months.

113. Any person who—

- (a.) without the authority or permission of the Secretary, or of the governing authority of an institution, as the case may be, holds or attempts to hold any communication with any inmate ; or
- (b.) enters any institution or any premises belonging thereto or used in connection therewith, and does not depart therefrom when required so to do by the superintendent, matron, or any officer or servant of such institution ; or
- (c.) after being forbidden by the Secretary or governing authority, as the case may be, so to do, holds or attempts to hold any communication directly or indirectly with any State child,

Penalty for communicating with children in institutions.

shall be guilty of an offence against this Act.

114. Any officer or servant of the Department or of the governing authority of an institution, who negligently or knowingly permits any inmate to escape from any institution, shall be guilty of an offence, and liable, on conviction, to a penalty not exceeding twenty pounds, or may, at the discretion of the Court, be imprisoned with or without hard labour for not exceeding three months.

Penalty for permitting escape.

115. Every person who refuses, fails, or neglects to comply with any maintenance order made against him under this Act, or attempts to leave the State without making arrangements for future

Penalty for person disobeying order and quitting the State.

payments to the satisfaction of the Department, shall be guilty of an offence and liable, on conviction, to imprisonment, with or without hard labour, for any term not exceeding twelve months.

Penalty for desertion of child under certain circumstances.

116. Every near relative liable to maintain any child, who—

- (a.) unlawfully deserts such child; or
- (b.) leaves without, or fails to provide with, adequate means of support any such child,

shall be guilty of an offence and liable, on conviction, to imprisonment with or without hard labour for any term not exceeding twelve months.

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

117. Upon complaint on oath by the Secretary, 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 within the meaning of the two last preceding sections of this Act, 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 apprehension of the person complained against, and such person may thereupon be apprehended by any police officer accordingly.

Court may determine matter in summary way.

118. (1.) Upon the hearing of a complaint under Section one hundred and fifteen or one hundred and sixteen of this Act, the Court may determine the matter in a summary way, and, if satisfied that the child has been or is about to be unlawfully 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 comply with such order for maintenance, or that he will not desert or leave without adequate means of support such child.

(2.) The Court, in default of such security being found, may commit such person to prison for any period not exceeding six months, if such order is not sooner complied with.

Children employed in a circus.

119. Any child under the age of fourteen years who is employed or engaged in any circus, or acrobatic entertainment, or exhibition by which his life, health, or safety is likely to be lost, prejudiced, or endangered, shall be deemed a "neglected child" for all the purposes of this Act; and any person so employing or engaging any such child shall be guilty of an offence against this Act.

120. Any State child, or child committed to the care of any person or Society under Part VI., and its attendant, shall travel free on Government railways on production of a certificate from the Secretary that such child is travelling to or from an institution, place of residence, or foster parent; and any child apprenticed or placed out under this Act shall travel free on Government railways to and from a public or efficient school.

Certain children to travel free on Government Railways.

121. All property, real or personal, given, devised, or bequeathed to the Department for the benefit of State children shall, subject to the provisions of this Act, be held, invested, applied, or dealt with in such a manner as the Governor may consider most conducive to the benefit or advantage of State children, or of the particular State child or children intended to be benefited.

Gifts to Minister to be applied for benefit of objects of such gifts.

122. The Court may, at any time, in a summary way, inquire into any disobedience of, or neglect to comply with, any order made under the provisions of this Act, and for that purpose may summon and examine all proper parties and witnesses; and, in order to enforce compliance or punish the non-compliance with such order, may commit to prison, with or without hard labour, for a period of not exceeding six months, unless the order shall be sooner complied with, the person found guilty of such disobedience, neglect, or non-compliance, or may impose upon such person a fine of not exceeding fifty pounds.

Justices may enforce compliance with orders by fine or imprisonment.

123. Upon a complaint to the Court, made under the last preceding section, in respect of any alleged disobedience of or neglect to comply with any order, the Court may, instead of issuing a summons, issue a warrant for the apprehension of the person against whom the complaint is made, and for the detention of such person until the hearing of the complaint, unless such person shall enter into a recognizance, with one or more sureties, in such sum as the Court shall direct, conditioned for his appearance at the hearing of the complaint.

Warrant in first instance.

124. (1.) Where, pursuant to the provisions of this Act, the punishment of whipping is awarded by the Court, the order for such punishment shall specify the number of strokes to be inflicted, and the number of strokes shall not exceed twelve.

Whipping.

(2.) The whipping shall be administered by some person authorised by the order directing the whipping, and in all cases the instrument used shall be a birch rod or cane.

125. 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-parent, shall,

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

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.

General penalty.

126. (1.) Any person who in any particular makes default in compliance with any provision of this Act shall be guilty of an offence against this Act.

(2.) Any person guilty of an offence against this Act shall, except as otherwise expressly provided, be liable, on conviction, to a penalty not exceeding ten pounds.

Application of
Justices' Act, 1902.

127. Every proceeding under this Act for omissions, defaults, acts, or offences to which any penalty is attached, and all applications for orders where no other method of proceeding is by this Act provided, shall be had and taken, and may be heard and determined in a summary way under the provisions of the Justices Act, 1902.

Forms of proceed-
ings.

128. Every complaint, conviction, order, or warrant under this Act shall be deemed valid and sufficient if the same shall be in any of the prescribed forms which may be applicable, with such modifications as the circumstances may require; or in which the offence, or act, or default is set forth in the words of this Act; and no conviction, order, or warrant shall be held void by reason of any defect therein.

Order to be a
defence to actions.

129. In every action for anything done in obedience to any order it shall be sufficient for the defendant to justify under such order only, without setting forth the previous proceedings, and the production of the order or a duplicate or certified copy thereof shall be sufficient evidence to prove the fact of making such order.

Protection to
Department and
officers.

130. No action shall be brought against the Department or any governing authority of an institution or any person for anything done in pursuance of this Act, unless such action be commenced within six months next after the act or default complained of, nor unless notice in writing of such action, and the cause thereof, has been given to the defendant one month at least before the commencement of the action; and the defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and the plaintiff shall not recover in such action if tender of sufficient amends shall be made before action brought, or if, after action brought, the defendant shall pay into Court sufficient amends; but in such last-mentioned case the plaintiff shall recover his cost of suit up to the time of the payment into Court.

131. All moneys received for penalties imposed for offences against this Act shall be paid to the Colonial Treasurer, on behalf of His Majesty, for the public uses of the State. Appropriation of penalties.

132. The Governor may, from time to time, make, repeal, alter, and vary all such regulations as may appear necessary or advisable for regulating— Regulations.

- (a.) The duties, powers, authorities, and privileges of inspectors, visitors, boarding-out committees, and all other persons employed in the administration of this Act ;
- (b.) The management, control, and supervision of institutions and lying-in homes;
- (c.) The custody, maintenance, education, employment, apprenticing, and placing out of State children;
- (d.) The visitation of State children at institutions, or apprenticed, or placed out;
- (e.) The punishment of State children;
- (f.) Wages and rewards to State children;
- (g.) The management and control of property vested in the Department;
- (h.) Records to be kept at institutions and by licensees;
- (i.) The accounts to be kept and reports to be made by subsidised institutions.
- (j.) The form and contents of agreements, appointments, apprenticeship articles, authorities, complaints, licenses, notices, orders, summonses, and all other instruments and documents, and the mode of executing, serving, or delivering the same;
- (k.) The fees to be paid;
- (l.) The imposing of penalties ;
- (m.) The time and manner in which any act, deed, matter, or thing required by this Act to be done, and as to which the time or procedure is not provided, is to be done or performed;
- (n.) All other matters and things arising under and consistent with this Act not herein expressly provided for, and otherwise for fully and effectually carrying out and giving force and effect to the objects, purposes, powers, and authorities of this Act.

Regulations to be laid before Parliament and gazetted.

133. All such regulations shall be published in the *Government Gazette*, and shall take effect from the date of publication, or from a later date to be specified in such regulations, and shall be laid before both Houses of Parliament within thirty days, if Parliament is in session, and if not then within thirty days after the commencement of the next session.

Section 3.

FIRST SCHEDULE.

Date.	Short Title.	Extent of Repeal.
38 Vict., No. 11 ...	The Industrial Schools Act, 1874. ...	The whole.
41 Vict., No. 7 ...	The Industrial Schools Act, 1874, Amendment Act, 1877	The whole.
46 Vict., No. 20 ...	The Industrial Schools Act Amendment Act, 1882	The whole.
56 Vict., No. 5 ...	The Industrial and Reformatory Schools Act of 1893	The whole.
62 Vict., No. 24 ...	The Health Act, 1898	Part VII.

Section 15.

SECOND SCHEDULE.

The St. Joseph's Roman Catholic Orphanage, Subiaco; the Church of England Girls' Orphanage, Adelaide Terrace, Perth; the Swan Boys' Orphanage, near Midland Junction; the Clontarf Roman Catholic Orphanage, near Victoria Park; the St. Kevin's Roman Catholic Industrial School, near Leederville; the Red Hill Industrial School, near Midland Junction; the Salvation Army Industrial Schools for Boys and Girls, near Collie.