

WESTERN AUSTRALIA

ANNO TRIGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 11

An Act to promote the efficiency of certain Charitable  
Institutions. [Assented to 6th August, 1874.]

Preamble

WHEREAS certain schools, orphanages and other institutions have been founded, and it is to be hoped will hereafter be founded, for the purpose of providing for and educating orphan and necessitous children, or children or descendants of the aboriginal race, and it is expedient to further the objects of the same by giving greater powers over the children therein to the directors and managers thereof: Be it enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof:—

Short title

1. This Act may be cited as 'The Industrial Schools Act, 1874.'

Governor may  
certify approval  
of orphanage, &c.

2. It shall be lawful for the Governor, with the advice of the Executive Council, on petition made to him in that behalf by the manager or director of any school, orphanage, or other institution formed for the purpose of providing for and educating orphan and necessitous children, or children or descendants of the aboriginal race, and on being satisfied that such petitioner actually is such director or manager, and that such school, orphanage, or other institution is in actually and *bonâ fide* working for the purpose of providing for and educating such children as aforesaid, to give a certificate of approval to such school, orphanage, or other institution, and to the petitioner as its manager or director, and with the advice aforesaid to withdraw such certificate.

Fresh certificates  
to be given

3. As often as any change shall be made in the direction or management of any orphanage, school, or other institution certified as aforesaid under this Act, the Governor in Executive Council, on being satisfied that such change has been made, and on petition made to him in that behalf by the new manager or director, shall, if he see fit, give a certificate of approval as aforesaid to the new manager or

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director and withdraw the certificate from those, if any, who have ceased to be managers or directors.

Certificates may be withdrawn

4. The fact of the granting of such certificate, or of the withdrawal of the same, shall be published in the 'Government Gazette,' and the production of a copy of the 'Gazette' notifying that any such certificate has been granted or withdrawn shall be *prima facie* evidence of the fact of such grant or withdrawal.

Certificate to be published in 'Government Gazette'

5. Every infant voluntarily surrendered by its parent or guardian by any instrument in writing signed by such parent or guardian to the care of the certified manager or director as such of any school, orphanage, or other institution certified as aforesaid, or (in case of a child or person of the aboriginal race, or a descendant of the aboriginal race, and apparently under the age of twenty-one years) every child or person voluntarily surrendering himself or herself, or being surrendered by any parent or apparent guardian or friend, or any infant of any race being apparently an orphan and without a guardian, taken into any such institution, shall, until the attainment of the age of twenty-one, or if the infant, child, or person as aforesaid was received for a term expiring at an earlier age then until the expiration of the latter term, be and continue to be in the custody of the certified manager or director for the time being of such school, orphanage, or other institution, who, as such, shall have all the powers and privileges of a father over and in respect of such infant to the exclusion of its natural guardian, and shall be and be deemed to be the lawful guardian of such infant to all intents and purposes: Provided that if any female infant shall marry before attaining the age of twenty-one years, the powers of such manager or director over such infant shall cease. And the mother of any infant may, with the sanction of a Justice of the Peace in writing under his hand, lawfully surrender it to the care of the certified manager or director as such of any school, orphanage or other institution certified as aforesaid for the purposes of this section, when the father is, from habits of drunkenness, conviction for felony or long-continued absence, unable or unwilling to maintain such child, and the mother has in fact the sole charge or care of it.

Infant surrendered by parent or guardian to manager of orphanage, &c., to be retained in custody of manager

Proviso as to female infants marrying

When a mother of such an infant may surrender such infant

6. It shall be lawful for any certified manager or director of any certified school, orphanage or other institution as aforesaid to apprentice all infants surrendered to him or taken into any such institution as aforesaid, and any juvenile offender as in this Act mentioned, in such manner and at such times as shall seem to him expedient, either to some trade or as agricultural or domestic servants or to the sea service. Every indenture or deed-poll of apprenticeship made by the certified manager or director as such of any such certified school, orphanage or other institution as aforesaid, in which instrument the party apprenticed or intended so to be shall be described as an infant under the care and protection of the certified manager or director of such school, orphanage or other institution as aforesaid shall be taken to be a valid apprenticeship of the party so described for the term mentioned therein, and the party's age and the fact of his or her having been surrendered to the care and protection of such certified manager or director of such certified school, orphanage or other institution as aforesaid shall be taken to be true respectively until the contrary is proved. And every such deed-poll or indenture made as

Manager may apprentice infant

Instrument of apprenticeship

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Remedies for enforcing

aforesaid shall be capable of being enforced by or against any certified manager or director for the time being of such certified school, orphanage or other institution as if he had been a party thereto :  
 Provided that no infant under the age of twelve years shall be apprenticed, nor shall any female infant be apprenticed for a term to extend beyond the day of her marriage : Provided also that the consent in writing of the parent or guardian of every juvenile offender not being of the aboriginal race shall, if possible, be obtained to such apprenticeship ; and if it be not possible to obtain such consent, owing to the absence or non-existence of a parent or guardian, the consent of the Governor, signified in writing by the Colonial Secretary, shall be obtained.

Proviso

Proviso

Certified manager may exonerate himself from guardianship

7. It shall be lawful for any certified manager or director of any certified school, orphanage or other institution at any time after any infant has been surrendered to him as aforesaid to exonerate himself from any chargeability, liability or duty in respect of and from any power over such child, by giving notice of his intention to do so to the parent or other person compellable by law to maintain and provide for such child ; and thereupon all rights over and liabilities in respect of such infant shall revive : Provided, however, that when any infant has been apprenticed in pursuance of this Act such apprenticeship shall not be in any way affected by anything done in pursuance of this section.

Cases when certified manager, &c., shall be deemed to be lawful guardian

8. In any case in which any infant shall have for three consecutive months after the passing of this Act been under the actual care of the certified manager or director as such of any school or orphanage or other institution certified as aforesaid, the certified manager or director for the time being of such school, orphanage or other institution shall be deemed to be the lawful guardian of such infant as against every person to the same extent, and with the same powers in every respect, as if such infant had been voluntarily surrendered in writing to such manager or director under the fifth section.

And whereas it is highly expedient that such institutions be used as far as possible as reformatories for juvenile offenders : Be it further enacted as follows :—

Youthful offender to be sent to institution

9. Whenever any offender (being a male under the age of fourteen years or being a female under the age of sixteen years) is convicted on information or indictment or in a summary manner of an offence punishable with penal servitude or with imprisonment, and is sentenced to be imprisoned or kept in penal servitude for a longer term than three days, the Governor in Executive Council may by writing under his hand order and direct such offender to be sent to any such institution as aforesaid as shall be willing to receive such offender, and to be there detained for a period of not less than two years and not more than five years, and such period shall not in case of a male extend beyond his attaining the age of fourteen years, nor in case of a female extend beyond her attaining the age of sixteen years.

Religious persuasion of youthful offender

10. The particular institution to which such youthful offender is to be sent shall be as far as possible one conducted in accordance with the religious persuasion to which such offender appears to belong.

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11. It shall be lawful upon the representation of the parent, guardian, or nearest adult relative of any such offender detained in any such institution for a minister of the religious persuasion of such offender, at certain hours of the day which shall be fixed by the Governor in Executive Council for that general purpose, to visit such institution for the purpose of affording religious assistance or instruction to such offender.

Religious assistance or instruction

12. The keeper of every prison having in his custody any youthful offender ordered and directed to be sent to any such institution shall on receipt of the authority of the Governor signified in writing deliver such offender to the custody of the certified manager or director of such institution as aforesaid in which he or she is to be detained, together with the warrant or order in pursuance of which such offender was imprisoned and is to be sent to such institution.

Gaoler to hand over youthful offender

13. The Governor may by order or license signified by the Colonial Secretary in writing at any time direct any offender to be discharged from any such institution, or removed from any such institution to another, or remitted to prison for the whole or any portion of the period of his or her original sentence, or permitted to live with any trustworthy and respectable person named in such license, and may from time to time revoke or vary any such license.

Licenses for youthful offenders

14. The time during which a youthful offender is absent from such institution in pursuance of a license under the last section shall, except where such license has been forfeited by misconduct, be deemed to be part of the time of his or her detention in such institution, and at the expiration or other sooner determination of the time fixed by such license, such offender shall be disposed of as the Governor shall by order signified as aforesaid direct.

Permitted absence from institution to be part of sentence

15. Any youthful offender escaping from the person or institution with whom he or she is placed or permitted to live in pursuance of this Act shall be deemed to be guilty of an escape from lawful custody on a criminal charge.

Youthful offender escaping from institution

16. Every person who commits any of the following offences:—

Aiding offender to escape

- (1) Knowingly assists or induces, directly or indirectly, an offender detained in such institution to escape therefrom or from the person with whom he or she is permitted to live:
- (2) Knowingly harbours, conceals, or prevents from returning to the institution any offender who has escaped from any such institution or from the person with whom such offender is permitted to live:

shall on summary conviction before any two or more Justices of the Peace be liable to a penalty not exceeding twenty pounds, or at the discretion of the Justices to be imprisoned for any term not exceeding six calendar months with or without hard labour.

17. Every such institution shall for all the purposes relating to youthful offenders of this Act be deemed to be a legal public gaol and prison within the provisions of the enactments for the time being relating to gaols and prisons.

Institution to be gaol, &c., for youthful offenders

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Duty of Magistrates as to native children or crossbreeds apparently under 12 years of age

18. If it shall be represented to any Justice of the Peace that there is in his district any person descended from the aboriginal race being a child apparently under the age of twelve years who is not living under the care or guardianship of either father or mother, it shall be the duty of the said Magistrate to make inquiry concerning the child referred to, and if after careful inquiry it shall be found that the child is not living under the care or guardianship of either father or mother, it shall then be lawful for the said Magistrate to assume the guardianship of such child in the name of the Government and to hand him or her over to the care of some person who holds a certificate of approval from His Excellency the Governor as manager of a school or institution for maintaining and teaching descendants of the aboriginal race.

Interpretation clause

19. The word 'infant' in this Act shall mean infant, child or person.

Return to be made to Government when required

20. It shall be incumbent on the managers of every school, orphanage or institution formed for the purpose of providing for and educating orphan and necessitous children or children or descendants of the aboriginal race, who shall receive children for the maintenance of whom public funds shall be expended, to make whenever requested by the Governor so to do, a return to the Colonial Secretary, showing the proceedings of such school, orphanage or institution, and such return shall be placed on the table of the Legislative Council within seven days after the commencement of the session next succeeding the date of such return. Any such institution as aforesaid shall at all reasonable times be open to inspection by any person authorised by the Government to inspect the same.

FRED. A. WELD,  
GOVERNOR.