

CHILD WELFARE.

11° and 12° Geo. VI., No. LXVI.

No. 66 of 1947.

(Affected by Act No. 72 of 1957.)

[As amended by Acts:

No. 52 of 1950 assented to 18/12/50;

No. 16 of 1952 assented to 7/11/52;

No. 73 of 1954¹ assented to 14/1/55;

No. 45 of 1955 assented to 9/12/55;

No. 36 of 1956 assented to 18/12/56;

No. 77 of 1956 assented to 14/1/57;

No. 69 of 1957 assented to 6/12/57;

No. 74 of 1957² assented to 10/12/57;

No. 45 of 1958 assented to 12/12/58;

No. 15 of 1959 assented to 8/10/59;

No. 28 of 1959³ assented to 15/10/59;

and Reprinted pursuant to the Amendments Incorporation Act, 1933.]

AN Act to consolidate and amend the law relating to the making of better provision for the protection, control, maintenance and reformation of neglected and destitute children, and for other purposes connected therewith.

[Assented to 10th January, 1948.]

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:—

1. This Act may be cited as the *Child Welfare Act, 1947-1959*.

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

PART I.—PRELIMINARY, ss. 1-4.

¹ Came into operation on 1st March, 1955; See *Gazette* of 18/2/1955.
² Came into operation on 1st February, 1958; See *Gazette* of 31/1/1958.
³ Came into operation on 1st January, 1961; See *Gazette* of 16/12/1960.
44404/2/61

Short title.
Amended
by No. 28 of
1959, s. 3.
No. 66 of
1947, s. 2.
[No. 31 of
1907, s. 2, as
amended by
No. 21 of
1919, ss. 21
and 22 and
No. 22 of
1927, s. 3,
and this
Act.]

PART II.—THE CHILD WELFARE DEPARTMENT,
ss. 5-12.

PART III.—INSTITUTIONS, ss. 13-18.

PART IV.—WARDS, AND CHILDREN'S COURTS,
ss. 19-66.

PART V.—MAINTENANCE OF CHILDREN BY
THEIR RELATIVES, ss. 67-91.

PART VI.—COMMITTAL TO THE CARE OF
PRIVATE PERSONS OR SOCIETIES, ss. 92-105.

PART VII.—LICENSING OF CHILDREN AND
RESTRICTIONS ON EMPLOYMENT OF
CHILDREN, ss. 106-109.

PART VIII.—LYING-IN HOMES AND FOSTER
MOTHERS, AND THE CARE AND ADOPTION
OF CHILDREN, ss. 110-120.

PART IX.—PROCEDURE, PENALTIES, AND
GENERAL PROVISIONS, ss. 121-149.

Repeal First
Schedule.
No. 66 of
1947, s. 3.

3. The Act specified in the First Schedule to this Act is repealed.

Interpre-
tation.
No. 66 of
1947, s. 4.
Amended by
No. 16 of
1952, s. 2,
No. 45 of
1955, s. 2,
No. 15 of
1959, s. 2,
[No. 31 of
1907, s. 4, as
amended by
No. 21 of
1919, s. 3,
No. 31 of
1926, s. 3,
No. 22 of
1927, s. 3,
and No. 56
of 1941, s. 2
and this
Act.]

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

“board out” means to place a ward 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 Child Welfare Department constituted under this Act;

“destitute child” means any child who has

- (a) 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 out of the jurisdiction, or in the custody of the law;

- (b) been placed in a subsidised institution otherwise than in pursuance of an order of the Court and whose near relatives have not contributed regularly towards the maintenance of the child;

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

“foster-mother” means a female having the care, charge, or custody of a child under six 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 ward 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 ward 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,

1874,¹ every receiving depot, or shelter, established under this Act, and all other places for the time being under the supervision of the Department;

“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;

“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 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

¹ Repealed by Act No. 31 of 1907, s. 3.

- (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 or in the custody of any person whom the court considers is unfit to have such guardianship or custody; or
- (6) is not being maintained properly or at all or is deserted; 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; or
- (9) is deemed so to be under section one hundred and thirty-eight of this Act; Cr. s. 138
post. or
- (10) is living under such conditions as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy;

“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;

“parent” means father, mother, stepfather or stepmother and in the case of an adopted child includes his adoptors but in relation to an illegitimate child means “mother” only;

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

“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;

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

“treatment, discipline and training” in its application to a ward includes admission of the ward to an industrial school or other institution, attendance by the ward at classes conducted by the Department for wards who are released on parole, attendance by the ward on Saturdays at certain centres appointed by the Department and the use by the ward of such other facilities for advancing his moral, material or educational welfare as the Department may from time to time provide;

“ward” means a child who is committed under the provisions of this or any other Act, to an institution or to the care of the Department for a period which has not expired.

PART II.—THE CHILD WELFARE DEPARTMENT.

Child
Welfare
Department.
No. 66 of
1947, s. 5.
[No. 31 of
1907, s. 5, as
amended by
No. 22 of
1927, s. 4.]

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

Director.
No. 66 of
1947, s. 6,
amended by
No. 45 of
1955, s. 2.
[No. 31 of
1907, s. 6.]

6. The Governor may, from time to time, appoint a Director of the Department, and it shall be the duty of the Director, 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. The Governor may, from time to time, appoint an Assistant Director, inspectors and other officers with such powers and functions as he deems necessary to carry out the purposes of this Act.

Inspectors and other officers.
No. 66 of 1947, s. 7, amended by No. 45 of 1955, s. 3 [No. 31 of 1907, s. 7 as amended by this Act.]

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.

Visitors.
No. 66 of 1947, s. 8. [No. 31 of 1907, s. 8.]

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.

Boarding-out committees.
No. 66 of 1947, s. 9. [No. 31 of 1907, s. 9, as amended by No. 22 of 1927, s. 3.]

(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 wards sent to such homes under this Act.

9A. (1) The Minister may from time to time, by writing under his hand either generally or particularly, delegate to the Director or the Assistant Director or both, as he thinks fit, all or any of the powers exercisable by him under section forty-one, forty-eight, fifty-four, fifty-five, sixty-five, sixty-six, one hundred and eight and one hundred and ten of this Act, but not including this present power of delegation.

Delegation.
Added by No. 45 of 1958, s. 2. Substituted by No. 15 of 1959, s. 3.

(2) Subject to any general or special directions given or conditions attached by the Minister, any person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every delegation under this section shall be revocable at will, and no delegation prevents the exercise of any power by the Minister.

(4) Any delegation made under this section, until revoked, continues in force according to its tenor notwithstanding the fact that the Minister by whom

it was made ceases to hold office, and continues to have effect as if made by the successor in office of that Minister.

General powers of Director.
No. 66 of 1947, s. 10, amended by No. 45 of 1955, s. 2. No. 15 of 1959, s. 4. [No. 31 of 1907, s. 10, as amended by No. 14 of 1921, s. 3, and No. 22 of 1927, s. 3.]

10. (1) Subject to the regulations and the direction of the Minister, the Director shall have the care, management, and control of the persons and property of all wards, 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 Director 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 or from one form of training to any other, which in the opinion of the Director is likely to prove more beneficial to the child.
- (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 wards to be kept.
No. 66 of 1947, s. 11, amended by No. 45 of 1955, s. 2. [No. 31 of 1907, s. 11, as amended by No. 22 of 1927, s. 3.]

11. The Director 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 wards, and of all dispositions of and dealings with such children.

Annual report.
No. 66 of 1947, s. 12, amended by No. 45 of 1955, s. 2. [No. 31 of 1907, s. 12.]

12. The Director 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.

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.

Government institutions.
No. 66 of 1947, s. 13.
[No. 31 of 1907, s. 13.]

(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.

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.

Subsidised institutions.
No. 66 of 1947, s. 14,
[No. 31 of 1907, s. 14,
as amended by No. 22 of 1927, s. 3.]

(2) The Governor may discontinue any such institution as a subsidised institution, whereupon all wards being inmates thereof, and all wards 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.

15. The orphanages and industrial schools specified in the Second Schedule are hereby declared to be subsidised institutions within the meaning and for the purposes of this Act.

Existing institutions continued.
No. 66 of 1947, s. 15.
[No. 31 of 1907, s. 15,
as amended by No. 22 of 1927, ss. 5 and 6.
Second Schedule.]

Manager to be approved.
No. 66 of 1947, s. 16.
[No. 31 of 1907, s. 17.]

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

Institutions may be established for particular religious denominations.
No. 66 of 1947, s. 17.
[No. 31 of 1907, s. 17.]

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.

Special Magistrates and Members of Court may visit institutions.
No. 66 of 1947, s. 18.
[No. 21 of 1919, s. 4.]

18. A special magistrate or any member of the Children's Court authorised in that behalf by the Governor shall have the right at any time to enter, visit, and inspect any institution.

PART IV.—WARDS, AND CHILDREN'S COURTS.

Constitution and Powers of Court.

Children's courts.
No. 66 of 1947, s. 19.
Amended by No. 69 of 1957, ss. 2, 3 and 4.
[No. 31 of 1907, s. 18, as amended by No. 21 of 1919, s. 4, No. 31 of 1926, s. 5, and this Act.]

19. (1) (a) The Governor may by Order in Council establish special courts to be called Children's Courts and may appoint a special magistrate or special magistrates for any court or courts, and may by Order in Council from time to time determine the area in and for which each court shall exercise jurisdiction.

(b) Without affecting the validity of anything done prior thereto the Governor may by Order in Council

- (i) revoke or annul any establishment of a Children's Court; and
- (ii) amend, vary or revoke any appointment or determination made under this section whether made before or after the coming into operation of the Child Welfare Act Amendment Act, 1957 or deemed by that Act to have been made.

(c) Appointments as special magistrates may be made of

- (i) magistrates or persons who may from time to time, temporarily or otherwise, be assigned to or occupying the office or performing the duties of a magistrate assigned to one or more magisterial districts;
- (ii) magistrates or persons who may, from time to time, be occupying, temporarily or otherwise, any office or performing the duties of any office to which appointments are made by the Governor; and
- (iii) any other magistrates or persons.

(d) The areas in and for which Children's Courts shall exercise jurisdiction may be determined by reference to magisterial districts or parts of magisterial districts or the areas or parts of areas which may from time to time be comprised in magisterial districts or to any other districts or areas, and one or more Children's Courts may exercise jurisdiction in any particular area or district.

(1a) Where at any time before the coming into operation of the Child Welfare Act Amendment Act, 1957 any magistrate, whether Stipendiary, Police, Resident or Special has purported to act or exercise jurisdiction as a special magistrate in any Children's Court

- (a) the magistrate shall be deemed to be and always to have been validly appointed as a special magistrate for the Children's Court;
- (b) any Children's Court in which any such magistrate has purported to act or exercise jurisdiction as a special magistrate shall be deemed to have and always to have had jurisdiction in the area in and for which he or it purported to exercise jurisdiction; and
- (c) all acts, proceedings, orders, convictions or warrants of any such magistrate and of any such Children's Court shall be deemed to be and always to have been valid and effectual

for all purposes as if the magistrate had been validly appointed as a special magistrate for the Children's Court and any such Children's Court had jurisdiction in the area in or for which it purported to exercise jurisdiction.

(1b) Where at any time before the coming into operation of the Child Welfare Act Amendment Act, 1957 jurisdiction in a Children's Court or purported Children's Court has been exercised or purported to have been exercised by the members or purported members of a Children's Court, whether with or without a special magistrate or person purporting to be a special magistrate

- (a) the Court shall be deemed to be and always to have been validly established as a Children's Court;
- (b) the Court shall be deemed to have and always to have had jurisdiction in and for any area in or for which it exercised or purported to exercise jurisdiction; and
- (c) the members shall be deemed to be and always to have been validly appointed members of the Court.

(2) (a) The Governor may also appoint such persons, male or female, as he may think fit, to be members of any particular Children's Court, and may determine the respective seniorities of members heretofore or hereafter appointed, and may appoint any person to be a clerk of any court.

(b) Of the persons appointed as members of any particular Children's Court for which a special magistrate is appointed, one, but not more than one at any particular time, shall have the right to sit and adjudicate with the special magistrate from time to time, and if more than one person has been so appointed, the exercise from time to time of the right shall be according to agreement of those persons, but, failing agreement, according to seniority.

(3) No Children's Court shall be competent to exercise its jurisdiction unless there be present a special magistrate or at least two members.

(4) If for any reason it is not convenient for a special magistrate of any court to attend any particular sitting of the court, a special magistrate of any other court may attend and act in his place.

(5) When the persons sitting as a Children's Court are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, if there is a majority, but if the court is equally divided in opinion, the opinion of the special magistrate, if present, shall prevail, but if a special magistrate is not present, the case shall be re-heard and determined in the presence of a special magistrate.

(6) Subject to this Act, all the provisions of the Justices Act, 1902-1942,¹ shall apply to the proceedings, orders, and convictions of Children's Courts, and for the purposes of this Act the special magistrate of a court shall have the powers of a police magistrate throughout the State, and every member of the court shall have the powers of a justice of the peace in and for the area of the court, and every such court shall be deemed to be a court of summary jurisdiction.

20. A Children's Court—

(a) shall exercise exclusive jurisdiction in respect of all offences alleged to have been committed by or subject to section twenty A of this Act, against children provided that, in respect of any alleged offence of committing or attempting to commit wilful murder, murder, manslaughter, or treason, a Children's Court shall exercise only the jurisdiction and powers possessed by resident magistrates in respect of that alleged offence: Provided further that a Children's Court may, subject to section twenty B of

Power of Court.
No. 66 of 1947, s. 20.
Amended by No. 52 of 1950, s. 3, No. 45 of 1955, s. 4, No. 74 of 1957, s. 3, No. 15 of 1959, s. 5, No. 28 of 1959, s. 3.
[No. 31 of 1907, s. 19, as amended by No. 14 of 1921, s. 8, No. 31 of 1926, s. 5, No. 56 of 1941, s. 3, and this Act.]

¹ Now Justices Act, 1902-1959.

this Act, if the Court thinks fit, commit for trial or sentence any person over the age of fourteen years charged with having committed or attempted to commit an indictable offence;

- (b) shall hear and determine all complaints and applications under this Act;
- (c) shall hear and determine all complaints and applications under sections thirteen, sixteen, seventeen, eighteen and twenty of the Education Act, 1928-1943;¹
- (d) shall exercise the powers and authorities of a court of summary jurisdiction under the Guardianship and Infants Act, 1926,² and notwithstanding any other provision to the contrary the jurisdiction conferred by this paragraph shall be exercised by the special magistrate sitting alone or with one person appointed a member of the court;
- (da) shall exercise the jurisdiction conferred on it by the Interstate Maintenance Recovery Act, 1959;³
- (e) may make recommendations concerning any child appearing before the court—
 - (i) on a charge of delinquency or of being an uncontrollable or incorrigible child; or
 - (ii) in respect of whom application is made for a declaration that the child is neglected or destitute.

Limitation
of operation
of s. 4
of No. 45
of 1955.
Added by
No. 74 of
1957, s. 4.

20A (1) In this section—

“amendment” means the amendment by which the words, “or against” were added after the word, “by” in line three of paragraph (a) of section twenty of this Act by section four of the Child Welfare Act Amendment Act, 1955;

¹ Now Education Act, 1928-1960.

² Now Guardianship of Infants Act, 1926-1954.

³ Now Interstate Maintenance Recovery Act, 1959-1960.

“proclaimed day” means the day fixed by proclamation for the coming into operation of the Child Welfare Act Amendment Act (No. 2), 1957.¹

(2) The amendment ceases to operate on and from the proclaimed day.

(3) Where prior to the proclaimed day a Children’s Court in exercise of the jurisdiction conferred by the amendment has finalised any proceedings neither the conduct of the proceedings, the decision of the Court on the proceedings, nor the exercise by the Court of any authority conferred on the Court in, or in connection with, the proceedings, is affected by the provisions of subsection (2) of this section.

(4) The provisions of subsection (2) of this section do not affect the exercise of any jurisdiction or power conferred on Children’s Courts, otherwise than by the amendment, and in particular those provisions.

(a) do not affect the jurisdiction or any power conferred by this Act on Children’s Courts in respect of any act or omission of a person who is not a child if the act or omission is punishable by a Children’s Court,

(i) on complaint mentioned in paragraph (b) of section twenty of this Act;

Cf. ss. 60-62, 64, 76, 77, 105, 107-109, 111, 113-120, 124-128, 130, 132-134, 137, 138, 142, 143, 146A and 146B of this Act, and Reg. 43 *Gazette of 28/9/1934*, p. 1485.

(ii) on complaint mentioned in paragraph (c) of section twenty of this Act;

Cf. No. 33 of 1928, ss. 13, 16, 17, 18 and 20, as amended.

(iii) on complaint as an offence under any rules made whether before or after the proclaimed day pursuant to subsection (2) of section eight of

Cf. s. 20 (d) of this Act, and s. 8 (2) and (5), and s. 9 of No. 23 of 1926.

¹ Proclaimed to come into operation on 1st February, 1958; see *Gazette of 31/1/1958*.

the Guardianship of Infants Act, 1926,¹ which Act is mentioned in paragraph (d) of section twenty of this Act, or on complaint as an offence under subsection (5) of section eight of that Act, or under section nine of that Act;

- (b) do not affect the jurisdiction or any power conferred on Children's Courts by section twenty B of this Act; and
- (c) do not affect the jurisdiction or any power conferred on Children's Courts by the first proviso to paragraph (a) of section twenty of this Act.

(5) The provisions of subsection (2) of this section do not affect any right to bring an appeal, or the jurisdiction of any Court to hear and determine any appeal brought, in respect of a decision made, whether before or after the proclaimed day, by a Children's Court.

Offences against or in respect of children may be dealt with summarily.
Added by No. 74 of 1957, s. 4.
Amended by No. 45 of 1958, s. 3.
Cf. Code ss. 181 (1), 182, 183 185, 187, 189, 190 and 328.

20B. (1) In this section—

“Code” means the Criminal Code which is set forth in the Schedule to the Criminal Code Act, 1913 which in turn is set forth in Appendix B to the Criminal Code Act Compilation Act, 1913, being Act No. 28 of 1913 which is reprinted with amendments to and including Act No. 73 of 1954 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, and which is further amended by Acts Nos. 11, 43 and 74 of 1956.¹

(2) Notwithstanding any provision of the Code, where, after the proclaimed day as defined in section twenty A of this Act, a person is charged under the Code with any of the following indictable offences—

- (a) unlawfully and indecently dealing with a boy under the age of fourteen years;

¹ Now Guardianship of Infants Act, 1926-1954.

² Now further amended by Act No. 50 of 1957 and Act No. 25 of 1960.

- (b) having or attempting to have unlawful carnal knowledge of a girl under the age of thirteen years;
- (c) having or attempting to have carnal knowledge of a person against the order of nature;
- (d) having or attempting to have unlawful carnal knowledge of a girl under the age of sixteen years;
- (e) unlawfully and indecently dealing with a girl who is—
 - (i) under the age of sixteen years;
 - (ii) to the knowledge of the accused person an idiot or imbecile; or
 - (iii) under the age of seventeen years and of whom the accused person is the guardian, teacher or school teacher;
- (f) being the guardian, employer, teacher or schoolmaster of a girl under the age of seventeen years, unlawfully and carnally knows or attempts to have unlawful and carnal knowledge of the girl; or
- (g) unlawfully and indecently assaulting a girl under the age of sixteen years;

if the offence is alleged to have been committed, or, as the case may be, attempted, either before or after that day, by a person who had attained the age of eighteen years at the time the offence is alleged to have been committed or attempted, and if that offence is alleged to have been committed or attempted against or in respect of a boy or girl who at the time the offence is alleged to have been committed or attempted was under eighteen years of age, the person so charged may, subject to the provisions of this section, be tried in a summary manner by a Children's Court constituted by a special magistrate who is also appointed or deemed to have been appointed a stipendiary magistrate under the Stipendiary Magistrates Act, 1957, who

may, subject to this section, hear the complaint for the offence if the hearing took place before the expiration of a period of thirty days from and after the day of the coming into operation of the Child Welfare Act Amendment Act, 1958; but if the hearing takes place after the expiration of that period—by a Children's Court constituted by such a magistrate and also one other member of the Children's Court, but in any case the decision of the magistrate shall prevail and shall be the decision of the Children's Court.

(3) The offender is liable on summary conviction to imprisonment with hard labour for a term not exceeding eighteen months.

(4) (a) Before the person so charged is asked to show cause why he should not be convicted, the magistrate is required to explain to him that he is entitled to be tried by a jury, and is not obliged to make any defence before him, and to ask him whether he objects to the charge being dealt with summarily.

(b) If the person so charged does not object to the magistrate dealing with the charge summarily, the magistrate is required to reduce the charge to writing and to read it to the person, and then to ask him whether he is guilty or not guilty of the offence, and if he says that he is guilty, the magistrate is to convict him of the offence, but if he says that he is not guilty the magistrate is required to hear his defence, and then deal with the charge summarily.

(c) If the person so charged does not object to the magistrate dealing with the charge summarily and is summarily convicted but the magistrate hearing the charge is of opinion that for any reason the sentence or order which he is empowered by subsection (2) of this section to pass on the person convicted by him is inadequate, he may, in lieu of passing sentence, commit the convicted person for sentence before the Supreme Court, which may pass such sentence for the offence as might have been passed if the offender had been convicted on indictment.

(d) If

- (i) the person so charged objects to the magistrate dealing with the charge; or
- (ii) the magistrate is of the opinion that he has not jurisdiction to deal summarily with the offence,

the magistrate is required to abstain from doing so, but the magistrate may exercise any of the powers and any jurisdiction conferred on Justices by the Justices Act, 1902,¹ in respect of indictable offences.

(5) Where under the provisions of Chapter LXIII of the Code a person charged upon an indictment with an offence may be convicted of an offence other than that with which he is charged, and may be punished, he may be so convicted and punished notwithstanding anything contained in this section.

Conviction of offence other than that charged. Code Chap. LXIII.

(6) The provisions of Chapter LXIII of the Code relating to convictions of persons on indictment of offences other than those with which they are charged apply to convictions of offenders on complaints preferred against them of offences upon their trial in order to their summary conviction by a Children's Court.

Summary convictions. Cf. Code s. 593.

21. 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. No. 66 of 1947, s. 21. [No. 31 of 1907, s. 20, as amended by this Act.]

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:

¹ Now Justices Act, 1902-1959.

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.

Children's
Courts not
to be held
in ordinary
courts.
No. 66 of
1947, s. 22.
[No. 31 of
1907, s. 21.]

22. (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.

(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.
No. 66 of
1947, s. 23.
[No. 31 of
1907, s. 22,
as amended
by this Act.]

23. (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.

Publication
of pro-
ceedings
unlawful.

(2) Publication of any report of the proceedings before the court on a charge against a child, or the result thereof, is unlawful, unless—

- (i) the court expressly authorises the same; or
- (ii) the same be made by any person in the performance of his official duties pursuant to this or any other Act or regulations.

No summons
to be issued
in certain
cases.
No. 66 of
1947, s. 24.
[No. 21 of
1919, s. 7.]

24. Where an application is made in respect of a child or the offence charged against a child does not amount to an indictable offence, or where the alleged offence consists of the breach or non-observance of some by-law, rule, or regulation promulgated by virtue of a statute, no summons shall be issued or served upon such child unless a notice

has been first posted to or served upon such child at its usual place of residence, and such child has failed to appear in response to such notice.

25. The court in committing any child found to be a destitute, neglected, incorrigible or uncontrollable child to an institution shall have regard to the future welfare of such child, and may direct such child to be detained in one of the institutions mentioned in the Second Schedule to this Act, or in some other institution, as the Governor may approve, at which such special training and supervision can be provided as may best meet the needs of any special case.

In committing to an institution, court to have regard to the future of the child.
No. 66 of 1947, s. 25.
Amended by No. 15 of 1959, s. 6, [No. 21 of 1919, s. 8, as amended by No. 22 of 1927, s. 2, and this Act. Second Schedule.]

26. Notwithstanding the provisions of any Act, by-law, rule, or regulation, the court in awarding punishment or penalty upon any child may have regard to the antecedents, character, age, health, or mental condition of the child convicted, and may take into account the nature of the offence or any special circumstances of the case, and such court may, notwithstanding the nature of the evidence adduced, refrain from imposing any punishment, penalty, or fine, or without proceeding to conviction dismiss the complaint.

Court may refrain from imposing punishment or fine.
No. 66 of 1947, s. 26.
[No. 21 of 1919, s. 9, as amended by No. 56 of 1941, s. 4.]

Notwithstanding the exercise of any discretion conferred by this section, the court may order the child concerned to be subject to the supervision of the Department until such child attains the age of eighteen years or during such shorter period, as the court may think sufficient.

27. The court, on application made by the Department or by the parent or guardian of any child against whom an order may be made under this Act, may rehear the case and may make such recommendation to the Minister thereon as may in its opinion meet the circumstances.

Court may re-hear case.
No. 66 of 1947, s. 27.
[No. 21 of 1919, s. 11.]

Admission to bail.
No. 66 of 1947, s. 28.
Amended by No. 45 of 1955, s. 2.
[No. 14 of 1921.
Sec. 7, as amended by No. 22 of 1927, s. 4, and this Act.]

28. The powers conferred upon justices in regard to admission to bail may be exercised in the case of children by the Director or by the Clerk of the Children's Court, or by the officer in charge of any Government detention house.

[Justices Act, 1902-1942, s. 79.
cf. 13 of 1927, s. 10.]

Provided that, notwithstanding the provisions of any Act, where it appears to the court by which a child charged with an offence is remanded, that such child is suffering from a mental or nervous disorder, the court may order that pending the further hearing he shall be placed as is provided in section twenty-nine of this Act for observation, for a period not exceeding one month, and in such case such child may be so placed, received and detained pursuant to such order.

cf. s. 29 post.

Committal of Destitute or Neglected or Incorrigible or Uncontrollable Children.

Power to apprehend neglected or destitute or incorrigible or uncontrollable children.
No. 66 of 1947, s. 29.
[No. 31 of 1907, s. 23, as amended by No. 22 of 1927, s. 4, and No. 56 of 1941, s. 5.]

29. 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 or incorrigible or uncontrollable child, and when any such child is apprehended, pending the hearing of the application, 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.

30. The Court upon the hearing of an application to declare a child a destitute or neglected child may on being satisfied that the application should be granted, declare the child to be a destitute or neglected child and may order the child until he attains the age of eighteen years, or during such shorter period as the Court may think sufficient to be—

Powers of Court with respect to destitute or neglected children. No. 66 of 1947, s. 30. Repealed and re-enacted by No. 16 of 1952, s. 3. [No. 31 of 1907, s. 24, No. 21 of 1919, s. 10.]

- (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; or
- (c) released 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.

30A. Where an application is made to the Court to declare a child a destitute child as defined in paragraph (b) of the interpretation "destitute child" in section four of this Act, if the Court is satisfied that—

Power of Court to declare a child placed in subsidised institution a destitute child. Added by No. 16 of 1952, s. 4. Amended by No. 45 of 1955, s. 2.

- (a) the governing authority or the Department on behalf of a subsidised institution has taken all available proceedings to obtain an order against the near relative of the child for regular contributions towards the maintenance of the child; and
- (b) the proceedings have failed to obtain from the near relative the maintenance; and
- (c) the application is made with the approval of the Director,

the Court shall declare the child to be a destitute child and shall commit him to the care of the Department in accordance with the provisions of the last preceding section.

Order for
detention.
No. 66 of
1947, s. 31.
Amended by
No. 45 of
1955, s. 2.
[No. 31 of
1907, s. 25.]

31. 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 Director may direct, or in default of any such direction to such receiving depot as may be nearest or most convenient.

How un-
controllable
child may
be dealt
with.
No. 66 of
1947, s. 32.
[No. 31 of
1907, s. 26,
as amended
by No. 21 of
1919, s. 12
and No. 56 of
1941, s. 6.]

32. 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—

cf. s. 70 post.

(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 during such shorter period as the court may think sufficient; or

cf. ss. 32 and
38 post.

(b) 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, or during such shorter period as the court may think sufficient:

Provided that no order of committal of an uncontrollable child on the application of his parent or near relative shall be made unless such parent or relative proves that he has not by neglect lost control of the child.

33. 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.
No. 66 of 1947, s. 33.
[No. 31 of 1907, s. 27, cf. s. 32 ante.]

34. 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) commit such child to the care of the Department for treatment, discipline and training until he attains the age of eighteen years, or during such shorter period as the Court may think sufficient; 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, or during such shorter period as the court may think sufficient:

No. 66 of 1947, s. 34.
Amended by No. 15 of 1959, s. 7.
[No. 31 of 1907, s. 28, as amended by No. 21 of 1919, s. 13, and No. 22 of 1927, s. 7, cf. s. 70 post.]

cf. s. 38 post.

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.

Provided also that, in the case of a child committed to the care of the Department for treatment, discipline and training, the Department, with the approval of the Minister, may release the child on parole under the supervision of a probation officer, or other officer of the Department.

Child under fourteen years of age not liable to imprisonment.

Added by No. 45 of 1955, s. 5.
Amended by No. 77 of 1956, s. 2.

34A. (1) A child under the age of fourteen years is not liable to imprisonment.

(2) A child whose age does not exceed sixteen years and is found guilty on summary conviction of an offence punishable by imprisonment, whether the offence is or is not an indictable one or an offence involving grievous bodily harm is not liable to imprisonment for a period exceeding three months.

Provided that this subsection shall not apply where the offence of which the child is found guilty is treason, wilful murder, murder or manslaughter.

How child convicted of offence not punishable with imprisonment may be dealt with.
Added by No. 15 of 1959, s. 8.

34B. If any child is found guilty of an offence, which is not punishable by imprisonment, the Court in lieu of imposing a fine may—

- (a) order the parent of the child to give security for the good behaviour of the child until he attains the age of eighteen years, or during such shorter period as the Court may think sufficient, and upon being satisfied that the security has been given, may dismiss the charge; or
- (b) 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 the punishment has been duly inflicted may dismiss the charge; or
- (c) release the child on probation on such conditions, if any, as the Court may order, and in that case the child is subject to the

supervision of the Department until he attains the age of eighteen years, or during such shorter period as the Court may think sufficient.

35. No child shall be liable to imprisonment for failure to pay any penalty, compensation, or sum of money or costs adjudged to be paid by a conviction or order of any court of summary jurisdiction, but shall be liable to be sent to and detained in an institution for such period as he might have been imprisoned but for the provisions of this section, and the provisions of the Justices Act, 1902-1942,¹ shall apply, the necessary changes and adaptations being made in respect of such child as if detention in an institution were substituted therein for imprisonment.

Child not to be imprisoned for non-payment of fine, etc. No. 66 of 1947, s. 35. [No. 21 of 1919, s. 14. cf. s. 36 post.]

36. Notwithstanding anything contained in sections one hundred and fifty-five, one hundred and fifty-nine, and one hundred and sixty-seven, of the Justices Act, 1902-1942,¹ or in section thirty-five of this Act, it shall not be obligatory upon the justices sitting as a Children's Court to issue any warrant of execution or to impose any alternative of detention in default of payment of a fine by any child.

No execution or detention in default of payment of fine. No. 66 of 1947, s. 36. [No. 14 of 1921, s. 2. cf. s. 35 ante.]

37. Any child may be committed to an institution during the period for which he has been remanded by a court or any justice or justices, or during the period of his detention on committal for trial in the Supreme Court.

Committal of a child to an institution pending trial. No. 66 of 1947, s. 37. [No. 21 of 1919, s. 14.]

38. If the conditions of probation upon which any child is released under sections thirty, thirty-two, or thirty-four of this Act are not observed by the child or responsible person or persons, or if the Director shall not be satisfied with the conduct of the child or the responsible person or persons aforesaid whilst the child is released on probation, the Director may, with the written consent of the

Child released on probation may be arrested without warrant in certain cases. No. 66 of 1947, s. 38. Amended by No. 45 of 1955, s. 2. [No. 56 of 1941, s. 7. cf. ss. 30, 32 and 34 ante.]

¹ Now Justices Act, 1902-1959.

Minister, without warrant, cause the child to be arrested and brought before the court, and the court may exercise any of the powers specified in sections thirty, thirty-two, or thirty-four, as the case may be.

Child over sixteen years of age at time of committal may be detained for two years.
No. 66 of 1947, s. 39.
Amended by No. 15 of 1959, s. 9.
[No. 31 of 1907, s. 30.]

39. If any child being a destitute, neglected, incorrigible or uncontrollable child at the time of being committed to an institution or being a child who is committed to the care of the Department for treatment, discipline and training, at the time of being so committed is upwards of sixteen years of age, such child may be ordered to be detained in an institution or to remain in the care of the Department for treatment, discipline and training, as the case may be, 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.
No. 66 of 1947, s. 40.
[No. 31 of 1907, s. 31, as amended by No. 22 of 1927, s. 3.]

40. Except as in this Act otherwise provided, no ward 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.
No. 66 of 1947, s. 41.
Amended by No. 15 of 1959, s. 10.
[No. 31 of 1907, s. 32.]

41. (1) [Subsection (1) deleted by No. 15 of 1959 s. 10.]

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

Provided that under special circumstances, and with the approval of the Minister, an inmate of an 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.
No. 66 of 1947, s. 42.
[No. 31 of 1907, s. 33.]

42. (1) Any order made by justices under section eighteen of the Education Act, 1928-1943,¹ shall direct the child to be sent to an institution other than an industrial school.

¹ Now Education Act, 1928-1960.

(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.

43. (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.
No. 66 of 1947, s. 43.
[No. 31 of 1907, s. 34.]

(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.

44. 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 Director 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.
No. 66 of 1947, s. 44.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 35.]

44A. (1) The Director shall, in the absence of positive evidence as to the name of a destitute child, give the child a name, and for the purposes of this Act the name so given shall be regarded as the correct name of the child.

Director to give destitute child a name.
Added by No. 16 of 1952, s. 5.
Amended by No. 45 of 1955, s. 2.

(2) If at any time thereafter the Director is satisfied by positive evidence that the child should be known by some other name the records of the Court and the Department shall be amended accordingly and thereafter the child shall be known by that other name.

Certificate of secretary, etc., indorsed on order to be *prima facie* evidence.
No. 66 of 1947, s. 45.
[No. 31 of 1907, s. 36.]

45. 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.

Ward absconding, etc., may be apprehended without warrant.
No. 66 of 1947, s. 46.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 37, as amended by No. 22 of 1927, s. 3.]

46. Any ward 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 Director may order, may be apprehended without a warrant by any police officer, or by any officer of the Department, and conveyed to such institution as the Director may direct.

Minister may release ward.
No. 66 of 1947, s. 47.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 38, as amended by No. 22 of 1927, s. 3, and No. 12 of 1936, s. 2.]

47. The Minister may order the release of any ward from the control of the Department or from any institution, and upon production to the Director or, in the case of an institution, to the superintendent or matron thereof, of such order, the child shall be forthwith released accordingly.

Provided that, before any such order is made by the Minister the parents of the ward shall, if their whereabouts are known or can be ascertained by reasonable inquiry, and the matron or manager of the institution, be notified that it is proposed to release the ward, and shall, if either of them so desire, be heard by the Minister in opposition to the proposal or as to the custody of the ward after release:

Provided, further, that a parent, feeling aggrieved by the order of the Minister to release the ward or to hand the ward over to the custody of any person, may within three months from the date of the order

appeal to the magistrate of the local court at Perth, who is hereby empowered to make any order necessary to keep the ward within the State pending the determination of the appeal, and to inquire into such grievance and any matters relating thereto, and, upon such inquiry, to either confirm or annul the order of the Minister and commit the ward to the care of the department, or make such other order as to the custody or control of the ward or otherwise in the premises as he shall deem fit, and the determination or order of the magistrate shall for all purposes be final and conclusive.

47A. (1) Where it appears to the Minister that a person has, whether before or after the coming into operation of the Child Welfare Act Amendment Act, 1958, placed a child in the care of another person or of a body but that maintenance for the child is not being paid to that other person or body by the person responsible for payment of the maintenance, the Minister may, by written order signed by him, commit the child to the care of the Department.

Authority for
Minister
to commit
child to the
care of the
Department.
Added by
No. 45 of
1958, s. 4.

(2) Unless modified or cancelled on appeal brought under this section, an order made under subsection (1) of this section has effect according to its tenor.

(3) Before the Minister makes an order under subsection (1) of this section in respect of a child, the person responsible for placing the child in the care of such person or body and the person responsible for payment of the maintenance and the parents of the child shall, if the whereabouts of such persons and parents are known or can be ascertained by reasonable inquiry, be notified by the Minister that he proposes to make the order, unless they show or any one or more of them shows, within such time as is specified in the notification, good cause why he should not do so.

(4) The Minister shall consider such representations, if any, as such persons or parents make as to why he should not make the order.

(5) A parent of a child in respect of whom an order made under subsection (1) of this section is in force or the person responsible as aforesaid for placing the child in the care of such firstmentioned person or body may make application to a Children's Court for cancellation of the order and the release of the child from the care of the State and the Court may grant the application unconditionally or subject to such conditions as in the circumstances of the case the Court considers just, and the Court's decision on the application shall be final and conclusive.

Removal of inmates from one institution to another.
No. 66 of 1947, s. 48.
[No. 31 of 1907, s. 39.]

48. An 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.
No. 66 of 1947, s. 49.
Amended by No. 45 of 1958, s. 5.
[No. 31 of 1907, s. 40, as amended by No. 22 of 1927, s. 3.]

49. The Governor may order that the period of supervision or of detention of any ward 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 Director may apprentice children.
No. 66 of 1947, s. 50.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 41, as amended by No. 22 of 1927, s. 3, and this Act.]

50. The Director may, by indenture of apprenticeship, bind any ward apprentice to any suitable person, to be taught such trade or calling as the Director 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.

Director may place out children.
No. 66 of 1947, s. 51.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 42, as amended by No. 22 of 1927, s. 3, and this Act.]

51. The Director may place out any ward to reside and board with any relative of such child, or with a suitable person approved by the Director for such period, subject to this Act, as the Director thinks fit; or may place out for such period as aforesaid any ward with any suitable person willing to

receive such child for adoption or service, and who, in the opinion of the Director 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.

52. (1) Every ward 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 Education Act, 1928-1943,¹ or any Act amending the same or substituted therefor.

Wards to attend school regularly. No. 66 of 1947, s. 52. [No. 31 of 1907, s. 43, as amended by No. 22 of 1927, s. 3. and this Act.]

(2) No ward 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.

53. All indentures of apprenticeship and agreements for the placing out of wards 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. No. 66 of 1947, s. 53. [No. 31 of 1907, s. 45, as amended by No. 22 of 1927, s. 3.]

54. The Director 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 a 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 Commonwealth Savings Bank. No. 66 of 1947, s. 54. Amended by No. 45 of 1955, s. 2, No. 74 of 1957, s. 5. [No. 31 of 1907, s. 46, as amended by No. 21 of 1919, s. 16, No. 14 of 1921, s. 9, No. 13 of 1926, s. 2. and this Act.]

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 twenty-one years.

¹ Now Education Act, 1928-1960.

Provided further that all accounts under this section shall be audited at prescribed periods by the Auditor General.

Moneys banked may be expended for the child's benefit. No. 66 of 1947, s. 55. Amended by No. 45 of 1955, s. 2. [No. 31 of 1907, s. 47, as amended by No. 14 of 1921, s. 9, and this Act.]

55. (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 Director may from time to time deem advisable.

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

Director may recover wages. No. 66 of 1947, s. 56. Amended by No. 45 of 1955, s. 2. [No. 31 of 1907, s. 48, as amended by No. 22 of 1927, s. 3, and this Act.]

56. The wages or earnings due by any person to any ward, whether payable to such child or not, may be sued for and recovered by and in the name of the Director for the benefit of such child.

Indentures of apprenticeship and licenses may be assigned with consent of Minister. No. 66 of 1947, s. 57. Amended by No. 45 of 1955, s. 2. [No. 31 of 1907, s. 49, as amended by No. 22 of 1927, s. 3, and this Act.]

57. (1) The foster-parent of any ward may, by an assignment bearing the consent of the Minister, but not otherwise, assign the indenture of apprenticeship or license respecting such child to any fit and proper person.

(2) Every such assignment shall be executed in duplicate by the assignor and assignee, and one part of the assignment so executed shall be forthwith forwarded to the Director 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.

58. (1) On the death of the foster-parent of any ward, 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 Director 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.

On death of foster-parent, widow, etc., may nominate new foster-parent.
No. 66 of 1947, s. 58.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 50, as amended by No. 22 of 1927, s. 3.]

(2) The Director 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 Director may deem advisable.

59. If the foster-parent of any ward shall become bankrupt or become unable to maintain and employ such child, or shall be about to remove from the State, the Director 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.

Indentures and licenses may be cancelled.
No. 66 of 1947, s. 59.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 51, as amended by No. 22 of 1927, s. 3, and this Act.]

60. No foster-parent shall change his place of residence without in every case giving to the Director such notice as may be prescribed.

Change of residence to be notified by foster-parent.
No. 66 of 1947, s. 60.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 52, as amended by this Act.]

Notice to be given if child absconds, becomes ill, or dies.
No. 66 of 1947, s. 61.
[No. 31 of 1907, s. 53, as amended by No. 22 of 1927, s. 3.]

61. If a ward 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 ward apprenticed, etc.
No. 66 of 1947, s. 62.
[No. 31 of 1907, s. 54, as amended by No. 22 of 1927, s. 3.]

62. Every foster-parent who ill-treats, injures, or neglects any ward placed out with or apprenticed to him shall be liable to a penalty of not exceeding twenty pounds, or to imprisonment with or without hard labour for any term not exceeding six months, and the court acting in co-operation with the Arbitration Court may discharge the child from the apprenticeship or license, and order him to be sent to an institution.

Department to have general supervision of wards.
No. 66 of 1947, s. 63.
[No. 31 of 1907, s. 55, as amended by No. 22 of 1927, s. 3, and this Act.]

63. The Department shall have general supervision over all wards detained in any institution or placed out for adoption or otherwise, or apprenticed.

Apprenticed and placed-out children to be visited.
No. 66 of 1947, s. 64.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 56, as amended by No. 22 of 1927, s. 3, and this Act.]

64. (1) The Director shall cause all wards 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 Director, 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.

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

(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.

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

Minister may pay for maintenance of child.
No. 66 of 1947, s. 65. [No. 31 of 1907, s. 57, as amended by No. 22 of 1927, s. 3.]

66. The Minister may pay to the foster-parent or foster-mother of any ward, for the care and maintenance of such child, such sum as may be prescribed.

Payments for maintenance of wards to foster-parents.
No. 66 of 1947, s. 66. [No. 31 of 1907, s. 58, as amended by No. 21 of 1919, s. 17, and No. 22 of 1927, s. 3.]

PART V.—MAINTENANCE OF CHILDREN BY THEIR RELATIVES.

67. The near relatives of any child shall be liable to pay or contribute towards the maintenance of such child according to their several abilities, namely:—

Order of liability for maintenance of any child.
No. 66 of 1947, s. 67. Amended by No. 15 of 1959, s. 11. [No. 31 of 1907, s. 59, as amended by s. 5. No. 14 of 1921.]

- (a) In the case of a legitimate child—Father, mother, step-father, step-mother.
- (b) In the case of an illegitimate child—Father, mother.

68. (1) Upon complaint that any persons are near relatives of any 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 and place to be named in such summons, to show cause why they or he should not pay for or contribute towards the past or future maintenance of such child.

On complaint Court to issue summons.
No. 66 of 1947, s. 68. Amended by No. 16 of 1952, s. 6. No. 45 of 1955, s. 2. No. 15 of 1959, s. 12. [No. 31 of 1907, s. 60, as amended by No. 14 of 1921, s. 5 and No. 22 of 1927, s. 3. cf. s. 75 (1) post.]

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

(3) (a) Where after the expiration of three months from the date of the final order or decree absolute for dissolution of or nullity of marriage made under the provisions of the Matrimonial Causes and Personal Status Code, 1948,¹ or the

¹ Now Matrimonial Causes and Personal Status Code, 1948-1957.

Supreme Court Act, 1935-1950,¹ if there is no order in force in the Supreme Court in respect to the maintenance of a child, proceedings for such maintenance may be taken under subsection (1) of this section.

(b) Nothing in this subsection prevents the Director from making a complaint under subsection (1) of this section or the Court from making an order under the provisions of section sixty-nine or one hundred and thirty-six of this Act in respect to the maintenance of a ward or a child maintained by the Department pending an order being made by the Supreme Court in respect to the maintenance.

Court may order payment of maintenance. No. 66 of 1947, s. 69. Amended by No. 16 of 1952, s. 7, No. 15 of 1959, s. 13. [No. 31 of 1907, s. 61, as amended by No. 31 of 1926, s. 6, and No. 22 of 1927, ss. 3 and 8, cf. ss. 70 and 136 post.]

69. (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 in the case of a ward to the Department, or, in the case of any other child, to the Department, or to the complainant, or any person whom the court shall select, 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 two pounds ten shillings 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 two pounds ten shillings a week in the aggregate in respect of any one child.

¹ Now Supreme Court Act, 1935-1960.

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

(4) The court may at any time and from time to time alter any order made hereunder so far as regards the recipient of the money payable thereunder, and in particular may direct, in the case of a child in respect of whom an order has been made and who has become a ward after the making of the order, that the money payable under such order shall be paid to the Department.

(5) Notwithstanding the provisions of sections nineteen and one hundred and forty-three of this Act and section fifty-one of the Justices Act, 1902-1948,¹ the Court may make an order for payment of a sum for past maintenance of a child to cover such period as the Court thinks fit.

69A. (1) Upon a complaint being made under the provisions of section sixty-eight of this Act, whether the defendant or defendants are summoned upon the complaint or not, the defendant or defendants, as the case may be, may sign a memorandum in the prescribed form consenting to an order being made in accordance with the provisions of section sixty-nine of this Act, against him or them, for the payment of such amount at such stated periods as is stated in the memorandum, for past or future maintenance or both.

Consent orders for maintenance may be made. Added by No. 15 of 1959, s. 14.

(2) (a) The defendant or defendants shall sign the memorandum in the presence of the clerk of a Children's Court, a solicitor, a Justice of the Peace, a Commissioner for Declarations, a Member of the Commonwealth or State Parliament, a member of the Police Force, a secretary to the Council of a Municipality or a Road Board, an Electoral Registrar, a postmaster, a classified officer in the Commonwealth or State Public Service, or a classified State School teacher.

¹ Now Justices Act, 1902-1959.

(b) The statements contained in the memorandum shall be verified by the declaration of the defendant or defendants made before a Justice of the Peace or other person by law authorised to administer an oath as provided in section one hundred and six of the Evidence Act, 1906,¹ and memorandum and the declaration may be filed by the complainant or the defendant or defendants with the Clerk of the Children's Court before which the complaint is to be heard.

(3) If the complainant consents to an order for maintenance being made in terms of the memorandum, he shall endorse the memorandum to that effect and the Court shall make the order accordingly.

(4) Upon a complaint being made in which the complainant seeks to have the amount of the weekly payments payable under an order for maintenance varied by increasing the amount thereof, the defendant may consent to an order being made increasing the amount of the maintenance, and the provisions of this section apply in all respects to the complaint and the proceedings thereon in relation to an order by consent as if the complaint were for maintenance by consent in the first instance.

Order may be made in proceedings under sections 30, 32 and 34. No. 66 of 1947, s. 70. [No. 21 of 1919, s. 19. cf. ss. 30, 32, 34 and 69, ante.]

70. An order may be made under section sixty-nine in any proceedings under sections thirty, thirty-two, or thirty-four without any complaint having been made against or summons served on the near relative, provided that he is either present in court when the order is applied for or that he has received the prescribed notice of the intention to make the application.

Order to take effect from pronouncement. No. 66 of 1947, s. 71. [No. 31 of 1907, s. 62, as amended by this Act.]

71. 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

¹ Now Evidence Act, 1906-1960.

the order shall take effect from the time of its pronouncement, notwithstanding that the formal order may not have been signed or served.

72. 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, 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 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.

Allegations
in complaint
prima facie
evidence.
No. 66 of
1947, s. 72.
Amended by
No. 15 of
1959, s. 15.
[No. 31 of
1907, s. 63.]

73. 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, the court may adjudge him to be the father thereof, but shall not so adjudge him or make any order against him under this part—

Court may
adjudge
person to
be father of
illegitimate
child.
No. 66 of
1947, s. 73.
Amended by
No. 15 of
1959, s. 16.
[No. 31 of
1907, s. 64,
as amended
by No. 31 of
1926, s. 8 and
this Act,
cf. s. 20 (2)
ante.]

- (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:

Provided that the allegation in the complaint that the defendant 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 thereof; and the onus of proving that the defendant is not of sufficient means to maintain the child shall lie upon the defendant.

Confinement
expenses.
No. 66 of
1947, s. 74.
[No. 31 of
1907, s. 65,
as amended
by No. 31 of
1926, s. 9,
No. 56 of
1941, s. 8,
and this
Act.
cf. s. 20 (2)
ante.]

74. (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 any child, and such order may be made separately or included in any other order against the father.

(2) Proceedings may be laid against the father of a 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, or to such person as the court may think fit to select as recipient of the moneys, 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.

(5) In case any doubt or question shall arise as to the disposal of any moneys paid for confinement expenses, the court may by subsequent order direct how and in what manner such moneys shall be paid or applied.

(6) The court may, in case of the death of an illegitimate child, make an order against the father of such child for the payment to the Department, or to such person as the court considers entitled to receive the money, of a reasonable sum for the funeral expenses of such child.

75. (1) Upon complaint made under sections sixty-eight, seventy-seven, seventy-eight and one hundred and thirty of this Act, notice maybe given by the Director or clerk of the court 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. No. 66 of 1947, s. 75. Amended by No. 45 of 1955, s. 2. [No. 31 of 1907, s. 66, as amended by No. 31 of 1926, s. 10, No. 22 of 1927, s. 9, and No. 56 of 1941, s. 9. Cf. s. 68 ante and ss. 77, 78 and 130 post.]

(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, or to the person in whose favour an order is made in respect of such money or property under section seventy-six of this Act, 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.

cf. s. 76 post.

76. 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 make orders for delivery, etc., of attached property. No. 66 of 1947, s. 76. [No. 31 of 1907, s. 67, as amended by No. 55 of 1941, s. 10.]

Failure to obey or comply with any direction or order of the court under this section shall constitute an offence against this Act. Penalty: Ten pounds.

Action may be taken upon failure to comply with maintenance order and in other cases. No. 66 of 1947, s. 77 Amended by No. 45 of 1958, s. 6. [No. 56 of 1941, s. 11.]
 Cf. s. 75 (1) ante and s. 131 post.

77. (1) Any person who refuses, fails, or neglects to comply with any maintenance order made against him under this Act, or who attempts to leave the State without making arrangements for future payments to the satisfaction of the department, may be summoned before the court upon complaint.

(2) On the hearing of the complaint the court may commit such person to prison for any term not exceeding twelve months, with or without hard labour.

(2a) In order to resolve any doubt which, but for the enactment of this subsection might arise, it is hereby expressly enacted that neither a committal under subsection (2) of this section of a person to prison, nor service by a person of the whole or any part of a term of imprisonment for which he was so committed, shall satisfy any part of his liability under a maintenance order made under this Act but he shall not be liable to further imprisonment in respect of the same default.

(3) Provided that the court, in lieu of imposing any such sentence as aforesaid, may require the person liable under this section to find good and sufficient security that he will comply with the order in future or will not leave the State without making arrangements for future payments to the satisfaction of the department.

(4) The court may determine the sufficiency of any proposed security and in what manner security shall be given.

(5) Any justice, if satisfied that the circumstances justify the issue of a warrant in lieu of a summons, may issue his warrant upon sworn complaint being made.

Court may vary or discharge orders. No. 66 of 1947, s. 78. [No. 56 of 1941, s. 12, cf. s. 75 (1) ante.]

78. The amount of the weekly payments payable under any order may be altered, varied, or discharged by any subsequent orders from time to time upon cause being shown and upon fresh evidence to the satisfaction of the court. The amount of any

such payments may be diminished or increased: Provided, in case of any increase, the maximum is not exceeded. Orders may be altered, varied, or discharged under this section by the court which made the original order or the court nearest to the place of residence of the near relatives concerned, if such latter court is satisfied that no hardship will thereby result to any such near relative.

79. (1) On the complaint of a near relative liable on a maintenance order, the person, institution, department or body in whose favour the order is made, may be summoned to appear before the court.

Orders may be varied, etc., on further inquiry. No. 66 of 1947, s. 79. [No. 31 of 1907, s. 70, as amended by this Act.]

(2) At the hearing, the court may make further inquiry as to the means and ability of the complainant 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 may make such other order not inconsistent with the provisions of this Act as shall appear just.

80. The court shall have power to forfeit any security, bond, or recognisance to the Department or to the complainant or any other person whom the court may adjudge to be entitled to the amount, or any portion thereof, if the terms and conditions imposed by the court are not complied with: Provided that, in any case, any money advanced by the Department shall be first repaid to the Department.

Court may forfeit or estreat bonds, etc. No. 66 of 1947, s. 80. [No. 56 of 1941, s. 13.]

81. 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. No. 66 of 1947, s. 81. [No. 31 of 1907, s. 71.]

Caveats.
No. 66 of
1947, s. 82.
Amended by
No. 45 of
1955, s. 2.
[No. 31 of
1907, s. 72,
as amended
by No. 31 of
1926, s. 11.]

82. (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, 1893-1946,¹ or the Land Act, 1933-1946,² the Director or the clerk of the court 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.

(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 Director or clerk of the court, 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.

Warrants
may be
granted to
enforce pay-
ment under
orders.
No. 66 of
1947, s. 83.
[No. 31 of
1907, s. 73,
as amended
by No. 31 of
1926, s. 12.]

83. If any money payable under a maintenance order is in arrear for one month, the court may issue a warrant authorising the Department, or the clerk of the court, 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.

Warrant
when regis-
tered to
bind land.
No. 66 of
1947, s. 84.
[No. 31 of
1907, s. 74.]

84. 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.

Sale may be
by auction
or private
contract.
No. 66 of
1947, s. 85.
[No. 31 of
1907, s. 75
as amended
by No. 31 of
1926, s. 12.]

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

¹ Now Transfer of Land Act, 1893-1959.
² Now Land Act, 1933-1960.

86. The Department, or the clerk of the court, 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, 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.

Authority to sell includes power to execute assurances to purchaser.
No. 66 of 1947, s. 86.
[No. 31 of 1907, s. 76 as amended by No. 31 of 1926, s. 12.]

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

Warrant may be issued without previous demand.
No. 66 of 1947, s. 87.
[No. 31 of 1907, s. 77, as amended by No. 31 of 1926, s. 12, cf. s. 83 ante.]

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

88. The payment to the Department, or the clerk of the court, 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.

Payment under warrant to discharge persons paying.
No. 66 of 1947, s. 88.
[No. 31 of 1907, s. 78, as amended by No. 31 of 1926, s. 12.]

89. 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.

Application of moneys received under warrant.
No. 66 of 1947, s. 89.
[No. 31 of 1907, s. 79.]

This part
to apply to
maintenance
orders under
the Bastardy
Laws Act,
1875.
No. 66 of
1947, s. 90.
[No. 31 of
1926, s. 13.]

90. The provisions of this Part relating to maintenance orders shall, so far as practicable, apply to and in respect of any order for maintenance or education for the time being in force made under the Bastardy Laws Act, 1875.¹

Complaints.
No. 66 of
1947, s. 91.
[No. 31 of
1926, s. 13.]

91. Any complaint necessary to obtain an order under this Part may be laid by or on behalf of any person, institution, department, or body interested in obtaining the order, or by or on behalf of any person who is or was a near relative of the child in respect of or with reference to whom the order is sought to be obtained.

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

Governor
may approve
of private
persons or
societies
having care
of children.
No. 66 of
1947, s. 92.
[No. 31 of
1907, s. 80.]

92. (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.
No. 66 of
1947, s. 93.
[No. 31 of
1907, s. 81.]

93. 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

¹ Now repealed; See Act No. 14 of 1921.

Government Gazette, and any copy of the *Government 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.

94. 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.
No. 66 of 1947, s. 94.
[No. 31 of 1907, s. 82.]

95. 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 during such shorter period as the court may think sufficient, 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.
No. 66 of 1947, s. 95.
[No. 31 of 1907, s. 83, as amended by No. 21 of 1919, s. 20.]

96. 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.
No. 66 of 1947, s. 96.
[No. 31 of 1907, s. 84.]

Child not to be committed contrary to objection of father on ground of religion.
No. 66 of 1947, s. 97.
[No. 31 of 1907, s. 85.]

97. 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.

Committal by parent.
No. 66 of 1947, s. 98.
[No. 31 of 1907, s. 86.]

98. 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 behalf 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.
No. 66 of 1947, s. 99.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 87.]

99. 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 Director or any officer of the Department.

Transmission of guardianship upon death or revocation of order.
No. 66 of 1947, s. 100.
[No. 31 of 1907, s. 88.]

100. (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*.

101. 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 such 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.

Guardian-
ship to cease
on revoca-
tion of
order.
No. 66 of
1947, s. 101.
[No. 31 of
1907, s. 89.]

102. 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 any office copy thereof, without any warrant, shall be a sufficient authority for any police officer to take such child to such person or society.

Form of
order.
No. 66 of
1947, s. 102.
[No. 31 of
1907, s. 90.]

Order of
commitment
sufficient
warrant for
detention.
No. 66 of
1947, s. 103.
[No. 31 of
1907, s. 91.]

103. 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.

Power to
transfer
child to
care of
Department.
No. 66 of
1947, s. 104.
[No. 31 of
1907, s. 92.]

104. 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.

Child not to
be moved
out of
Western
Australia.
No. 66 of
1947, s. 105.
[No. 31 of
1907, s. 93,
as amended
by No. 22 of
1927, s. 11.]

105. 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 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.

[Title
amended
by No. 21 of
1919, s. 21.]

PART VII.—LICENSING OF CHILDREN AND
RESTRICTIONS ON EMPLOYMENT
OF CHILDREN.

Issue of
Licenses.
No. 66 of
1947, s. 106.
Amended by
No. 45 of
1958, s. 7.
[No. 31 of
1907, s. 94,
as amended
by No. 21 of
1919, s. 21
and this
Act.]

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

(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 or educational 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.

107. 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; or
- (c) who is under the age of twelve years,

Penalty for employing child in contravention of Act.
No. 66 of 1947, s. 107. [No. 31 of 1907, s. 95, as amended by No. 21 of 1919, s. 21 and this Act.]

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

108. No person shall—

- (a) cause, procure, suffer, or allow any child under the age of sixteen years to be in any place whatever for the purpose of begging or receiving alms or inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or
- (b) cause, procure, suffer, or allow any child under fourteen years of age to be employed or engaged in any work in or about any racing stable, or in connection with the training of any animal for racing; or
- (c) except with the license in writing of the Minister, and subject to such restrictions and conditions as may be therein expressed,

Begging or performing by children under sixteen forbidden.
No. 66 of 1947, s. 108. [No. 21 of 1919, s. 21.]

Work connected with training of animals for racing by children under fourteen forbidden.
[No. 22 of 1927, s. 12.]

cause, procure, suffer, or allow any child under the age of sixteen years to be in or on any premises or place used or intended to be used for the purpose of any public entertainment for the purpose of singing, playing, or performing for profit or reward to the child or to any other person, or offering anything for sale: Provided that this provision shall not apply in the case of an occasional entertainment, the proceeds of which are intended to be applied for the benefit of any school or charitable or patriotic object.

Penalty: Twenty pounds.

Power for Director or authorised officer to enter places of amusement.
No. 66 of 1947, s. 109.
Amended by No. 45 of 1955, s. 2.
[No. 14 of 1921, s. 10.]

109. The Director or any officer authorised in this behalf by the Director may at all reasonable hours of the day or night enter any theatre, place of amusement, shop, factory, warehouse, or other place in which children are employed, or are reasonably supposed by him to be employed, and may make all such investigations and inquiries relative to such children as he shall consider advisable.

No person shall resist or obstruct such Director or officer in the exercise of any power under this section, and any person to whom such Director or officer shall put any question pursuant to this section shall forthwith answer such questions truthfully to the best of his knowledge, information, and belief.

[No. 21 of 1919, s. 22.]

Penalty: Ten pounds.

PART VIII.—LYING-IN HOMES AND FOSTER-MOTHERS AND THE CARE AND ADOPTION OF CHILDREN.

Power to assist women in lying-in homes.
No. 66 of 1947, s. 110.
[No. 31 of 1907, s. 96.]

110. The Minister may, under special circumstances, and subject to the regulations, contribute towards the support of any women 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.

111. 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 six years without being licensed by the Department for that purpose.

Foster-mothers to be licensed. No. 66 of 1947, s. 111. [No. 31 of 1907, s. 100, as amended by No. 21 of 1919, s. 24.]

112. (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 six years, and may by any such license fix the number of children authorised to be kept by the foster-mother therein named.

Department may license foster-mothers. No. 66 of 1947, s. 112. [No. 31 of 1907, s. 101, as amended by No. 21 of 1919, s. 24.]

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

113. (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 six 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.

Penalty on unlicensed foster-mothers. No. 66 of 1947, s. 113. Amended by No. 45 of 1955, s. 2. [No. 31 of 1907, s. 102, as amended by No. 21 of 1919, s. 24.]

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

Penalty on licensed foster-mother taking charge of more children than allowed by license.
No. 66 of 1947, s. 114.
[No. 31 of 1907, s. 103.]

114. 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.

Lying-in homes to be open for inspection.
No. 66 of 1947, s. 115.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 104.]

115. (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 Director or any officer of the Department.

Penalty for obstructing inspection.

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

Places for reception of children under six to be licensed.
No. 66 of 1947, s. 116.
Amended by No. 45 of 1955, s. 2.
[No. 21 of 1919, s. 25.]

116. (1) No person shall keep, use, or manage any house, room, or place for the purpose of receiving or keeping in his care, charge, or custody two or more children under the age of six years in order to rear, nurse, or otherwise maintain such children apart from their respective parents, except pursuant to a license granted for the purpose by the Director.

Penalty: Twenty pounds, or for a second offence, imprisonment with hard labour for three months.

(2) Subject to this Act, the Director may, on application, grant a license without fee authorising the person named in the license to so receive and keep children as aforesaid, and to keep, use, or manage for that purpose such house, room, or place as is named in the license.

(3) Every application for a fresh license shall be made during the currency of the calendar year in which the license is to have effect, or in the month of December preceding that year, and every such license which shall be granted shall, subject to this Act, have effect for and during that year or the unexpired portion thereof, and no longer.

(4) The Governor may by regulations provide for the supervision and inspection of places licensed under this section, and prescribe what requisites must be complied with as regards the structure, maintenance, and management thereof, and may by any regulation direct that a license shall be refused in respect of any place regarding which the regulations are not complied with, or that a license shall be refused to any person, or in respect of any premises for any prescribed reason, and the Governor may prescribe a penalty of not more than ten pounds for the breach of any regulation made hereunder.

(5) If it shall appear that any person has been guilty of neglect to provide or is incapable of providing the children in his charge with proper food or attention, or that the place in respect of which he is licensed is unfit for the purpose for which it is used, or that he has not complied with the regulations, or that for any other reason it is not desirable that the license granted to such person shall continue, the Director may cancel such license, and remove the children to an institution, and recover the cost of and incidental to such removal from the licensee by action in any court of competent jurisdiction; but such licensee may appeal to the Minister against such cancellation in the prescribed manner, and the Minister may reverse or confirm the cancellation and restore the license, and make such other order (including the restoration of the children) as may be just.

(6) This section shall not apply to any person who merely receives into his care or keeps in his charge children of whom he is a near relative, or to any person who, being licensed as a foster-mother under this Act, merely takes the care, charge, or custody of children pursuant to her license or to any person merely receiving into his care or keeping in his charge any children as lodgers, boarders, or scholars in the establishment of any school recognised by the Minister for Education as giving efficient instruction for the purposes of the compulsory

section of the Education Act, 1928-1943,¹ or to the keeping, use, or management of a house, room, or place for any of the purposes mentioned in this subsection.

Register to be kept by foster-mother.
No. 66 of 1947, s. 117.
[No. 31 of 1907, s. 106, as amended by No. 22 of 1927, s. 3.]

117. (1) Every licensed foster-mother shall keep a register in the prescribed form containing in respect of every ward 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:—

- (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.
No. 66 of 1947, s. 118.
[No. 31 of 1907, s. 107.]

118. 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.

¹ Now Education Act, 1928-1960.

119. (1) No person shall, without the permission in writing of the Director, publish or cause to be published any advertisement containing any direct or indirect invitation to adopt or offering directly or indirectly to adopt any child under the age of fifteen years, whether a particular child or not.

Penalty: Thirty pounds.

(2) No person shall, without the permission in writing of the Director, publish or cause to be published any advertisement containing any direct or indirect invitation to take care of, or offering directly or indirectly to take care of, any child under the age of six years, whether a particular child or not.

Penalty: Thirty pounds.

(3) No premium or reward shall be paid or offered to any person for maintaining or taking care of, or undertaking to maintain or take care of, any child under the age of six years, and no person shall offer or agree to maintain or take care of such a child for a premium or reward: Provided that nothing herein shall prevent the payment of a reasonable weekly or other sum approved by the Director to any person for taking the entire charge of any such child.

Penalty: Fifty pounds.

(4) No premium or reward shall be paid or offered to any person for adopting or undertaking to adopt any child, and no person shall offer or agree to adopt any child for a premium or reward.

Penalty: Fifty pounds.

120. (1) If any person other than a near relative of any child under six years of age or other than a person obtaining an order of adoption under the adoption of Children Act, 1896-1945,¹ and amendments, adopts or assumes the entire charge of such a child such person shall, within seven days of his so doing, give notice of the fact to the Director, and

No advertisement for adoption or taking charge of child to be published unless approved by Director, and no premium to be paid.

No. 66 of 1947, s. 119. Amended by No. 45 of 1955, s. 2. [No. 21 of 1919, s. 26.]

Person adopting child to give notice to Director. No. 66 of 1947, s. 120. Amended by No. 45 of 1955, s. 2. [No. 21 of 1919, s. 26, as amended by this Act.]

¹ Now Adoption of Children Act, 1896-1959.

shall in such notice state his name and place of residence and his occupation, together with the name, age, religion, and place of birth of such child.

(2) Every person who takes charge of a child with a view to adoption, and any person including the matron or proprietor of a hospital who places a child into the charge of any person with a view to adoption, shall within seven days of so doing give notice thereof to the Director, and shall in such notice state the name, age and religion of such child and the name and address of the person taking charge of such child.

(3) Penalty for contravention of any provision of this section: Ten pounds.

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

Officer of
Department
may take
part in all
trials against
children.
No. 66 of
1947, s. 120.
Amended by
No. 45 of
1955, s. 2,
No. 45 of
1958, s. 8.
[No. 31 of
1907, s. 108.]

121. At the hearing in a Children's Court or before Justices of any complaint against any child, or ward, the Director 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 or ward.

Officer of
Department
may conduct
cases where
complaint
made.
No. 66 of
1947, s. 122.
[No. 31 of
1907, s. 109.]

122. (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.
No. 66 of
1947, s. 123.
[No. 31 of
1907, s. 110.]

123. 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.

124. 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 Director shall cause a return to be made annually to the Minister of all convictions against and consequent punishments inflicted upon wards.

Returns of complaints and convictions.
No. 66 of 1947, s. 124.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 111, as amended by No. 22 of 1927, s. 3.]

125. Any person who—

- (a) without the authority of the Minister, takes or removes any ward 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 ward 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 ward in so absconding or escaping, or who prevents any ward from returning to any institution or to his foster-parent, or who, knowing any ward 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; or

Penalty for taking, removing, harbouring, etc., wards.
No. 66 of 1947, s. 125.
[No. 31 of 1907, s. 112, as amended by No. 22 of 1927, ss. 3 and 13.]

- (e) having a ward in his or her care, neglects or refuses, on demand, to hand such child over to an authorised officer of the Department or a police officer authorised to receive the child,

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.

Conviction not to be disclosed.
No. 66 of 1947, s. 126.
[No. 56 of 1941, s. 14.]

126. Whenever any child has been committed to the care of the State or has been committed to an institution or has been convicted under this Act, the fact of such committal or conviction shall not be disclosed to any person, other than a person who as part of his duties is concerned with the custody or welfare of the child, or be admitted as evidence in any court of law, except a Children's Court.

Penalty for communicating with children in institutions.
No. 66 of 1947, s. 127.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 113.]

127. Any person who—

- (a) without the authority or permission of the Director, 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 Director or governing authority, as the case may be, so to do, holds or attempts to hold any communication directly or indirectly with any ward,

shall be guilty of an offence against this Act.

128. 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.
No. 66 of 1947, s. 128.
[No. 31 of 1907, s. 114.]

129. When a female ward is detained or resides in an institution, or has been placed out or apprenticed with or to any person, then the manager or person having the chief control of the institution (being a male) or such person as aforesaid (if a male) or the husband of such person (if a female) shall be deemed to be the guardian of such child within the meaning of the provisions of the Criminal Code relating to sexual offences by guardians.

Managers of institutions and persons with whom female wards are placed out to be deemed to be guardians for the purposes of Criminal Code.
No. 66 of 1947, s. 129.
[No. 21 of 1919, s. 27, as amended by No. 22 of 1927, s. 3.]

130. 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.

Penalty for desertion of child under certain circumstances.
No. 66 of 1947, s. 130.
[No. 31 of 1907, s. 116, as amended by No. 31 of 1926, s. 14. Cf. 75 (1) ante and s. 136 post.]

This section is without prejudice to the enforcement of orders in manner provided in this Act or the Justices Act, 1902-1942,¹ but no person shall be liable to proceedings both under this section and by way of enforcement in respect of the same default.

131. Upon complaint on oath by the Director, or any other officer of the Department, that he has reasonable grounds for believing that any person has committed or is about to commit an offence under sections seventy-seven and one hundred and thirty 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

Court may issue warrant for arrest of deserter upon complaint on oath.
No. 66 of 1947, s. 131.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 117, as amended by No. 56 of 1941, s. 16. Cf. ss. 77 and 130 ante.]

¹ Now Justices Act, 1902-1959.

issue a warrant for the apprehension of the person complained against, and such person may thereupon be apprehended by any police officer accordingly.

Enforcement of payment of arrears of maintenance order in court of competent jurisdiction. Cf. Deserted Wives and Children Act, 1901, as amended, N.S.W., s. 13A, added by No. 45 of 1958, s. 9.

131A. (1) Where a maintenance order has been made under section sixty-nine of this Act by a Children's Court and payment into the court has been ordered, the Clerk of the Court at the request of the Director or an officer of the Department, shall issue his certificate stating the amount due under the order at the date of the certificate, but if payment is ordered to be made to the Department the Director or an officer of the Department may issue a certificate stating the amount due under the order at the date of the certificate.

(2) Where money payable under the maintenance order so made is payable to a person or body other than the Department, that person or body may request the Director to cause a certificate mentioned in subsection (1) of this section to issue, and in the name of the Department to cause proceedings to be taken under this section on behalf of the person or body for recovery of the amount stated in the certificate, and the Director may comply with the request.

(3) The Director or an officer of the Department may, either on behalf of the Department, or on behalf of a person or body referred to in subsection (2) of this section, file or cause a certificate so issued to be filed in a local court if the amount shown in the certificate is within the jurisdiction of a local court, or otherwise in the Supreme Court, and the clerk of the local court, or, as the case may be, the appropriate officer of the Supreme Court, shall enter judgment for the Department for the amount stated to be due in the certificate together with the amount of such fees, if any, as are paid for the certificate and for filing it and entering judgment.

(4) A judgment so entered may be enforced in any manner in which a final judgment in an action in the local court or, as the case may be, in the Supreme Court may be enforced.

(5) Rules of court may be made to prescribe the practice and procedure in the Supreme Court and in local courts to be observed in connection with the filing of certificates and entering of judgments in pursuance of this section and the fees to be paid.

132. Subject to section one hundred and thirty-five of this Act, the home or place of residence, and every part thereof, of any illegitimate child under the age of six years, shall at all times be open to entry and inspection by any female officer of the Department, on the written authority of the Director, and any person who refuses to allow such entry or inspection to be made, or hinders or resists any such officer in the making of, or attempts to make, such entry or inspection, or who refuses or neglects to produce such child to any such officer for inspection by her, upon such production being demanded by such officer, shall be liable to a penalty not exceeding twenty pounds.

Homes of illegitimate children under six years liable to inspection.
No. 66 of 1947, s. 132.
Amended by No. 45 of 1955, s. 2.
[No. 21 of 1919, s. 28.
Cf. s. 135 post.]

133. Subject to section one hundred and thirty-five of this Act, the occupier of any house or place in which an illegitimate child is born shall, within three days after the birth, give notice of the fact with the prescribed particulars to the District Registrar of Births, Deaths, and Marriages:

Occupier of house in which an illegitimate child is born to give notice of birth.
No. 66 of 1947, s. 133.
[No. 21 of 1919, s. 28.
Cf. s. 135 post.]

Provided that if the place of birth is not within a registry district, the notice may be given within one week to the Registrar General of Births, Deaths, and Marriages or the officer in charge of the nearest police station, and provided also that if the mother is the occupier of the house or place, the notice may in any case be given within three weeks.

Penalty: Ten pounds.

134. Subject to section one hundred and thirty-five of this Act, the occupier of any house or place in which an illegitimate child dies or into which the dead body of an illegitimate child is brought shall, within twenty-four hours after the death or the bringing into the house or place of such dead body,

Notice of death of illegitimate child to be given.
No. 66 of 1947, s. 134.
[No. 21 of 1919, s. 28.
Cf. s. 135 post.]

give notice of the fact with the prescribed particulars to the officer in charge of the nearest police station.

Penalty: Twenty pounds.

Exemption.
No. 66 of
1947, s. 135.
[No. 21 of
1919, s. 28.
Cf. ss. 132,
133 and 134
ante.]

135. The last three preceding sections do not apply to or in respect of any illegitimate child that has been adopted or legitimated, or where the illegitimate child is living with and cared for by its mother.

Court may
determine
matter in
summary
way.
No. 66 of
1947, s. 136.
[No. 31 of
1907, s. 118,
as amended
by No. 56 of
1941, s. 17.
Cf. s. 130
ante.]

136. (1) Upon the hearing of a complaint under section one hundred and thirty 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 pay or contribute towards the past and future maintenance of such child as is provided for in section sixty-nine of this Act.

Cf. s. 69
ante.

Punishment
for mis-
conduct or
neglect
leading to
delinquency
of child.
No. 66 of
1947, s. 137.
Amended by
No. 52 of
1950, s. 4.
[No. 21 of
1919, s. 29,
as amended
by this Act.]

137. (1) Any person who has, either by wilful misconduct or habitual neglect, or by any wrongful or immoral act or omission encouraged or contributed to the commission of any offence by any child or of any act by a child under the age of fourteen years which act, if it were committed by a child over fourteen years of age, would be an offence, or caused or suffered any child to become a neglected child, or contributed to any child becoming a neglected child, shall be guilty of an offence.

Minimum penalty irreducible in mitigation: Five pounds. Maximum penalty: Fifty pounds or imprisonment with hard labour for six months.

(2) A charge of an offence under this section may be prosecuted, heard, and determined before a Children's Court.

(3) The court before whom any person is convicted of an offence under this section may (if such person is a parent or guardian of the child and the child has committed an offence), in lieu of or in addition to any other punishment, order the person convicted—

- (a) to pay any fine which may have been imposed on the child for the offence committed by such child;
- (b) to find good and sufficient security to the satisfaction of the court that the child will be of good behaviour for a period not exceeding twelve months.

(4) If the court orders such security as aforesaid, it may suspend any sentence of imprisonment imposed on the convicted person until there has been a breach in the conditions of the security, and on any such breach occurring the suspension shall be removed, and the sentence shall become operative and may be enforced, and in that case the period of imprisonment imposed by the sentence shall be calculated as from the date of the offender being actually received into prison.

(5) For the purposes of this section any person who in fact has the custody, care, or control of any child shall be deemed to be a guardian of such child.

137A. (1) Where a child is found guilty of an offence with respect to which payment of damages, costs or restitution may be ordered, the Court, on being satisfied that any parent or guardian of the child has conduced to the commission of the offence by neglecting to exercise due care or control of the child, may order that the damages, costs or restitution be paid—

- (a) by the child; or
- (b) by the parent or guardian; or
- (c) by both the child and the parent or guardian, in such proportions as the Court may determine.

Power to order parent to pay fine, etc., in lieu of child.
Cf. U.K. 23, Geo. 5. c. 12, s. 55.
S. 137A added by No. 36 of 1956, s. 2.

In an order for payment of any sum, the Court may direct that such sum be paid by periodical payments.

(2) In any case where a child is charged with an offence, the Court may order the parent or guardian of the child to give security for the good behaviour of the child and such order may be made by the Court in addition to any order made in respect of the child.

(3) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without the parent or guardian having first been given an opportunity of being heard nor shall any such order be made requiring a parent or guardian to pay an amount greater than one hundred and fifty pounds.

(4) Any sum ordered to be paid under this section, or payable on the forfeiture of any security as aforesaid, by a parent or guardian, may be recovered in the same manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child was charged.

(5) For the purposes of this section the term "parent" includes the natural parent, adoptive parent, legal guardian, or any person having control of the child for such period other than one which the court considers to be limited or temporary, but does not include officers of the Child Welfare Department, licensed foster mothers, licensed foster parents, school teachers, or members of staffs of children's institutions.

Children
employed in
a circus, etc.
No. 66 of
1947, s. 138.
[No. 31 of
1907, s. 119,
as amended
by No. 56 of
1941, s. 18,
and this
Act.
Cf. s. 4 ante.]

138. Any child under the age of fourteen years who is employed or engaged in any circus, travelling show, or acrobatic entertainment, or exhibition by which his life, health, welfare, 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.

139. Any ward, or child committed to the care of any person or society under Part VI., and his attendant shall travel free on Government railways on production of a certificate from the Director 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.
No. 66 of 1947, s. 139.
Amended by No. 45 of 1955, s. 2.
[No. 31 of 1907, s. 120, as amended by No. 22 of 1927, s. 3.]

140. All property, real or personal, given, devised, or bequeathed to the Department for the benefit of wards, 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 wards, or of the particular ward or wards intended to be benefited.

Gifts to Minister to be applied for benefit of objects of such gifts.
No. 66 of 1947, s. 140.
[No. 31 of 1907, s. 121, as amended by No. 22 of 1927, s. 3.]

141. 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, 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.

Persons in charge of wards to have privilege of constables.
No. 66 of 1947, s. 141.
[No. 31 of 1907, s. 125.]

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

General penalty.
No. 66 of 1947, s. 142.
[No. 31 of 1907, s. 126, as amended by 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 thirty pounds.

143. Every proceeding under this Act for omission, 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,

Application of Justices' Act, 1902.
No. 66 of 1947, s. 143.
[No. 31 of 1907, s. 127.]

shall be had and taken, and may be heard and determined in a summary way under the provisions of the Justices Act, 1902-1942.¹

Forms of proceedings. No. 66 of 1947, s. 144. [No. 31 of 1907, s. 128.]

144. 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. No. 66 of 1947, s. 145. [No. 31 of 1907, s. 129.]

145. 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.

Person arrested at distance exceeding twenty miles from Court may be brought before nearest Court. No. 66 of 1947, s. 146. Amended by No. 45 of 1955, s. 2. [No. 22 of 1927, s. 14. as amended by No. 56 of 1941, s. 20.]

146. (1) (a) Whenever any person is liable to arrest under Part V. and Part IX. of this Act, and such person is arrested at a distance exceeding twenty miles from the court which has caused the warrant to issue, the person arrested may, with the consent of the Director, be brought before the Children's Court nearest to the place of arrest, and the case shall forthwith be adjudicated upon by such court.

(b) For the purpose of the hearing of such court, a certified copy of the proceedings of the court which caused the warrant to issue, together with a certified account of the arrears of maintenance and costs, shall be accepted as *prima facie* evidence of the proceedings therein set forth and of the amounts which are owing and payable. Such certified copy shall be under the hand of and signed by the clerk of the court which caused the warrant to issue.

¹ Now Justices Act, 1902-1959.

(c) The court which adjudicates upon the matter so transferred to it may make such order as it may determine, and thereupon such order shall be deemed to have been made by the court which caused the warrant of arrest to issue.

(2) Where no members of the Children's Court nearest to the place of arrest are available or, if such arrest occurs in an area within the State in which no Children's Court has been proclaimed, the person arrested may be brought before the nearest court of petty sessions, and the case shall forthwith be adjudicated upon by such court in accordance with this Act, as if such court were a Children's Court properly constituted under this Act.

146A. (1) Where a Justice is satisfied by information on oath that there is reasonable ground for suspecting that a destitute or neglected child is residing on any premises or in any place he may grant an order in the prescribed form authorising the Director or other officer of the Department named therein, to enter at all reasonable times the premises or place named in the order and to inspect the premises or place.

Officers of Department may enter and inspect premises where destitute or neglected child suspected of residing.
Added by No. 16 of 1952, s. 9.
Amended by No. 45 of 1955, s. 2.

(2) The person named in the order seeking to exercise his powers under it shall, if so required, produce the order.

(3) A person who refuses to permit the person named in the order to enter or inspect the premises or place in respect of which the order is issued or hinders or obstructs him in the execution of his duty under this Act, is guilty of an offence.

146B. A person, not being an officer of the Department who takes the name, designation, or description of any officer of the Department or pretends or asserts that he is an officer of the Department, is guilty of an offence.

Personation of officers of the Department.
Added by No. 16 of 1952, s. 9.

Exemption
from
personal
liability.
Added by
No. 45 of
1958, s. 10.

146C. A person who occupies or has occupied the office of Minister, Director, or officer of the Department, or who otherwise carries out or has carried out any duty or function under this Act, is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred or which purports to be conferred, or the carrying out of any duty imposed or which purports to be imposed, by this Act.

147. [*Repealed by No. 73 of 1954, s. 8.*]

Appropriation of penalties.
No. 66 of
1947, s. 148.
[No. 31 of
1907, s. 131.]

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

Regulations.
No. 66 of
1947, s. 149.
[No. 31 of
1907, s. 132,
as amended
by No. 22 of
1927, s. 3.]

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

- (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 houses;
- (c) the custody, maintenance, education, employment, apprenticing, and placing out of wards;
- (d) the visitation of wards at institutions, or apprenticed, or placed out;
- (e) the punishment of wards;
- (f) wages and rewards to wards;
- (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.

FIRST SCHEDULE.

Section 3:

The Child Welfare Act, 1907-1941.

SECOND SCHEDULE.

S. 15.
Second
Schedule
substituted
by No. 45 of
1955, s. 6.

Industrial School for Boys:

Anglican Farm School, Stoneville.

Industrial School for Girls:

Home of the Good Shepherd (Roman Catholic), Leederville.

Church of England:

Swan Homes for Children (Boys and Girls), Middle Swan.

Parkerville Children's Home (Boys and Girls), Parkerville.

William A. Saw Seaside Home (Boys and Girls), Coogee.

Roman Catholic:

St. Joseph's Orphanage (Girls), Wembley.

St. Vincent's Foundling Home (Boys and Girls),
Wembley.

Castledare Junior Orphanage (Boys), Queen's Park.

Clontarf Orphanage (Boys), Victoria Park.

St. Joseph's Farm and Trade School (Boys), Bindoon.

St. Mary's Agricultural School (Boys), Tardun.

Nazareth House (Girls), Geraldton.

Salvation Army:

Boys' Home, Hollywood.

Girls' Home, Cottesloe.

Methodist:

Children's Home (Girls), Victoria Park.

Tom Allan Memorial Home for Boys, Werribee.

Presbyterian:

Benmore Boys' Home, Caversham.

Burnbrae Children's Home (Girls), Byford.

Undenominational:

Alexandra Home for Babies (Boys and Girls), Highgate.