

# CHILD WELFARE ACT, 1947.

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FIRST, SECOND AND THIRD SCHEDULES.

Approved for Reprint 26th April, 1974.

WESTERN AUSTRALIA.

# CHILD WELFARE.

11° and 12° Geo. VI., No. LXVI.

No. 66 of 1947.

(Affected by Acts No. 72 of 1957 and No. 113 of 1965.)

[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 1954,<sup>1</sup> 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 1957,<sup>2</sup> 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 1959,<sup>3</sup> assented to 15/10/59;  
No. 22 of 1962,<sup>4</sup> assented to 4/10/62;  
No. 43 of 1962,<sup>5</sup> assented to 1/11/62;  
No. 79 of 1965,<sup>6</sup> assented to 7/12/65;  
No. 27 of 1967,<sup>7</sup> assented to 17/11/67;  
No. 42 of 1967, assented to 21/11/67;  
No. 29 of 1968, assented to 25/10/68;  
No. 85 of 1969,<sup>8</sup> assented to 17/11/69;  
No. 39 of 1970, assented to 23/9/70,  
No. 52 of 1971, assented to 10/12/71;  
No. 27 of 1972,<sup>9</sup> assented to 9/6/72.

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

**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—

1. This Act may be cited as the *Child Welfare Act, 1947-1972*.

Short title.  
Amended by  
No. 27 of  
1972, s. 1.

<sup>1</sup> Came into operation on 1st March, 1955; See *Gazette* of 18/2/1955, p. 343.  
<sup>2</sup> Came into operation on 1st February, 1958; See *Gazette* of 31/1/1958, p. 167.  
<sup>3</sup> Came into operation on 1st January, 1961; See *Gazette* of 16/12/1960, p. 3973.  
<sup>4</sup> Came into operation on 1st December, 1962; See *Gazette*, of 30/11/62, p. 3833.  
<sup>5</sup> Came into operation on 9th November, 1962; See *Gazette* of 9/11/62, p. 3679.  
<sup>6</sup> Came into operation on 1st March, 1966; See *Gazette* of 25/2/66, p. 550.  
<sup>7</sup> Came into operation on 8th March, 1968 (except sections 23 and 24); See *Gazette* of 8/3/68, p. 673. Sections 23 and 24 came into operation on 15th July, 1968; See *Gazette* of 15/7/68, p. 1996.  
<sup>8</sup> Came into operation on 1st February, 1970; See *Gazette* 31/12/69, p. 4363.  
<sup>9</sup> Came into operation on 1st July, 1972; See *Gazette* 30/6/72, p. 2097.

Division.  
Amended by  
No. 27 of  
1967, s. 3;  
No. 27 of  
1972, s. 3.

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

PART I.—PRELIMINARY, ss. 1-4.

PART II.—ADMINISTRATIVE PROVISIONS, ss. 5-12.

PART III.—INSTITUTIONS, ss. 13-18.

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

PART V [*Deleted by No. 27 of 1967, s. 3*]

PART VI [*Deleted by No. 27 of 1967, s. 3.*]

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..

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

Interpre-  
tation.  
Amended by  
No. 16 of  
1952, s. 2;  
No. 45 of  
1955, s. 2;  
No. 15 of  
1959, s. 2;  
No. 79 of  
1965, s. 3;  
No. 27 of  
1967, s. 4;  
No. 85 of  
1969, s. 3;  
No. 27 of  
1972, s. 4.

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 Department for Community Welfare established under section four of the Community Welfare Act, 1972;

“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 for Community Welfare appointed under section seven of the Community Welfare Act, 1972; .

“drug” means any substance —

- (a) for the time being specified in the Eighth Schedule in Appendix “A” to the Poisons Act, 1964; or
- (b) for the time being declared to be a specified drug for the purposes of the Poisons Act, 1964;

“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,<sup>1</sup> 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;

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<sup>1</sup> Repealed by Act No. 31 of 1907, s. 3.

“neglected child” means any child who—

- (1) habitually begs or receives alms, whether under the pretext of sale or otherwise, or frequents any public place for the purpose of so begging or receiving alms; or
- (2) wanders about, or frequents any public place, or sleeps in the open air, and does not satisfy the court that he or she has a home or settled place of abode; or
- (3) resides in any reputed brothel, or associates or dwells with any person known to the police or reputed to be a prostitute, whether such person is the mother of such child or not; or
- (4) associates or dwells with any person who has been convicted of vagrancy, or is known to the police as of bad repute, or who has been or is reputed to be a thief or habitual drunkard; or
- (5) is under the guardianship 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
- (6a) is found in a place where any drug is used, or uses any drug himself, and in either case is in need of care, protection or control by reason thereof;
- (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

Cf. s. 138  
post.

- (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; or
- (10) is so ill-treated, or suffers such injuries apparently resulting from ill-treatment, is living under such conditions, is found in such circumstances or is behaving in such a manner 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;

“public place” means any place whatsoever to which the public for the time being have or are permitted to have access whether on payment or otherwise;

“special magistrate” means a stipendiary magistrate or a justice of the peace nominated by the Governor for the purposes of this Act;

“street” includes any highway or public place, whether a thoroughfare or not;

“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 this or any other Act, to the care of the Department, or to the custody of the Director for a period that has not expired.

PART II.—ADMINISTRATIVE PROVISIONS.

5. The administration of this Act shall be vested in a responsible Minister of the Crown and, subject to the Minister, shall be carried out by the Department.

Heading of Part II.  
Substituted by No. 27 of 1972, s. 5.  
Administration.  
Substituted by No. 27 of 1972, s. 6.

6. (1) 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.

Director.  
Amended by No. 45 of 1955, s. 2; No. 85 of 1969, s. 4; No. 27 of 1972, s. 7.

(2) The Minister may appoint the person appointed to be the deputy of the Director under section eight of the Community Welfare Act, 1972, or any person holding an appointment under section seven of this Act to act in place of the Director during any absence, illness or incapacity of the Director, and a person so appointed has, during any absence, illness or incapacity of the Director, all the powers, duties and functions conferred or imposed on the Director by this Act.

(3) The Minister may at any time revoke an appointment made under subsection (2) of this section.

Inspectors  
and other  
officers.  
Amended by  
No. 45 of  
1955, s. 3;  
No. 27 of  
1972, s. 8.

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

(2) All inspectors and other officers of the former Child Welfare Department holding office or being employed immediately prior to the coming into operation of the Child Welfare Act Amendment Act (No. 2), 1972, shall be deemed to have been appointed and engaged under the Community Welfare Act, 1972, but shall otherwise be subject to this Act.

(3) A person appointed or engaged under the Community Welfare Act, 1972, shall, for the purpose of carrying into operation the provisions of this Act, have such powers, duties and functions under this Act as may be imposed or conferred upon him by the Minister.

Visitors.

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

9. [*Repealed by No. 29 of 1968, s. 2.*]

Delegation.  
Added by  
No. 45 of  
1958, s. 2.  
Substituted  
by No. 15 of  
1959, s. 3.  
Amended by  
No. 27 of  
1972, s. 9.

9A. (1) The Minister may from time to time, by writing under his hand either generally or particularly, delegate to the Director or to a person appointed to act in place of the Director under section six of this Act or to either or both of them, 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.

(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.

10. (1) Subject to the regulations and the direction of the Minister, the Director shall—

- (a) be the guardian and have the care, management and control of the persons and property of all wards; and
- (b) have the supervision of all children nursed by foster mothers.

General powers of Director. Amended by No. 45 of 1955, s. 2; No. 15 of 1959, s. 4; No. 22 of 1962, s. 3; No. 29 of 1968, s. 3.

(2) All wards 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.

(3) The Director or, with his authority, an officer of the Department may take such action, not inconsistent with the provisions of this Act, as may be reasonably or probably necessary for promoting the welfare of a child, whether a ward or not.

Record of wards to be kept.  
Amended by No. 45 of 1955, s. 2.

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.  
Amended by No. 45 of 1955, s. 2.

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.

Government institutions.

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

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

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

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.

(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.

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. Manager to be approved.

17. If any institution is established and maintained for the children of any particular religious denomination exclusively, the Governor may limit the same as an institution for such children, only. Institutions may be established for particular religious denominations. Amended by No. 79 of 1965, s. 4.

Special Magistrates and Members of Court may visit institutions.

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.  
Amended by No. 69 of 1957, ss. 2, 3 and 4; No. 22 of 1962, s. 4; No. 29 of 1968, s. 4.

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.

(e) Notwithstanding the provisions of this subsection, a Children's Court may exercise any of the powers conferred on it by section twenty of this Act in respect of an offence alleged to have been committed outside the area in and for which that Children's Court exercises jurisdiction under this Act, if—

- (i) the offence is one in respect of which that Children's Court could exercise any power conferred on it by section twenty of this Act had such offence been committed within the area in and for which that Children's Court exercises jurisdiction under this Act; and
- (ii) the person charged with the offence pleads guilty thereto.

(1a) [*Repealed by No. 29 of 1968, s. 4.*]

(1b) [*Repealed by No. 29 of 1968, s. 4.*]

(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) Except as provided by sections twenty B and twenty C of this Act, a court shall be constituted of a special magistrate, sitting alone or with one member, or of 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,<sup>1</sup> 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, except as regards sections twenty B and twenty C, have the powers of a stipendiary 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.

Jurisdiction  
as regards  
children.  
Repealed  
and re-  
enacted by  
No. 29 of  
1968, s. 5.  
Amended by  
No. 39 of  
1970, s. 2;  
No. 52 of  
1971, s. 2;  
No. 27 of  
1972, s. 10.

20. (1) Subject to the succeeding provisions of this section, a court has exclusive jurisdiction—

- (a) to hear and determine a complaint of an offence alleged to have been committed by a child;
- (b) to hear and determine all complaints and applications made—
  - (i) under this Act; and

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<sup>1</sup> Now Justices Act, 1902-1973.

(ii) under sections sixteen, seventeen, seventeen A, seventeen B, eighteen and twenty of the Education Act, 1928; and

(c) to make recommendations in respect of a child brought before it on a complaint of an offence or as a destitute, neglected or uncontrolled child.

(1a) Where it appears to a court that a person then before it on a complaint of an offence was at the time of the commission of the alleged offence a child, then, notwithstanding that that person has subsequently attained the age of eighteen years, the jurisdiction of the court extends and the provisions of this Act apply to that person for all the purposes of any proceedings in respect of that offence.

(1b) The provisions of subsection (1a) of this section shall be taken to have come into operation on the day on which the Child Welfare Act Amendment Act, 1968, came into operation.

(2) Where a complaint of wilful murder, murder, manslaughter or treason or of attempting any of those crimes is brought against a child, a court shall exercise such powers and jurisdiction, only, as are conferred upon a Court of Petty Sessions in respect of the examination and committal for trial of persons charged with indictable offences.

(3) A court may—

(a) instead of hearing and determining a complaint of an indictable offence brought against a child who is over the age of fourteen years, exercise such powers and jurisdiction, only, as are conferred upon a Court of Petty Sessions in respect of the examination and committal for trial of persons charged with indictable offences;

(b) if hearing and determining a complaint of an indictable offence brought against a child who is over the age of fourteen years,

and finding the child guilty of the offence, refrain from recording a conviction for the offence and commit the child for sentence to the Supreme Court or The District Court of Western Australia, as the case may require; or

- (c) if hearing a complaint of an indictable offence brought against a child who is over the age of fourteen years and accepting a plea of guilty entered by the child in respect of the offence convict the child of the offence and commit the child for sentence to the Supreme Court or The District Court of Western Australia, as the case may require.

(3a) Where a child is committed to the Supreme Court or The District Court of Western Australia for sentence pursuant to paragraph (b) of subsection (3) of this section, an indictment for the offence in respect of which he was so committed, or for any other indictable offence, may be presented to that court to which he has been so committed, and thereupon, subject to subsection (3b) of this section, the child shall be dealt with in all respects and the indictment and proceedings upon it are subject to the same procedure as if the child were a person committed by a Court of Petty Sessions for sentence for an indictable offence.

(3b) The Supreme Court or The District Court of Western Australia, in passing sentence upon a child who is before that Court pursuant to subsection (3) of this section, in respect of an indictable offence, may impose any penalty or disqualification or make any order or direction that—

- (a) may be imposed or made with respect to a person over the age of eighteen years who has been convicted on indictment of that indictable offence; or
- (b) may be imposed or made by a Children's Court under this Act.

(4) Where it is provided by any other Act that a person, instead of appearing before justices on a complaint of a simple offence, may elect to suffer a prescribed monetary penalty in respect of that offence, then, notwithstanding anything in this Act, a child may so elect.

20A. [*Added by No. 74 of 1957, s. 4. Repealed by by No. 29 of 1968, s. 6.*]

20B. (1) Notwithstanding any provision of The Criminal Code but subject to the succeeding provisions of this section, a court constituted of, or comprising, a special magistrate who is a stipendiary magistrate may hear and determine a complaint of committing or attempting to commit any of the indictable offences set out in the Third Schedule to this Act brought against a person who was, at the time of the alleged offence, of or over the age of eighteen years, if the person so elects.

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; No. 22 of 1962, s. 5; No. 113 of 1965, s. 8; No. 29 of 1968, s. 7; No. 27 of 1972, s. 11.

(2) A court shall not exercise the jurisdiction conferred by this section, unless the complaint is of an offence committed against, or in respect of, a child under the age of sixteen years.

(3) A person summarily convicted pursuant to this section is liable to imprisonment with hard labour for eighteen months.

(3a) [*Repealed by No. 29 of 1968, s. 7.*]

(4) Where a person is charged before a court under this section—

(a) before he is asked to show cause why he should not be convicted, the court 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 the court, unless he elects to have the charge dealt with summarily, and to ask him to make his election;

- (b) if he elects to have the charge dealt with summarily, the court is required to reduce the charge to writing and to read it to him, and then to ask him whether he is guilty or not guilty of the offence; and if he says he is guilty the court is to convict him of the offence, but if he says he is not guilty the court is required to deal with the charge summarily;
- (c) if the court is of the opinion that it has not jurisdiction to deal summarily with the offence, the court shall abstain from doing so, but may exercise any of the powers and any jurisdiction conferred on a Court of Petty Sessions in respect of the examination and committal for trial of persons charged with indictable offences;
- (d) where the charge is dealt with summarily and the person is convicted but the court is of the opinion that for any reason the sentence which it is empowered by this section to pass on the person convicted by it is inadequate, it may, in lieu of passing sentence, commit the convicted person for sentence to the Supreme Court or The District Court of Western Australia, as the case may require, which may pass such sentence for the offence as might have been passed if the offender had been convicted on indictment.

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

(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.

Summary  
convictions.  
Cf. Code  
s. 593.

(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.

20C. (1) Subject to the succeeding provisions of this section, a court constituted of, or comprising, a special magistrate who is a stipendiary magistrate has exclusive jurisdiction to exercise the powers conferred upon a Court of Petty Sessions by Chapter XXXI of The Criminal Code, in respect of a complaint of assaulting a child under the age of sixteen years brought against a person who was, at the time of the alleged offence, of or over the age of eighteen years.

Summary proceedings for assaults on children. Added by No. 29 of 1968, s. 8. Amended by No. 27 of 1972, s. 12.

(2) Section three hundred and twenty of The Criminal Code does not apply to a complaint heard pursuant to this section, but, if the court finds that the assault that is the subject of the complaint was accompanied by an attempt to commit a crime and—

- (a) the crime is any of those mentioned in the Third Schedule to this Act, the court is required to remand the defendant to appear before another children's court constituted as provided by this section of a different person or different persons, for the rehearing of the complaint amended in accordance with that finding;
- (b) the crime is not any of those mentioned in the Third Schedule to this Act, the court is required to exercise such powers and jurisdiction, only, as are conferred upon a Court of Petty Sessions in respect of the examination and committal for the trial of persons charged with indictable offences. ♣

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. Amended by No. 79 of 1965, s. 7.

22. 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.

Venues for Children's Courts. Amended by No. 29 of 1968, s. 9.

Exclusion of persons from hearing.  
Amended by No. 79 of 1965, s. 8; No. 42 of 1967, s. 2.

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.

(1a) Where the court has made an order pursuant to subsection (1) of this section, it shall after the conclusion of the hearing, make available to any person having a sufficient reason on request, the name, age, and address of any child coming within the ambit of subsection (3) of this section and the particulars of the offence with which such child was charged.

(2) A person shall not, without the express authority of the court, publish in any newspaper or other printed medium or broadcast or televise any report of the proceedings of the court on the hearing of a charge against, or any application concerning, a child.

(3) Where a child since attaining the age of 16 years—

(a) has been convicted of any offence under The Criminal Code, the Police Act, 1892, or sections 25, 31, 31A, 31B, 32, 33B, 60, or 61, of the Traffic Act, 1919, or of any offence of which the substance is assault, the illegal consumption of liquor, drunkenness, or illegal betting; and

(b) is subsequently convicted of the same or another of such offences,

the provisions of subsection (2) of this section shall not, in relation to such subsequent conviction, apply to the publication of the name, age and address of the child, nor the offence of which the child is convicted.

No summons to be issued in certain cases.

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 dealing with a child, shall have regard to the future welfare of the child.

Court to have regard to future welfare of children. Repealed and re-enacted by No. 79 of 1965, s. 9.

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, 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. Amended by No. 27 of 1967, s. 6.

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, shall, upon cause being shown, re-hear the case and may make such recommendation to the Minister thereon as may in its opinion meet the circumstances.

Court may re-hear case. Amended by No. 27 of 1967, s. 7.

28. (1) 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, reception home, remand home, police station or police lock-up.

Admission to bail. Amended by No. 45 of 1955, s. 2; No. 27 of 1967, s. 8.

(2) Where it appears to the court that a child charged with an offence or in respect of whom an application is made—

- (a) is suffering from mental or nervous disorder; or

- (b) should be remanded for observation, assessment and a recommendation as to his future treatment,

then, notwithstanding the provisions of any other Act, the Court may, after giving the parents of the child an opportunity of being heard, remand the child, and order that he be placed in some suitable place, for a period not exceeding one month, for observation, assessment and the making of a report on his condition or a recommendation as to his future treatment, as the case may require.

*Committal of Destitute, Neglected or Uncontrolled Children.*

Power to apprehend destitute, neglected or uncontrolled children.  
Amended by No. 27 of 1967, s. 9; No. 29 of 1968, s. 10; No. 85 of 1969, s. 5.

29. (1) 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 uncontrolled child.

(2) When any such child is apprehended, pending the hearing of the application, charge or information, or during any adjournment of the hearing or during any period of remand or when any child is apprehended and charged with the commission of any offence whatsoever, pending the hearing of proceedings against him for the offence charged or during any adjournment thereof or during any period of remand, the child shall be—

- (a) taken to his place of residence and there left, upon the recognisance of a near relative for his appearance;
- (aa) taken to and placed in a reception home or a remand home;
- (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, where the charge is of so serious a nature that his safe custody is of paramount importance and, then only, where no other place of detention is available, in a police gaol or lock-up, apart from any adult prisoners.

(3) Where any child is apprehended in any of the circumstances described in subsections (1) and (2) of this section or subsection (1) of section thirty-eight of this Act, he shall, as soon as is practicable, be brought before the court to be dealt with according to law.

(4) Nothing in this section shall be construed as limiting the application of section twenty-eight of this Act.

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. Repealed and re-enacted by No. 16 of 1952, s. 3. Amended by No. 79 of 1965, s. 10.

- (a) committed to the care of the Department; or
- (b) [*Deleted by No. 79 of 1965, s. 10.*]
- (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.  
Amended by  
No. 45 of  
1955, s. 2.

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-  
controlled  
child may  
be dealt  
with.  
Amended by  
No. 79 of  
1965, s. 11;  
No. 27 of  
1967, s. 10.

32. A near relative of a child over whom he is unable to exercise proper control may bring the child before the court on an application for an order under this section; and the court, if satisfied that the application is well founded, may—

- (a) order the child to be committed to the care of the Department until eighteen years of age or for such shorter period as the court may think sufficient; or
- (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:

cf. ss. 32  
and 38 post.

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

33. An officer of the Department or a police officer may bring a child before the court on an application for an order under this section, on the ground that the child is uncontrolled; and the court, upon being satisfied that the application 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 application had been made by a near relative of the child.

Uncontrolled children may be charged by Department. Amended by No. 27 of 1967, s. 11.

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. Amended by No. 15 of 1959, s. 7; No. 29 of 1968, s. 11.

- (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; or

cf. s. 38 post.

- (e) discharge the child upon his entering into his own recognisance, with or without sureties, in such amount as the court thinks fit, that he will keep the peace and be of good behaviour for a term not exceeding one year; or
- (f) impose on the child a fine not exceeding five hundred dollars:

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.

Power of court to imprison children.  
 Added by No. 45 of 1955, s. 5.  
 Repealed and re-enacted by No. 79 of 1965, s. 12.  
 Amended by No. 85 of 1969, s. 6.

34A. (1) The court shall not impose a sentence of imprisonment—

- (a) on a child under the age of fourteen years;
- (b) exceeding three months, in respect of any one offence, on a child aged fourteen years and under the age of sixteen years; or
- (c) exceeding six months, in respect of any one offence, on a child aged sixteen years or more.

(1a) Where the court imposes sentences of imprisonment on a child aged fourteen years or more, it shall not, if it orders one or more of those sentences to be served cumulatively with any other of the sentences imposed by it on that occasion, order that the child serve a total of more than—

- (a) three months' imprisonment, if the child is under the age of sixteen years; or
- (b) six months' imprisonment, if the child is aged sixteen years or more.

(2) In sentencing a child to imprisonment the court may direct that the imprisonment be served in a penal institution established by the Department for the imprisonment of children.

**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; or
- (d) discharge the child upon his entering into his own recognisance, with or without sureties, in such amount as the court thinks fit, that he will keep the peace and be of good behaviour for a term not exceeding one year.

How child convicted of offence not punishable with imprisonment may be dealt with.

Added by No. 15 of 1959, s. 8. Amended by No. 85 of 1969, s. 7.

**34C.** (1) Where a child is released on probation under sections thirty, thirty-two, thirty-four or thirty-four B of this Act during any period other than a period that ceases when he attains the age of eighteen years, the Minister may, upon the recommendation of the Director in writing, order that the

Minister may extend period of probation.

Added by No. 22 of 1962, s. 6. Amended by No. 79 of 1965, s. 13.

period of release on probation of the child be extended until the child attains the age of eighteen years or for any shorter period as the Minister in his absolute discretion thinks fit, and subject to the provisions of section thirty-eight of this Act such child shall continue to be released on probation accordingly.

(2) Where a child is, under the sections mentioned in subsection (1) of this section, released on probation for any period, the Minister may, upon the recommendation of the Director in writing, order that the child be discharged from probation or order that the period of his release on probation be abridged by such period as the Minister, in his absolute discretion thinks fit and, in that event, the child shall be discharged from probation or continue to be released on probation for the abridged period, as the case may require.

Child not to be imprisoned for non-payment of fine, etc.  
Amended by  
No. 27 of 1967, s. 12;  
No. 85 of 1969, s. 8;  
No. 39 of 1970, s. 3.

35. (1) 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,<sup>1</sup> 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.

(2) The provisions of subsection (1) of this section do not apply to a person where he is convicted, or the order is made, after he attains the age of eighteen years.

(3) Where a person—

(a) became, after he attained the age of seventeen years but before he attained the age of eighteen years, liable to pay a penalty, compensation, or sum of money or costs adjudged to be paid by a conviction or order of a court of summary jurisdiction; and

<sup>1</sup> Now Justices Act, 1902-1973.

- (b) has since attained the age of eighteen years and has failed to pay the penalty, compensation, or sum of money or costs adjudged by the conviction or order of the court,

the court may, notwithstanding that the person has attained the age of eighteen years, require the person to appear before the court and, in default of his appearance, issue a warrant ordering the person to be apprehended and be brought before the court to show cause why a warrant of commitment for the imprisonment of the person should not be issued,

(4) The court before which a person appears or is brought pursuant to subsection (3) of this section shall hear and determine the matter and may—

- (a) issue a warrant of commitment of the person to goal for such period as it thinks fit, but not exceeding the period that would be applicable according to the scale specified in section one hundred and sixty-seven of the Justices Act, 1902; or
- (b) decline to issue such a warrant, in which event the person shall cease to be liable to be imprisoned in respect of his failure to pay the penalty, compensation, or sum of money or costs.

(5) The provisions of the Justices Act, 1902, insofar as those provisions are not inconsistent with subsection (4) of this section, shall apply, with such modifications and adaptations as are necessary, to the imprisonment of a person pursuant to that subsection, as if the person were committed to imprisonment under a warrant of commitment issued under section one hundred and fifty-seven or one hundred and fifty-eight of that Act.

(6) The Director or some officer of the Department may be present at, and if present is entitled to be heard on any matter concerning, any proceedings brought before a court pursuant to subsection (4) of this section.

No execution or detention in default of payment of fine. Amended by No. 27 of 1967, s. 13.

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,<sup>1</sup> or in section thirty-five of this Act, it shall not be obligatory upon the justices sitting as a Children's Court or upon a special magistrate to issue any warrant of execution or to impose any alternative of detention in default of payment of a fine by any child.

Detention of a child in an institution pending trial. Amended by No. 79 of 1965, s. 14.

37. Any child may be detained in 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.

Child released on probation may be arrested without warrant in certain cases. Amended by No. 45 of 1955, s. 2; No. 23 of 1962, s. 7; No. 79 of 1965, s. 15; No. 85 of 1969, s. 9.

38. (1) If the conditions of probation upon which any child is released under sections thirty, thirty-two, thirty-four or thirty-four B 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 whether by order of the Court or pursuant to the order of the Minister made under section thirty-four C of this Act the probation officer having the control of the child may, without any authority other than that of this section, cause the child to be apprehended and disposed of, in the manner provided for the disposition of an apprehended child, under section twenty-nine of this Act.

(2) Where a child has been apprehended pursuant to subsection (1) of this section the Director may cause the child to be brought before the court; and the court may exercise such of the powers conferred upon it, by the sections mentioned in that subsection, as the circumstances of the case may require.

<sup>1</sup> Now Justices Act, 1902-1973.

39. Notwithstanding any other provision of this Act, the court may commit a child, aged upwards of sixteen years, to the care of the Department for a period not exceeding two years.

Child over sixteen years may be committed for a period of up to two years.  
Repealed and re-enacted by No. 79 of 1965, s. 16.

40. [Repealed by No. 79 of 1965, s. 17.]

40A. (1) Where, in any proceeding under section thirty, thirty A, thirty-two, thirty-three or thirty-four of this Act, or under section seventeen B or eighteen of the Education Act, 1928, a child is committed to the care of the Department, the court may, without any complaint being made against, or a summons being served on, them or any of them, by an order under this section require any of the parents of the child who is able to pay for, or contribute towards, the past or future maintenance of the child to pay to the Department—

Orders for maintenance of wards.  
Added by No. 79 of 1965, s. 18.  
Amended by No. 85 of 1969, s. 10.

- (a) such amount for the past maintenance of the child; and
- (b) such amount, or such amounts over such period, for the future maintenance of the child,

as to the court may appear sufficient.

(2) An order shall not be made under this section for the payment of maintenance by a person who is not then present before the court, unless the court is satisfied that he received due and sufficient notice of the intention to move the court in that regard.

(3) Where an order is made under this section for the payment of maintenance, the court shall cause a certified copy of the order to be sent to the Summary Relief Court established under the Married Persons and Children (Summary Relief) Act, 1965, at the place nearest to that at which the order was made, for registration in the manner provided by the rules of that court; and the order shall, when so registered, be deemed, for all purposes, to be an order of that court.

(4) Every order for the payment of maintenance for the benefit of a child made under the provisions of this Act as they existed before the coming into operation of the Child Welfare Act Amendment Act, 1965, shall, forthwith after the coming into operation of that Act, be registered in the Summary Relief Court mentioned in subsection (3) of this section, at the place nearest to that at which the order was made; and the order shall, when so registered, be deemed, as regards that part of it that relates to the payment of maintenance, to be an order of that court.

41. [Repealed by No. 79 of 1965, s. 19.]

42. [Repealed by No. 43 of 1962, s. 3.]

Form of order.  
Amended by No. 79 of 1965, s. 20.

43. (1) Every order of the court committing a child to the care of the Department 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 was committed.

(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.

Statement of age and religion to be *prima facie* evidence.  
Amended by No. 45 of 1955, s. 2.

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.

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

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.

(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.

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.

Certificate of secretary, etc., indorsed on order to be *prima facie* evidence.

46. A ward who absconds from an institution, from a foster parent or from any situation in which he has been placed at the requirement of the Director may be apprehended, without warrant, by a police officer or by an officer of the Department and be conveyed to such place as the Director may direct.

Ward absconding may be apprehended without warrant. Repealed and re-enacted by No. 79 of 1965, s. 21.

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.

Minister may release ward. Amended by No. 45 of 1955, s. 2; No. 79 of 1965, s. 22.

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.

Minister may  
commit to  
care of the  
Department  
a child left  
without  
parent, etc.  
Added by  
No. 22 of  
1962, s. 8.

**47B.** (1) Where it appears to the Minister that a child is left without parent or guardian, or the whereabouts of any parent, near relative or guardian of the child are not readily ascertainable, if the child is not a destitute or neglected child within the meaning of this Act, the Minister may by written order signed by him commit the child to the care of the Department.

(2) A parent of a child in respect of whom an order made under subsection (1) of this section is in force, or a near relative or any guardian of the child,

may apply to a Children's Court for cancellation of that order and the release of the child from the care of the Department.

(3) The Court may grant an application made under this section unconditionally or subject to such conditions as in the circumstances of the case the Court considers are in the best interests of the child, or may refuse the application, and the decision of the Court on the application shall be final and conclusive.

47C. (1) The parents, or the surviving parent, of a child may apply to the Minister for an order committing the child to the care of the Department, for a period, or until the child attains the age, specified in the application; and the Minister may, if he is satisfied that it is in the best interests of the child that the application be granted and upon the parents or parent giving a written undertaking to provide such maintenance for the child as the Minister may require, commit the child to the care of the Department for the period, or until the child attains the age, specified in the application.

Parents may apply for committal of child. Added by No. 27 of 1967, s. 14.

(2) The amount of maintenance from time to time due to the Minister, by virtue of an undertaking given pursuant to subsection (1) of this section, is deemed to be an advance under, and for the purposes of, the Welfare and Assistance Act, 1961.

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.

Removal of inmates from one institution to another.

49. The Minister may, from time to time, order that the period for which a child was committed to the care of the Department, whether by his or any other order, be extended; but an order made under this section ceases to have effect after the ward attains the age of twenty-one years.

Minister may extend committal. Repealed and re-enacted by No. 79 of 1965, s. 23.

The Director may apprentice children. Amended by No. 45 of 1955, s. 2.

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. Amended by No. 45 of 1955, s. 2; No. 27 of 1967, s. 15.

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 the committal of such child.

Wards to attend school regularly. Amended by No. 27 of 1967, s. 16.

52. (1) Every ward over the age of six years placed out shall be sent regularly to school until he attains the leaving age provided by the Education Act, 1928.

(2) A ward shall not, unless exempt from school attendance under the Education Act, 1928, be apprenticed or placed out for service before he attains the leaving age mentioned in subsection (1) of this section.

(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 inden-  
tures.

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  
a Savings  
Bank.  
Amended by  
No. 45 of  
1955, s. 2;  
No. 74 of  
1957, s. 5.

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.

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

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.

Moneys  
banked may  
be expended  
for the  
child's  
benefit.  
Amended by  
No. 45 of  
1955, s. 2.

(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.

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.

Director  
may recover  
wages.  
Amended by  
No. 45 of  
1955, s. 2.

57. [*Repealed by No. 27 of 1967, s. 17.*]

58. [*Repealed by No. 27 of 1967, s. 17.*]

59. [*Repealed by No. 27 of 1967, s. 17.*]

Change of residence to be notified by foster-parent.  
Amended by No. 45 of 1955, s. 2.

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

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

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.  
Amended by No. 79 of 1965, s. 24; No. 113 of 1965, s. 8.

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 forty dollars, or to imprisonment with or without hard labour for any term not exceeding six months.

Department to have general supervision of wards.

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.  
Amended by No. 45 of 1955, s. 2.

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.

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.

66A. (1) The Minister may, by arrangement or agreement made from time to time with the responsible Minister or some other authorised person of another State of, or a Territory of, the Commonwealth, commit to the care of the Department a child brought to, or resorting to, this State, as though the child were one to whom the provisions of section forty-seven B of this Act applies and that section shall, thereupon, apply to the child.

Reciprocity between States as to care of wards. Added by No. 27 of 1967, s. 18.

(2) Where the Minister is satisfied that another State of, or a Territory of, the Commonwealth has enacted a provision substantially similar to that of subsection (1) of this section, he may, by arrangement or agreement made from time to time with the responsible Minister or some other authorised person there, procure the committal, to the care of that Minister, other person or a department of state there, of a ward taken to, or resorting to, that State or Territory.

66B. A person in whose care a child is placed under the provisions of this Act shall not, except with the consent of the Minister, remove the child, or suffer him to remove or be removed, out of the State.

Restriction on removal of children out of the State. Added by No. 27 of 1967, s. 18.

Director  
may assist  
children of  
absent  
parents.  
Added by  
No. 27 of  
1967, s. 20.

66C. Notwithstanding, but without limiting, any other provision of this Act, where a child is left without a parent, guardian or some person in *loco parentis* present within the State or is left by a parent or guardian who is in a remote part of the State without a person in *loco parentis* present where the child then is, the Director may, at the requirement of, and without affecting the status of, the child, extend to him such benefits as he might have extended if the child were a ward; and where the Director incurs any costs or expenses in that regard, the costs and expenses are deemed to be an advance under, and for the purposes of, the Welfare and Assistance Act, 1961.

[Part V—Sections 67-91 repealed by No. 79 of 1965, s. 25.]

[Part VI—Sections 92-105 repealed by No. 27 of 1967, s. 21.]

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

Issue of  
licenses.  
Amended by  
No. 45 of  
1958, s. 7;  
No. 22 of  
1962, s. 10;  
No. 27 of  
1967, s. 22.

106. (1) A written license authorising a male 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, and, in any event, shall not be issued to a female child.

(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—

Penalty for employing child in contravention of Act.

- (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,

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

108. No person shall—

Amended by No. 113 of 1965, s. 8; No. 29 of 1968, s. 12.

(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

Begging or performing by children under sixteen forbidden.

(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

Work connected with training of animals for racing by children under fourteen forbidden.

(c) cause, suffer or permit a child under the age of sixteen years—

Restriction on children in public entertainment.

- (i) to take part in a public entertainment, by singing, playing or performing for profit or reward to the child or to any other person, not being a school or charitable or patriotic organisation; or

(ii) to be engaged in commercial advertising, by radio, television or newspaper,

without first obtaining, and thereafter complying with any conditions or limitations imposed by, a license issued for that purpose by the Minister.

Penalty: Forty dollars.

Power for Director or authorised officer to enter places of amusement.  
Amended by No. 45 of 1955, s. 2; No. 113 of 1965, s. 8.

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.

Penalty: Twenty dollars.

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

Power to assist women in lying-in homes.

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

Foster-mothers to be licensed.  
Amended by No. 39 of 1970, s. 4.

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

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.

(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 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 twenty dollars, or in case of a second or subsequent offence to a penalty not exceeding forty dollars or to imprisonment with or without hard labour for not exceeding three months.

Penalty on unlicensed foster-mothers. Amended by No. 45 of 1955, s. 2; No. 113 of 1965, s. 8; No. 39 of 1970, s. 5.

(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.

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.

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

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.

Lying-in homes to be open for inspection. Amended by No. 45 of 1955, s. 2.

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

Penalty for obstructing inspection.

Places for  
reception of  
children  
under six to  
be licensed.  
Amended by  
No. 45 of  
1955, s. 2.  
No. 27 or  
1967, s. 23.

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: For a first offence, one hundred dollars; and, for every subsequent 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 make regulations—

- (a) prescribing the prerequisites to the granting of a license under this section and the grounds upon which a license may be refused;
- (b) prescribing all matters relating to the welfare of children received and kept pursuant to a license under this section and the conduct and staffing of a house, room or place kept and used pursuant to such license;
- (c) providing for the entry to any house, room or place kept and used, or reasonably believed to be kept and used, in contravention of this section and for the inspection and supervision of a house, room or place kept and used pursuant to a license under this section;

- (d) providing for the notification of deaths of children received and kept pursuant to a license under this section;
- (e) providing for the cancellation and transfer of licenses issued under this section;
- (f) providing for the restriction, prohibition and regulation of advertising in respect of any house, room or place kept and used for the reception and keeping of children;
- (g) prescribing forms and providing for the keeping of records and registers in a house, room or place kept and used pursuant to a license under this section;
- (h) providing penalties not exceeding fifty dollars for the breach of any of them; and
- (i) prescribing all such other matters and things as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, or for the better administration of, this section.

(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,<sup>1</sup> 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.

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.

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<sup>1</sup> Now Education Act, 1928-1973.

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.

Returns and records.

118A. (1) Without limiting the operation of section one hundred and sixteen of this Act, a person shall not keep or use, or by word or deed hold himself out as keeping or using, a building or place as a child minding centre except pursuant to a license or permit granted by the Director for that purpose.

Child Minding Centres. Added by No. 27 of 1967, s. 24.

Penalty: For a first offence one hundred dollars; and for every subsequent offence, imprisonment with hard labour for three months.

(2) Subject to the regulations the Director may, on payment of the prescribed fee, grant a license for the keeping and use of a building or place therein specified as a child minding centre, for a period of one year; and may, on payment of the prescribed fee, renew any such license for a further period of one year.

(3) The Director may grant a permit for the keeping and use of a building or place as a child minding centre for any period, not exceeding six months, during which inquiries are being made respecting an application for a license and may at any time revoke any such permit.

(4) The Governor may make regulations—

- (a) prescribing the prerequisites to the granting of a license and the grounds upon which a license may be refused;
- (b) prescribing the conditions under which, and the period for which, children may be left in a child minding centre;
- (c) prescribing the manner in which a child minding centre is to be conducted and staffed and the nature of, and quantities of, foodstuffs to be provided for children left there;

- (d) providing for the entry to any place kept and used, or reasonably believed to be kept and used, as a child minding centre and for the inspection and supervision of child minding centres;
- (e) providing for the cancellation, renewal and transfer of licenses and prescribing the fees payable on the issue, renewal and transfer of licenses;
- (f) providing for the restriction, prohibition and regulation of advertisements in respect of child minding centres;
- (g) prescribing forms and providing for the keeping of records and registers in child minding centres;
- (h) providing penalties not exceeding fifty dollars for the breach of any of them; and
- (i) prescribing all such other matters and things as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the better administration of, this section.

(5) In this section, the expression, "child minding centre", means a creche, public nursery or other public facility for the casual or day to day care of children under the age of six years; but nothing in this section relates to the conducting of a kindergarten pursuant to a permit issued under the Education Act, 1928, notwithstanding that the kindergarten is conducted within, or in conjunction with, a child minding centre.

No advertise-  
ment for  
adoption or  
taking  
charge of  
child to be  
published  
unless  
approved by  
Director, and  
no premium  
to be paid.  
Amended by  
No. 45 of  
1955, s. 2;  
No. 113 of  
1965, s. 8.

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: Sixty dollars.

(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: Sixty dollars.

(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: One hundred dollars.

(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: One hundred dollars.

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,<sup>1</sup> 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 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.

Person adopting child to give notice to Director. Amended by No. 45 of 1955, s. 2; No. 113 of 1965, s. 8.

(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: Twenty dollars.

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<sup>1</sup> Now Adoption of Children Act, 1896-1978.

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

Officer of  
Department  
may take  
part in all  
trials against  
children.  
Amended by  
No. 45 of  
1955, s. 2;  
No. 45 of  
1958, s. 8;  
No. 22 of  
1962, s. 11;  
No. 65 of  
1969, s. 11.

121. At the hearing in a Children's Court or before Justices of any complaint against or any application concerning any child, or ward, the Director or some officer of the Department may be present and, if present, is entitled to examine and cross-examine witnesses and to be heard touching the acquittal, punishment or disposal of the child or ward.

Officer of  
Department  
may conduct  
cases where  
complaint  
made.  
Amended by  
No. 22 of  
1962, s. 12.

122. (1) All cases under this Act heard on complaint or application 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 or make such application and to conduct the case.

Order may  
be set aside.  
Amended by  
No. 22 of  
1962, s. 13.

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 or application had not been given, such order may for good cause shown be set aside by the court by which it was made upon the application of such parent or guardian within three months after the making of the order.

Returns of  
complaints  
and  
convictions.  
Amended by  
No. 45 of  
1955, s. 2.

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.

125. A person who,—

Offence of interfering with wards. Repealed and re-enacted by No. 27 of 1967, s. 25.

- (a) without the authority of the Director, takes or removes a ward from any situation in which the ward has been placed at the requirement of the Director;
- (b) directly or indirectly, counsels or induces a ward to abscond or escape from any situation in which he has been placed at the requirement of the Director;
- (c) knowingly, aids or abets a ward in absconding or escaping from, harbours a ward who has been taken or removed or has absconded or escaped from, or prevents the return of any such ward to, any situation in which he has been placed at the requirement of the Director; or
- (d) having a ward placed in his care, fails or refuses to hand over the ward to an officer of the Department or a police officer, authorised to receive the child, on demand,

commits an offence.

Penalty: One hundred dollars or imprisonment with hard labour for three months.

126. Subject to the provisions of section twenty-three of this Act where a child has been committed to the care of the Department or has been convicted of an offence, a person, other than the child, shall not disclose the fact of the committal or the conviction, except—

Disclosure of convictions, etc., restricted. Repealed and re-enacted by No. 79 of 1965, s. 26. Amended by No. 42 of 1967, s. 3.

- (a) to a court of law;
- (b) to a person acting in the performance of his duties pursuant to any Act; or
- (c) to a person who, as a part of his duties, is concerned with the custody or welfare of the child.

Offence of communicating with children in institutions. Amended by No. 45 of 1955, s. 2.

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.

Penalty for permitting escape. Amended by No. 113 of 1965, s. 8.

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 forty dollars, or may, at the discretion of the court, be imprisoned with or without hard labour for not exceeding three months.

Managers of institutions and persons with whom female wards are placed out to be deemed to be guardians for the purposes of The Criminal Code.

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.

130. (1) Every person who, being a parent of a child,—

Offence of deserting children.  
Repealed and re-enacted by No. 79 of 1965, s. 27.

(a) deserts the child; or

(b) wilfully leaves the child without, or wilfully neglects to provide the child with, adequate means of support,

commits an offence.

Penalty: Imprisonment with, or without, hard labour for twelve months.

(2) This section does not apply to a person who is obliged under a provision of an order of any court to make a payment or payments of maintenance for the benefit of the child.

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

Court may issue warrant for arrest of deserter upon complaint on oath.  
Amended by No. 45 of 1955, s. 2; No. 79 of 1965, s. 28.

131A. [*Added by No. 45 of 1958, s. 9. Repealed by No. 79 of 1965, s. 29.*]

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 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

Homes of illegitimate children under six years liable to inspection.  
Amended by No. 45 of 1955, s. 2; No. 22 of 1962, s. 14; No. 113 of 1965, s. 8.

entry or inspection, or refuses or neglects to produce such child to any such officer for inspection by that officer, upon such production being demanded by such officer, shall be liable to a penalty not exceeding forty dollars.

Occupier of house in which an illegitimate child is born to give notice of birth.  
Amended by No. 113 of 1965, s. 8.

**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:

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: Twenty dollars.

Notice of death of illegitimate child to be given.  
Amended by No. 113 of 1965, s. 8.

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

Penalty: Forty dollars.

Exemption.

**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.

136. 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 parent of such child, liable and able to contribute towards his maintenance, may, whether committing the child to the care of the Department or not, order such person, either immediately or at some adjournment to pay or contribute towards the past and future maintenance of such child, in the manner provided by section forty A of this Act.

Court may determine matter in summary way.  
Amended by No. 79 of 1965, s. 30; No. 27 of 1967, s. 26.

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, or to continue to be, a neglected child, or contributed to any child becoming, or continuing to be, a neglected child, shall be guilty of an offence.

Punishment for misconduct or neglect leading to delinquency of child.  
Amended by No. 52 of 1950, s. 4; No. 79 of 1965, s. 31; No. 113 of 1965, s. 8.

Minimum penalty irreducible in mitigation: Ten dollars. Maximum penalty: One hundred dollars 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 order 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.

Power to order parent to pay fine, etc., in lieu of child.  
Added by No. 36 of 1956, s. 2.  
Amended by No. 113 of 1965 s. 8.  
Cf. U.K. 23, Geo. 5, c. 12, s. 55.

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.

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 three hundred dollars.

(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.

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.

Children employed in a circus, etc.

139. [*Repealed by No. 29 of 1968, s. 13.*]

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.

Persons  
in charge  
of wards  
to have  
privilege of  
constables.

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.

General  
penalty.  
Amended by  
No. 113 of  
1965, s. 8;  
No. 29 of  
1968, s. 14.

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.

(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 one hundred dollars.

Application  
of Justices  
Act, 1902.

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, shall be had and taken, and may be heard and determined in a summary way under the provisions of the Justices Act, 1902-1942.<sup>1</sup>

Forms of  
proceedings.

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.

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

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<sup>1</sup> Now Justices Act, 1902-1973.

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.

146. (1) (a) Whenever any person is liable to arrest under Part IX. of this Act, and such person is arrested at a distance exceeding twenty miles from the place at which the warrant was issued, 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.

Person arrested at distance exceeding twenty miles from Court may be brought before nearest Court.  
Amended by No. 45 of 1955, s. 2; No. 27 of 1967, s. 27.

(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.

(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 at or nearest to the place at which the warrant was issued.

(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.

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; No. 29 of 1968, s. 15.

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 and there investigate and inquire into the information.

(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.

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

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.

Exemption from personal liability.  
 Added by No. 45 of 1958, s. 10.  
 Amended by No. 29 of 1968, s. 16.

146C. (1) 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.

(2) For the purposes of subsection (1) of this section, anything done or omitted to be done by a person therein mentioned, in good faith and for reasonable or probable cause in promoting the welfare of a child, is deemed to have been done pursuant to a duty imposed by this Act.

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

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

Appropriation of penalties.

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

Regulations. Amended by No. 29 of 1968, s. 17; No. 85 of 1969, s. 12.

- (a) the duties, powers, authorities, and privileges of inspectors, visitors, 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.

(2) Regulations may be made pursuant to this section ~~or sections one hundred and sixteen and one hundred and eighteen A of this Act~~

- (a) so as to require a matter or thing affected by the regulations to be in accordance with a specified standard or a specified requirement or as approved by, or to the satisfaction of, a specified person or body, or class of person or body; and so as to delegate to, or confer upon a specified person or body, or class of person or body, a discretionary authority; and
  - (b) so as to provide that, in specified cases, in specified class of case or specified classes of cases, persons or things or a class or classes of persons or things may, whether on specified conditions or unconditionally, be exempted from the provisions of the regulations or any of them, either wholly or to such extent as may be specified.
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FIRST SCHEDULE.

s. 3.

The Child Welfare Act, 1907-1941.

SECOND SCHEDULE.

s. 15.  
Substituted  
by No. 39 of  
1970, s. 6..

Church of England:

Swanleigh (Boys and Girls), Middle Swan.

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

Roman Catholic:

Catherine McAuley Centre.

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

St. Joseph's (Girls), Wembley.

Castledare Boys' Home, Cannington.

Clontarf Boys' Town, Victoria Park.

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

Nazareth House (Girls), Geraldton.

Neuville Training and Assessment Centre (Girls),  
Leederville.

Salvation Army:

Salvation Army Hollywood Children's Village (Boys and  
Girls), Hollywood.

Methodist:

Methodist Homes for Children, Victoria Park.

Allandale Home (Boys).

Werribee Hostel (Girls).

Mofflyn Home (Girls and Boys).

Undenominational:

Ngal-a Mothercraft Home and Training Centre Inc.  
(Boys and Girls), South Perth.

Sister Kate's Children's Homes Inc. (Boys and Girls),  
Queens Park.

Wanslea Hostel (Boys and Girls), Cottesloe.

## THIRD SCHEDULE.

S. 20B.  
 Added by  
 No. 29 of  
 1968, s. 18.  
 Amended by  
 No. 27 of  
 1972, s. 13.

Item.	Sections of The Criminal Code.	Offence.
1	181, 182	Having or attempting to have unlawful carnal knowledge of a person against the order of nature.
2	183	Unlawfully and indecently dealing with a child under the age of fourteen years or inciting such a child to so deal with a person.
3	185	Having or attempting to have unlawful carnal knowledge of a girl under the age of thirteen years.
4	187	Having or attempting to have unlawful carnal knowledge of a girl under the age of sixteen years.
5	189	Unlawfully and indecently dealing with a girl who is— (i) under the age of sixteen years; or (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 a guardian, employer, teacher or schoolmaster, or inciting such a girl to so deal with a person.
6	189	Unlawfully and indecently dealing with a girl under the age of thirteen years or inciting such a girl to so deal with a person.
7	190	Being a 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.
8	328	Unlawfully and indecently assaulting a girl.

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