

- (b) may be discontinued, suspended, increased, or reduced at any time by the Director-General as is warranted by the circumstances of the case ;
- (c) shall cease to be paid in respect of a child or young person upon such child or young person discontinuing full-time attendance at school unless the Director-General directs in writing, where the child or young person is an invalid or is otherwise incapacitated or where in his opinion the special circumstances of the case make it advisable, that assistance be continued for any further period or periods until he attains the age of sixteen years.

(2) The provisions of this Division relating to investigations shall with such adaptations as are necessary extend and apply for the purposes of this section.

Provision in case of illness &c. of applicant.  
No. 6219 s. 37.

22. When an applicant to whom payments are made towards the maintenance of a child or young person pursuant to the provisions of this Division becomes incapable of properly caring for and maintaining the child or young person the Director-General—

- (a) may direct that during such incapacity some other fit person shall have the care and maintenance of the child or young person ;
- (b) shall make such arrangements as he thinks proper as to the person to whom payments are to be made during such incapacity in respect of the maintenance of the child or young person.

Determination of maximum rates by Minister.  
No. 6219 s. 38.

23. The Minister may from time to time determine the maximum rates of assistance to be paid in respect of children and young persons under this Division but may direct that the maximum rate shall not apply in any case where the Director-General considers that for preventing the disruption of a family a greater rate of assistance should be paid for some specified period or periods.

Appointment of special magistrates.  
No. 6219 s. 39.

24. (1) The Governor in Council may by Order published in the *Government Gazette* appoint any officer of the public service in the Department to be a special magistrate for the purposes of this Act.

(2) Any such Order may at any time be revoked by the Governor in Council by Order published in the *Government Gazette*.

Powers of magistrate on investigation.  
No. 6219 s. 40.

25. For the purposes of any investigation by a special magistrate under this Division the following provisions shall have effect—

- (a) where the magistrate is satisfied that by reason of physical disability or other sufficient cause the applicant is unable to attend the magistrate may dispense with the attendance of the applicant ;
- (b) the

- (b) the magistrate may call and examine such witnesses as he thinks fit ;
- (c) in investigating any application the magistrate shall not be bound by any rules of evidence but shall investigate the matter and make his recommendation according to the substantial merits of the case without regard to legal forms and technicalities ;
- (d) the magistrate shall have in relation to witnesses and their examination and the production of documents similar powers to those vested in justices by the *Justices Act 1958*.

26. (1) Every person who in or in relation to any application under this Division wilfully makes any statement, orally or in writing, which is untrue in any particular and every person who by false representation obtains under this Division any sum towards the maintenance of a child or young person shall be guilty of an offence.

Offences.  
No. 6219 s. 41.

Penalty : \$500 or imprisonment for six months.

(2) Any person convicted for an offence against sub-section (1) may in addition to any penalty imposed for the offence be ordered to repay to the Director-General the amount which the court considers has been paid towards maintenance under this Division in consequence of the untrue statement or false representation.

Refund of  
moneys  
paid.

(3) Any amount ordered under sub-section (2) to be repaid to the Director-General may be recovered as a debt due to Her Majesty.

### DIVISION 3.—CHILDREN'S RECEPTION CENTRES AND HOMES.

27. For the purposes of this Act the Governor in Council may from time to time by Order published in the *Government Gazette* establish or abolish—

Establishment  
of reception  
centres, homes  
&c.  
No. 6219 s. 12.

- (a) children's reception centres for the accommodation and maintenance of children or young persons—
  - (i) admitted to the care of the Department ;
  - (ii) taken to or placed in such centres pursuant to the provisions of the *Children's Court Act 1958* ;
  - (iii) in respect of whom protection applications under Division 4 of this Part have been made ;
- (b) children's homes for the care and welfare of children or young persons admitted to the care of the Department.

28. (1) No

House &c.  
conducted for  
payment or  
reward to be  
approved under  
this Act.  
No. 6219 s. 13.

**28.** (1) No person other than a legal guardian shall, for the purpose of caring for any children apart from their parents, for payment or reward retain in or receive into any house home institution or establishment more than three children unless that home house institution or establishment is a reception centre or children's home established or approved under this Act.

(2) Nothing in the provisions of sub-section (1) shall apply to—

- (a) any home institution or establishment which and the occupant of which is registered under Division 8 of this Part ;
- (b) any institution or establishment conducted wholly for educational purposes or as a hospital or convalescent home ;
- (c) any private house (including a boarding house) where children are temporarily accommodated for a period of not more than three months ;
- (d) any house or establishment exempted from the operation of sub-section (1) by the Minister ;
- (e) any institution wholly maintained by the State of Victoria.

(3) Nothing in this section shall excuse any person from complying with the requirements of section 74.

Declaration by  
Minister of  
approved  
centres or  
homes.  
No. 6219 s. 14.

**29.** (1) Upon application in the prescribed form made by the person or organization conducting or proposing to conduct a children's reception centre or home the Minister may for the purposes of this Act—

- (a) declare as an approved children's reception centre any existing or proposed home for children or like institution or establishment which is or is to be conducted by any person or organization for the purpose of accommodating and maintaining children or young persons—
  - (i) admitted to the care of the Department ;
  - (ii) taken to or placed in such centre pursuant to the provisions of the *Children's Court Act 1958* ;
  - (iii) in respect of whom protection applications pursuant to the provisions of Division 4 of this Part have been made ;
- (b) declare as an approved children's home any existing or proposed home for children or like institution or establishment (not being an institution or establishment conducted wholly as a hospital or convalescent home) which is or is to be conducted by any person

or

or organization for the purpose of caring, whether gratuitously or otherwise, for children or young persons apart from their parents or guardians.

(2) After considering any relevant report made by the Family Welfare Advisory Council the Minister may revoke any declaration made as aforesaid if he is satisfied that the controlling authority of a home or centre is unable or fails to maintain adequate standards for the care and welfare of the inmates.

Minister may revoke approval for failure &c. to maintain adequate standards.

(3) On the revocation of a declaration the Director-General shall—

(a) remove those of the inmates who are wards of the Department and place them pursuant to the provisions of section 40;

(b) deal with those of the inmates who are not wards of the Department—

(i) by restoring them to the custody of their parents guardians or other persons on whose applications they were admitted to the home or centre ; or

(ii) by transferring them to another home or centre with the approval of their parents guardians or other persons as aforesaid ; or

(iii) by causing applications to be made to the Children's Court that they be admitted to the care of the Department and the Court may grant or refuse any such application and make an order accordingly.

(4) Notice of every declaration and of every revocation of a declaration by the Minister under this section shall be published in the *Government Gazette*.

30. (1) The Director-General or any officer authorized by him or any member of the Family Welfare Advisory Council may at any time visit any approved children's reception centre or approved children's home and make such examinations and inspections as appear to be necessary regarding the state and management thereof and the condition and treatment of the inmates but nothing in this sub-section shall be taken as conferring on the Director-General or any such officer or member any power to examine or inspect the personal record kept at such centre or any inmate who is not a ward of the Department.

Inspection of homes &c.  
No. 6219 s. 15.

(2) The person in charge of such centre or home shall afford the Director-General or such officer or member all reasonable facilities for such examinations and inspections.

**DIVISION**

DIVISION 4.—ADMISSION OF CHILDREN AND YOUNG PERSONS TO THE CARE OF THE DEPARTMENT.

Children and young persons in need of care and protection.  
No. 6219 s. 16.

**31.** Every child or young person under seventeen years of age who answers to any of the following descriptions shall be deemed to be a child or young person in need of care and protection, that is to say :—

Every child or young person—

- (a) found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms or inducing the giving of alms ;
- (b) found wandering, abandoned, or sleeping, in any public place ;
- (c) who has no visible means of support or no settled place of abode ;
- (d) who is in a brothel or lodges lives or resides or wanders about with known or reputed thieves drunkards vagrants or prostitutes whether such thieves drunkards vagrants or prostitutes are the parents of the child or not ;
- (e) who (not being duly licensed pursuant to the provisions of Division 9 of this Part) is employed in street trading in contravention of that Division or the regulations after a member of the police force or any person authorized in that behalf by the Governor in Council has (whether orally or otherwise) warned the child to desist from such trading and (where the parent or guardian of the child can be found) warned such parent or guardian that the child should desist from such trading ;
- (f) who is not provided with sufficient or proper food nursing clothing medical aid or lodging or who is ill-treated or exposed ;
- (g) who takes part in any public exhibition or performance referred to in Division 9 of this Part whereby the life or limbs of the child taking part is endangered ;
- (h) who is in the care and custody of any person unfit by reason or his conduct or habits or incapable by reason of his health to have the care and custody of the child or young person ;
- (j) who is lapsing or likely to lapse into a career of vice or crime ;
- (k) who is exposed to moral danger ;

(l) who

- (D) who is required by law to attend school and who without lawful excuse has habitually absented himself from school and whose parent has, in respect of such absence, been convicted under Part IV. of the *Education Act 1958*.

32. (1) Every child or young person under the age of seventeen years found by any member of the police force or by any person authorized (whether generally or in any particular case) by the Minister in any of the circumstances enumerated in section 31 may be immediately apprehended by such member or person without warrant.

Proceedings to  
be in  
Children's  
Court.  
No. 6219 s. 17.

(2) (a) If it appears to any justice on information made before him on oath by any person, that there is reasonable cause to suspect that a child or young person under the age of seventeen years is in any place in any of the circumstances enumerated in section 31 he may issue a warrant authorizing any person named therein to enter any house building or other place specified in the warrant for the purpose of apprehending any such child or young person.

Warrant of  
apprehension.

(b) Any person authorized by warrant under this section to search for any such child or young person may enter, if need be by force, any house building or other place specified in the warrant and may remove the child or young person therefrom.

(c) Every warrant issued under this section shall be addressed to and executed by some senior constable sergeant or other officer of police of higher rank who shall be accompanied by the person making the information unless the justice otherwise directs.

(3) Such member or person shall forthwith make an application (to be called a protection application) in the prescribed form to a Children's Court that the child or young person named in the application should be deemed to be a child or young person in need of care and protection.

(4) Any child or young person who is apprehended under this section shall if he is under the age of fifteen years be taken to the nearest children's reception centre or if he is of or over the age of fifteen years but under the age of seventeen years to a remand centre or pursuant to the provisions of section 25 of the *Children's Court Act 1958* admitted to bail placed with some respectable person or persons or in the dwelling house of the member of the police force by whom such child or young person was apprehended or otherwise as provided by the said section 25 and as soon as practicable thereafter shall be brought before the Court :

Provided

Provided that the Director-General may, where he thinks it advisable so to do in the interests of a young person transfer any such young person from a remand centre to a children's reception centre and in the interests of a child transfer any such child from a children's reception centre to a remand centre.

Procedure by  
notice in lieu  
of  
apprehension.

(5) Such member or person may in lieu of apprehending a child or young person as aforesaid serve upon the parent or guardian of or any other person having the care and custody of the child or young person and also upon the child or young person if he is of or over the age of fifteen years a notice in writing setting out the grounds of the intended application and commanding the child or young person to appear and his parent or guardian or the other person as aforesaid to produce him before the Children's Court at the time and place therein mentioned for the hearing of the protection application.

Service of  
notice.

(6) Service of the said notice may be effected either by prepaid letter sent by post to the address of the parent or guardian or other person as aforesaid and of the child or young person so as to reach such address in the ordinary course of post five days before the time named in the notice for the appearance of the child or young person before the Court or in any manner in which service of a summons may be effected under the *Justices Act 1958*.

(7) After a notice as aforesaid has been so served if the child or young person does not appear before the Court for the hearing of the application at the time and place therein mentioned the Court may issue a warrant for the apprehension of the child or young person and in any such case the child or young person may upon apprehension be disposed of as hereinbefore provided.

Procedure on  
protection  
application.  
No. 6219 s. 18.

33. (1) Whenever any child or young person is brought before the Court as aforesaid the Court shall proceed to hear the application and if it is established to the satisfaction of the Court that the child or young person so named in the application is in need of care and protection the Court may order that he be admitted to the care of the Department.

Parent may  
apply for  
revocation of  
protection  
order.

(2) Where a child or young person has been admitted to the care of the Department by an order made pursuant to the provisions of sub-section (1) or section 34 or pursuant to the provisions of the *Children's Court Act 1958* the parent of the child or young person or the person who but for the making of the order would be the guardian of or have the care and custody of the child or young person or the Officer in Charge of Children's Courts may at any time from the making of the order or from the

making

making of the last previous application under this sub-section (as the case may be) apply for the discharge of the child or young person from the Department pursuant to the provisions of sub-section (2) of section 36 and, if the child or young person is not so discharged within one month after that application, may after notice to the Director-General make application to a Children's Court for the revocation of the order and the Court after hearing the Director-General or some person on his behalf is satisfied that by reason of changed circumstances the order ought to be revoked may revoke the order accordingly and the child or young person shall thereupon cease to be a ward of or to be in the care of the Department.

34. (1) Any person having the care and custody of a child whom he believes to be beyond his ability to control may apply to a Children's Court for an order that the child is uncontrollable.

Uncontrollable children.  
No. 6219 s. 19.

(2) If the child does not appear before the Court for the hearing of the application the Court may issue a warrant for the apprehension of the child and he may upon being apprehended be taken to the nearest children's reception centre or otherwise disposed of in accordance with the *Children's Court Act* 1958 and as soon as practicable thereafter shall be brought before the Court.

(3) On the hearing of the application the Court may if it is satisfied by the evidence before it that the child is uncontrollable—

- (a) order that he be admitted to the care of the Department as a child in need of care and protection ;
- (b) adjourn the proceedings for a period not exceeding two years on condition that he will during that period be of good behaviour and comply with such other conditions, if any, as the Court thinks proper to impose ; or
- (c) release him on probation for a specified term not exceeding three years.

35. (1) Any parent, guardian, or person having the care and custody of a child may apply in the prescribed form to the Director-General that the child be admitted to the care of the Department.

Admission of child to Department on application of parent.  
No. 6219 s. 20.

(2) On receipt of the application the Director-General shall make or cause to be made such inquiries as he thinks proper.

(3) With the consent of any applicant the Director-General may require any person whom he believes to be in a position to do so to furnish to him a confidential report on any matter which the Director-General considers to be relevant to the application and every person who on being required to do so by the Director-General fails to furnish a report within a reasonable time or furnishes a report containing any statement which is wilfully untrue in a material particular shall be guilty of an offence against this Act.

Penalty : \$250 or imprisonment for three months.

(4) Where



(4) Where it appears to a stipendiary magistrate in chambers that an applicant is unreasonably withholding his consent to a requirement to furnish a report under sub-section (3) the stipendiary magistrate may make an order dispensing with the applicant's consent.

Determination  
of application.

(5) The Director-General shall consider the application and, if he is satisfied that it is in the interests of the child so to do, may by direction endorsed on the application and signed by him grant the application or he may refuse the application and forthwith notify the applicant in writing of such refusal and his right of appeal.

Appeal to  
Minister.

(6) In the case of a refusal the applicant may within fourteen days after the day of the refusal appeal to the Minister against the refusal and the Minister may grant or refuse the application as he thinks fit.

Payment to  
custodian.

(7) Where on the granting of an application under this section the child is placed in such a situation as would entitle his custodian to payment at a rate determined pursuant to the provisions of section 44 such payment shall be made as from the date of the receipt of the application by the Director-General or such later date as he directs.

(8) The granting of an application under this section by the Director-General or by the Minister on appeal from the Director-General shall for all purposes be deemed to be an order admitting the child to the care of the Department.

Urgent cases.

(9) Where an application has been made under this section and the Director-General is of opinion that the child is in need of the immediate care of the Department he may arrange for the child to be taken to a children's reception centre or a remand centre and retained there until the application has been determined.

Non-payment  
of  
maintenance.

(10) Where a child (not being a ward of the Department) is an inmate in a children's home and a parent guardian or other person who has undertaken in writing to contribute to the maintenance of the child is in arrear of contributions of maintenance for a period of or periods aggregating not less than six months the person in charge of the home may make application in the prescribed form that the child be admitted to the care of the Department and thereupon the provisions of this section except sub-section (1) shall apply.

#### DIVISION 5.—GUARDIANSHIP AND PLACEMENT OF CHILDREN AND YOUNG PERSONS ADMITTED TO THE CARE OF THE DEPARTMENT.

Director-  
General to  
be guardian of  
children and  
young persons  
admitted to  
the care of the  
Department.

No. 6219 s. 21.

36. (1) The Director-General shall to the exclusion of the father, mother, and every other guardian become and be the guardian of the person and estate of any child or young person

**admitted**

admitted to the care of the Department or admitted or committed to the care of the Children's Welfare Department prior to the commencement of the *Social Welfare Act* 1960 and shall remain such guardian until the child or young person attains eighteen years of age or such greater age (not exceeding twenty-one years) as the Minister directs unless such child or young person is sooner discharged.

(2) The Director-General may at any time order any child or young person so admitted to be discharged from the Department and thereupon the guardianship shall be terminated.

Termination of guardianship.

(3) Subject to this Act the Director-General shall have as guardian the same rights powers duties obligations and liabilities as a natural guardian of the child or young person would have.

37. Without affecting the generality of the provisions of section 36 the Director-General—

Powers of Director-General as guardian.  
No. 6219 s. 22.

- (a) shall have the sole right to the custody of any child or young person admitted to the care of the Department ;
- (b) may demand sue for and recover any wages earnings or other moneys due to such child or young person ;
- (c) in the name and on behalf of such child or young person may commence and prosecute any actions suits claims or proceedings touching any property or rights of such child or young person or touching any matter in which such property or rights may be affected.

38. (1) Except as otherwise provided in this Part all moneys coming into the hands of the Director-General as guardian of the estate of any child or young person shall be placed to the credit of the account of such child or young person in a fund kept in the Treasury in the Public Account as part of the Trust Fund a trust account to be called the " State Wards Fund ".

State Wards Fund.  
No. 6219 s. 23.

(2) Interest at State Savings Bank rate shall be payable on moneys in the State Wards Fund.

(3) There shall be payable out of the moneys standing to the credit of any account of a child or young person—

(a) to Her Majesty—

- (i) such weekly sum for the maintenance of the child or young person as the Minister directs ;

(ii) all

(ii) all expenses lawfully incurred by the Director-General as guardian of the estate of such child or young person ;

(b) all lawful claims against the estate of such child or young person.

(4) Upon the discharge of a ward from the Department the Director-General shall notify the ward of the amount to his credit in his account in the State Wards Fund and subject to the provisions of section 43 he shall be entitled to be paid the amount.

Warrant not necessary for detention of ward.

No. 6219 s. 24.

39. No warrant shall be necessary to authorize the detention of any child or young person admitted to the care of the Department.

Dealing with children or young persons admitted to the care of the Department.

No. 6219 s. 25.

40. Subject to the regulations the Director-General may from time to time deal with any child admitted to the care of the Department or of whom he is the guardian under the *Adoption of Children Act 1964* in any of the following ways, namely :—

(a) Place him in a children's reception centre or children's home or other establishment conducted and managed by the Department ;

(b) Place him in an approved children's reception centre or in an approved children's home ;

(c) Place him, if in the opinion of the Director-General he is in need of special supervision, social adjustment, or training under the supervision of the Youth Welfare Division ;

(d) Place him with suitable foster parents ;

(e) Place him, if he is eligible therefor, for adoption pursuant to the *Adoption of Children Act 1964* ;

(f) Place him in the custody of some suitable person who is willing to take charge of him ;

(g) Place him in a registered home within the meaning of Division 8 of this Part ;

(h) Place him if his interests so require in an institution or establishment considered by the Director-General, either generally or in any particular case, to be suitable for the care of the physically or mentally handicapped ;

(j) Place him in any other suitable situation as circumstances require.

**41. In**

41. In placing any child or young person pursuant to the provisions of section 40 the welfare of the child or young person shall be the first and paramount consideration and any provision made for his physical, intellectual, and spiritual development shall be such as a good parent would make for his child.

Welfare of child or young person to be paramount consideration.

42. Where the Director-General is appointed pursuant to the provisions of the Commonwealth Act known as the *Repatriation Act* 1920 as amended from time to time to act as trustee for the purpose of receiving war pensions or educational allowances payable in respect of any child or young person of whom he is the guardian such pensions or allowances shall be placed by the Director-General to the credit of such child or young person in a State Savings Bank account in the name of the Department and shall be applied by the Director-General as he thinks proper for the maintenance education and welfare of the child or young person.

War pensions and educational allowances payable in respect of child or young person.  
No. 6219 s. 27.

43. All moneys held by or standing to the credit of any State Savings Bank Account in the name of the Department on behalf of any child or young person or held in the State Wards Fund on behalf of a child or young person shall be paid to him on his discharge from the Department but if such discharge takes place before he attains his majority the Minister may, if he thinks that it is in the interests of the child or young person so to do, direct that such money or part thereof be retained for a further period during minority.

Moneys held to be paid over on discharge from the Department.  
No. 6219 s. 28.

44. (1) The Minister shall from time to time after consideration of any report in that behalf by the Family Welfare Advisory Council (which that Council is hereby authorized to make) determine the rates to be paid for children and young persons under the care of the Family Welfare Division placed in foster homes, approved children's reception centres, approved children's homes, and registered homes within the meaning of Division 8 of this Part, and the amount of the retainer (if any) to be paid in respect of an approved children's reception centre.

Power to Minister to determine rates.  
No. 6219 s. 29.

(2) The Minister may also determine special rates to be paid under this Act in respect of children and young persons.

(3) Particulars of every such determination shall be published in the *Government Gazette*.

#### DIVISION 6.—INTERSTATE MOVEMENT OF CHILDREN AND YOUNG PERSONS.

45. (1) In this section "State" means a State or Territory of the Commonwealth.

Interpretation.

(2) The Director-General may, on request by or on behalf of the Minister or other person in another State exercising guardianship in that State over a child or young person under some enactment corresponding

Declaration of guardianship of child or young person entering Victoria.