

(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 Secretary to any person for taking the entire charge of any such child.

Penalty: Fifty pounds.

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

Penalty: Fifty pounds.

120. (1) If any person other than a near relative of any child under six years of age or other than a person obtaining an order of adoption under the Adoption of Children Act, 1896-1945, 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 Secretary, 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 secretary.
No. 21 of 1919, s. 26 as amended by this Act.

(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 view to adoption, shall within seven days of so doing give notice thereof to the Secretary, and shall in such notice state the name, age and religion of such child and the name and address of the person taking charge of such child.

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

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

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

Officer of Department may take part in all trials against children.
No. 31 of 1907, s. 104.

Officer of Department may conduct cases where complaint made. No. 31 of 1907, s. 109.

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

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

Order may be set aside. No. 31 of 1907, s. 110.

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

Returns of complaints and convictions. No. 31 of 1907, s. 111 as amended by No. 22 of 1937, s. 3.

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

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

125. Any person who—

- (a) without the authority of the Minister, takes or removes any ward from any institution before the expiration of the period of detention of such child, or from its foster-mother, or from the foster-parent to or with whom such child is apprenticed or placed out before the expiration of the term of apprenticeship or placing out; or
- (b) directly or indirectly counsels or induces any ward to abscond or escape from any institution, or to break his apprenticeship indentures, or to abscond from his foster-parent, before such child had been regularly discharged, or before the expiration of such apprenticeship or placing out; or
- (c) aids or abets any ward in so absconding or escaping, or who prevents any ward from returning to any institution or to his foster-

parent, or who, knowing any ward to have been so taken or removed, or to have so absconded or escaped, harbours or conceals, or assists in harbouring or concealing, such child; or

- (d) without the authority of the Minister, takes or removes any child from the care of any person to whom or society to which such child is committed under Part VI. of this Act; or
 - (e) having a ward in his or her care, neglects or refuses, on demand, to hand such child over to an authorised officer of the Department or a police officer authorised to receive the child,
- shall be guilty of an offence against this Act and liable to a penalty of not exceeding twenty pounds, or may, at the discretion of the court, be imprisoned with or without hard labour for not exceeding three months.

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

Conviction
not to be
disclosed.
No. 56 of
1941, s. 14.

127. Any person who—

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

Penalty for
communicat-
ing with
children in
institutions.
No. 31 of
1907 s. 113.

Penalty for permitting escape.
No. 31 of 1907, s. 114.

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

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.
No. 21 of 1919, s. 27 as amended by No. 22 of 1927, s. 3.

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.

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

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

(a) unlawfully deserts such child; or

(b) leaves without, or fails to provide with adequate means of support any such child,

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

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

Court may issue warrant for arrest of deserter upon complaint on oath.
No. 31 of 1907, s. 117 as amended by No. 56 of 1941, s. 16. Cf. ss. 77 and 130 ante.

131. Upon complaint on oath by the Secretary, or any other officer of the Department, that he has reasonable grounds for believing that any person has committed or is about to commit an offence under sections seventy-seven and one hundred and thirty of this Act, any justice, if satisfied that there are reasonable grounds for believing that such offence has been or is about to be committed, may issue a warrant for the apprehension of the person complained against, and such person may thereupon be apprehended by any police officer accordingly.

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

Homes of illegitimate children under six years liable to inspection.
No. 21 of 1919, s. 28.
cf. s. 135 post

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

Occupier of house in which an illegitimate child is born to give notice of birth.
No. 21 of 1919, s. 28.
cf. s. 135 post.

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

Penalty: Ten pounds.

134. Subject to section one hundred and thirty-five of this Act, the occupier of any house or place in which an illegitimate child dies or into which the dead body of an illegitimate child is brought shall, within twenty-four hours after the death or the bringing into the house or place of such dead body, give notice of the fact with the prescribed particulars to the officer in charge of the nearest police station.

Notice of death of illegitimate child to be given.
No. 21 of 1919, s. 28.
cf. s. 135 post.

Penalty: Twenty pounds.

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.

Exemption.
No. 21 of 1919, s. 28.
cf. ss. 132, 133 and 134 ante.

Court may determine matter in summary way.

No. 31 of 1907, s. 118 as amended by No. 56 of 1941, s. 17. cf. s. 130 ante.

136. (1) Upon the hearing of a complaint under section one hundred and thirty of this Act, the court may determine the matter in a summary way, and, if satisfied that the child has been or is about to be unlawfully deserted by the person complained against, or is actually without adequate means of support, and that such person is a near relative of such child, liable and able to contribute towards his maintenance, may order such person, either immediately or at some adjournment to pay or contribute towards the past and future maintenance of such child as is provided for in section sixty-nine of this Act.

cf. s. 69 ante.

Punishment for misconduct or neglect leading to delinquency of child.

No. 21 of 1919, s. 29 as amended by this Act.

137. (1) Any person who has, either by wilful misconduct or habitual neglect, or by any wrongful or immoral act or omission encouraged or contributed to the commission of any offence by any child, or caused or suffered the child to become a neglected child, or contributed to such child becoming a neglected child, shall be guilty of an offence.

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

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

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

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

(4) If the court orders such security as aforesaid, it may suspend any sentence of imprisonment imposed on the convicted person until there has been a breach in the conditions of the security, and on any such breach

occurring the suspension shall be removed, and the sentence shall become operative and may be enforced, and in that case the period of imprisonment imposed by the sentence shall be calculated as from the date of the offender being actually received into prison.

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

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.
No. 31 of 1907, s. 119, as amended by No. 56 of 1941, s. 18, and this Act.
Cf. s. 4 ante.

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

Certain children to travel free on Government Railways.
No. 31 of 1907, s. 120, as amended by No. 22 of 1927, s. 3.

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

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

141. Every person authorised to take charge of any child ordered to be detained under this Act, for the purpose of conveying such child to or from any institution, or to a foster-parent, shall, while engaged in such duty, have all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as any police officer has by common law or statute.

Persons in charge of wards to have privilege of constables.
No. 31 of 1907, s. 125.

General penalty.
No. 31 of 1907, s. 126, as amended by this Act.

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 thirty pounds.

Application of Justices' Act, 1902.
No. 31 of 1907, s. 127.

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.

Forms of proceedings.
No. 31 of 1907, s. 128.

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

Order to be a defence to actions.
No. 31 of 1907, s. 129.

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

Person arrested at distance exceeding twenty miles from Court may be brought before nearest Court.
No. 22 of 1927, s. 14, as amended by No. 56 of 1941, s. 20.

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

(b) For the purpose of the hearing at 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 which caused the warrant of arrest to issue.

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

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

Protection to
Department
and officers.
No. 31 of
1907, s. 130.

Appropriation
of penalties.
No. 31 of
1907, s. 131.

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

Regulations.
No. 31 of
1907, s. 132
as amended
by No. 22 of
1927, s. 3.

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

- (a) the duties, powers, authorities, and privileges of inspectors, visitors, boarding-out committees, and all other persons employed in the administration of this Act;
- (b) the management, control, and supervision of institutions and lying-in houses;
- (c) the custody, maintenance, education, employment, apprenticing, and placing out of wards;
- (d) the visitation of wards at institutions, or apprenticed, or placed out;
- (e) the punishment of wards;
- (f) wages and rewards to wards;
- (g) the management and control of property vested in the Department;
- (h) records to be kept at institutions and by licensees;
- (i) the accounts to be kept and reports to be made by subsidised institutions;
- (j) the form and contents of agreements, appointments, apprenticeship articles, authorities, complaints, licenses, notices, orders, summonses, and all other instruments and documents, and the mode of executing, serving, or delivering the same;
- (k) the fees to be paid;
- (l) the imposing of penalties;
- (m) the time and manner in which any Act, deed, matter, or thing required by this Act to be done, and as to which the time or procedure is not provided, is to be done or performed;

- (n) all other matters and things arising under and consistent with this Act not herein expressly provided for, and otherwise for fully and effectually carrying out and giving force and effect to the objects, purposes, powers, and authorities of this Act.

FIRST SCHEDULE.

Section 3.

The Child Welfare Act, 1907-1941.

SECOND SCHEDULE.

Section 15.

St. Joseph's Roman Catholic Orphanage for Girls, Subiaco.

The Salvation Army Girls' Home, Cottesloe Beach.

The Home of the Good Shepherd Roman Catholic Industrial School for Girls, Leederville.

The Swan Boys' Anglican Orphanage, near Midland Junction.

The Clontarf Roman Catholic Boys' Orphanage, near Victoria Park.

The Salvation Army Boys' Home, West Subiaco.

The Seaforth Salvation Army Backward Boys' Home, Gosnells.

The Seaforth Salvation Army Boys' Industrial School, Gosnells.

The Methodist Children's Home, Victoria Park.

The St. Vincent's Roman Catholic Foundling Home, Subiaco.

The Children's Home, Parkerville.

The Government Receiving Home, Walcott Street, Mount Lawley.

The Tom Allan Memorial Home (Methodist) for Boys, Werribee.

The Castledare Roman Catholic Junior Orphanage, Queen's Park.

The Presbyterian Children's Home, Byford.

St. Joseph's Roman Catholic Farm School, Bindoon.

Nazareth House (Roman Catholic), Geraldton.

Benmore Presbyterian Boys' Home, Caversham.

Padbury Boys' (Anglican) Farm School, Stoneville.

Anglican Children's Home, Coogee Beach.

Swan Girls' Home (Anglican), Middle Swan.

No. 22 of
1927, s. 15 as
amended by
No. 56 of
1941, s. 21
and this Act.

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