

**No. 16.** opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child.

As to sections  
23, 24, or 26.

**28.** When a child has been dealt with under paragraph (a) or (b) of section twenty-three, twenty-four, or twenty-six, the following provisions shall apply:—

- (1) Subject to the directions of the Minister, the child shall be in the custody and under the control of the person in charge of the asylum or to whose care he has been committed.
- (2) The child and the premises wherein he resides, or whereto he has been committed, shall be subject to inspection by officers appointed in that behalf.
- (3) Any person having the care of a child as aforesaid who neglects or ill-treats such child shall be liable to a penalty of five pounds, and the child may be removed from his custody and control by the Minister.

As to breach of  
terms of  
probation.

**29.** If a child who has been released upon probation breaks the terms or conditions of the release, he may be apprehended and brought before the court.

If it shall appear that such breach has occurred, the court may commit him under the provisions of this Act, in the same manner as if he had not been released upon probation.

Child convicted  
of indictable  
offence may be  
sent to  
institution.  
Act No. 38, 1901,  
s. 13.

**30.** Where a child upon his trial has pleaded guilty to or has been convicted of an indictable offence, the judge may, in addition to any other sentence for the offence, commit the child at the expiration of such sentence to an institution, or may, instead of any other sentence, commit the child forthwith to an institution.

Form of  
committal.  
Act No. 38, 1901,  
s. 14.

**31.** A court or a judge in committing a child to an institution shall do so in general terms, but may recommend to the Minister that the child be sent to an institution of a particular class:

Provided that in the case of a child charged with an indictable offence, such committal may be made to a reformatory school, and if so made, shall be for the period named, being not less than one nor more than five years.

Children be  
placed in shelter.

**32.** A child on being committed to an institution may, in the discretion of the court or judge, be placed in a shelter.

Child placed in  
institution.

**33.** The Minister as soon as practicable shall endorse on the order of committal the name of the institution and the place where the child is to be detained.

## PART IV.

## CHILDREN IN INSTITUTIONS.

*Custody and control.*

34. All children committed to or inmates of an institution shall, subject to the directions of the Minister, be in the custody and under the control of the superintendent of the institution until they attain the age of eighteen years, or are discharged, removed from the institution, or apprenticed :

Children in institutions under control of superintendent.

Provided that a child committed to a reformatory school on being charged with an indictable offence shall be detained in such school or in such other institution to which he may be removed until the expiration of the period named in the order of committal, or until he is lawfully discharged, removed from the institution, or apprenticed.

35. The Minister, with respect to any child who has been committed to or is an inmate of any institution,—

Powers and duties of Minister.

- (a) shall determine the particular institution in which the child shall be placed and detained, provided that no child may remain in a shelter for more than three months, except by permission of the Minister ;
- (b) may remove a child from one institution to another ;
- (c) may remove any child from an institution and place him in an asylum, or place him in charge of the board which may board him out.

36. The Minister may at the request of the board or of the governing body of an asylum take any child from the custody of the board or from the asylum, and place him in any institution other than a reformatory school.

Child removed from board or asylum to an institution.

37. (1) Every child, an inmate of any institution, shall, so far as religious teaching is concerned, be placed under the guidance and control of clergymen of the persuasion to which the parents of such child belong, or in which such child has been brought up.

Religious teaching. Act No. 38, 1901, s. 22.

(2) In the event of such parents or their religious persuasion not being known, and of the child not having been brought up in any religious persuasion, then as far as religious teaching is concerned—

- (a) such child shall, if of or over the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, unless such child states some persuasion in which he desires to be educated ;

## No. 16.

(b) such child shall, if under the age of twelve years, be placed under the guidance and control of the clergymen of such persuasion as the Minister may direct, but may on attaining the age of twelve years select the persuasion in which he desires to be educated ;

(c) provided that if at any time the religious persuasion of any such child or of his parents become known to the Minister, he shall at once order the child to be placed under the guidance and control, as far as religious teaching is concerned, of clergymen of such persuasion.

Child may be  
apprenticed.  
Act No. 38, 1901,  
s. 34.

38. (1) The superintendent of any institution may by indenture bind or cause to be bound any child under his care and control, in accordance with and subject to the provisions of the Apprentices Act, 1901.

Punishment for  
misconduct.

(2) Any child so apprenticed shall be liable to be proceeded against and punished for absconding, or for other misconduct, in the same way as any child apprenticed by his father with such child's consent.

Court may put  
an end to  
apprenticeship.  
Act No. 38, 1901,  
s. 35.

39. A court, upon complaint made by the superintendent of any institution that any person to whom any such child has been apprenticed is not performing the conditions of such indenture, or is unfit to have the further care or control of such apprentice, may summon such person to answer such complaint, and on proof thereof on oath may order such apprenticeship to be put an end to, and may direct the apprentice to be sent back to such institution, and such child shall thereupon be subject to the like custody and control as under the original order by which he was sent to such institution.

Discharge of  
child by  
Governor.

40. The Governor may discharge any child from an institution and restore him to the custody of his parent or other suitable person on such terms and conditions as to him may seem desirable, or as may be prescribed.

*Maintenance of children by relatives.*

Cost of main-  
tenance of State  
child may be  
recovered from  
near relatives.

41. (1) If it appears to a court on complaint by or on behalf of the Minister that any near relative is of ability to maintain or to contribute to the maintenance of a child in an institution, the court may on summons order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards—

- (a) the past maintenance of such child, whether such child be alive or not at the time of the application ;
- (b) the future maintenance of such child.

(2) A like order against a near relative may, with his consent, be made on the committal of the child to an institution by the court so committing him.

(3) Such order, when made against a father or mother, may include the cost of bringing such parent back to the place where the order is made from any other place where he or she may for the time being reside.

(4) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child under the Infant Protection Act, 1904, the court may rescind or amend the last-mentioned order so as to secure that the said person do not pay twice for the maintenance of the same child.

(5) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part II of the Infant Protection Act, 1904. And the court may issue a warrant for the arrest of any person absconding from the State with a view to evade compliance with any order under this section.

42. Where any proceedings are taken under the Infant Protection Act, 1904, or this Act, in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under any such Act shall be made—

Evidence necessary for order for maintenance.

- (a) upon the evidence of the mother, unless her evidence be corroborated in some material particular; or
- (b) if the court is satisfied that at the time the child was begotten the mother was a common prostitute.

*Offences in respect of children in institutions.*

43. Any person who—

- (a) illtreats, terrorises, or injures any child committed to or an inmate of an institution;
- (b) counsels, or causes or attempts to cause, any such child to be withdrawn or to abscond from any institution or from the charge of any person with or to whom such child is apprenticed;
- (c) knowing any such child to have so withdrawn or to have so absconded, harbours or conceals such child or prevents him from returning to such institution or person;

Offences in respect of State children.

**No. 16.**

(d) having the charge of any such child—

- (i) illegally discharges or dismisses or attempts to discharge or dismiss him from the institution ;
- (ii) neglects such child ;
- (iii) does not well and truly observe, perform, and keep all the covenants, conditions, and agreements contained in any indenture or agreement entered into by him respecting any child and which by such indenture or agreement he has bound himself or agreed to observe, perform, or keep,

shall be liable to a penalty not exceeding fifty pounds or to be imprisoned for a period not exceeding six months.

Absoonder from reformatory may be punished.

Act No. 38, 1901, s. 27.

44. Any child committed to or an inmate of any reformatory school who absconds therefrom, or neglects or refuses to conform to the rules thereof, may be taken before a court, and on proof on oath of such absconding, neglect, or refusal, the court may commit such child to gaol for any period not exceeding three months, such period of imprisonment to be passed as far as practicable in strict separation. Such child shall at the termination of such imprisonment be returned to such reformatory school and there detained, subject to this Act, for the remainder of the term for which he was committed.

Child deserting may be apprehended.

Act No. 38, 1901, s. 29.

45. If any child committed to or an inmate of any institution before his discharge or apprenticing be absent therefrom without the leave of the superintendent, any constable may apprehend and convey such child to such institution to be delivered into the custody of the superintendent thereof.

Keeper of brothel or opium den in which child is found guilty of misdemeanour.

46. Where a child is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or the person in charge or apparently in charge of such brothel or place shall be guilty of a misdemeanour.

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## PART V.

### LICENSING OF CHILDREN.

Issue of licenses.

47. (1) A written license authorising a male child of or over the age of ten years to engage, subject to the regulations, in a specified description of street trading may be issued—

- (a) by the Minister or by any officer acting under his authority ; or

- (b) in respect of its district by a local authority or some officer of such authority appointed in that behalf with the approval of the Minister. **No. 16.**

(2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during such trading. Badges.

(3) Such license shall not be issued unless it is shown that the moral or material welfare of the child will not suffer by such trading. Conditions of issue of licenses.

(4) Every license shall be granted for a term of six months, but may be renewed from time to time, and may at any time be cancelled by the Minister or by the authority which has issued it. No charge shall be made for any license or badge. Term of license.

**48.** If any person employs a child in street trading—

- (a) who is not duly licensed under this Act; or  
 (b) who, although so licensed, is employed by him in trading of a description not authorised by the license,

he shall be liable to a penalty not exceeding two pounds, or in case of a second or subsequent offence to a penalty not exceeding five pounds.

Penalty for employing child in street trading in contravention of Act.

## PART VI.

### GENERAL AND SUPPLEMENTAL.

**49.** All orders and penalties under this Act shall be enforced, imposed, and recovered by and before a court. Recovery of penalties.

**50.** (1) An order duly endorsed committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent, and shall be a sufficient warrant for the detention of the child. Order forwarded to an institution Act 38 of 1901, s. 37.

(2) The production of—

- (a) such order so endorsed; or  
 (b) a copy of such order so endorsed with a memorandum purporting to be signed by the superintendent of any such institution, stating that the child named in such order was duly received into, and is at the time of the signing thereof detained in such institution, or has been otherwise disposed of according to law; or  
 (c) any order made under this Act, or a copy thereof purporting to be signed by the clerk of the court at which the same was made and certified to be a correct copy,

Certain orders and copies to be evidence. Act 38 of 1901, s. 39.

**No. 16.** shall, without proof of the signature of the person purporting to have signed the same, be evidence in all courts and proceedings—

- (d) of the due making and signing of any such order, memorandum, or certificate; and
- (e) of the committal, detention, and identity of the child, and of the identity of the parent named in any such order, memorandum, or certificate.

Boarding out of children under section 16 of State Children Relief Act.

**51.** No child shall be boarded out under section sixteen of the State Children Relief Act, 1901, until the board has referred the case of such child to a court for an inquiry upon oath, whether it is desirable to so board out such child, and unless the court gives a direction to that effect.

Regulations.

**52.** (1) The Governor may make regulations—

- (a) for regulating the management of institutions;
- (b) providing for the visitation and inspection of institutions and places where children are placed or apprenticed under this Act;
- (c) prescribing the duties of officers employed in the administration of this Act;
- (d) providing for the employment, education, discipline, and punishment of children in institutions;
- (e) providing for the medical care of children in institutions and for the burial of any child who has died;
- (f) providing for the conditions under which, the purposes for which, and the ages during which licenses under this Act may be issued to and held by children, the hours during which such licenses shall have force and effect, and the form of badges and manner of wearing them.
- (g) for carrying this Act into effect;
- (h) for the imposition of a penalty not exceeding twenty pounds for the breach of any regulation made under this Act.

(2) All such regulations shall be published in the Gazette, and shall thereupon be in force, and shall be laid upon the table of both Houses of Parliament within fourteen days of such publication, or if Parliament is not then sitting within fourteen days of the commencement of the next ensuing session.

## SCHEDULE.

No. 16.

Date of Act.	Name of Act.	Extent of repeal.
Act No. 40, 1900	Crimes Act, 1900 ... ..	So much of section 429 as is inconsistent with this Act.
Act No. 38, 1901	Reformatory and Industrial Schools Act, 1901.	The whole.
Act No. 47, 1902	Children's Protection Act, 1902 ...	Sections 29, 30, 31, and 32, and so much of the rest of the Act as is inconsistent with this Act.

## ACT No. XVII., 1905.

No. 17.

An Act to prescribe the duties and immunities of witnesses examined before the Commissioner under the Lands Commission Act, 1905, and the Lands Commission (Amendment) Act, 1905; to amend those Acts and the Royal Commissioners Evidence Act, 1901; and for purposes consequent thereon or incidental thereto. [Assented to, 28th September, 1905.]

LANDS  
COMMISSION  
(WITNESSES).

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Lands Commission (Witnesses) Act, 1905," and shall be construed with the Lands Commission Act, 1905, the Lands Commission (Amendment) Act, 1905, and the Royal Commissioners Evidence Act, 1901.

Short title and  
incorporation of  
Acts.

2. A person examined as a witness before the Commissioner shall not be excused from answering any question put to him on the ground of any privilege, or on the ground that the answer thereto may criminate or tend to criminate himself:

Witness not  
excused from  
answering on  
ground of  
privilege.

Provided that no evidence taken before the Commissioner after the commencement of this Act shall be admissible against any person in any civil or criminal proceeding, except in the case of a witness accused of having made a false statement on oath

Proviso.



**The statutes of New South Wales (public and private) passed during the session of... [electronic resource]**

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