

## TASMANIA.

## THE INFANTS' WELFARE ACT 1935.

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T A S M A N I A.



1935.

ANNO VICESIMO SEXTO

GEORGII V. REGIS.

No. 96.



AN ACT to consolidate and amend the Law relating to Welfare of Children and the Protection of Infant Life.

A.D. 1935.

[31 January, 1936.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

- 1 This Act may be cited as the *Infants' Welfare Act 1935*. Short title.
- 2 The Acts enumerated in the first schedule are hereby repealed. Repeal.
- 3 In this Act, unless the contrary intention appears— Interpretation.  
"Age" means, in the absence of positive evidence as to age, the apparent age ;

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- “ **Authorised officer** ” means an officer of the Department authorised either generally under this Act or for any particular purpose by the Director or the Minister :
- “ **Certified institution** ” means a private institution certified or deemed to be certified for the purposes of this Act :
- “ **Child** ” means any boy or girl under the age of seventeen years :
- “ **Child of the State** ” means a convicted child or neglected child or any other child received into or committed to an institution, or to the care of the Department, or apprenticed or placed out under the authority of this Act, or any Act hereby repealed :
- “ **Children’s court** ” means a children’s court established, or deemed to have been established, for the purposes of this Act, and includes a police magistrate or justices exercising the jurisdiction of a children’s court :
- “ **Clerk** ” or “ **clerk of petty sessions** ” means the person officiating as clerk of petty sessions at the place of holding petty sessions at or nearest to the place at which the children’s court is held :
- “ **Court** ” means a children’s court, or the Supreme Court, or a judge thereof, as the case may be :
- “ **Convicted** ” means found guilty or convicted of any crime or offence punishable by imprisonment :
- “ **Department** ” means the Social Services Department :
- “ **Director** ” means the Director of Social Services :
- “ **Foster-mother** ” means any person licensed as a foster-mother under and for the purpose of Part VII. :
- “ **Foster-parent** ” means any person to or with whom a child of the State is apprenticed or placed out under this Act, or under any enactment hereby repealed, and includes the assignee of such person :
- “ **Inmate** ” means a child of the State maintained in an institution :
- “ **Institution** ” means any institution established, or deemed to have been established, by the Governor under section fourteen, and a certified institution :
- “ **Maintenance** ” includes food, clothing, lodging, nursing, medical treatment, necessaries, training, and education :
- “ **Maintenance order** ” means an order made by a children’s court for payment of money by any near relative in respect of the maintenance of a child :
- “ **Managers** ” means the persons for the time being having the management or control of any private institution :
- “ **Near relative,** ” as regards a legitimate child, means father, mother, stepfather, stepmother, brother, sister, or any grandparent of the child ; and, as regards an illegitimate child, the mother and the person admitting himself to be, or adjudged by a competent court to be, the father of such child :



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“Neglected child” means a child—

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- i. Who is found in a brothel or reputed brothel, or a place where opium or any preparation thereof is smoked, or who is known to associate with or be in the company of a person known to the police to be, or reputed to be, a prostitute, whether such person is the mother of the child or not :
- ii. Who associates or dwells with any person known to the police to be, or reputed to be, a thief or drunkard, or with any person who has no apparent lawful means of support :
- iii. Who begs in any public place, or habitually wanders about public places, being in no ostensible occupation, or sleeps at night in the open air in any public place :
- iv. Who is not provided with necessary food, nursing, clothing, medical aid, and lodging, or who is neglected, ill-treated, or exposed by his parents or either of them :
- v. Who, being of the compulsory school age, is an habitual truant from day school, or whose parent has been convicted at least twice of neglecting to cause such child to attend school :
- vi. Who is illegitimate, and whose mother is dead, or is unable to maintain or take charge of such child :
- vii. Who takes part in any public exhibition or performance whereby the life or limb of such child is endangered :
- viii. Who, being a female, solicits men, or otherwise behaves in an indecent, improper, or disorderly manner, or habitually wanders at night without sufficient cause in a public place :
- ix. Under the age of fifteen years found doing any of the things referred to in division (a) of paragraph 1. of section one hundred and nine, or a child under the age of fourteen years found doing any of the things referred to in division (b) of the same paragraph :
- x. Who is found by a children's court to be an uncontrollable child :
- xi. Whose home, by reason of the neglect, cruelty, or depravity of his parents, or either of them, is an unfit place for such child : or
- xii. Who dwells with, or in the same house as, any person known to the Director to be suffering from a venereal enthetic disease or from pul-

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monary consumption, in conditions which a medical officer of health has certified to be dangerous to the health of such child :

“Nursing home” means any home registered as a nursing home under Part VII :

“Parent” includes a guardian and every person who is by law liable to maintain a child, or with whom the child lives and upon whom he is dependent :

“Place-out” means to entrust a child of the State to the care and charge of some person approved of by the Director or the managers, as the case may be, for the purpose of his being maintained by such person, or in such person’s house, or for the purpose of training or hire :

“Private institution” means a children’s home, orphanage, reformatory school, and any other establishment or institution for the detention, maintenance, employment, and benefit of neglected or convicted children, established, or wholly or in part maintained, by private benevolence or contributions :

“Public place” means a public place as defined by section three of the *Police Offences Act 1935* :

“Receiving home” means a receiving depôt or shelter for the temporary detention of children in accordance with the provisions of this Act :

“Roll” means a roll required to be kept by a foster-mother under Part VII. :

“Special magistrate” means a justice of the peace appointed or deemed to be have been appointed as a special magistrate by the Governor for the purposes of this Act, or any police magistrate :

“State institution” means any institution established, or deemed to have been established, by the Governor under section fourteen.

26 Geo. V. No.  
44.

## PART II.

## THE INFANTS' WELFARE DEPARTMENT.

The Department.

**4** The duties under this Act which formerly devolved on the Department known as the Children of the State Department shall hereafter devolve on and be committed to the Social Services Department.

Administration.

**5** It shall be the duty of the Director, under the direction of the Minister, to carry this Act into operation, so far as the execution thereof is not expressly committed to any other person.

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**6—(1)** The Governor may appoint inspectors, inspecting nurses, and other officers, with such powers and functions as he deems necessary to carry out the purposes of this Act. A.D. 1935.

—  
Inspectors and  
other officers.

**(2)** The Governor may appoint superintendents, matrons, warders, and other servants of State institutions under this Act.

**7—(1)** The Director, with the approval of the Minister, may appoint such and so many persons as he thinks proper to be honorary visitors of the Department. Visitors.

**(2)** Honorary visitors shall, in accordance with the regulations, assist the Department in procuring and supervising boarding-out homes and in the care of the children of the State sent to such homes, or placed out for hire or discharged or released on probation under this Act.

**8—(1)** The Director shall be the guardian of every child of the State to the exclusion of the parent or other guardian, and shall, except during the time the child is lawfully detained in any certified institution, and except as hereinafter provided, continue to be such guardian, unless the Governor otherwise directs, until the child is discharged. The Director shall as such guardian have (except as aforesaid) the sole right to the custody of every child of the State, and shall deal with such child as directed by this Act. Director to be  
guardian of  
children of the  
State.

**(2)** While any child of the State is detained in any State institution the superintendent or matron of the institution may exercise the powers of the Director as guardian of such child. Guardianship of  
inmates of State  
institution.

**(3)** While any child of the State is lawfully detained in any certified institution, the powers of the Director as guardian, with the sole right to the custody of the person of such child, shall be reposed in and exercisable by the managers of the institution, who shall also continue to be guardians of the child while such child is in the custody of any person with whom he has been placed out by such managers, or during the period of any apprenticeship of such child to which they are parties as hereinafter provided. Guardianship of  
inmates of certi-  
fied institutions.

**(4)** The Governor may at any time make an order transferring the guardianship of any inmate of a certified institution from the managers to such person as the Governor by the order appoints. Governor may  
transfer guardian-  
ship.

**9** The Minister may empower the Director or the managers to continue to be guardian of any child of the State until he attains the age of twenty-one years, or for such shorter period as the Minister determines, and the child shall, during such period, be subject to the supervision of the Department or the managers as the case may be. Minister may pro-  
long guardian-  
ship beyond  
discharge.

**10** Subject to the regulations, every child of the State may be— General powers  
of Director.

- I. Placed in some receiving home :
- II. Detained in an institution :
- III. Transferred with the approval of the Minister from one institution to another institution :



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- iv. Boarded-out, apprenticed, or placed at service with some suitable person : or
- v. Placed in the custody of some suitable person who is willing to take charge of such child—

by the Director.

Record of children of the State to be kept.

**11** The Director shall keep records of all moneys received and paid under this Act, and so far as known of the names, ages, dates of reception, near relatives, nationality, sex, religion, and dates of discharge of all children of the State, and of all dispositions of and dealings with such children.

Annual report.

**12** The Director shall in every year report to the Minister on the working of this Act, and shall, in such report—

- i. Specify the number of children in the several institutions :
- ii. Specify the number of children placed out and apprenticed during the period covered by the report :
- iii. Set out a summary of the receipts and expenditure of the Department during the same period : and
- iv. Set out any other particulars which the Minister may direct from time to time to be included in such report—

and all such reports shall be laid before Parliament

## PART III.

## MANAGEMENT OF PROPERTY OF CHILDREN OF THE STATE.

Provisions where child of the State entitled to property.

**13**—(1) Subject to the provisions of this Act, if any child of the State is or becomes at any time entitled to any real or personal property in this State, or to any interest therein, whether the same is vested in such child or in any trustee on his behalf, or otherwise howsoever, then and in such case, and whether or not any order for contribution to the maintenance of such child has been made, and whether or not the moneys payable under any such order have been duly paid—

Public Trustee to take possession and convert into money.

- i. The Minister may, by notice in the Gazette, in general terms direct the Public Trustee to take possession of all such property and apply the same for the benefit of such child of the State :
- ii. Thereupon the Public Trustee shall have and may exercise in respect of all such property the same rights and powers as if such property formed part of an intestate estate of which he was the duly appointed administrator :

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- iii. The Public Trustee may demand, sue for, recover, get in, sell, and convert into money the said property at such times and in such manner as in his absolute discretion he thinks fit, with power to postpone conversion, and in the meantime to lease or otherwise deal with the unconverted property as he thinks fit, without being liable for any loss or damage that may be occasioned thereby : A.D. 1935.
- iv. The Public Trustee shall apply all moneys coming to his hands under the foregoing provisions of this section in the manner and priority following, that is to say :— Payments out of proceeds.
- Firstly, in paying all costs and expenses incurred by him in exercising the abovementioned powers, including his own usual and proper charges of management, realisation, and otherwise :
- Secondly, in or towards defraying, to the extent of seven years' maintenance, the cost of the past maintenance, if any, of such child of the State which has been borne out of the Consolidated Revenue, and not repaid :
- Thirdly, in or towards defraying, to the extent of the funds available, the current maintenance of such child of the State, by paying to the Director such sum per week as the Minister directs :
- Fourthly, by accumulating the residue, if any, of such moneys until such child of the State finally ceases to be maintained out of the Consolidated Revenue, when such accumulations shall, until the child attains the age of twenty-one years, and, in so far as may be necessary for that purpose, be applied for his benefit in such manner as the Public Trustee, subject to the Minister's approval, thinks fit : and
- v. Upon such child attaining the age of twenty-one years, the Public Trustee shall stand possessed of the balance of all such moneys and accumulations, and of the unconverted property of the child, if any, in his hands or under his control, upon trust for such child absolutely. Application of balance of moneys.

(2) Nothing in subsection (1) of this section shall be a bar to an order for or towards the maintenance of any child of the State being made by any court of competent jurisdiction against any person who would, but for the provisions of subsection (1) hereof, be liable for such maintenance, nor affect the amount of such order nor prevent the enforcement thereof, nor of any like order heretofore made. Order for maintenance not barred by subsection (1).

(3) All moneys received by the Director, on behalf of a child of the State under any such order as last aforesaid, shall be applied in repayment *pro tanto* to the Public Trustee of the moneys, if any, expended by him under paragraph iv. of subsection (1) hereof, and, subject thereto, such moneys as first aforesaid shall be applied by the Director in payment of the past or current maintenance of the child in respect of whom such order has been made. Application of moneys paid under order.