

The Neglected Children and Youthful Offenders Act, 1896.

ANALYSIS OF CONTENTS.

PREAMBLE.

1. Short Title. Division of Act.
2. Interpretation.
3. Repeal.

PART I.—RECEIVING DEPOTS, PROBATIONARY SCHOOLS, OFFICERS, &c.

4. Receiving Depôts and Probationary Schools.
5. Secretary.
6. Duties of Secretary.
7. Inspector. Duties of Inspector.
8. Substitutes.

PART II.—TREATMENT OF NEGLECTED CHILDREN.

9. Neglected child may be apprehended without warrant.
10. Neglected children how dealt with.
11. Child residing in a brothel or with a prostitute to be taken before Justices.
12. How dealt with.
13. Power to commit to the care of the Department or Industrial School child who is not controllable by its guardian, or who is surrendered by parent for that purpose. Interpretation of "guardian" in this Section.
14. Child dealt with under 59 Vict. No. 10 may be committed under this Act.
15. Child declined by Guardians or Managers to be committed to care of Department.
16. Form of order committing a child to the care of the Department or to a Receiving Depôt.
17. Parents neglecting their children liable to punishment. Child may be dealt with under this Act.

PART III.—POWERS OF THE DEPARTMENT OVER ITS WARDS.

18. Secretary to be guardian of the person of ward of the Department, except as afterwards provided.
19. Guardianship of children while detained in Receiving Depôt or Probationary School.
20. Method of transferring child from the care of the Department to a school.
21. Warrant not to be necessary to detain child.
22. Governor in Council may discharge any ward.
23. Wards of the Department how dealt with.
24. Power to visit and inspect wards boarded out, &c.
25. Constables to assist in retaining custody of wards.

PART IV.—GUARDIANSHIP OF ESTATES, AND MANAGEMENT OF THE PROPERTY OF WARDS.

26. Secretary to be guardian of the estates of wards of the Department.
27. Power of the Secretary as guardian of the estate. To manage and lease lands, &c. To recover rents. To sue for wages and earnings. To take legal proceedings on behalf of ward in other cases. To appoint authorised agent.
28. Moneys of wards how dealt with.
29. Deductions for maintenance, &c.
30. Payment to persons entitled.
31. Accounts to be subject to 52 Vict. No. 43.

PART V.—COMMITTAL TO THE CARE OF PRIVATE PERSONS.

32. Power to the Governor in Council to approve private persons or institutions to have the care of neglected children.
33. Managers of institutions to be approved by the Governor in Council. *Gazette* evidence of their appointment.
34. Power to Judge, Justices, &c. to commit children to the care of approved person instead of the Department.
35. Approved person or manager of approved institution to whose care children are committed to become guardians of their persons.
36. New Managers of approved institutions to succeed to the guardianship.
37. Child not to be committed to care of approved person or institution if father, &c. object, or so as to be educated in a different religion.
38. Approved person or institution to permit children to be visited and inspected.
39. Transmission of guardianship upon death of approved person or revocation of approval of person or institution.
40. Guardianship of approved person or institution to cease on revocation of approval.
41. Form of order committing child to care of approved person or institution.
42. Warrant for detention of child by approved person or institution.
43. Power to transfer child to the care of the Department for neglected children.
44. Child not to be removed out of *Tasmania*.
45. Maintenance money.
46. Children received into and maintained in asylums without objection on the part of their fathers or guardians for Two years not removable without the consent of the Committee or order of the Governor in Council.

PART VI.—YOUTHFUL OFFENDERS, INDUSTRIAL AND TRAINING SCHOOLS.*(a.) Provisions relating to Industrial Schools.*

47. In whom the management of Industrial School vested.
48. Industrial School may be certified.
49. Order of committal.
50. Enquiry into management. Withdrawal of certificate.
51. Contribution from Treasury.

(b.) Training Schools and Youthful Offenders.

52. Mode of certifying Training Schools.
53. Offenders under certain ages may be sent to Training Schools.
54. Mode of naming school to which offender to be sent.
55. Removal of offenders to certified Training School.
56. Officers to have powers, &c. of Constables.
57. Power to Minister to send offenders to Training Schools on conditional pardon.
58. Liabilities of Managers of Training School.
59. Power of Minister to contract with Managers of Training Schools.
60. Withdrawal of certificate.
61. Effect of withdrawal of certificate of Training School.
62. Disposal of inmates of Training School on withdrawal of Certificate.
63. Power to apprentice offenders from Gaol.

(c.) Provisions relating to Industrial and Training Schools.

64. Interpretation.
65. Guardianship while child inmate of Industrial or Training School.
66. Placing inmates out on Licence.
67. Power to apprentice offenders with their consent.
68. Children not previously placed out on Licence may be apprenticed.
69. Apprentices in legal custody of Directors.
70. Children may be apprenticed anew.
71. Duration of indenture.
72. Existing indentures and licence continued.
73. Power to make Rules. Existing Rules continued.
74. Certificate may be resigned.
75. Publication of the grant or withdrawal of certificate. **Proof of certificate.**
76. Service of notice on Directors of any Institution.
77. Inmates of existing Institution.

(d.) Offences by Inmates.

78. Punishment for misconduct in Industrial School.
79. Escape of children from Industrial Schools.
80. Refusal to conform to Rules of Training School.
81. Escaping from Training School.
82. Constables to apprehend children escaping from any Institution.
83. Alternative punishment of child who absconds from or misconducts himself in any Institution.

PART VII.—BOARDING-OUT COMMITTEES, VISITORS, &c.

84. Committees for boarding out children.
85. Visiting Committee.
86. Religious instruction.
87. Religious instruction to youthful offenders.
88. Other Visitors.
89. Visitors' Book.

PART VIII.—LIABILITY OF PARENTS FOR MAINTENANCE.

90. Definition of parent. Where several liable.
91. Amount payable by parent how fixed.
92. Power to increase the amount.
93. Power to make order retrospective.
94. Burden of showing inability to pay to be on parent, who may be ordered to give recognizances.
95. By whom applications may be made.
96. Maintenance money how payable.
97. Proceedings in bankruptcy not a discharge.
98. Persons too poor to pay may be relieved from payment.
99. Payment may be recovered before Justices.
100. Imprisonment to be ordered only once for the same arrears.
101. Warrant may issue in the first instance for arrest of parent.
102. Constables to assist in collecting money from parents.
103. Existing maintenance orders continued.

PART IX.—OFFENCES, PENALTIES, AND LEGAL PROCEEDINGS.

104. Interpretation.
105. Penalty for entering schools, &c., or holding communication with wards of the Department.
106. Penalty for allowing ward of the Department to escape.
107. Penalty for inducing any ward of the Department to abscond, &c., or illtreating any such ward.
108. Consent of the Attorney-General required to proceedings against Secretary, &c. in his character of guardian.
109. Determination of age by Court to be conclusive.

PART X.—EVIDENCE, REGULATIONS, AND PROCEDURE.

110. Additional rules as to evidence. Judicial notice of signatures. Detention of child in Training School. Detention of child in Industrial School. What shall be deemed a new Training School. Gazette proof of Managers, Governors, &c. of Institutions.
111. Power to make Regulations.
112. Regulations to be laid before Parliament.
113. Continuation of Regulations under repealed Acts.
114. Application of *Magistrates Summary Procedure Act*. Appeal.
115. Penalty for breach of Act.
116. Use of forms in Schedule.

SCHEDULE.

T A S M A N I A.

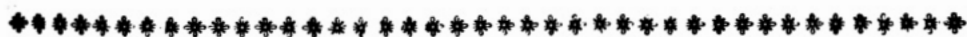


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VICTORIÆ REGINÆ,

No. 24.



AN ACT to consolidate and amend the Law A.D. 1896.
relating to Destitute Children and Youthful
Offenders, and to make further provision
for the Care and Control of neglected
Children. [23 October, 1896.]

WHEREAS it is necessary to consolidate and amend the Law PREAMBLE.
relating to Destitute Children and Youthful Offenders, and to make
further provision for the Care and Control of neglected Children :

Be it therefore 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 Youthful Offenders, Destitute Short title.
and Neglected Children Act, 1896,” and is divided into Ten Parts, as Division of Act-
follows :—

Part I.—Receiving Depôts, Probationary Schools, and Officers.
(Sects. 4–8.)

Part II.—Treatment of Neglected Children. (Sects. 9–17.)

Part III.—Power of the Department over its Wards. (Sects.
18–25.)

Part IV.—Guardianship of Estates, and Management of
Property of Wards. (Sects. 26–31.)

Part V.—Committal to Private Persons and certain Institutions.
(Sects. 32–46.)

Neglected Children and Youthful Offenders.

A.D. 1896.
 Repeal.

3 The Acts or any portion of the Acts set forth in the Schedule (1.) are hereby repealed: Provided that—

- i. Any enactment or document referring to any Act or enactment hereby repealed shall be construed to refer to this Act or to the corresponding enactment in this Act:
- ii. This repeal shall not affect—
 - (a) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any such enactment; nor
 - (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any such enactment; nor
 - (c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any such enactment; nor
 - (d) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid. And any such investigation, legal proceeding, or remedy may be carried on and prosecuted under this Act or under any of the Acts hereby repealed.

PART I.

RECEIVING DEPOTS, PROBATIONARY SCHOOLS, OFFICERS, &c.

Receiving
 Depôts and
 Probationary
 Schools.

4 The Governor in Council may, from time to time, for the purposes of this Act, establish and abolish Receiving Depôts and Probationary Schools, and every such Receiving Depôt or Probationary School shall be occupied by and used for males or females exclusively as the Governor in Council may direct, save that boys under the age of Six years may be sent to Receiving Depôts occupied and used for females.

Secretary.

5 The Governor in Council may from time to time appoint a Secretary of the Department, and remove every such Secretary; and it shall be the duty of the Secretary, 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. Until any such appointment is made the Administrator of Charitable Grants shall exercise the functions and perform the duties of the Secretary.

Duties of
 Secretary.

6 The Secretary shall, on or before the Thirtieth of *June* in each year, submit to the Minister for the purpose of presentation to Parliament during the first Session thereafter, a report of his proceedings and accounts of the receipts and expenditure under the powers or for the purposes of this Act during the preceding year, with returns showing the number of children received and discharged, their ages, religion, parentage, birthplace, location, and cost of maintenance, and the sums contributed by relatives toward their support, together with any general remarks he may think fit to make, and there shall be annexed to such report a summary of the reports sent in by the Superintendent, or Matron, of every Probationary School, and by the Managers or Gover-

Neglected Children and Youthful Offenders.

nors of every Training or Industrial School upon the state and requirements of such schools, which reports all such persons are hereby required to furnish to the Secretary on or before the Thirty-first day of *March* in every year for that purpose. A.D. 1896.

7 The Governor in Council may from time to time appoint an Inspector of all Schools and Depôts subject to the provisions of this Act, and remove every such Inspector, whose duty it shall be to visit and inspect every such Institution as often as occasion may require, and not less often than the Regulations direct, and, when specially required by the Minister, any house or place where any ward of the Department is boarded out or placed, and to report to the Minister thereon and upon all matters connected therewith; and the Inspector shall have control over any officers appointed to visit such wards in such houses or places. Inspector. Duties of Inspector.

8 In case of the absence on leave or temporary incapacity of any officer appointed under the provisions of this Act, the Governor in Council may appoint some fit and proper person to act in his stead, and every such person when so acting may exercise all the powers and duties of the officer in whose place such person is appointed. Substitutes.

PART II.

TREATMENT OF NEGLECTED CHILDREN.

9 Every child found under circumstances which make such child a "neglected child," may be brought before a Justice, who may, until the charge is heard and disposed of in accordance with this Act, order such child to be detained under such care and in such manner as may be provided by the Regulations; but no such detention shall be for a longer period than Forty-eight hours unless Two Justices make an order in the form in the Schedule (2), authorising such child to be kept in custody for such further period not exceeding an additional Forty-eight hours as they may deem necessary for further information and inquiry: Provided, that no such detention shall be in a Gaol or House of Correction. Neglected child may be apprehended without warrant.

10 Whenever any child is brought before any Justices charged with being a "neglected child," they shall, except as last provided, proceed to hear the charge, and if it be established to their satisfaction that such child, regard being had to his age and the circumstances of the case, is a fit subject to be dealt with under the provisions of this Act, they may direct such child to be forthwith committed to the care of the Department, or if the child is apparently under the age of Fourteen years to an Industrial School for any period that shall not extend beyond the time when the child shall be Sixteen years of age, or if proved to the satisfaction of such Justices that such child has been leading an immoral or depraved life, to a Training School for any period not exceeding Three years. Neglected children how dealt with.

Neglected Children and Youthful Offenders.

A.D. 1896.

Child residing in a brothel or with a prostitute to be taken before Justices.

How dealt with.

11 Every female child apparently under the age of Fifteen years found residing in a brothel or associating or dwelling with a prostitute, whether the mother of the child or not, may be brought before some Justices to be dealt with according to this Act.

12 Whenever any child apparently under the age of Fifteen years is brought before any Justices charged with residing in a brothel or associating or dwelling with a prostitute, whether the mother of the child or not, they shall proceed to hear the said charge, and if the same be established to their satisfaction, shall direct such child forthwith to be committed to a Training School for any period not exceeding Three years, or if in the opinion of such Justices such child has not been leading an immoral or depraved life, to the care of the Department. Provided always, that in case special and exceptional circumstances are proved which satisfy them that it would be inadvisable to commit such child, they may order such child to be discharged: Provided also, that no child shall be detained in any Training School under the powers of this Section beyond the age of Eighteen years.

Power to commit to the care of the Department or Industrial School child who is not controllable by its guardian, or who is surrendered by parent for that purpose. Interpretation of "guardian" in this Section.

13 Where the parent or step-parent or guardian of any child under the age of Fifteen years represents to the Justices and proves to their satisfaction that he or she is unable to control such child, or in the presence of Justices surrenders such child for the purpose of being placed in an Industrial School, such Justices may order the child to be committed to an Industrial School for any period that shall not extend beyond the time when the child shall be Eighteen years of age, or to the care of the Department. The word "guardian" in this Section shall include the father as natural guardian, also the step-father or the mother in case the child has neither father nor guardian, or in case the father is from habits of drunkenness or conviction of felony or long continued absence unable or unwilling to maintain such child, and the mother has in fact the sole charge and care of it.

Child dealt with under 59 Vict. No. 10 may be committed under this Act.

14 Any child brought in pursuance of the provisions of Section Five of "The Prevention of Cruelty to and Protection of Children Act, 1895," before Justices, may in their discretion be dealt with under that Act, or may be treated as though charged hereunder as a neglected child, and an order be made accordingly if the circumstances of the case would justify, an order being made under the said first-mentioned Act; but no order shall be made under this Act if there be a relation of the child willing and in the opinion of the Justices suitable to have charge of such child.

Child declined by Guardians or Managers to be committed to care of Department.

15 If the Guardians of any Industrial School, or the Managers of any Training School, shall decline to receive any child mentioned in any order made hereunder, or shall, with the consent of the Minister, surrender any child to the Department, an endorsement shall be made upon the order of committal, or upon an office copy thereof, stating the fact, and shall be signed by the Secretary, and thereupon the child shall be treated as having been committed to the care of the Department in the first instance, and may be transferred to some other Industrial School or Training School, or otherwise dealt with in accordance with this Act as the Minister shall determine.

Form of order committing a

16 Every order committing a child to any school or to the care of the Department, may be in such one of the forms in the Schedule (2.)

Neglected Children and Youthful Offenders.

hereto as may be applicable, or in any form which may be substituted therefor by the Regulations or to the like effect; and such order, or an office copy thereof, without any warrant, shall be sufficient authority for any constable to take such child to the School named therein, or, in case of a child committed to the care of the Department, to the place to which the Secretary may direct such child to be taken, or, in default of any such direction, to such Receiving Depôt for children of the same age and sex as may be nearest or most convenient.

A.D. 1896.

child to the care of the Department or to a Receiving Depôt.

17 When a parent shall wilfully neglect to provide adequate food, clothing, medical aid, or lodging for his child, being in his custody, under the age of Sixteen years, whereby the health of such child shall have been, or shall be likely to be, seriously injured, he shall be guilty of an offence under this Act punishable on summary conviction, and being convicted thereof before any Justices, shall be liable to be imprisoned for any period not exceeding Six months, with or without hard labour, as such Justices shall decide: Provided, that such Justices may suspend the sentence until further notice if the offender enter into his own recognizances, with or without One or more sureties, as the Justices may think fit, to come up for judgment when called upon. And such Justices may, if they see fit, deal with such child in all respects as if the same had been brought before them under this Act as a neglected child.

Parents neglecting their children liable to punishment.

Child may be dealt with under this Act.

PART III.**POWERS OF THE DEPARTMENT OVER ITS WARDS.**

18 The Secretary is hereby constituted the guardian of the person of every ward of the Department to the exclusion of the father and every other guardian, and shall, except during the time the child shall be an inmate of any Industrial School or Training School, and except as hereinafter provided, continue to be such guardian until the child attains the age of Twenty years, unless the Governor in Council otherwise directs, and the Secretary shall as such guardian have (except as aforesaid) the sole right to the custody of such child, and shall deal with such child as directed by this Act and the Regulations.

Secretary to be guardian of the person of ward of the Department, except as afterwards provided.

19 While any ward of the Department for Neglected Children is detained in any Receiving Depôt or Probationary School, the Superintendent or Matron of such depôt or school may exercise the powers of the Secretary as guardian of the person of such ward.

Guardianship of children while detained in Receiving Depôt or Probationary School.

20 Whenever it is required that any ward of the Department shall be transferred to some Training School to which he may be lawfully committed, or from one Training School to another, or is to be transferred to an Industrial School, or from one Industrial School to another, the Secretary may write or cause to be written on the order committing

Method of transferring child from the care of the Department to a school.

Neglected Children and Youthful Offenders.

A.D. 1896.

such ward to the care of the Department, or, if the child was in the first instance committed either to a Training School or to an Industrial School, upon the order so committing such child, or upon an office copy of any such order respectively, a memorandum to the following effect:—"The within-named child is hereby transferred to the Training School or Industrial School (as the case may be) at [*describing the school*]," and shall sign such memorandum as Secretary to the Department, together with the date, and thereupon the Minister, having first written thereafter the word "Approved" and his signature, such ward shall be deemed to be transferred to the school named in the memorandum.

Warrant not to be necessary to detain child.

21 No warrant shall be necessary to authorise the detention of any ward of the Department, but if the right to the custody of such ward be called in question by *Habeas Corpus* or otherwise, it shall be sufficient to give in evidence the order committing such ward to the care of the Department, or the order committing such ward to any Training School or Industrial School, or in case such ward has been transferred to or from any school, as provided in the preceding Section, such order or office copy order, with the Secretary's endorsement and Minister's approval thereon, as is mentioned in that Section, and to show (except where the ward has been committed or transferred to a Training School or to an Industrial School), that such ward is detained by the authority of the Secretary as guardian of the person of such ward.

Governor in Council may discharge any ward.

22 The Governor in Council may at any time order any ward of the Department to be discharged, and thereupon the guardianship of the person of such ward hereby provided for shall cease and determine.

Wards of the Department how dealt with.

23 Subject to the Regulations, every ward of the Department may from time to time be dealt with by the Secretary in one or other of the following ways:—

- i. Placed in some Receiving Depôt :
- ii. Boarded out with some suitable person :
- iii. Placed at service with some suitable person :
- iv. Apprenticed to some trade, either on land or at sea :
- v. Placed in the custody of some suitable person who may be willing to take charge of such ward :
- vi. Detained in some Industrial or Probationary School :
- vii. Transferred with the approval of the Minister to some Training School to which such ward might be lawfully committed, or from one Training School to another, or from one Industrial School to another, but so as the original power of detention shall not thereby be in any case increased :

Provided always, that in case it shall come to the knowledge of the Minister that any ward has been leading an immoral or depraved life, such ward shall be transferred to a Training School, unless under the special circumstances of any case the Minister may think that it would be inexpedient, and it shall be the duty of the Secretary to take the proper steps for that purpose: Provided also, that no ward shall be detained in any Probationary School for more than Six months without the authority in writing of the Minister, who may from time to time authorise the detention of such ward for a

Neglected Children and Youthful Offenders.

further period not to exceed in the whole Twelve months, at the expiration of which period such ward must be dealt with in such other of the foregoing ways as under the circumstances of the case may seem proper: Provided also, that no ward who has been transferred from a Training School, or has been residing in a brothel, or associating or dwelling with a prostitute, shall be boarded out without such information as to the case of such ward being given to the person with whom such ward is proposed to be boarded as may be prescribed by or under the Regulations.

A.D. 1896.

24 Every person with whom any ward of the Department may be boarded out, placed, or apprenticed, shall from time to time permit such ward to be visited in any place where such ward may be or reside to be inspected by the Inspector or any person authorised by or under the Regulations.

Power to visit and inspect wards boarded out, &c.

25 All constables shall assist the Secretary and every Superintendent or Matron of any School or Receiving Depôt in retaining or recovering the custody of any ward of the Department who may abscond or attempt to abscond or be unlawfully removed or enticed from any such School or Depôt.

Constables to assist in retaining custody of wards.

**PART IV.****GUARDIANSHIP OF ESTATES AND MANAGEMENT OF THE PROPERTY OF WARDS.**

26 The Secretary is hereby constituted the guardian of the estate of every ward of the Department, to the exclusion of the father and every other guardian, and shall continue such guardian until the child attains the age of Twenty-one years, unless the Governor in Council otherwise directs: Provided always, that the Supreme Court may appoint any other person to be guardian of the estate of any ward who has been discharged, instead of the Secretary, but only upon condition that the amount expended for the maintenance of such ward shall be paid or secured to be paid out of the Estate to the Treasurer.

Secretary to be guardian of the estates of wards of the Department.

27 The Secretary, as such guardian, with the consent of the Minister, may—

- i. Manage and demise for any term not exceeding Three years the lands of or to which any such ward is seized, possessed, or entitled, and make allowances to and arrangements with all or any of the tenants or occupiers for the time being of the said lands, and accept surrenders of leases and tenancies, as fully and effectually as such ward if of the full age of Twenty-one years could do:
- ii. Demand, sue for, collect, and receive all the rents and profits which may be due to any such ward, and give effectual receipts and discharges for such rents and profits, or so much thereof as may be received, and in case of non-payment of the said rents and profits, or any of them or

Power of the Secretary as guardian of the estate.

To manage and lease lands, &c.

To recover rents.