

CHILD WELFARE ACT.

Act No. 21, 1923.

An Act to amend and consolidate certain Acts relating to children. [Assented to, 30th November, 1923.] George V,
No. 21.

BE 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 "Child Welfare Act, 1923," and shall come into operation on a date to be proclaimed by the Governor in the Gazette. Short title
and com-
mencement.

2. This Act is divided into Parts as follows :— Parts of Act.

PART I.—PRELIMINARY—*ss.* 3-5.

PART II.—AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT—*ss.* 6-8.

PART III.—BOARDING-OUT OF CHILDREN — *ss.* 9-15.

PART IV.—INSTITUTIONS—*ss.* 16-28.

PART V.—PLACES USED FOR RECEPTION OF CHILDREN—*ss.* 29-36.

PART VI.—LYING-IN HOMES—*ss.* 37-40.

PART VII.—PROTECTION OF CHILDREN—*ss.* 41-47.

PART VIII.—STREET TRADING LICENSE — *ss.* 48, 49.

PART IX.—COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR JUVENILE OFFENDERS—*ss.* 50-58.

PART

George V,
No. 21.

PART X.—AFFILIATION PROCEEDINGS—*ss.* 69–95.

PART XI.—CHILDREN'S COURTS—*ss.* 96–102.

PART XII.—REGULATIONS—*s.* 103.

PART XIII.—GENERAL AND SUPPLEMENTAL—
ss. 104–122.

PART XIV.—ADOPTION OF CHILDREN—*ss.* 123–
129.

PART I.

PRELIMINARY.

Repeal and
savings.

3. (1) The Acts mentioned in the Schedule hereto are to the extent therein expressed hereby repealed.

(2) All persons appointed under any Act hereby repealed and holding office at the commencement of this Act shall be deemed to have been appointed hereunder.

(3) All schools declared to be public industrial schools under any Act hereby repealed shall continue to be such schools subject to the provisions of this Act relating to institutions constituted thereunder.

(4) The provisions of this Act shall apply to all children apprenticed or boarded-out under any Act hereby repealed as if such children had been apprenticed or boarded-out under this Act.

(5) All proclamations, regulations, rules and licenses issued or made under the authority of any Act hereby repealed and in force at the commencement of this Act shall, in so far as they are not inconsistent with this Act, be deemed to have been made or issued thereunder, and references in any such regulations to the provisions of the Acts repealed shall be construed as references to the corresponding provisions of this Act.

State
Children
Relief Board.

4. The powers and authorities of the State Children's Relief Board, which is hereby dissolved, are vested in the Minister.

5.

5. In this Act, unless the context otherwise requires,— **George V,
No. 21.**

“Age” means, in the absence of positive evidence <sup>Interpreta-
tion.</sup> as to age, the apparent age.

“Apprentice” means any boarded-out child under articles of indenture.

“Asylum” includes the Benevolent Asylum, every asylum for destitute children, or industrial asylum, and every charitable institution supported wholly or in part by grants from the Consolidated Revenue.

“Boarded-out” means placed in the care of some person for the purpose of being nursed or maintained by such person or in such person’s home.

“Child” means boy or girl under sixteen years of age, and in Part IV and Part IX means boy or girl under eighteen years of age.

“Committee” means advisory committee appointed under this Act.

“Court” means Children’s Court, and includes a magistrate or justices exercising the jurisdiction of a children’s court.

“Institution” means institution established under this Act, and includes special school for truants established under the Public Instruction (Amendment) Act, 1916.

“Justice” means justice of the peace.

“Juvenile offender” means child who has committed an offence.

“Local authority” means council of a municipality or shire and includes the governing body of a local government area, constituted or to be constituted.

“Lying-in home” means house in which more than one woman is received for confinement with or without payment of money.

“Magistrate” means stipendiary or police magistrate.
“Maintenance”

George V,
No. 21.

“Maintenance” includes clothing, support, training, and education.

“Medical practitioner” means legally qualified medical practitioner.

“Minister” means Minister of Public Instruction.

“Near relative” means, except as regards an illegitimate child, father, mother, step-father, or step-mother 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, and the husband of the mother of such child if born before their marriage.

“Neglected child” means child—

- (a) who is in a brothel, or lodges, lives, resides, or wanders about with reputed thieves or with persons who have no visible lawful means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or
- (b) who has no visible lawful means of support or has no fixed place of abode; or
- (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or sleeps in the open air in any public place; or
- (d) who without reasonable excuse is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed by his parent :

Provided that such neglect, ill-treatment, or exposure has resulted or appears likely to result in any permanent or serious injury to the child; or
- (e) who takes part in any public exhibition or performance whereby the life or limb of such child is endangered; or
- (f) who, not being duly licensed for that purpose, is engaged in street trading; or

(g)

- (g) whose parents are habitual drunkards, or if one of these be dead, insane, unknown, undergoing imprisonment, or absent from the State, whose other parent is an habitual drunkard ; or
- (h) who, being a female, solicits men or otherwise behaves in an indecent manner, or habitually wanders at night without lawful cause in a public place ; or
- (i) who is in any place where opium or any preparation thereof is smoked ; or
- (j) who is living under such conditions as indicate that the child is lapsing or likely to lapse into a career of vice and crime ; or
- (k) who in the opinion of the court is under incompetent or improper guardianship.

George V,
No. 21.

“Offence” includes any matter punishable summarily or by indictment.

“Officer” includes any person acting under the instructions of the Minister, but does not include any special or other magistrate appointed for the judicial administration of this Act.

“Parent” when used in relation to a child, includes a step-parent, guardian, any person cohabiting with a parent of the child, and any person who is by law liable to maintain the child.

“Placed out” means placed in employment without being apprenticed.

“Preliminary expenses” means the expenses of the maintenance of the mother during a period of one month immediately preceding the birth of her child, reasonable medical and nursing expenses attendant upon the confinement of the mother, and the expenses of the maintenance of the mother and child for three months immediately succeeding its birth.

“Prescribed” means prescribed by this Act or by any regulations made hereunder.

“Proclamation” means proclamation in the Gazette.

“Public

George V,
No. 21.

- “Public place” means place to which the public have the right of access, or which the public are allowed to use, and includes a vessel or vehicle, and any part of premises licensed under Part III of the Liquor Act, 1912, which is open to the public.
- “Secretary” means the head of the department appointed to administer this Act.
- “Shelter” includes a place of safety within the meaning of section forty-four.
- “Still-born child” means a child born dead after the commencement of the sixth month of pregnancy.
- “Street” includes any highway or other public place, whether a thoroughfare or not.
- “Street trading” includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoe-blackening, and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or of any church or charity.
- “Superintendent” includes manager or person in charge.
- “Uncontrollable,” as applied to a child, means child whom his parents cannot control.
- “Ward” means child who, under the provisions of this Act, has been received into an asylum or institution, adopted or apprenticed, or boarded-out, or placed out.
-

PART II.

George V,
No. 21.

AUTHORITIES CHARGED WITH ADMINISTRATION OF ACT.

6. The Governor may, upon the recommendation of the Public Service Board, appoint a secretary and such officers as are necessary for the administration of this Act. ^{Appointment of officers.}

7. Such secretary and officers shall receive such remuneration and allowances as shall be fixed by the Public Service Board, and shall be subject to the provisions of the Public Service Acts during their tenure of office. ^{Payment of officers.}

8. (1) The Governor may from time to time appoint such persons as he thinks fit to form an advisory committee, or advisory committees. ^{Advisory committees.}

(2) Such committee or committees shall exercise such powers and duties as may be prescribed.

PART III.

BOARDING-OUT OF CHILDREN.

9. In all matters appertaining to the boarding-out of children under this Act, the Minister or person authorised by him shall be the authority to admit a child to State control and pay guardians such rates as may be prescribed, to direct the removal of such children, to apprentice any child boarded-out or placed out, at or before the end of his term of residence, to any person approved by the Minister, to approve of persons applying for the custody of children and to arrange the terms of such custody, and to direct the restoration of any child to his parent or guardian upon such terms as the Minister may think proper. ^{Authority of Minister.}

G

10.

- George V,
No. 21.** **10.** The secretary may, and shall when so directed, remove any child from an asylum and cause him to be boarded-out, as hereinafter provided, for any period not extending beyond the time when such ward shall attain the age of fourteen years.
- Boarding-out
of child.**
- Removal of
ward from an
institution.** **11.** The secretary whenever directed by the Minister may remove any ward from an institution, and cause him to be boarded-out.
- Extension of
period of
supervision.** **12.** The Minister may cause to be visited and inspected all children for two years after their official period of boarding-out, placing-out, or apprenticeship has terminated, and during such period of two years may cause such children to be removed from their existing guardians or custodians.
- Deduction
from pay-
ments to
guardian.** **13.** The Minister may deduct from the payments due to any guardian such amount as may be deemed equivalent to the loss occasioned by the neglect of such guardian to keep outfits up to regulation standard.
- Children may
be board-
ed-out to
mothers.** **14.** The Minister may in his discretion board out her own children to any widow, deserted wife, or wife whose husband is incapacitated through mental or bodily infirmity or is in gaol, or to the mother of an illegitimate child.
- Cottage
homes.** **15.** The Minister may place invalid or sick children under his control in cottage-homes in approved localities.

PART IV.

INSTITUTIONS.

- Governor
may establish
institutions.** **16.** The Governor may, by proclamation, establish and constitute, as institutions under this Act—
- (a) shelters for the reception and temporary detention and maintenance of children ;
 - (b) industrial schools for the reception, detention, and maintenance of children committed to such institutions ;
 - (c) homes for children committed to an institution, but whose cases call for segregation or special treatment.

17.

17. Every institution shall be controlled and administered under the direction of the Minister, and shall once at least in every three months, be visited and inspected by a person appointed by the Minister.

**George V,
No. 21.**
Minister to have control of institutions.

18. (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 sufficient warrant for the detention of the child.

Order to be forwarded to superintendent.

(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 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.

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.

19. 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, apprenticed, or placed out:

Children in institutions to be under control of superintendent.

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

20.

George V,
No. 21.
Powers and
duties of
Minister.

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

- (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 one month, 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 may board him out.

Child may be
removed to an
institution.

21. The Minister may, on due cause being shown, take a boarded-out child or a child who has been placed in an asylum, and place him in an institution.

Religious
teaching.

22. (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.

(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 ;
- (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.

23.

23. (1) The secretary may, subject to the approval of the Minister, 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.

**George V,
No. 21.**

Child may be apprenticed.

(2) The secretary also, subject to the approval of the Minister, may, under an approved form of agreement, place a child out in suitable employment in cases where apprenticeship conditions are not applicable.

Child may be placed-out.

(3) Any child so apprenticed or placed-out 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.

Punishment for misconduct.

24. Upon complaint made by the secretary to the Minister that any person to whom any such child has been apprenticed or placed-out is not performing the conditions of such indenture or agreement, or is unfit to have the further care or control of such child, the Minister may call upon such person to answer such complaint, and on proof thereof to his satisfaction the Minister may order such apprenticeship or agreement to be put an end to, and may direct the child to be sent back to an institution.

Minister may put an end to apprenticeship or agreement.

25. 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.

Discharge of child by Governor.

26. (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 ward, the court may order such near relative to pay to the Minister a reasonable sum, in instalments or otherwise, as the court directs for or towards—

Cost of maintenance of ward may be recovered from near relatives.

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

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

(3)

George V,
No. 21.

(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 Part X of this Act, 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 X of this Act. 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.

Offences in
respect of
children.

27. Any person who—

- (a) ill-treats, terrorises, overworks, 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 boarded-out, placed out or 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;
- (d) having the charge of any such child—
 - (i) illegally discharges or dismisses or attempts to discharge or dismiss him from an 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

any child and which by such indenture or agreement he has bound himself or agreed to observe, perform or keep,

George V,
No. 21.

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

28. If any child committed to or an inmate of any institution 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.

Child
deserting
may be
apprehended.

PART V.

PLACES USED FOR RECEPTION OF CHILDREN.

29. The person in charge of any place established or used for the reception and care of one or more children under the age of seven years, apart from their mothers, shall make application to the Minister in the prescribed form and manner for a license in respect of such place.

Licensing of
place used for
reception of
children.

The Minister shall thereupon cause inquiry to be made respecting such application and a report to be furnished by an officer.

The Minister upon receiving such report may grant or refuse to grant to the person in charge a license in respect of such place.

Every license granted shall be granted subject to such conditions and requirements as are prescribed.

30. For the purpose of making any inquiry and report as aforesaid respecting any place, or for the purpose of ensuring that the prescribed conditions and requirements are complied with and fulfilled in respect of any licensed place, any officer may, at any time, enter the place and inspect it and the children who are inmates thereof, and the person in charge of the place shall, during the course of such inspection, afford all reasonable facilities for such inspection.

Officer may
inspect place.

In

George V,
No. 21. In making such inspection the officer may, if he thinks fit, be accompanied by a medical practitioner or a police officer, or by both.

Any person who delays, hinders, or obstructs any officer in making such inspection shall be liable to a penalty not exceeding twenty-five pounds :

Provided that the Minister may at any time, by writing under his hand, order that the provisions of this section shall not apply in any particular case where he is satisfied that it is undesirable or unnecessary that it should apply. Any court may, in any particular case, suspend the operation of the provisions of this section for a period of eight days to enable such order to be obtained.

Where
conditions of
license not
observed,
Minister may
cancel license.

31. Where, on any inspection of a licensed place, the officer finds that any of the prescribed conditions or requirements are not complied with or fulfilled, the secretary may give directions to the person in charge to ensure a compliance with and fulfilment of such conditions or requirements, failing which the license of such place may be cancelled by the Minister, and any children or inmates of such place may be removed therefrom and placed in such place as the Minister may approve.

Penalties on
person in
charge of
unlicensed
place.

32. Where any place is established or used for the reception and care of one or more children under the age of seven years apart from their mothers, and is not licensed under the provisions of this Act, the person in charge of such place shall be liable to a penalty not exceeding twenty-five pounds, and any children who are inmates of such place may be removed therefrom and placed in such care as the Minister may approve of: Provided that nothing in this Part shall apply when bona fide blood relationship or guardianship approved by the Minister exists between the said children and the persons by whom they are cared for.

Regulating
reception of
children
under seven
years.

33. (1) No person shall, without a written order of a court specifying the terms on which the child may be received, receive into his care, charge, or custody any child under the age of seven years to rear, nurse,

or