

STATE CHILDREN.

10° GEO. V., No. IX.

No. 21 of 1919.

AN ACT to amend the State Children Act, 1907.

[Assented to 15th November, 1919.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *State Children Act Amendment Act, 1919.*

Repeal of State Children Act Amendment Act, 1915. Section 4 of principal Act.

2. The State Children Act Amendment Act of 1915 is hereby repealed.

Section 4 of principal Act.

3. Section four of the State Children Act, 1907 (herein after called the principal Act) is hereby amended as follows:—

(i) By the insertion in the definition of the expression "State child" after the words "neglected child" of the words "or an incorrigible or uncontrollable child, or who has been convicted as such."

(ii) By the substitution of the word "six" for the word "three" in the definition of "Foster-mother."

Addition of section to Part III.

4. The following section is hereby added to Part III. of the principal Act:—

Special magistrates may visit institutions.

17a. A special magistrate or any member of the Children's Court authorised in that behalf by the Governor shall have the right at any time to enter, visit, and inspect any institution.

Substitution of new section for section 18.

5. Section eighteen of the principal Act is hereby repealed and the following section substituted therefor:—

18. (1.) The Governor may by Order in Council establish special Courts to be called Children's Courts, and may appoint a special magistrate for any particular court or courts, and may by Order in Council from time to time determine the area in and for which each court shall exercise jurisdiction.

(2.) The Governor may also appoint such persons, male or female, as he may think fit, to be members of any particular Children's Court, and may determine the respective seniorities of members heretofore or hereafter appointed.

(3.) No Children's Court shall be competent to exercise its jurisdiction unless there be present the special magistrate or at least two members: provided that in cases under the Bastardy Laws Act, 1875, the special magistrate shall be one of the members of the court hearing such cases.

(4.) If for any reason it is not convenient for the special magistrate of any court to attend any particular sitting of the court, the special magistrate of any other court may attend and act in his place.

(5.) When the persons sitting as a Children's Court are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, if there is a majority, but if the court is equally divided in opinion, the opinion of the special magistrate, or if there is no special magistrate present, the opinion of the senior member present shall prevail.

(6.) Subject to this Act, all the provisions of the Justices Act, 1902, shall apply to the proceedings, orders, and convictions of Children's Courts, and for the purposes of this Act the special magistrate of a court shall have the powers of a police magistrate throughout the State, and every member of the court shall have the powers of a justice of the peace in and for the area of the court, and every such court shall be deemed to be a court of summary jurisdiction.

6. Section nineteen of the principal Act is hereby amended by the addition of the following provision:—

Amendment of
section 19.

“and (c) shall hear and determine all complaints and applications under the Bastardy Laws Act, 1875.”

No summons to be issued in certain cases.

7. Where the offence charged against a child does not amount to an indictable offence, or where the alleged offence consists of the breach or non-observance of some by-law, rule, or regulation promulgated by virtue of a statute, no summons shall be issued or served upon such child unless a notice has been first posted to or served upon such child at its usual place of residence, and such child has failed to appear in response to such notice.

In committing to an institution, court to have regard to the future of the child.

8. The court in committing any child to an institution shall have regard to the future welfare of such child, and may direct such child to be detained in one of the institutions scheduled in the State Children Act, 1907, or in some other institution, as the Governor may approve at which such special training and supervision can be provided as may best meet the needs of any special case.

Court may refrain from imposing punishment or fine.

9. Notwithstanding the provisions of any Act, by-law, rule, or regulation, the court in awarding punishment or penalty upon any child may have regard to the antecedents, character, age, health or mental condition of the child convicted, and may take into account the nature of the offence or any special circumstances of the case, and such court may, notwithstanding the nature of the evidence adduced, refrain from imposing any punishment, penalty, or fine, or without proceeding to conviction dismiss the complaint.

Amendment of section 24.

10. The following paragraph is hereby added to section twenty-four of the principal Act:—

or (c) Released on probation on such conditions (if any) as the court may order, and in such case the child shall be subject to the supervision of the Department until such child attains the age of eighteen years, or during such shorter period as the court may think sufficient.

Amendment of section 24.

Section twenty-four of the principal Act is hereby amended by inserting in subsection (b), in last line, after "eighteen years of age," the following words: "or during such shorter period as the court may think sufficient."

Court may rehear case.

11. The court, on application made by the Department or by the parent or guardian of any child against whom an order may be made under this Act, may rehear the case and may make such recommendation to the Minister thereon as may in its opinion meet the circumstances.

12. Section twenty-six of the principal Act is hereby amended by inserting in subsection (a), after "eighteen years," the words: "or during such shorter period as the court may think sufficient"; subsection (c), after the words "eighteen years," the words: "or during such shorter period as the court may think sufficient."

Amendment of section 26.

13. Section twenty-eight of the principal Act is hereby amended by inserting in subsection (a), after the words "eighteen years," the words: "or during such shorter period as the court may think sufficient"; subsection (d), after "eighteen years," the words: "or during such shorter period as the court may think sufficient."

Amendment of section 28.

14. The following sections are hereby inserted in the principal Act, after section twenty-eight:—

Insertion of new section after section 28.

28a. No child shall be liable to imprisonment for failure to pay any penalty, compensation, or sum of money or costs adjudged to be paid by a conviction or order of any court of summary jurisdiction, but shall be liable to be sent to and detained in an institution for such period as he might have been imprisoned but for the provisions of this section, and the provisions of the Justices Act, 1902, shall apply, *mutatis mutandis*, in respect of such child as if detention in an institution were substituted therein for imprisonment.

Child not to be imprisoned for non payment of fine, etc.

28b. Any child may be committed to an institution during the period for which he has been remanded by a court or any justice or justices, or during the period of his detention on committal for trial in the Supreme Court.

Committal of a child to an institution pending trial. S.A., 1900, No. 996, s. 15.

15. Section twenty-nine of the principal Act is hereby amended by the insertion of the words "twenty-four," between the words "section" and "twenty-six," and also between the words "sections" and "twenty-six."

Amendment of section 29.

16. Section forty-six of the principal Act is amended by the addition of a proviso, as follows:—

Amendment of Section 46 of the principal Act.

Provided further that all accounts under this section shall be audited at prescribed periods by the Auditor General.

17. Section fifty-eight of the principal Act is hereby amended by striking out the words, in the third line, "until he shall attain the age of fourteen years."

Amendment of section 58.

18. Section sixty-two of the principal Act is amended by adding the following subclauses to stand as subclauses (2), (3), and (4):—

Amendment of section 62.

Enforcement of
maintenance
orders.

(2.) A maintenance order made under this Act shall direct that on default being made in payment of any sum of money or costs thereby ordered to be paid, the same shall be recoverable by execution against the goods and chattels of the person liable, and that in default of payment and of sufficient goods and chattels he shall be imprisoned for a period determined by the court in accordance with the provisions of section one hundred and sixty-seven of the Justices Act, 1902, and subject to the provisions of that section: provided that the court may, in lieu of directing that such sum of money or costs shall be recoverable by execution, direct that in default of payment the person in default shall be imprisoned as aforesaid: And the maintenance order shall direct, with regard to any periodical payments thereby ordered, that whenever and as often as default is made in any such periodical payment, the person in default shall be liable to such process of execution and imprisonment, or to such imprisonment only, as aforesaid.

(3.) Every such maintenance order shall have effect according to its tenor..

(4.) The provisions of this section shall be without prejudice to any other provision of this Act.

Insertion of
new section
after section 61.

19. The following section is hereby inserted after section sixty-one of the principal Act:—

Order may be
made in pro-
ceedings under
sections 24, 26,
and 28.

Cf. Vic., 1915,
No. 2703, s. 45.

61a. An order may be made under section sixty-one in any proceedings under section twenty-four, twenty-six, or twenty-eight without any complaint having been made against or summons served on the near relative, provided that he is either present in court when the order is applied for or that he has received the prescribed notice of the intention to make the application.

Amendment of
section 83.

20. Section eighty-three of the principal Act is hereby amended by inserting the following words: in line five, after the words "eighteen years," the words: "or during such shorter period as the court may think sufficient."

Amendment of
Part VII.

21. Part VII. of the principal Act is hereby amended as follows:—

(i.) By the addition to the title of the words "and Restrictions on Employment of Children";

(ii.) By the substitution of the word "twelve" for the word "ten" in section ninety-four;

(iii.) By the insertion after paragraph (b) of section ninety-five of a paragraph as follows:—"or (c) who is under the age of twelve years;"

(iv.) By the addition of the following section:—

95A. No person shall—

(a) cause, procure, suffer, or allow any child under the age of sixteen years to be in any place whatever for the purpose of begging or receiving alms or inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or

Begging or performing by children under sixteen forbidden.
Cf. N.S.W. 1902, No. 47, s. 23.

(b) cause, procure, suffer, or allow any child under fourteen years of age to be employed or engaged in any work in or about any racing stable, or in connection with the training of horses for racing; or

Work connected with racehorses by children under fourteen forbidden.

(c) except with the license in writing of the Minister, and subject to such restrictions and conditions as may be therein expressed, cause, procure, suffer, or allow any child under the age of sixteen years to be in or on any premises or place used or intended to be used for the purpose of any public entertainment for the purpose of singing, playing, or performing for profit or reward to the child or to any other person, or offering anything for sale: provided that this provision shall not apply in the case of an occasional entertainment, the proceeds of which are intended to be applied for the benefit of any school or charitable or patriotic object.

Penalty: Twenty pounds.

22. The title of Part VIII. of the principal Act is hereby altered by the addition of the words "and the care and adoption of children."

Alteration of title of Part VIII.

23. Sections ninety-seven, ninety-eight, ninety-nine, and one hundred and five of the principal Act are hereby repealed.

Repeal of sections 97, 98, 99, and 105.

24. Sections one hundred, one hundred and one, and one hundred and two of the principal Act are hereby amended by the substitution of the word "six" for the word "three," wherever such latter word occurs therein.

Amendment of sections 100, 101, and 102.