

And be it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Issue and application
£512,836.

1. There shall and may be issued and applied for or towards making good the supply granted to His Majesty for the service of the year One thousand nine hundred and eighteen and One thousand nine hundred and nineteen the sum of Five hundred and twelve thousand eight hundred and thirty-six pounds out of the Consolidated Revenue, and the Treasurer of Victoria is hereby authorized and empowered to issue and apply the moneys authorized to be issued and applied.

Sum available for the purposes voted by Legislative Assembly.

2. The said sum shall be available to satisfy the warrants under the hand of the Governor under the provisions of the law now in force in respect of any services voted by the Legislative Assembly in this present Session of Parliament.

No. 3001.

An Act to make provision with respect to certain Children without Sufficient Means of Support and for other purposes.

[9th September, 1919.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title and commencement.

1. This Act may be cited as the *Children's Maintenance Act 1919* and shall come into operation on a date to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

2. In

2. In this Act unless inconsistent with the context or subject-matter—

Interpretation.

“Child” means any person under the age of fourteen years whether born in lawful wedlock or not.

“Child.”

“Prescribed” means prescribed by the regulations.

“Prescribed.”

“Regulations” means regulations made as provided for in this Act.

“Regulations.”

“Secretary” means secretary of the Department for Neglected Children.

“Secretary.”
No. 2708 s. 9.

Provisions for Payments to Mothers of certain Children.

3. Any mother whose child is without sufficient means of support and who is unable to provide and is unable by any available legal proceedings to obtain sufficient means of support for such child may in the prescribed form make an application in writing to the secretary that a weekly sum be paid to her for or towards the maintenance of such child.

Application by mother in respect of maintenance of child without sufficient means of support.

4. (1) The secretary shall on receipt of the said application make or cause to be made such investigations as appear to him desirable in order to ascertain—

Investigation by secretary.
Comp. (Comm.)
1908 No. 17
s. 28.

(i) the circumstances and character of the applicant ;

(ii) the ability of the applicant to maintain the child the subject of the application without assistance as provided under this Act ; and

(iii) the truth of the statements in the application.

(2) The secretary may require any person whom he believes to be in a position to do so to furnish to him for submission to the police magistrate hereinafter mentioned a confidential report as to the circumstances or the financial transactions of the applicant or of the husband (if any) or children of the applicant ; and any person who on being required to do so by the secretary fails to furnish a report within a reasonable time or furnishes a report containing any statement which is untrue in any particular shall be liable to a penalty of not more than Fifty pounds or to imprisonment for a term of not more than six months.

Confidential report.
Ib.

Penalty.

5. (1) Upon the completion of his investigations the secretary shall refer the application together with a full report of the result of the investigations which have been made to a police magistrate.

Reference to police magistrate.
Ib. s. 29.

(2) The

(2) The police magistrate shall notify the applicant of the time when and place where she is required to attend to support her application.

Investigation
by police
magistrate.

Comp. (Comm.)
1908 No. 17 s. 30.

(3) On the day so notified or on any subsequent day the police magistrate may proceed to investigate the application for the purpose of ascertaining whether the statements therein are true and whether in his opinion assistance should be granted to the applicant.

Report and
recommendation
of police
magistrate.

6. (1) On the completion of his investigation the police magistrate—

(a) shall forward to the secretary a report upon the results of his investigation and a recommendation as to whether in his opinion assistance under this Act should or should not be granted to the applicant in respect of her child and (if she has applied in respect of more than one child) shall state with respect to how many (if any) children such assistance should in his opinion be granted ; and

(b) shall return all applications and reports referred or submitted to him to the secretary.

(2) The police magistrate shall not recommend that assistance be granted unless he is satisfied that the applicant is deserving of assistance and unless the evidence (if any) of the applicant is corroborated on all material points by documentary information or oral evidence.

Submission of
report &c. to
Minister.
Further
inquiry.

7. (1) Upon receipt of the report and recommendation of the police magistrate the secretary shall submit the same with any comments which he thinks desirable to make thereon to the Minister who if he thinks fit may cause further inquiries to be made into the matter.

(2) The Minister after considering—

(a) the report and recommendation of the police magistrate ;

(b) the comments of the secretary and any other matters furnished by him bearing on the application ; and

(c) the results of any further inquiries (if any) as aforesaid—

may with such modifications and conditions (if any) as he thinks fit grant the application, or may refuse the same.

Power of
Minister to
grant or refuse
application.

8. At

8. At the request of the Minister a police magistrate may at any time rehear any such application previously refused by the Minister and shall forward a report on the result of the rehearing to the secretary for the consideration of the Minister. In the case of a rehearing the police magistrate and the secretary shall have as nearly as may be the same powers and duties as in the case of the original hearing.

Rehearing by police magistrate at request of Minister.

9. (1) Every child who immediately before the commencement of this Act is a ward of the Department for Neglected Children and is boarded out under the provisions of the *Neglected Children's Act 1915* to its mother shall on the commencement of and by virtue only of this Act be discharged from being such ward, but any sum paid under the provisions of the *Neglected Children's Act 1915* to the mother for or towards the maintenance of such child shall subject to this Act continue to be paid and shall thereafter be deemed to be paid pursuant to this Act.

Child boarded out to mother under No. 2703 to cease to be ward of Department but payment to mother to continue.

(2) Nothing in this section shall affect the operation of Part VII. of the *Neglected Children's Act 1915* with respect to the liability of any parent within the meaning of the said Part to pay any sum due before the commencement of this Act for or towards the maintenance of any such child.

Saving as to liability &c. of parent under No. 2703 Part VII.

10. (1) The sum payable under this Act to a mother for or towards the maintenance of any child shall be payable out of any moneys legally available for the purpose, and shall not be less than Six shillings a week or more than Twelve shillings a week unless in the opinion of the Minister exceptional circumstances, such as the existence in the mother or child of some affliction of mind or body, warrant the payment of a larger sum.

Limitation of amount payable.

(2) Any sum paid to a mother pursuant to this Act shall be payable as from the date of the receipt of the application by the secretary and shall cease to be paid on the child attaining the age of fourteen years :

Payment to cease on child attaining age of fourteen years unless in exceptional case.

Provided that the Minister may, where in his opinion the special circumstances of the case make it advisable, direct in writing that such sum shall after the child reaches the age of fourteen years continue to be paid for such period not exceeding two years as is fixed by the Minister.

11. The payment of any sum to a mother pursuant to this Act may on the direction in writing of the Minister be discontinued and subject to this Act any sum so paid may on

Power to discontinue and vary payments.

on the like direction be increased or reduced at any time if the Minister is satisfied that the circumstances of any case warrant such discontinuance increase or reduction.

Power to direct
cessation of
payments on
misconduct &c.

12. (1) Whenever it is proved to the satisfaction of the Minister that the mother of any child for or towards whose maintenance any sum is being paid to such mother pursuant to this Act is guilty of conduct rendering her unfit in the opinion of the Minister to have the custody of the child or that the mother is not properly maintaining the child the Minister may by indorsement signed by him upon the application for assistance direct that the payment shall forthwith cease.

Effect of
direction.
Comp. No. 2670
s. 15 (5).
No. 2703.

(2) Upon the making of the direction aforesaid the child shall become *ipso facto* a ward of the Department for Neglected Children under the *Neglected Children's Act 1915*.

Direction
deemed to be
an order
committing the
child to the care
of the Neglected
Children's
Department.

(3) The direction aforesaid shall for all purposes be deemed to be an order committing such child to the care of the Department for Neglected Children within the meaning of the *Neglected Children's Act 1915*.

Comp. No. 2670
s. 20.
No. 2703.
Provision in
case of illness
&c. of mother.

13. When a mother to whom payments are made for or towards the maintenance of her child pursuant to this Act becomes incapable whether from illness or any other cause not within her control of properly caring for and maintaining such child the secretary—

- (a) may direct that during such incapacity some other fit person shall have the care and maintenance of the child; and
- (b) shall make such arrangements as he thinks proper as to the person who may during such incapacity receive the payments in respect of the maintenance of such child.

Medical
attention.
Comp. No. 2670
s. 18.

14. (1) Every child for or towards whose maintenance any sum is paid pursuant to this Act shall be under the medical care of a medical officer appointed pursuant to the regulations under the *Neglected Children's Act 1915* to give medical attendance to wards of the Department for Neglected Children boarded out under the provisions of section thirty of the said Act, and it shall be the duty of such medical officer to see such child at such times and on such occasions as are prescribed with respect to such wards by regulations under the said Act.

(2) Section

(2) Section thirty-one of the *Neglected Children's Act* 1915 and any regulations under the said Act with respect to visiting wards of the Department for Neglected Children and the inspection of places where such wards are or reside shall with such alterations modifications and substitutions as are necessary extend and apply to children for or towards whose maintenance any sums are paid pursuant to this Act and to persons having the care and maintenance of such children and to places where any such children are or reside.

Application of
No. 2703 s. 31
&c.
Power to visit
children and
inspect places of
residence &c.

(3) With regard to children for or towards whose maintenance sums are paid pursuant to this Act and persons to whom such sums are paid the secretary shall have subject to this Act such of the powers and authorities conferred upon him by or under the *Neglected Children's Act* 1915 with regard to wards of the Department for Neglected Children and persons with whom such children are boarded out under the said Act as are necessary to insure that such sums are properly expended and that the objects of this Act are being carried out.

Certain powers
of secretary
under No. 2703
conferred for
purposes hereof.

15. (1) Every father of a child for or towards the maintenance of which child any sum is paid pursuant to this Act shall be liable to pay to the secretary or some person authorized by him in writing a periodical sum not exceeding the amount being paid to be fixed in manner hereinafter provided: but the total liability of the father under this Act shall not exceed the aggregate of the sums paid for or towards the maintenance of the child pursuant to this Act together with any costs and expenses for recovering the same.

Liability of
father in respect
of sums paid
hereunder.
Comp. No. 2703
s. 45.

(2) The secretary shall by writing under his hand determine the periodical sums which the father of such child shall be liable to pay hereunder in respect of any such child, and in determining such liability the secretary shall have regard to the provisions of Part VII. of the *Neglected Children's Act* 1915 so far as they can be applied to the determining of such periodical sums; and the same consequences shall thereupon ensue with respect to the liabilities of such father hereunder as if such child had been committed upon an order of the children's court under Part III. of the said last-mentioned Act and as if such court or justices (as the case may be) had fixed the periodical sums to be paid by the father at the sums so determined by the said secretary.

Periodical sums
payable by
father,
how fixed &c.
Comp. No. 2670
s. 20.

No. 2703
Part VII.

1b. Part III.

(3) In

Evidence of periodical sum payable by father.

Comp. No. 2670 s. 20.

Interpretation of "father."

Comp. No. 2703 s. 20.

Application to make certain children without means of support wards of the Department for Neglected Children.

Investigation by police magistrate.

Power and duties of police magistrate.

(3) In any proceedings for the recovery of any amount due under the provisions of this section a determination in writing of the periodical sums payable in respect of any such child hereunder if purporting to be signed by the secretary shall be evidence of the periodical sums so payable in respect of such child.

(4) In this section "father" includes father stepfather and any person against whom an order of affiliation has been made as the putative father of any illegitimate child and also the putative father of any illegitimate child which he has recognised as his though no order of affiliation has been made against him.

Provisions for making certain Children Wards of the Department for Neglected Children.

16. (1) Where any child is without sufficient means of support and no available legal proceedings can be taken to obtain sufficient means of support for such child—

(a) the mother of such child—if the child is in her custody ; or

(b) (where the mother is dead or of unsound mind or has deserted the child) any relative of the child, or in the case of a child not born in lawful wedlock any relative of the mother of the child—if in either of such cases the child is in the custody of such relative ; or

(c) in any other case any member of the police force of higher rank than that of sergeant—

may in the prescribed form make an application in writing to the secretary that the child should become a ward of the Department for Neglected Children.

(2) The secretary shall forward the application to a police magistrate for investigation.

(3) The police magistrate—

(a) shall notify the applicant of the time and place of hearing ;

(b) shall investigate the matter of the application for the purpose of ascertaining whether it is advisable that the child should become a ward of the Department for Neglected Children ; and

(c) on the completion of his investigation shall forward to the secretary a report thereon and a recommendation as to whether in his opinion the application should be granted and shall also return the application to the secretary.

(4) The

(4) The secretary shall submit the application together with the report and recommendation of the police magistrate to the Minister who may if he thinks fit by direction indorsed on the application and signed by him grant the application or may refuse the same.

Power of
Minister.

(5) Upon the making of the said direction the child shall become *ipso facto* a ward of the Department for Neglected Children under the *Neglected Children's Act 1915*, and the said direction shall for all purposes be deemed to be an order committing the said child to the care of the Department for Neglected Children within the meaning of the said Act.

Effect of
direction of
Minister.

Comp. No. 2670
s. 15 (5).
No. 2703.

(6) In this section "relative" means any relative (whether by consanguinity or affinity) of the child or (in the case of a child not born in lawful wedlock) of the mother of the child.

Meaning of
"relative."

General.

17. (1) Every application under this Act shall be in accordance with the regulations.

Form &c. of
application.
Comp. (Comm.)
1908 No. 17
s. 27.

(2) Every applicant shall by declaration to be indorsed on the application declare that the contents of the application are true and correct in every particular.

Verifying
declaration.
Ib.

(3) A declaration under this Act may be made before any of the following persons resident in Victoria:—All police magistrates, all justices of the peace, all commissioners for taking declarations and affidavits, all head teachers of State schools, all members of the police force, all clerks of petty sessions, all railway stationmasters, all councillors of and the city clerk town clerk or secretary of any city town borough or shire, all barristers or solicitors or barristers and solicitors, all legally qualified medical practitioners, all bank managers, all ministers of religion authorized to celebrate marriages, and all prescribed persons or classes of persons employed in the public service of Victoria.

Before whom
declaration may
be made.

Ib.; No. 2632
s. 290.

18. For the purposes of any investigation by a police magistrate under this Act the following provisions shall have effect:—

Powers &c. of
police
magistrates in
investigations
under this Act.

(1) Where the police magistrate is satisfied that by reason of physical disability or other sufficient cause the applicant is unable to attend the police magistrate may dispense with the attendance of the applicant:

Dispensing with
attendance of
applicant.

(2) All

Where investigation to be held.

Calling witnesses.

Not bound by rules of evidence &c.

Several applications.

As to witnesses &c.
Comp. No. 2665
s. 14.
No. 2675 &c.

Exclusion of public from investigations.
No. 2627 s. 16.

Penalty for false declaration or representation.
Comp. (Comm.)
1908 No. 17
s. 27; No. 2637
s. 181 (a).

Power to prosecute for offences hereunder within two years.
Comp. No. 2668
s. 73.

Annual report.
Comp. No. 2670
s. 30.

- (2) All investigations by the police magistrate shall be made in the locality wherein the applicant resides or as near thereto as practicable :
- (3) The police magistrate may call and examine such witnesses as he thinks fit :
- (4) In investigating any application the police magistrate shall not be bound by any rules of evidence but shall investigate the matter and make his recommendation according to equity good conscience and the substantial merits of the case without regard to technicalities or legal forms :
- (5) If an applicant makes application in respect of more than one child the police magistrate may investigate all the applications together :
- (6) The police magistrate shall have in relation to witnesses and their examination and the production of documents similar powers to those vested in justices by the Justices Acts :
- (7) The provisions of section sixteen of the *Children's Court Act 1915* shall with such alterations modifications and substitutions as are necessary extend and apply to any investigation by a police magistrate hereunder.

19. Any person who in any application or declaration under this Act wilfully makes any statement which is untrue in any particular and any person who by any false representation obtains under this Act with intent to defraud any sum for or towards the maintenance of a child shall be liable to a penalty of not more than Fifty pounds or to imprisonment for a term of not more than six months.

20. Notwithstanding anything in the Justices Acts or any other Act any information to be heard in a summary way for any contravention of this Act may be laid at any time within two years next after the date of the contravention.

21. (1) The secretary shall on or before the last day of June in each year submit to the Minister a report as to all proceedings taken under this Act during the year ended on the preceding thirty-first day of December and in such report shall include any particulars which the Minister may direct to be included therein.

(2) The

(2) The Minister shall cause such report to be laid before both Houses of Parliament within three weeks after receiving the same if Parliament is then sitting and if Parliament is not then sitting then within three weeks after the next meeting of Parliament.

22. The provisions of Part XI. of the *Neglected Children's Act* 1915 as to regulations thereunder shall extend and apply to the making of regulations for or with respect to—

Application of No. 2703 Part XI. as to regulations to the making &c. of regulations hereunder.

- (a) the form of, the manner of making and the particulars to be contained in applications under this Act, and in declarations relating thereto;
- (b) the persons or classes of persons employed in the public service of Victoria before whom such declarations may be made; and
- (c) generally, all matters which by this Act are authorized or required to be prescribed or which are necessary or convenient to be prescribed for carrying this Act into effect—

and the said provisions shall extend and apply to such regulations when made.

23. Every order heretofore made or purporting to have been made under the *Neglected Children's Act* 1915 or any corresponding enactment previously in force committing any child to the care of the Department for Neglected Children shall for all purposes be and be deemed to have been and is hereby declared to be and to have been from the making thereof lawfully made and of full force and effect notwithstanding that such child was not in fact at the making of such order a neglected child: Provided that nothing in this section shall extend so as to prejudice or affect any appeal determined or order to review made absolute before the commencement of this Act and all proceedings consequent on or arising out of any such appeal or order to review, whether by or against any party thereto or any other person, may be had and taken as if this section had not passed.

Validation of orders committing children who were not in fact neglected children to care of Neglected Children's Department. See *Walker's case, Argus*, 5th June, 1919.

Saving. Comp. No. 1365 s. 3.

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