

Publication.

(2) All regulations under this Act shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament and a copy of all such regulations shall be posted to each member of Parliament.

Application of Act.

20. This Act shall not apply in relation to wheat harvested after the thirtieth day of September, One thousand nine hundred and fifty-eight.

No. 5817.

An Act to provide for and promote the Welfare Protection and Care of Children and Young Persons.

[1st December, 1954.]

BE it enacted by the Queen'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, commencement and division of Act.

1. (1) This Act may be cited as the *Children's Welfare Act 1954*.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

(3) This Act is divided into Parts as follows:—

Part I.—Administration ss. 5–11.

Part II.—Reception Centres, Children's Homes, Juvenile Schools and Juvenile Hostels ss. 12–15.

Part III.—Admission of Children and Young Persons to the Care of the Department ss. 16–20.

Part

Part IV.—Guardianship Placement and Management of Children and Young Persons Admitted or Committed to the Care of the Department ss. 21-29.

Part V.—Allowances for Children in Necessitous Circumstances ss. 30-41.

Part VI.—Liability of Parents for Maintenance ss. 42-56.

Part VII.—Infant Life Protection ss. 57-67.

Part VIII.—Employment of Children ss. 68-69.

Part IX.—Miscellaneous Provisions ss. 70-77.

2. (1) The Acts mentioned in the Schedule to this Act to the extent thereby expressed to be repealed or amended are hereby repealed or amended accordingly. Repeals and amendments. Schedule.

(2) Except as in this Act expressly or by necessary implication provided—

(a) all persons things and circumstances appointed or created by or under any of the repealed Acts or existing or continuing under any of such Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed;

(b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any appointment application complaint declaration order regulation transfer certificate notice registration roll security summons warrant committal surety bond or recognizance made issued granted entered into or executed or any liability civil or criminal incurred or any right acquired or any matter or thing done under any of such Acts before the commencement of this Act.

3. (1) In this Act unless inconsistent with the context or subject-matter— Interpretation. Comp. No. 3654. s. 3.

“ Child ” (except in Part VI. of this Act) means— “ Child.”

(a) until the day fixed by proclamation under section three of the *Education Act 1943*— No. 4993 s. 3.
a person under the age of fourteen years ;

(b) on

(b) on and after the said day—a person under the age of fifteen years.

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| " Department." | " Department " means Children's Welfare Department. |
| " Director." | " Director " means Director of Children's Welfare appointed pursuant to this Act. |
| " Part." | " Part " means Part of this Act. |
| " Prescribed." | " Prescribed " means prescribed by the regulations. |
| " Regulations." | " Regulations " means regulations made under this Act. |
| " Ward of the Children's Welfare Department." | " Ward of the Children's Welfare Department " and " ward of the Department " means one of whose person and estate the Director is guardian under the provisions of this Act. |
| " Young person." | " Young person " means— |

(a) until the day fixed by proclamation under section three of the *Education Act* 1943—a person of or over the age of fourteen years and under the age of seventeen years ;

(b) on and after the said day—a person of or over the age of fifteen years and under the age of seventeen years.

As to children and young persons committed to reformatory schools or juvenile schools and construction of references to committal to the care of the Children's Welfare Department.

(2) Where a child or young person is pursuant to the *Crimes Act* 1928 or the *Children's Court Act* 1928 committed to a juvenile school or was before the commencement of this Act committed to a reformatory school under either of those Acts the child or young person shall also be deemed for the purposes of this Act to be or to have been committed to the care of the Children's Welfare Department ; and references in this Act to committal of a child or young person to the care of the Department shall be read and construed accordingly.

Construction and references to Department for Neglected Children or Secretary or a neglected child in Acts documents, &c. Comp. No. 3654 s. 3.

4. Unless the context otherwise requires any reference occurring in any Act or in any Order in Council by-law regulation deed contract application list order complaint declaration transfer certificate security summons warrant bond recognizance or other instrument or any other document whatsoever—

(a) to the " Department for Neglected Children " or any like expression shall be deemed and taken to refer to and mean the Children's Welfare Department ;

(b) to

- (b) to the "Secretary of the Department for Neglected Children" or "Secretary of the Children's Welfare Department" or any like expression shall be deemed and taken to refer to and mean the Director of Children's Welfare ;
- (c) to a "neglected child" shall be deemed and taken to refer to and mean a child or young person in need of care and protection under this Act.

PART I.—ADMINISTRATION.

5. For the purposes of this Act there shall subject to the Public Service Acts be appointed or employed a Director of Children's Welfare a deputy director and such other officers and employes as are necessary.

Departmental officers.
Comp. No. 3654
s. 9.

6. It shall be the duty of the Director 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.

Duty of Director.
Comp. No. 3654
s. 9.

7. (1) The deputy director—

- (a) shall under the control of the Director have and may exercise such powers functions or duties (whether statutory or otherwise) of the Director as with the approval of the Minister are from time to time assigned to him in writing by the Director either generally or in any particular case ;
- (b) shall act in the place of the Director in the case of illness absence or temporary incapacity of the Director.

Duties, &c., of deputy director.
Comp. No. 5771
s. 15 (3), (4).

(2) All acts matters and things done or performed by such deputy director pursuant to this section shall for all purposes have the same force and effect as if done or performed by the Director.

8. (1) It shall be the duty of the Director on or before the thirtieth day of June in each year to submit to the Minister a report as to proceedings under this Act during the preceding year and in such a report he shall include a statement indicating the average *per capita* cost of maintaining children and young persons during the preceding financial year in reception centres, children's homes and juvenile schools respectively and such particulars as the Minister directs to be included therein.

Annual report by Director.
Comp. No. 3654
ss. 10, 118.

(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 or if Parliament is not then sitting then within three weeks after the next assembling of Parliament.

Welfare officers
and visitors.

9. For the purposes of this Act the Minister may appoint for periods respectively not exceeding three years and may at any time remove—

- (a) persons to be honorary welfare officers to carry out such duties as are prescribed ;
- (b) persons (not being officers or employés of the Department) to be visitors to approved children's homes approved juvenile schools and approved juvenile hostels.

Constitution
and functions
of Children's
Welfare
Advisory
Council.

Comp. No. 5769
s. 93.

10. (1) For the purposes of this Act the Minister shall constitute a Children's Welfare Advisory Council consisting of not more than ten members.

(2) Of such members two shall be persons selected by the Minister from a panel of not less than four names submitted by the body known as the Victorian Council of Social Service and two shall be persons selected by the Minister from a panel of not less than four names submitted by the body known as the Children's Welfare Association of Victoria but in default of the submission of a panel within fourteen days after a request by the Minister in that behalf the Minister may appoint any persons to be members notwithstanding that the panel had not been submitted.

(3) The Minister may at any time remove any member of the Advisory Council and may appoint an eligible person to fill any casual vacancy in the membership of the Council.

(4) The members of the Advisory Council shall subject to this Act hold office for such respective terms (not exceeding in any case three years) as the Minister appoints and shall be eligible for re-appointment.

(5) The Minister may appoint one of such members to be chairman of the Advisory Council and such member shall hold office as chairman for a term of twelve months and shall be eligible for re-appointment as chairman.

(6) The

(6) The secretary of the Advisory Council shall be an officer of the Children's Welfare Department selected by the Minister.

(7) Meetings of the Advisory Council shall be convened and conducted as prescribed but the regulations shall require that not less than ten meetings shall be convened in each year.

(8) The members of the Advisory Council shall not as such be subject to the Public Service Acts.

(9) Each member of the Advisory Council shall be paid such fees and travelling allowances as are prescribed.

(10) The functions of the Advisory Council shall be—

- (a) to advise the Minister on any alterations in practice and procedure considered desirable from time to time for the welfare protection and care of children and young persons under this Act; and
- (b) to report on any matter of a like or allied nature referred to it by the Minister or on any matter on which it is authorized to report by this Act.

11. All courts judges and persons acting judicially shall take judicial notice of the signature of the Minister the Director and the deputy director to every document authorized or required to be signed for the purposes of this Act.

Judicial notice to be taken of signatures.
Comp. No. 3654 s. 17.

PART II.—RECEPTION CENTRES, CHILDREN'S HOMES, JUVENILE SCHOOLS AND JUVENILE HOSTELS.

12. For the purposes of this Act the Governor in Council may from time to time by Order published in the *Government Gazette* establish or abolish—

- (a) reception centres for the accommodation and maintenance of children or young persons—
 - (i) admitted to the care of the Children's Welfare Department;
 - (ii) taken to or placed in such centres pursuant to the *Crimes Act* 1928 or the *Children's Court Act* 1928;
 - (iii) in respect of whom protection applications pursuant to Part III. of this Act have been made;

Provision for establishment or abolition by Governor in Council of reception centres, children's homes, juvenile schools and juvenile hostels.

(b) children's

- (b) children's homes for the care and welfare of children or young persons admitted to the care of the Children's Welfare Department ;
- (c) juvenile schools for the care and welfare of—
 - (i) juvenile offenders committed to juvenile schools or to the care of the Children's Welfare Department pursuant to Division two of Part II. of the *Crimes Act 1928* ; and
 - (ii) children and young persons admitted or committed to the care of the Children's Welfare Department who in the opinion of the Director are in need of special supervision social adjustment and training ;
- (d) juvenile hostels for the accommodation and supervision of young persons engaged in employment who are wards of the Department or have been inmates of a reception centre, children's home or juvenile school.

Houses, &c., where children cared for apart from their parents to be established or approved under this Act.

13. (1) No person other than a legal guardian shall, for the purpose of caring for any children apart from their parents, for payment or reward retain in or receive into any house or any orphanage home hostel or like institution or establishment more than three children unless that house orphanage home hostel institution or establishment is a reception centre, children's home, or juvenile school established or approved under this Act.

Non-application of section.

(2) Nothing in the last preceding sub-section shall apply to—

- (a) any house institution or establishment which and the occupant of which is registered under Part VII. of this Act ;
- (b) any institution or establishment conducted wholly for educational purposes or as a hospital or convalescent home ;
- (c) any private house (including a boarding-house) where children are temporarily accommodated for a period of not more than three months ;
- (d) any house or establishment exempted from the operation of the said sub-section by the Minister.

(3) Nothing

(3) Nothing in this section shall be deemed to excuse any person from complying with the requirements of section sixty-seven of this Act.

14. (1) Upon application in the prescribed form made by the person or organization conducting or proposing to conduct a home, school or hostel hereinafter provided for, the Minister may for the purposes of this Act—

Declaration by Minister of approved children's homes, juvenile schools and juvenile hostels and revocation of declaration.

(a) declare as an approved children's home, any existing or proposed orphanage home for children or like institution or establishment which is or is to be conducted by any person or organization for the purpose of caring, whether gratuitously or otherwise, for children or young persons apart from their parents or guardians :

Provided that the Minister shall not have power to declare as an approved children's home any institution or establishment conducted wholly for educational purposes or as a hospital or convalescent home ;

(b) declare as an approved juvenile school, any existing or proposed school or like institution or establishment which is or is to be conducted by any person or organization for the purpose of providing for and promoting the welfare and care of—

(i) juvenile offenders committed to the care of the Children's Welfare Department ;
and

(ii) young persons admitted or committed to the care of the Children's Welfare Department who in the opinion of the Director are in need of special supervision social adjustment and training ;

(c) declare as an approved juvenile hostel, any existing or proposed hostel or like institution which is or is to be conducted by any person or organization for the accommodation and supervision of young persons engaged in employment who are wards of the Department or have been inmates of a reception centre, children's home or juvenile school :

Provided that no such application or declaration shall be necessary in any case to which sub-sections (3) or (4) of section seventy-seven of this Act apply.

(2) The

(2) The Minister may after considering any relevant report made by the Children's Welfare Advisory Council revoke any declaration made as aforesaid if he is satisfied that the controlling authority of any such home school or hostel is unable or fails to maintain adequate standards for the care and welfare of the inmates.

(3) On the revocation of a declaration the Director shall—

(a) transfer those of the inmates of such home school or hostel who are wards of the Children's Welfare Department to some appropriate institution established or approved under this Act ;

(b) deal with those of the inmates who are not wards of the Children's Welfare Department—

(i) by restoring them to the custody of their parents guardians or other persons on whose applications they were admitted to any such home school or hostel ; or

(ii) by transferring them to another home school or hostel with the approval of their parents guardians or other persons as aforesaid ; or

(iii) by causing applications to be made to the Children's Court that they be admitted to the care of the Children's Welfare Department, and the Court may grant or refuse any such application and make an order accordingly.

(4) Notice of every declaration and of every revocation of a declaration by the Minister under this section shall be published in the *Government Gazette*.

Inspection of
approved
children's
homes, juvenile
schools and
juvenile hostels.

15. (1) The Director or any officer authorized by him or any member of the Children's Welfare Advisory Council may at any time visit any approved children's home or approved juvenile school or approved juvenile hostel and make such examinations and inspections as appear to be necessary regarding the state and management thereof and the condition and treatment of the inmates but nothing in

this

this sub-section shall be deemed to confer on the Director or any such officer or member any power to examine or inspect the personal record kept at such home school or hostel of any inmate who is not a ward of the Department.

(2) The person in charge of such home school or hostel shall afford the Director or such officer or member all reasonable facilities for such examinations and inspections.

PART III.—ADMISSION OF CHILDREN AND YOUNG PERSONS
TO THE CARE OF THE DEPARTMENT.

16. Every child or young person who answers to any of the following descriptions shall be deemed to be a child or young person in need of care and protection, that is to say :—

Children and
young persons
deemed in need
of care and
protection.
Comp. Nos. 3654
s. 18, 4152 s. 2.

Every child or young person—

- (a) found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms or inducing the giving of alms ;
- (b) found wandering abandoned or sleeping in any public place ;
- (c) who has no visible means of support or no settled place of abode ;
- (d) who is in a brothel or lodges lives or resides or wanders about with known or reputed thieves drunkards vagrants or prostitutes whether such thieves drunkards vagrants or prostitutes are the parents of the child or not ;
- (e) who (not being duly licensed pursuant to the provisions of the *Street Trading Act 1928*) is engaged in street trading in contravention of that Act or the regulations thereunder after a member of the police force or any person authorized in that behalf by the Governor in Council has (whether orally or otherwise) warned the child to desist from such trading and (where the parent or guardian of the child can be found) warned such parent or guardian that the child should desist from such trading ;
- (f) who is not provided with sufficient or proper food nursing clothing medical aid or lodging or who is ill-treated or exposed ;
- (g) who

- (g) who takes part in any public exhibition or performance referred to in Part VIII. whereby the life or limbs of the child taking part is endangered ;
- (h) who is in the care and custody of any person unfit by reason of his conduct or habits to have the care and custody of the child or young person ;
- (i) who is living under such conditions as indicate that the child or young person is lapsing or likely to lapse into a career of vice or crime ;
- (j) who is exposed to moral danger ;
- (k) who is required by law to attend school and who without lawful excuse has habitually absented himself from school and whose parent has, in respect of such absence, been convicted under Division two of Part III. of the *Education Act 1928*.

Children and young persons in need of care and protection to be brought before Children's Court.
Comp. No. 3654
s. 19.

17. (1) Every child or young person found by any member of the police force or by any person authorized (whether generally or in any particular case) by the Minister in any of the circumstances enumerated in the last preceding section may be immediately apprehended by such member or person without warrant.

(2) Such member or person shall forthwith make an application (to be called a protection application) in the prescribed form to a Children's Court that the child or young person named in the application should be deemed to be a child or young person in need of care and protection.

(3) Any child or young person who is apprehended under this section shall be taken to the nearest reception centre of the Children's Welfare Department or otherwise disposed of in accordance with the *Children's Court Act 1928* and as soon as practicable thereafter shall be brought before the Court.

Court proceedings on protection application.
Comp. No. 3654
s. 20.

18. Whenever any child or young person is brought before the Court as aforesaid the Court shall proceed to hear the application and if it is established to the satisfaction of the Court that the child or young person so named in the application is in need of care and protection the Court may order that he be admitted to the care of the Children's Welfare Department.

19. (1) Any

19. (1) Any person having the care and custody of a child or young person whom he deems to be beyond his ability to control may apply to a Children's Court to have him deemed to be uncontrollable and admitted to the care of the Children's Welfare Department.

Admission to the Department of uncontrollable children and young persons. Comp. No. 3654 s. 22.

(2) On the hearing of the application the Court may grant or refuse such application and make an order accordingly.

20. (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, any parent guardian or person having the care and custody of the child may apply in the prescribed form to the Director that the child be admitted to the care of the Children's Welfare Department.

Admission of child to Department owing to circumstances of parent or guardian. Comp. No. 3654 s. 24.

(2) On receipt of the application the Director shall make such inquiries as he thinks proper.

(3) The Director may require any person whom he believes to be in a position to do so to furnish to him a confidential report as to the circumstances or the financial transactions of the applicant or of the spouse or children of the applicant or (where the applicant is not the parent) of any parent of the child ; and every person who on being required to do so by the Director fails to furnish a report within a reasonable time or furnishes a report containing any statement which is wilfully 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.

(4) The Director shall, unless he deems such a course unnecessary, refer the application to a stipendiary magistrate or a special magistrate appointed pursuant to this Act for further investigation and report and recommendation.

(5) The magistrate shall—

- (a) notify the applicant of the time and place of hearing ;
- (b) investigate the matter of the application ;
- (c) on completion of his investigation forward to the Director a report thereon with a recommendation whether or not the application should be granted.

(6) The

(6) The Director shall submit the application with his comments thereon and (where the application has been referred to a magistrate) the report and recommendation of the magistrate to the Minister who may if he thinks fit by direction endorsed on the application and signed by him grant the application or refuse the same.

(7) Any direction granting the application so endorsed by the Minister shall for all purposes be deemed to be an order admitting the child to the care of the Children's Welfare Department.

(8) Where an application has been made under this section and the Director is of opinion that the child is in need of the immediate care of the Department, he may arrange for the child to be taken to a reception centre and retained there until the application has been granted or refused by the Minister.

(9) The provisions of section forty of this Act shall apply to investigations by a magistrate under this section.

(10) Where a child (not being a ward of the State) is an inmate in a children's home and any parent guardian or other person who has undertaken to contribute to the maintenance of the child fails so to do for a period of not less than six months the person in charge of such home may make application under the provisions of the foregoing provisions of this section that the child be admitted to the care of the Children's Welfare Department and thereupon those provisions shall apply as if the child were without sufficient means of support and no available legal proceedings could be taken to obtain sufficient means of support for such child.

PART IV.—GUARDIANSHIP PLACEMENT AND MANAGEMENT OF CHILDREN AND YOUNG PERSONS ADMITTED OR COMMITTED TO THE CARE OF THE DEPARTMENT.

21. (1) The Director shall to the exclusion of the father mother and every other guardian become and be the guardian of the person and estate of any child or young person admitted or committed to the care of the Children's Welfare Department and shall remain such guardian until the child or young person attains eighteen years of age or such greater age (not exceeding twenty-one years) as the Minister may direct unless such child or young person is sooner discharged from the Department.

(2) The

Director to be guardian of persons of children and young persons admitted or committed to the Department.
Comp. No. 3654
ss. 25, 34.