

VICTORIA



ANNO QUINQUAGESIMO QUARTO

VICTORIÆ REGINÆ.

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No. MCXCVIII.

An Act to make better provision for the Protection of Infant Life and for other purposes.

[20th *December*, 1890.]

**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):—

**1.** This Act may be cited as the *Infant Life Protection Act* 1890, and shall commence and come into operation on the thirty-first day of January One thousand eight hundred and ninety-one. Short title and commencement.

**2.** The Acts mentioned in the Schedule to this Act to the extent to which the said Acts are in and by the said Schedule expressed to be repealed are hereby repealed. Repeal. Schedule.

**3.** In this Act, unless inconsistent with the subject-matter or context, Interpretation.

“Chief Commissioner” shall mean the person for the time being holding the office of Chief Commissioner of Police.

**4.** After the commencement of this Act, no person shall in consideration of any payment or reward at any time made or given or to be made or given to such person or to any other person on behalf of Houses where infants received or adopted to be registered.

of such person retain in or receive into his or her care or charge in any house any infant under the age of two years either—

(a) for the purpose of nursing or maintaining such infant apart from its parents for a longer period than three consecutive days ; or

(b) for the purpose of adopting such infant—

unless such person be registered as the occupier of such house and such house be also registered under this Act.

Any person offending against the provisions of this section shall on conviction before a court of petty sessions be liable to imprisonment for a period not exceeding six months or to a penalty not exceeding Twenty-five pounds.

Register of persons  
and houses to be  
kept.

5. The Chief Commissioner shall, subject to regulations to be made as hereinafter provided, cause a register or registers to be kept in which shall be entered the name of any person who being the occupier of any house applies to have the same registered for the purposes of this Act.

Opposite the name of any person so registered in any such register shall be entered particulars of the situation of such house, and such other particulars with respect to such person and such house the calling or occupation of such person and if she be a married woman the calling or occupation of her husband as may be directed by regulations to be made as hereinafter provided.

When registration to  
be renewed.

Every such registration shall unless cancelled under the provisions of this Act remain in force until the thirty-first day of the month of December next following the making of such registration and no longer unless the same be renewed. Registrations may be renewed during the month of December in which the same expire, and all such renewed registrations shall unless cancelled under the provisions of this Act remain in force for one year from the expiration of such month of December in which the same are made. No fee shall be charged or taken for the making of any registration or renewed registration under this section.

The person in whose charge such register shall be kept shall give to the person so registering a certificate under his hand of such registration or renewal which shall in all matters be *primâ facie* evidence of such registration or renewal.

6. The Governor in Council may at any time and from time to time make regulations for all or any of the following purposes (that is to say):—

For prescribing how many registers shall be kept under this Act, and where the same shall respectively be kept :

For prescribing the mode in which applications for registration under this Act shall be made, the mode in which registration shall be effected, and that in which entries shall be made in registers kept under this Act:

For

For directing what particulars as to the persons and houses registered, in addition to those hereinbefore required, shall be inserted in such registers :

For arranging houses registered under this Act into classes in such manner as to the Governor in Council seems fit, and for fixing the maximum number of infants to be retained in or received into houses of any particular class :

For regulating the inspection from time to time of such houses and infants :

Generally for giving effect to and carrying out the provisions of this Act.

Any such regulations may impose a penalty not exceeding Twenty-five pounds for any breach of the same, and any such penalty may be recovered before any two justices on the information of any member of the police force.

All regulations made under the authority of this section shall within two weeks of the making thereof be published in the *Government Gazette*.

**7.** The Chief Commissioner or any member of the police force authorized in that behalf by the Chief Commissioner, and accompanied by a legally qualified medical practitioner if the Chief Commissioner or such member of the police force (as the case may be) think fit, may from time to time subject to regulations made as aforesaid inspect any house registered under this Act and any infant or infants retained in or received into any such house. Inspection.

**8.** The Chief Commissioner may refuse to register any person applying for registration under this Act or to renew any registration unless he be satisfied by the production of certificates, or if he think fit to dispense with certificates by the production of any other evidence, that the person applying to be registered or for a renewal of registration is of good character and able to properly nurse and maintain any infants retained in or received into his or her care or charge in such house; and the Chief Commissioner may refuse to register or renew the registration of any house unless he be satisfied that such house is suitable for the purpose for which it is to be registered and situated in a suitable locality. Chief Commissioner may refuse to register.

**9.** Every person registered as aforesaid shall keep a roll, in which shall be forthwith entered by such person the name sex and age of each infant under the age of two years retained in or received into the care or charge of such person for the purpose of being nursed or maintained apart from its parents for a longer period than three consecutive days or for the purpose of adoption. Registered persons to keep a roll containing certain particulars.

Every person registered as aforesaid shall forthwith also enter in such roll opposite the name of each infant the date at which such infant was so retained or received, and the names and addresses calling or occupation

occupation of the parents of such child and of the person or persons by whom such infant was left or from whom it was received and if any such last-mentioned person be a married woman the calling or occupation of her husband.

If any such infant be at any time removed from such registered house, whether before or after attaining the age of two years, such registered person as aforesaid shall forthwith after such removal enter in such roll the time of such removal and the names and addresses calling or occupation of the person or persons by whom such infant was so removed.

Every person registered as aforesaid shall cause the person from whom any such infant is received or by whom any such infant is removed to sign such entry, and shall forward to the Chief Commissioner a copy of each such entry within three days of the reception or removal of each infant.

Roll to be produced.

Every roll kept in pursuance of the provisions of this section shall be at all times produced when the production of the same is demanded by any member of the police force in charge of a station if of the rank of senior constable or by any member of the police force being a sergeant or of higher rank, and may be by him examined and perused, and if he think fit by him retained.

Penalty for neglecting to produce roll or to keep it in proper form.

If any person registered as aforesaid neglect refuse or omit to produce any such roll kept by him or her in pursuance of this section forthwith on being so required, or if any such person neglect refuse or omit to keep such a roll or to insert therein all the particulars by this section required, or to obtain such signature thereto, or to forward a copy of such entry to the Chief Commissioner within three days of the reception or removal of each infant, such person shall be guilty of an offence against this Act, and shall be liable on conviction before a court of petty sessions to imprisonment for a period not exceeding six months or to a penalty not exceeding Twenty-five pounds.

Forgery of certificate, &c.

10. If any person make any false representation, or forge any certificate, or make use of any forged certificate knowing it to be forged, with intent to obtain the registration either of such person or of any other person under this Act, or falsify any roll kept in pursuance of the provisions of the last preceding section, or furnish false particulars of any matter which is required to be entered in such roll, such person shall be guilty of an offence against this Act, and shall on conviction before a court of petty sessions be liable to imprisonment for a period not exceeding six months or to a penalty not exceeding Twenty-five pounds.

Names may be removed from register.

11. If at any time it be made to appear to the Chief Commissioner that any person registered as aforesaid has been guilty of neglecting or is incapable of providing the infants retained in or received into the care or charge of such person with proper food or attention, or that the registered house of such person has become unfit for the reception

reception of infants, or if for any other reason it appears to the Chief Commissioner desirable in the public interest so to do, he may strike the name of such person and such house off the register and the registration thereof shall be thereby cancelled.

Ten days' previous notice in writing of his intention so to do shall be given by the Chief Commissioner to any such person whose name is about to be struck off the register and such notice may be given by leaving the same at the registered house of such person. But the Chief Commissioner may at the time of giving such notice order the immediate removal of such infants from such registered house to the care of the Secretary of the Department for Neglected Children who shall then be charged with the care of such infants until the removal of such infants by their respective parents or guardians or the return of such infants to such first-mentioned registered house; and the said secretary may recover the cost of the removal maintenance and clothing of and medical attendance on such infants from their respective parents or guardians.

Any such person on receiving such notice may within one week give notice in writing to the Chief Commissioner of his intention to appeal, and when giving such notice shall deposit the sum of Twenty shillings with the said Chief Commissioner. The Chief Commissioner shall thereupon refrain from striking off such person's name from the register, and shall inform the Chief Secretary of such notice of appeal. The Chief Secretary shall thereupon fix a time for the hearing of such appeal, of which due notice shall be given to the Chief Commissioner and person appealing; and the Chief Secretary shall at the appointed time proceed to hear the Chief Commissioner and the person appealing or their representatives and shall determine the appeal, and if he decide that such person's name shall be struck off the register the Chief Commissioner shall strike it off accordingly and the registration thereof shall be thereby cancelled, and the sum of Twenty shillings deposited as aforesaid shall be forfeited and paid into the consolidated revenue, but otherwise the same shall be repaid to the person depositing the same.

Any infants removed by order of the Chief Commissioner under the authority of this section and not restored to the custody of their parents or guardians shall if such registration be not cancelled be returned to the care or charge of such person as aforesaid, and the decision of the Chief Secretary on such appeal shall not be subject to review in any court of law and shall be final and conclusive.

12. Every person registered as aforesaid shall within twenty-four hours after the death of an infant under the age of three years in his or her care or charge other than his or her own children give or cause to be given notice thereof to the police officer in charge of the nearest police station, and thereupon an inquest shall be held upon the body of such infant.

Notice to be given of death of infant; inquest to be held, and report made to Chief Secretary.

It

It shall be the duty of the coroner holding such inquest to inquire not only into the immediate cause of death, but into all such circumstances as may throw any light upon the treatment and condition of the infant during life, and into any other matters into which in his opinion it is desirable in the interests of public justice that he should inquire; and the coroner after holding such inquest shall report to the Chief Secretary the cause of death, and shall in such report make such remarks with respect to the matter as to him seems fit.

No infant dying under the age of three years whilst in the care or charge of a person registered as aforesaid shall (unless such infant be the child of such person) be buried without the production of a certificate under the hand of such coroner authorizing such burial.

If any person registered as aforesaid neglect refuse or omit to give notice of the death of an infant in accordance with the provisions of this section such person shall be guilty of an offence against this Act, and shall on conviction before a court of petty sessions be liable to imprisonment for a period not exceeding six months or to a penalty not exceeding Twenty-five pounds.

**13.** The name of every person convicted of an offence against this Act shall, if such person be registered under this Act, be at once removed from the register and the registration of every such person and of the house of such person shall be thereby cancelled.

No person convicted of—

(a) retaining or receiving into his or her care or charge any infant under the age of two years without being registered as required by this Act; or

(b) neglecting to give notice of the death of an infant as required by the last preceding section—

shall at any time thereafter be registered under this Act.

**14.** The Chief Secretary may at any time by writing under his hand order that the preceding provisions of this Act shall not apply in any particular case where he is satisfied that an infant is a near relative of the person in whose care or charge it is retained or received, or where for any other reason he is satisfied it is undesirable or unnecessary that the provisions of this Act should apply; and he may by any such writing as aforesaid order generally that such provisions of this Act shall not apply to any institution of a public nature established for the reception of infants. All such orders shall before being issued be recorded in a book to be kept for the purpose in the office of the Chief Commissioner: Provided that any justice of the peace may suspend in any particular case the operation of the preceding provisions of this Act for the period of eight days to enable such order to be obtained from the Chief Secretary.

**15.** Every

Offenders against certain provisions of this Act not to be registered.

Exemptions from operation of Act.

15. Every private hospital house building or place where women or girls are habitually received or lodged for the purpose of obtaining medical or surgical treatment or care, or of being nursed, or for the purpose of being waited upon for any disease or complaint peculiar to females, shall be deemed to be a private hospital house building or place in which persons are received and lodged for medical or surgical treatment or care within the meaning of section one hundred and fifty-eight of the *Health Act* 1890, and shall be registered in manner required by the said Act, and shall come within the operation of any regulations made under the said section, and regulations made under the said section may provide that the Board of Public Health or any person whose duty it is under the regulations to register private hospitals may refuse to register, and the Board of Public Health may refuse to renew or may cancel the registration of any private hospital if they consider after due inquiry the premises or the situation thereof unsuitable or the management or sanitary regulation unsatisfactory.

Houses in which women are received for treatment to be registered as private hospitals under Health Act.

16. A certificate in writing under the hand of the Chief Commissioner that any private hospital house building or place is a private hospital house building or place required by the last preceding section to be registered in manner provided by section one hundred and fifty-eight of the *Health Act* 1890 shall in any prosecution for not registering the same be *prima facie* evidence of the fact that such private hospital house building or place is such a private hospital house building or place as aforesaid.

Certificate of Chief Commissioner to be *prima facie* evidence.

17. If any person wilfully and without reasonable excuse neglect to provide adequate food nursing clothing medical aid or lodging for any child in his or her care or custody or wilfully ill-treat or expose any child or cause or procure any child to be neglected ill-treated or exposed, then if such child being a boy be under the age of twelve years or being a girl be under the age of fourteen years and if any such neglect ill-treatment or exposure have resulted or appear likely to result in causing bodily suffering or permanent or serious injury to the health of such child such person shall be guilty of an offence against this Act, and shall on conviction thereof before a court of petty sessions be liable to imprisonment for a period not exceeding twelve months or to a penalty not exceeding Fifty pounds.

Penalty for neglecting ill-treating or exposing children. See No. 233 s. 23. See 31 & 32 Vict. c. 122 s. 37.

18. The occupier of every house or place in which an illegitimate child is born shall within three days of the birth of such child give notice thereof in writing to the deputy-registrar of births and deaths for the district; but if such house or place be not situate within any city town or borough then such notice may be given either to the deputy-registrar or to the officer or constable in charge of police at the nearest police station, and may be given at any time within one week of the birth of such child.

Notice to be given of birth of illegitimate child within three days by occupier of house.

In country, notice may be given not later than one week.

If

If mother occupier, notice may be given not later than three weeks.

If the occupier of such house or place is the mother of such newborn child, such notice may be given at any time within three weeks of the birth of the child.

If any notice under this section is sent by post, it shall be posted at such time as to allow it in ordinary course of post to be delivered within the time hereinbefore specified.

Nothing in this section contained shall be construed to repeal or otherwise affect the provisions of the *Registration of Births Deaths and Marriages Act 1890*.

Notice to be given within three days of the death of an illegitimate child under the age of five years.

19. The occupier of every house or place in which an illegitimate child under the age of five years dies, or to which the body of an illegitimate child who has died under the age of five years is brought, shall within three days of the death of such child give notice in writing of such death to the deputy-registrar of births and deaths for the district; but if such house or place be not situate within any city town or borough then such notice may be given either to the deputy-registrar or to the officer or constable in charge of police at the nearest police station, and may be given at any time within one week of the death of such child.

In country, notice may be given not later than one week.

If any notice under this section is sent by post, it shall be posted at such time as to allow it in ordinary course of post to be delivered within the time hereinbefore specified.

Nothing in this section contained shall be construed to repeal or otherwise affect the provisions of the *Registration of Births Deaths and Marriages Act 1890* nor the provisions of this Act hereinbefore contained, whereby persons registered under this Act are required to give notice of the death of an infant in their care or charge.

Penalty for omitting to give notice of death of infant or of birth as required.

20. If any person wilfully or negligently omit to comply with the provisions of the last two preceding sections, such person shall be guilty of an offence against this Act, and shall on conviction thereof before a court of petty sessions be liable to imprisonment for a period not exceeding six months or to a penalty not exceeding Twenty-five pounds.

When information on oath, warrant may be issued to search premises for infringement of this Act.

21. If it be made to appear to any justice on information laid before him on oath that there is reason to believe that any person is offending against the provisions of this Act in any house or place, or that any of the provisions of this Act except those contained in section eighteen are being infringed in any house or place, such justice may issue his warrant authorizing any member or members whatsoever of the police force to search any house place or premises therein named at any hour of the day or at any hour of the night not later than ten of the clock for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

Registration of adopted children.

22. If any person adopt or take over the entire care and charge of any child under the age of three years from its parents or guardians such person shall within fourteen days of so doing give or send notice thereof to the Chief Commissioner, and such person shall in such notice state his or her



her name and place of residence and occupation and the name and age of such child. If any person neglect refuse or omit to comply with the provisions of this section he shall on conviction before a court of petty sessions be liable to imprisonment for a period not exceeding three months or to a penalty not exceeding Fifteen pounds.

Nothing in this section shall excuse any person from making any other registration required by any other provision of this Act or from any penalty for omitting so to do.

23. Any person who causes any child under the age of fourteen years to take part in any public exhibition or performance whereby, in the opinion of any court of petty sessions, the life or limbs of such child is or are endangered, and the parent or guardian or any person having the custody of such child who aids or abets such first-mentioned person therein shall severally be guilty of an offence against this Act, and shall on conviction before a court of petty sessions be liable for each offence to imprisonment for a period not exceeding twelve months or to a penalty not exceeding Fifty pounds.

Penalty for employment of any child in dangerous performances.  
42 & 43 Vict. c. 34 s. 3.

Where in the course of a public exhibition or performance which in its nature is dangerous to the life or limb of a child under such age as aforesaid taking part therein any accident causing actual bodily harm occurs to such child, the employer of such child whether the parent of such child or not shall be liable to be proceeded against by presentment indictment or information for and to be convicted of an assault, and on conviction shall be liable to be imprisoned for a period not exceeding twelve months or to a penalty not exceeding Fifty pounds, and in addition if such employer be not the parent of such child the court before which such employer is convicted on such proceedings may award as compensation a sum not exceeding One hundred pounds to be paid by such employer to the child or to some person named by the court on behalf of the child for the bodily harm so occasioned; provided that no person shall be punished twice for the same offence.

Compensation for accident to any child.

24. Whenever any person is charged with an offence against the last preceding section in respect of a child who in the opinion of the court trying the case is apparently of the age alleged by the informant, it shall lie on the person charged to prove that the child is not of that age.

Evidence of age.  
Ib. s. 4.

25. Where any person has been committed for trial for the murder or manslaughter of any child under the age of five years, or for unlawfully and maliciously wounding or inflicting grievous bodily harm upon any child under the age of five years, or for negligently doing or omitting to do anything whereby grievous bodily injury has been caused to any child under the age aforesaid; a law officer may, if he be satisfied that having regard to all the circumstances of the case it would be advisable in the interests of justice that such person should be tried by a special jury of twelve men, certify

Provision for special jury on certificate of law officer.

certify the same in writing to the Prothonotary of the Supreme Court, and thereupon application may be made on behalf of Her Majesty to a Judge of the Supreme Court for an order for such person to be tried by a special jury, and such Judge shall make such order accordingly and as of course.

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**SCHEDULE.**

Section 2.

Number and Date of Act.	Short Title of Act.	Extent of Repeal.
54 Vict. No. 1079 ...	<i>Crimes Act</i> 1890 ...	In section 23 the words "whereby the life of such child shall be endangered or the health of such child shall have been or shall be likely to be permanently injured."
54 Vict. No. 1098 ...	<i>Health Act</i> 1890 ...	Part VII.

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