

(2) No person who, under section eight, is lawfully required to produce to the Board a book, paper, document, or account, or to give information to the Board, shall fail or refuse so to do without just cause.

Penalty: Thirty pounds.

Regulations.
Ibid., s. 22.

18 The Governor may make regulations for the purposes of this Act and may prescribe a penalty, not exceeding thirty pounds, for a breach of the regulations.

CHILD WELFARE.

No. 48 of 1960.

AN ACT to consolidate and amend certain enactments relating to children and other persons who have not attained the age of twenty-one years.
[5 December 1960.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Child Welfare Act* 1960.

(2) This Act shall commence on a date to be fixed by proclamation.

Short title
and com-
mencement.

2 The *Infants' Welfare Act 1935* is repealed.

Repeal.

3—(1) In this Act, unless the contrary intention appears—Interpre-
tation.
26 Geo. V
No. 96, ss. 3
& 98.

“approved children’s home” means a home, hostel, school, or other institution in respect of which a certificate of approval issued under section ten is in force;

“authorized officer” means a person authorized in writing by the Director;

“child” means a person who has not attained the age of seventeen years;

“child welfare officer” means the chief child welfare officer, any other child welfare officer, or an honorary child welfare officer appointed under this Act;

“contribution order” means a contribution order made under Part V;

“Director” means the Director of Social Welfare;

“guardian”, when used in relation to a child, includes any person with whom that child lives and upon whom he is dependent;

“home” means any premises in respect of which a children’s boarding home licence is in force under this Act;

“indictable offence” means an offence that, if committed by an adult, may (whether or not with the consent or at the election of the accused, or otherwise) be prosecuted on indictment before the Supreme Court;

“infant” means a person who has not attained the age of seven years;

“institution” means a State institution or an approved children’s home;

“interim order” means an interim order made under section thirty-nine;

“legal guardian” means, when used in relation to a person under the age of twenty-one years, a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

“licence” means a children’s boarding home licence or a day nursery licence in force under this Act;

“licensee” means a person holding a licence, and, when used in relation to a licence or to a home or nursery, the person holding that licence or the licence in force in respect of that home or nursery (as the case may be):

- “managers”, when used in relation to an approved children’s home, means the persons having the management or control thereof;
- “neglected child” means a neglected child as defined in section thirty-one;
- “nursery” means any premises in respect of which a day nursery licence is in force under this Act;
- “probation officer” means a probation officer appointed under the *Probation of Offenders Act 1934*;
- “public entertainment” means a public entertainment as defined in section sixty-nine;
- “relative”, when used in relation to an infant, means a parent or legal guardian of the infant, or any person who is a grandparent, brother, sister, uncle, or aunt of the infant, whether by consanguinity or affinity, or in consequence of adoption, and, if the infant is illegitimate, a person who would be so related to him if he were legitimate;
- “special magistrate” means a special magistrate appointed under this Act or any Act repealed by this Act;
- “State institution” means an institution maintained by the Governor under section nine;
- “superintendent”, when used in relation to an approved children’s home, means the person whose name is notified to the Director under section ten as being the person who is for the time being the superintendent of that home;
- “supervision order” means a supervision order made under this Act.

(2) For the purposes of this Act a ward of the State shall be deemed to be placed out with a person, when—

- (a) he is boarded out with that person under this Act;
- (b) that person is permitted, under this Act, to take over his care or maintenance, otherwise than in an institution; or
- (c) he is apprenticed to or employed by that person and that person makes, or is required to make, provision for his accommodation.

(3) References in this Act to damages shall be construed as references to any sum, other than a fine or costs, that a court, on the conviction of any person for an offence, may order him to pay to any other person.

PART II.

ADMINISTRATION.

4 The powers and authorities conferred on any court or any person by this Act shall be exercised so as to secure that, as far as is practicable and expedient, each child suspected of having committed, charged with, or found guilty of an offence shall be treated, not as a criminal, but as a child who is, or may have been, misdirected or misguided, and that the care, custody, and discipline of each ward of the State shall approximate as nearly as may be to that which should be given to it by its parents.

General principles of administration.

Ibid., s. 124.

5—(1) The Governor may appoint such persons as he thinks fit to form an advisory council and may appoint one of those persons to be the chairman of the council.

Advisory Council.

(2) The advisory council appointed under this section may advise the Minister on matters relating to the welfare of children and shall report to him on such matters relating to the welfare of children as he may refer to it.

(3) The secretary of the council shall be an officer of the department of which the Director is the head nominated by him for the purpose.

(4) The members of the advisory council appointed under this section are not, as such, subject to the *Public Service Act 1923*, but an officer of the Public Service may be appointed a member of the council and may hold office as a member thereof in conjunction with his office as an officer of the Public Service.

6—(1) The Governor may appoint, in accordance with the *Public Service Act 1923*, a Director of Social Welfare and a Deputy Director of Social Welfare.

Director and Deputy Director of Social Welfare.

(2) The Director, with the approval of the Minister, may authorize the Deputy Director of Social Welfare to exercise, either generally or in a particular case, any of the functions conferred on the Director by this Act, and any act or other thing done by the Deputy Director of Social Welfare in exercise of those functions shall have the same force and effect as if it had been done by the Director.

(3) The Director may appear before a children's court, or any other court of summary jurisdiction, or in any legal proceedings before such a court, by any person authorized by him generally or specially in that behalf; and such a person may institute and carry on any proceedings that the Director is authorized to institute and carry on under this Act.

7—(1) The Governor may appoint, in accordance with the *Public Service Act 1923*, a chief child welfare officer and other child welfare officers.

Child welfare officers.

(2) The Director may, with the approval of the Minister, appoint honorary child welfare officers.

(3) Subject to this Act, a child welfare officer shall exercise the functions conferred on him by this Act in such cases and in such circumstances as the Director may determine and in accordance with any directions given by the Director.

(4) The Minister shall cause to be published in the *Gazette* notice of the appointment of any person as a child welfare officer and notice of any person ceasing to hold office as a child welfare officer.

(5) The Minister may make such payments to an honorary child welfare officer in, or towards, the reimbursement of any expenses incurred by him in the performance of his functions under this Act as may be prescribed.

(6) No person, other than a child welfare officer, shall represent himself to be a child welfare officer, or conduct himself in such a manner, or do any act, calculated to lead any person to believe that he is a child welfare officer or is authorized to carry out any of the functions conferred on a child welfare officer.

Penalty: Twenty-five pounds.

Annual
report of
Director.
Ibid., s. 12.

8—(1) The Director shall, as soon as practicable after the thirtieth day of June in each year, submit to the Minister a report on the administration of this Act during the year ending on that date, and the Minister shall cause a copy of the report to be laid on the table of each House of Parliament.

- (2) A report made for the purposes of this section shall—
- (a) contain particulars with respect to the number of children accommodated in each institution during the year to which the report relates;
 - (b) specify the number of wards of State placed out or apprenticed under this Act during the year to which the report relates; and
 - (c) contain a summary of the money received and expenditure incurred in the administration of this Act during the year to which the report relates,

and shall set out such other particulars as the Minister may direct.

State insti-
tutions.
Ibid., s. 14.

9 The Governor may establish and maintain institutions for the accommodation, care, and maintenance of wards of State and of such children for whom it may be necessary to provide accommodation in connection with the administration of this Act.

Approved
children's
homes.
Ibid., ss. 15,
16, and 17.

10—(1) On the application of any persons having the management or control of a home, hostel, school, or other institution that is not carried on for private profit and is intended for the care, education, or training of children, the Minister, after making or causing to be made an examination thereof and the manner in which it is being or is proposed to

be carried on, may, for the purposes of this Act, by writing under his hand, issue a certificate of approval in respect of that home, hostel, school, or other institution.

(2) The Minister, if he is dissatisfied with the condition of an approved children's home or the manner in which it is being carried on, or if he is satisfied that any of the requirements of this Act have not been complied with in respect of that home, serve notice, in writing, on the managers thereof specifying the matters in respect of which he is dissatisfied or in respect of which the provisions of this Act have not been complied with and requiring them to take such steps as may be specified in the notice to remedy those matters or to secure that the provisions of this Act are complied with in respect of the home.

(3) If within three months after the service of a notice under subsection (2) of this section or within such longer period as the Minister may allow the requirements of that notice have not been complied with to the satisfaction of the Minister he may withdraw the certificate of approval issued in respect of the approved children's home to which the notice relates.

(4) The managers of an approved children's home may serve notice in writing on the Minister stating that it is their intention to relinquish the certificate of approval issued in respect of that home and on the expiration of three months after the service of the notice that certificate shall be deemed to have been relinquished; unless before the expiration of that period, the managers give notice in writing to the Minister that they do not desire to relinquish the certificate.

(5) The managers of an approved children's home shall notify to the Director the name of the person who is for the time being the superintendent of that home.

(6) The Director shall, so far as is practicable, inspect or cause to be inspected, every approved children's home once at least in each period of three months.

(7) When the Director considers it necessary so to do, he or an authorized officer may—

- (a) enter an approved children's home at any reasonable time; and
- (b) inspect the home, or any part thereof, and the equipment, furniture and fittings provided in connection therewith.

(8) The managers of an approved children's home, or any of them, and the superintendent of an approved children's home shall give to the Director or an authorized officer such information as the Director may require with respect to the home.

11 The Minister shall pay to the managers of an approved children's home, in respect of each ward of the State or child maintained therein under this Act, such sums as he may determine calculated with reference to the period during which that ward or other child is so maintained.

State aid to approved children's homes.
Ibid., s. 21.

Expenses of
administration.
Ibid., s. 123.

12 The expenses incurred in the administration of this Act shall be defrayed out of moneys provided by Parliament for the purpose.

PART III.

CRIMINAL AND OTHER PROCEEDINGS IN RESPECT OF CHILDREN.

Division I—Children's courts and jurisdiction of other courts of summary jurisdiction.

Establishment of
children's
courts.
Ibid., ss. 22,
23, 24, 27,
& 28.

13—(1) Courts of summary jurisdiction constituted in accordance with this Act and sitting for the purpose of hearing a charge against a child or for the purpose of exercising any other jurisdiction conferred on children's courts by or under this or any other Act shall be known as children's courts.

(2) The Governor may appoint places at which children's courts may be held.

(3) The Governor may appoint one or more justices to be a special magistrate or special magistrates for the children's courts held at any place, and may appoint any one such justice as chairman of the special magistrates appointed for the children's courts held at that place.

(4) A children's court shall consist of the special magistrate, or one or more of the special magistrates, appointed for that court, or, if no special magistrate has been appointed for that court, a police magistrate, or any two justices, having jurisdiction at the place at which the court is held.

(5) Notwithstanding anything in subsection (4) of this section, if, where a special magistrate has been appointed for a children's court, no special magistrate is present when that children's court is required to be held, the court may consist of a police magistrate or any two or more justices having jurisdiction at the place at which the court is to be held.

(6) Except as otherwise expressly provided in this Act, the *Justices Act 1959* has effect with respect to a children's court and the magistrates or justices constituting such a court, subject to this Act.

(7) Subsection (1) of section nineteen and subsection (2) of section twenty of the *Justices Act 1959* apply to a special magistrate as they apply to a police magistrate.

(8) A children's court shall not sit in the same room as that in which any other court of summary jurisdiction is at the time sitting or in which any justice is sitting out of sessions.

Assignment of certain
matters to
children's
courts.
Ibid., ss. 25
& 26.

14—(1) Subject to this Act, a children's court and the magistrates or justices constituting such a court, in addition to any other jurisdiction, powers, and authorities conferred upon them by this Act have, in respect of offences committed or alleged to have been committed by children, all the jurisdiction, powers, and authorities possessed by police magistrates, courts of petty sessions, or justices.

(2) Subject to subsection (3) and subsection (4) of this section, no charge against a child shall be heard by a court of summary jurisdiction that is not a children's court.

(3) A charge that is made jointly against a child who has attained the age of fifteen years and a person who has attained the age of seventeen years shall be heard by a court of summary jurisdiction other than a children's court.

(4) Where a child who has attained the age of fifteen years is charged with an offence, the charge may be heard otherwise than in a children's court if a person who has attained the age of seventeen years is charged at the same time with aiding, abetting, causing, procuring, allowing, or permitting that offence.

(5) Nothing in any enactment that requires the proceedings in respect of any offence committed or alleged to have been committed by any person to be heard and determined by a police magistrate sitting alone, prevents those proceedings in respect of such an offence committed or alleged to have been committed by a child from being heard in a children's court, but, if they are so heard, they shall not be heard otherwise than by a police magistrate or a special magistrate sitting alone.

(6) Nothing in this section affects the powers of any justice to receive a complaint or issue any summons, or to grant, issue, or endorse any warrant, or to admit to bail, or the jurisdiction of a court of summary jurisdiction under section six of the *Probation of Offenders Act 1934*.

15—(1) It is the duty of a police officer who makes a complaint against, or an application to a children's court in respect of, a child, forthwith to inform the Director or a child welfare officer, of the subject matter of the complaint or application.

Functions of child welfare officers in respect of courts of summary jurisdiction.

(2) A children's court, or any other court of summary jurisdiction, shall not pass sentence on a child or make an order that finally determines the proceedings in the court in respect of that child (other than an interim order or an order remanding the child or committing him for trial or transferring any proceedings to another court) unless there has been furnished to the court a report in writing by a child welfare officer on investigations made by him into the circumstances of the case or evidence has been given to the court by a child welfare officer on investigations made by him into those circumstances, or unless the court is satisfied that a reasonable opportunity has been given to a child welfare officer to make those investigations and to make such a report or give such evidence.

(3) Subsection (2) of this section does not apply in a case where a child is found guilty of an offence which the court considers to be of a trivial nature, or where the court is notified by the Director that it is not proposed to furnish the court with such a report or give before the court such evidence as is referred to in that subsection.

(4) Failure of a court or any person to comply with the provisions of this section in respect of any proceedings does not invalidate any order or determination made by the court in those proceedings.

(5) It is the duty of the Director, on his becoming aware of any complaint laid against, or application made to a children's court in respect of, a child forthwith to direct a child welfare officer to investigate the circumstances of the case, and that child welfare officer shall comply with those directions.

Appearance of
parents in
proceedings
in respect
of children.
Ibid., s. 44.

16—(1) Where a child is charged before a children's court or any other court of summary jurisdiction, with an offence or any other proceedings are taken in a children's court against or in respect of him, any parent or guardian of his is entitled to be heard either by himself or his counsel or attorney, and to examine and cross-examine witnesses.

(2) Where a child is charged before a children's court, or any other court of summary jurisdiction, with an offence or any other proceedings are taken in a children's court against or in respect of him, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(3) For the purpose of enforcing the attendance of a parent or guardian under subsection (2) of this section a justice may issue a summons to him requiring him to appear before the court at the time and place therein mentioned.

(4) Where a justice is satisfied by evidence on oath that it is probable that a parent or guardian will not attend at a court as may be required under subsection (2) of this section, he may, whether or not a summons has been issued requiring him to attend at that court, issue a warrant to have him brought before the court at the time and place therein mentioned.

(5) Where a parent or guardian fails to appear before a court in accordance with a summons issued under this section, and no sufficient excuse is offered to the court for the failure, the court, or any justice thereof, may, if the court is satisfied that the summons was duly served on, or has come to the knowledge of, the person to whom it was issued, issue a warrant to have him brought before the court at the time and place therein mentioned.

(6) The attendance of the parent of a child shall not be required under this section in a case where before the institution of the proceedings that parent was not entitled to the custody or charge of the child by virtue of an order of a court.

(7) Where a child is apprehended or, for the purposes of his being brought before a children's court, is otherwise taken into detention, the person by whom he is apprehended or is taken into detention, or the police officer in charge of the police station to which he is brought, shall cause the parent or guardian of the child, if he can be found, to be warned to attend at the court before which the child will appear.

17—(1) Subject to this section, where any proceedings are being heard by a children's court, the court may order any person to go and remain outside the courtroom and beyond the hearing of the court during the hearing of those proceedings.

Exclusion of public from children's courts.
Ibid., s. 35.

(2) If so directed by the court, a police officer may remove from a courtroom or from the hearing of the court a person who contravenes an order made under subsection (1) of this section.

(3) An order shall not be made under subsection (1) of this section in respect of a person who is—

- (a) a legal practitioner acting for any of the parties to the proceedings;
- (b) the Director, a child welfare officer, or a probation officer; or
- (c) a person who is authorized to appear before the court under subsection (3) of section six.

(4) No person shall contravene an order made under subsection (1) of this section.

Penalty: Ten pounds or forty-eight hours' imprisonment.

(5) A court may convict a person of an offence under subsection (4) of this section upon its own knowledge of the offence.

(6) Nothing in this section affects the operation of the *Admission to Courts Act 1916* or section thirty-seven or section fifty-six of the *Justices Act 1959*.

(7) In this section "courtroom" means, in relation to a children's court, the room or other place in which that court is sitting.

18—(1) No person shall publish a report of any proceedings in a children's court or the result of any such proceedings.

Publication of proceedings concerning children.

Penalty: One hundred pounds.

(2) No person shall publish any matter that reveals the name, address, or school, or contains any particulars calculated to lead to the identification of a child against or in respect of whom proceedings are taken in a children's court, or any other court of summary jurisdiction, or of a child who has appeared as a witness in a children's court.

Penalty: One hundred pounds.

(3) Nothing in this section prohibits the publication of any matter made by the Attorney-General or by a person who by virtue of his office is authorized or required to make that publication.

Division II—Offences by children.

19—(1) Where a person who has apparently not attained the age of seventeen years is apprehended, with or without warrant, it is the duty of the person by whom he is apprehended and any person by whom he is held in custody to secure that he is, as soon as is practicable, brought before a children's court or some other court of summary jurisdiction, and if it is not practicable to bring him before such a court within twenty-four hours of his apprehension, to secure that, if he

Arrest of children.
Ibid., s. 42.