

CHILDREN'S WELFARE ACT 1928.

An Act to consolidate the Law relating to Children's Welfare and to the Protection of Infant Life. 19 GEORGE V.
No. 3654.

[12th February, 1929.]

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) :—

Neglected Children's Act 1915.
Infant Life Protection Act 1915.

1. This Act may be cited as the *Children's Welfare Act 1928*, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*, and is divided into Parts and Divisions as follows :—

Short title commencement and division.

PART I.—
Children's
Welfare
ss. 3-90.

- Division 1.—Establishment of Receiving Homes and Probationary Schools and Recognition of Industrial Schools ss. 4-8.
- Division 2.—Officers ss. 9-17.
- Division 3.—Committal to the Care of the Children's Welfare Department ss. 18-24.
- Division 4.—Management of Wards of the Department ss. 25-33.
- Division 5.—Management of the Property of Wards of the Department ss. 34-40.
- Division 6.—Visitors to Schools and Religious Instruction ss. 41-44.
- Division 7.—Liability of Parents for Maintenance ss. 45-60.
- Division 8.—Committal to the Care of Private Persons ss. 61-76.
- Division 9.—Employment of Children ss. 77-79.
- Division 10.—Offences Penalties and Legal Proceedings ss. 80-87.
- Division 11.—Regulations of the Governor in Council ss. 88-90.

PART II.—Infant Life Protection ss. 91-118.

Neglected Children's Act 1915 s. 2.
Infant Life Protection Act 1915 s. 2.
 Repeal.

First Schedule.

2. The Acts mentioned in the First Schedule to this Act to the extent thereby expressed to be repealed are hereby repealed. Such repeal shall not affect any appointment application list complaint declaration distress order regulation or transfer made or validated, or any certificate or security given, or any summons issued, or any warrant granted, or any surety bond recognisance or demise entered into or executed or any receiving home or probationary school established or any liability civil or criminal incurred or any right acquired or any matter or thing done under the said Acts or any of them before the commencement of this Act.

PART I.—CHILDREN'S WELFARE.

Interpretation.

Neglected Children's Act 1915 s. 3.

"Casual employment."

"Child."

"Inmate."

"The Inspector."

"The Minister."

"The Secretary."

"Ward of the Department."

Ward of the Children's Welfare Department."

Construction of references to Department for Neglected Children or Secretary in Acts documents &c.

Children's Welfare Act 1924 s. 2.

3. In this Part, unless inconsistent with the context or the subject-matter—

"Casual employment" means employment for the purposes of gain in streets or other places in vending or exposing for sale any article whatsoever and also employment of any other kind outside the child's own home not being employment the lawful period whereof is regulated by any Act of Parliament :

"Child" is applicable to any person under the age of twenty-one years :

"Inmate" includes inmate within the meaning of the Acts relating to neglected children and juvenile offenders in force at the commencement of this Act :

"The Inspector" means the Inspector of Industrial and Probationary Schools :

"The Minister" means the responsible Minister of the Crown administering this Act :

"The Secretary" means the Secretary of the Children's Welfare Department :

"Ward of the Department" means any one of whose person the secretary^(a) or the superintendent or matron^(b) of any reformatory school is guardian under the provisions of this Act or any Act for the time being in force relating to juvenile offenders :

"Ward of the Children's Welfare Department" means any one of whose person the secretary is guardian under the provisions of this Act.^(a)

Any reference to the "Department for Neglected Children" or any like expression or to the "Secretary of the Department for Neglected Children" or any like expression 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 security bond recognisance or other instrument or any other document whatsoever shall be deemed and taken to refer to and mean the Children's Welfare Department or (as the case may be) the Secretary

(a) See section 25. Consents to the making of an "adoption order" may be dispensed with where the person whose consent is to be dispensed with is a person with whom the infant (being a ward of the Department) is boarded out, &c., pursuant to this Act or is a person with whom

pursuant to Part II. of the Act the infant (not being the child of such person) is boarded out.—*Adoption of Children Act 1928* (No. 3605), section 4 (3) (iv.).

(b) See *Crimes Act 1928*, section 342.

of the Children's Welfare Department unless the context otherwise requires. And the Children's Welfare Department shall be deemed to be the same Department as that formerly known as the Department for Neglected Children.

*Children's
Welfare Act
1924.*

DIVISION 1.—ESTABLISHMENT OF RECEIVING HOMES AND PROBATIONARY SCHOOLS AND RECOGNITION OF INDUSTRIAL SCHOOLS.

4. The Governor in Council may from time to time for the purposes of this Part establish and abolish receiving homes and every such receiving home shall be occupied by and used for males or females exclusively as the Governor in Council directs save that boys under the age of six years may be sent to receiving homes occupied and used for females.

*Receiving
homes,
Neglected
Children's Act
1915 s. 4.*

5. The Governor in Council may from time to time for the purposes of this Part establish and abolish probationary schools and every such school shall be occupied by and used for males or females exclusively as the Governor in Council directs.

*Probationary
schools.
Ib. s. 5.*

6. Any school established by private contributions and heretofore approved by the Governor in Council under section nine of the Act No. 216 as an industrial school shall unless and until such approval is withdrawn be deemed an industrial school within the meaning of this Part for the denomination or denominations (if any) for which the school is stated to be supported in the order approving the same, and any person for the time being approved by the Governor in Council for that purpose shall be deemed the superintendent or matron of such school, and no child shall be sent or committed to such school who is not a member of the denomination or of one of the denominations for which the school is approved.

*Industrial
schools
established by
private persons
under Act No.
216 s. 9.
Ib. s. 6.*

7. The managers of every school established by private contributions and approved by the Governor in Council as aforesaid as an industrial school shall be entitled to receive out of any moneys which may be appropriated by Parliament for that purpose for every ward of the Children's Welfare Department under the provisions of this Part maintained in such school during the preceding year or any part thereof a sum calculated at the rate of not more than Five shillings a week, or in case such ward is crippled or invalid or of unsound mind at such greater rate as the Minister approves.

*State aid to
private indus-
trial schools.
Ib. s. 7.*

8. If at any time upon the report of the Inspector the Governor in Council is dissatisfied with the condition management or regulations of any school established by private contributions he may withdraw his approval from such school, and from and after publication of such withdrawal in the *Government Gazette* the school shall cease to be an industrial school within the meaning of this Part and to be entitled to receive aid from the consolidated revenue: Provided nevertheless that the Governor in Council shall not withdraw his approval of any school as aforesaid until after the lapse of two months from the transmission of a duplicate of the report aforesaid to the superintendent matron or managers of such school.

*Approval of
private
industrial school
how withdrawn.
Ib. s. 8.*

DIVISION 2.—OFFICERS.

*Neglected
Children's Act
1915 s. 9.
Secretary.*

9. The person holding the office of Secretary of the Children's Welfare Department^(a) at the commencement of this Act shall unless and until removed in accordance with the provisions of the *Public Service Act* 1928 by the Governor in Council be the Secretary of the Children's Welfare Department under this Part as if appointed hereunder, and the Governor in Council may subject to the provisions of the *Public Service Act* 1928 from time to time appoint some fit and proper person to be Secretary of the Children's Welfare Department and remove every such Secretary. It shall be the duty of the Secretary 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.^(b)

*Report of the
Secretary.
Ib. s. 10.*

10. The Secretary shall on or before the thirtieth of June in each year submit to the Minister a report of his proceedings and accounts of the receipts and expenditure under the powers or for the purposes of this Part during the past year, with returns showing the number of children received and discharged their ages religion parentage birth-place location and cost of maintenance and the sums contributed by relatives toward their support together with any general remarks he thinks fit to make, and there shall be annexed to such report a summary of the reports sent in by the visiting committees and reports by the superintendent matron or managers of every industrial or probationary school upon the state and requirements of such schools which such superintendents matrons and managers are hereby required to furnish to the Secretary on or before the thirty-first day of March in every year for that purpose. And the Minister shall lay such report of the Secretary with the reports annexed to it before both Houses of Parliament within three weeks after the presentation thereof, if Parliament is then sitting, or if not then sitting within three weeks from the next assembling of Parliament.

*The Inspector.
Ib. s. 11.*

11. The person holding the office of Inspector of Industrial and Probationary Schools at the commencement of this Act shall unless and until removed in accordance with the provisions of the *Public Service Act* 1928 by the Governor in Council be the Inspector of Industrial and Probationary Schools under this Act as if appointed hereunder, and the Governor in Council may subject to the provisions of the *Public Service Act* 1928 from time to time appoint some fit and proper person to be Inspector of Industrial and Probationary Schools and remove every such Inspector.

*Duties of
Inspector.
Ib. s. 12.*

12. It shall be the duty of the Inspector to visit and inspect every industrial and probationary school and receiving home as often as occasion may require, and not less often than the Governor in Council by regulation directs and when specially required by the Minister any house or place where any ward of the Children's Welfare Department is boarded out or placed, and to report to the Minister thereon

(a) As to the power of the secretary to take steps to obtain an "adoption order" (if there is a suitable adopter) in the case of the wards of the Department, see *Adoption of Children Act* 1928 (No 3605), section 14.

(b) It is the duty of the Secretary under this

section to exercise his powers under section 25 as guardian of the person of a ward of the Children's Welfare Department in accordance with the directions of the Minister administering the Act and independently of his own discretion.—*The King v. Steedman, ex parte Smith*, 1916 V.L.R., 412.

and upon all matters connected therewith, and the Inspector shall have control over any officers appointed to visit such wards in such houses or places.

Neglected Children's Act 1915.

13. Subject to the provisions of the *Public Service Act* 1928 the Governor in Council may from time to time appoint for every probationary school for males a superintendent, and for every probationary school for females a matron, and may remove every such superintendent and matron ; and it shall be the duty of the superintendent or matron of every such school to carry into execution all the provisions of this Part and the regulations in force thereunder so far as the same relate to such school and the wards of the Children's Welfare Department for the time being detained there.

Superintendents and matrons. Ib. s. 13.

14. It shall be the duty of the teachers officers and servants of every industrial and probationary school to obey all lawful and reasonable orders and directions of the superintendent or matron (as the case may be) in the execution of this Part.

Teachers officers and servants. Ib. s. 14.

15. All appointments and removals to be made by the Governor in Council under the powers contained in this Part shall be made subject to the provisions of the *Public Service Act* 1928 or any Act for the time being in force relating to the public service.

Application of the Public Service Act. Ib. s. 15.

16. In case of the absence on leave or temporary incapacity of any officer appointed under the provisions of this Part or under any corresponding previous enactment the Governor in Council may appoint some fit and proper person to act in his stead, and every such person when so acting may exercise all the powers and duties of the officer in whose place such person is appointed.

Power to appoint temporary officers. Ib. s. 16.

17. All courts judges and persons acting judicially shall take judicial notice of the signature of the Minister the Secretary the Inspector and of any superintendent or matron or clerk of a court or of any person acting in any of such offices to every document required to be signed for the purposes of this Part or any corresponding previous enactment.

Judicial notice to be taken of signatures. Ib. s. 17.

DIVISION 3.—COMMITTAL TO THE CARE OF THE DEPARTMENT.^(a)

18. Every child who answers to any of the following descriptions shall be deemed a "neglected child" within the meaning of this Act, that is to say:—

What children to be deemed "neglected." Ib. s. 18.

(a) Every child apparently under the age of seventeen years—

(i.) found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms :

(ii.) found wandering about or frequenting any street or thoroughfare or any premises licensed under the *Licensing Act* 1928 or any place of public resort or sleeping in the open air and who has not any home or settled place of abode or any visible means of subsistence :

(a) On the discharge of an "adoption order" in respect of an adopted child, as to the committal of the child to the care of the Children's

Welfare Department, see the *Adoption of Children Act* 1928 (No. 3605), section 13 (2).

*Neglected
Children's Act
1915.*

(iii.) associating or dwelling with any person known or reputed to be a thief or drunkard or with any person convicted of vagrancy under any Act now or hereafter to be in force whether the person so known reputed or convicted is the parent of the child or not :

(iv.) having committed an offence punishable by some less punishment than imprisonment ; and

(b) Every child apparently under the age of ten years found engaged in any casual employment during the months of May June July August or September after the hour of seven o'clock in the evening, or at any other part of the year after the hour of nine o'clock in the evening.

*Neglected
children may be
taken before
children's
court.
Ib. s. 19.*

19. Every child found by any member of the police force or person authorized by the Governor in Council in circumstances which make such child a "neglected child" may be immediately apprehended by such member or person without any warrant and forthwith taken before a children's court to be dealt with according to this Part, and until the charge is heard and disposed of such child shall be detained under such care and in such manner as may be provided by regulations made or in force hereunder or by the *Children's Court Act 1928.*^(a)

*Neglected
children how
dealt with.
Ib. s. 20.*

20. Whenever any child is brought before a children's court charged with being a "neglected child" the court shall proceed to hear the charge, and if it is established to its satisfaction may direct such child to be forthwith committed to the care of the Children's Welfare Department, or if in the opinion of such court such child has been leading an immoral or depraved life to a reformatory school, or may direct such child to be released on probation as provided by the *Children's Court Act 1928.*

*Child residing
in a brothel or
with a prostitute
to be taken
before children's
court.
Ib. s. 21.*

21. (1) Every child apparently under the age of sixteen years found (by any senior constable sergeant of police or officer of police of superior grade to a sergeant or by any person specially authorized by the Governor in Council in that behalf) residing in a brothel or associating or dwelling with a prostitute whether the mother of the child or not shall be immediately apprehended by such constable sergeant or officer or person without any warrant, and forthwith taken before a children's court to be dealt with according to the provisions of the next succeeding section.

*How dealt with.
Ib. s. 22.*

(2) Whenever any child apparently under the age of sixteen years is brought before a children's court charged with residing in a brothel or associating or dwelling with a prostitute whether the mother of the child or not the court shall proceed to hear the said charge, and if the same is established to its satisfaction shall direct such child forthwith to be committed to a reformatory school, or if in the opinion of such court such child has not been leading an

(a) Under the former Act it was held that it was illegal and beyond the jurisdiction of a magistrate to remand a child, who had been arrested as a neglected child, to the care of the Neglected Children's Department at Royal Park, with the object of securing her and preventing

her from being tampered with as a witness, there being no intention of proceeding with the charge laid against her of being a neglected child.—*McSweeney v. Haggart*, 17 A.L.R., 70 ; 1911 V.L.R., 130.

immoral or depraved life to the care of the Children's Welfare Department or may direct such child to be released on probation as provided by the *Children's Court Act 1928*: Provided always that in case special and exceptional circumstances are proved which satisfy the court that it would be inadvisable to commit such child, the court may order such child to be discharged.

22. If the guardian of any child under the age of fifteen years represents to a children's court and proves to its satisfaction that he is unable to control such child such court may order that upon such guardian entering into security to the satisfaction of the clerk of the court for payment of such sum as such court may fix for the maintenance of such child such child be committed to the care of the Children's Welfare Department, and if in pursuance of such order such guardian enters into such security the clerk of the court shall sign a memorandum upon such order to that effect and thereupon the child named in such order shall be deemed to be committed to the care of the Children's Welfare Department, and for the purpose of determining whether such child has been duly committed to such care such memorandum shall be conclusive evidence that the security has been duly given to the satisfaction of the clerk of the court. The word "guardian" in this section includes the father and the mother if both concur or either the father or the mother if at the time the application is made he or she (as the case may be) has in fact without interference from the other the control and charge or supposed control and charge of such child.

Neglected Children's Act 1915.

Power to commit to the care of the Department a child who is not controllable by its guardian. *Ib. s. 23.*

23. Every order committing a child to the care of the Children's Welfare Department or to a reformatory school may be in such one of the forms in the Second Schedule hereto as may be applicable or in any form which may be substituted therefor by the regulations of the Governor in Council for the time being in force or to the like effect, and such order or an office copy thereof without any warrant shall be sufficient authority for any member of the police force to take such child to the reformatory school named therein, or in case of a child committed to the care of the Children's Welfare Department to the place to which the Secretary directs such child to be taken, or in default of any such direction to such receiving home for children of the same age and sex as is nearest or most convenient.

Form of order committing a child to the care of the Department or a reformatory. *Ib. s. 24. Second Schedule.*

24. (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 or who is in charge of a police station, may in the prescribed form make an application in writing to the secretary that the child should become a ward of the Children's Welfare Department.

Application to make certain children without means of support wards of the Department. *Children's Maintenance Act 1919 s. 16. Children's Maintenance Act 1924 s. 7.*

*Children's
Maintenance
Act 1924.*
Investigation
by secretary.

(2) The Secretary—

- (a) shall on receipt of such application make or cause to be made such investigations as appear to him desirable with respect to the application and the subject-matter thereof; and
- (b) upon the completion of his investigations shall refer the application together with a full report of the result of the investigations which have been made to a police magistrate.

Power and
duties of police
magistrate.
*Children's
Maintenance
Act 1919 s. 16.*

(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 Children's Welfare Department; and
- (c) on the completion of his investigations 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.

Power of
Minister.

(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 endorsed on the application and signed by him grant the application or may refuse the same.

Effect of
direction of
Minister.

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

Application of
*Maintenance
Act 1928.*

(6) Sections fifty to fifty-seven of the *Maintenance Act 1928* shall apply to this section as if any reference in the said sections to Part III. of the said Act were a reference to this section.

(7) In this section—

- (a) "Child" means any person (whether born in lawful wedlock or not) under the maximum age provided under the Education Act for the time being in force for a child of school age within the meaning of such Act.
- (b) "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.

DIVISION 4.—MANAGEMENT OF WARDS OF THE DEPARTMENT.

Secretary to be
guardian of the
person of
children
committed to
the case of the
Department.
*Neglected
Children's Act
1915 s. 25.*

25. Whenever any child is committed or transferred to the care of the Children's Welfare Department under the provisions of this or any other Act for the time being in force authorizing such committal or transfer, the Secretary shall become the guardian^(a) of the person of such child to the exclusion of the father and mother and every other guardian until such child attains the age of eighteen years or such greater age not exceeding twenty years as the Governor in Council

(a) Notwithstanding this provision, it was held that the Secretary having once placed the child in the custody of a suitable person in accordance with the regulations could not of his own motion

under the regulations as framed demand the child back.—*In re Kay, ex parte Davis*, 29 V.L.R., 685. See notes to section 9 and section 30.

may direct unless such child is sooner discharged, and the Secretary shall as such guardian have the sole right to the custody of such child and shall deal with such child as directed by this Act and the regulations of the Governor in Council in force hereunder.

Neglected Children's Act 1915.

26. While any ward of the Children's Welfare Department is detained in any industrial or probationary school the superintendent or matron of such school may exercise the powers of the Secretary as guardian of the person of such ward.

Guardianship of children while detained in industrial schools.
Ib. s. 26.

27. Whenever any ward of the Children's Welfare Department is desired to be transferred to a reformatory school the Secretary may write or cause to be written on the order committing such ward to the care of the Children's Welfare Department or if such ward has been transferred from a reformatory school the order committing such ward to a reformatory school or an office copy thereof respectively a memorandum to the following effect:—"I recommend that A.B. within-named be transferred to the reformatory school at (describing the school)" and may sign such memorandum and the Minister may write or cause to be written after such memorandum the word "approved" together with the date and may sign the same and thereupon such ward shall be deemed to be transferred to such reformatory school.

Method of transferring child from the care of the Department to a reformatory.
Ib. s. 27.

28. No warrant shall be necessary to authorize the detention of any ward of the Children's Welfare Department but if the right to the custody of such ward is called in question by *habeas corpus* or otherwise it shall be sufficient to give in evidence the order committing such ward to the care of the Children's Welfare Department and in case such ward has been transferred from a reformatory school the order committing such ward to a reformatory school and the order or orders transferring such ward and to show that such ward is detained by the authority of the Secretary as guardian of the person of such ward.^(a)

Warrant not to be necessary to detain child.
Ib. s. 28.

29. The Governor in Council may at any time order any ward of the Children's Welfare Department to be discharged and thereupon the Secretary shall cease to be guardian of the person of such ward.

Power to the Governor in Council to discharge any ward of the Department.
Ib. s. 29.

30. Subject to the regulations of the Governor in Council every ward of the Children's Welfare Department may from time to time be dealt with by the Secretary in one or other of the following ways:—

Wards of the Department how dealt with.
Ib. s. 30.

- (1) Placed in some receiving home :
- (2) Boarded out with some suitable person :
- (3) Placed at service with some suitable person :
- (4) Apprenticed to some trade either on land or at sea :
- (5) Placed in the custody of some suitable person who may be willing to take charge of such ward :^(b)

(a) Compare *Crimes Act 1928*, section 345.

(b) A., a ward of the Department for Neglected Children, had been placed with X, under section 30 (5) of the *Neglected Children's Act 1890*, corresponding with this section, and the regulations thereunder. On the recommendation of the Secretary, indorsed by the Minister, A. was handed over to Y. The regulations made provision for the Minister directing the subsequent removal of such a child but made no provision for the Secretary doing so.

Held, that the Secretary could not of his own

motion afterwards demand that the child be handed back to the custody of the Department.

Per Madden, C.J.—The Secretary under section 30 (5) has a right to place a ward with any suitable person willing to take it. Once he has so placed it he cannot demand it back unless the Governor in Council or the Minister orders it.—*In re Kay, ex parte Davis*, 29 V.L.R., 685. See note to section 25.

As to the Secretary's power to take steps to obtain an adoption order, see *Adoption of Children Act 1928*, section 14.

*Neglected
Children's Act
1915.*

- (6) Detained in some industrial or probationary school:
(7) Transferred with the approval of the Minister to some reformatory school to which such ward might be lawfully committed:

Provided always that in case it comes to the knowledge of the Minister that any ward committed under this or any other Act to the care of the Children's Welfare Department or the Department for Neglected Children (as the case may be) has been leading an immoral or depraved life such ward shall be transferred to a reformatory school unless under the special circumstances of any case the Minister thinks that it would be inexpedient and it shall be the duty of the Secretary to take the proper steps for that purpose: Provided also that no ward shall be detained in any probationary school for more than six months without the authority in writing of the Minister who may from time to time authorize the detention of such ward for a further period so that the period of detention of such ward in a probationary school at one time does not exceed in the whole twelve months at the expiration of which period such ward must be dealt with in such other of the foregoing ways as in the circumstances of the case seems proper: Provided also that no ward who has been transferred from a reformatory school or who has been residing in a brothel or associating or dwelling with a prostitute shall be boarded out without such information as to the case of such ward being given to the person with whom such ward is proposed to be boarded as is prescribed by or under the regulations of the Governor in Council for the time being in force in that behalf.

Power to visit
and inspect
wards boarded
out &c.
Ib. s. 31.

31. Every person with whom any ward of the Children's Welfare Department is boarded out placed or apprenticed shall from time to time permit such ward to be visited and any place where such ward is or resides to be inspected by the Inspector or any person authorized by or under the regulations of the Governor in Council for the time being in force in that behalf.

Secretary to
have power of
apprenticing
wards of the
Department.
Ib. s. 32.

32. The Secretary shall be deemed a person having the control of a public institution of an eleemosynary nature and all wards of the Children's Welfare Department shall be deemed children under his care or control within the meaning of the *Master and Apprentice Act 1928*.

Constables to
assist in
retaining
custody of
wards.
Ib. s. 33.

33. All members of the police force shall assist the Secretary and every superintendent or matron of an industrial or probationary school or receiving home in retaining or recovering the custody of any ward of the Children's Welfare Department who absconds or attempts to abscond.

DIVISION 5.—MANAGEMENT OF THE PROPERTY OF WARDS OF THE DEPARTMENT.

Secretary to be
guardian of the
estates of
children
committed to
the care of the
Department
Ib. s. 34.

34. Unless the Governor in Council otherwise orders, the Secretary shall to the exclusion of the father mother and every other guardian be or become the guardian of the estate of every child who is or becomes a ward of the Department^(a) and shall unless such child is sooner discharged continue to be such guardian until such child attains the age of eighteen years or if the Governor in Council so directs any greater age not exceeding twenty-one years: Provided

(a) Compare *Crimes Act 1928*, section 342.

always that in any order directing any ward of the Department or any inmate to be discharged the Governor in Council may direct that the Secretary remain guardian of the estate of such ward or inmate until such ward or inmate attains the age of twenty-one years, and in such case the Secretary shall remain such guardian accordingly: Provided also that in any such case the Supreme Court may appoint any other person instead of the Secretary to be guardian of the estate of any such ward or inmate who has been discharged.

Neglected Children's Act 1915.

35. The Secretary as guardian under the provisions of this Part of the estate of any person with the consent of the Minister may—

Power of the Secretary as guardian of the estate.

- (1) Manage and demise for any term not exceeding three years the lands of or to which any such person is seized possessed or entitled, and make allowances to and arrangements with all or any of the tenants or occupiers for the time being of the said lands, and accept surrenders of leases and tenancies as fully and effectually as such person if of the full age of twenty-one years could do:

Ib. s. 35. To manage and lease lands &c.
- (2) Demand sue for collect and receive all the rents and profits which may be due to any such person, and give effectual receipts and discharges for such rents and profits or so much thereof as are received, and in case of non-payment of the said rents and profits or any of them or any part thereof in the name and on behalf of such person enter into and upon all or any of the lands in respect of which any rents or profits are unpaid and for the same rents and profits and the costs and expenses incurred by or incidental to the non-payment thereof distrain and the distresses then and there found dispose of in due course of law, and take and use all lawful proceedings and means for recovering and receiving the said rents and profits and for evicting and ejecting defaulting tenants and occupiers from all or any of the said lands and determining the tenancy or occupation thereof and for obtaining recovering and retaining possession of all or any of the lands held or occupied by such defaulters:

To recover rents.
- (3) Sue for and recover any wages or earnings due to any such person:

To sue for wages and earnings.
- (4) In the name and on behalf of any such person commence and prosecute all actions suits claims demands and proceedings touching any lands estate interest or rights of any such person or of his tenant therein or thereto, or touching any matter or thing whatsoever in which any such person or his real or personal estate or effects may be in any way interested affected or concerned:

To take legal proceedings on behalf of ward in other cases.
- (5) Appoint and remove at his pleasure any attorney or agent under him in respect of all or any of the matters aforesaid upon such terms and for such remuneration as the Minister thinks fit.

To appoint authorized agent.

36. Subject to any regulations of the Governor in Council for the time being in force as to the earnings of wards of the Department or inmates all moneys which by virtue of this Part come into the hands or under the control of the Secretary on account of any person of whose

Moneys received by the Secretary how dealt with. Ib. s. 36.

*Neglected
Children's Act
1915.*

estate the Secretary is guardian shall be paid to the receiver of revenue at Melbourne in such manner as the Governor in Council from time to time appoints and at such intervals as the Treasurer from time to time directs without any deduction, and such moneys shall be placed to a fund to be called "The State Wards' Fund," and every payment to be made by the Secretary shall be accompanied by a declaration that such payment includes all moneys received by the Secretary on account of any person of whose estate he is guardian under the provisions of this Part (not being earnings of any ward of the Department or inmate directed to be otherwise dealt with by the regulations of the Governor in Council) since the date of the last payment made by him, and such declaration shall be in the form prescribed by the regulations of the Governor in Council.

*Percentage
payable to
revenue.
Ib. s. 37.*

37. The receiver of revenue shall deduct such amount as is from time to time fixed by the Governor in Council, but not exceeding Five pounds per cent., from the moneys paid to the credit of the State Wards' Fund, and the sum so deducted shall be passed to the credit of the consolidated revenue.

*Payment to
revenue on
account of
maintenance.
Ib. s. 32.*

38. There shall be payable to His Majesty out of the moneys received on account of every person of whose estate the Secretary is guardian under the provisions of this Part, other than the earnings of such person, such weekly sum for the maintenance of such person as the Minister directs ; and whenever the Secretary pays to the receiver of revenue any moneys received on account of such person the Secretary shall certify the amount payable thereout on account of such maintenance, and the receiver of revenue shall deduct such amount from the moneys to be paid to the State Wards' Fund, and the moneys so deducted shall be passed to the credit of the consolidated revenue.

*Expenses.
Ib. s. 39.*

39. All expenses lawfully incurred by the Secretary in executing the trusts or powers reposed in him by this Part for or on account of any person of whose estate he is guardian the amount of which is approved by the Minister shall be payable out of the moneys received on account of such estate.

*Payment to
persons entitled.
Ib. s. 40.*

40. When any person is entitled to receive any money out of the funds standing to the credit of any person of whose estate the Secretary is or has been guardian under the provisions of this Part, the Secretary shall certify to an account in favour of the person so entitled upon the person so entitled subscribing a declaration that such account is true and just in every particular and that the estate upon which such claim is made is legally liable to satisfy such claim, and thereupon the Treasurer shall forthwith satisfy such claim to the extent of the fund standing to the credit of the estate upon which such claim is made.

DIVISION 6.—VISITORS TO SCHOOLS AND RELIGIOUS INSTRUCTION.

*Visiting
committee.
Ib. s. 41.*

41. The Governor in Council may appoint for every receiving home and for every industrial or probationary school so many fit and proper persons as may be determined by regulations, and in default of any such determination as seems desirable, a majority of whom reside

in the locality, to be a visiting committee, and the members of such visiting committee shall from time to time visit such home or school as occasion requires and may report to the Minister as to them seems fit.

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42. Subject to the regulations of the Governor in Council all ministers of religion or any person being duly authorized by the recognised head of any religious denomination shall have admission to every receiving home and to every industrial and probationary school maintained at the sole expense of the State, and access to such of the persons placed or detained therein as are members of their respective denominations, and may give instruction to them on the days and at the times allotted by such regulations for the religious education of such persons of their respective denominations.

Religious instruction. Ib. s. 42.

43. Subject to the regulations of the Governor in Council all persons authorized in that behalf by the Minister all Executive Councilors all Members of either House of Parliament all Judges of Courts (whether of record or otherwise) and all justices shall be entitled to visit every receiving home and every industrial or probationary school, and shall have admission to the same accordingly.

Other visitors. Ib. s. 43.

44. Every person who by virtue of the provisions hereinbefore contained is entitled to visit any such home or school as aforesaid and every minister of religion may inscribe in a book (to be for that purpose provided and kept in such home or school by the superintendent or matron thereof) any remarks or observations which he thinks fit to make touching or concerning such home or school and the superintendent matron teachers officers or servants or the persons placed or detained therein or any of them, and such book shall be produced to the inspector whenever he visits such home or school.

Visitors' book. Ib. s. 44.

DIVISION 7.—LIABILITY OF PARENTS FOR MAINTENANCE.

45. Every parent of any child who is a ward of the Department or an inmate of a reformatory school shall be liable to pay for or towards the maintenance of every such child during the period such child remains a ward of the Department or such inmate a periodical sum not exceeding Twelve shillings a week to be fixed in manner hereinafter mentioned:

Amount payable by parent how fixed. Ib. s. 45.

- (1) By the judge or chairman of the court by which or the children's court by which such child is committed, by the order committing such child or any subsequent order made within one month after such child is committed:
- (2) In any other case by any two justices in or out of sessions.

The judge chairman court or justices in fixing the amount to be paid as aforesaid shall have regard to the ability of the parent against whom such order is made to maintain or contribute to the maintenance of such child, and in case of any parent liable to contribute to the maintenance of any child under any order made under any repealed Act the amount payable under such order shall be taken as part of the Twelve

Neglected Children's Act 1915.

shillings a week aforesaid so that no parent shall be compelled to pay more than Twelve shillings a week in respect of any one child under this Act and under any such order: Provided always that no parent shall be liable to pay anything for the maintenance of any such child in respect of any time during which such child is not chargeable to His Majesty.

Power to increase the amount. Ib. s. 46.

46. The amount of the sum payable by any parent under the provisions of this Part may be from time to time increased by any two justices in or out of sessions to any amount not exceeding the maximum if such parent is able to pay such greater amount.

Power to make order retrospective. Ib. s. 47.

47. Any order fixing or increasing the sum payable by any parent may name any day not earlier than the day on which the child was committed to the care of the Department or to a reformatory school or became an inmate of an industrial or a reformatory school (as the case may be) as from which the payment or increased payment is to take place, and such parent shall be liable to make such payment or increased payment accordingly.

Judge &c. committing parent to order maintenance in first instance if the evidence sufficient. Ib. s. 48.

48. The judge or chairman of the court or the children's court committing any child to the care of the Children's Welfare Department or to a reformatory school shall by the same order fix the amount payable by the parent or parents for the maintenance of such child if the evidence before such judge chairman or court is sufficient.

Order may be made either while the child is a ward of the Department or afterwards. Ib. s. 49.

49. An order fixing or increasing the sum payable by any parent may be made at any time either while the child remains a ward of the Department or inmate or after the child has ceased to be such ward or inmate.

Burden of showing inability to pay to be on parent who may be ordered to give recognisances. Ib. s. 50.

50. In any proceeding for fixing or increasing the amount of the sum payable by any parent for the maintenance of any child under the provisions of this Division such parent shall be presumed to be able to pay the sum of Twelve shillings a week unless the contrary is shown; and any parent may be ordered by the judge chairman court or justices to enter into recognisances with or without some sufficient surety or sureties conditioned for compliance with the order as to payment of maintenance and to be imprisoned until such recognisances are entered into.

By whom applications may be made. Ib. s. 51.

51. Applications to fix or increase the sum payable by any parent, or to vary or revoke any order suspending or dispensing with payment or to recover payment of the same, may be made by or on behalf of any person authorized by any general or special order of the Minister.

Maintenance money how payable. Ib. s. 52.

52. Every such sum shall be a debt due to His Majesty by such parent, and shall be paid by such parent at the several times appointed for paying the same to some clerk of petty sessions or other collector of imposts appointed by the Governor in Council to receive the same.

53. No sequestration liquidation by arrangement certificate of discharge release from sequestration discharge or acceptance of a composition under any law now or hereafter to be in force relating to insolvency shall discharge any parent from liability to pay any such sum or any part thereof.

Neglected Children's Act 1915 s. 53. Certificate &c. in insolvency not a discharge.

54. If any parent liable under the provisions of this Part to pay any such sum as aforesaid is so poor as to be unable to pay the said sum, any two justices in or out of sessions may upon the application of any such parent from time to time make an order suspending payment of the whole or any part of such sum for any time not exceeding six months, or reducing the amount payable or altogether dispensing with payment of the said sum, and any two such justices may from time to time upon the application of any person authorized as aforesaid vary or revoke any such order, and payment of such sum or any part thereof of which payment is suspended shall not be enforced while such suspension lasts, but no such parent shall be therefore discharged from liability to pay the same.

Persons too poor to pay may be relieved from payment. Ib. s. 54.

55. In addition to any other remedy for the recovery thereof every such sum and every part thereof may be recovered before any court of petty sessions on the complaint of any person authorized as aforesaid to sue for the same; and if such parent does not pay the amount due forthwith or within any time not exceeding seven days that the court fixes or prove to the satisfaction of the court that he has not then and has not had since the order made against him sufficient means and ability to pay the amount due or any part thereof and that he does not intend to go away with intent to evade payment such parent shall be liable to imprisonment with or without hard labour if the amount due does not exceed Twenty pounds for a term of not more than one month, and if the amount due exceeds Twenty pounds for a term of not more than three months unless the amount due is sooner paid, or unless security is given with one or more sufficient sureties to the satisfaction of any two justices for payment of such amount and costs by instalments or otherwise within such reasonable time as to such justices seems fit.

Payment may be recovered before justices. Ib. s. 55.

56. No imprisonment as aforesaid shall discharge any parent from his liability to pay any sum he has not paid, but no parent shall be imprisoned twice for non-payment of the same arrears.

Imprisonment to be ordered only once for the same arrears. Ib. s. 56.

57. If it is made to appear to any justice upon the complaint in writing of any person authorized as aforesaid to sue for the same that any parent has neglected to pay any such sum or any part thereof to the clerk of the court or other collector of imposts appointed to receive the same on any day on which the same is payable, such justice may issue his warrant for apprehending such parent and bringing him before a court of petty sessions to answer the said complaint and to be further dealt with according to law, but a summons may issue in the first instance instead of a warrant if that is thought more desirable.

Warrant may issue in the first instance for arrest of parent. Ib. s. 57.

Neglected Children's Act 1915 s. 58.
Definition of "parent."

58. In this Division "parent" includes father mother stepfather or stepmother and any person against whom an order under Part I. of the *Maintenance Act 1928* or any corresponding previous enactment has been made as the putative father of any illegitimate child and also includes mother or stepmother notwithstanding a father or stepfather of the child is alive, also the putative father of any illegitimate child which he has recognised as his though no such order has been made against him.^(a)

Where several liable.

And where more persons than one are liable to contribute to the maintenance of any child under the provisions of this Division one order may be made against all of them or separate orders may be made against each or any of them jointly or severally as to the judge chairman court or justices seems fit, so that such persons shall not be liable to pay more than Twelve shillings a week in the aggregate in respect of any one child.

Constables to assist in collecting moneys from parents.
Ib. s. 59.

59. All clerks of courts and members of the police force shall assist every collector of imposts appointed to receive the same in the recovery of the moneys payable to His Majesty by the parents of wards of the Department and inmates, and in particular by obtaining and furnishing information as to the residence occupation movements and means of every such parent who is in or leaves any district of which such clerk or member of the police force has charge or in which he is on duty.

Percentage payable to persons assisting in the recovery of moneys from parents.
Ib. s. 60.

60. For the more effectual enforcing the liability of parents of wards of the Department and inmates to contribute to their maintenance a percentage upon the moneys received from parents hereunder or under any previous Act may be paid out of the consolidated revenue to any persons authorized by the Governor in Council who have assisted in recovering such moneys not being persons bound to devote their whole time to the public service by virtue of any other engagement, and the consolidated revenue is hereby appropriated for that purpose accordingly; and such percentage shall be of such amount and payable to such persons and on such conditions as may be for the time being determined by the regulations of the Governor in Council.

(a) An order for the maintenance of an illegitimate child, made by a court of petty sessions against the alleged father, was quashed by the court of general sessions. The child was subsequently made a ward of the Department for Neglected Children. On an information on behalf of the Department, an order was made against the alleged father, as being the "parent" of the child, for the payment of a weekly sum for the child's maintenance: *Held*, that the justices had jurisdiction to make the last-mentioned order. The facts that a man, alleged to be the father of an illegitimate child, has written to the mother in such terms as are to be construed to be a recognition of the child as his, and has sent her a sum of money, are evidence upon which justices may find that he is a putative father who has recognised the child, and, therefore, a parent within the meaning of this section.—*Buswell v. White*, 24 V.L.R., 486.

Under a former Act not containing this definition it was *held* that the father of an

illegitimate child is not a parent.—*R. v. Gilbert, ex parte Ward*, 3 A.J.R. 39.

To bring a man within the definition of "parent" it is not sufficient to prove facts from which an inference may be drawn that he is the father of the child, but it must be shown either that an order has been made against him in respect of the child, or that he has recognised the child as his.—*Nedwell v. Shirley*, 14 A.L.T., 159.

The word "stepfather" in this section means the husband of the mother of a child who is the offspring of the mother by a former husband of hers, and does not apply to the illegitimate offspring of the woman, born before marriage, of a man other than her present husband.—*Irwin v. Sholl*, 22 V.L.R., 640. Cf. *R. v. Frith, R. v. Stewart*, 1914 V.L.R., 658.

As to liability of the mother where she is a married woman, see the *Married Women's Property Act 1928*, section 26.

DIVISION 8.—COMMITTAL TO THE CARE OF PRIVATE PERSONS.^(a)

61. Any private person and any institution formed by private persons empowered in that behalf desirous of taking charge of a neglected child or neglected children gratuitously may be from time to time approved by the Governor in Council as a person or institution to whose care neglected children may be committed under the provisions of this Part, and the Governor in Council may revoke any such order ; and every such order approving of any such institution and every revocation of any such order approving of any such institution shall be published in the *Government Gazette*.

Neglected Children's Act 1915 s. 61.
Power to the Governor in Council to approve private persons or institutions to have the care of neglected children.

62. Every order approving any institution as an institution to the care of which neglected children may be committed hereunder shall name some person as the manager of such institution, and when from time to time the manager of any such institution is changed the name of such new manager shall be submitted to the Governor in Council for his approval, and the order approving of such manager shall be published in the *Government Gazette*, and any copy of the *Government Gazette* purporting to contain any such order shall be conclusive evidence that the person named therein on that behalf is the manager of any such institution.

Managers of institutions to be approved by the Governor in Council. *Gazette* evidence of their appointment.
Ib. s. 62.

63. Where any judge or chairman of any court or any children's court is empowered to commit any child to the care of the Children's Welfare Department such judge chairman or court may commit such child to the care of any person or institution for the time being approved by the Governor in Council hereunder as a person or institution to whose care neglected children may be committed, which person or institution by writing under his hand or the hand of its manager (as the case may be) may consent to accept the care of such child.^(b)

Power to judge justices &c to commit children to the care of approved person or institution instead of the Department.
Ib. s. 63.

64. (1) Whenever any child is committed to the care of any person or institution as aforesaid such person or the manager of such institution shall become the guardian of the person and estate of such child to the exclusion of the father and mother and every other guardian until such child attains the age of eighteen years or such greater age not exceeding twenty-one years as the Governor in Council directs, unless such child is sooner discharged, and such person shall have the sole right to the custody of such child, and such manager shall have the sole right to the custody of such child as on behalf of such institution, subject in both cases to the provisions of this Act and to the regulations of the Governor in Council in force hereunder.

Approved person or manager of approved institution to whose care children are committed to become their guardians.
Ib. s. 64.

(2) Where the Minister after due investigation deems it expedient the Governor in Council may at any time order that such person or institution shall cease to have the custody or care of such child, and thereupon, notwithstanding anything to the contrary in this Act, such person or institution shall cease to have the custody or care of or to have any authority to detain such child, and such person or the manager of such institution shall cease to be the guardian of the person and estate of such child.

Power of Governor in Council where care of child is committed to private person or institution.
Children's Welfare Act 1926 s. 2.

(a) See the *Education Act 1928*, sections 38-42.(b) See the *Crimes Act 1928*, section 336.

Neglected Children's Act 1915 s. 65.
New managers of approved institutions to succeed to the guardianship.

65. Upon the publication of any order of the Governor in Council hereunder in the *Government Gazette* approving of any person as the manager of any such institution in the place of any other person, the manager so approved shall become the guardian of the person of every child of whose person and of the estate of every child of whose estate the manager in whose place he is so approved was the guardian under the provisions of this Division in the place of the manager in whose place he is so approved.

Child not to be committed to care of approved person or institution if father &c. object or so as to be educated in a different religion.
Id. s. 66.

66. No judge chairman or court shall commit any child to the care of any such person or institution if the father or other person having the right to direct in what religion such child shall be educated objects, or so that such child may be educated in a religion different from that in which it would be the duty of any guardian of such child appointed by the Supreme Court to direct such child to be educated.

Power to father or mother being guardian to transfer the guardianship of any child to approved person or institution.
Id. s. 67.

67. (1) The father of any child or the mother of any child being the guardian of such child may by writing signed before a justice of the peace commit the care of such child to any person or institution approved by the Governor in Council as a person or institution to whose care neglected children may be committed, and such person or institution by writing under his hand or the hand of its manager (as the case may be) may consent to accept the care of such child, and thereupon such person or the manager of such institution on behalf of such institution shall become the guardian of the person and estate of such child during its minority, to the exclusion of such father or mother and every other guardian.^(a)

Power of Governor in Council where care of child is committed to private person or institution.
Children's Welfare Act 1926 s. 2.

(2) Where the Minister after due investigation deems it expedient the Governor in Council may at any time order that such person or institution shall cease to have the custody or care of such child, and thereupon, notwithstanding anything to the contrary in this Act, such person or institution shall cease to have the custody or care of or to have any authority to detain such child, and such person or the manager of such institution shall cease to be the guardian of the person and estate of such child.

Approved person or institution to permit children to be visited and inspected.
Neglected Children's Act 1915 s. 68.

68. (1) Every person or institution to whose care any child is committed under the provisions of this Part whether by any judge chairman or court or by the father or mother of such child, and every person intrusted with the care of any such child by any such person or institution shall from time to time permit such child to be visited and any place where such child is or resides to be inspected by the inspector or any person authorized by or under the regulations of the Governor in Council for the time being in force in that behalf.

(a) A male infant aged five years had, without the knowledge or assent of his mother, been taken by his father from the custody of friends with whom he had been placed by his mother and had been put into the custody of an institution approved by the Governor in Council under this section. Subsequently the father left Victoria on military service, and was still absent. Upon an

application by the mother for the custody of the child: *Held*, that, notwithstanding this section the Court had under section 69 of the *Marriage Act 1915* (see now section 145 of the *Marriage Act 1928*) a discretion to give the custody of the child to the mother, and that the application should in the circumstances be granted.—*The King v. Dunkin, ex parte De Vries*, 1917 V.L.R., 655.

(2) Without affecting the duties and liabilities of persons or institutions under sub-section (1) of this section, every person and the manager of every institution to whose care any child is committed under the provisions of this Division and every person entrusted with the care of any such child by any such person or institution shall answer fully and truly and to the best of his knowledge and belief all inquiries respecting such child—

- (i.) made or caused to be made, whether orally or in writing, by the Minister or some person authorized in writing in that behalf by the Minister ; and
- (ii.) which in the opinion of the Minister or person authorized as aforesaid are necessary or expedient to be made for the purpose of carrying into effect the purposes of sub-section (2) of section sixty-four or of sub-section (2) of section sixty-seven of this Act.

Children's Welfare Act 1926 s. 3.
Private persons and institutions having care of child committed to them to answer certain inquiries respecting the child.

69. Upon the death of any person having the care of any child by virtue of any order made under this Division, or upon the revocation of the order approving of any such person or of any institution, the Governor in Council may appoint some other person or institution approved as aforesaid in place of the person so dying or the person or institution the order approving of whom or which is revoked, and thereupon the same consequences shall ensue as upon an order of any judge chairman or court made under the provisions of this Division committing the care of every child of whom such person or institution was guardian by virtue of any order made under this Division to the care of the person or institution so appointed, and in the meantime unless and until such other person or institution is so appointed the same consequences shall ensue as if upon the date of such death or of the revocation of such order an order had been made hereunder committing every child of whom such person or institution was guardian by virtue of any order made under the provisions of this Part to the care of the Children's Welfare Department.

Transmission of guardianship upon death of approved person or revocation of approval of person or institution.
Neglected Children's Act 1915 s. 69.

A person or institution may be appointed in the place of a person or institution the order approving of whom or which is revoked by the order by which the revocation is made or by any subsequent order.

The order appointing an institution in the place of another institution shall be published in the *Government Gazette*.

70. Upon the revocation of any order approving of any person or institution as a person or institution to whose care neglected children may be committed, such person or the manager of such institution shall cease to be guardian of the person or estate of any child under the provisions of this Division, whether such child is under the care of such person or institution by virtue of any order made under this Division or of any writing signed as aforesaid by the father or mother of such child.

Guardianship of approved person or institution to cease on revocation of approval.
Ib. s. 70.

71. Every order committing a child to the care of any approved person or institution hereunder may be in such form as is prescribed by the regulations of the Governor in Council for the time being in force in that behalf or to the like effect, and such order or an office copy thereof without any warrant shall be a sufficient authority for any member of the police force to take such child to such person or institution.

Form of order committing child to care of approved person or institution.
Ib. s. 71.

*Neglected
Children's Act
1915 s. 72.*
Warrant for
detention of
child by
approved person
or institution
not necessary.

72. No warrant shall be necessary to authorize the detention of any child in the care of any approved person or institution hereunder, but if the right to the custody of such child is called in question by *habeas corpus* or otherwise, it shall be sufficient to give in evidence the order committing such child to the care of such person or institution and to show that such child is detained by the authority of such person or institution or the manager of such institution.

Power to
transfer child
to the care of
the Children's
Welfare
Department.
Ib. s. 73.

73. If any person or institution having the care of any child by virtue of any order made under the provisions of this Division or the manager of any such institution desires for any cause sufficient in the opinion of the children's court to be relieved of the care of such child, such court may order such child to be committed to the care of the Children's Welfare Department.

Child not to be
removed out of
Victoria.
Ib. s. 74.

74. No person who whether as manager of any institution or otherwise is guardian of the person of any child by virtue of any order under the provisions of this Division shall remove such child or suffer such child to be removed out of Victoria without the consent of the Minister being first obtained.

Guardian of
estate to keep
accounts.
Ib. s. 75.

75. Every person who whether as the manager of any institution or otherwise is guardian of the estate of any child under the provisions of this Division shall keep proper accounts of his receipts and expenditure as such guardian in such form (if any) as is for the time being prescribed by the regulations of the Governor in Council in force hereunder, and shall once at least in every year forward copies of such accounts to the Attorney-General.

Children
received into
and maintained
in asylums
without
objection on
the part of their
fathers or
guardians for
two years not
removable
without the
consent of the
committee or
order of the
Governor in
Council.
Ib. s. 76.

76. Where any child being then destitute has been without objection on the part of its father or other guardian received into any asylum for the care and management of destitute children incorporated under Part II. of the *Hospitals and Charities Act 1928* or any Act thereby repealed or the Act No. 220 the by-laws of which have been approved by the Governor in Council and maintained at the expense of such asylum for a period of two years or upwards, the father or other guardian of such child shall not be entitled to remove such child out of the custody of such asylum or the committee thereof without the consent of such committee or the order of the Governor in Council unless such father or guardian can show that he was ignorant that such child was being so maintained and that he has not been guilty of negligence with regard to such child during the period such child has been so maintained, and the committee of such asylum shall have the custody of the person of such child until such child attains the age of eighteen years.

DIVISION 9.—EMPLOYMENT OF CHILDREN.^(a)

Registration of
children under
certain age.
Ib. s. 77.

77. Any child under the age at which attendance at school ceases to be compulsory under any law now or hereafter to be in force relating to education may be registered for the purpose of this Act in manner hereinafter appearing. Such child accompanied by its parent, or if the child is not resident with its parent by some adult person with whom such child resides, may apply to a clerk of petty sessions at a place

(a) See also the *Education Act 1928*, sections 35 and 36.

near which such child resides and deliver to such clerk a certificate of merit as prescribed under any such law, and inform such clerk of the name age and residence of such child and of the name residence and occupation of its father, or if it has no father of its mother, or if the child has neither father nor mother of some adult person with whom the child is or has recently been residing and the clerk shall enter the said particulars in a book, and the parent or other adult person accompanying such child shall sign the same, and thereupon the clerk shall certify under his hand that the child had been registered on that date, and the registration of any child may be renewed in like manner. Every registration of a child for the purposes of this Act shall continue in force for a period of twelve months and not longer.

Neglected Children's Act 1915.

78. Every person who knowingly or without reasonable excuse the proof whereof shall be on such person keeps or takes in or into any casual employment any child under the age at which attendance at school ceases to be compulsory under any law now or hereafter to be in force relating to education not duly registered under the provisions of this Act or after the registration of any such child has expired, shall be liable to a penalty of not more than One pound for every day such child is so in his employ and of not more than Five pounds in the whole.

Penalty on employing a child under certain age who is not registered. *Ib. s. 78.*

79. Every person who for the purpose of obtaining a certificate of registration under the provisions of this Part of any child signs any statement not true to the best of such person's knowledge information and belief shall be liable to a penalty of not more than Ten pounds or to imprisonment for a term of not more than fourteen days, and every person who forges any such certificate or produces or uses any such certificate which is to the knowledge of such person forged or fraudulently obtained shall be liable to imprisonment for a term of not more than six months.

Penalty on forging or fraudulently obtaining or using a certificate of registration of a child. *Ib. s. 79.*

DIVISION 10.—OFFENCES PENALTIES AND LEGAL PROCEEDINGS.

80. Every person who without lawful authority or excuse—

- (a) Holds or attempts to hold any communication with any ward of the Children's Welfare Department in any receiving home industrial or probationary school or any child in any institution approved by the Governor in Council hereunder ; or
- (b) Enters any receiving home industrial or probationary school or any building yard or ground belonging thereto or to any such institution as aforesaid and does not depart therefrom when required to do so by the superintendent matron or other officer or servant of such home institution or school,

Penalty for entering schools &c or holding communication with wards of the Department. *Ib. s. 80.*

shall be liable to a penalty of not more than Twenty pounds.

81. Every superintendent or matron of any receiving home industrial or probationary school and every teacher officer or servant thereof who negligently or voluntarily permits any ward of the Department to escape shall be liable to a penalty of not more than Twenty pounds.

Penalty for allowing ward of the Department to escape. *Ib. s. 81.*

*Neglected
Children's Act
1915 s. 82.*

*Penalty for
inducing any
ward of the
Department to
abscond &c. or
ill-treating any
such ward.*

82. Every person who directly or indirectly—

- (1) Withdraws unlawfully any ward of the Children's Welfare Department or child or counsels or induces any such ward or child to abscond from any receiving home industrial or probationary school or institution approved by the Governor in Council hereunder or from any person to or with whom such ward or child is licensed placed or boarded out or who has custody of such child under the provisions of this Part ; or
- (2) Knowing any such ward or child to have been so withdrawn or to have so absconded harbors or conceals or assists in harboring or concealing such ward or child or prevents such ward or child from returning to the home school or institution from which or the person from whom such ward or child has been so withdrawn or has so absconded; or
- (3) Being a person to or with whom any such ward or child is licensed placed or boarded out or having the control of any such child ill-treats or neglects to discharge his duty to such ward or child,

shall be liable to a penalty of not more than Ten pounds or to imprisonment for a term of not more than fourteen days.

*Penalty for
seducing ward
of the
Department
or child.
Ib. s. 83.*

83. Every person who—

- (a) For the purpose of prostitution or defilement inveigles or entices any unmarried female ward of the Children's Welfare Department or child apparently under the age of eighteen years from any receiving home industrial or probationary school or institution or from the house or other place where or from any person to or with whom she is licensed placed boarded out or apprenticed under the provisions of this Part or to whose custody she is committed ; or
- (b) Being the person to or with whom such female is licensed placed or apprenticed carnally knows any such female who is apparently under the age of eighteen years ; or
- (c) Aids or assists any person in any of the foregoing offences,

shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term not of more than three years: Provided that no conviction shall be had under the provisions of this section on the unsupported testimony of any one witness, nor unless proceedings are taken within six months after the commission of the offence: Provided also that nothing in this section shall exempt any person from prosecution under any other law, but no person shall be punished for the same offence both under this section and any other law.

*Power to
forfeit or
retain earnings
of ward for
misbehaviour.
Ib. s. 84.*

84. If any ward of the Children's Welfare Department is guilty of any misbehaviour, of which the Minister shall be the sole judge—

- (a) The Minister may order the whole or any part of any moneys to which such ward is entitled, invested on deposit under any law now or hereafter to be in force relating to the

State Savings Bank of Victoria to be applied in making good to His Majesty or any other person any loss or expense occasioned by the misbehaviour of such ward. And for the purpose of carrying out the powers contained in this section the Minister may sign an order directing payment to the Secretary or his order of the whole or any part of such money, and the person or persons having by law power to pay such money shall pay the same accordingly.

Neglected Children's Act 1915.

- (b) The Minister may direct the whole of such moneys to be withheld from such ward, notwithstanding such ward has come of age, until proof of the good conduct of such ward for a period of twelve months is given to the satisfaction of the Minister.

85. For the more effectual prosecution of all offences against this Part, any person found committing any such offence may be immediately apprehended without a warrant by any member of the police force and forthwith taken before a justice to be dealt with according to law.

Constable to apprehend offenders without warrant.
Ib. s. 85.

86. No proceedings shall be taken in any court touching the conduct of the Secretary as guardian of the person or estate of any person or in respect of anything done or omitted or purported to be done or omitted under the provisions of this Part without the previous consent in writing of the Attorney-General.

Consent of the Attorney-General required to proceedings against Secretary &c. in his character of guardian.
Ib. s. 86.

87. When for the purpose of exercising any of the powers conferred by this Part it is necessary to determine the age of any person the court or justices dealing with the case shall determine such age as they are best able having regard to the evidence before them, or if there is no other sufficient evidence to the appearance of such person, and every order directing any person to be committed to the care of the Children's Welfare Department or to a reformatory school or to the care of any person or institution shall state the age of the person so committed as determined by the court or justices making such order, and the statement of the age of any such person contained in any such order shall be conclusive for the purposes of this Part.^(a)

Determination of age by the court to be conclusive.
Ib. s. 87.

DIVISION 11.—REGULATIONS OF THE GOVERNOR IN COUNCIL.

88. The Governor in Council may from time to time by order, to be published in the *Government Gazette*, make alter and repeal regulations for the following purposes:—

Power to make regulations.
Ib. s. 88

- (1) The conduct management inspection and supervision of receiving homes industrial and probationary schools:
- (2) The employment education supervision and correction of wards of the Children's Welfare Department: Provided that no such regulation shall permit any corporal punishment except such as may be lawfully inflicted by school masters:
- (3) The boarding out of wards of the Children's Welfare Department:

(a) Compare *Crimes Act 1928*, section 442 and note thereto.

*Neglected
Children's Act
1915.*

- (4) The placing out at service or apprenticing of wards of the Children's Welfare Department either on land or at sea :
- (5) Fixing what (if any) percentage upon moneys recovered from parents shall be paid to persons who have assisted in recovering the same, and the persons to whom and the times at which and the conditions on which such percentage is to be paid :
- (6) Prescribing the forms of orders warrants bonds and other instruments to be used by courts judges justices the various officers mentioned in this Part and others in carrying into execution this Part :
- (7) The collection and investment and deposit of any earnings of any ward of the Children's Welfare Department and the application thereof or any part thereof :
- (8) Prescribing the method of keeping accounts of payments and moneys payable under the provisions of this Part :
- (9) Prescribing the times and conditions during and under which and not longer or otherwise children committed under the provisions of this Part to the care of any private person or institution may be boarded together in any school or asylum or establishment of a like nature :
- (10) For the various purposes mentioned in this Part and generally for carrying this Part into effect.

*Regulations to
be laid before
Parliament.
Ib. s. 89.*

89. All regulations of the Governor in Council made hereunder shall be laid before both Houses of Parliament within ten days after the publication thereof if Parliament is then sitting, or if Parliament is not then sitting then within ten days from the next meeting of Parliament.

*Continuation of
regulations
under repealed
Acts.
Ib. s. 90.*

90. The regulations of the Governor in Council relating to neglected children or otherwise relating to the matter dealt with in this Part in force at the commencement of this Act under any repealed Acts shall until repealed or altered have the same force and effect as if made under this Part.

PART II.—INFANT LIFE PROTECTION.

*Interpretation.
Infant Life
Protection Act
1915 s. 3.*

91. In this Part unless inconsistent with the context or subject-matter—

- “Board out” or “Boarded out” means the placing of an infant in the care or charge of some person for the purpose of being nursed or maintained by such person or in such person's house:
- “Infant” means child under five years of age:
- “Inspector” means a male or female inspector appointed pursuant to this Part or any corresponding previous enactment:
- “Medical officer” means a medical officer appointed pursuant to the regulations under Part I. of this Act:
- “Registered person” means person registered as the occupier of a house under this Part or any corresponding previous enactment:
- “Secretary” means Secretary of the Children's Welfare Department.

92. The Governor in Council may, if deemed desirable, establish maternity homes, infant homes, and also separate cottage homes for the care of infants and their mothers.

Infant Life Protection Act 1915 s. 4.

Power of Governor to establish maternity homes and infant asylums.

93.^(a) 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) :—

Power to make regulations.

Id. s. 5.

- (a) For prescribing how many registers shall be kept under this Part, and where the same shall respectively be kept ;
- (b) For prescribing the mode in which applications for registration under this Part 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 ;
- (c) For directing what particulars as to the persons and houses registered, in addition to those hereinbefore required, shall be inserted in such registers ;
- (d) For fixing the maximum number of infants to be retained in or received into houses of any particular class ;
- (e) For regulating the inspection from time to time of such houses and infants by inspectors and members of the visiting committees ;
- (f) For the appointment by the Minister of consulting and visiting committees and for the removal from office by the Minister of any member thereof and for prescribing the powers and duties of such committees ;
- (g) For prescribing the food to be given to and the care and management and medical treatment of infants boarded out under this Act ;
- (h) For prescribing the accommodation to be provided in registered houses ;
- (i) For prescribing conditions as to milk supply for boarded-out infants and the methods of storing milk for such infants ;
- (j) For the regulation management and inspection of maternity homes, infant homes, and cottage homes ;
- (k) For fixing and determining the fees payable by or on behalf of infants' mothers placed in maternity homes, infant homes, and cottage homes ; and
- (l) Generally for giving effect to and carrying out the provisions of this Part.

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 a court of petty sessions on the information of any inspector or 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*.

(a) The provisions of sections 93-106 of this Act, generally do not apply to any infant within the meaning of Part II. of this Act with respect

to whom an "adoption order" has been made.— See *Adoption of Children Act 1928 (No. 3605)*, section 15.

Infant Life Protection Act 1915 s. 6.

Male or female inspectors may be appointed.

See 60 & 61 Vict. c. 57 s. 2.

Powers of inspectors.

94. (1) Subject to the provisions of the *Public Service Act 1928* the Governor in Council may appoint male or female inspectors to enforce the provisions of this Part and may at any time suspend or remove any inspectors.

(2) Any such inspector may for the purposes of this Part enter and inspect any house registered thereunder and inspect any infant boarded out in such house and examine the registered occupier of such house in order to satisfy such inspector as to the proper care and maintenance of such infant and give any necessary advice or directions as to such care and maintenance.

Penalty.

(3) Every person registered as the occupier of any house registered under this Act or under any corresponding previous enactment and every other person who refuses to admit any inspector into any such registered house or obstructs any inspector in inspecting any infant therein or the premises in which any infant is retained or received or refuses to answer or answers falsely any questions such inspector may put for the purposes of this Part shall be liable to a penalty of not more than Ten pounds.

Houses where infants received or adopted to be registered.
Ib. s. 7.

95. 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 such person retain in or receive into her care or charge in any house any infant under the age of five 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 is registered as the occupier of such house and such house is also registered under this Part.

No male person shall be so registered.

Every person offending against the provisions of this section shall be liable to imprisonment with or without hard labour for a term of not more than six months or to a penalty of not more than Twenty-five pounds.

Register of persons and houses to be kept.
Ib. s. 8.

96. The Secretary shall, subject to regulations to be made as hereinbefore provided, cause a register or registers to be kept in which shall be entered the name of every person being the occupier of any house 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 is a married woman the calling or occupation of her husband as may be directed by regulations to be made as hereinbefore provided.

When registration to be renewed.

Every such registration shall unless cancelled under the provisions of this Part 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 is 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 Part 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. Infant Life Protection Act 1915.

The person in whose charge such register is 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.

97. The Secretary may refuse to register any person applying for registration under this Part or to renew any registration unless he is satisfied by the production of certificates, or if he thinks 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 her care or charge in such house ; and the Secretary may refuse to register or renew the registration of any house unless he is satisfied that such house is suitable for the purpose for which it is to be registered and situated in a suitable locality. Secretary may refuse to register. *Ib.* s. 9.

98. (1) Every registered person shall keep a roll in a form to be supplied by the Secretary, in which shall be forthwith entered by such person the names sex and age of each infant received into the care or charge of such person and the date at which such infant was so received. Registered persons to keep a roll containing certain particulars. *Ib.* s. 10.

(2) Every registered person shall forthwith on receiving any infant as aforesaid forward a notice thereof to the Secretary. Notice to Secretary.

(3) Forthwith after the removing from a registered house of any infant, whether before or on attaining the age of five years, such registered person shall enter in such roll the time of such removal and the names and addresses and calling or occupation of the person or persons by whom such infant was removed and if any such person is a married woman the address and calling or occupation of her husband, and shall forthwith forward notice of such removal to the Secretary. Removal of infant to be entered on roll.

(4) Every such roll shall be at all times produced by the registered person when the production of the same is demanded by any inspector, and may be examined and perused and (if such inspector thinks fit) retained by such inspector. Roll to be produced.

(5) Every registered person who neglects refuses or omits to forthwith produce or deliver up any such roll when so demanded, or who neglects refuses or omits to keep such a roll or to insert therein all the particulars prescribed by this section, or to forward a notice as herein required to the Secretary within three days after the receiving or removing (as the case may be) of each infant, shall be liable to imprisonment for a term of not more than six months or to a penalty of not more than Twenty-five pounds. Penalty for neglecting to produce roll or to keep it in proper form.

99. Every person who makes any false representation, or forges any certificate, or makes 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 Part, or falsifies any roll kept in pursuance of the provisions of the last preceding section, or furnishes false particulars of any matter which is required to be entered in such roll shall be liable to imprisonment for a term of not more than six months or to a penalty of not more than Twenty-five pounds. Forgery of certificates &c. *Ib.* s. 11.

*Infant Life
Protection Act
1915 s. 12.*

Names may be
removed from
register.

100. If at any time it is made to appear to the Secretary 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 adequate and proper food or attention, or that the registered house of such person has become unfit for the reception of infants, or if for any other reason it appears to the Secretary 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 Secretary 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 Secretary 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 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 or their transfer to another 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.

Recovery of
cost of removal
&c. of infants.

Such cost shall be deemed to be a debt due to His Majesty by such parents or guardians and may be recovered in a summary manner before a court of petty sessions on the complaint of the Secretary or any person authorized in writing by him; and the cost of the maintenance and clothing of and medical attendance on any such infant shall be deemed to be One shilling for each day such infant is under the care of the Secretary.

Meaning of
"parents."

In this section the word "parents" includes father mother step-father or stepmother and any person against whom an order under Part I. of the *Maintenance Act* 1928 or any corresponding previous enactment has been made as the putative father of an illegitimate child and includes mother or stepmother notwithstanding a father or stepfather of the child is alive also the putative father of any illegitimate child which he has recognised as his although no such order has been made against him.^(a)

Any such person on receiving such notice may within one week give notice in writing to the Secretary of her intention to appeal and when giving such notice shall deposit the sum of Twenty shillings with the Secretary. The Secretary shall thereupon refrain from striking off such person's name from the register and shall inform the Minister of such notice of appeal. The Minister shall thereupon fix a time for the hearing of such appeal of which due notice shall be given to the Secretary and person appealing; and the Minister shall at the appointed time proceed to hear the Secretary and the person appealing or their representatives and shall determine the appeal, and if he decides that such person's name shall be struck off the register the Secretary 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

(a) See notes to section 58.

consolidated revenue but otherwise the same shall be repaid to the person depositing the same. *Infant Life Protection Act 1915.*

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

101. (1) Every registered person shall within twelve hours after the death of an illegitimate infant in her house or after the death of any infant in her care or charge unless such infant is the child of such person give or cause to be given notice thereof to the Secretary and also to the member of the police force in charge of the nearest police station; and such member shall inform the coroner or deputy coroner of the district or some justice of such death. *Notice to be given of death of infant. Ib. s. 13.*

(2) The coroner or deputy coroner or (when empowered to do so) a justice shall hold an inquest on the body of such infant unless a certificate under the hand of a medical officer is produced to him certifying that such medical officer has personally attended or examined such infant during its life-time and specifying the cause of its death, and unless the coroner deputy coroner or justice is satisfied that there is no ground for holding such inquest. *See 60 & 61 Vict c. 57 s. 8.*

(3) Where an inquest is held it shall be the duty of the coroner deputy coroner or justice 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 deputy coroner or justice 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 seem fit.

(4) No infant dying under the age of five years whilst in the care or charge or if illegitimate in the house of a registered person shall (unless such infant is the child of such person) be buried without the production of a certificate under the hand of such coroner deputy coroner or justice authorizing such burial or of a certificate signed by a member of the police force stating that such burial has been so authorized.

(5) Every registered person who neglects refuses or omits to give notice of the death of an infant in accordance with the provisions of this section and every person who buries or causes to be buried any infant in contravention of the provisions of this section shall be liable to imprisonment for a term of not more than six months or to a penalty of not more than Twenty-five pounds.

(6) The provisions of this section shall apply to the case of the death of every infant who has within two months previously to death been in the care or charge of any registered person and it shall be the duty of the occupier of the house in which such infant dies and of the person who has the care and charge of such infant at the time of such infant's death to give the notice required by sub-section (1) of this section.

*Infant Life
Protection Act
1915.*

(7) Except by direction of a coroner deputy coroner or justice it shall not be lawful for any legally qualified medical practitioner (other than a medical officer) to give a certificate of the cause of death of any infant to whom the provisions of this section apply. Every person who acts in contravention of this provision shall be liable to a penalty of not more than Fifty pounds.

(8) Notwithstanding anything in the *Registration of Births Deaths and Marriages Act 1928* it shall not be lawful for any registrar of births and deaths to give to an undertaker or other person a certificate of the registration of the death of any infant to whom the provisions of this section apply unless authorized so to do by a coroner deputy coroner or justice (empowered as aforesaid) or a member of the police force on behalf of such coroner deputy coroner or justice. Every registrar of births and deaths who acts in contravention of this provision shall be liable to a penalty of not more than Fifty pounds.

*Offenders
against certain
provisions of
this Act not to
be registered.
Ib. s. 14*

102. The name of every person convicted of an offence against this Part shall if such person is registered under this Part 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 her care or charge any infant under the age of five years without being registered as required by this Part; 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 Part.

*Application for
permission to
board out an
infant.
Ib. s. 15.
Third
Schedule.*

103. (1) Any person who desires to board out an infant with a registered person shall make application to the Secretary in the form of the Third Schedule or to the like effect and shall include in such application a statement of the amount which he will pay weekly to the Secretary for the maintenance of such child.

*Infant to be
examined by a
medical officer.*

(2) The Secretary on receipt of such application shall cause such infant to be examined by a medical officer. If such medical officer reports that so far as he is able to determine such infant is free from syphilis or epilepsy or any disease which the Governor in Council may by order published in the *Government Gazette* declare to be of a serious nature and the Secretary is satisfied that the home is suitable he may grant such application in the form of the Fourth Schedule or to the like effect.

*Fourth
Schedule.*

*Weekly
payment.*

(3) No infant under the age of twelve months shall be boarded out for a sum of less than Ten shillings a week, nor when any infant has attained the age of twelve months for a sum of less than Seven shillings a week, nor in any case for a sum of more than Forty shillings a week.

*Payments to be
made through
Secretary.*

(4) Payments for the maintenance of such infant shall be made through the Secretary and in no other way. The Secretary shall not pay any registered person more than two weeks in advance for the maintenance of any infant boarded out with such person and no instalment of any such payment shall be paid after the death of such infant except for any arrears at the time of the death.

(5) Where such weekly payments fall into arrear for a period of four weeks at any one time the infant in respect of whom such payments should have been paid shall thereupon become *ipso facto* a ward of the Children's Welfare Department.^(a)

Infant Life Protection Act 1915.

Infant to become ward of Department on payments falling in arrear.

(6) Every person who either directly or indirectly pays or receives or agrees to pay or receive any payment for the boarding out of any infant otherwise than in pursuance of the provisions of this section shall be liable to a penalty of not more than One hundred pounds with or without imprisonment for a term of not more than one year.

Penalty for receiving payment for maintenance &c. of infant contrary to this section.

104. (1) The Secretary shall keep every application for permission to board out an infant and shall enter the same in a book to be kept for that purpose to be called the "Private Register."

Information as to parentage of infant to be treated as confidential.

(2) Such application and register shall be kept in the Secretary's own custody and shall not be inspected by any other person except on the order of the Chief Secretary or where it is necessary to take proceedings for the recovery of maintenance under Part I. of this Act.

Ib. s. 16.

105. If any medical officer reports at any time that an infant boarded out with a registered person has developed syphilis or epilepsy or any disease which the Governor in Council by order published in the *Government Gazette* declares to be of a serious nature such infant shall be removed by the parents or guardians of such infant from the control of such registered person or taken before the children's court for committal to the care of the Children's Welfare Department.

Syphilitic &c. infant to be removed from control of registered person.

Ib. s. 17.

106. Every infant in the care or charge of any registered person (other than her own children) shall be under the medical care of a medical officer appointed to give medical attendance to wards of the Children's Welfare Department boarded out under the provisions of section thirty of this Act, and it shall be the duty of such medical officer to see such infant and of such registered person to permit and take such infant to be seen by such medical officer at such times and on such occasions as may be prescribed by regulations under this Part.

Medical treatment of infants.

Ib. s. 18.

107. Sections ninety-three to one hundred and six shall not apply—

Exceptions from the operations of certain sections of the Act.

Ib. s. 19.

- (a) to any infant being a ward of the Children's Welfare Department;
- (b) to any infant retained by or received into any public charitable institution approved by the Minister;
- (c) in the case of an infant whom the Minister by order under his hand exempts from the operations of such sections on the ground that he is satisfied that such infant is a relative of the person in whose charge or care it is retained or received or that for any other reason he is satisfied that it is unnecessary or undesirable that such provisions should apply;

(a) The Court has no discretionary power to refuse to order a ward of the Children's Welfare Department to be handed over to the custody of the Secretary, and is not at liberty to consider the

best interests of the ward upon an application for such an order.—*R. v. Steedman, ex parte Smith*, 1916 V.L.R., 412.

*Infant Life
Protection Act
1915.*

(d) during a period of eight days in the case of any infant with respect to whom any justice suspends the operation of such provisions for such period to enable an order from the Minister to be obtained as hereinbefore provided.

*Infant to
become a ward
of the
Children's
Welfare
Department in
certain cases.
Ib. s. 20.*

108. (1) Where any infant temporarily removed to the care of the Secretary under the provisions of section one hundred of this Act is not returned to the registered house from which such infant was removed or is not transferred to another registered house or is not removed from the care of the Secretary by such infant's parent or guardian within one month after being so taken under the care of the Secretary, then such infant shall without further or other authority become a ward of the Children's Welfare Department.

(2) The Secretary shall by writing under his hand determine the periodical sums not exceeding Twelve shillings per week which the parents or guardians of such infant shall be liable to pay for or towards the maintenance of any such infant and in determining such liability the Secretary shall have regard to the provisions of Division seven of Part I. of this Act so far as they can be applied to the determining of such periodical sums and the persons by whom they are to be paid; and the same consequences shall thereupon ensue as if such infant had been committed upon an order of the children's court under Division three of such Part and as if such court or justices (as the case may be) had fixed the periodical sums to be paid by the parents or guardians at the sums so determined by the said Secretary.

(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 on account of the maintenance of any infant if purporting to be signed by the Secretary shall be evidence of the periodical sums payable for such infant.

*Penalty for
neglecting
ill-treating or
exposing
children.
Ib. s. 21
See 31 & 32
Vict. c. 122 s. 37.*

109. Every person who wilfully and without reasonable excuse neglects to provide adequate and proper food nursing clothing medical aid or lodging for any child in his or her care or custody or wilfully ill-treats or exposes any child or causes or procures any child to be so neglected or to be ill-treated or exposed, such child being a boy under the age of fourteen years or being a girl under the age of sixteen years, shall if any such neglect ill-treatment or exposure has resulted or appears likely to result in causing bodily suffering or permanent or serious injury to the health of such child be liable to imprisonment for a term of not more than twelve months or to a penalty of not more than Fifty pounds.

*Custody of
child pending
hearing of
charge.*

Where any person is charged with an offence against a child under this section such child shall be deemed to be a neglected child within the meaning of this Act and may be forthwith apprehended and dealt with as provided by Division three of Part I. If such child is committed to the care of the Children's Welfare Department and it is afterwards found that such person so charged was not guilty of such offence such child shall without further or other authority than this Act be discharged and shall cease to be a ward of such Department.

110. 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 registrar of births and deaths for the district; but if such house or place is not situated within any city town or borough then such notice may be given either to the registrar or to the member of the police force in charge of the nearest police station, and may be given at any time within one week of the birth of such child.

Infant Life Protection Act 1915 s. 22.

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 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 1928*.

111. 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 registrar of births and deaths for the district; but if such house or place is not situated within any city town or borough then such notice may be given either to the registrar or to the member of the police force in charge of the nearest police station, and may be given at any time within one week of the death of such child.

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

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

Ib. s. 23.

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 1928* or the provisions of this Part hereinbefore contained, whereby persons registered under this Part are required to give notice of the death of an infant in their care or charge.

112. Every person who wilfully or negligently omits to comply with any of the provisions of the two last preceding sections shall be liable to imprisonment for a term of not more than six months or to a penalty of not more than Twenty-five pounds.

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

Ib. s. 24.

113. If it is 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 Part in any house or place, or that any of the provisions of this Part except those contained in section one hundred and ten 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 enter and 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 Part.

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

Ib. s. 25.

*Infant Life
Protection Act
1915 s. 26.
Notice on
adoption of
child.*

114. If any person adopts or takes over the entire care and charge of any child under the age of five years from its parents or guardians such person shall within fourteen days of so doing give or send notice thereof to the Secretary, and such person shall in such notice state his or her name and place of residence and occupation and the name and age of such child. Every person who neglects, refuses or omits to comply with the provisions of this section shall be liable to imprisonment for a term of not more than three months or to a penalty of not more than Fifteen pounds.

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

*Penalty for
employment of
any child in
dangerous
performances.
Ib. s. 27.
42 & 43 Vict.
c. 34 s. 3.*

115. Every person who causes any child under the age of fourteen years to take part in any public exhibition or performance whereby 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 be liable for each offence to imprisonment for a term of not more than twelve months or to a penalty of not more than Fifty pounds.

*Compensation
for accident to
any child.*

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 (either by an information as for an offence punishable summarily or by presentment or by indictment) for and to be convicted of an assault, and on conviction shall be liable to be imprisoned for a term of not more than twelve months or to a penalty of not more than Fifty pounds, and in addition if such employer is not the parent of such child the court before which such employer is convicted on such proceedings may award as compensation a sum of not more than 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.

*Evidence of as
Ib. s. 28.*

116. 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.

*Provision for
special jury &
certificate of
law officer.
Ib. s. 29.*

117. 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 of five years, a law officer may, if he is 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 the same in writing to the prothonotary of the Supreme Court, and thereupon application may be made on behalf of His 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.

Infant Life Protection Act 1915.

118. (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 directs to be included therein.

Annual report. Ib. s. 30.

(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 not sitting then within three weeks from the next assembling of Parliament.

SCHEDULES.

Section 2.

Number of Act.	Title of Act.	Extent of Appeal.
2670 ...	<i>Infant Life Protection Act 1915</i> ...	The whole.
2703 ...	<i>Neglected Children's Act 1915</i> ...	The whole.
3001 ...	<i>Children's Maintenance Act 1919</i> ...	Sections 16 and 23.
3351 ...	<i>Children's Welfare Act 1924</i> ...	The whole.
3376 ...	<i>Children's Maintenance Act 1924</i> ...	Section 7.
3497 ...	<i>Children's Welfare Act 1926</i> ...	The whole.

SECOND SCHEDULE.

Section 24.

FORM A.—ORDER OF COMMITTAL TO THE CARE OF A REFORMATORY SCHOOL.

Children's Welfare Act 1928, Section 24.

The State of Victoria, }
 Bailiwick. }
 To Wit. }
 Be it remembered that on the _____ day of _____
 1 of _____ 2 in the said State, a³ _____ of the
 age of _____ years on the _____ day of _____ last past
 is proved to the satisfaction of us the undersigned constituting the Children's Court at⁵
 to be a neglected child inasmuch as⁶
 and we adjudge the said _____ to be committed to the Reformatory School at
 in the said State, and we further adjudge that⁷ _____ the
 parent of the said _____ pay the sum of _____ shillings
 every week for and towards the maintenance of the said
 the first payment to be made on _____ day next; and such payments are to be
 made to _____ the clerk of petty sessions at _____ or such other person as
 for the time being appointed by the Governor in Council to receive the same.
 Given under our hands at _____ in the said State the _____ day
 of _____ 19 _____

1. Name of child.
2. Place where found.
3. Boy or girl.
4. Date to be inserted only if the age can be exactly determined.
5. Place where court is sitting.
6. Here state the ground or grounds upon which the child is found to be a ...
7. Name of parent.

SECOND SCHEDULE—*continued.*

1. Name of child. 2. Place where found. 3. Boy or girl. 4. Date to be inserted only if the exact age can be determined. 5. Place where court is sitting. 6. Here state the ground or grounds upon which the child is found to be a neglected child. 7. Name of parent.

FORM B.—ORDER OF COMMITTAL TO THE CARE OF THE CHILDREN'S WELFARE DEPARTMENT.
Children's Welfare Act 1928, Section 24.

The State of Victoria, }
Bailiwick, }
To Wit.

Be it remembered that on the _____ day of _____ of _____ in the said State, a¹ _____ of _____ years on the⁴ _____ day of _____ last past is proved to the satisfaction of us the undersigned constituting the Children's Court at⁵ _____ and we adjudge the said _____ to be a neglected child inasmuch as⁶ _____ and we further adjudge that⁷ _____ the parent of the said _____ pay the sum of _____ shillings every week for or towards the maintenance of the said _____ the first payment to be made on _____ day next; and such payments are to be made to _____ the clerk of petty sessions at _____ or such other person as may for the time being be appointed by the Governor in Council to receive the same.

Given under our hands at _____ in the said State the _____ day of _____ 19 .

Section 103 (1).

THIRD SCHEDULE.

APPLICATION FOR PERMISSION TO BOARD OUT AN INFANT.

To the Secretary of the Children's Welfare Department.
I, A. B. of _____ in the State of Victoria, hereby apply for permission to board out C.D. a [*male or female*] infant born on _____ day of _____ at _____ with E.F. of _____ a person registered under the provisions of Part II, of the *Children's Welfare Act 1928*.

Name of such infant's—

(a) Father	residence	occupation
(b) Mother	residence	occupation

I hereby agree to pay to the Secretary of the Children's Welfare Department the sum of _____ a week for the maintenance of such infant.

Dated this _____ day of _____ at _____
(Signed) A. B.

Section 103 (2).

FOURTH SCHEDULE.

PERMISSION TO BOARD OUT AN INFANT.

Whereas A. B. of _____ has made application to me for permission to board out a [*male or female*] infant named C.D. born on the _____ day of _____ with E.F. of _____ a person registered under the provisions of Part II. of the *Children's Welfare Act 1928*, and the said A. B. has agreed to pay to me the sum of _____ a week for the maintenance of such infant, I hereby grant such permission.

If such weekly payments fall into arrears for a period of four weeks at any one time thereupon such infant becomes *ipso facto* a ward of the Children's Welfare Department and the parent or parents of such infant will be liable to be proceeded against under the provisions of the *Children's Welfare Act 1928* for the maintenance of such infant.

(Signed)

Secretary of the Children's Welfare Department.

Acts of the Parliament (of Victoria) [electronic resource]
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