

No. 17, 1939.

- (b) In the fixing of the sum to be paid by any one or more of the near relatives, the court shall have regard to the ability of the near relative or near relatives against whom the order is made to maintain or contribute towards the maintenance of the child.
- (c) Where a contribution order is made against two or more near relatives the court may, in and by the contribution order, declare that the sum specified in the contribution order shall be paid by the near relatives specified therein jointly and severally or that specified parts of that sum shall be paid severally by specified near relatives as to the court may seem fit, but so that such persons shall not be liable to pay a greater amount per week in the aggregate in respect of any one child than appears to the court to be reasonable.

Contribution order at time of order of committal.

(5) A contribution order against a near relative may be made, in the case of a child who is a ward, at the time he becomes a ward or at any time thereafter and, in any other case at the time of making the order of committal or at any time thereafter.

Provided that where an order of committal is made no such contribution order shall be made unless the near relative consents, or has been afforded an opportunity to show cause why such an order should not be made.

Where an order of committal is made, if the near relative so desires the hearing so far as the same relates to the making of a contribution order shall be adjourned to a future date to be determined by the court.

Moneys to be applied towards maintenance of child.

(6) Where the child has been committed to the care of any person, contributions under the contribution order shall be paid to that person, to be applied by him in or towards the maintenance or otherwise for the benefit of the child.

Moneys to be paid to Minister.

(7) Where the child is a ward or has been committed to the care of the Minister, or to an institution, the contributions under the contribution order shall be paid to the Minister.

(8)

No. 17, 1939.

Duration of order.

(8) A contribution order shall, subject to this Part, remain in force in the case of a child—

- (a) committed to the care of any person—until the expiration of the period of time for which he is so committed or until he attains the age of sixteen years whichever first happens ;
- (b) committed to the care of the Minister—until he attains the age of sixteen years or until his earlier discharge from control ;
- (c) committed to an institution—until his discharge from such institution or until he attains the age of sixteen years whichever first happens ;
- (d) who is a ward—until he attains the age of sixteen years.

60. (1) If it appears to a court, on complaint by the Minister or any officer authorised by the Minister in that behalf, that any near relative is of ability to contribute towards the past maintenance of a ward or of a child committed to the care of the Minister to be dealt with as a ward admitted to State control or of an ex-ward or of a person who was a child so committed but who has been discharged from such care, the court may order such near relative to pay to the Minister a reasonable sum by instalments or otherwise as the court directs as reimbursement of moneys paid for the past maintenance of the ward, child, ex-ward or person whether or not such ward, child, ex-ward or person be alive at the time of the hearing :

Recovery of money expended for past maintenance of wards. cf. Act No. 21, 1923, ss. 26, 119.

Provided that no such order shall be made against a person referred to in subparagraph (ii) of paragraph (b) of section fifty-eight of this Act in respect of the past maintenance of an illegitimate child of his wife in any case where he satisfies the court that, at the time of his marriage, he was not aware of the child's existence.

(2) The provisions of this section shall apply where moneys have been expended in allowances to relatives under section twenty-seven of this Act as if such moneys were moneys paid for the past maintenance of a ward or of a child committed to the care of the Minister to be dealt with as a ward admitted to State control and as if the mother, single woman or father, as the case may be, to

The like in respect of allowances.

No. 17, 1939.

to whom such allowance was paid was the only near relative liable to pay or contribute towards the maintenance of the child or young person.

Near relative
not to pay
twice in
respect of
same child.

(3) Where an order under this section is made in respect of any near relative against whom an order has been made for payment of preliminary expenses or expenses of maintenance under Part XVI of this Act, or under the Child Welfare Act, 1923, or under the Infant Protection Act, 1904, or for payment of maintenance under the Deserted Wives and Children Act, 1901-1939, the court may vary, suspend or discharge the last-mentioned order so as to secure that the said near relative shall not pay twice for the maintenance of the same child.

(4) The Minister or any officer authorised by the Minister in that behalf may, in addition to the powers contained in subsections one, two and three of this section, institute legal proceedings—

- (a) against any parents for the recovery of moneys expended in the maintenance of their children; and
 - (b) against the parents of illegitimate children for the recovery of maintenance money,
- and such parents shall be liable jointly and severally.

Order may
be varied or
discharged.
Act No. 21.
1923, s. 26.

61. (1) Any order under this Part may be enforced, appealed from, confirmed, suspended, varied, or discharged in the same manner in all respects as orders made under Part XVI of this Act.

(2) Where a child in respect of whose maintenance a contribution order has been made becomes self-supporting the Minister or any officer authorised by the Minister in that behalf shall make an application under subsection one of this section—

- (a) in any case where contributions under the order are paid to the Minister—as soon as practicable after the child becomes self-supporting;
- (b) in any other case—as soon as practicable after the Director receives the notice referred to in subsection three of this section.

(3) Where contributions under a contribution order are paid to any person other than the Minister such person shall as soon as practicable after the

the child in respect of whom the contributions are paid becomes self-supporting give notice in writing of the fact to the Director, and any such person who wilfully neglects to give such notice shall be guilty of an offence against this Act. No. 17, 1939.

62. A magistrate or court may, upon complaint by the Minister or any officer authorised by the Minister in that behalf or by the person to whose care a child has been committed that any person has absconded or is about to abscond from New South Wales to evade the provisions of this Part or compliance with a contribution order, issue a warrant for the arrest of such person. Person absconding.

63. A complaint may allege that a parent or other near relative is able to maintain or contribute towards the maintenance or past maintenance of two or more wards or children. Any order made on such complaint shall specify the amount payable in respect of each ward or child. Complaint may include two children.

64. (1) On complaint in writing on oath being made to a magistrate or court against any parent or other near relative under this Part, such magistrate or court may summon such parent or other near relative to appear before a court to answer such complaint. Summons.

(2) Any summons under this Part shall be served on the defendant at least fourteen days before the day appointed for the hearing of the complaint.

PART XIII.

EMPLOYMENT OF CHILDREN.

65. (1) A written license authorising a male child to engage, subject to the regulations, in a specified description of street trading may be issued by the Minister— Issue of street-trading licenses.
cf. Act No. 21, 1923, s. 48.

- (a) to any male child of or over the age of fifteen years; or
- (b) to a male child under the age of fifteen years but of or over the age of fourteen years, where the Minister is satisfied that, in the case of such child, special circumstances exist which render the issue of the license necessary or desirable.

(2)

No. 17, 1939.

(2) Such license shall be delivered to the child with a badge to be worn by him as prescribed during such trading.

(3) Such license shall not be issued unless it is shown that the moral or material welfare of the child will not suffer by such trading.

(4) Every license shall be granted for a period not exceeding twelve months and shall terminate on the thirtieth day of June in each year, but may be renewed from time to time, and may at any time be cancelled by the Minister.

(5) No charge shall be made for any license or badge issued under this section.

(6) (a) Any license issued under section forty-eight of the Child Welfare Act, 1923, and in force immediately before the commencement of this Act, shall, unless, sooner cancelled, continue in force until the expiration of the term for which it was granted notwithstanding that the child to whom it was issued is under the age of fifteen years.

(b) Any license continued in force by paragraph (a) of this subsection may be renewed from time to time for a term not exceeding six months but no such license shall be renewed for a term which will extend beyond the period of twelve months from the commencement of this Act.

66. Any person who employs a child in street trading—

(a) who is not duly licensed in that behalf; or

(b) who, although so licensed, is employed by him in trading of a description, or during hours not authorised by the license,

shall be liable to a penalty not exceeding five pounds, or in case of a second or subsequent offence to a penalty not exceeding ten pounds.

67. (1) Any person who causes or allows any child to take part in any public exhibition or performance or in any preparation, training or rehearsal for any such exhibition or performance whereby the life or limbs of such child is or are endangered, and the parent or any person

Penalty for employing child in street trading in contravention of Act.
cf. Act No. 21, 1923, s. 49.

Entertainments and performances.
Ibid. s. 41.

person having the care of such child who aids or abets such firstmentioned person therein, shall be guilty of an offence against this Act.

(2) Where in the course of a public exhibition or performance, or in any preparation or training or rehearsal for any such exhibition or performance, which in its nature is dangerous to the life or limb of a child who is employed to take part therein, any accident causing actual bodily harm occurs to such child, the employer of such child, whether his parent or not, shall be guilty of an offence against this Act; and if such employer is not the parent of such child, the court before which such employer is convicted may award as compensation for the bodily harm so occasioned, a sum not exceeding one hundred pounds to be paid by such employer to the child or to some person named by the court on behalf of the child.

The recovery of compensation awarded under this section shall not deprive the child of any other legal remedy, but any sum so awarded shall be taken into account in any other proceedings by or on behalf of the child for or in respect of the same bodily harm.

68. (1) Any person who causes or procures, or having the care thereof allows any child—

(a) unless duly licensed as provided in section sixty-nine of this Act to be employed—

- (i) in any place whatsoever used for broadcasting purposes; or
- (ii) in any premises licensed according to law for public entertainments; or
- (iii) in any circus; or
- (iv) in any other place used wholly or in part for providing entertainment or amusement; or
- (v) in any place set apart for spectators at any sports or in or adjacent to any way of access to or egress from any such place; or
- (vi) in any place whatsoever used for the photographing of scenes to be depicted in a cinematograph film,

for

Prohibition of employment of children for certain purposes without license.
Act No. 21, 1928, s. 42.

No. 17, 1939.

for the purpose of singing, playing or performing, or of offering anything for sale; or

- (b) to be in any place whatsoever for the purpose of—
- (i) begging or receiving alms; or
 - (ii) inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise;

shall be guilty of an offence against this Act:

Provided that paragraph (a) of this subsection shall not apply in the case of any occasional entertainment, the net proceeds of which are wholly applied for the benefit of any school or to any charitable object.

Provided further that paragraph (a) of this subsection shall not apply in any of the following cases, that is to say—

- (i) where a community singing concert is being conducted and the child concerned takes part in such concert only by singing as a member and in common with the other members of the audience present at such concert, and such concert is not being conducted between the hours of ten o'clock at night and six o'clock in the morning;
- (ii) where a community singing concert is being conducted on any Sunday and the child concerned takes part in such concert only by singing as a member and in common with the other members of the church or school choir present at such concert;
- (iii) where a community singing concert is being conducted and the child concerned takes part in such concert only by singing as a member and in common with the other members of the audience present at such concert, and either such concert is not being conducted during school hours on any day upon which schools are open or the child concerned is exempted from attendance at school.

(2)

(2) If a person having the care of a child not licensed as provided in section sixty-nine of this Act is charged with an offence under this section, and it is proved that the child was in any place for any such purpose as is referred to in paragraph (b) of subsection one of this section, and that the person charged allowed the child to be in the place, he shall be presumed to have allowed him to be in the place for that purpose unless the contrary is proved.

No. 17, 1939.

cf. 23 Geo.
V, c. 12,
s. 4.

(3) If any person while singing, playing, performing, or offering anything for sale in a street or public place has with him a child not licensed under section sixty-nine of this Act the child shall for the purposes of this section be deemed to be in that street or place for the purpose of inducing the giving of alms.

69. (1) Notwithstanding anything contained in this Part the Minister may grant a license authorising any child over the age of seven years to be employed in any place or premises mentioned in paragraph (a) of subsection one of section sixty-eight of this Act for the purposes therein specified.

Licenses
to take part
in public
entertain-
ments.
cf. Act No.
21, 1923, s.
42.

(2) A license shall not be granted unless the Minister is satisfied that the child is fit to be employed in any such place or premises for the purposes specified, and that proper provision has been made to safeguard the health, welfare and education of the child.

(3) A license shall be granted for such time, during such periods and subject to such conditions as may be prescribed or as the Minister may in any special case approve, and such times, periods and conditions shall be endorsed on the license.

No license shall be granted authorising any child to be employed on any day between the hours of ten o'clock at night and six o'clock in the morning or on any Sunday.

(4) A license may, at any time, be varied or cancelled by the Minister.

70. (1) The Minister may appoint any officer to see that the restrictions and conditions of any license under section sixty-nine of this Act are duly observed.

Supervision
of licenses.

(2) Such officer shall have power to enter and inspect any circus or place or premises mentioned in paragraph (a) of subsection one of section sixty-eight of this

No. 17, 1939. — this Act for the purpose of ascertaining whether any child is employed therein in contravention of the provisions of this Part.

Inter-
pretation of
Part XIII.

71. (1) For the purposes of this Part and of any regulations made in relation to any of the matters referred to in this Part—

A child who assists in any trade or occupation carried on for profit shall be deemed to be employed notwithstanding that he receives no reward for his labour.

Any public performance by a child which is an acrobatic performance or a performance as a contortionist shall be deemed to be a public exhibition or performance whereby the life or limbs of such child is or are endangered or which is in its nature dangerous to the life or limb of such child.

A child taking part as a chorister in any religious, school, or similar service or in any practice for such service shall not, whether he receives any reward or not, be deemed to be employed, but such child shall not take part as a chorister in any such service or practice between the hours of ten o'clock at night and six o'clock in the morning.

(2) In this Part of this Act and in any regulations made in relation to any of the matters referred to in this Part of this Act, the expression "street trading" includes the hawking of newspapers, matches, flowers and other articles, shoe-blackening and any other like occupation carried on in any public place.

PART XIV.

COMMITTAL OF NEGLECTED OR UNCONTROLLABLE CHILDREN OR YOUNG PERSONS OR OF JUVENILE OFFENDERS.

72. In this Part of this Act—

"Neglected child" means child or young person—

- (a) who is in a brothel, or lodges, lives, resides or wanders about with reputed thieves

Definition
of neglected
child.

- thieves or with persons who have no visible means of support, or with common prostitutes, whether such reputed thieves, persons or prostitutes are the parents of such child or not; or
- (b) who has no visible lawful means of support or has no fixed place of abode; or
 - (c) who begs in any public place, or habitually wanders about public places in no ostensible occupation, or habitually sleeps in the open air in any public place; or
 - (d) who, without reasonable excuse, is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging, or who is ill-treated or exposed; or
 - (e) who takes part in any public exhibition or performance within the meaning of Part XIII of this Act whereby the life or limb of such child is endangered; or
 - (f) who, not being duly licensed under this Act for that purpose, is engaged in street trading within the meaning of Part XIII of this Act; or
 - (g) whose parents are drunkards, or, if one be dead, insane, unknown, undergoing imprisonment, or not exercising proper care of the child or young person, whose other parent is a drunkard; or
 - (h) who is in any place where opium or any preparation thereof is smoked; or
 - (i) who is living under such conditions as indicate that the child or young person is lapsing or likely to lapse into a career of vice or crime; or
 - (j) who in the opinion of the court is under incompetent or improper guardianship; or
 - (k) who is destitute; or
 - (l) whose parents are unfit to retain the child or young person in their care, or, if one parent be dead, insane, unknown, undergoing imprisonment, or not exercising proper

No. 17, 1939.

proper care of the child or young person, whose other parent is unfit to retain the child or young person in his care; or

- (m) who is suffering from venereal disease and is not receiving adequate medical treatment; or
- (n) who is falling into bad associations or is exposed to moral danger; or
- (o) who, without lawful excuse, does not attend school regularly.

Warrant for apprehension.
Act No. 21, 1923, s. 50.

73. Any justice may, upon oath being made before him by an officer authorised by the Minister in that behalf or by any constable of police, that, having made due inquiry, he believes any child or young person to be a neglected or uncontrollable child or young person—

- (a) issue his summons for the appearance of such child or young person before a court; or
- (b) in the first instance issue his warrant directing such child or young person to be apprehended.

Apprehension.
cf. *Ibid.*
s. 51.

74. Any officer authorised by the Minister in that behalf or any constable of police may, although the warrant is not at the time in his possession, apprehend any child or young person for whose apprehension a warrant has been issued under section seventy-three of this Act.

Warrant to search in brothel.
Ibid. s. 52.

75. (1) If it appears to any justice on information laid before him on oath by any credible person, that there is reasonable cause to suspect that a child or young person is in a place which is a brothel, or where opium or any preparation thereof is smoked, such justice may issue his warrant authorising any constable of police or any other person named therein to search in such place for any child or young person, and to take such child or young person to a place of safety there to be detained until dealt with pursuant to this Act.

(2) Any constable of police or person authorised by warrant under this section to search for a child or young person may enter (if need be by force) into any house, building or other place specified in the warrant, and may remove such child or young person therefrom.

(3)

(3) Such constable of police or person may be accompanied by—

(a) a medical practitioner, or

(b) the person giving the information if he so desires, unless the justice otherwise directs.

(4) It shall not be necessary in the information or warrant to name the child or young person.

76. Any officer authorised by the Minister in that behalf or any constable of police may without warrant apprehend any child or young person who is in a place which is a brothel or where opium or any preparation thereof is smoked, or who he has reason to believe is a neglected or uncontrollable child or young person.

Apprehension of child in brothel, etc. Act No. 21, 1923, s. 53.

77. Where a child or young person is found in a brothel or in a place where opium or any preparation thereof is smoked, the keeper or person in charge or apparently in charge of such brothel or place shall be guilty of an offence against this Act.

Where child in brothel or opium den, keeper guilty of an offence. *Ibid.* s. 54.

78. Any child or young person apprehended as a neglected or uncontrollable child or young person or juvenile offender shall be taken to a shelter and as soon as practicable thereafter shall be brought before a court.

Child placed in shelter and to be brought before court. *cf. Ibid.* s. 55.

79. Any child or young person who solicits any person for immoral purposes or otherwise behaves in an indecent manner shall be deemed an uncontrollable child or young person.

Child deemed to be uncontrollable.

80. Any person having the care of a child or young person may apply to a court to deal with such child or young person as an uncontrollable child or young person. Such child or young person may be detained at a shelter pending the determination of the application by the court.

Application to deal with child or young person as uncontrollable. *Ibid.* s. 56.

81. (1) Where any child or young person is brought before a court as, or is charged with being, a neglected or uncontrollable child or young person or a juvenile offender, the court may thereupon hear and determine the matter or charge.

Procedure of court. *cf. Ibid.* s. 57.

(2) Where a child or young person is brought before a court as, or is charged with being, a neglected or uncontrollable child or young person or a juvenile offender his parent or guardian may, in any case, and shall,

cf. 23 Geo. V, ch. 12, s. 34.