

- (ii) the same be made by any person in the performance of his official duties pursuant to this or any other Act or regulations.

24. Where an application is made in respect of a child or the offence charged against a child does not amount to an indictable offence, or where the alleged offence consists of the breach or non-observance of some by-law, rule, or regulation promulgated by virtue of a statute, no summons shall be issued or served upon such child unless a notice has been first posted to or served upon such child at its usual place of residence, and such child has failed to appear in response to such notice.

No summons to be issued in certain cases.

No. 21 of 1919, s. 7.

25. The court in committing any child to an institution shall have regard to the future welfare of such child, and may direct such child to be detained in one of the institutions mentioned in the Second Schedule to this Act, or in some other institution, as the Governor may approve, at which such special training and supervision can be provided as may best meet the needs of any special case.

In committing to an institution, court to have regard to the future of the child.

No. 21 of 1919, s. 8, as amended by No. 22 of 1927, s. 2, and this Act. Second Schedule.

26. Notwithstanding the provisions of any Act, by-law, rule, or regulation, the court in awarding punishment or penalty upon any child may have regard to the antecedents, character, age, health, or mental condition of the child convicted, and may take into account the nature of the offence or any special circumstances of the case, and such court may, notwithstanding the nature of the evidence adduced, refrain from imposing any punishment, penalty, or fine, or without proceeding to conviction dismiss the complaint.

Court may refrain from imposing punishment or fine.

No. 21 of 1919, s. 9, as amended by No. 56 of 1941, s. 4.

Notwithstanding the exercise of any discretion conferred by this section, the court may order the child concerned to be subject to the supervision of the Department until such child attains the age of eighteen years or during such shorter period, as the court may think sufficient.

Court may
re-hear case.
No. 21 of
1919, s. 11.

27. The court, on application made by the Department or by the parent or guardian of any child against whom an order may be made under this Act, may rehear the case and may make such recommendation to the Minister thereon as may in its opinion meet the circumstances.

Admission
to bail.
No. 14 of
1921.
Sec. 7, as
amended by
No. 22 of
1927, s. 4,
and this Act.

28. The powers conferred upon justices in regard to admission to bail may be exercised in the case of children by the Secretary or by the Clerk of the Children's Court, or by the officer in charge of any Government detention house.

Justices Act,
1902-1942, s.
79.
cf. 13 of 1927
s. 10.

Provided that, notwithstanding the provisions of any Act, where it appears to the court by which a child charged with an offence is remanded, that such child is suffering from a mental or nervous disorder, the court may order that pending the further hearing he shall be placed as is provided in section twenty-nine of this Act for observation, for a period not exceeding one month, and in such case such child may be so placed, received and detained pursuant to such order.

cf. s. 29 post.

Committal of destitute or neglected or incorrigible or uncontrollable children.

Power to
apprehend
neglected or
destitute
or incorrigible
or uncontrollable
children.
No. 31 of
1907, s. 23, as
amended by
No. 22 of
1927, s. 4, and
No. 56 of
1941, s. 5.

29. Any officer of the Department authorised by the Minister and any police officer may, without warrant, apprehend any child appearing or suspected to be a destitute or neglected or incorrigible or uncontrollable child, and when any such child is apprehended, pending the hearing of the application, charge or information, or during any adjournment thereof, such child shall be disposed of in one of the following ways:—

- (a) Taken to a receiving depot, shelter, or other Government institution and placed therein;
- (b) placed with some respectable person and such arrangement or agreement may be made as may be necessary or proper for the care and maintenance of such child;

- (c) placed in the dwelling of a police officer at prescribed charges; or
- (d) placed in a police gaol or lock-up and kept apart from other prisoners: Provided that no child shall be detained in a police gaol or lock-up unless the charge pending is of so serious a nature that his safe custody is of paramount importance.

30. The Court upon the hearing of any application to declare a child a destitute or neglected child may on being satisfied that the application should be granted, declare the child to be a destitute or neglected child and may order such child to be—

- (a) committed to the care of the Department; or
- (b) sent to some institution to be specified in the order there to be detained or otherwise dealt with under this Act, until such child attains the age of eighteen years, or during such shorter period as the court may think sufficient; or
- (c) released on probation on such conditions (if any) as the court may order, and in such case the child shall be subject to the supervision of the Department until such child attains the age of eighteen years, or during such shorter period as the court may think sufficient.

Powers of court with respect to destitute or neglected children.
No. 31 of 1907, s. 24, as amended by No. 21 of 1919, s. 10.

cf. s. 70 post.

cf. s. 38 post.

31. Whenever a child is committed to the care of the Department, the order of committal shall be sufficient authority to any police officer or officer of the Department to take the child to such institution as the Secretary may direct, or in default of any such direction to such receiving depot as may be nearest or most convenient.

Order for detention.
No. 31 of 1907, s. 25.

32. If any child is brought before the court, charged by his parent or near relative with being an uncontrollable or incorrigible child the court upon being satisfied that the charge is well founded, may—

How uncontrollable child may be dealt with.
No. 31 of 1907, s. 26, as amended by No. 21 of 1919, s. 12 and No. 56 of 1941, s. 6.

cf. s. 70 post.

(a) order the child to be sent to an institution to be there detained or otherwise dealt with under this Act until eighteen years of age, or during such shorter period as the court may think sufficient; or

cf. ss. 32 and 38 post.

(b) release the child on probation, on such conditions, if any, as the court may order, and in such case the child shall be subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient:

Provided that no order of committal of an uncontrollable child on the application of his parent or near relative shall be made unless such parent or relative proves that he has not by neglect lost control of the child.

Uncontrollable children may be charged by Department. No. 31 of 1907, s. 27. cf. s. 32 ante

33. If any child is brought before the court charged by an officer of the Department or a police officer with being an uncontrollable or incorrigible child, the court upon being satisfied that the charge is well founded may exercise the jurisdiction conferred upon it by the last preceding section in the same manner and to the same extent as if the charge had been made by the parent or near relative of the child.

How convicted children may be dealt with. No. 31 of 1907, s. 28, as amended by No. 21 of 1919, s. 13, and No. 22 of 1927, s. 7. cf. s. 70 post.

34. If any child is found guilty of any offence punishable by imprisonment, the court, in lieu of sentencing such child to imprisonment, may—

(a) order such child to be sent to an industrial school and to be there detained or to be otherwise dealt with under this Act until eighteen years of age, or during such shorter period as the court may think sufficient; or

(b) order the parent to give security for the good behaviour of such child until the child attains the age of eighteen years, or during such shorter period as the court may think sufficient, and upon being satisfied that such security has been given, may dismiss the charge; or

- (c) adjourn the case on a near relative undertaking to punish the child in such reasonable or moderate manner as the court may approve, and on being satisfied that such punishment has been duly inflicted may dismiss the charge; or
- (d) release the child on probation on such conditions, if any, as the court may order, and in such case the child shall be subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient:

cf. s. 38 post.

Provided that no order for security shall be made against a parent under this section unless such parent has been summoned to attend before the court and has had an opportunity of being heard.

Provided also that, in the case of a child committed to an industrial school, the Department, with the approval of the Minister, may be enabled, by regulations under this Act, to release such child on probation, under the supervision of a probation officer, or other officer of the Department.

35. No child shall be liable to imprisonment for failure to pay any penalty, compensation, or sum of money or costs adjudged to be paid by a conviction or order of any court of summary jurisdiction, but shall be liable to be sent to and detained in an institution for such period as he might have been imprisoned but for the provisions of this section, and the provisions of the Justices Act, 1902-1942, shall apply, the necessary changes and adaptations being made in respect of such child as if detention in an institution were substituted therein for imprisonment.

Child not to be imprisoned for non-payment of fine, etc.
No. 21 of 1919, s. 14.
cf. s. 36 post.

36. Notwithstanding anything contained in sections one hundred and fifty-five, one hundred and fifty-nine, and one hundred and sixty-seven, of the Justices Act, 1902-1942, or in section thirty-five of this Act, it shall not be obligatory upon the justices sitting as a Children's Court to issue any warrant of execution or to impose any alternative of detention in default of payment of a fine by any child.

No execution or detention in default of payment of fine.
No. 14 of 1921, s. 2.
cf. s. 35 ante.

Committal of a child to an institution pending trial. No. 21 of 1919, s. 14.

37. Any child may be committed to an institution during the period for which he has been remanded by a court or any justice or justices, or during the period of his detention on committal for trial in the Supreme Court.

Child released on probation may be arrested without warrant in certain cases. No. 56 of 1941, s. 7. cf. ss. 30, 32 and 34 ante.

38. If the conditions of probation upon which any child is released under sections thirty, thirty-two, or thirty-four of this Act are not observed by the child or responsible person or persons, or if the Secretary shall not be satisfied with the conduct of the child or the responsible person or persons aforesaid whilst the child is released on probation, the Secretary may, with the written consent of the Minister, without warrant, cause the child to be arrested and brought before the court, and the court may exercise any of the powers specified in sections thirty, thirty-two, or thirty-four, as the case may be.

Child over sixteen years of age at time of committal may be detained for two years. No. 31 of 1907, s. 30.

39. If any child at the time of being committed to an institution is upwards of sixteen years of age, such child may be ordered to be detained in an institution, or otherwise dealt with under this Act, for the period of two years, notwithstanding that such period would extend beyond the time of such child attaining the age of eighteen years.

No detention after age of eighteen. No. 31 of 1907, s. 31, as amended by No. 22 of 1927, s. 3.

40. Except as in this Act otherwise provided, no ward shall be detained in any institution or be under the control of the Department after attaining the age of eighteen years.

Institution to which children to be sent. No. 31 of 1907, s. 32.

41. (1) Every child found guilty of an offence and committed to an institution shall be sent to an industrial school.

(2) Destitute children and neglected children shall be sent to institutions other than industrial schools:

Provided that if any neglected or destitute child in the opinion of the court under the special circumstances of the case ought to be sent to an industrial school, the court may order such child to be committed to an industrial school accordingly.

Provided also that under special circumstances, and with the approval of the Minister, an inmate of an institution may be transferred for misconduct to an industrial school, and in like manner any inmate of an industrial school may, for good conduct, be transferred to any other institution.

42. (1) Any order made by justices under section eighteen of the Education Act, 1928-1943, shall direct the child to be sent to an institution other than an industrial school.

Habitual
truants
No. 31 of
1907, s. 33.

(2) After a detention of not less than two months any child may be given a license to live out of the institution, but the license shall be conditional upon the child attending regularly some school named in the license being a Government school or efficient school:

Provided that such license may be revoked by direction of the Minister whenever the child ceases to attend at such school regularly, and it shall be the duty of the teacher in charge of the school named in the license to notify the Department weekly of the attendance of the child.

43. (1) Every order of the court committing a child to the care of the Department or to an institution shall be in the prescribed form setting forth the age and religion, so far as known, of such child, and the cause for which the child is to be detained.

Form of
order.
No. 31 of
1907, s. 34.

(2) In the absence of evidence as to the age of any child, the court may on view determine the age of such child, and shall insert in the order the age so determined.

44. The statement in any order that the child therein named is of a certain age and religion shall, for the purposes of this Act, be taken to be true, unless within six months from the date of the order the Secretary shall be satisfied to the contrary, and shall indorse on the order the correct age or religion.

Statement of
age and
religion to be
prima facie
evidence.
No. 31 of
1907, s. 35.

45. A certificate indorsed upon or annexed to any order and signed by the secretary or the superintendent or matron of any institution, stating that the child

Certificate of
secretary,
etc., indorsed
on order to be
prima facie
evidence.
No. 31 of
1907, s. 36.

named in such order was duly received into such institution, and was at the signing thereof detained in an institution, or had been otherwise dealt with under this Act, shall in all proceedings whatsoever be *prima facie* evidence of the facts stated in such certificate, and of the identity of the child therein named.

Ward absconding, etc., may be apprehended without warrant.

No. 31 of 1907, s. 37, as amended by No. 22 of 1927, s. 3.

46. Any ward who absconds from any institution, or from his foster-parent, or who, whilst liable to detention, shall refuse or neglect at the end or determination of the term of his apprenticeship or placing out forthwith to return to the institution in which he was last detained, or to such other institution as the secretary may order, may be apprehended without a warrant by any police officer, or by any officer of the Department, and conveyed to such institution as the Secretary may direct.

Governor may release ward.

No. 31 of 1907, s. 38, as amended by No. 22 of 1927, s. 3, and No. 12 of 1936, s. 2.

47. The Minister may order the release of any ward from the control of the Department or from any institution, and upon production to the secretary or, in the case of an institution, to the superintendent or matron thereof, of such order, the child shall be forthwith released accordingly.

Provided that, before any such order is made by the Minister the parents of the ward shall, if their whereabouts are known or can be ascertained by reasonable inquiry, and the matron or manager of the institution, be notified that it is proposed to release the ward, and shall, if either of them so desire, be heard by the Minister in opposition to the proposal or as to the custody of the ward after release:

Provided, further, that a parent, feeling aggrieved by the order of the Minister to release the ward or to hand the ward over to the custody of any person, may within three months from the date of the order appeal to the magistrate of the local court at Perth, who is hereby empowered to make any order necessary to keep the ward within the State pending the determination of the appeal, and to inquire into such grievance and any matters relating thereto, and, upon such inquiry, to either confirm or annul the order of the Minister and commit the ward to the care of the department, or make such other order as to the custody or control of the ward

or otherwise in the premises as he shall deem fit, and the determination or order of the magistrate shall for all purposes be final and conclusive.

48. An inmate of an institution may, for any reason which appears to the Minister sufficient, and subject to the provisions of this Act, be removed to and detained in any other institution.

Removal of inmates from one institution to another.
No. 31 of 1907, s. 39.

49. The Governor may order that the period of supervision or of detention of any female ward specified in any order shall be extended until such child shall attain the age of twenty-one years or for any shorter period, and such child shall be supervised or detained accordingly.

Governor may extend period of detention.
No. 31 of 1907, s. 40, as amended by No. 22 of 1927, s. 3.

50. The Secretary may, by indenture of apprenticeship, bind any ward apprentice to any suitable person, to be taught such trade or calling as the Secretary shall approve; and such binding shall be as effectual as if the child were of full age at the date of the indenture, and had voluntarily executed the same; but the period of any such apprenticeship shall not exceed five years, nor extend beyond the day of the child attaining the age of twenty-one years.

The Secretary may apprentice children.
No. 31 of 1907, s. 41, as amended by No. 22 of 1927, s. 3, and this Act.

51. The Secretary may place out any ward to reside and board with any relative of such child, or with a suitable person approved by the Secretary for such period, subject to this Act, as the Secretary thinks fit; or may place out for such period as aforesaid any ward with any suitable person willing to receive such child for adoption or service, and who, in the opinion of the Secretary is able to provide for such child.

Secretary may place out children.
No. 31 of 1907, s. 42, as amended by No. 22 of 1927, s. 3, and this Act.

Nothing in this section shall authorise the placing out of any child for any time extending beyond the period of detention of such child.

52. (1) Every ward over the age of six years placed out shall be sent regularly to school until fourteen years old, or until he shall pass the compulsory standard required by the Education Act, 1928-1943, or any Act amending the same or substituted therefor.

Wards to attend school regularly.
No. 31 of 1907, s. 43, as amended by No. 22 of 1927, s. 3, and this Act.

(2) No ward shall be apprenticed or placed out for service under the age of fourteen years unless such child has passed such compulsory standard.

(3) Any parent or foster-parent committing or permitting any breach of this section shall be guilty of an offence against this Act, unless for good cause shown he shall be specially exempted by the Minister.

Provisions in indentures. No. 31 of 1907, s. 45, as amended by No. 22 of 1927, s. 3.

53. All indentures of apprenticeship and agreements for the placing out of wards under this Act shall be in the forms prescribed and shall contain provisions to the satisfaction of the Minister for the proper keeping, maintaining, clothing, and (where necessary) educating such child, and for the due payment of such wages as may be payable thereunder:

Wages may be paid into Commonwealth Savings Bank. No. 31 of 1907, s. 46, as amended by No. 21 of 1919, s. 16, No. 14 of 1921, s. 9, No. 13 of 1926, s. 2, and this Act.

54. The Secretary may in any indenture or agreement provide that all, or such portion as may be specified, of any wages to become due to the child shall be deposited in the Commonwealth Savings Bank in the name of such child, and every such payment shall be deemed to be a payment to such child:

Provided that no money deposited pursuant to this section shall be withdrawn without the consent of the Minister until the child attains the age of twenty-one years:

Provided further that all accounts under this section shall be audited at prescribed periods by the Auditor General.

Moneys banked may be expended for the child's benefit. No. 31 of 1907, s. 47, as amended by No. 14 of 1921, s. 9, and this Act.

55. (1) All or any part of the money so deposited, and any interest thereon, may, with the consent of the Minister, be expended for the benefit of the child when and in such manner as the Secretary may from time to time deem advisable.

(2) All moneys so deposited, and not expended as aforesaid, shall be payable to the child upon his attaining the age of twenty-one years:

Provided that on the death of any such child any debt due to the Department in respect of such child shall be a first charge on moneys so deposited, and shall be payable to the Department on demand.