

T A S M A N I A.



1918.

ANNO NONO

GEORGII V. REGIS.

No. 15.

*Amended by 16.62.1921.
" " " 21. 1922-3.
" " " 69. 1923-4.*



AN ACT to consolidate and amend "The Youthful Offenders, Destitute and Neglected Children's Act, 1896," make better provision for the Protection, Control, Maintenance, and Reformation of Neglected and Destitute Children, and for other purposes. A.D. 1918.
[22 November, 1918.]

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

PART I.

PRELIMINARY.

1 This Act may be cited as "The Children's Charter," and shall come into operation on a day to be fixed by the Governor by proclamation. Short title and commencement.

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Division.

2 This Act is divided into the following parts :—

Part I.—Preliminary.

Part II.—The Children of the State Department.

Part III.—Management of Property of Children of the State.

Part IV.—Institutions.

Part V.—Children of the State and Children's Courts.

Part VI.—Maintenance of Children by their Relatives.

Part VII.—Foster-mothers and Nursing Homes.

Part VIII.—Procedure, Penalties and General Provisions.

Repeal.

3 The Acts specified in the Schedule (1) to this Act are hereby repealed to the extent therein stated :

Interpretation.

4 In this Act, unless the context or subject-matter otherwise indicates or requires—No. 24, 1896, s. 2 (Tas.)
No. 16, 1905, s. 2 (N.S.W.)
No. 31, 1907, s. 4 (W.A.)
No. 11, 1911, s. 4 (Q.)
No. 641, 1895, s. 4 (S.A.)
No. 2703, 1915, s. 3 (Vict.)

“ Age ” means in the absence of positive evidence as to age, the apparent age :

“ Authorised officer ” means an officer of the Department authorised either generally under this Act or for any particular purpose by the Secretary or the Minister :

“ Certified institution ” means a private institution or private reformatory school certified in accordance with the provisions of this Act :

“ Child ” means any boy or girl under the age of Seventeen years :

“ Child of the State ” means a “ convicted child ” or “ neglected child ” or any other child received into or committed to an institution, or to the care of the Department, or apprenticed or placed out under the authority of this Act, or any Act heretofore in force :

“ Children's court ” means a children's court established under this Act, and includes a police magistrate or justices exercising the jurisdiction of a children's court :

“ Clerk ” or “ clerk of petty sessions ” means the person officiating as police clerk or clerk of petty sessions at the police court or place of holding petty sessions held at or nearest to the place at which the children's court is held :

“ Court ” means a children's court, or the Supreme Court, or a judge thereof, as the case may be :

“ Convicted ” means found guilty or convicted of any crime or offence punishable by imprisonment :

“ Department ” means the children of the State Department constituted under this Act, heretofore known as the Department for Neglected Children :

“ Foster-mother ” means any person licensed under Part VII. for any purpose mentioned in Section One hundred and five of this Act.

“ Foster-parent ” means any person to or with whom a child of the State is apprenticed or placed out under this Act, or under any enactment hereby repealed, and includes the assignee of such person :

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- “Indictable offence” means any offence for which an information may be filed against any person in the Supreme Court by His Majesty’s Attorney-General: A.D. 1918. —
- “Inmate” means a child of the State maintained in an institution :
- “Institution” means and includes the receiving depôt of the State, the Government Training School for Boys, every receiving depôt or shelter, children’s home, foundling home, industrial school, probationary school, reformatory, farm school, or other institution established under this Act, and every private reformatory, school, or private institution, certified or deemed to be certified under this Act, and all other institutions, schools, and places for the time being under the care, control, or supervision of the Department :
- “Judge” means a judge of the Supreme Court :
- “Maintenance” includes clothing, nursing, support, medical treatment, necessaries, training, discipline, and education :
- “Maintenance order” means an order made by the court for payment of money by any near relative in respect of the maintenance of a child :
- “Managers” means the persons for the time being having the management or control of any private institution or private reformatory :
- “Minister” means the responsible Minister of the Crown for the time being charged with the administration of this Act :
- “Near relative,” as regards a legitimate child, means and includes father, mother, stepfather, stepmother, brother, sister, or any grandparent of the child ; and as regards an illegitimate child, the mother and the person admitting himself to be or adjudged by a competent court to be the father of such child :
- “Neglected child” means child--
- i. Who is found in a house of ill-fame, or known to associate with or be in the company of a person known to the police or to the department to be or reasonably suspected of being a prostitute, whether such person is the mother of the child or not : or Cf., *Ib.*, N.S.W., s. 5. *Ib.*, Q., s. 4.
 - ii. Who is found stealing in a public place, or who associates or dwells with any person known to the police or the Department to be a thief, drunkard, or with any person who has no apparent lawful means of support : or *Ib.* 8 Ed. VII., c. 59, s. 2 (Ontario). N.S.W.
 - iii. Who has no visible lawful means of support, or has no fixed place of abode : or
 - iv. Who begs in any public place, or habitually wanders about public places, being in no ostensible occupation, or sleeps at night in the open air in any public place : or Cf. N.S.W.

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Cf. N.S.W.
- Q.
- Ontario.
- Q. and W.A.
- N.S.W.
- Ontario.
Ibid.
- N.S.W. and Q.
- Cf. Q.
- Cf. Q.
- Ontario.
- Ibid.*
- v. Who is not provided with necessary food, nursing, clothing, medical aid or lodging, or who is neglected, ill-treated, or exposed by his parent, and such neglect, ill-treatment, or exposure has resulted, or appears likely to result, in any permanent or serious injury to the child : or
- vi. Who, being of the compulsory school age, is an habitual truant from day school, or whose parent has been convicted at least twice of neglecting to cause such child to attend school : or
- vii. Who, by reason of the neglect, or drunkenness, or other vice, of its parents, or either of them, is growing up without salutary parental control and education, or in circumstances exposing such child to an idle or dissolute life : or
- viii. Who is illegitimate, and whose mother is dead, or is unable to maintain or take charge of such child : or
- ix. Who takes part in any public exhibition or performance whereby the life or limb of such child is endangered : or
- x. Who is deserted by its parents : or
- xi. Whose parents or only parent are or is undergoing imprisonment for an indictable offence : or
- xii. Who, being a female, solicits men, or otherwise behaves in an indecent, or improper, or disorderly manner, or habitually wanders at night without sufficient cause in a public place : or
- xiii. Who, being under the age of Fourteen years, is engaged in street-trading, in a public place, or in any place other than the child's home : or
- xiv. Who is found by a children's court to be an uncontrollable child : or
- xv. Who by reason of illtreatment, continual personal injury, or grave misconduct, or habitual intemperance of its parents, or either of them, is in peril of loss of life, health, or morality : or
- xvi. Whose home, by reason of neglect, cruelty, or depravity, is an unfit place for such child :
- “Nursing home” means any home registered as a nursing home under Part VII. of this Act :
- “Parent” includes a guardian and every person who is by law liable to maintain a child, or with whom the child in fact lives and is dependent upon :
- “Part” means Part of this Act :
- “Place-out” means to entrust a child of the State to the care and charge of some person approved of by the Secretary or the managers, as the case may be, for the purpose of its being maintained by such person, or in such person's house, or for the purpose of adoption, training, or hire :
- “Police officer” includes any constable or officer of police :

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- “ Private institution ” means a children’s home, institution, orphanage, or establishment for the detention, maintenance, employment, and benefit of neglected children, established, or wholly, or in part maintained by private benevolence or contributions : A.D. 1918.
- “ Private reformatory school ” means a school or institution for the detention, maintenance, reformation, and employment of convicted children, established, or wholly, or in part maintained by private benevolence, or contributions :
- “ Public place ” includes—
- i. Whatever is by any Act defined to be a public place :
and
 - ii. Any place declared by the Governor by order-in-council to be a public place for the purposes of this Act :
- “ Receiving home ” includes receiving depôt or shelter or any suitable place, the occupier of which is willing temporarily to receive a child of the State :
- “ Secretary ” means the Secretary of the Department appointed or deemed to be appointed under this Act :
- “ Special magistrate ” means a justice of the peace or other person (male or female), appointed as a special magistrate by the Governor for the purposes of this Act or any police magistrate :
- “ Street-trading ” includes the hawking of newspapers, matches, flowers, and other articles, playing, singing, or performing for profit, shoeblacking, and any other like occupation carried on in any public place. But this definition does not include playing, singing, or performing at an occasional entertainment, the net proceeds of which are wholly applied for the benefit of any school, or of any church or charity, or for any patriotic purpose.

PART II.

THE CHILDREN OF THE STATE DEPARTMENT.

5 For the purposes of this Act the Department known as the Department for Neglected Children is hereby continued and constituted a department, under the control of the Minister. The name of the said Department is hereby altered to and shall hereafter be “ The Children of the State Department.” Children of the State Department.

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Provisions of Act
relating to officers
to be subject to
"Public Service
Act."

Secretary.

6 The provisions of this Act relative to officers shall be construed with and be subject to the provisions of any Act for the time being in force regulating the Public Service of Tasmania (in this Act referred to as "any such Public Service Act").

7—(1) The Governor may, subject to the provisions of any such Public Service Act, from time to time, appoint a Secretary of the Department.

It shall be the duty of the Secretary, under the direction of the Minister to carry this Act into operation, so far as the execution thereof is not expressly committed to any other person.

(2) The person who, when this Act comes into operation, holds the office of Secretary of the Department shall be deemed, without further appointment, to have been duly appointed Secretary under this Act.

Inspectors and
other officers.

8—(1) The Governor may, subject to the provisions of any such Public Service Act, from time to time, appoint inspectors, inspecting nurses, and other officers, with such powers and functions as he deems necessary to carry out the purposes of this Act.

(2) The Governor may, subject to the provisions of any such Public Service Act, from time to time, appoint superintendents, matrons, warders, and other servants of State institutions under this Act.

Substitutes.

9 In case of the absence on leave or temporary incapacity of any officer or servant appointed under the provisions of this Act, or any corresponding provision previously in force, the Governor 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 shall perform the duties of the officer in whose place such person is appointed.

Visitors.

10—(1) The Secretary, with the approval of the Minister, may, from time to time, appoint such and so many persons as he thinks proper to be honorary visitors of the Department.

(2) Honorary visitors shall, in accordance with the regulations, assist the Department in procuring and supervising boarding-out homes and in the care of the children of the State sent to such homes, or placed out for hire or discharged or released on probation under this Act.

Secretary to be
guardian of
children of the
State.Cf., *ib.*, Vict.,
s. 25.

N.S.W., s. 34.

Q., s. 10.

S.A., s. 16.

W.A., s. 10.

Tas., s. 18, 26,
and 65.

11—(1) Notwithstanding anything to the contrary contained in any other law relating to the guardianship or custody of infants, the Secretary shall be and become the guardian of every child of the State to the exclusion of the parent or other guardian, and shall, except during the time the child is lawfully detained in any certified institution, and except as hereinafter provided, continue to be such guardian, unless the Governor otherwise directs, until the child is discharged.

The Secretary shall as such guardian have (except as aforesaid) the sole right to the custody of every child of the State and shall deal with it as directed by this Act.

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(2) While any child of the State is detained in any Government institution the superintendent or matron of the institution may exercise the powers of the Secretary as guardian of such child.

(3) While any child of the State is lawfully detained in any certified institution the powers of the Secretary as guardian, with the sole right to the custody of the person of such child, shall be reposed in and exercisable by the managers of the institution or school, as the case may be, who shall also continue to be guardians of the child during the continuance of any licence granted by them, or during the period of any apprenticeship to which they are parties, as hereinafter provided, or which has been granted or entered into under any repealed Act.

(4) The Governor may at any time make an order transferring the guardianship of any inmate from the managers to such person as the Governor by the order appoints.

12 The Minister may, on or before the discharge of a child of the State, empower the Secretary or the managers to continue to be guardian of the child until it attains the age of Twenty-one years, or for such shorter period as the Minister determines, and the child shall, during such period, be subject to the supervision of the Department or the managers as the case may be.

13 Subject to the regulations every child of the State may, from time to time, be dealt with by the Secretary in any of the following ways:—

- i. Placed in some receiving home :
- ii. Detained in an institution :
- iii. Transferred with the approval of the Minister from One institution to another institution :
- iv. Boarded-out, apprenticed, or placed at service with some suitable person :
- v. Placed in the custody of some suitable person who may be willing to take charge of such child.

14 The Secretary shall keep records of all moneys received and paid under this Act, and so far as known of the names, ages, dates of reception, near relatives, nationality, sex, religion, and dates of discharge of all children of the State, and of all dispositions of and dealings with such children.

15 The Secretary shall in every year report to the Minister on the working of this Act, and shall in such report—

- i. Specify the number of children in the several institutions : and
- ii. Specify the number of children placed out and apprenticed during the period covered by the report : and
- iii. Set out a summary of the receipts and expenditure of the Department during the same period : and
- iv. Set out any other particulars which the Minister may direct from time to time to be included in such report.

All such reports shall be laid before Parliament.

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Guardianship of inmates of State institution.

Cf, Tas., s. 19

Guardianship of inmates of private institutions.

Cf., Tas., s. 65.

Governor may transfer guardianship.

Cf. No. 83 of 1908, s. 28 (N.Z.).

Minister may prolong guardianship beyond discharge.

Cf. Q., s. 10 (2).

General powers of Secretary.

Cf., *ib.* (Vic.), s. 30.

Cf., *ib.* (N.S.W.), s. 34.

Cf., *ib.* (Q.), s. 11.

Cf., *ib.* (S.A.), s. 16.

Cf., *ib.* (W.A.), s. 10.

Cf., *ib.* (Tas.), s. 18, 26, and 65.

Record of children of the State to be kept.

Annual report.

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PART III.

MANAGEMENT OF PROPERTY OF CHILDREN OF THE STATE.

Provisions where
child of the State
entitled to
property.
Cf. No. 83, 1908,
s. 38 (N.Z.).

16—(1) Subject to the provisions of this Act, if any child of the State is or becomes at any time entitled to any real or personal property in this State, or to any interest therein, whether the same is vested in such child or in any trustee in his behalf, or otherwise howsoever, then and in such case, and whether or not any order for contribution to the maintenance of such child has been made, and whether or not the moneys payable under any such order (if made) have been duly paid, the following provisions shall apply:—

Public Trustee to
take possession
and convert into
money.

- i. The Minister may, by notice in the "Gazette," in general terms direct the Public Trustee to take possession of all such property and apply the same for the benefit of such child of the State :
- ii. Thereupon the Public Trustee shall have and may exercise in respect of all such property the same rights and powers as if such property formed part of an intestate estate of which he was the duly appointed administrator :
- iii. The Public Trustee shall demand, sue for, recover, get in, sell, and convert into money the said property at such times and in such manner as in his absolute discretion he thinks fit, with power to postpone conversion, and in the meantime to lease or otherwise deal with the unconverted property as he thinks fit, without being liable for any loss or damage that may be occasioned thereby :
- iv. The Public Trustee shall apply all moneys coming to his hands under the foregoing provisions of this section in manner and priority following, that is to say:—

Application of
proceeds.

Firstly, in paying all costs and expenses incurred by him in exercising the abovementioned powers, including his own usual and proper charges of management, realisation, and otherwise : and

Secondly, in or towards defraying to the extent of Seven years' maintenance, the cost of the past maintenance (if any) of such child of the State which has been borne out of the Consolidated Revenue, and not repaid : and

Thirdly, in or towards defraying (to the extent of the funds available) the current maintenance of such child of the State, by paying to the Secretary such sum per week as the Minister directs : and

Fourthly, by accumulating the residue of such moneys (if any) until such child of the State finally ceases to be maintained out of the Consolidated Revenue, when all such accumulations shall be applied for his benefit in such manner as the Public Trustee, subject to the Minister's approval, thinks fit.

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(2) Nothing in this section shall prevent an order towards the maintenance and support of any such child of the State being made against any person who would otherwise be liable, or affect the amount of such order, or prevent the enforcing of such order or of any like order already made, nor affect any powers of or orders made by the Supreme Court or a judge thereof.

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Not to affect other order.

(3) All moneys received under any such order shall be applied either in satisfaction *pro tanto* of the moneys payable by the Public Trustee as aforesaid, or otherwise in payment of the past or current maintenance of the child of the State as the Minister directs.

Application of moneys under orders.

PART IV.

INSTITUTIONS.

State Institutions.

17 The Governor may, from time to time, by order-in-council, establish and abolish receiving homes, childrens' homes, foundling homes, industrial schools, probationary schools, reformatories, farm schools, and other institutions for the maintenance of children of the State.

Governor may establish institutions.
Cf. Tas., s. 4.

The Government Training School for Boys shall be deemed to have been established under this Act as a reformatory for boys.

Private Institutions and Private Reformatory Schools.

18 The management and control of any private institution or private reformatory school under this Act may be vested in a body of managers elected by the donors or subscribers thereto; and the number of the said managers, and the mode of their election, may be regulated by the constitution of the institution or school as determined by the said donors or subscribers.

In whom the management of private institutions, &c., vested
Cf. Tas., s. 47.

19—(1) The Minister may, upon the application of the managers of any private institution or private reformatory school, examine into the condition and rules or regulations of the institution or school, and may, by writing under his hand, certify that it is fit for the reception of such children of the State as may be sent there in pursuance of this Act, and the same shall be deemed a certified private institution or certified private reformatory school, as the case may be.

Mode of certifying private institutions, &c.
Cf. Tas., s. 52.
Cf. Ch. 67, 1908, s. 45 (Eng.).

(2) No substantial addition or alteration shall be made in or to the buildings of any such institution or school so certified as aforesaid without the approval in writing of the Minister.

(3) The institutions specified in Schedule (2) to this Act shall be deemed to be certified private institutions under this Act, and certificates given in respect thereof by the Governor under any repealed Act shall continue in force as if the same had been given by him under this Act.

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Withdrawal of certificate.

20 The Minister, if dissatisfied with the condition, rules, regulations, management, or superintendence of any certified institution may at any time, by notice under his hand served on the managers, declare that the certificate of the certified institution is withdrawn as from a time specified in the notice, being not less than Six months after the date of the notice; and at that time the withdrawal of the certificate shall take effect, and the certified institution shall cease to be a certified institution.

Provided that the Minister may, if he thinks fit, instead of so withdrawing the certificate, by notice served on the managers, prohibit the admission of children of the State for such time as may be specified in the notice or until the notice is revoked.

Certificate may be resigned.
Cf. Tas., s. 74.
Eng., s. 48.

21 The managers, or the executors or administrators of a deceased manager (if there is only one manager), of any certified institution may give notice in writing to the Minister of intention to resign the certificate of the certified institution, and at the expiration, in the case of managers of Six months, and in the case of executors or administrators of One month, from the receipt of that notice by the Minister, the certificate shall be deemed to be resigned accordingly, unless before that time the notice is withdrawn.

Effect of withdrawal of certificate.
Cf. Tas., s. 61.
Eng., s. 49.

22 A child of the State shall not be received into a certified institution after the date of the receipt by the managers of the notice of withdrawal of the certificate for their certified institution, or after the date of the notice of resignation of the certificate; but the obligation of the managers to maintain any children of the State detained in their institution at the respective dates aforesaid shall, except so far as the Minister otherwise directs, continue until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money provided by Parliament towards the expenses of the children detained in the certified institution, whichever may first happen.

Disposal of inmates on withdrawal of certificate.
Cf. Tas., s. 62.
Eng., s. 50.
Liabilities of managers.
Cf. Tas., s. 58.
Eng., s. 52.

23 Where an institution ceases to be a certified institution the children of the State detained therein shall be, by order of the Minister, either discharged or transferred to some other institution.

24 The managers of any certified institution may decline to receive any child of the State proposed to be sent to it under this Act, but when they have once received him, they shall be deemed to have undertaken the maintenance of such child during the whole period for which he is liable to be detained in the certified institution, or until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money appropriated by Parliament towards the expenses of the children detained in the institution, whichever may first happen.