

## Act No. 47, 1902.

CHILDREN'S  
PROTECTION.

An Act to consolidate the enactments providing  
for the protection of children in certain cases.  
[25th August, 1902.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

## PART I.

*Preliminary.*

Short title.

1. This Act may be cited as the "Children's Protection Act, 1902," and is divided into Parts as follows :—

PART I.—*Preliminary*—ss. 1-4.

PART II.—*Adoption of children*—ss. 5-16.

PART III.—*Lying-in homes*—ss. 17-21.

PART IV.—*Protection of children*—ss. 22-29.

PART V.—*General provisions and procedure*—ss. 30-38.

Repeal.

2. (1) The Acts mentioned in the First Schedule are, to the extent therein expressed, hereby repealed.

Saving  
proclamations, rules,  
&c., under repealed  
Acts.

(2) All proclamations made under any Act hereby repealed shall have the same force and effect as if this Act had not been passed ; and all rules, regulations, registrations, and licenses made, issued, or granted under any Act hereby repealed shall have the same force and effect as if they had been made, issued, or granted under this Act.

Saving officers  
appointed under  
repealed Acts.

(3) All officers and persons appointed under the Acts hereby repealed and holding office at the passing of this Act shall be deemed to have been appointed hereunder.

Interpretation.

55 Vic. No. 30, s. 28.  
No. 52, 1900, s. 10.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Chief officer" means the head of the department appointed by the Minister to administer this Act.

"Court of petty sessions" means such court held before a stipendiary or police magistrate, and not otherwise.

"Justice" means justice of the peace.

"Lying-in home" means a house in which more than one woman is received for confinement for payment of money either at the same time or within a period of two months.

"Medical practitioner" means a legally qualified medical practitioner.

"Officer"

*Children's Protection.*

“ Officer ” includes any person acting under the instructions of the chief officer.

“ Parent ” when used in relation to a child, includes a step-parent, guardian, any person cohabiting with a parent of the child, and any person who is by law liable to maintain the child.

“ Still-born child ” means a child born dead after the commencement of the sixth month of pregnancy.

“ Street ” includes any highway or other public place, whether a thoroughfare or not.

4. Nothing in this Act shall apply to any public institution.

Saving.  
55 Vic. No. 30, s. 8.

## PART II.

*Adoption of children.*

5. (1) No person shall, without a written order of a justice specifying the terms on which the child may be received, receive into his care, charge, or custody any child under the age of three years to adopt, rear, nurse, or otherwise maintain, apart from its parent, in consideration of the payment to such person of any sum of money or other valuable consideration otherwise than by way of periodical instalments; and no such instalment shall be paid for more than four weeks in advance, nor exceed the sum of twenty shillings per week. Any person receiving or agreeing to receive payment for the adoption, rearing, nursing, or maintenance of any child contrary to this Act shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding one hundred pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding one year.

Regulating adoption  
of children under  
three years.  
*Ibid.* s. 1.

Penalty.

(2) This section shall not apply to any person being the legal or natural guardian of such child; nor to the manager or officers of any institution supported wholly or in part by public subscription, or bona fide by private charity open to State inspection, or controlled by the State; nor to any person exempted for the time being from the operation of this section by the Minister.

Limitation.  
*Ibid.*

(3) The chief officer shall, if required, receive from anyone wishing to place a child in the care of such person a sum of money from which he shall make to the caretaker of such child such payments as are permitted under this Act.

Chief officer to  
receive certain  
moneys.  
*Ibid.*

(4) Every justice when giving an order under this section shall in each case report to the chief officer that he has given such order.

Justice to report to  
chief officer.  
*Ibid.*

6.

*Children's Protection.*

Registration of  
adoption of young  
children.  
55 Vic. No. 30, s. 2.

6. (1) Every person who receives into his care, charge, or custody any child under the age of three years to adopt, rear, nurse, or otherwise maintain the same for payment shall register or cause to be registered the particulars in the form specified in the Second Schedule, at the office of the district registrar of births, deaths, and marriages, appointed under the provisions of the Act No. 17, 1899, for the district in which such person then resides, within seven days from the date of such child's reception if such office is within a distance of two miles from his place of abode, or within fourteen days if such office is not within two miles as aforesaid, and such registrar shall furnish such particulars to the chief officer.

Penalty.  
*Ibid.*

(2) Any person who fails to comply with the provisions of this section shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Change of address  
to be registered.  
*Ibid.* s. 3.

7. (1) No person who has in his care, charge, or custody any child registered in accordance with the provisions of this Act shall change his place of abode, or relinquish the care, charge, or custody of such child without forthwith notifying such change or relinquishment to the district registrar as aforesaid, and such registrar shall register the same in the form specified in the Third Schedule, and shall at once report such particulars to the chief officer. When such change of abode is made to a place out of the district of such registrar he shall forward a copy of such registration of removal to the registrar of the district to which the child is removed, and upon receipt of such copy the said registrar shall enter the particulars therein set forth in a book provided for that purpose.

Penalty.  
*Ibid.*

(2) Any person who fails to comply with the provisions of this section shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Inspection of  
registered children.  
*Ibid.* s. 4.

8. (1) Any child registered under this Act, and the abode and premises of any person having the care, charge, or custody thereof, may be inspected at any time by any officer, who, if he thinks fit, may be accompanied by a medical practitioner or by a police officer, or by both.

Penalty.  
*Ibid.*

(2) Any person who refuses to permit such inspection, or obstructs such officer, shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Neglect or  
ill-treatment of child.  
*Ibid.* s. 5.  
No. 52, 1900, s. 1.

9. Any 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 care or custody, or wilfully assaults,

*Children's Protection.*

assaults, illtreats, or exposes any child, or causes or procures any child to be neglected, assaulted, illtreated, or exposed, if such neglect, assault, illtreatment, or exposure has resulted, or appears likely to result, in bodily suffering or permanent or serious injury to the health of such child, shall, on conviction before a court of petty sessions, be liable to imprisonment for a period not exceeding twelve months, or to a fine not exceeding fifty pounds.

10. (1) Every person having charge of a child registered under this Act shall, immediately after the death of any such child, if such death occurs elsewhere than in the city of Sydney, or any municipality included in the suburbs thereof, give or cause to be given notice of such death to the officer in charge of the nearest police station, and such officer shall make inquiry and report to the coroner for the district, or if the exigencies of the case so require to a justice, whether an inquest or magisterial inquiry respecting the cause of death is necessary, and in addition to such notice such person shall by registered letter report such death to the chief officer.

Notice to be given of death of child.  
55 Vic. No. 30, s. 6.

(2) When the death of any such child occurs in the city of Sydney, or any municipality included in the suburbs thereof, such notice shall be given to the chief officer, who may cause an inquest to be held.

Deaths occurring in metropolitan area.  
*Ibid.*

(3) The body of a child registered under this Act shall not be buried without the production of a certificate under the hand of the coroner or the justice who held the inquiry, or of a stipendiary or police magistrate, authorising such burial, or of a medical practitioner who has attended such child during its last illness, certifying the cause of death, and also that such cause was in no way consequent on the neglect or illtreatment of such child.

Certificate required before burial.  
*Ibid.*

(4) Any person having charge of a child registered as aforesaid who neglects, refuses, or omits to give notice of the death of such child in accordance with the provisions of this section shall, on conviction before a court of petty sessions, be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding twenty-five pounds.

Penalties.  
*Ibid.*

(5) Where the death occurs at a greater distance than fifteen miles from the nearest police station, satisfactory evidence that the omission to give such notice was not the result of wilful neglect on the part of the person in charge of such registered child shall entitle such person to the dismissal of the charge.

11. (1) Every person before receiving into his care, charge, or custody two or more children under the age of three years to adopt, rear, nurse, or otherwise maintain the same for payment, shall apply to be registered as hereinafter provided.

Register of persons and houses to be kept.  
*Ibid.* s. 7.

(2) The chief officer shall, subject to regulations made under this Act, cause registers to be kept in which shall be entered the name of

Registers.  
*Ibid.*

*Children's Protection.*

of any person who, being the occupier of any house, applies to have the same registered for the purposes of this Act, and 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 a married woman, the calling or occupation of her husband, as may be directed by such regulations. Every such registration shall, unless cancelled under the provisions of this Act, remain in force until the thirty-first day of the month of December next following such registration.

Registration to be renewed.

(3) Registrations may be renewed during the month of December in each year, and all such renewed registrations shall, unless cancelled under the provisions of this Act, remain in force for one year from the expiration of such month.

No fee.

(4) No fee shall be charged or taken for the making of any registration or renewed registration under this section. 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 evidence of such registration or renewal.

Penalty.

55 Vic. No. 30, s. 7.

(5) Every person failing to comply with the provisions of this section shall, on conviction thereof before a court of petty sessions, be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding twenty-five pounds.

Chief officer may refuse to register.

*Ibid.* s. 10.

**12.** The chief officer may refuse to register any person applying for registration under this Act, 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 child retained in or received into his care or charge; and the chief officer 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.

Registration may be cancelled.

*Ibid.* s. 12.

**13.** (1) If at any time it is made to appear to the chief officer that any person registered as aforesaid has been guilty of neglect to provide, or is incapable of providing, the children received into the care or charge of such person with proper food or attention, or that the registered house of such person has become unfit for the reception of children, or if for any other reason it appears to the chief officer 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 chief officer 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, who shall be entitled to show cause why the registration should not be cancelled.

(2)

*Children's Protection.*

(2) The chief officer may at the time of giving such notice order the immediate removal of such children from such registered house to the care of an officer in charge for the time being of any department or institution for the relief of State or neglected children, or in default of such an institution within a convenient distance, to the care of the police, who shall then be charged with the care of such children until their removal by their respective parents, or the return of such children to such first-mentioned registered house.

Removal of child from registered house.  
55 Vic. No. 30, s. 12.

(3) The chief officer may recover the cost of the removal, maintenance, and clothing of and medical attendance on such children from their respective parents, or (in case of the removal being confirmed) from the registered person from whose house the children have been so removed.

Maintenance of such children.  
*Ibid.*

(4) Provided that in the meantime no other child shall be received into such registered house until after the result of such notice is determined.

14. (1) The Governor may make regulations for all or any of the following purposes under this Act (that is to say) :—

Power to make regulations.  
*Ibid.* s. 9.

- (a) for prescribing how many registers shall be kept, and where the same shall respectively be kept;
- (b) for prescribing the mode in which applications for registration shall be made, registration effected, and entries made in registers;
- (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 persons registered under section eleven to keep registers of particulars relating to children in their charge, and to provide as to the particulars to be entered, and for the production for inspection of such register;
- (e) for arranging houses registered into classes and for fixing the maximum number of children to be retained in or received into houses of any particular class;
- (f) for regulating the inspection from time to time of such houses and children; and
- (g) generally for giving effect to and carrying out the provisions of this Act.

(2) Any such regulations may impose a fine 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 the chief officer or any officer, or of any member of the police force.

(3) All such regulations shall, within two weeks of the making thereof, be published in the Gazette, and after such publication shall come into force; and copies of such regulations shall be furnished to persons registered under section eleven, or having the care of a child registered

Regulations to be promulgated.  
*Ibid.*

*Children's Protection.*

registered under this Act, who shall, upon their receipt, be required to sign an acknowledgment for them in an official record kept for that purpose.

Act not to apply in certain cases.  
55 Vic. No. 30, s. 8.

15. The Minister may at any time, by writing under his hand, order that this Act shall not apply in any particular case where he is satisfied that it is undesirable or unnecessary that it should apply. Any justice may in any particular case suspend the operation of the preceding provisions of this Act for a period of eight days to enable such order to be obtained.

Forgery of certificate, &c.  
*Ibid.* s. 11.

16. If any person 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 Act, or falsifies any register kept in pursuance of this Act, or furnishes false particulars of any matter which is required to be entered in such register, such person shall, on conviction thereof before a court of petty sessions, be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding twenty-five pounds.

## PART III.

*Lying-in homes.*

Keepers of lying-in homes to furnish records.  
*Ibid.* s. 13.

17. Every person in charge of a lying-in home shall furnish records as provided in the Fourth Schedule, and forward the same to the registrar for the district in which such person resides, within a period of two weeks from the occurrence of each birth in such home; and any such person who fails to comply with the provisions herein contained, or wilfully falsifies such records, shall be guilty of a misdemeanour, and be liable to a fine not exceeding one hundred pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding twelve months.

Penalty.  
*Ibid.* s. 15.

Removal of child from lying-in home.  
*Ibid.* s. 14.

18. No person in charge of a lying-in home shall permit any child to be taken from such home unless in the charge of the mother of such child without first obtaining the written consent of the chief officer or a person authorised by him. Any such person who violates the provisions of this section shall be guilty of a misdemeanour, and be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Penalty.  
*Ibid.*

Registration of births by householder.  
*Ibid.*

19. Any person in charge of a lying-in home shall be responsible for the registration, in accordance with the provisions of the Act No.

*Children's Protection.*

17, 1899, of all births occurring in such house; and any such person who omits, neglects, or refuses to register the birth of any such child, shall be liable to the punishment provided by that Act.

20. (1) When a woman is delivered in a lying-in home of a still-born child no interment of such child shall take place without its being authorised by the certificate of a medical practitioner, or of a stipendiary or police magistrate or officer of police not under the rank of sergeant, who has made personal inquiry into the circumstances.

Still-born child not to be interred without a certificate.  
55 Vic. No. 30, s. 16.

(2) Any person interring any such still-born child without first obtaining such certificate shall be guilty of a misdemeanour, and be liable to a fine not exceeding one hundred pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding twelve months.

Penalty.  
*Ibid.*

(3) But any such still-born child, born in a lying-in home situated more than fifteen miles from the nearest such practitioner, magistrate, or officer of police, may be interred without such authority, but the birth of the child so buried shall be reported within seven days from the date of the burial, by the person who interred the body, to the nearest police officer, who shall forthwith make a full inquiry into the circumstances of the case, with the view of taking further action if necessary; and if the person who so buried the body shall fail to report as required, he shall be liable as aforesaid.

Provision for distant places.  
*Ibid.*

21. If it be made to appear to any stipendiary or police magistrate, on information laid before him on oath, that there is reason to believe that any person is offending against the provisions of this Act in any house or place, or that any of the provisions of this Act are being infringed in any house or place, such magistrate may issue his warrant authorising an officer to search any house or place therein named, at any hour of the day, or at any hour of the night not later than ten o'clock, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

When information on oath, warrant may be issued to search premises.  
*Ibid.* s. 17.

Such officer may, if he thinks it necessary, be accompanied by a medical practitioner, or by a police officer, or by both.

## PART IV.

*Protection of children.*

22. (1) Any person who causes any child under the age of fourteen years to take part in any public exhibition or performance whereby, in the opinion of a court of petty sessions, the life or limbs of such child is or are endangered, and the parent or any person having the custody of such child who aids or abets such first-mentioned person

Penalty for employment of any child in dangerous performances.  
*Ibid.* s. 18.