

corresponding with this Act who has entered or is about to enter Victoria, declare the child or young person to be under his guardianship and such declaration shall for all purposes be deemed to be an order admitting the child or young person to the care of the Department so long as he remains in Victoria.

(3) No such child or young person shall by any declaration under sub-section (1) be required to remain under the guardianship of the Director-General for any longer period than he would have remained under the guardianship of the Minister or other person in that other State if that child or young person had remained in that other State.

Financial and  
other  
arrangements.

(4) The Director-General may make financial or other arrangements with the Minister or other person as aforesaid in that State—

(a) for the care of that child or young person in Victoria and may, subject to those arrangements, cause such child or young person whilst he remains under his guardianship to be removed from Victoria and returned to the Minister or other appropriate statutory authority in that other State ; and

(b) for the care in that other State of a child or young person admitted to the care of the Department under this Act or of whom the Director-General is the guardian pursuant to the provisions of the *Adoption of Children Act 1964*.

#### DIVISION 7.—LIABILITY OF PARENTS FOR MAINTENANCE.

**Interpretation.** 46. In this Division unless inconsistent with the context or No. 6219 s. 42—subject-matter—

“ Young  
person.”

“ Young person ” means a person of or over the age of fifteen years and under the age of seventeen years.

“ Parent.”

“ Parent ” includes father mother step-father and step-mother and any person against whom an order has been made under Part II. of the *Maintenance Act 1965* as the putative father of an illegitimate child and also includes mother and step-mother notwithstanding that a father or step-father of the child is alive and also the putative father of an illegitimate child whom he has recognized as his although no such order has been made against him and the husband of the mother of an illegitimate child of whose existence he was aware prior to his marriage to the mother.

47. (1) Every

47. (1) Every parent of a child or young person who is admitted to the care of the Department shall be liable (notwithstanding any previous order for maintenance made under the *Maintenance Act* 1965 or any corresponding previous enactment) to pay to the Director-General towards the maintenance of such child or young person a periodical sum fixed—

Liability of parent for maintenance of child admitted to care of Department.  
No. 6219 s. 43.

(a) by order of the Court by which such child or young person is so admitted made at the time of admission ;  
or

(b) by order of any Magistrates' Court.

(2) The Court or justices in fixing the sum to be paid and the Director-General in enforcing the payment thereof shall have regard to the means and ability of the parent to maintain or to contribute towards the maintenance of the child or young person.

Amount of order.

(3) A parent shall not be liable to contribute towards the maintenance of a child or young person during any period in which the child or young person is not chargeable to Her Majesty.

(4) The provisions of this section shall extend and apply to every parent in respect of whose child or young person periodic sums have been or are being paid pursuant to the provisions of Division 2 of this Part to a person other than that parent as if such sums were moneys paid for the maintenance of a child or young person admitted as aforesaid.

(5) Any order made or deemed to be made under Part VI. of the *Children's Welfare Act* 1958 or any corresponding previous enactment fixing or increasing any sum to be paid by any parent for the maintenance of a child or young person shall be deemed to be an order under this Division.

(6) The provisions of this section shall extend and apply to every parent whose child or young person was committed to the care of the Children's Welfare Department prior to the commencement of the *Social Welfare Act* 1960.

48. (1) Application to fix the sum payable by any parent for maintenance shall be by way of complaint made in writing before a justice.

Application to fix amount of order.  
No. 6219 s. 44.

(2) The justice before whom any complaint is so made—

(a) may issue a summons addressed to the defendant commanding him to attend before a Magistrates' Court upon the hearing of the complaint ; or

(b) if satisfied by evidence on oath that the whereabouts of the defendant are unknown to the complainant or that the defendant has moved or is about to move out of Victoria may issue a warrant for the apprehension of the defendant and for his being brought before a court pursuant to the provisions of this Division.

49. (1) Service

Service.

49. (1) Service of a copy of a complaint and summons under this Division may be effected—

(a) by delivering a copy to the defendant personally ; or

(b) by leaving a copy for him at his usual or last known place of residence or business with some person apparently residing therein or employed thereat apparently over the age of sixteen years—

and may be proved in any manner in which service of a summons may be proved under the *Justices Act 1958*.

Proof of admissions made at time of service.

(2) Where the defendant has admitted parentage to a member of the police force serving a summons a statement to that effect in an affidavit of service of the summons shall be *prima facie* evidence of the parentage admitted.

Admission order to fix maintenance.

No. 6219 s. 46.

50. A court admitting any child or young person to the care of the Department shall by the order of admission fix the amount payable by the parent or parents for the maintenance of the child or young person if the evidence before the court is sufficient or may adjourn the matter for further hearing.

Orders may be joint or separate.

51. Where more persons than one are liable to contribute to the maintenance of a child or young person under this Division one order may be made against all of them upon which they shall be jointly and severally liable or separate orders may be made against each of them.

Increase in payments.

No. 6219 s. 44.

52. The amount payable by any parent under the provisions of this Division may be from time to time increased by any Magistrates' Court if it is satisfied that the parent is able to pay the greater amount.

No. 6219 s. 45.

53. (1) An order fixing or increasing the amount payable by a parent may fix a day not earlier than the day on which the child or young person was admitted to the care of the Department as the day from which the payment or increase is due and such parent shall be liable to make such payment or pay such increase.

Order fixing or increasing amount may be made at any time.

No. 6219 s. 47.

(2) An order fixing or increasing the amount of maintenance payable by a parent may be made at any time.

Presumption as to ability of parent to pay maintenance.

No. 6219 s. 48.

54. In any proceedings for fixing or increasing the amount payable by any parent for the maintenance of a child or young person under the provisions of this Division the parent shall, unless he proves to the contrary, be presumed to be able to pay—

(a) where the child or young person is a ward—maintenance at the rate determined by the Minister under section 44 ; or

(b) in

- (b) in the case of a child or young person in respect of whom assistance is being paid or has been paid under Division 2—maintenance at a rate equal to the periodic sum so paid.

55. Applications to fix or increase the amount payable by a parent or to vary or revoke any order suspending or dispensing with payment or to sue for and recover payment of any moneys may be made by or on behalf of any person authorized by the Minister in that behalf whether generally or in any particular case.

Authority to make applications &c.  
No. 6219 s. 49.

56. Moneys due under an order under this Division shall be a debt due to Her Majesty by the parent and shall be paid by the parent at the times fixed by the order for payment to the Director-General.

Payment of maintenance moneys.  
No. 6219 s. 50.

57. (1) In addition to any other remedy for the recovery of moneys due under any order under this Division every such sum and every part thereof may be recovered before any Magistrates' Court on the complaint of any person authorized under section 55 and if the parent does not—

Recovery of moneys due under orders.  
No. 6219 s. 52.

(a) pay the amount due forthwith or within such time or by such instalments as the court allows ; or

(b) prove to the satisfaction of the court that since the date of the order or, in the case of an order for payment by instalments, since any instalment in question became due, he has not had sufficient means and ability to pay the amount or any instalment due or any part thereof and that he does not intend to go away with intent to evade payment—

such parent shall, unless the amount is sooner paid, be liable to imprisonment with or without hard labour, if the amount due does not exceed \$80, for a term of not more than one month, and if the amount due exceeds \$80 for a term of not more than three months.

(2) Where a parent is ordered under this section to be imprisoned in default of payment of any moneys due as aforesaid and the parent makes default in complying with the order a warrant of commitment may be issued forthwith and may be executed without further demand upon the parent and without notice to the parent of the making of the commitment order.

58. Imprisonment as aforesaid shall not discharge any parent from his liability to pay any moneys he has not paid but no parent shall be imprisoned twice for non-payment of the same arrears.

Imprisonment not to discharge liability.  
No. 6219 s. 53.

59. Where

Warrant of  
apprehension.  
No. 6219 s. 54.

59. Where it appears to a justice upon the complaint in writing of any person authorized under section 55 that any parent has neglected to pay any moneys to the Director-General on any day on which the moneys are payable such justice may as he thinks appropriate either issue his summons to such parent or issue his warrant for apprehending the parent and bringing him before a Magistrates' Court to answer to the said complaint and to be further dealt with according to law.

Undertaking in  
writing in lieu  
of order.

60. (1) In any case in which an order under this Act might be made against the parents of any ward of the Department the Director-General or a Magistrates' Court may accept from the parents an undertaking in writing.

(2) Every such undertaking may be enforced as if it were an order made under this Division and any proceedings which may be taken under this Act for any failure to comply with an order or to secure compliance with an order may be taken against any person who has signed an undertaking and the provisions of this Act shall, with such adaptations and modifications as are necessary, be read and construed accordingly.

(3) A Magistrates' Court may at any time make an order in the terms of any undertaking under this section.

(4) In any proceedings under this Act against any person for failing to comply with an undertaking under this section or for securing his compliance therewith the undertaking purporting to be the undertaking on which the proceeding is founded shall be evidence of the matters contained therein and the signature thereon purporting to be the signature of the person giving the undertaking shall be presumed to be the signature of the person against whom the proceeding is taken and in the absence of evidence to the contrary shall be conclusive evidence that the signature is the signature of the person against whom the proceeding is taken.

Suspension of  
payments where  
parent unable to  
pay &c.  
No. 6219 s. 51.

61. If any parent liable under the provisions of this Division to pay maintenance is unable to pay the amount for which he is liable any Magistrates' Court upon the application of any such parent may from time to time make an order suspending payment of the whole or any part of the moneys payable for any time not exceeding six months or reducing the amount payable or altogether dispensing with payment of the amount due or cancelling the whole or any part of the accrued arrears and any Magistrates' Court may from time to time on the application of any person authorized under section 55 vary or revoke any such order and payment of the moneys due or any part thereof shall not be enforced during any suspension but no parent shall by any suspension be discharged from his liability to pay the moneys.

62. (1) Any

62. (1) Any person aggrieved by any order made pursuant to the provisions of this Division concerning the fixing or increasing of any amount payable or concerning any application made pursuant to the provisions of section 61 may appeal therefrom to the County Court and the provisions of section 107 of the *Maintenance Act* 1965 shall with such adaptations as are necessary apply to and with respect to any such appeal.

Appeal to  
County Court.  
No. 6219 s. 51A.

(2) For the purposes of sub-section (1) any person authorized to make or have made on his behalf an application under this Division shall be deemed to be a person aggrieved.

63. All clerks of Magistrates' Courts and members of the police force shall assist the Director-General in the recovery of moneys payable by the parents of children and young persons under this Division, and particularly by furnishing or obtaining (as the case requires) information as to the residence occupation movements and means of every such parent who is in or leaves any district of which such clerk or member of the police force has charge or in which he is on duty.

Clerks of court  
&c. to render  
assistance.  
No. 6219 s. 56.

#### DIVISION 8.—PROTECTION OF INFANTS.

64. In this Division unless inconsistent with the context or subject-matter—

Interpretation.  
No. 6219 s. 58.

“ Infant ” means a child under the age of five years.

“ Infant.”

“ Registered home ” means a home registered under this Division.

“ Registered home.”

“ Registered person ” means a person registered under this Division as the occupier of a registered home.

“ Registered person.”

“ Relative ” in respect of an infant means the father or mother of the infant, the father mother brother or sister of a parent of the infant, the brother or sister of the infant or a child of the brother or sister of the infant.

“ Relative.”

65. The provisions of this Division shall not apply to or with respect to—

Non-application  
of Division.  
No. 6219 s. 59.

(a) any hospital within the meaning of the *Hospitals and Charities Act* 1958 or any private hospital within the meaning of the *Health Act* 1958 ;

(b) any institution or establishment conducted solely for educational purposes ;

(c) any institution wholly maintained by the State ;

(d) any

- (d) any house institution establishment or private home so far as relates to any ward of the Department placed or fostered therein pursuant to the provisions of this Act or to any child in respect of whom family assistance is paid under Division 2 of this Part ;
- (e) any placement of an infant effected by or on behalf of a private adoption agency approved under the *Adoption of Children Act 1964* ;
- (f) any house occupied by a relative of an infant in whose charge the infant is received or retained in circumstances where the Director-General is satisfied that it is unnecessary or undesirable that the provisions of this Division should apply ;
- (g) any house premises or institution or establishment exempted for the time being by the Minister from the provisions of this Division.

Child not to be received for reward &c. in unregistered home.

No. 6219 s. 60.

**66.** (1) No person shall in consideration of any payment or reward at any time made or given or to be made or given to such person or any other person on behalf of such person retain in or receive into his charge in any house premises institution or establishment any infant for the purpose of rearing nursing or maintaining such infant apart from its parents unless—

(a) such person is registered as the occupier of a home under this Division ; and

(b) the house is registered under this Division.

(2) No male person shall be so registered unless he is the person in charge of an institution approved under section 29.

Application for registration.  
No. 6219 s. 61.

**67.** (1) Application for registration shall be made to the Director-General who upon being satisfied as to the character and fitness of the applicant and the suitability of the premises for the purpose shall register the applicant and the home.

(2) Every applicant for registration shall afford the Director-General or an officer authorized by him for the purpose all reasonable facilities to inspect the home sought to be registered and to make such other inquiries as the Director-General considers to be necessary.

Conditions of registration.

(3) Every registration of a home under this Division shall be subject to the following conditions :—

(a) That the number of infants accommodated in the home at any one time shall not be greater than the number specified in relation to the home by the Director-General ;

(b) That

(b) That any consideration payment or reward for rearing nursing or maintaining an infant shall be made or given by way of periodical instalments not more than four weeks in advance ; and

(c) Such other conditions as are prescribed.

(4) Every such registration shall unless cancelled as hereinafter in this Division provided remain in force until the 31st day of December next following the making of the registration and may on application in that behalf be renewed by the Director-General as from the beginning of each year for successive periods of twelve months.

Expiry and renewal.

**68.** (1) Where the Director-General is of opinion that the conditions of registration of a home have not been complied with or that a registered person has been guilty of neglecting or is incapable of adequately maintaining infants received into the home he shall submit a report of the circumstances to the Minister who if he is satisfied that it is in the public interest to do so may direct that the registration be cancelled and the Director-General shall thereupon cancel the registration.

Cancellation of registration.  
No. 6219 s. 62.

(2) Upon any such direction by the Minister the Director-General shall with respect to each infant received into the home and residing there at the time of the cancellation of the registration—

Matters consequent upon cancellation.

(a) restore the infant to the custody of a parent ;

(b) transfer the infant to the care of a registered person upon the parent entering into an agreement with such registered person for the payment of maintenance in respect of the infant ; or

(c) remove the infant to a children's reception centre upon an application being made to a Children's Court to have the infant admitted to the care of the Department and the Court may grant or refuse the application and make an order accordingly.

**69.** (1) Every registered person shall keep a roll in the prescribed form in which he shall enter forthwith the names sex and date of birth of each infant received into his care and such other particulars as are prescribed.

Registered person to keep roll of inmates.  
No. 6219 s. 63.

(2) Within seven days after receiving an infant into a registered home a registered person shall furnish the Director-General with such details from the roll in relation to the infant as are prescribed.

(3) Forthwith



(3) Forthwith after the removal of an infant from a registered home, whether before or after the infant attains the age of five years, the registered person shall enter in the roll the time of removal, the names addresses and occupations of the person or persons by whom the infant was removed and, if any such person is a married woman, the address and occupation of her husband and shall forthwith forward a notice in the prescribed form of such removal to the Director-General.

Notice of death  
of child in  
registered  
house.  
No. 6219 s. 64.

70. (1) Every registered person shall within twelve hours after the death in his home of any infant received into the home give notice of the death to the member of the police force in charge of the nearest police station and to the Director-General and such member shall make inquiries and report to the coroner or deputy coroner of the district or some justice the fact and circumstances of the death.

Inquest to be  
held except in  
certain cases.

(2) The coroner deputy coroner or (where empowered so to do) some justice shall hold an inquest on the body of the infant unless—

(a) a certificate under the hand of a legally qualified medical practitioner is produced to him specifying the cause of death and certifying that such medical practitioner has personally attended the infant during its lifetime ; and

(b) the coroner deputy coroner or justice is satisfied that there is no ground for holding an inquest.

Duties of  
coroner &c. on  
inquest.

(3) Where an inquest is held it shall be the duty of the coroner deputy coroner or justice to inquire not only into the immediate cause of death but into all the circumstances relating to the treatment and condition of the infant subsequent to its reception into the registered home and to forward to the Director-General for transmission to the Minister a report stating the cause of death and making such remarks with respect to the matter as he thinks fit.

Authority for  
burial.

(4) After the death of an infant in the home of a registered person the infant shall not (unless the infant is the child of such person) be buried without the production of a certificate under the hand of the coroner deputy coroner or justice authorizing the burial or of a certificate signed by a member of the police force stating that burial has been so authorized.

(5) Every registered person who neglects refuses or omits to give notices as aforesaid of the death of an infant in the registered home and every person who buries or causes to be buried any infant in contravention of any of the provisions of this section shall be guilty of an offence.

Penalty : \$500 or imprisonment for six months.

71. Where

71. Where in contravention of any of the provisions of this Division an infant has been received into a home which is not registered under this Division the Director-General may—

Disposal of inmates of unregistered homes.  
No. 6219 s. 65.

- (a) restore the infant to the custody of a parent ;
- (b) transfer the infant to the care of a registered person upon the parent entering into an agreement with the registered person for the payment of maintenance in respect of the infant ; or
- (c) remove the infant to a children's reception centre upon an application being made to a Children's Court to have the infant admitted to the care of the Department and the Court may grant or refuse the application and make an order accordingly.

72. Where upon the removal of an infant from any home pursuant to the provisions of section 68 or section 74 the Director-General is of opinion that it is desirable in the interests of the infant to do so he may after its removal from the home make such inquiries as he considers necessary to ascertain the conditions under which the infant is being cared for and for that purpose the person having the custody of the infant shall permit access to the infant by the Director-General or any officer authorized by him in writing in that behalf.

Inquiry after child removed from registered home.  
No. 6219 s. 66.

73. (1) Except in any case where the registered person requests the Director-General in writing that the provision of this section shall not apply and the Director-General approves, the following provisions shall apply with respect to any infant received into any home registered under this Division at which infants are received in consideration of payments for maintenance (including rearing and nursing) at a rate not greater than the rate determined by the Minister pursuant to the provisions of section 44 for children placed out in approved children's homes, namely :—

Provisions applicable to children placed out in approved children's homes.  
No. 6219 s. 67.

- (a) Any person who desires to place out an infant in a registered home shall make application to the Director-General in the prescribed form and shall include in such application a statement of the amount which he will pay weekly through the Director-General for the maintenance of the infant ;
- (b) No infant shall be so placed out at a rate greater than the rate determined as aforesaid ;
- (c) Payments for the maintenance of the infant shall be made through the Director-General and in no other way ;

(d) When

(d) When such payments fall into arrear for a period of four consecutive weeks the Director-General may endorse the application accordingly and the application so endorsed shall for all purposes be deemed to be an order admitting the infant to the care of the Department as from the date on which the arrears amounted to four weeks.

(2) Any application under this section may be granted or refused by the Director-General as he thinks fit.

Notice to  
Director-  
General by  
person taking  
over entire  
care and charge  
of infant.  
No. 6219 s. 68.

74. (1) If any person without payment or reward takes over the entire care and charge of an infant to the exclusion of its parents or guardians that person shall within fourteen days after so doing give or send notice thereof to the Director-General and that person shall in the notice state his or her name, place of residence and occupation, and the name and age of the infant and the name and address of the person from whom the infant was received.

(2) Upon receipt of information that any person has so taken over an infant the Director-General may investigate the history and parentage of the infant and the circumstances of its coming into such care and charge.

(3) If the Director-General is of opinion that it is in the best interests of the infant so to do he shall submit a report of the circumstances to the Minister who may direct that the infant be removed from such care and charge.

(4) Upon any such direction by the Minister the Director-General shall—

- (a) restore the infant to the custody of a parent ;
- (b) transfer the infant to the care of a registered person upon the parent entering into an agreement with such registered person for the payment of maintenance in respect of the infant ; or
- (c) remove the infant to a children's reception centre upon an application being made to a Children's Court to have the infant admitted to the care of the Department and the Court may grant or refuse the application and make an order accordingly.

(5) Every person who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

Penalty : \$250 or imprisonment for three months.

(6) Nothing in this section shall excuse any person from making any registration required by any other provisions of this Division or for any penalty for omitting so to do.

Provisions of  
section not to  
excuse from  
compliance with  
other  
requirements.

DIVISION

## DIVISION 9.—EMPLOYMENT OF CHILDREN.

75. In this Division unless inconsistent with the context or subject-matter :— Interpretation.

“ Employment ” means—

- (a) assisting in any business trade or occupation carried on for profit ; “ Employ-ment.”
- (b) any form of entertainment such as singing dancing acting or playing any musical instrument or similar performance ; or
- (c) appearing otherwise than as a member of the audience or as an authorized representative of a State or registered school in any broadcast or telecast programme not in the nature of a news item—

but does not include—

- (i) assisting occasionally in a shop of which a parent of the child is the proprietor and which is attached to the parents’ residence ;
- (ii) posing occasionally for still photographs ;
- (iii) participating in—
  - any church service or religious programme ;
  - or
  - any occasional project or entertainment the net proceeds of which are wholly applied for the benefit of any church or school or for any cultural or charitable purpose ; or
- (iv) participating in any sporting activity.

“ Municipality ” means any city (including the City of Melbourne and the City of Geelong) and any town borough or shire and “ municipal district ” means the municipal district of a municipality. “ Muni-cipality.”

“ Public place ” means—

- (a) any public highway street road footway footpath court alley passage or thoroughfare notwithstanding that such public highway street road footway footpath court alley passage or thoroughfare is formed on private property ; “ Public place.”  
No. 6385 s. 4.
- (b) any park garden or reserve or any place of public recreation or resort ;

(c) any