

(4.) The Minister may cancel a licence issued under this section.

89. A person shall not employ a child in street trading other than street trading carried on in accordance with a licence held by the child in pursuance of the last preceding section. Employment of child contrary to section 88.

90.—(1.) Subject to the next two succeeding sub-sections but notwithstanding any other provision of this Part, the Minister may issue a licence to a child who has attained the age of seven years authorizing his employment in a circus or place referred to in sub-section (1.) of section ninety-two of this Ordinance for such purposes as are specified in the licence. Licences to take part in public entertainments.

(2.) The Minister shall not issue a licence under this section unless he is satisfied that the child is fit to be employed in the circus or place for the purposes to be specified in the licence and that proper provision has been made to safeguard the health, welfare and education of the child.

(3.) A licence issued under this section applies in relation to employment at such times and during such periods, and is subject to such conditions, as are specified in the licence.

(4.) A licence shall not be issued under this section authorizing a child to be employed on any day between the hours of ten o'clock at night and six o'clock in the morning or on a Sunday.

(5.) The Minister may cancel or vary a licence issued under this section.

91.—(1.) The Minister may appoint an officer to ensure that the restrictions and conditions specified in a licence issued under the last preceding section are observed. Suspension of licences.

(2.) An officer referred to in the last preceding sub-section may enter and inspect a circus or place referred to in sub-section (1.) of the next succeeding section to ascertain whether a child is being employed in the circus or place in contravention of the provisions of this Part.

92.—(1.) A person shall not employ a child, or cause or procure a child to be employed, or, having the care of a child, allow the child to be employed, for the purpose of singing, playing or performing, or offering anything for sale— Children not to be employed for certain purposes without licence.

- (a) in a place used for broadcasting or television purposes;
- (b) in a circus;
- (c) in a place used wholly or in part for providing entertainment or amusement;

- (d) in a place set apart for spectators at a sports meeting or in or adjacent to any way of access to or egress from such a place; or
- (e) in a place used for the photographing of scenes to be depicted in a cinematograph film,

unless the employment is in accordance with a licence held by the child in pursuance of this Part.

(2.) A person shall not cause or procure a child to be in a place, or, having the care of a child, allow the child to be in a place, for the purpose of—

- (a) begging or receiving alms; or
- (b) inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise.

(3.) A person shall not cause or procure a child, or, having the care of a child, allow the child, to sing in a religious, school or similar service, or in a practice for such a service, between the hours of ten o'clock at night and six o'clock in the morning.

(4.) Sub-section (1.) of this section does not apply—

- (a) in the case of an occasional entertainment, where the net proceeds of the entertainment are applied wholly for the benefit of a school or a charitable object;
- (b) where a community singing concert is being conducted and the child concerned takes part in the concert only by singing as a member and in common with the other members of the audience present at the concert and the concert is not conducted between the hours of ten o'clock at night and six o'clock in the morning or, unless the child is exempted from attendance at school, at a time when schools are open; or
- (c) where a community singing concert is being conducted on a Sunday and the child concerned takes part in the concert only by singing as a member and in common with the other members of a church or school choir present at the concert.

(5.) If the person having the care of a child is charged with an offence against sub-section (2.) of this section and it is proved that the child was in a place for a purpose referred to in that sub-section and that the person charged allowed the child to be in the place, he shall be presumed to have allowed him to be in the place for that purpose unless the contrary is proved.

(6.) If a person while singing, playing, performing or offering anything for sale in a street or public place has with him a

child not licensed under section ninety of this Ordinance, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving of alms.

93.—(1.) A person shall not cause or allow a child to take part in a public exhibition or performance by which the life or limbs of the child is or are endangered or in a preparation, training or rehearsal for such an exhibition or performance. Exhibitions and performances.

(2.) A parent or other person having the care of a child shall not aid or abet a person in causing or allowing the child to take part in an exhibition, performance, preparation, training or rehearsal referred to in the last preceding sub-section.

(3.) Where, during a public exhibition or performance or during a preparation, training or rehearsal for a public exhibition or performance, which in its nature is dangerous to the life or limbs of a child who is employed to take part in it, an accident causing actual bodily harm occurs to the child, the employer of the child, whether his parent or not, is guilty of an offence against this Ordinance.

(4.) Where an employer referred to in the last preceding sub-section is not the parent of the child, the Court may award, as compensation for the bodily harm suffered by the child, a sum not exceeding One hundred pounds to be paid by the employer to the child or to a person named by the Court on behalf of the child.

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

PART XII.—OFFENCES.

94.—(1.) A person who contravenes or fails to comply with a provision of this Ordinance that is applicable to him is guilty of an offence against that provision. Penalties.

(2.) Except where the contrary intention appears, the penalty for an offence against a provision of this Ordinance is a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months, or both.

95. Where a person is charged before the Court with an offence against this Ordinance in respect of a child or young person who is alleged in the charge to be or to have been under a specified age and the child or young person appears to the Court to be under that age, the child or young person shall be deemed to be under that age unless the contrary is proved. Presumption of age.

Evidence of children.

96. Where, in proceedings in respect of an offence against this Ordinance, the Court is satisfied by the evidence of a medical practitioner that the attendance for the purpose of giving evidence before the Court of a child in respect of whom the offence is alleged to have been committed would be injurious or dangerous to its health and the Court is further satisfied that the evidence of the child is not essential to the just hearing of the matter, it may allow the matter to be proceeded with and determined without the evidence of the child.

Defence of reasonable excuse.

97. Where a person is charged with an offence against this Ordinance it is a sufficient defence if he satisfies the Court that he had a reasonable excuse for the act or omission which constituted the offence charged.

Failure to provide for child or young person, &c.

98.—(1.) A person shall not fail to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child or young person in his care.

(2.) A person shall not—

- (a) ill-treat, terrorize, overwork or injure a ward;
- (b) counsel, or cause or attempt to cause, a ward to be withdrawn, or to abscond, from an institution or from the charge of a person with whom the ward is boarded out, placed out or apprenticed or placed as an adopted boarder, or to escape from his proper custody or to be or remain absent without leave from his proper custody;
- (c) knowing a ward to have withdrawn, absconded or escaped or to be absent from his proper custody, harbour or conceal the ward or prevent him from returning to his proper custody; or
- (d) having the care of a ward—
 - (i) neglect him; or
 - (ii) fail to observe, perform and keep all the covenants, conditions and agreements which, by the terms of an indenture or agreement entered into by him respecting the ward, he has bound himself to observe, perform or keep.

Ill-treatment.

99.—(1.) Where a person assaults, ill-treats or exposes a child or young person, or causes or procures a child or young person to be assaulted, ill-treated or exposed and the assault, ill-treatment or exposure has resulted, or appears likely to result, in bodily suffering or permanent or serious injury to the health of the child or young person, that person is guilty of an offence against this Ordinance.

(2.) The same information or summons may charge a person with the offences of assault, ill-treatment or exposure together or separately, and may charge him with committing all or any of those offences in such manner that bodily suffering or permanent injury to the health or serious injury to the health of the child or young person has resulted or appears likely to result, alternatively or together.

(3.) Where the offences referred to in the last preceding sub-section are charged together, the person charged shall not, if he is convicted, be liable to a separate penalty for each offence.

100. A person shall not, in an application under this Ordinance, make a wilfully false statement as to his property, income or earnings or as to the property, income or earnings of a member of his family. False statements.

101. A person shall not impose or endeavour to impose upon the Minister or an officer by a false or fraudulent representation with a view to obtaining money or other advantage under this Ordinance. Fraudulent representation.

102. A person shall not, in respect of a child or young person, receive and retain any money, purporting to be paid under Part V. or VI. of this Ordinance, after he has become disentitled to receive the payment. Receiving money to which not entitled.

103. A person shall not hinder or obstruct an officer in the exercise of his duties under this Ordinance. Obstruction of officer.

104.—(1.) A person shall not—

- (a) make a false representation;
- (b) forge a certificate; or
- (c) make use of a forged certificate knowing it to be forged,

Forgery of certificate, &c.

with intent to obtain or procure the issue of a licence under this Ordinance.

(2.) A person shall not—

- (a) falsify a register kept in pursuance of this Ordinance; or
- (b) furnish false particulars of a matter which is required to be entered in a register kept in pursuance of this Ordinance.

PART XIII.—MISCELLANEOUS.

105. In the absence of proof to the contrary, the authority of an officer to do any act or to take any proceedings shall be presumed. Authority of officer presumed.

Right of appearance.

106. At the hearing of a complaint, information, application, proceeding, charge or matter against a child or young person, the Minister or an officer authorized for the purpose by the Minister is entitled to appear and be heard.

Averments.

107. An averment in a complaint or information made or laid under this Ordinance—

- (a) that an officer has been appointed, authorized or directed by the Minister as stated in the averment;
 - (b) that a child or young person is or was a ward or has been committed to or is an inmate of an institution, depot, shelter, home or hostel;
 - (c) that a person is a foster parent of a child specified in the averment; or
 - (d) that a person is an officer,
- is evidence of the facts averred.

Age of criminal responsibility.

108. It shall be conclusively presumed that a child under the age of eight years cannot be guilty of an offence.

Punishment of capital offences.

109.—(1.) A court shall not pronounce on or record against a person under the age of eighteen years a sentence of death, and where a sentence of death would, but for this section, be pronounced on or recorded against such a person the court shall sentence him to imprisonment for life, with or without hard labour.

(2.) The provisions of section four hundred and forty-two of the Crimes Act do not apply to a sentence referred to in the last preceding sub-section.

(3.) This section applies where the person charged is over the age of eighteen years if, at the time of the commission of the offence, the person charged had not attained the age of eighteen years.

(4.) In this section, “the Crimes Act” means the Crimes Act, 1900 of the State of New South Wales in its application to the Territory, as amended by Ordinances.

Certain expressions not to be used.

110. The words “conviction”, “sentence” and “imprisonment” shall not be used in relation to a child or young person dealt with summarily and a reference in a law in force in the Territory to a person convicted, a conviction, a sentence or imprisonment shall, in the case of a child or young person so dealt with, be construed as a reference to a person found guilty of an offence, a finding of guilt, an order made upon such a finding or a detention, as the case may be.

111.—(1.) Where an order to pay preliminary expenses or maintenance in respect of a child (including an illegitimate child) has been made by a court under a law of the Territory and—

Power to divert payments under existing orders to Director

- (a) monetary assistance in respect of the child is being or has been given under this Ordinance or under an Act of the State of New South Wales which by virtue of this Ordinance has ceased to apply to the Territory;
- (b) accommodation and maintenance has been or is being provided for the child or for its mother in a hostel; or
- (c) the child has been committed to an institution or provided with accommodation and maintenance at a depot, shelter, home or hostel,

the Minister may apply to the Court for a variation of the order.

(2.) Upon notice of an application under this section being given to such persons and in such manner as the Court directs, the Court may make such order as it thinks fit for variation of the order insofar as it relates to the receipt or disbursement of moneys payable under the order.

(3.) Where an order is one which could be varied in pursuance of this section, the person who, under the terms of the order, is entitled to any moneys received under the order may give the Director an authority in the prescribed form, directed to the person who by the order is appointed to receive moneys paid under the order, to pay to the Director on behalf of the Minister all moneys then held or thereafter received in pursuance of the order.

(4.) The Director shall cause the authority to be lodged with the person to whom it is directed.

(5.) The person to whom the authority is directed shall register it with his records relating to the order.

(6.) From the date on which the authority is lodged until the authority is cancelled by notice from the Minister a payment made in accordance with the authority by the person to whom the authority is directed shall be a sufficient discharge for the person.

(7.) Where an authority has been lodged in pursuance of sub-section (4.) of this section, the person who signed the authority is not entitled, except with the consent of the Minister, to waive payment of or allow credit for an amount due and unpaid under the order.

Child or young person believed to be suffering from venereal disease.

112.—(1.) Where the Court has reason to believe that a child or young person is, or may be, suffering from venereal disease, the Court may at any time order an examination to be made of the child or young person by a medical practitioner.

(2.) Where the medical practitioner who examines the child or young person reports that the child or young person is suffering from venereal disease, the Court shall notify the Director-General of Health.

Ward suffering from venereal disease not to be apprenticed, &c.

113.—(1.) A ward shall not be apprenticed, boarded out or placed out unless he has been examined by a medical practitioner and certified by the medical practitioner to be free from venereal disease or no longer liable to convey infection.

(2.) A certificate required under this section shall be obtained at the expense of the Department and shall be retained by the Director.

Removal of child or young person to a place of safety.

114. An officer authorized by the Minister to act under this section or a member of the Police Force may take to a shelter a child or young person in respect of whom there is reason to believe that an offence has been committed, and any such child or young person and any child or young person who seeks refuge in a shelter may be detained there until he can be brought before the Court.

Care of child or young person pending investigation.

115.—(1.) Where it appears to the Court that an offence has been committed in respect of a child or young person brought before it and that the health, welfare or safety of the child or young person is likely to be endangered unless an order under this section is made, the Court may, without prejudice to any other power under this Ordinance, make such order as it considers necessary for the care of the child or young person until a reasonable time has elapsed for the bringing and disposing of a charge against the person who appears to have committed the offence.

(2.) An order under this section may be enforced notwithstanding that a person claims the custody of the child or young person.

Arrests without warrant.

116.—(1.) A member of the Police Force may arrest without warrant a person who commits, or is reasonably suspected by him of having committed, an offence against this Ordinance if the name or residence of the person is unknown to the member of the Police Force and cannot be ascertained by him.

(2.) Where an arrest is made in pursuance of this section, the officer in charge of the police station to which the person is brought shall, unless he considers—

(a) that the release of that person would tend to defeat the ends of justice; or

- (b) where the offence is alleged to have been committed in respect of a child or young person, that the release of the person may result in injury or danger to that child or young person,

release the person arrested upon his entering into a recognizance, with or without a surety or sureties, to attend the hearing of the charge.

117. Where steps have been taken under any of the last three preceding sections to secure the safety or well-being of a child or young person and the relevant charge against a person has been heard and determined, the Court may make an order as to the care of the child or young person. Disposal of child or young person by the Court.

118.—(1.) A magistrate may issue a warrant for the arrest of a ward who has absconded or been illegally removed from his proper custody. Arrest of absconding ward.

(2.) Where a ward who has absconded from his proper custody is arrested on a warrant issued under this section, he shall, as soon as practicable, be brought before the Court.

(3.) A ward who absconds from his proper custody is guilty of an offence and the Court may, upon finding him guilty—

(a) make an order in pursuance of section fifty-seven or fifty-eight of this Ordinance; or

(b) order the ward to be returned to his former custody.

(4.) Where a ward who has been illegally removed from his proper custody is arrested on a warrant issued under this section he shall, as soon as practicable, be placed in a shelter.

(5.) Nothing in this section exempts a ward from liability under any other law for the offence of escaping from lawful custody.

(6.) A ward who has been temporarily released from his proper custody and fails to return to that custody in accordance with the conditions under which he was temporarily released shall be deemed to have absconded from his proper custody.

119.—(1.) Where a ward is at the date he becomes a ward, or at any time after that date becomes, entitled in possession to any land, the Curator of the Estates of Deceased Persons shall have the management and control of the land and may apply the whole or any part of the income from the land or the whole or any part of the proceeds of the realization of the land for the maintenance and benefit of the ward. Land of wards.

(2.) The Curator of the Estates of Deceased Persons has and may exercise in respect of the land the same rights and powers as if the land formed part of an intestate estate of which he was appointed the administrator and as if the land were the share of the ward in that estate.

Medical examination.

120.—(1.) An officer authorized by the Minister to act under this sub-section may, at any time, order that a child or young person admitted to an establishment under the control of the Minister be examined to determine his medical, physical or mental characteristics and defects.

(2.) The Minister or an officer authorized by the Minister to act under this sub-section may, notwithstanding the objection of a parent of a ward, consent to a surgical or other operation which he is advised by a medical practitioner is necessary in the interests of the health or welfare of the ward.

Warrant to search premises.

121.—(1.) Where it appears to a magistrate, on information laid before him on oath, that there is reason to believe that a person is committing an offence against this Ordinance in a house, building or place or that any of the provisions of this Ordinance are being infringed in a house, building or place, the magistrate may issue his warrant authorizing any member of the Police Force or an officer named in the warrant to enter, if need be by force, and search the house, building or place named in the warrant, at any hour of the day or night, to ascertain whether there is or has been in the house, building or place an offence against, or an infringement of, the provisions of this Ordinance.

(2.) A member of the Police Force or an officer named in a warrant issued under this section may be accompanied by—

- (a) a medical practitioner;
- (b) the person giving the information, if that person so desires and the magistrate has not otherwise directed; and
- (c) such members of the Police Force as he thinks necessary to assist him.

Power to search and arrest and to place child or young person in a place of safety.

122.—(1.) Where it appears to a magistrate, on information laid before him on oath by a person who, in the opinion of the magistrate, is acting in the interests of a child or young person, that there is reasonable cause to suspect that the child or young person—

- (a) is a neglected child; or
- (b) has been or is being ill-treated or neglected in a manner likely to cause the child or young person unnecessary suffering or to be injurious to his health or welfare,

the magistrate may issue his warrant authorizing any member of the Police Force or an officer named in the warrant to search for the child or young person and to take him to and detain him in a place of safety until he can be brought before the Court.

(2.) The Court may commit a child or young person brought before it to the care of a person named by the Court or make such other order with respect to the care of the child or young person as the Court thinks fit.

(3.) The magistrate issuing a warrant under this section may, by the same warrant, authorize the apprehension of a person accused of an offence in respect of the child or young person.

(4.) A member of the Police Force or an officer named in a warrant issued under this section to search for a child or young person and to take him to and detain him in a place of safety may enter (if need be by force) a house, building or other place specified in the warrant and remove the child or young person.

(5.) A member of the Police Force or an officer named in a warrant issued under this section may be accompanied by—

- (a) a medical practitioner;
- (b) the person giving the information, if that person so desires and the magistrate has not otherwise directed; and
- (c) such members of the Police Force as he thinks necessary to assist him.

(6.) It is not necessary in a warrant issued under this section to name a particular child or young person.

123. Upon complaint made by an officer authorized by the Minister to act under this section that a person with whom a ward has been placed out is not observing or performing the conditions of the agreement under which the ward was placed out or is unfit to have the further care of the ward, a magistrate may call upon that person to answer the complaint before the Court and upon proof of the matter of the complaint the Court may order the agreement to be terminated and may direct the ward to be sent to a depot, shelter, home or hostel pending arrangements for his further employment. Court may terminate agreement.

124. Nothing in this Ordinance takes away or affects the right of a parent, teacher or other person having the lawful care of a child or young person to administer punishment to the child or young person. Right to administer punishment.

125. A suit or action against the Minister, the Director or an officer in respect of an act, matter or thing done by him or ordered by him to be done and purporting to be done for the purpose of carrying out the provisions of this Ordinance does not lie if the Minister, the Director or the officer has acted in good faith and with reasonable care. Action not to lie against person who has acted in good faith.

Action to be commenced within six months.

126. A suit or action referred to in the last preceding section shall not be commenced later than—

- (a) six months after the alleged cause of action; or
- (b) in the case of a suit or action by a person who has been a ward, six months after the absolute discharge of the ward.

Stay of proceedings.

127. Proceedings in a suit or action referred to in section one hundred and twenty-five of this Ordinance may, on application to the court in which the proceedings were commenced, be stayed upon such terms as to costs or otherwise as the court thinks fit, if the court is satisfied that there is no reasonable ground for alleging lack of good faith or reasonable care or that the suit or action was commenced after the time referred to in the last preceding section.

Regulations.

128. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and, in particular, prescribing penalties not exceeding a fine of Fifty pounds for offences against the regulations.

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