

161. The powers duties and functions of the Board shall be such as are prescribed by or under this or any other Act.

Powers &c. of Board.
No. 6651 s. 32.

162. For the purpose of carrying out its powers functions and duties under this Act the Board and the chairman thereof shall respectively have and may exercise the powers conferred by sections 17 to 21 of the *Evidence Act* 1958 upon commissioners upon a commission issued by the Governor in Council and upon the president or chairman of such a commission and the provisions of the said sections with such modifications as are necessary shall apply to and in relation to the Board and the chairman thereof accordingly.

Board to have powers under *Evidence Act* 1958.
No. 6651 s. 33.

163. Members of the Board shall not be liable to any action or suit whatsoever in respect of any act or thing done or omitted to be done in the exercise or purported exercise of any power or duty conferred or imposed on the Board or on any members of the Board by or under this or any other Act.

Saving of members of Board from liability.
No. 6651 s. 34.

164. (1) The Board shall once in every year within such period as is prescribed make to the Minister a report as to—

Board to report to Minister.
No. 6651 s. 35.

(a) the number of persons released on parole during the prescribed period of twelve months and the number returned to youth training centres upon cancellation of parole during the said period ; and

(b) the operation and activities of the Board and of youth parole officers generally during the said period of twelve months.

(2) The Board shall, whenever so required in writing, furnish to the Minister a report upon any special matter relating to the exercise of any power or function of the Board.

165. (1) Subject to the *Public Service Act* 1958 there shall be appointed a chief youth parole officer and such other stipendiary youth parole officers as the Governor in Council thinks necessary for the purposes of this Act.

Youth Parole Officers.
No. 6651 s. 36.

(2) The chief youth parole officer and all other youth parole officers shall in relation to any parole order be subject to direction by the Board, but shall otherwise be under the control of the Director-General and the Director of Probation and Parole and all stipendiary youth parole officers shall be under the immediate control of the chief youth parole officer.

(3) The functions powers and duties of the chief youth parole officer and of stipendiary youth parole officers shall be as prescribed by this Part and the regulations.

166. Every

Young person sentenced to detention subject to Board.

No. 6651 s. 37.

Young persons in gaol may be transferred to youth training centres.

No. 6651 s. 38.

Warrant for imprisonment for non-payment of fine &c.

166. Every young person sentenced by a court to be detained in a youth training centre shall thereupon become and be subject to the jurisdiction of the Youth Parole Board.

167. (1) Upon the recommendation of the Adult Parole Board or the Director-General that it is appropriate in the interests of a young person imprisoned in a prison that he should be transferred to a youth training centre the Minister may direct that such young person be transferred to a youth training centre and thereupon such young person shall be so transferred.

(2) Where a young person is so transferred and a warrant for the committal of the young person to prison in default of payment of a fine or sum of money is held by the governor of the prison the Minister may further direct that the young person be detained in a youth training centre in default of payment of the fine or sum of money.

(3) Upon a direction by the Minister under sub-section (2) the young person shall be detained in a youth training centre for the period directed in the warrant commencing from the completion of the sentence or sentences he is then serving or, if he is ordered to be released on parole, on the day specified in the order for his release on parole unless the fine or sum of money be sooner paid.

(4) The provisions of sub-section (3) of section 96 shall, so far as those provisions are applicable, apply to a transfer pursuant to the provisions of this section.

Young person transferred from prison deemed sentenced to detention in youth training centre.

No. 6651 s. 40.

168. (1) A young person transferred from a prison to a youth training centre pursuant to the provisions of sub-section (1) of section 167 shall thereupon become and be subject to the jurisdiction of the Board for the unexpired portion of the term of his sentence which shall thereupon become and in all respects and for all purposes a sentence of detention in a youth training centre.

(2) Where a minimum term has been fixed in relation to such young person pursuant to the provisions of section 534 of the *Crimes Act* 1958 he shall be eligible to be released on parole by the Board at any time notwithstanding the minimum term so fixed.

Release on parole from youth training.

No. 6651 s. 41.

169. (1) The Board may by order in writing (hereafter in this Part called a "parole order") direct that a young person detained in a youth training centre (hereafter in this Part called a "trainee") be released on parole at the time specified in the order and he shall be released accordingly.

(2) The Board may revoke amend or vary a parole order before the trainee has been released thereunder and an order so amended or varied shall apply accordingly.

(3) A trainee

(3) A trainee so released shall during the period from his release until the expiration of the period of his detention (hereafter in this Part called the "parole period") be under the supervision of a youth parole officer and shall comply with such requirements as are specified in the parole order in accordance with the regulations.

Supervision.

(4) The chief youth parole officer shall assign a youth parole officer to supervise the trainee during the parole period and may from time to time so assign another youth parole officer in lieu of the youth parole officer previously assigned.

170. If the parole period elapses without the making by the Board of an order cancelling the trainee's parole or the commission by the trainee, whether in Victoria or elsewhere, of any offence for which he is sentenced to imprisonment or detention (whether during or after the parole period) the trainee shall be regarded as having served his period of detention and shall *ipso facto* be wholly discharged therefrom : but until the parole period so elapses or until he is otherwise discharged from his sentence of detention, a trainee released on parole shall be regarded as being still under sentence and as not having suffered the detention to which he was sentenced.

Trainees on parole deemed still under sentence.
No. 6651 s. 42.

171. (1) Where a trainee is released on parole as aforesaid the Board may at any time before the expiration of the parole period by order cancel his parole.

Board may cancel parole.
No. 6651 s. 43.

(2) Where the trainee is sentenced to a term of imprisonment or to a further period of detention in a youth training centre in respect of an offence committed during the parole period, whether in Victoria or elsewhere, his parole shall *ipso facto* be cancelled notwithstanding that the parole period may already have elapsed.

Cancellation of parole by conviction.

(3) Where a trainee's parole is cancelled by order of the Board or he is sentenced to a further period of detention in a youth training centre the Board may, whenever necessary, by warrant signed by any two members of the Board authorize any member of the police force or other officer to apprehend the trainee and return him to a youth training centre to serve the unexpired portion of his detention, and such warrant shall be sufficient authority for his apprehension and return to a youth training centre accordingly.

Warrant for return of trainee to youth training centre.

(4) Where a trainee's parole is cancelled the original warrant of commitment or other authority for his detention shall again be in force and no part of the time between his release on parole and his re-commencing to serve the unexpired portion of the period of his detention shall be regarded as time served in respect of that period : Provided that in any case where sub-section (1) of section 177 applies the warrant or other authority shall in all respects be regarded as and taken to be a warrant for committal of the trainee to prison.

Where parole cancelled time on parole not to count as part of sentence.

(5) The

(5) The Board may revoke any order for cancellation of parole at any time before the warrant of apprehension is executed and shall cause the warrant to be withdrawn.

Board may
release on
parole more
than once.
No. 6651 s. 44.

172. The Board may again release a trainee on parole notwithstanding that his parole has been cancelled on any prior occasion or occasions under the foregoing provisions of this Part in respect of the same period of detention.

Commence-
ment of
sentences.
No. 6651 s. 45.

173. (1) Subject to the provisions of this section and section 174 sentences of detention in a youth training centre shall commence upon and be reckoned from the days following, namely—

- (a) where the young person who is so sentenced is forthwith detained in custody pursuant to the sentence—the day the sentence is imposed ;
- (b) where the young person is serving a sentence of imprisonment—the day he is transferred to a youth training centre ; or
- (c) in any other case—the day he is apprehended in pursuance of a warrant of commitment issued in respect of that sentence.

(2) Subject to sub-section (3) every sentence of detention in a youth training centre imposed upon a young person by a court judge or justice shall notwithstanding anything to the contrary in any Act unless otherwise directed by the court judge or justice at the time of pronouncing the sentence be cumulative upon any uncompleted sentence or sentences of detention in a youth training centre imposed upon the young person by any court judge or justice, whether such uncompleted sentence or sentences was or were imposed upon the young person previously to or at the time the said sentence was imposed.

Cumulative
sentences not to
exceed three
years duration.

(3) Where pursuant to the provisions of sub-section (2) a sentence of detention in a youth training centre (hereafter in this section called the “subsequent sentence”) is cumulative upon any uncompleted sentence or sentences (hereafter in this section called the “prior sentence”) and the aggregate of the periods of the unexpired portion of the prior sentence and the subsequent sentence exceeds three years, the subsequent sentence shall be deemed and taken to be a sentence that the young person be further detained in a youth training centre after the expiration of the period of the prior sentence for the period determined by deducting from three years the period of the unexpired portion of the prior sentence at the date of the passing of the subsequent sentence.

174. (1) Whenever

174. (1) Whenever at any time a young person sentenced to be detained in a youth training centre is allowed to be or to go at large either on bail or otherwise pending an appeal or the consideration of a question of law reserved or a case stated under the provisions of any law in force in Victoria, the period intervening between the day on which the young person was allowed to go or to be at large and the day when he renders himself or is taken into custody to undergo such sentence by reason of his having abandoned or failed to prosecute or proceed with the appeal question of law reserved or case stated or of the proceedings being dismissed or decided adversely to the young person shall not count in reckoning the period to be served by him under that sentence and the service of the sentence shall during the said intervening period be suspended.

Time on bail pending appeal &c. not to be reckoned as part of sentence.
No. 6651 s. 47A.

(2) Where a young person lawfully detained under sentence of detention in a remand centre or a youth training centre escapes from the centre or from the custody of a member of the police force officer or person in whose custody he is or being on leave therefrom fails to surrender himself at the expiration of that leave, the period intervening between the day on which such person escapes or fails to surrender himself and the day when he surrenders himself or is apprehended to undergo the balance of such sentence of detention shall not be reckoned as part of the period to be served by him under the sentence and the service of the sentence shall during the said period be suspended.

Time at large not to be reckoned as part of sentence.

(3) Notwithstanding anything to the contrary in any Act or any rule of law or in any practice every such sentence of detention shall be reckoned exclusive of the time during which the service thereof was suspended under sub-section (1) or sub-section (2).

(4) If a young person to whom sub-section (1) applies is imprisoned in a prison or detained in a youth training centre under process in respect of any offence or offences other than the offence to which the appeal, question of law reserved, or case stated relates at the time when those proceedings are fully determined the sentence in respect of the last-mentioned offence or the unexpired portion thereof shall (unless otherwise directed by the court judge or justice imposing the sentence or the court or judge determining the appeal or question of law or case stated) take effect, subject to this Act—

Order of service of sentences.

- (i) if he is imprisoned in a prison—on his being taken into custody after release therefrom to serve the sentence or the unexpired portion thereof ; or
- (ii) if he is detained in a youth training centre—at the expiration of any sentence or sentences he is then undergoing.

(5) If a young person to whom sub-section (2) applies is in the period during which the service of his sentence is suspended thereunder imprisoned in a prison or detained in a youth training centre

centre in respect of an offence or offences other than the offence or offences for which he was sentenced as aforesaid, the unexpired portion of such sentence shall take effect—

- (i) if he is imprisoned in a prison—on his being taken into custody after release therefrom to serve the unexpired portion thereof ; or
- (ii) if he is detained in a youth training centre at the expiration of any sentence or sentences he is then undergoing.

Where trainee sentenced to imprisonment Board may order him to serve unexpired portion of detention as imprisonment.
No. 6651 s. 47.

175. (1) Where a young person has been sentenced to detention in a youth training centre and before the expiration of that sentence is sentenced to a term of imprisonment in respect of any offence the Board may direct that the trainee shall serve the unexpired portion of the period of his detention as imprisonment in a prison in addition to the term of imprisonment imposed and thereafter the trainee shall be subject to the jurisdiction of the Adult Parole Board as if the period of detention served by him prior to such sentence or his release on parole by the Board had been a minimum term fixed pursuant to the provisions of section 534 of the *Crimes Act 1958* and the parole order pursuant to which he was released was an order of the Adult Parole Board.

Suspension of service of detention during terms of imprisonment.

(2) Where a young person has been sentenced to detention in a youth training centre and before the expiration of that sentence is sentenced by a court to a term of imprisonment service of the sentence of detention shall be suspended until he has served the sentence of imprisonment in accordance with the provisions of section 535 of the *Crimes Act 1958*.

176. Where a young person has been sentenced to imprisonment and before the expiration of that sentence is sentenced to a term of detention in a youth training centre service of the term of detention shall be suspended until he has served the sentence of imprisonment.

Power to Minister on recommendation of Board to transfer trainee to prison.
No. 6651 s. 48.

177. (1) Upon the recommendation of the Board or the Director-General that it is appropriate, having regard to the antecedents and behaviour of a young person of or over the age of sixteen years sentenced to be detained in a youth training centre, that he should be transferred to a prison to serve the unexpired portion of the period of his detention as imprisonment the Minister may direct that the young person be transferred to a prison to serve the unexpired portion of the period of his detention as imprisonment and thereupon such young person shall be so transferred.

(2) The provisions of sub-section (3) of section 96 shall, so far as applicable, apply to any transfer pursuant to the provisions of this section.

(3) A young

(3) A young person transferred to a prison pursuant to the provisions of this section shall become and be subject to the jurisdiction of the Adult Parole Board as if the period of detention served by him prior to such transfer had been a minimum term fixed pursuant to the provisions of section 534 of the *Crimes Act* 1958.

PART VIII.—GENERAL.

178. (1) The Director-General may at any time order that any ward of the Department or other person lawfully in his custody be examined to determine his medical physical or mental condition.

Medical
examinations
of wards &c.
No. 6651 s. 50.

(2) The Minister the Director-General or any person authorized by the Minister in that behalf and notwithstanding the objection of any parent may consent to any surgical or other operation upon any ward of the Department or upon any other person under the age of twenty-one years lawfully in the custody of the Director-General which he is advised by a legally qualified medical practitioner is necessary in the interest of the health or welfare of any such person.

(3) Arrangements may be made between the Minister and the Minister of Health whereby any necessary medical dental psychiatric and pharmaceutical services may be provided for any persons whatsoever in the custody care or control of the Director-General or the Department or such voluntary organizations persons or classes of persons as are prescribed.

179. (1) The Director-General may by writing under his hand permit any person in his legal custody to temporarily leave, with or without escort or supervision, the place where he is imprisoned detained or held in custody.

Director-
General may
grant leave of
absence to any
person in his
legal custody.
No. 6651 s. 51.

(2) A permit under this section may be subject to such conditions limitations and restrictions as the Director-General thinks fit to impose.

(3) A person permitted temporary leave in accordance with the provisions of this section shall during such temporary leave be deemed to continue to be in legal custody.

(4) Any person who fails to return to the place of custody from which he was so released or is guilty of a contravention of or failure to comply with any other condition limitation or restriction to which the permit is subject shall be deemed to have escaped from legal custody.

Failure to
return from
leave deemed
escape.

180. Every

Obstruction &c.
No. 6651 s. 52a

180. Every person who obstructs or hinders the Director-General or any officer of the Department in the execution of his duties under this Act shall be guilty of an offence.

Penalty : \$250 or imprisonment for three months.

General
offences and
penalties.
No. 6651 s. 53.

181. Every person who contravenes or fails to comply with any of the provisions of this Act or the regulations shall for every such contravention or failure be guilty of an offence against this Act.

(2) Every person guilty of an offence against this Act for which no penalty is expressly provided shall be liable to a penalty of not more than \$100.

Power to
Governor in
Council to
make
regulations.

182. The Governor in Council may make regulations for or with respect to—

- (a) allowances under Division 2 of Part II. ;
- (b) the registration of homes and persons under Division 8 of Part II. ;
- (c) the conditions on which street trading licences may be granted renewed suspended or cancelled ;
- (d) the days and hours during which, the places at which, and the manner in which street trading may be carried on by street traders ;
- (e) requiring all persons employing children in street trading to keep records in such form and giving such particulars as are prescribed as to the names ages and work of all such children ;
- (f) regulating generally the conduct of street traders ;
- (g) subsidies payable in respect of young persons admitted to the care of the Department or placed under the supervision of the Department and placed pursuant to Division 7 of Part III. ;
- (h) trainees' earnings ;
- (j) reports for the purposes of this Act ;
- (k) all matters necessary or expedient for the good order discipline safe custody and health of prisoners ;
- (l) the mitigation or remission conditional or otherwise of any sentence of imprisonment or of imprisonment or detention with hard labour for any indictable offence or offence punishable on summary conviction as an incentive to or reward either for good conduct

or

or for special industry in the performance of any work or labour allotted to an offender whilst he is imprisoned or detained under such sentence and may mitigate or remit the term of punishment accordingly ;

- (m) the treatment programme for prisons ;
- (n) all matters necessary or expedient for carrying out the provisions of section 131 ;
- (o) scales of prisoners' earnings ;
- (p) prescribing courses of instruction and training necessary to qualify for certificates of qualification issued by the Training Council ;
- (q) prescribing fees to be paid—
 - (i) by persons attending lectures classes courses schools and other activities conducted by the Department ;
 - (ii) by candidates at examinations conducted by the Training Council and for the issue of diplomas and certificates of competency ;
- (r) prescribing the terms and conditions upon which persons may be employed as cadets in the Department and the allowances to be paid to such cadets ;
- (s) prescribing the functions powers and duties of youth parole officers ;
- (t) prescribing the terms and conditions to be included in parole orders made under this Act ;
- (u) meetings of the Family Welfare Advisory Council, the Youth Advisory Council, and the Training Council, and the fees and allowances to be paid to the members thereof ;
- (v) prescribing standards to be observed for the care and welfare of inmates of institutions under the control or supervision of the Department and in performing any function, supplying any service, or otherwise in carrying out the objects of this Act ;
- (w) the conduct management and supervision of children's reception centres children's homes youth training centres remand centres youth hostels youth welfare services prisons and police gaols and such other homes and institutions as are established under and pursuant to this Act or under the control of the Department ;
- (x) the

- (x) the correction and control of children or young persons admitted to the care of the Department or inmates of children's reception centres children's homes remand centres youth training centres youth hostels and youth welfare services ;
- (y) the fostering placing in employment or otherwise of children and young persons admitted to the care of the Department ;
- (z) providing for the admission of ministers of religion to children's reception centres children's homes remand centres youth training centres youth hostels youth welfare services and other institutions established under this Act for the purpose of the spiritual welfare and pastoral care of inmates of their respective denominations and requiring, so far as practicable, that wards of the Department placed in approved children's homes youth training centres or youth hostels or in private foster homes shall be so placed in homes and hostels conducted by organizations or persons or so boarded out with persons of the same religious denomination as such wards ;
- (aa) the provision by the Department of services to the public or any persons or bodies of persons engaged in social welfare activities ;
- (ab) prescribing fees to be paid for the provision of services to be rendered by any Division of the Department ;
- (ac) prescribing forms of applications agreements complaints books certificates rolls licences orders warrants and bonds under this Act and such other forms as are necessary or expedient for the administration of this Act and all such forms or forms to the like effect shall be sufficient in law ;
- (ad) prescribing penalties for offences against the regulations ;
and
- (ae) generally any matter or thing authorized or required to be prescribed for carrying this Act into effect.

SCHEDULES.

SCHEDULES.

SCHEDULE ONE.

Section 2.

Number of Act.	Title of Act.	Extent of Repeal.
6219	<i>Children's Welfare Act 1958</i>	The whole
6259	<i>Gaols Act 1958</i>	The whole
6385	<i>Street Trading Act 1958</i>	The whole
6421	<i>Youth Organizations Assistance Act 1958</i>	The whole
6651	<i>Social Welfare Act 1960</i>	The whole

SCHEDULE TWO.

Section 9.

Sections 5, 53 (except paragraph (c) of sub-section (3)), 57, 58, 59, and 60 of the *Education Act 1958*.

Sections 17-22, section 48, section 50, and paragraphs (c), (d), (e), and (f) of section 67 of the *Adoption of Children Act 1964*.

Division 4. of Part III. of the *Mental Health Act 1959*.

SCHEDULE THREE.

Section 129.

To the Governor of the Prison at (*insert name of place of detention*) and to all members of the police force of Victoria.

It is hereby ordered under the provisions of section 129 of the *Social Welfare Act 1970* that (*here insert name of prisoner*) a prisoner now in custody at the prison at (*here insert name of place of detention*) be brought up before the (*here insert whether Supreme Court County Court or Magistrates' Court*) to be held at (*insert place where court to be held*) on the day of , 19 to answer a charge of (*here insert nature of offence with which prisoner is charged*) and the said (*name of prisoner*) is to remain in the custody of the officers gaolers and members of the police force acting under this order until the said (*name of prisoner*) is in due course returned to the custody of the governor of the prison at (*name of place of detention*).

Dated the day of , 19 .

Judge of the Supreme Court.
 Judge of the County Court.
 Stipendiary Magistrate.
 Justice of the Peace.

SCHEDULE FOUR.

Section 141.

CONVICTION BOOK.

Prison, (*Day of Week*) the day of , 19 .

Name and number of Prisoner.	Charge.	Date of offence.	Plea.	Decision.	Signature of Visiting Justice and Date.

Acts of the Parliament (of Victoria) [electronic resource]

Corporate Author: Victoria

AIATSIS Library, ELECTRONIC ACCESS ONLY

vn2196536-13x