

(5) Nothing in this section prohibits a child from taking part in a public entertainment the net proceeds of which are devoted to the benefit of a school or to some charitable purpose or that takes place on any premises wholly or mainly used for the purpose of conducting religious services.

(6) An order under this section is a statutory rule within the meaning of the *Rules Publication Act 1953*.

(7) For the purposes of this Act—

“entertainment” includes any performance, exhibition, display, match, or contest; and

“public entertainment” means—

(a) any entertainment to which persons are admitted on payment or which is open to the public, whether admission thereto is or is not procured by the payment of money or on any other condition; and

(b) any entertainment or other activity, the whole or any part of which is, or is intended to be seen or heard by the general public (whether in this State or elsewhere and whether at the time the entertainment or activity takes place or at some later time) on broadcast receivers or television receivers or by the projection of a cinematograph film.

Permits for public entertainments and trading by children.

**70**—(1) For the purposes of section sixty-nine, the Director may grant a permit authorizing any child specified therein to take part in a public entertainment declared, under that section, to be restricted public entertainment in such manner or for such purposes and at such times and subject to such conditions as may be specified in the permit.

(2) The Director shall not grant a permit under this section authorizing a child to take part in a public entertainment unless he is satisfied that that child is fit to take part in that public entertainment and that proper provision has been made to secure his health and kind treatment while he is taking part in that public entertainment.

(3) The Director may cancel any permit granted under this section if he considers it desirable in the interests of the child so to do, and he may vary any such permit if he considers it in the interests of the child so to do or if he considers that the variation would not be contrary to the interests of the child.

(4) No permit shall be granted under this section that authorizes a child to take part in a public entertainment on a Sunday or on any day before six o'clock in the morning or after ten o'clock in the afternoon.

Trading by children in public places.  
*Ibid.*, s. 109.

**71**—(1) No person shall cause or procure a child who has not attained the age of eleven years, or being the parent or guardian of such a child, allow the child—

(a) to offer any thing for sale in a public place; or

(b) the residence of a person with whom a ward of the State is placed out; or

(c) an institution,

shall refuse to leave that place, residence, or institution on being required to do so by a responsible person.

Penalty: Twenty-five pounds.

(3) In this section "responsible person" means any of the following persons, namely:—

(a) The Director, a child welfare officer, or an authorized officer;

(b) The person in whose charge a child is being detained under this Act, as respects that child and the place at which he is being so detained;

(c) The person with whom a ward of the State has been placed out, as respects that ward of the State and the residence of that person;

(d) The person in charge of a State institution or some person acting on his authority, as respects that institution and the inmates thereof; or

(e) The managers or superintendents of an approved children's home or some person acting on their or his authority, as respects that home and the inmates thereof.

Prohibition on removal of certain persons from approved children's homes.

*Ibid.*, s. 114.

**75**—(1) Where a person who has not attained the age of eighteen years (not being a ward of the State) is being maintained in an approved children's home and has been so maintained for a continuous period of two years, no person shall be entitled to remove that person out of the custody or control of the managers of that home except with their consent or that of the Minister.

(2) The Minister shall not give his consent for the purposes of subsection (1) of this section except to a parent or legal guardian of the person whom it is desired to remove from the home who satisfies the Minister that he has taken such steps as were reasonably open to him to maintain contact with that person while he was being maintained in the home and to provide for his maintenance therein, and that if that person is removed from the home proper provision will be made for his care and maintenance.

Search warrants.

*Ibid.*, s. 118.

**76** Where it appears to a justice, on a complaint on oath, that there is reason to believe that any person is offending against this Act in any premises, or that any provision of this Act is being contravened or is not being complied with in any premises, the justice may issue a warrant authorizing any police officer to enter and search those premises and to exercise, in respect thereof, the powers set forth in the warrant.

Proof and presumption of age.

*Ibid.*, ss. 3 & 120.

**77**—(1) Where a person, whether charged with an offence or not, is brought before a court otherwise than for the purpose of giving evidence, the court may make inquiries as to the age of the person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person was not correctly

stated to the court, and the age presumed or declared by the court to be the age of the person brought before the court shall, for the purposes of this Act, be deemed to be the true age of that person.

(2) Where in a charge for an offence under this Act it is alleged that the person by or in respect of whom the offence was committed was a child or had or had not attained a specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child or to have or not to have attained that age, as the case may be, he shall, for the purposes of this Act be presumed at that date, to have been a child or to have or not to have attained that age, as the case may be, unless the contrary is proved.

**78**—(1) The Governor may make regulations—

Regulations.  
*Ibid.*, s. 125.

- (a) prescribing any matter or thing which is by this Act authorized or required to be prescribed;
- (b) prescribing the duties of child welfare officers and imposing duties on probation officers in relation to the exercise of their functions under this Act;
- (c) regulating the management of institutions;
- (d) regulating the boarding out of wards of the State, prescribing the payments to be made to persons with whom wards of the State are boarded out, and the duties and obligations of those persons;
- (e) regulating the apprenticeship of wards of the State and prescribing the duties and obligations of persons with whom wards of the State are apprenticed;
- (f) prescribing the form of any licence, permit, certificate, summons, order, notice, or other document which is required or authorized to be used under this Act and, where such a document is authorized or required to be served on, or given to, any person, the manner in which it is to be, or may be, so served or given;
- (g) prohibiting the taking of proceedings in children's courts, either in particular cases or generally, except by, or with the consent or approval or at the direction of, such persons as may be prescribed;
- (h) authorizing or requiring, where a summons is authorized or required to be served on a child for the purpose of bringing him before a court or where, by any provision of this Act, a summons is authorized or required to be served on any person, a notice to be served on that child or other person in place of a summons;
- (i) regulating the practice and procedure of children's courts and the practice and procedure of other courts of summary jurisdiction in relation to proceedings taken against or in respect of children;
- (j) requiring and regulating the keeping of records of proceedings before children's courts and authorizing the inspection of any such records; and

(*h*) providing for the manner in which things done in the course of, or as preliminary or incidental to, any proceedings before a children's court may be proved in any legal proceedings.

(2) A notice served on a child or other person in accordance with regulations made under paragraph (*h*) of subsection (1) of this section has the like effect as a summons served on that person.

Consequential amendments.

**79** The enactments that are specified in the schedule to this Act are amended as respectively specified in that schedule.

Transitory provisions.

**80**—(1) The person who immediately before the commencement of the Act was the Director of Social Services shall be deemed to have been appointed the Director of Social Welfare under this Act.

(2) Where, immediately before the commencement of this Act, an institution was a certified institution within the meaning of the *Infants' Welfare Act 1935*, that institution shall be deemed to be an approved children's home within the meaning of this Act, and the certificate by virtue of which it was a certified institution within the meaning of that Act has effect as if it were a certificate of approval issued under section ten of this Act.

(3) Where immediately before the commencement of this Act a child was by an order of a court under the supervision of a probation officer of a children's court, that order, if the Director so determines has effect as if such child welfare officer or probation officer as may be directed by the Director for the time being to have the supervision of the child under that order was the probation officer specified therein, and that child welfare officer or probation officer has the like powers and duties as if he was the probation officer so specified.

(4) Where, immediately before the commencement of this Act, the Director of Social Services or the managers of a certified institution within the meaning of the *Infants' Welfare Act 1935* was or were the guardian or guardians of any person by virtue of that Act, that person shall, on the commencement of this Act, become a ward of the State.

(5) A person who, immediately before the commencement of this Act, was under the guardianship of another person by virtue of an order made under subsection (4) of section eight of the *Infants' Welfare Act 1935*, shall, on the commencement of this Act, become a ward of the State.

(6) Where by virtue of this section a person becomes a ward of the State he shall, for the purposes of paragraph (*c*) of subsection (3) of section fifty-one, be deemed to have become a ward of the State on the date of the making of the order of a court, or of his admission by the Director of Social Services as a child of the State, by virtue of which the guardianship subsists as a result of which he becomes a ward of the State under this section.

(7) For the purposes of this section the Director of Social Services shall be deemed to have been the guardian of any

person who, by virtue of subsection (2) of section sixty-six of the *Infants' Welfare Act 1935*, was subject to the care of the Social Services Department.

(8) A maintenance order in force under the *Infants' Welfare Act 1935* immediately before the commencement of this Act has effect as if it were a contribution order, and an undertaking given under section thirty-seven of the *Infants' Welfare Act 1935* that is in force immediately before the commencement of this Act has effect as if it were such an undertaking as is referred to in subsection (7) of section fifty-two of this Act.

(9) Until the commencement of the *Justices Act 1959*, references in this Act (other than in the schedule thereto) to any provisions of that Act shall be construed as references to the corresponding provisions in any Act that is to be repealed by that Act.

---

## THE SCHEDULE.

(Section 79.)

---

### *Master and Servant Act 1856.*

(19 Vict. No. 28.)

Section twenty-three is amended by omitting therefrom the words commencing with the word “, of” (first occurring) and ending with the word “years,” and the words following the word “Act”.

---

### *Justices Procedure Act 1919.*

(10 Geo. V No. 55.)

Section ninety-five A is amended by omitting from subsection (1) the words “, or, if he is under the age of sixteen years, his parent.”

---

### *Adoption of Children Act 1920.*

(11 Geo. V No. 5.)

1. Section two is amended by omitting the definition of “Child of the State”.

2. Section five is amended—

- (a) by omitting from paragraph v of subsection (1) the word “child” (first occurring) and substituting therefor the word “ward”;
- (b) by omitting from paragraph vi of that subsection the word “child” (second occurring) and substituting therefor the word “ward”;
- (c) by omitting from paragraph vii of that subsection the word “child” and substituting therefor the word “ward”; and
- (d) by omitting from that paragraph the words “Director of Social Services” and substituting therefor the words “Director of Social Welfare or the Deputy Director of Social Welfare”.

---

### *Mental Deficiency Act 1920.*

(11 Geo. V No. 50.)

1. Section four is amended by omitting the definition of “Relative” and substituting therefor the following definition:—

“ ‘Relative’ means—

- (a) when used in relation to a person who is legitimate and who has not attained the age of seventeen years, his father, mother, stepfather, stepmother, brother, sister or any of his grandparents;

- (b) when used in relation to a person who is illegitimate and who has not attained the age of seventeen years, his mother or the person admitting himself to be, or adjudged by a competent court to be, his father; and
- (c) when used in relation to any other person, the husband or wife of that person, a lineal descendant of that person, or a lineal ancestor of that person, or a lineal descendant of such an ancestor not more remote than a great-grandparent;”.

2. After section four the following section is inserted in Part I:—

Delegation of  
functions of  
Director of  
Social  
Welfare.

“4A. The Director of Social Welfare, with the approval of the Minister administering the *Child Welfare Act 1960*, may authorize the Deputy Director of Social Welfare to exercise, either generally or in a particular case, any of the functions conferred on the Director of Social Welfare by this Act, and any act or other thing done by the Deputy Director of Social Welfare in exercise of those functions has the same force and effect as if it had been done by the Director.”.

3. Section six is amended—

(a) by omitting from sub-paragraph (a) of paragraph II the words “*Infants' Welfare Act, 1935*” and substituting therefor the words “*Child Welfare Act 1960*”;

(b) by inserting in that paragraph after that sub-paragraph the following sub-paragraphs:—

“(ab) Found by a children’s court to be a neglected child;

“(ac) Found by a children’s court to be beyond the control of the person by whom he is brought before the court under section thirty-three of the *Child Welfare Act 1960*;

“(ad) A ward of the State:”;

(c) by omitting from sub-paragraph (b) of that paragraph the words therein following the word “offence”; and

(d) by omitting from sub-paragraph (c) of that paragraph the words “or committed to an institution within the meaning of the *Infants' Welfare Act, 1935*”.

4. Section seven is amended by omitting paragraph III of subsection (1) and substituting therefor the following paragraph:—

“III By the Director of Social Welfare in respect of all defectives who are wards of the State:”.

5. Section nine is amended—

(a) by omitting from paragraph II the word “either”, the words “, or by commitment to an institution within the meaning of the *Infants' Welfare Act, 1935*”, and the word “or” (second occurring);

(b) by inserting after that paragraph the following paragraphs:—

“IIA Of a court in the case of a defective who has not attained the age of seventeen years found guilty of an offence or found by a children’s court to be a neglected child or to be beyond the control of the person by whom he is brought before the court under section thirty-three of the *Child Welfare Act 1960*;

“IIB Of the Minister in the case of a defective who is a ward of the State: or”;

(c) by omitting from paragraph III the words “or in an institution within the meaning of the *Infants' Welfare Act, 1935*”.

6. Section twenty is amended by omitting from paragraph I of subsection (2) the words therein following the word “attending,” and substituting therefor the words “and, if they are wards of the State, to the Director of Social Welfare, and, in other cases, to their parents or guardians:”.

7. Section twenty-three is amended by omitting from paragraph II of subsection (1) the word "Services" and substituting therefor the word "Welfare".

8. Section twenty-six is amended—

- (a) by omitting from subsection (1) the words "child, on being brought before a children's court under the *Infants' Welfare Act, 1935*, is found liable to be committed to an institution under that Act" and substituting therefor the words "person who has not attained the age of seventeen years is found by a court to be guilty of an offence, or is found by a children's court to be a neglected child, or to be beyond the control of the person by whom he is brought before the court under section thirty-three of the *Child Welfare Act 1960*";
- (b) by omitting from paragraph I of that subsection the words "or child is a defective, postpone passing sentence or making an order for committal to any such institution" and substituting the words "is a defective, postpone the passing of sentence or the making of any other order in respect of that person";
- (c) by omitting from that paragraph the word "Services" and substituting therefor the word "Welfare";
- (d) by omitting from that paragraph the words "or child" (second occurring);
- (e) by omitting from paragraph II of that subsection the words "or child"; and
- (f) by omitting from that paragraph the words "an order for committal to an institution under the *Infants' Welfare Act, 1935*" and substituting therefor the words "any other order in respect of that person".

9. Section twenty-seven is amended by omitting therefrom the words "or in an institution within the meaning of the *Infants' Welfare Act, 1935*".

10. After section twenty-seven the following section is inserted:—

"27A. Where the Minister is satisfied from the certificate of the prescribed examination by an examining authority that a ward of the State is a defective, the Minister may order that he be placed in a Government institution for defectives, or that he be placed under guardianship or supervision, and an order so made shall have the like effect as if it had been made by a judicial authority on petition under this Act."

Procedure in case of wards of the State who are defectives.

11. Section twenty-eight is amended by inserting after subsection (2) the following subsection:—

"(2A) Where a ward of the State is placed under guardianship, the Director of Social Welfare shall not exercise any of the duties, powers, or rights that, apart from this Act, he has in respect of the ward of the State, except with the approval of the guardian."

12. Section thirty-four is amended by omitting from paragraph I of subsection (1) the words "*Infants' Welfare Act, 1935*" and substituting therefor the words "*Child Welfare Act 1960*".

13. Section fifty-seven is amended by omitting from paragraph III of the proviso to subsection (1) all the words after the words "children's court".

### Maintenance Act 1921.

(12 Geo. V No. 40.)

1 Section fifteen is repealed and the following section substituted therefor:—

"15 Where it is the duty of any person under section fifty-one of the *Child Welfare Act 1960* to make contributions towards the maintenance of a child, any amount required to be paid by him in respect of that child under a maintenance order shall be paid to the Director of Social Welfare; and all proceedings may be taken for the enforcing of that payment as if the Director of Social Welfare had been named in that order."

Payments under maintenance orders in respect of wards of State, &c

2 Section seventy-nine is repealed.

*Probation of Offenders Act 1934.*

(25 Geo. V No. 74.)

Section six is amended by omitting from subsection (5) all the words after the word "if" and substituting therefor the words "he has not attained the age of seventeen years, make an order declaring him to be a ward of the State."

*Police Offences Act 1935.*

(26 Geo. V No. 44.)

Section thirty-six is amended by omitting from paragraph 1 of subsection (2) the words "or in case he is a child, his parent,".

*Coroners Act 1957.*

(No. 1 of 1957.)

1. Section thirteen is amended by omitting the words "in the care or charge of a person licensed in respect of a nursing home under the *Infants' Welfare Act 1935*" and substituting therefor the words "in a case where that death is required to be notified to the Director of Social Welfare under section fifty-nine of the *Child Welfare Act 1960*".

2. Section fifty-two is repealed.

*Justices Act 1959.*

(No. 77 of 1959.)

1. Section seventy-one is amended by omitting from subsection (1) the words "or, if he is under the age of sixteen years, his parent,".

2. Section seventy-two is amended by omitting from subsection (1) the words "under section seventy-one" and substituting therefor the words "by justices of any offence referred to in subsection (1) of section four hundred and twenty-four of the *Criminal Code* (other than an offence referred to in paragraph III of subsection (3) of that section)".

---

## RAILWAY MANAGEMENT (No. 2).

---

### No. 49 of 1960.

AN ACT to amend the *Railway Management Act 1935*.  
[5 December 1960.]

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

Short title  
and  
citation.

**1**—(1) This Act may be cited as the *Railway Management Act (No. 2) 1960*.

(2) The *Railway Management Act 1935*, as subsequently amended, is in this Act referred to as the Principal Act.



**The Acts of the Parliament of Tasmania [electronic resource]**

Corporate Author: Tasmania

AIATSIS Library, ELECTRONIC ACCESS ONLY

vn1280090-11x