

*Infants' Welfare.*

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## PART IV.

*Division I.—State Institutions.*

Governor may establish institutions.

**14**—(1) The Governor may, by order-in-council, establish and abolish receiving homes, children's homes, foundling homes, industrial schools, probationary schools, reformatories, farm schools, and other institutions for the care and maintenance of children of the State.

(2) The several institutions specified in the second schedule shall be deemed to have been established as institutions under and for the purposes of this Act.

*Division II.—Private Institutions.*

Mode of certifying private institutions.

**15**—(1) The Minister may, upon the application of the managers of any private institution, examine into the condition and rules or regulations of the institution, and may, by writing under his hand, certify that it is fit for the reception of such children of the State as may be sent there in pursuance of this Act, and the same shall be deemed to be a certified institution for the purposes of this Act.

(2) No substantial addition or alteration shall be made in or to the buildings of any such certified institution as aforesaid without the approval in writing of the Minister.

(3) The several institutions specified in the third schedule shall be deemed to be certified institutions for the purposes of this Act, and certificates given in respect thereof by the Governor under any repealed Act shall continue in force as if the same had been given by him under this Act.

Withdrawal of certificate.

**16**—(1) The Minister, if dissatisfied with the conditions, rules, regulations, management, or superintendence of any certified institution may, at any time, by notice under his hand served on the managers, declare that the certificate of the certified institution is withdrawn as from a time specified in the notice, being not less than six months after the date of the notice; and at that time the withdrawal of the certificate shall take effect, and the certified institution shall cease to be a certified institution.

(2) The Minister may, if he thinks fit, instead of so withdrawing the certificate, by notice served on the managers, prohibit the admission of children of the State to the institution for such time as may be specified in the notice or until the notice is revoked.

Certificate may be resigned.

**17** The managers, or the executors or administrators of a deceased manager if there is only one manager, of any certified institution may give notice in writing to the Minister of their intention to resign the certificate of the certified institution, and at the expiration, in the case of managers of six months, and in the case of executors or administrators of one month, from the receipt of such notice by the Minister, the certificate shall be deemed to be resigned accordingly, unless before that time the notice is withdrawn.

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**18** A child of the State shall not be received into a certified institution after the date of the receipt by the managers of the notice of withdrawal of the certificate for their certified institution, or after the date of the notice of resignation of the certificate; but the obligation of the managers to maintain any children of the State detained in their institution at the respective dates aforesaid shall, except so far as the Minister otherwise directs, continue until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money provided by Parliament towards the expenses of the children detained in the certified institution, whichever may first happen.

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Effect of withdrawal of certificate

**19** Where an institution ceases to be a certified institution, the children of the State detained therein shall be, by order of the Minister, either discharged or transferred to some other institution.

Disposal of inmates on withdrawal of certificate.

**20** The managers of any certified institution may decline to receive any child of the State proposed to be sent to it under this Act, but, when they have once received him, they shall be deemed to have undertaken the maintenance of such child during the whole period for which he is liable to be detained in the certified institution, or until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of the contribution out of money provided by Parliament towards the expenses of the children detained in the institution, whichever may first happen.

Liabilities of managers.

**21** The managers of every certified institution shall be entitled to receive out of any moneys which may be provided by Parliament for that purpose, for every child of the State maintained in the certified institution during the preceding year, or any part thereof, a sum calculated at such rate per week as the Minister approves.

State aid to certified institutions.

## PART V.

## CHILDREN'S COURTS AND CHILDREN OF THE STATE.

*Divison I.—Children's Courts.*

**22**—(1) The Governor may, by proclamation, establish for the purposes of this Act special courts to be called children's courts.

Children's courts.

(2) A children's court shall be deemed to have been established for the purposes of this Act, and may be held at any place within the State where a court of petty sessions is, or has been appointed to be, held.

**23**—(1) The Governor may appoint one or more justices to be a special magistrate or special magistrates for any district.

Special magistrates.

(2) Every special magistrate appointed for any district under any Act hereby repealed, and who was in office as such special magistrate

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(3) For the purposes of this section and section twenty-four "district" means a city and a municipality.

Constitution of children's courts.

**24** Every children's court shall consist—

- i. Where situate in any district for which a special magistrate has been appointed as hereinbefore provided, of one or more special magistrates for that district: and
- ii. Where situate in any district for which no special magistrate has been appointed, of any two or more justices for such district.

Proviso.

Provided, however, that, if at any time within any district for which a special magistrate has been appointed no special magistrate is present when a children's court is required to be held, any two justices for that district may exercise the jurisdiction of, and while so doing shall constitute, a children's court.

Powers of court.

**25** A children's court and the magistrate or justices constituting such court, in addition to any other jurisdiction, powers, and authorities conferred upon them by this Act, shall have and may exercise in respect of offences committed by children all the powers and authorities for the time being possessed by police magistrates, courts of petty sessions, or justices.

Jurisdiction of other courts excluded.

**26** No court of petty sessions, and no justice, other than a special magistrate or a police magistrate or justices sitting as a children's court, shall exercise any jurisdiction in respect of the matters as to which a children's court has jurisdiction: Provided that nothing in this section shall abridge or prejudice the powers of justices to receive any complaint or issue any summons, or to grant, issue, or endorse any warrant, or admit to bail.

Proviso.

Children's courts to have powers of courts of petty sessions\*

10 Geo.V. No. 55.

**27** Subject to this Act, and so far as may be consistent with the jurisdiction hereby conferred on children's courts, all the provisions of the *Justices Procedure Act* 1919 shall apply to children's courts and to every proceeding therein, and to the police magistrates, special magistrates, and justices constituting such courts, whether sitting in court or acting ministerially out of court, as fully and effectually as if the said provisions were repeated in this Act with the words "children's court" substituted for the words "court of petty sessions," or "justices," and the words "clerk of the children's court" for the word "clerk" or "clerk of petty sessions," wherever they respectively occur.

(2) The clerk of petty sessions at the place of holding petty sessions at or nearest to the place at which a children's court is held shall be the clerk of the children's court.

Place of sitting.

**28** Every children's court shall hold its sittings—

- i. In some room of the building in which the court of petty sessions of the place usually sits, but the children's court

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shall not be held in the same room as that in which the court of petty sessions is at the time sitting for the transaction of its business or in which a justice or justices are sitting out of sessions : or

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ii. In any other building or room.

**29** The Governor may appoint for any children's court or courts, or for the Supreme Court, one or more fit and proper persons, male or female, to be called "probation officers," who are willing to perform the duties assigned by this Act to probation officers.

Appointment of probation officers.

**30** Every probation officer shall comply with the directions of the court for which he has been appointed, and shall obey all the lawful orders of such court with respect to any child under his supervision or his care and control.

Probation officer subject to directions and orders of children's court.

**31**—(1) It shall be the duty of every probation officer when required by a court—

Duties of probation officers

- i. To investigate the circumstances of any complaint, charge, information, or application made in respect of any child and endeavour to ascertain his address and that of his parents :
- ii. To inquire and furnish the court with information as to the child's habits, conduct, and mode of living :
- iii. To render to the court such assistance as it may require :
- iv. To visit and supervise any child before and after the hearing and determination of the case as may be directed by the court : and
- v. To perform any other duties that the Governor may by regulation direct.

(2) It shall be the duty of every probation officer, under whose supervision a child has been placed, to advise, assist, and befriend such child, and when necessary to endeavour to find him suitable employment.

(3) Every probation officer may appear in any such court to represent the interests of any child, and when a child is not represented by a legal practitioner the probation officer may be heard in any such court on such child's behalf.

Powers of probation officers.

**32**—(1) Any child may be released by a court on probation, and, if so released, or if discharged on surety to appear for punishment when called upon, or to be of good behaviour, such child shall, if the court so orders, be under the supervision of a probation officer of the court making such order, or of a probation officer of some other court, who shall for that purpose be deemed to be a probation officer of the court making the order as if he had been appointed for that court.

Child released conditionally to be under supervision of probation officer.

(2) Every probation officer shall have as to the child under his supervision or care and control the powers of a police officer.

When probation officer to have powers of police officers.

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 Probation officer  
 may bring child  
 before court for  
 further action

Powers of court  
 with respect to  
 children released  
 on probation, &c.

(3) At any time in his own discretion such probation officer may apprehend without warrant and bring any child under his supervision before the court which made the order respecting such child for further or other action as the court may see fit to exercise.

**33**—(1) Where any child who, under this Act—

- I. Has been released on probation:
- II. Has been discharged on his entering into a recognisance to appear for punishment when called upon, or to be of good behaviour—

fails to observe any terms or conditions imposed upon him by a court at the time of his release or discharge, the court may, by notice given to the parent of such child, or the person with whom he is living, or the probation officer, direct that such child be brought before the court at a time named in the notice; and if such child is not so brought before the court may issue a warrant to apprehend such child and to bring him before such court.

(2) If it appears to any court that such failure has occurred, the court may deal with such child in the same manner as if he had not been so released or discharged.

(3) This section shall be read and construed as in aid and not in derogation of any other provisions of this Act.

Powers of court  
 in cases of  
 children placed  
 under supervision  
 of probation  
 officer

**34** Where a child has been placed by a court under the supervision of a probation officer the court, if satisfied on the report of such probation officer that the parent of the child or the person with whom he is living has failed, neglected, or refused to comply with any condition imposed by the court for the child's welfare and health, may remove the child from the care of such parent or person and cancel any order already made by it, and further deal with the child according to law.

Exclusion of  
 public from court.

**35**—(1) Where any charge, complaint, or application under this Act is being heard, the children's court may order any person who, in the opinion of the court, is not directly interested in the proceedings to leave the court-room or place in which such hearing is taking place and the precincts thereof.

Penalty for  
 disobeying order  
 for exclusion.

(2) If any person ordered as aforesaid to leave such court-room or place and the precincts thereof, or, having obeyed the same, returns to such court-room or place, or the precincts thereof, during such hearing, the court may direct a police officer to remove such person, and such person shall be liable to a penalty of two pounds, or to imprisonment for forty-eight hours, and the court may impose either of such penalties upon its own knowledge of the commission of the offence.

(3) An order shall not be made under subsection (1) hereof in respect of any person who is—

- I. Counsel or solicitor for any of the parties to the proceedings or clerk to such solicitor:

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- ii. A probation officer : A.D. 1935.
- iii. A parent of the defendant :
- iv. The mother or sister of any female defendant or of a female witness whose age is less than eighteen years : or
- v. A female friend for whose presence such defendant as last aforesaid has asked : Provided that only one such friend shall be exempted hereunder.
- (4) No person shall publish a report of the proceedings before the court or the result of any such proceedings, if such publication has been prohibited by the court. Reporting proceedings,
- Penalty : Twenty pounds.
- 36**—(1) The clerk shall keep a register independently of that used in the court of petty sessions of the minutes or memoranda of all convictions, orders, and proceedings of the children's court, in the prescribed form and with the prescribed particulars, and such register shall be distinguished by the name of the place at which such court is held as in the said form prescribed. Register of children's court.
- (2) Such register, and also any document purporting to be an extract from such register, certified by the clerk keeping the same to be a true extract, shall be *prima facie* evidence of the matters entered therein. Certified extracts to be evidence.
- (3) The minutes or memoranda of every day's sitting of the children's court shall be signed by the special magistrate, police magistrate, or justices constituting such court by and before whom the convictions, orders, or proceedings referred to in the minutes or memoranda were made or had. Justices to sign register.
- (4) Every such register shall be open for inspection, without fee, by any justice, and by any person authorised in that behalf by a justice, or by a law officer of the Crown, or, so far as relates to the proceedings in any particular case, by any party to the proceedings, or by the parent of the child in respect of whom the entry is made. Register open for inspection.

*Division II — Admission or Committal of Children of the State.*

**37**—(1) Subject to the approval of the Minister, any child under the age of seventeen years may, on the application of its parent or near relative, be admitted by the Director as a child of the State. Children admitted on application.

(2) Every child so admitted may be dealt with in the same way as any neglected child committed by a children's court to the care of the Department.

**38** Any justice may, upon oath being made before him by an officer of the Department or other person appointed by the Director in that behalf that having made due inquiry, he believes any child to be a neglected or uncontrollable child— Warrant for apprehension

- i. Issue his summons for the appearance of such child before a children's court : or
- ii. In the first instance, issue his warrant to a police officer or a probation officer directing such child to be apprehended.

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Apprehension of child.

**39** A police officer or any person authorised by the Director in that behalf may, although the warrant is not at the time in his possession, apprehend any child for whose apprehension a warrant has been issued under section thirty-eight.

Warrant to search for child suspected to be in brothel or place where opium is smoked, &amp;c.

**40**—(1) If it appears to any justice, on complaint made before him on oath by any person of good repute, that there is reasonable cause to suspect that a child is in a place which is or is reputed or suspected to be a brothel, or where opium or any preparation thereof is smoked, or where he is associated with a thief, or where there is reasonable cause to suspect he is being ill-treated or neglected, such justice may issue his warrant authorising the person named therein to search in such place for any child, and to take such child to a receiving home to be dealt with under this Act.

(2) Any person authorised by warrant under this section to search for a child may enter, if need be by force, into any house, building, or other place specified in the warrant, and may remove the child therefrom.

(3) Every such warrant shall be addressed to and executed by some police officer of or above the rank of sergeant, who shall be accompanied by the person laying the complaint (if such person so desires), unless the justice issuing the warrant otherwise directs.

(4) It shall not be necessary in the complaint or warrant to name the child.

Apprehension of child in brothel.

**41** Any person authorised by the Director in that behalf, or any police officer, of or above the rank of senior constable, may without warrant apprehend a child—

- I. Who is in a place which is a brothel, or where opium or any preparation thereof is smoked : or
- II. Who, such person or officer, as the case may be, has reason to believe, is a neglected or uncontrollable child.

Procedure when child apprehended.

**42**—(1) Where a child is apprehended as a neglected or uncontrollable child, or upon a charge of any offence, such child shall, if practicable, be taken within twenty-four hours before a children's court, or before some justice acting ministerially to be dealt with as herein after provided.

Disposal of child pending hearing.

(2) When a child is apprehended as aforesaid, such court or justice as aforesaid may make an order directing that such child, pending the hearing of the charge or complaint against him, shall be—

- I. Taken to and detained in a receiving home, if that course is deemed practicable, expedient, and convenient :
- II. Placed in charge of some respectable person to be named in such order :
- III. Placed in charge of a married probation officer and his wife, or a married police officer and his wife :

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- iv. Kept in a gaol, or in the lock-up at a police station, if the charge is of so serious a nature that his safe custody is of first importance : or
- v. Admitted to bail.

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(3) A probation officer or police officer if so directed may make such arrangements, and enter into such agreements, as may be necessary for giving effect to an order under paragraph II. of subsection (2) hereof, and in respect of an order under paragraph III. thereof he shall be entitled to be paid a reasonable sum for the keep of the child so placed in his charge.

(4) If any such child escapes from the custody of any such person as aforesaid or from any such place of detention, he may be re-arrested as an absconder and placed in a gaol till the charge or complaint is dealt with by the children's court.

Absconders may be placed in gaol.

(5) In any of the abovementioned cases no warrant shall be necessary to authorise the detention of any such child, but, if the right to the custody of any such child is called in question by *habeas corpus* or otherwise, it shall be sufficient to give in evidence the said order of the children's court or justice and the authority granted by the provisions of this Act to the persons abovenamed.

Warrant not necessary to detain child.

**43** Any person having the actual care and custody of a child may apply to a children's court to commit the child to an institution upon the ground that the child is an uncontrollable child. The provisions of section forty-two shall apply to such child as if he were a child apprehended as an uncontrollable child.

Application to commit uncontrollable child.

**44**—(1) Where any child is charged before a children's court with being a neglected or uncontrollable child or with an indictable offence or with an offence punishable on summary conviction, or when any application is made to the court with respect to any child under the provisions of section forty-three—

Parent's attendance in court.

- i. The child and the parent of such child shall be entitled to be heard on his behalf either personally or by a legal practitioner and may cross-examine witnesses for the prosecution and examine and re-examine witnesses testifying on behalf of such child :
- ii. If the parent of such child is not present, the court may hear the charge or application in his absence, or may order a summons to be issued for the attendance of such parent before such court, and may adjourn the hearing of the case in the meantime : and
- iii. If the parent after being duly served with such summons neglects or refuses to attend accordingly without furnishing to the court a reasonable excuse, the court may order a warrant to be issued to bring him before the court at the hearing of the case, and on his arrest he may be admitted to bail on entering into recognisances, with or without sureties, to attend the court at the hearing.

Parent may appear on behalf of child.

Enforcement of parent's attendance in court by summons.

By warrant.

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Child to be present when charge heard.

(2) A children's court shall not hear any charge against or application in respect of a child in his absence, and, in the event of the absence of any child at the time appointed for such hearing, the court shall adjourn the hearing, and if necessary from time to time, until the child appears or is brought before it.

Power of court with respect to neglected or uncontrollable child.

**45** If on the hearing a children's court finds that any child charged with being a neglected or uncontrollable child is a neglected or uncontrollable child, it may—

- i. Release the child on probation upon such terms and conditions and for such period as the court may think fit :
- ii. Commit the child to the care of the Department : or
- iii. Commit the child to an institution.

Provided that, where a near relative applies for an order of committal of an uncontrollable child, the court may decline to make the order unless security is given to the satisfaction of the court for the making of such payments as, in the opinion of the court, the applicant is able to afford for or towards the maintenance of such child.

Powers with respect to child liable to be summarily convicted.

**46**—(1) Where a child is summarily convicted by a children's court of an offence, other than an indictable offence, punishable by penalty or imprisonment, the court may—

- i. Release the child on probation upon such terms and conditions and for such period of time as the court may think fit :
- ii. Commit the child to the care of the Department :
- iii. Commit the child to an institution :
- iv. Upon convicting the child, discharge him conditionally on his entering into recognisances for a nominal sum with a surety or sureties to the satisfaction of the court, in such sum as the court thinks reasonable and proper, to appear for punishment when called upon or be of good behaviour for a term of not more than twelve months, and also, if it thinks fit, in addition, order him to pay such damages and costs or either of them as the court thinks reasonable :
- v. Adjudge the child to pay a penalty not exceeding five pounds : or
- vi. If the age of the child is fourteen years or over, sentence the child according to law, but in no case to a longer term of imprisonment than three months.

(2) When a sentence is imposed on a child under this section, the court shall forthwith transmit to the Minister a copy of the proceedings and a statement of the reasons for imposing such sentence, and the Minister may order the removal of such child to an institution.

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(3) When a child is dealt with under this section, the court may, if there is no previous conviction against such child, order that no conviction shall be recorded against him, and any such order may, in the discretion of the court, be subject to the condition that he shall pay such damages and costs, or either of them, as the court directs.

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**47**—(1) Where a child is summarily convicted by a children's court of an offence in respect of which a penalty, damages, or costs, or any one or more of them, is or are adjudged to be paid, and the court has reason to believe that such child's parent has contributed to the commission of the said offence by wilful default or by habitually neglecting to exercise due care of the said child, the children's court may direct a police officer forthwith to charge such parent with so contributing to the commission of the said offence, and, if the parent is present and does not ask for an adjournment of the hearing of the charge to enable him to answer it, such court may hear the charge there and then, and on being satisfied that it is proved may convict the said parent thereof: Provided, however, that, where it is shown that the parent's want of pecuniary means is the cause of such default or neglect, the charge shall be held not proved.

Procedure where parent deemed to have contributed to commission of child's offence.

Court may direct institution of proceedings against parent.

When parent present.

(2) If the said parent is not present the children's court may direct a police officer to obtain a summons on such charge against the parent of such child, and upon the day appointed by the summons for the hearing of such charge, and after due service thereof on the said parent, the court, on being satisfied that the charge is proved, may convict the said parent thereof.

When parent not present.

**48**—(1) Where a children's court convicts the parent of the charge as aforesaid, it may, in and by its conviction, adjudge the said parent instead of his child, to pay the penalty, damages, or costs, or any one or more of them, that such child has been adjudged to pay, and may in addition order the said parent to forthwith enter into his own recognisance with or without surety for the good behaviour of such child for any period not less than three months nor more than twelve months, and, in default of such recognisance being entered into accordingly, may order the said parent to be imprisoned for a term of three months

May adjudge parent to pay penalty, damages, or costs instead of child.

(2) Where the parent is so adjudged to pay all or any of such sums as aforesaid, the children's court shall not enforce against the child the payment of the said sums so adjudged to be paid by him in the first instance, but this provision shall not prejudice the right of the court to deal with the said child as a "neglected child" under this Act, in which event the said parent shall not be ordered to enter in to a recognisance as aforesaid for the child's good behaviour.

Child excused from payment.

**49** Where any child over the age of fourteen years has been adjudged by a children's court to pay any sum or sums of money by way of penalty, damages, or costs, the court may, in default of payment thereof, forthwith, or within such time as the court may direct, order

Term of imprisonment corresponding to penalty