

A.D. 1935.

Infants' Welfare.

PART VII

FOSTER-MOTHERS AND NURSING HOMES.

All orders, &c.,
in force under
9 Geo. V. No. 15
to remain in
force.

96 All orders, registrations, registers, certificates, rolls, and notices in existence or in force under Part VII. of the *Childrens' Act* 1918 at the commencement of this Act shall, in so far as is not inconsistent with this Act, continue as if they had been respectively made, effected, kept, issued, or given under this Act.

Application of
this Part.

97 This Part shall not extend to—

- i. The near relatives or lawful guardians of any child, not being a child of the State, retained or received by such relatives or guardians :
- ii. Any person or institution exempted for the time being from the operation of this Part by special order of the Minister.

Interpretation.

98 In this Part "infant" means any—

- i. Child of the State :
- ii. Infant under the age of five years who is not a child of the State.

Foster-mothers to
be licensed and
nursing homes
registered.

99—(1) No person shall receive into or retain in his care or charge in any house any infant for the purpose of nursing or providing for such infant apart from its parents for a longer period than twenty-four hours, unless such person is licensed for that purpose in respect of such house, and such house is also registered as a nursing home under this Act ; or unless the Director being satisfied that it is a case of emergency or necessity has given his approval in writing of such person so doing.

Penalty : Twenty pounds.

Payments by
Director for keep
of child.

(2) The Director or any person authorised by him may receive payment of any sum in advance for the keep and care of any such child in a nursing home, and may pay out such money in such monthly instalments as he deems requisite.

(3) In case of the death of such child, any sum unexpended, after payment of the funeral expenses of such child, shall be returned to the person entitled to receive same.

Method of
licensing and
registration.

100—(1) Any female person may apply to the Director to be licensed as a foster-mother, and to have her home registered as a nursing home under this Part, and the Director may grant such licence and register such nursing home.

Register to be
kept.

(2) The Director shall cause a register to be kept, in which shall be entered—

- i. The name of every person to whom a licence as a foster-mother has been granted :
- ii. The situation of the nursing home in respect of which the licence has been granted :

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- III. The maximum number of children who may be nursed therein : and A.D. 1935.
- IV. Such other particulars as may be prescribed.
- (3) Every such licence and registration shall, unless cancelled under this Part, remain in force until the thirty-first day of December next following the granting of the licence, but may be renewed annually in the month of December in the year of any such renewal. Duration of licence.
- (4) No fee shall be payable for any such licence, registration or renewal.
- (5) Every renewal shall take effect from the first day of January following such renewal, and shall, unless cancelled under this Part, remain in force for twelve months. Renewals.
- (6) The Director shall issue under his hand to every licensed foster-mother a licence and a certificate of the registration of the nursing home and of any renewal of the same. Issue of licence.
- (7) The certificate in respect of the nursing home shall set out the maximum number of infants permitted to be nursed therein.
- 101**—(1) The Director may refuse to licence any foster-mother or to renew any licence unless he is satisfied that the applicant is of good character, and able properly to nurse and provide for any infants in her care or charge, and is in good health and free from any constitutional disease or any physical or mental disability. Director may refuse to licence any foster-mother.
- (2) The Director may refuse to register or renew the registration of any nursing home, unless he is satisfied that the house is suitable for the purpose, and is situated in a suitable locality.
- 102**—(1) Every foster-mother shall keep at her nursing home a roll, on which she shall forthwith enter— Roll of nursing home.
- I. The name, sex, and age of each infant received into her care or charge :
 - II. Opposite the name of each such infant, the date when such infant was so received :
 - III. The full names, addresses, and occupations of the parents, and of the person by whom such infant was left with her, or from whom it was received, and, if such lastmentioned person was a married woman, the full name, address, and occupation of the husband of such person : and
 - IV. Particulars of the periodical payments to be made in respect of such infant and by whom they are to be made.
- (2) Every foster-mother shall, forthwith on receiving any infant into her care or charge, forward a notice thereof to the Director. Receipt of infant to be notified to Director.
- (3) In case of default in the making of any such periodical payments as abovementioned, the foster-mother shall, within three days after the same became due, give written notice to the Director of such default.
- (4) If any such infant is removed from such nursing home, whether before or after attaining the age of five years, such foster-mother shall, immediately after such removal, enter in such roll the date of such removal and the full name, address, and occupation of the person by whom the infant was so removed.

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(5) Every foster-mother shall cause the person by whom an infant is removed to sign such entry, and shall forward to the Director a copy thereof within three days after the removal of each infant.

Production of roll to police officer.

(6) A foster-mother shall, forthwith upon demand by an officer of the Department or a police officer of or above the rank of sergeant, produce such roll to such officer, who may examine and peruse the same, and, if he thinks proper, retain it.

Duty and responsibility of foster-mother.

103—(1) It shall be the duty of every foster-mother to provide every infant, while in her care or charge, with proper and sufficient clothing, food, nursing, and attention, and with all other necessaries of life, and to keep every part of the nursing home at all times in a fit and proper state for the reception of infants, and to do, observe, and carry out all the acts, requirements, and directions prescribed by this Act or by any lawful order of the Director or authorised officer in relation to the nursing home.

(2) The Director or authorised officer is hereby empowered to make any such order having for its object the effectual execution of the foregoing provisions of this section.

(3) Every such foster-mother shall, in respect of the conduct of her nursing home, be responsible not only for her own acts or default but also for any act or default of any member of her family, or of any person employed by her at or in connection with such nursing home.

Licences and registrations may be cancelled.

104—(1) If at any it is made to appear to the Director that any foster-mother has been guilty of neglecting any infant in her care or charge, or is incapable of providing any such infant with proper food or attention, or that the nursing home is unfit for the reception of infants, or if for any other reason it appears to the Director desirable so to do, he may, after at least seven days' notice in writing, served by leaving the same at the nursing home, cancel the licence of such person and the registration of such nursing home.

Removal of children of the State.

(2) The Director shall immediately remove from such nursing home all children of the State and place them in another nursing home, or make other adequate provision for them.

Order for removal of other children.

(3) The Director may, at any time after giving such notice of cancellation to any foster-mother, by order in writing under his hand, addressed to the person who is by contract or otherwise legally responsible for the maintenance of any infant (not being a child of the State) placed in the care of such foster-mother, require such person forthwith to remove such infant from the nursing home of such foster-mother, and place it in another nursing home, or make other adequate provision for it, and, if the person so ordered, upon a copy of such order being served upon him, fails forthwith to obey such order, he shall be guilty of an offence against this Act.

Director may remove infants not being children of the State.

(4) The Director may at his discretion remove from any such nursing home any infant (not being a child of the State), and the Department may take it into its care temporarily, pending the restoration of such infant to its relatives or guardians, or until it can be lawfully disposed of; and in any such case the Director may recover the cost of

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the removal, maintenance, and clothing of and medical attendance upon such infant from any person responsible for the maintenance of such infant. A.D. 1935.

(5) The removal of any infant from the nursing home of any foster-mother whose licence has been cancelled under this section shall terminate any contract made by any person with such foster-mother respecting such infant.

105—(1) Every foster-mother shall, within twenty-four hours after the death of an infant in her care or charge, give or cause to be given notice thereof to the police officer in charge of the nearest police station, and thereupon an inquest shall be held. Notice to be given of death of infant; inquest to be held and report made to Minister.

(2) The coroner holding such inquest shall inquire, not only into the immediate cause of death, but into all such circumstances as may throw any light upon the treatment and condition of the infant during life, and also into any other matters in his opinion requiring investigation in the public interest; and such coroner, after holding such inquest, shall report to the Minister the cause of death, and shall in such report make such remarks with respect to the matter as to him seem fit.

106—(1) The Director or any officer of the Department, accompanied, if necessary, by a legally-qualified medical practitioner, may at any time enter and inspect any nursing home and inspect all infants therein, and examine the foster-mother in order to satisfy himself or the medical practitioner as to the proper care, maintenance, and treatment of any infant, and may give any necessary advice or directions as to such care, maintenance, and treatment. Inspection.

(2) One such inspection at least shall take place in every three months.

(3) No person shall—

i. Refuse to admit the Director or an officer of the Department, or a medical practitioner accompanying either of such officers, to any— Penalty for refusing to permit inspection.

(a) Nursing home :

(b) Premises to which an infant has been removed from a nursing home : or

(c) Premises in which an infant so removed is detained :
or

ii. Refuse to answer, or shall answer falsely, any question put to him by the Director or such officer or practitioner concerning such nursing home, premises, or infant.

Penalty : Twenty pounds.

(4) The provisions of subsections (1) and (3) hereof shall apply in respect of any child over the age of five years in the care or charge of a person who, if such child were under that age, would be required to be licensed under this Act before taking charge of such child.

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PART VIII.

OFFENCES.

Ill-treating
children.

107 Any person over the age of sixteen having the custody care or control of a male child under the age of fifteen, or of a female child under the age of sixteen, wilfully ill-treats, neglects, abandons, or exposes such child, or causes such child to be ill-treated, neglected, abandoned, or exposed, shall be liable to a penalty of twenty-five pounds or to imprisonment for six months, or to both such penalties.

Ill-treatment of
children placed
out or appren-
ticed.

108 Any person who wilfully ill-treats or neglects any child placed out with or apprenticed to him under this Act, or who causes such child to be ill-treated or neglected, shall be liable to a penalty of twenty-five pounds or to imprisonment for six months.

Restrictions on
employment of
children.

109—(1) No person shall cause or procure any child under the age of—

i. Fifteen years to be—

(a) In any public place for the purpose of begging, or inducing the giving of, or receiving, alms, whether or not under the pretence of singing, playing, performing, offering anything for sale, or otherwise : or

(b) In any street or in any premises licensed for the sale of intoxicating liquor, for the purpose of singing, playing, performing for profit, or offering anything for sale, between the hours of nine of the clock in the afternoon of any day and five of the clock the next following forenoon : or

ii. Fourteen years to be at any time in any public place or in any premises licensed for the sale of intoxicating liquor for the purpose of singing, playing, or performing for profit, or to be in any street between the hours of seven of the clock in the afternoon of any day and six of the clock in the next following forenoon for the purpose of offering any thing for sale.

Penalty : Twenty-five pounds or three months' imprisonment.

(2) The provisions of subsection (1) shall not apply to any child playing, singing, or performing at an occasional entertainment, the net proceeds of which are applied wholly for the benefit of any school, or of any church or charity, or for any patriotic purpose.

Forgery of
licences, &c.

110 No person shall—

i. Knowingly furnish any false information to the Director or any other person with reference to any matter with respect to which he is required by this Act to furnish information to the Director or such person :

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- ii. Forge any licence or certificate authorised to be issued **A.D. 1935.**
under Part VII :
- iii. Fraudulently make use of any such licence or certificate
knowing the same to be forged : or
- iv. Falsify any roll kept in pursuance of Part VII.

Penalty : Twenty-five pounds or three months' imprisonment.

111 No person shall—

- i. Without the authority of the Minister, take or remove any child of the State from any institution before the expiration of the period of detention of such child, or from its foster-mother or foster-parent to or with whom such child is apprenticed or placed out before the expiration of the term of placing out or apprenticeship :
- ii. Directly or indirectly counsel or induce any child of the State to abscond from any institution, or to break his apprenticeship indentures, or to abscond or escape from his foster-mother or foster-parent before such child has been regularly discharged, or before the expiration of such placing out or apprenticeship :
- iii. Prevent any child of the State from returning to any institution or to his foster-mother or foster-parent, or knowing any child of the State to have been so taken or removed as aforesaid, or to have so absconded or escaped as aforesaid, harbour or conceal, or assist in harbouring or concealing, such child :
- iv. Being an officer or servant of the Department or of the managers of an institution, negligently or knowingly permit any inmate to abscond or escape as aforesaid :
- v. Without the authority or permission of the Director, or of the managers of an institution, as the case may be, hold any communication with any inmate :
- vi. Having entered any institution or any premises belonging thereto or used in connection therewith, fail to depart therefrom when lawfully required so to do by the superintendent, matron, or any officer or servant of such institution : or
- vii. Without the previous permission in writing of the Minister remove any child of the State out of Tasmania, or suffer such child to be removed out of Tasmania.

Removing,
harbouring, &c.,
State children.

Communicating
with children in
institutions.

Penalty : Under paragraphs i. to iv. or vii. : Twenty pounds or six months' imprisonment ; Under paragraphs v. or vi. : Twenty pounds.

112—(1) No person shall—

- i. Refuse, fail, or neglect to comply with any maintenance order made against him under this Act, or leave or attempt to leave the State without making arrangements for future payments to the satisfaction of the Director : or

Disobeying
maintenance
order.

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Desertion of child.

Court may determine matter in summary way.

Court may issue warrant for arrest of deserter upon complaint on oath.

General penalty.

ii. Being a near relative liable to maintain any child—

(a) Desert such child : or

(b) Leave such child without, or fail to provide him with, adequate means of support.

Penalty : Six months' imprisonment.

(2) Upon the hearing of a complaint under this section, the court, if satisfied that the child has been, or is about to be, deserted by the person complained against, or is actually without adequate means of support, and that such person is a near relative of such child, liable and able to contribute towards his maintenance, may order such person, either immediately or at some adjournment, to find good and sufficient security to the satisfaction of the court that he will not desert or leave such child without adequate means of support.

(3) The court, in default of such security being found, may commit such person to prison for any period not exceeding six months, or until such order be sooner complied with.

(4) Upon complaint on oath by the Director, or any other officer of the Department, that he has reasonable grounds for believing that any person has committed or is about to commit an offence under this section, any justice, if satisfied that there are reasonable grounds for believing that such offence has been or is about to be committed, may issue a warrant for the arrest of the person complained against.

113 Any person who contravenes or makes default in compliance with any provision of this Act or any order made by the court thereunder for which contravention or default no penalty is specifically provided, shall be liable to a penalty of twenty pounds or to imprisonment for three months.

PART IX.

MISCELLANEOUS.

Children maintained in certified institution for two years without objection by father not removable without consent or order.

114—(1) Where any destitute or neglected child has been, without objection on the part of its father or other guardian, received into any certified institution and maintained therein for a period of two years or upwards, such father or other guardian shall not be entitled to remove such child out of the custody or control of the managers of such institution without their consent in writing or the order of the Minister, which may be given if such father or guardian satisfies the Minister that he did not know that such child was being so maintained, and that he has not been guilty of negligence with regard to such child whilst it has been so maintained.

(2) If no such consent is given the managers of such institution shall have the custody of the person of such child until it attains the age of eighteen years.

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115 At the hearing of any complaint under this Act, any one officer of the Department or any one probation officer may be present, and may examine and cross-examine witnesses, and be heard touching the acquittal or punishment of any child.

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Officer of Department may take part in all trials against children. Order may be set aside.

116 If contrary to the provisions of this Act any committal order, or conviction is made or entered by a children's court in respect of a child in the absence of his parent or guardian, to whom reasonable notice of the complaint has not been given, such committal order, or conviction may for good cause shown be set aside by the same or another children's court upon the application of such parent or guardian within three months after the making or entering of the committal order, or conviction.

117—(1) An order committing a child to an institution, or removing a child from one institution to another, shall be forwarded to the superintendent of the institution to which the child has been committed and shall be a sufficient warrant for the detention of the child.

Order to be forwarded to institution.

(2) The production of—

- i. Any such order or a copy thereof endorsed with a memorandum purporting to be signed by the superintendent or matron of any institution, stating the child named in such order was duly received into, and is at the time of the signing thereof detained in, such institution, or has been otherwise disposed of according to law : or
- ii. Any order made under this Act, or a copy thereof purporting to be signed by the clerk of the children's court by which the same was made or by the Director in case of a removal order and certified to be a correct copy—

Certain orders and copies to be evidence.

shall, without proof of the signature of the person purporting to have signed the same, be evidence of the due making and signing of such order, memorandum, or certificate, and of the committal, detention, and identity of the child, and of the identity of the parent named in such order or memorandum.

118 If it be made to appear to any justice by complaint on oath that there is reason to believe that any person is offending against this Act in any house or premises, or that any provision of this Act is being infringed in any house or premises, such justice may issue his warrant authorising any member or members of the police force to search any house or premises therein named, at any hour of the day or night, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of this Act.

Search warrant.

119 Every person authorised to take charge of any child ordered to be detained under this Act, for the purpose of conveying such child to or from any institution, or to a foster-mother or foster-parent, shall,

Persons in charge of State children to have privilege of constables.

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Proof of age. **120** In cases where the age of any person is material, a children's court or any other court having jurisdiction in the case may decide, upon its own view and judgment, whether any person charged or present before it has or has not attained any prescribed age, but nothing herein shall be construed to prevent the age of such person being proved.

Limit of costs to be paid by child. **121** Where a child is himself ordered by a children's court to pay costs in addition to a penalty, the amount of the costs so ordered to be paid shall in no case exceed the amount of the penalty, and (except so far as the court thinks fit expressly to order otherwise) all fees payable or paid by the complainant in excess of the amount of costs so ordered to be paid shall be remitted or repaid to him, and the court may also order the penalty, or any part thereof, to be paid to the complainant in or towards the payment of his costs.

Costs. **122** No costs shall be ordered against the Director or other officer of the Department in any proceedings taken under this Act if the court having cognisance thereof is of opinion that the Director or other officer has acted in good faith in his official capacity.

Expenses of administration. **123** All expenses incurred in administering, carrying out, and enforcing the provisions of this Act shall be defrayed out of moneys to be provided by Parliament for the purpose.

Act to be construed liberally. **124** This Act shall be liberally construed to the end that its purpose may be carried out, to wit, that the care and custody and discipline of a child of the State shall approximate as nearly as may be that which should be given by its parents, and that, as far as is practicable and expedient, every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help, and assistance.

PART X.
REGULATIONS AND FORMS.

Regulations. **125** The Governor may make regulations for the purposes of this Act.

Forms. **126** Where any form is required to be used under this Act, and no appropriate form is prescribed, a form approved by the Director, and which substantially complies with the relevant provisions, may, until a form is prescribed, be used and shall be sufficient for its purpose.

*Infants' Welfare.***THE FIRST SCHEDULE.**

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Section 2.

Regnal Year and Number.	Title of Act.
59 Vict. No. 10	<i>The Prevention of Cruelty to, and Protection of, Children Act 1895</i>
9 Geo. V. No. 15	<i>The Children's Act 1918</i>
12 Geo. V. No. 62	<i>The Children's Charter Act 1921</i>
13 Geo. V. No. 21	<i>The Children's Charter Act 1923</i>

THE SECOND SCHEDULE.

Section 14.

The Ashley Home for Boys, Deloraine.
 The New Town Rest Home.
 The Receiving Home at Hobart.
 The Receiving Home at Launceston.
 The Home for Mental Defectives, New Town.

THE THIRD SCHEDULE.

Section 15.

The St. Joseph's Roman Catholic Orphanage, Hobart.
 The Kennerley Boys' Home, Hobart.
 The Girls' Industrial School, Hobart.
 The Girls' Home, Launceston.
 The Northern Tasmanian Home for Boys.

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