

Powers of
court with
respect to
neglected
children.

21. A Children's Court, upon complaint being made and upon being satisfied that any child is a neglected child, shall make an order that such child is a neglected child, and may order such child to be—

- (a) Committed to the care of the Department; or
- (b) Sent to some institution to be specified in the order, there to be detained or otherwise dealt with under this Act.

Order for
detention.

22. Whenever a child is committed to the care of the Department, the order of committal shall be sufficient authority to any police officer or officer of the Department to take the child to such institution as the Director indicates, or, in default of any such direction, to such institution as is nearest and most convenient.

How uncontrol-
lable
child may be
dealt with.

23. Any parent or near relative of a child, or any authorised officer, or any police officer may by complaint bring a child before any Children's Court as an uncontrollable child, and the court, upon being satisfied of the fact, shall make an order that such child is a neglected child, and may—

- (a) Order the child to be sent to an institution to be there detained or otherwise dealt with under this Act; or
- (b) Release the child on probation on such conditions (if any) as the court may order, and in such case the child shall be subject to the care of the Department until he attains the age of eighteen years :

Provided that, when an order of committal of a child is made on the application of his parent or near relative, the court may require the applicant to give security to the satisfaction of the court for the making of such payment as in the opinion of the court the applicant is able to afford towards the maintenance of such child.

How
convicted
children may
be dealt with.

24. If any child is convicted, the court having cognisance of the case shall not sentence such child to imprisonment, but shall—

- (a) Commit such child to the care of the Department; or
- (b) Order such child to be sent to a reformatory or industrial school, and to be there detained or to be otherwise dealt with under this Act; or

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- (c) Order the parent to give security for the good behaviour of such child until the child attains the age of eighteen years or during such shorter period as the court thinks sufficient, and, upon being satisfied that such security has been given, may dismiss the charge; or
- (d) Adjourn the case on a near relative undertaking to punish the child in such reasonable and moderate manner as the court may approve, and, upon being satisfied that such punishment has been duly inflicted, may dismiss the charge; or
- (e) Release the child on probation on such conditions (if any) as the court may order, and in such case the child shall be subject to the care of the Department until he attains the age of eighteen years; and
- (f) In every case where practicable obtain the name and place of abode of the parents or guardians of the child, and enter the same upon the records of the court:

Provided that no order for security shall be made against a parent under this section unless such parent has had an opportunity of being heard.

25. Except as in this Act is otherwise provided, no State child shall be detained in any institution or be under the care of the Department after attaining the age of eighteen years: No detention after age of eighteen.

Provided that, if any child at the time of being committed to an institution has attained sixteen years of age, such child may be ordered to be detained in an institution, or otherwise dealt with under this Act, for a period of two years, notwithstanding that such period would extend beyond the time of such child attaining the age of eighteen years. Child over sixteen may be detained for two years.

26. (1.) Every convicted child over the age of thirteen years committed to an institution shall be sent to a reformatory or industrial school. Institution to which children to be sent.

(2.) A convicted child under the age of thirteen years, or a neglected child, shall be sent to an institution other than a reformatory:

Provided that—

- (i.) If any neglected child, in the opinion of the court, under the special circumstances of the case, ought to be sent to a reformatory, the court may order such child to be committed to a reformatory accordingly;
- (ii.) Under special circumstances and with the approval of the Minister, an inmate of any institution may be transferred for misconduct to an industrial school or reformatory, and in like manner any inmate of an industrial school or reformatory may for good conduct be transferred to any other institution.

Warrant for
detention.

27. (1.) Whenever a child is ordered to be sent to an institution, the court making the order shall issue a warrant for the taking of such child to such institution, and for its detention during the period of detention specified in the warrant.

Every such warrant shall be executed and obeyed by all persons to whom it is directed and delivered, and shall be forwarded with the child to the superintendent or matron of the institution, and shall be a sufficient authority for the taking and detention of the child named therein according to the tenor thereof.

Form of
order.

(2.) Every order of the court committing a child to the care of the Department or to an institution shall contain a statement of the age and religion, so far as can be ascertained, of such child, and the cause for which the child is to be detained.

Statement of
age and
religion to be
prima facie
evidence.

(3.) The statement in any order that the child therein named is of a certain age and religion shall, for the purposes of this Act, be taken to be true, unless the Director is satisfied to the contrary and endorses on the order the correct age or religion.

State children
absconding
arrested
without
warrant.

28. Any State child who absconds from any institution or from his mother, or other female relative, or foster mother, or foster parent, or who, whilst liable to detention, refuses or neglects forthwith to return to such institution as the Director may order, may be arrested without warrant by any police officer or by an officer of the Department and conveyed to such institution as the Director may order.

Discharge of
State
children.

29. The Governor in Council may, upon the recommendation of the Minister, order the discharge of any convicted child, and the Minister may order the discharge

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of any State child other than a convicted child from the control of the Department, and the child shall be forthwith discharged accordingly.

Such discharge may, if the Governor in Council or Minister, as the case may be, thinks proper, be a discharge on probation on such conditions (if any) as may be imposed, and in such case the child shall be subject to the care of the Department until he attains the age of eighteen years.

30. If any child released on probation by a court, or discharged on probation under the last preceding section, fails to observe the conditions of his release or discharge, or if the Director is not satisfied with his conduct or the conditions under which he is living while on probation, the Director may, without any warrant, cause him to be arrested and brought before the court, and the court may exercise any of the powers conferred by this Act upon it with respect to uncontrollable or convicted children, as the case may be. When probationer may be arrested.

31. Any inmate of an institution may, for any reason which appears to the Minister sufficient, and subject to this Act, be removed to and detained in any other institution. Transfer of inmates.

32. The Minister may order that the period of care or detention by the Department of any female State child shall be extended until such child attains the age of twenty-one years, or for any shorter period. Female children.

33. The Director may, by indenture of apprenticeship, bind any State child apprentice, to be taught such trade or calling as the Director approves. Department may apprentice children.

Such binding shall be as effective as if the child were of full age at the date of the indenture and had voluntarily executed the same.

The period of any such apprenticeship shall not exceed five years, nor extend beyond the day of the child attaining the age of twenty-one years.

Children while so apprenticed shall remain under the care of the Department.

34. Subject to this Act, the Director may, for such period as he thinks fit, place out any State child. Director may place out children.

A State child shall not be placed out with any person who is the holder of a licensed victualler's or wine seller's license or the keeper of a lodging-house or boarding-house.

Nothing in this section shall authorise the placing out of any child for any time extending beyond the period of detention of such child.

Children may board with mothers who are widows or deserted wives.

35. The Director may place out any State child with the child's own mother or other female relative in her own home, provided she is a woman of good repute, and provided that in the case of the child's own mother she is a widow or deserted wife, the wife of an invalid, or a wife living apart from her husband under circumstances explained to the satisfaction of the Minister. In such case the Minister may pay to such mother or female relative, to assist her in the maintenance of such child, such sum as may be prescribed.

Nothing in this section shall authorise the placing out of any such child for any period beyond the age of thirteen years unless such child is deformed or suffering from permanent ill-health, in which case the age may be extended to sixteen years.

Certain children not to be placed out.

36. No child who is suffering from enthetic disease shall be placed out.

School attendance.

37. Every State child over the age of five years shall be sent regularly to a State school, or some other school approved of by the Director, until such child attains thirteen years of age.

If considered advisable, the Minister may extend the limit of school age.

Age for service.

38. (1.) No State child under the age of thirteen years shall be placed out for hire or apprenticed, and no State child shall be placed out for hire or apprenticed unless or until a medical certificate of physical fitness for employment has been obtained in respect of such child.

Adoption under five.

(2.) No State child over the age of five years can be adopted.

Provisions in agreements and indentures.

39. All indentures of apprenticeship and agreements for the placing out for hire of State children under this Act shall be in the forms prescribed and shall contain provisions to the satisfaction of the Minister for the maintenance and religious instruction of such children, and for the due payment of such wages as are payable thereunder.

Such indentures and agreements shall be exempt from the provisions of "*The Stamp Act, 1894.*"*

* 58 Vic. No. 8, *supra*, page 3241.

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40. All wages earned by a State child, except such part thereof as the employer is required to pay to the child personally as pocket money, shall be paid by the employer to the Director or other officer of the Department mentioned in the agreement. Wages to Savings Bank.

The Director or such officer shall place the amount in the Government Savings Bank in trust for the child.

41. The wages due by any person on account of any State child may be sued for and recovered by and in the name of the Director or other officer of the Department mentioned in the agreement for the benefit of such child. Director may recover wages.

42. When a State child is discharged, he shall be entitled to be paid one-fourth of the money earned by him as aforesaid and then in the Government Savings Bank. Payment upon discharge.

Such payments shall be made in instalments if considered advisable, and shall be conditional on the Director or other authorised officer certifying that the child's conduct while at service was satisfactory, and that he is not likely to make an improper use of the money.

The balance not paid to him shall remain in the Government Savings Bank at interest until the child attains the age of twenty-one years, when the said balance shall be transferred to the child on application and proof of his identity.

43. All or any part of any money held in trust to the credit of any State child in the Government Savings Bank, and not claimed by such child before the expiration of five years after such child has or would, if living, have attained the age of twenty-one years, shall be paid by the Director to the credit of "The Audit Act Trust Fund." Unclaimed wages.

44. On the death of a State child, the money held in trust to the credit of such child in the Government Savings Bank pursuant to this Act shall, after payment thereof of any funeral or other expenses approved by the Minister, be paid into the Consolidated Revenue. Disposal at death.

45. No person with whom a State child is placed out or apprenticed shall change his place of residence without giving to the Director the prescribed notice. Change of residence.

46. If a State child placed out or apprenticed absconds, becomes ill, meets with an accident, or dies, the Absconds, becomes ill, or dies.

person with whom such child is placed out or to whom he is apprenticed shall immediately give such notice and do all such further acts and things as may be prescribed.

Penalty for
ill-treating.

47. Every person who ill-treats, injures, or neglects any State child placed out or apprenticed shall be liable to a penalty not exceeding twenty pounds or to imprisonment with or without hard labour for any period not exceeding six months.

Minister may
order return
of State child
apprenticed or
placed out.

48. (1.) The Minister may, at any time by order, require any State child placed out or apprenticed forthwith to surrender himself at any institution to be named in the order.

(2.) The Minister may, by the same or a separate order, and without incurring any liability for breach of contract or otherwise, cancel the indenture of apprenticeship or agreement relating to any State child, and require the person with whom such child is placed out or to whom he was apprenticed forthwith to deliver such child at an institution or to some person to be named in the order.

(3.) Any police officer or officer of the Department may, without warrant, take into custody such child and bring him to the institution named in the order, and for such purpose may enter upon or into any land or house belonging to or occupied by the person with whom the child was placed out or to whom he was apprenticed whereon or wherein the child is or is supposed to be.

State children
to be visited.

49. (1.) The Director shall cause all State children to be visited once at least in every three months by an officer of the Department, or person appointed for that purpose, to ascertain whether the stipulations of the indentures of apprenticeship or agreements respecting such children have been fulfilled, and that the treatment, education and care of such children are satisfactory.

Child and
outfit to be
produced.

(2.) Every person with whom a State child is placed out or to whom a State child is apprenticed shall, at the request of any officer of the Department or visitor, produce the child and his outfit or show cause to the satisfaction of the officer or visitor for the non-production or absence of such child, and permit the officer or visitor to examine such outfit and the sleeping and other accommodation and food provided for such child.

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50. The undermentioned near relatives of any State child shall be liable to pay or contribute towards the maintenance of such child according to their several abilities, and in the following order, namely:—

Order of
liability of
near relatives.

- (a) In the case of a legitimate child—Father, mother, stepfather, stepmother;
- (b) In the case of an illegitimate child—Father, mother.

51. (1.) Upon complaint that any persons are near relatives of any State child, and are able to pay or contribute towards the maintenance or past maintenance of such child, such persons or any of them may be summoned to appear before a court of petty sessions at a time and place to be named in the summons.

Maintenance
order.

(2.) The court may adjourn the hearing, and may summon any other persons alleged to be near relatives to appear at the adjourned hearing.

(3.) If the court is satisfied that the persons summoned or any of them, are near relatives and are able to pay for or contribute towards the past or future maintenance of such child, the court may order payment to be made by such relatives, or some one or more of them, to the Department as the court thinks fit—

- (a) Of such sum for past maintenance of the child as seems sufficient; and
- (b) Of such sum for future maintenance and for such period as seems sufficient,

but not being in either case more than ten shillings per week.

(4.) If a maintenance order is made against two or more near relatives, one order may be made against all of them, or separate orders may be made against each or any of them jointly or severally as to the court seems fit, so that such persons shall not be liable to pay more than ten shillings per week in the aggregate in respect of any one child.

(5.) No maintenance order shall, without the consent of the Minister, be made for payment in advance for future maintenance, otherwise than by periodical instalments not exceeding four weeks in advance.

(6.) Every maintenance order shall be served upon the person against whom it is made personally, or in such manner and at such places as may be prescribed or as any justice directs; but the order shall take effect from the time of its pronouncement, notwithstanding that the formal order has not been signed or served.

Undertaking
may be given.

52. In any case in which a maintenance order under this Act might be made against the parents of any State child, the Director or a court of petty sessions may accept from the parent or any other person an undertaking.

The undertaking shall have the same effect as a maintenance order; and any proceedings authorised under a maintenance order may be taken against any person who has signed an undertaking:

Provided that a court of petty sessions may at any time rescind any undertaking given under this section and make a maintenance order.

Court may
adjudge
person to be
father of
illegitimate
child.

53. Upon the hearing of a complaint under this Act in respect of the maintenance of an illegitimate State child of which the defendant is alleged to be the father, no maintenance order shall be made—

- (a) Upon the evidence of the mother, unless her evidence is corroborated in some material particular; or
- (b) If the court is satisfied that at the time the child was begotten the mother was a common prostitute.

Persons
admitting
intercourse
liable for
maintenance.

54. (1.) If, on the hearing of a complaint under this Act against any person alleged to be the father of an illegitimate State child in respect of the maintenance of such child, any other male person of over the age of seventeen years, upon oath, admits or says that he had sexual intercourse with the mother of such child on any date being not more than three hundred days nor less than two hundred days prior to the date of the birth of such child, the court may, upon such hearing and without information for the purpose, make an order against such other male person for contribution towards the maintenance of such child, and also, if the court deems fit, towards the confinement expenses of the mother of such child.

And every person so ordered to contribute shall, for non-compliance with such order, be subject to the same provisions and penalties as in the case of a near relative ordered to pay maintenance.

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(2.) An order may be made under this section, whether any order is or is not made against the defendant.

The making of an order under this section shall not in any way prejudice any power to make an order against the defendant.

(3.) If an order is made under this section against such male person and also the defendant, one order may be made against both of them, or separate orders may be made against each of them jointly or severally as to the court seems fit, so that such persons shall not be liable to pay more than ten shillings per week in the aggregate in respect of the maintenance of the child.

55. The court, on complaint that any person liable upon any maintenance order made under this Act or order made under the last preceding section has made default thereunder or intends to evade compliance therewith, may by a subsequent order require the person liable to find sufficient security that he will comply with the order made against him.

Court may require security for compliance with order.

And the court may, in default of such security being found, commit such person to prison for any period not exceeding six months if the order for security is not sooner complied with.

The court may determine upon the sufficiency of any proposed security and in what manner the security shall be given.

56. Upon the hearing of a complaint under this Act in respect of the maintenance of a legitimate State child, the averment in the complaint that the person complained against is a near relative liable to maintain and is able to pay or contribute towards the maintenance of such child, and that any sum has been expended upon or is due or owing for or in respect of maintenance, shall be sufficient evidence of the facts; and the onus of proving that such person is not a near relative, or is not able to pay or contribute towards the maintenance of such child, or that some other person is prior in order of liability, or that the sum stated to have been expended or to be due or owing was not expended or is not due or owing, shall lie upon the defendant.

Allegations in complaint prima facie evidence.

57. The amount of the weekly payments payable in respect of maintenance under any order made under this Act may, by any subsequent orders from time to time

Power to increase amount.