

(Queensland)



ANNO QUARTO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 42 of 1965

**An Act to Promote, Safeguard and Protect the well-being of the Children and Youth of the State through a Comprehensive and Co-ordinated Programme of Child and Family Welfare and to Amend "The Adoption of Children Act of 1964," in certain particulars**

[ASSENTED TO 23RD NOVEMBER, 1965]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

## PART I—PRELIMINARY

1. (1) **Short title.** This Act may be cited as "*The Children's Services Act of 1965.*"

(2) **Commencement of Act.** This Act shall commence on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.



**2. Arrangement of Act.** This Act is divided into Parts and Divisions as follows:—

PART I—PRELIMINARY;

PART II—ADMINISTRATION;

PART III—CHILDREN'S COURT;

PART IV—INSTITUTIONS;

PART V—CHILDREN IN NEED OF ASSISTANCE;

PART VI—CHILDREN IN NEED OF CARE AND PROTECTION;

PART VII—CHILDREN IN NEED OF CARE AND CONTROL;

PART VIII—PROTECTION OF CHILDREN;

*Division I—Health and Welfare of Children;*

*Division II—Registration to Take Charge of Children;*

PART IX—GUARDIANSHIP AND CUSTODY OF INFANTS;

PART X—FOSTER PARENTS;

PART XI—EMPLOYMENT OF CHILDREN;

PART XII—MAINTENANCE BY RELATIVES OF CHILDREN IN NEED OF ASSISTANCE AND OF CHILDREN IN CARE;

PART XIII—GENERAL PROVISIONS;

SCHEDULES.

**3. Repeals.** Subject to this Act, the Acts set out in Schedule I to this Act are repealed.

**4. Persons subject to the Department to continue so to be.** Until he is otherwise lawfully dealt with pursuant to and in accordance with this Act—

(a) a person who was committed or made subject to the care of the State Children Department and who at the commencement of this Act remains so committed or subjected shall be deemed to be a child in care and to have been admitted or committed as such pursuant to this Act and, for the purposes of this Act—

(i) a person who was so committed or made subject consequent upon his conviction of an offence or on the ground that he is uncontrollable shall be deemed to be committed to the care and control of the Director; and

(ii) a person who was so committed or made subject otherwise shall be deemed to be admitted to the care and protection of the Director;

(b) any person who has been sent to an institution, reformatory or industrial school or who has been ordered to be detained in any place pursuant to any provision of "*The State Children Acts, 1911 to 1955*," and who at the commencement of this Act is detained in any such institution, reformatory, industrial school or place shall continue to be so detained or to be detained in such place as the Director, from time to time directs, and shall be deemed to be detained pursuant to and in accordance with this Act;

(c) any person who was released or discharged on probation pursuant to "*The State Children Acts, 1911 to 1955*" or "*The Children's Courts Acts, 1907 to 1930*" and who at the commencement of this Act is subject to such probation shall be deemed to be subject to the supervision of the Director and to have been made so subject pursuant to this Act;

- (d) a person who, at the commencement of this Act, is detained in any place pursuant to a direction of the Minister of the Crown for the time being charged with the administration of "*The State Children Acts, 1911 to 1955*" given pursuant to section 25A of those Acts shall—
- (i) be deemed to have been ordered by the court which sentenced him to be so detained pursuant to section sixty-three of this Act;
  - (ii) be deemed to have been ordered by the court which sentenced him to be committed to the care and control of the Director; and
  - (iii) continue to be detained subject to and in accordance with the provisions of this Act:

Provided that, save as is otherwise provided by any other Act, such a person shall not be so detained beyond the expiration of the period for which he was sentenced to be detained.

**5. Reversion of guardianship in certain cases.** On and from the commencement of this Act the guardianship of a State child within the meaning of "*The State Children Acts, 1911 to 1955*," who on and from the date of such commencement, is to receive assistance, in money or in kind, from the Director under Part V of this Act shall pass to and vest in the person or persons who at law would be guardian or guardians of the child concerned were he not a State child.

**6. (1) Completion of proceedings taken prior to commencement of this Act.** Every proceeding taken under or for the purposes of any Act repealed by this Act and every other proceeding concerning a charge of an offence taken against a child prior to the commencement of this Act shall be completed in accordance with this Act.

**(2) Saving of agreements.** Every agreement made under or for the purposes of "*The State Children Acts, 1911 to 1955*" and which is undischarged at the commencement of this Act shall continue to be of full force and effect and to be enforceable in accordance with its terms and the provisions of those Acts which, for this purpose, shall be deemed to continue in force.

**(3) Saving of orders of Children's Court.** Every order of a Children's Court which at the commencement of this Act remains in force and has not been complied with in full shall continue to be of full force and effect and may be enforced as if this Act had not been passed.

**(4) Saving of orders of Director.** Every order made by the Director of the State Children Department pursuant to "*The State Children Acts, 1911 to 1955*," and subsisting at the commencement of this Act shall continue to be of full force and effect and shall be deemed to be an order of a like kind made by the Director pursuant to this Act.

**(5) Saving of licences.** Every licence granted by the Director of the State Children Department pursuant to "*The State Children Acts, 1911 to 1955*," and subsisting at the commencement of this Act shall continue to be of full force and effect and shall be deemed to be a licence of a like kind granted by the Director pursuant to this Act.

(6) **Apprehensions valid.** Every person apprehended pursuant to "*The State Children Acts, 1911 to 1955*," and who at the commencement of this Act has not been lawfully dealt with shall be deemed to have been apprehended pursuant to this Act and may be dealt with in accordance with this Act.

(7) **Savings of appointments as guardian.** Every guardian (whether of the person, the estate or both) appointed pursuant to "*The Guardianship and Custody of Infants Acts, 1891 to 1952*" and who, at the commencement of this Act, is acting in such a capacity, shall be deemed to have been so appointed pursuant to this Act.

(8) **Enforcement of maintenance orders.** (a) An order for maintenance made pursuant to "*The Guardianship and Custody of Infants Acts, 1891 to 1952*," and subsisting at the commencement of this Act shall continue in force and shall be deemed to be a maintenance order made pursuant to this Act and may be varied or enforced accordingly.

(b) A maintenance order made pursuant to "*The State Children Acts, 1911 to 1955*," and subsisting at the commencement of this Act shall continue in force and shall be deemed to be a maintenance order made pursuant to this Act and may be varied or enforced accordingly.

(9) **Savings of registration of persons and premises.** A registration effected in respect of a person or premises pursuant to "*The Infant Life Protection Acts, 1905 to 1935*," and subsisting at the commencement of this Act shall be deemed to have been effected pursuant to this Act and may be dealt with accordingly.

**7. Continuation of appointments.** (1) Every person who at the commencement of this Act holds an office or position to which he was appointed under or for the purposes of one or more of the Acts repealed by this Act shall continue to hold that office or position or the corresponding office or position under and for the purposes of this Act until he vacates or is lawfully removed from that office or position and when such office or position has been held, immediately prior to the commencement of this Act, under, subject to and in accordance with "*The Public Service Acts, 1922 to 1965*," the same or the corresponding office or position shall be and continue to be held under, subject to and in accordance with such lastmentioned Acts.

(2) Without prejudice to the general application of the preceding subsection, the person who, at the commencement of this Act holds the appointment of Stipendiary Magistrate, Children's Court, Brisbane, shall be a Magistrate of Children's Courts under and for the purposes of this Act until he vacates or is lawfully removed from that appointment.

**8. Meaning of terms.** In this Act unless the context otherwise indicates or requires, the following terms have the meanings respectively assigned to them in this section:—

"Breach of duty"—A breach of duty as defined by "*The Justices Acts, 1886 to 1964*";

"Child"—A person under or apparently under the age of seventeen years:

The term includes where necessary a person who though not under or apparently under the age of seventeen years may lawfully be dealt with by a court or has been dealt with by a court on the basis that he is a child:

- "Child in care"—A person (whether a child or not) who is for the time being in the care and protection or the care and control of the Director;
- "Day care centre"—Premises at which a person receives or in relation to which he holds himself out as ready to receive children for the purpose of minding or caring for them for a day or part of a day for fee or reward: The term does not include—
- (a) a kindergarten;
  - (b) a school, college or institution the sole or main purpose of which is the education of persons attending thereat;
  - (c) a dwelling-house at which a person minds or cares for children of whom he is a parent, relative or guardian;
- "Department"—The department preserved, continued in existence and constituted for the purposes of this Act under the title "Department of Children's Services";
- "Deputy Director"—The Deputy Director of the Department of Children's Services and includes a person for the time being performing the duties of Deputy Director;
- "Director"—The Director of the Department of Children's Services and includes a person for the time being performing the duties of Director;
- "Family"—The unit constituted by persons standing in the relationship of parent and child;
- "Father"—In relation to an adopted child means the adoptive father and in relation to an illegitimate child, includes a person who, by his acts or words, recognizes the child as his or who has been found by a court to be the putative father of the child;
- "Infant"—A person who has not attained the age of twenty-one years;
- "Institution"—Includes any place wherein a child is cared for apart from his parent or guardian;
- "Justice"—A Justice of the Peace for the State: The term includes a Magistrate of Children's Courts, a Stipendiary Magistrate and an Acting Stipendiary Magistrate;
- "Kindergarten"—A school conducted for the education of children who have not attained the age at which they are required by law to attend school;
- "Licensed premises"—Premises in relation to which a license to sell liquor issued pursuant to "*The Liquor Acts, 1912 to 1965*" subsists;
- "Local Authority"—A Local Authority constituted under "*The Local Government Acts, 1936 to 1965*": The term includes a Joint Local Authority and, in relation to the City of Brisbane, the Brisbane City Council constituted under "*The City of Brisbane Acts, 1924 to 1960*";
- "Magistrates Court"—A Magistrates Court constituted under "*The Justices Acts, 1886 to 1964*";
- "Maintenance"—Includes adequate food, clothing, nursing, medical treatment, training, discipline, education, lodging and care;

- " Medical examinations "—Includes physical, mental or psychological examinations;
- " Minister "—The Minister for Labour and Industry or other Minister of the Crown to whom the administration of this Act is, for the time being, entrusted; the term includes any person performing temporarily the duties of the Minister administering this Act;
- " Mother "—Includes the mother of an illegitimate infant and in relation to an adopted infant means the adoptive mother;
- " Parent "—Includes a person in *loco parentis* to a child;
- " Person "—Includes a body corporate and any association of persons;
- " Police officer "—A member of the Police Force of Queensland;
- " Premises "—Any land, building, vehicle or vessel;
- " Registry district "—A registry district proclaimed pursuant to "*The Registration of Births, Deaths, and Marriages Act of 1962*" or deemed by that Act so to have been;
- " Relative "—A grandfather, grandmother, brother or sister of the child concerned, a brother or sister of the father or mother of the child concerned, and any child, grandchild or spouse (including a surviving spouse) of such lastmentioned brother or, as the case may be, sister whether the relationship is, in any case, of the whole blood or half blood or by affinity and notwithstanding that the relationship is traced through or to an illegitimate person or depends upon the adoption of any person: The term does not include any person who has not attained the age of seventeen years;
- " Sell "—Includes to offer or expose for sale;
- " Simple offence "—A simple offence as defined by "*The Justices Acts, 1886 to 1964*";
- " Street-trading "—Includes canvassing for orders for the supply of goods whether ascertained or to be ascertained and whether such canvassing occurs in a public place or premises adjacent to a public place or in any other place.

When a meaning is assigned to a term by this section any derivative of that term when used in this Act has a corresponding meaning.

## PART II—ADMINISTRATION

**9. Administration of Act.** This Act shall be administered by the Minister and, subject to the Minister, by the Director, Deputy Director, and other officers appointed or continuing to hold an office or position for the purposes of this Act.

**10. Department of Children's Services.** The State Children Department constituted under and for the purposes of "*The State Children Acts, 1911 to 1955*," is hereby preserved, continued in existence and constituted for the purposes of this Act under the title "Department of Children's Services".

**11. Director.** The Governor in Council may appoint a Director of the Department.

Except so far as such duty is entrusted by this Act to any other person or entity, it is the duty of the Director to carry this Act into effect and the Director shall have and may exercise and perform all the powers, authorities, duties and functions necessary or desirable to effect that object.

Unless and until another appointment is made the person who at the commencement of this Act is the Director of the State Children Department shall be the Director.

**12. Deputy Director.** (1) The Governor in Council may appoint a Deputy Director of the Department.

Unless and until another appointment is made the person who at the commencement of this Act is the Deputy Director of the State Children Department shall be the Deputy Director.

(2) The Deputy Director shall, subject to this Act, exercise and perform all such powers, authorities, functions and duties as the Director may either generally or in a particular case direct or require.

(3) During any absence from duty of the Director, or during any vacancy occurring in the office of Director, the Deputy Director shall act as Director and while he so acts shall have and may exercise and perform all the powers, authorities, functions and duties of the Director under this Act.

**13. Tenure of office.** The Director and Deputy Director shall be appointed to and shall hold their respective offices subject to and in accordance with "*The Public Service Acts, 1922 to 1965.*"

**14. Visiting justices.** The Governor in Council may appoint justices to be visiting justices for the purposes of this Act and vest in such justices such powers, authorities, duties and functions as he may deem necessary to effect the objects of this Act.

**15. Honorary officers.** The Minister may appoint such number of honorary officers as he deems necessary or expedient to effect the objects of this Act.

Subject to this Act, honorary officers shall assist the Director in the carrying into effect of this Act as he may, from time to time, require.

**16. Power to delegate.** (1) Subject to any direction by the Minister to the contrary, the Director may either generally or in a particular case, by writing under his hand delegate to any officer or employee of the Department or any visiting justice or honorary officer all or any of the powers, authorities, duties and functions of the Director or the Deputy Director as may be therein specified (other than this power of delegation) so that the delegated powers, authorities, duties and functions may be exercised or as the case may require, shall be performed by the delegate according to the delegation.

(2) Where pursuant to this Act or any other Act the exercise or performance of any power, authority, duty or function of the Director or, as the case may be, Deputy Director is dependent upon the opinion, belief or state of mind of the Director or, as the case may be, Deputy Director in relation to any matter, that power, authority, duty or

function may be exercised or performed upon the opinion, belief, or state of mind of the person to whom it has been delegated pursuant to this section and who is considering the exercise or performance of the power, authority, duty or, as the case may be, function.

(3) The Director may make such and so many delegations of the same power, authority, duty or function pursuant to this section and to such number of persons as he considers necessary or desirable.

(4) The Director may at his own discretion and shall if thereunto directed by the Minister revoke, by writing under his hand, any such delegation.

A delegation made pursuant to this section shall not prevent or prejudice the exercise or performance by the Director or, as the case may be, Deputy Director of the power, authority, duty or function the subject of such delegation.

(5) **Presumption of authority.** Until the contrary is proved every exercise or performance of any power, authority, duty or function by the Director or the Deputy Director or, where it is alleged that such exercise or performance has occurred by virtue of a delegation made pursuant to this section, any officer or employee of the Department (not being a visiting justice or honorary officer) shall be presumed to be a lawful exercise or, as the case may be, performance.

**17. Annual Report.** (1) In each year the Director shall furnish to the Minister a report on the operation of this Act during the year covered by such report.

Such report shall contain such particulars as are prescribed.

(2) The Minister shall lay every such report before the Legislative Assembly.

### PART III—CHILDREN'S COURT

**18. Children's Court.** (1) There shall be constituted a Children's Court which shall be a court of record and shall have a seal which shall be judicially noticed.

(2) A Children's Court may be constituted at every place for the time being appointed as a place for holding Magistrates Courts pursuant to "*The Justices Acts, 1886 to 1964.*"

(3) The records of a Children's Court shall be in the custody of the clerk of the court at the place where the Children's Court concerned is constituted.

**19. Appointment of Magistrates of Children's Courts.** (1) The Governor in Council may appoint any justice to be a Magistrate of Children's Courts and may appoint such number of Magistrates of Children's Courts as he considers necessary to effect the objects of this Act.

(2) A Magistrate of Children's Courts may exercise the jurisdiction conferred upon a Children's Court or upon him by this Act throughout the State.



**20. Constitution of Children's Courts.** A Children's Court shall be constituted—

- (a) in a Magistrates Courts District wherein is stationed a Magistrate of Children's Courts, by such magistrate sitting alone if he is available but otherwise by a Stipendiary Magistrate or Acting Stipendiary Magistrate sitting alone or, if neither of such Magistrates is available, by two or more justices;
- (b) in any other case, by a Stipendiary Magistrate or Acting Stipendiary Magistrate sitting alone or, if neither of such magistrates is available, by two or more justices.

**21. Powers, authorities and jurisdiction.** (1) In relation to persons who and matters which, by this Act, are assigned to its jurisdiction a Children's Court shall have and may exercise—

- (a) the powers, authorities and jurisdiction conferred upon a Children's Court by this Act; and
  - (b) subject to this Act, the powers, authorities and jurisdiction conferred upon a Magistrates Court by "*The Justices Acts, 1886 to 1964.*"
- (2) Except when it is, by this Act, otherwise provided,—
- (a) the provisions of "*The Justices Acts, 1886 to 1964*" shall, with all necessary adaptations and subject to the provisions of any Order in Council made pursuant to section twenty-two of this Act, apply to—
    - (i) the institution and conduct of a proceeding before a Children's Court;
    - (ii) the exercise by a Children's Court of its powers, authorities and jurisdiction; and
    - (iii) the enforcement of an order made by a Children's Court;
  - (b) a person who feels aggrieved by a conviction or order of a Children's Court may appeal against such conviction or order in the same circumstances and in the same manner as if such conviction or order were a conviction or, as the case may be, order of a Magistrates Court;
  - (c) a justice acting in any capacity under this Act shall be entitled to the same powers, privileges and protection as are afforded to a justice by "*The Justices Acts, 1886 to 1964.*"

(3) In the last preceding subsection the term "order" when used in relation to a Children's Court has the same meaning as is defined for that term in "*The Justices Acts, 1886 to 1964,*" which definition shall, for this purpose, be read as if a reference to a Magistrate's Court therein were a reference to a Children's Court:

Provided that the term does not include a determination of a Children's Court to refrain from exercising its jurisdiction under section twenty-nine of this Act.

**22. Rules of court, forms and fees.** The Governor in Council may from time to time by Order in Council,—

- (a) with the concurrence of two Judges of the Supreme Court of Queensland of whom one shall be the Chief Justice make Rules of Court, not inconsistent with this Act,



which in his opinion are necessary or desirable for regulating the practice and procedure of a Children's Court in relation to the exercise by such court of jurisdiction conferred upon it by this Act or any other Act;

- (h) prescribe forms to be used for the purpose of proceedings before a Children's Court;
- (c) prescribe fees to be paid for the purpose of proceedings before a Children's Court and the purpose for which such fees shall be payable.

A Rule of Court may be of general application to all Children's Courts or may be made to meet a particular case.

Every such Order in Council shall upon its publication in the *Gazette*, have force and effect as if its provisions were enacted in this Act and shall be judicially noticed.

**23. Child charged with simple offence or breach of duty.** A child charged with a simple offence or breach of duty shall be brought or, as the case may require, summoned to appear before a Children's Court.

Subject to this Act, a Magistrates Court shall not have jurisdiction in respect of a child charged with a simple offence or breach of duty.

**24. Child charged with indictable offence.** Where an examination of witnesses in relation to an indictable offence charged against a child is to be taken at a place where a Magistrate of Children's Courts is available such child shall be brought or, as the case may require, summoned to appear before that magistrate sitting alone to take an examination of witnesses in relation to such indictable offence.

Subject to this Act, the provisions of "*The Justices Acts, 1886 to 1964*," applicable to a justice sitting to take an examination of witnesses in relation to an indictable offence shall, with all necessary adaptations, apply to such a magistrate so sitting.

**25. (1) Times for hearing charges.** A Children's Court shall fix special times for the hearing of charges of simple offences or breaches of duty against children and for the hearing of any other proceeding before such court which concerns a child and a justice, who is about to sit to take examinations of witnesses in relation to indictable offences charged against children, shall fix special times for such sitting.

**(2) Notice of special times.** Such Children's Court or, as the case may require, justice shall cause reasonable notice of such special times to be given to—

- (a) the children concerned;
- (b) each parent of such children whose whereabouts is known to such court or justice;
- (c) the guardians of such children whose whereabouts are known to such court or justice;
- (d) an officer of the Department; and
- (e) if such court or justice thinks fit, any religious, charitable or public organization or institution which is concerned with the care and rehabilitation of children.

(3) **Venue of hearings.** Whenever practicable the hearing of a charge against a child of an offence (whether indictable or not) and the taking of an examination of witnesses in relation to an indictable offence charged against a child shall be held in a room other than a room usually used by a court other than a Children's Court.

Should a room usually used by a court other than a Children's Court be the only room reasonably available for the hearing of such a charge or the taking of such an examination, the special times fixed pursuant to subsection (1) of this section shall be on a day or at an hour when the business of such other court is not being conducted in that room.

This subsection does not apply in respect of a hearing before the Supreme Court, a Circuit Court or a District Court.

**26. Custody of children.** (1) A child taken into custody in respect of an offence shall be brought as soon as practicable before a Children's Court or, as the case may require, a justice to be dealt with according to law.

A Children's Court or, as the case may require, a justice may—

- (a) admit such child to bail without a surety or with such one or more sureties as it or he considers fit; or
- (b) give such child into the custody of the Director or of a person who such court or, as the case may be, justice considers suitable and who is willing to receive such child and who undertakes in writing to produce such child where and when the court or, as the case may be, justice requires.

(2) Until such child can be brought before a Children's Court or, as the case may require, a justice,—

- (a) the person having charge of the case with which such child is concerned shall arrange for his care;
- (b) the Director and any person acting on his behalf may detain such child in such institution or place as the Director directs;
- (c) such child shall not be detained in a prison or lock-up unless his safe custody cannot otherwise be provided for.

**27. Hearing or examination concerning child not public.** Notwithstanding the provisions of any other Act or of any rule of law or practice to the contrary, a Children's Court or justice sitting to hear or take any proceeding in respect of a child shall cause to be excluded from the room wherein such court or justice is then sitting all persons except—

- (a) the complainant;
- (b) the child in respect of whom the proceeding has been commenced;
- (c) the police officer or other person in charge of the case;
- (d) counsel or solicitor for any party;
- (e) the parent or guardian of any child directly concerned in the case whether as defendant or witness or otherwise;
- (f) a representative of the Department;

- (g) a representative of an organization or institution concerned with the care and rehabilitation of children and being directly concerned in the case:

Provided that such court or justice may permit to be present—

- (a) any person whose presence, in the opinion of such court or justice, is not detrimental to the interests of the child concerned; or  
(b) any person who, in the opinion of such court or justice, might assist such court or justice.

**28. (1) Apparent age of child.** In the absence of proof of age a Children's Court, or a justice sitting to take an examination of witnesses in relation to an indictable offence may decide upon its or his own view, without further enquiry or after such enquiry as it or he considers warranted in the circumstances, whether a person before it or him charged with an offence is a child and if such court or justice decides that such a person is a child it shall be so deemed until the contrary is proved.

**(2) Certain persons to be dealt with as children.** Where in relation to a child any proceeding is commenced before a Children's Court or a justice and the person in relation to whom such proceeding was commenced ceases to be a child before such proceeding is completed it shall be lawful to complete such proceeding as though he had continued to be a child and in that event, should the case require it, he may be dealt with by any court or justice having cognizance of the proceeding on the basis that he is a child.

For the purposes of this subsection a proceeding of taking an examination of witnesses in relation to an indictable offence shall be deemed not to be completed until the person in relation to whom such proceeding was commenced has been sentenced or otherwise dealt with by a court of competent jurisdiction.

**(3) Vacating Children's Court's order in certain circumstances.** The fact that at the time of taking any proceeding or making any order the person in relation to whom such proceeding was taken or order was made was not a child shall not invalidate or render inoperative such proceeding or order:

Provided that a Children's Court may vacate an order made by it or by any other Children's Court in relation to a person who at the commencement of the proceeding in which such order was made was not a child and thereupon it shall be deemed that such proceeding had been commenced at the time and in the manner of its commencement but that it had not been pursued and that such order had not been made and such person shall be liable to be dealt with according to law as the circumstances of the case may require.

**(4) Vacating court orders made upon misapprehension of age.** The fact that at the time of taking any proceeding or making any order taken or made in relation to a person on the basis that he is not a child the person in relation to whom such proceeding was taken or order was made was a child shall not invalidate or render void or inoperative such proceeding or order:

Provided that—

- (a) any court may vacate such an order made by it or by any other court of like jurisdiction in relation to a person who at the time of the commencement of the proceeding in which

such order was made or the making of such order was a child and thereupon it shall be deemed that such order had not been made; and

- (b) any court which vacates such an order may, upon satisfying itself of the facts which must be taken to have been proved or accepted in the proceeding in which such order was made, make such order as, in its opinion, should have been made in such proceeding and for this purpose a Magistrates Court shall be deemed to have jurisdiction in respect of a child charged with a simple offence or breach of duty.

**29. Jurisdiction of Children's Courts in indictable offence.** (1) A Children's Court constituted by a Magistrate of Children's Courts or a Stipendiary Magistrate or an Acting Stipendiary Magistrate shall have jurisdiction to try or sentence or otherwise deal with, in accordance with this Act, a person who—

- (a) is a child charged with an indictable offence other than such an offence for which he would be liable, were he not a child, to imprisonment with hard labour for life;
- (b) was a child when a proceeding was commenced against him whereby he stands before such court charged with such an offence.

(2) A Children's Court shall refrain from exercising its jurisdiction under this section unless it is satisfied that—

- (a) the right of the defendant to be tried before a judge and jury has been explained to the defendant and to such parent or guardian of the defendant as is present before such Children's Court; and
- (b) the defendant and such parent or guardian consent to the Children's Court exercising such jurisdiction; and
- (c) the circumstances of the case and of the defendant are such that the case may be adequately dealt with by a Children's Court.

(3) When a justice taking an examination of witnesses in relation to an indictable offence charged against a child is about to commit the defendant to be tried before a court of competent jurisdiction and is satisfied that the circumstances of the case and of the defendant are such that the case may be adequately dealt with by a Children's Court he—

- (a) shall explain to the defendant and to such parent or guardian of the defendant as is present before him that the defendant is entitled to be tried—
  - (i) by a jury; or
  - (ii) by a Children's Court without a jury; and
- (b) shall enquire of the defendant and such parent or guardian as aforesaid whether each of them consents to the defendant's being tried by a Children's Court;
- (c) shall not commit the defendant to be tried by a Children's Court or proceed in accordance with the next succeeding subsection unless the defendant and such parent or guardian as aforesaid consent.

The provisions of this subsection shall not be construed to absolve the Children's Court before which the defendant, so committed, appears from the duty imposed on it by the last preceding subsection.

(4) A justice taking an examination of witnesses in relation to an indictable offence charged against a child who is about to commit the defendant to be tried or for sentence before a court of competent jurisdiction, if he may lawfully constitute a Children's Court at the place where he is then sitting, may (but only with the consent of counsel or a solicitor appearing for the defendant), instead of so committing the defendant and subject to the provisions of the last preceding subsection where they apply, cause a Children's Court to be there constituted and, subject to the provisions of subsection (1) of this section, such court may thereupon deal with the defendant according to law.

Such Children's Court shall not again hear evidence already adduced in the course of the examination of witnesses in relation to the indictable offence in question but such evidence shall be deemed to have been adduced before such Children's Court on behalf of the party on whose behalf it was adduced in such examination.

(5) When a Children's Court refrains from exercising its jurisdiction under this section the magistrate who constitutes such court shall commit the defendant to be tried or, as the case may require, for sentence before a court of competent jurisdiction and may exercise in relation to such defendant all such powers as such magistrate would possess by virtue of "*The Justices Acts, 1886 to 1964*," were he a justice taking an examination of witnesses in relation to an indictable offence charged against such defendant and the provisions of those Acts shall apply in relation to such committal and to proceedings taken consequent thereon as if such magistrate were a justice taking such an examination.

(6) A Children's Court may, pursuant to this section, exercise its jurisdiction with respect to an indictable offence notwithstanding that more than one year has elapsed from the time when the matter of complaint arose.

(7) (a) The provisions of "*The Criminal Code*" with respect to offences charged upon indictment, the conviction of any person so charged and the matters to be alleged or proved in relation to such a charge shall, subject to this Act, apply with respect to indictable offences charged against persons before a Children's Court as if such persons were charged upon indictment and, subject to this Act, the Children's Court, in the exercise of the jurisdiction conferred by this section, shall be subject to and may exercise the powers conferred by such provisions accordingly.

(b) The provisions of section six hundred of "*The Criminal Code*" shall apply in relation to a defendant committed for sentence before a Children's Court as if he appeared before such court charged upon indictment.

(c) A person convicted of an indictable offence before a Children's Court and the Attorney-General of the State shall have the same rights of appeal against conviction and against sentence passed consequent thereupon as if the convicted person had been convicted on indictment.

A person who desires to appeal against his conviction of an indictable offence before a Children's Court or against a sentence passed consequent upon such a conviction shall appeal or apply to the court and in the manner provided for in Chapter LXVII of "*The Criminal Code*" and "*The Criminal Practice Rules of 1900*" as amended from time to time.

The provisions of such Chapter and such Rules, with all necessary adaptations and modifications, shall apply in respect of every such appeal or application for leave to appeal.

## PART IV—INSTITUTIONS

**30. Establishment of institutions.** (1) The Governor in Council may, by Order in Council, establish admission centres, homes, assessment, remand and treatment centres, training centres, hostels, attendance centres and other types of institutions to provide for the care, protection, education, treatment, training, control and welfare (including religious, moral and material aspects of the same) of children in care and may, in like manner, abolish any of the same.

(2) All institutions under the operation and control of the State Children Department at the commencement of this Act shall be deemed to have been established under this section for their respective purposes for the purposes of this Act.

(3) The Governor in Council may by Order in Council vary the purposes for which any institution established under this Act exists and may, in like manner change any type of such institution to another type of institution.

**31. Licensing of institutions.** (1) The Minister may, by writing under his hand, approve, for the purposes of this Act, of any institution conducted or to be conducted by any person or organization for the care, protection, education, treatment, training, control or welfare of children.

In every such approval there shall be named the governing authority of the institution so approved and, in addition, some person as the person in charge of the institution concerned who shall thereupon be deemed to be the person in charge of such institution until the appointment of another person as such has been notified to the Director in accordance with this Act.

(2) Upon approval given under this section the Director shall issue in respect of the institution concerned a licence in or to the effect of the prescribed form and such institution shall be a licensed institution until—

- (a) the governing authority of that institution surrenders such licence; or
- (b) the Minister, by writing under his hand, revokes such approval; or
- (c) the purpose for which such institution is or is to be established at the time of the issue of such licence is varied.

(3) Every institution which at the commencement of this Act is a licensed institution under and for the purposes of "*The State Children Acts, 1911 to 1955*," shall be deemed to have been so licensed under this section and for the purposes of this Act.

**32. Notification of change in control of licensed institution.** Whenever, in relation to a licensed institution, there is a change in—

- (a) the person in charge; or
- (b) the persons constituting the governing authority,

the governing authority of such licensed institution shall cause notification in writing of such change to be given forthwith to the Director.

**33. Control of licensed institutions.** The governing authority of a licensed institution shall, subject to the Director, have the sole management and supervision of such institution and control of the appointment of all persons employed at such institution.

In all respects not otherwise expressly provided for in this Act such institution and those within it or employed thereat shall be subject to the provisions of this Act applicable to institutions conducted and controlled by the Department.

**34. Supervision of standard of care by Director.** The Director shall supervise the standard attained by each licensed institution in achieving the purposes for which it exists and for this purpose shall have the right to enter (himself or by his agents) upon the premises of such institution at all reasonable hours and to inspect the same and the activities carried on therein.

**35. Records of licensed institution.** (1) The governing authority of each licensed institution shall cause to be kept at such institution a register of all children from time to time within such institution and to be entered therein—

- (a) the name of each such child;
  - (b) the age of each such child upon admission to the institution;
  - (c) the date of admission of each such child to the institution;
  - (d) the names and addresses of each child's parents or, as the case may require, guardian if the same be known;
  - (e) the dates and times of visits by any person to each such child; and
  - (f) such other particulars as are prescribed.
- (2) The person in charge of a licensed institution shall—
- (a) enter in the register required to be kept under the preceding subsection all particulars required by this Act to be entered therein; and
  - (b) make such register available for inspection by the Director, Deputy Director or any person authorized in writing by the Director.

**36. Director to be notified of reception of certain children.** (1) The governing authority and the person in charge of a licensed institution shall forthwith notify the Director of the identity and reception into such institution of a child who, being other than a child in care—

- (a) is placed in such institution for a period to extend beyond three months; or
- (b) is in such institution for a period exceeding three months.

(2) A person shall not be convicted in respect of a non-compliance with the provisions of the preceding subsection in relation to a particular child if notification in relation to such child has been given to the Director by the governing authority of a licensed institution or by a person acting on its behalf or by the person in charge of such institution in accordance with that subsection.

**37. Aid to licensed institutions.** From moneys appropriated by Parliament for the purpose the Director shall pay to the governing authority of each licensed institution in respect of each child in care maintained within such institution a sum calculated at such rate as is prescribed.

The Minister may direct by writing under his hand that such sum be paid in respect of a particular child beyond the time when such child attains the age of seventeen years and the Director shall pay such sum in accordance with such direction.



**38. Audit of licensed institution accounts.** Upon request of the Minister the Auditor-General shall audit the accounts of any licensed institution and shall have with respect to such audit and accounts all the powers and authorities conferred on him by "*The Audit Acts, 1874 to 1965*," and shall report thereon to the Minister.

**39. Revocation of approval.** If the Director is dissatisfied with the management, maintenance or condition of any licensed institution he shall give written notice of that fact to the governing authority of the institution concerned and shall thereby call upon such governing authority to show cause why such institution should not cease to be a licensed institution.

If within two months after such notice has been given the governing authority does not show cause as aforesaid sufficient to satisfy the Director he may recommend to the Minister that such institution should cease to be a licensed institution.

Upon such a recommendation the Minister may by writing under his hand revoke his approval in relation to such licensed institution and thereupon such institution shall cease to be a licensed institution.

**40. Duties of persons in charge of institutions.** The governing authority and person in charge of an institution (whether or not established or licensed under this Act) having in its or his custody a child shall—

- (a) provide such child with adequate food, clothing, lodging and care;
- (b) maintain every part of such institution at all times in a fit and proper state for the care of a child;
- (c) secure for such child adequate education and religious training of such a type and form as is approved by the Director or, in the absence of such an approval as is in the best interests of such child;
- (d) ensure that such child receives adequate medical and dental treatment;
- (e) do, observe and carry out all acts, requirements and directions prescribed by this Act or by any order of the Director in relation to the institution and the care of such child.

#### PART V—CHILDREN IN NEED OF ASSISTANCE

**41. Assistance to families.** When it appears to the Director that the income or resources of a family is or are inadequate to maintain or properly care for the child or children of that family or that from any other cause such child or children is or are in need of assistance the Director may in his discretion give assistance to such family in such form and for such period as he may determine.

For the purpose of securing to any person education or vocational training on a full-time basis the Minister may, in relation to a person who or whose family is receiving or would, were he a child, receive assistance under this Part, direct that such assistance may be given to such person or to his family notwithstanding that he has attained the age of seventeen years and the Director may give such assistance to such person or to his family accordingly.

When such assistance involves the expenditure of money by the Director the power conferred by this section shall be subject to appropriation by Parliament of moneys for the purpose.



**42. Guardianship of children assisted.** The giving of assistance to a family or to any person under this Part of this Act shall not in any way affect the guardianship or custody of any person concerned at the time such assistance is given.

**43. Assistance may be conditional on supervision.** The Director may, in any case where he considers the circumstances warrant it, make the giving of assistance under this Part conditional upon the family or person concerned accepting such supervision over any member of such family or over such person as the Director may, from time to time, consider necessary or desirable and upon such other conditions as the Director may, from time to time, in writing, specify.

**44. Director's power in respect of assistance.** (1) In relation to assistance given under this Part of this Act the Director may—

- (a) cause such assistance to be paid or given to such person or persons, and, in the latter case, in such proportions, as he, from time to time, determines;
- (b) from time to time, vary the form of such assistance as he considers the circumstances of the case require;
- (c) cease all such assistance if—
  - (i) the family concerned or the person being assisted is not complying with any condition to which the giving of such assistance is subject;
  - (ii) the family concerned does not *bona fide* co-operate with the Director in securing the maintenance and proper care of any child of that family; or
  - (iii) for any other reason the Director considers that such assistance should no longer be given.

(2) In determining whether or not such assistance should cease the Director shall consider, as the paramount consideration, the well-being and proper care of the child or children of the family concerned or, as the case may be, of the person for whom such assistance is given.

**45. Assistance to be given as prescribed.** When the amount or quantity of assistance to be given under this Part or any other matter in relation to such assistance is prescribed the Director shall give such assistance as so prescribed.

#### PART VI—CHILDREN IN NEED OF CARE AND PROTECTION

**46. Children in need of care and protection.** (1) For the purposes of this Act a child shall be deemed to be in need of care and protection if—

- (a) not having a parent or guardian who exercises proper care of and guardianship over him, he is—
  - (i) neglected; or
  - (ii) exposed to physical or moral danger; or
  - (iii) falling in with bad associates; or
  - (iv) likely to fall into a life of vice or crime;
- (b) he is in the custody of a person who is unfit by reason of his conduct and habits to have custody of the child;
- (c) he is a person in relation to whom any of the offences mentioned in Part VIII of this Act has been committed;

- (d) he is a member of the same household as—
  - (i) a child in relation to whom an offence mentioned in Part VIII of this Act has been committed; or
  - (ii) a person who has been convicted of such an offence in relation to a child; and appears to be in danger of the commission upon or in relation to him of a similar offence;
- (e) he is a member of a household a member of which has been convicted of an offence under sections two hundred and twenty-two or two hundred and twenty-three of "*The Criminal Code*";
- (f) he begs or gathers alms, whether or not accompanied with the pretext of a sale or otherwise, or he is in or adjacent to a public place for the purpose of so begging or gathering alms;
- (g) he is found apparently abandoned, or loitering or sleeping in a public place and has no visible lawful means of support or no settled place of abode;
- (h) being under the school leaving age as provided for from time to time by law and not being licensed pursuant to section one hundred and fourteen of this Act, he sells any article in any public place:
  - (i) he takes part in any public exhibition or performance of a type referred to in this Act without a permit under Part XI of this Act so to do;
- (j) not being a child or ward of the licensee, he is, without lawful excuse, in a betting shop or billiard room, or the bar-room, billiard room or beer garden of any licensed premises;
- (k) he is served with intoxicating liquor in any of the premises mentioned in the last preceding paragraph;
- (l) being in the care of a person other than a parent, relative or guardian of such child, he is apparently deserted by his parent or guardian;
- (m) being under the school leaving age as provided for from time to time by law he is regularly absent from school without reasonable and adequate excuse;
- (n) being under the age of ten years, he commits an act which would, either alone or with other elements, constitute an offence on his part if he were of or over that age;
- (o) he is for any other reason in need of care and such care cannot be adequately provided by the giving of assistance under Part V of this Act.

(2) The provisions of paragraph (f) of the preceding subsection do not apply to a child who is seeking aid by lawful means for any purpose of a religious, charitable, educational or sporting organization or is in or adjacent to a public place for that purpose.

**47. Voluntary admission to care and protection.** (1) An application may be made to the Director in or to the effect of the prescribed form to admit any child to his care and protection by any of the following persons:—

- (a) a parent of such child;
- (b) a guardian of such child;

- (c) a relative of such child;
- (d) a person of good repute.

Upon receipt of such an application the Director shall make such inquiry and investigation as he considers necessary and shall hear all objections made to him concerning such application.

(2) If the Director is satisfied that the child in respect of whom such an application is made is in need of care and protection and that such care and protection cannot be secured to such child by the giving of assistance under Part V of this Act he shall by writing under his hand declare such child to be admitted to his care and protection.

Such declaration shall be sufficient authority for any person acting on behalf of the Director at any time while such declaration continues in force to take the child in care into his custody and to deliver such child in care to such place as the Director, from time to time directs, and for the person in charge of any such place to receive and keep the child in care until such child in care is otherwise lawfully dealt with.

(3) No provision of this section shall be construed to render it mandatory upon the Director to take any child into his custody.

**48. Duration of care and protection.** Subject to a direction of the Minister given pursuant to section fifty-seven of this Act, a declaration made pursuant to the last preceding section shall continue in force until—

- (a) the Director revokes such declaration; or
- (b) the expiration of one month after the date on which a parent of the child in care in respect of whom the declaration was made or a person who prior to the making of such declaration was a guardian of such child in care applies to the Director to undertake the care and protection of such child; or
- (c) a Children's Court makes an order, pursuant to this Part, in relation to the child in care in respect of whom such declaration was made; or
- (d) the child in care in respect of whom the declaration was made attains the age of eighteen years.

**49. Admission to care and protection by court order.** (1) An officer of the Department authorized in that behalf by the Director or a police officer may apply to a Children's Court for an order that a child be admitted to the care and protection of the Director.

(2) An officer of the Department authorized in that behalf by the Director or any police officer may, without further authority than this Act, take into custody on behalf of the Director any child who appears or who such officer suspects on reasonable grounds to be in need of care and protection.

The person so taking a child into custody shall,—

- (a) forthwith upon such taking notify the Director of that fact; and
- (b) as soon as practicable after such taking apply to a Children's Court for an order that such child be admitted to the care and protection of the Director.

Pending a determination by the Children's Court of such application such person shall arrange for the care of such child in a manner consistent with the best interests of such child and, for the purpose, such person or any other person to whom such child has been delivered by him may retain custody of such child.

(3) Upon an application made to it under this section a Children's Court shall—

- (a) order such investigations and medical examinations to be made in relation to the child concerned as to the court appear necessary or desirable and, if it does so order, be furnished with reports of such investigations and examinations;
- (b) remand such child into the temporary custody of the Director until such investigations and examinations are completed;
- (c) hear any objection to such application;
- (d) if it appears to such court that the best interests of such child require it, adjourn such application to another Children's Court whereupon it shall be deemed that such application was made in the first instance to such other Children's Court.

(4) A Children's Court—

- (a) if it is satisfied that such child is in need of care and protection, may—
  - (i) order a parent or guardian (other than the Director) of such child to enter into a recognizance in such amount as the court fixes without a surety or with such surety or sureties as the court orders conditioned that such parent or guardian exercise proper care, protection and guardianship in respect of such child;
  - (ii) order that the Director shall have protective supervision over and in relation to such child;
  - (iii) subject to section fifty-two of this Act, order that such child be admitted to the care and protection of the Director;
  - (iv) make such order as to the costs of the application and of any investigation or assessment made in respect of such child pursuant to the court's order as the court thinks just;
- (b) if it is not so satisfied, shall refuse to make any order.

**50. Application for court order in respect of child in care by declaration of Director.** (1) The Director may at any time during the continuance in force of a declaration made by him pursuant to section forty-seven of this Act apply to a Children's Court for an order that the child in care in respect of whom such declaration was made, be admitted to his care and protection.

(2) Upon such an application the court shall—

- (a) order such investigations and medical examinations to be made in relation to such child in care as to the court appear necessary or desirable and, if it does so order, be furnished with reports of such investigations and examinations;
- (b) hear any objection to such application,  
and may—
  - (c) make the order sought;
  - (d) make any other order or orders it could make upon an application made under section forty-nine of this Act; or
  - (e) refuse to make any order.

(3) If upon such an application the court does not make the order sought the court may and, if the Director has custody of the child in care in respect of whom such application is made, shall name the person or persons into whose custody such child in care shall be given and until the right to custody of such child in care passes elsewhere according to law the same shall pass to and vest in such named person or persons accordingly.

If the guardianship of such child thereafter vests in the Director according to law the right to custody of such child shall likewise pass to and vest in the Director.

**51. Application to revoke or substitute court order.** (1) An application may be made to the Children's Court which has made an order referred to in subparagraphs (i), (ii) or (iii) of paragraph (a) of subsection (4) of section forty-nine of this Act upon an application made pursuant to that section or pursuant to section fifty of this Act to revoke such order or to make another order in substitution for it.

Such an application may be made by—

- (a) the Director;
- (b) a parent or guardian of the child or child in care concerned;  
or
- (c) a person who was guardian of the child or child in care concerned immediately before such order was made.

(2) Upon such an application the court shall—

- (a) order such investigations and medical examinations to be made in relation to the child or child in care as to the court appear necessary or desirable and if it does so order, shall be furnished with reports of such investigations and examinations;

(b) hear any objection to such application,  
and may—

- (c) make an order that the order the subject of the application be revoked;
- (d) make any order in substitution for such order as the court may make upon an application made pursuant to section forty-nine of this Act; or
- (e) refuse to make any order.

(3) The court shall not entertain any such application in respect of any child or child in care within six months of the date of the hearing of a previous such application in respect of the same person except when such subsequent application is made by the Director who is exercising supervision over such person.

(4) If upon such an application the court revokes an order that a child be admitted to the care and protection of the Director or in substitution for such an order makes any other order the court may and, if the Director has custody of the child in care in respect of whom such application is made, shall name the person or persons into whose custody such child in care shall be given and until the right to custody of such child in care passes elsewhere according to law the same shall pass to and vest in such named person or persons accordingly.

If the guardianship of such child thereafter vests in the Director according to law the right to custody of such child shall likewise pass to and vest in the Director.

**52. Limitation on court's admitting to care and protection.** (1) A Children's Court shall not order that a child be admitted to the care and protection of the Director unless such court—

- (a) is satisfied that such child is in need of care and protection; and
- (b) is not satisfied that such care and protection can be secured to such child by any other order it may make.

(2) Upon every application made to a Children's Court under this Part the court shall determine the matter in the manner which appears to the court to be in the best interests of the child or child in care concerned.

**53. Duration and effect of certain orders.** (1) Subject to any direction of the Minister given pursuant to section fifty-seven of this Act an order made by a Children's Court that a child be admitted to the care and protection of the Director or that the Director shall have protective supervision over and in relation to any child shall continue in force until—

- (a) the child in relation to whom such order is made attains the age of eighteen years; or
- (b) a Children's Court otherwise orders; or
- (c) the Director releases the child or child in care from the operation of such order.

(2) An order that a child be admitted to the care and protection of the Director shall be sufficient authority for any person acting on behalf of the Director, at any time while such order continues in force, to take the child in care into his custody and to deliver such child in care to such place as the Director, from time to time, directs and for the person in charge of any such place to receive and keep such child in care until such child in care is otherwise lawfully dealt with.

**54. Director may release child.** The Director may, by writing under his hand, release any child or child in care from the operation of an order made by a Children's Court that the child concerned be admitted to the care and protection of the Director or that the Director have protective supervision over and in relation to the child concerned.

**55. Guardianship of child admitted to care and protection.** (1) When the Director has declared a child to be admitted to his care and protection or a Children's Court has ordered that a child be admitted to the care and protection of the Director the guardianship of such child in care shall pass to and, for so long as the declaration or, as the case may be, order continues in force, vest in the Director.

(2) When a declaration made by the Director that a child be admitted to his care and protection ceases to be in force the guardianship of such child in care shall—

- (a) where such declaration has ceased to be in force by reason of the order of a Children's Court that the child in care in respect of whom such declaration was made be admitted to the care and protection of the Director, remain vested in the Director for so long as such order continues in force;
- (b) in any other case, pass to and vest in the person or persons who, but for such declaration, would in law be guardian of such child in care.

(3) When an order of a Children's Court that a child be admitted to the care and protection of the Director ceases to be in force, the guardianship of such child in care shall pass to and vest in the person or persons who, but for such order would in law be guardian of such child in care.

**56. Protective supervision order.** (1) When a Children's Court orders that the Director shall have protective supervision over and in relation to any child—

- (a) such court shall, in its order, specify the matters and objects in relation to which the Director is to exercise his supervision;
- (b) the Director may, pursuant to such order, order the child concerned, a parent or guardian of such child or any two or more of such persons to do or refrain from doing any act or thing which, in the Directors' opinion, pertains to a matter or object specified in such court order.

(2) Every order issued pursuant to paragraph (b) of the preceding subsection shall be in writing under the hand of the Director or some person authorized by him in that behalf.

(3) Any person who contravenes or fails to comply with an order issued pursuant to paragraph (b) of subsection (1) of this section commits an offence against this Act.

**57. Extension of care and supervision by direction of Minister.** When he considers that the best interests of the child or child in care require it the Minister may, by writing under his hand, direct that any child or child in care in respect of whom the Director has made a declaration pursuant to section forty-seven of this Act or a Children's Court has made an order that such child be admitted to the care and protection of the Director or that the Director have protective supervision over and in relation to such child shall remain subject to such declaration or, as the case may be, order for such period as the Minister in any particular case directs, but not extending beyond the date such child or child in care attains the age of twenty-one years, notwithstanding that such child or child in care, within such period, shall have attained the age of eighteen years and thereupon and until such direction is revoked by the Minister such declaration or, as the case may be, order shall continue in force accordingly.

**58. Duty of Director to child admitted to care and protection.** (1) When a child is admitted to the care and protection of the Director either by declaration of the Director or by order of a Children's Court it shall be the duty of the Director to utilize his powers and the resources of the Department so as to further the best interests of such child in care and, in the performance of that duty and without limiting the Director's discretion in that regard, the Director may, from time to time, make use of such facilities and services as may be available or be made available by—

- (a) any parent of such child in care;
- (b) a relative or friend of such child in care;
- (c) any person approved by the Director;
- (d) placing such child in care in an institution established or licensed pursuant to Part IV of this Act;
- (e) placing such child in care in a boarding school, hostel or any other place considered by the Director to be in the best interests of such child in care.



The Director may impose such conditions upon the use he makes or proposes to make of any of such facilities and services as he considers to be in the best interests of the child in care concerned.

(2) A child admitted to the care and protection of the Director shall not be placed, while so admitted, in a child training centre except with the approval of the Minister first had and obtained.

**59. Preservation of rights of guardians.** Except as is expressly provided in this Part the provisions of this Part or the making of an order pursuant to this Part or the fact that such an order has ceased to be in force shall not be construed or taken to avoid, or prejudice the rights of any person who, except for the provisions of this Part would be, in law, guardian of any person.

#### PART VII—CHILDREN IN NEED OF CARE AND CONTROL

**60. Child in need of care and control.** For the purposes of this Act a child shall be deemed to be in need of care and control if—

- (a) he is falling or is likely to fall into a life of vice or crime or addiction to drugs;
- (b) he is exposed to moral danger;
- (c) he is or appears to be uncontrollable.

**61. Committal to care and control.** (1) An officer of the Department authorized in that behalf by the Director, a police officer or a parent or guardian of the child concerned may apply to a Children's Court for an order that a child be committed to the care and control of the Director.

(2) An officer of the Department authorized in that behalf by the Director or any police officer may, without further authority than this Act, take into custody on behalf of the Director any child who appears or who such officer suspects on reasonable grounds to be in need of care and control.

The person so taking a child into custody shall—

- (a) forthwith upon such taking notify the Director of that fact; and
- (b) as soon as practicable after such taking apply to a Children's Court for an order that such child be committed to the care and control of the Director.

Pending a determination by a Children's Court of such application such person shall arrange for the care of such child in a manner consistent with the best interests of such child and, for this purpose, such person or any other person to whom such child has been delivered by him may retain custody of such child.

(3) Upon an application made to it under this section a Children's Court shall—

- (a) order such investigations and medical examinations to be made in relation to the child concerned as to the court appear necessary or desirable and, if it does so order, be furnished with reports of such investigations and examinations;



- (b) remand such child into the temporary custody of the Director until such investigations and examinations are completed;
- (c) hear any objection to such application;
- (d) if it appears to such court that the best interests of such child require it, adjourn such application to another Children's Court whereupon it shall be deemed that such application was made in the first instance to such other Children's Court.

(4) A Children's Court—

- (a) if it is satisfied that such child is in need of care and control, may—
  - (i) order a parent or guardian (other than the Director) of such child to enter into a recognizance in such amount as the court fixes without a surety or with such surety or sureties as the court orders conditioned that such parent or guardian exercise proper care, protection and guardianship in respect of such child.
  - (ii) order that the Director exercise supervision over and in relation to such child; or
  - (iii) subject to the next succeeding subsection, order that such child be committed to the care and control of the Director;
- (b) if it is not so satisfied but is satisfied that such child is in need of care and protection, may make any order which pursuant to subparagraphs (i), (ii), or (iii) of paragraph (a) of subsection (4) of section forty-nine of this Act the court may make were the application before the court an application made under section forty-nine of this Act and were the court satisfied that the child concerned is in need of care and protection;
- (c) if it is not satisfied that such child is in need of care and control or care and protection, shall refuse to make any order;
- (d) in any case may make such order as to the costs of the application and of any investigation or assessment made in relation to such child pursuant to the court's order as the court thinks fit.

(5) A Children's Court shall not order that a child be committed to the care and control of the Director unless such court—

- (a) is satisfied that such child is in need of care and control; and
- (b) is not satisfied that such care and control can be secured to such child by any other order it may make.

(6) (a) An order made pursuant to paragraph (a) of subsection (4) of this section shall continue in force until—

- (i) the child in respect of whom the order is made attains the age of eighteen years; or
- (ii) the Minister orders the discharge of such child from the care and control of the Director.

(b) An order made pursuant to paragraph (b) of subsection (4) of this section shall be deemed to be an order made upon an application made pursuant to Part VI of this Act and shall be subject to the provisions of that part accordingly.

**62. Orders on children guilty of offences.** (1) Notwithstanding the provisions of any Act or of any rule of law a court shall not sentence to imprisonment a child who has pleaded guilty to or has been found guilty of a charge of any offence save as is provided for in this Act, but may exercise one or more of the following powers in respect of that child, his parent and guardian:—

- (a) order such investigations and medical examinations to be made in relation to a child who has pleaded or been found guilty, as aforesaid as to the court appear necessary or desirable and, if it does so order, shall be furnished with reports of such investigations and examinations;
- (b) remand such child in the custody of the Director or, if the court is satisfied that such child is so unruly or his character is otherwise such that he should be detained in custody other than that of the Director, in such other custody as the court may order until such investigations and examinations are completed;
- (c) order a parent or guardian (other than the Director) of such child to enter into a recognizance in such amount as the court fixes without a surety or with such surety or sureties as the court orders and in respect of such period as the court orders conditioned that such parent or guardian exercise proper care, protection and guardianship in respect of such child;
- (d) impose a fine upon such child as provided for or permitted in the Act under which he was charged;
- (e) order such child or a parent or guardian of such child or any two or more of such persons to pay compensation or make restitution in respect of the damage or loss occasioned by the offence to a charge of which such child has pleaded guilty, or of which he has been found guilty;
- (f) order such child or a parent or guardian of such child or any two or more of such persons to pay the costs of the proceedings before such court and of any investigation or examination made in relation to such child pursuant to the court's order:

Provided that this provision shall not be construed to authorize the making of an order as to costs in any case where, apart from this provision, the making of such an order would be unlawful;

- (g) order that such child be committed to the care and control of the Director for a period not exceeding two years;
- (h) order that the Director exercise supervision over and in relation to such child until such child attains the age of eighteen years or for a period not exceeding two years notwithstanding that within such period such child will have attained the age of eighteen years and, if the court thinks fit, order that such child shall during the period of such supervision attend such attendance centres maintained for the purposes of this Act as the Director, from time to time, orders;
- (i) if the court is satisfied that the child is so unruly or his character is otherwise such that he should be detained in custody other than in a home or institution under the control of the Director, order that such child be imprisoned for a period not exceeding two years;

- (j) if such child has been convicted of an offence of a sexual nature committed upon or in relation to a child, make such orders in relation to and deal with the child so convicted pursuant to "*The Criminal Law Amendment Act of 1945*," as if he were not a child and, where such child is before a Children's Court, as if such court were a Magistrates Court;
- (k) refrain from convicting such child, and—
  - (i) admonish and discharge him; or
  - (ii) order that the Director exercise supervision over and in relation to such child for a period not exceeding twelve months; or
  - (iii) order that such child be committed to the care and control of the Director for a period not exceeding two years.

(2) (a) If a person who is required, by an order made pursuant to the preceding subsection, to pay a fine, compensation, restitution or costs fails to pay such fine, compensation, restitution or costs forthwith or within the time allowed him in that behalf the Crown or, where the Court has ordered such compensation, restitution or costs to be paid to any person other than the Crown and other than a person or authority on behalf of the Crown, that other person may cause a copy of the order to be filed in the registry of a court which has jurisdiction in relation to a personal action arising otherwise than out of an accident in which a motor vehicle is involved in which the amount claimed is not more than the amount required by such order to be paid.

Such copy order shall, at the time of being so filed, be endorsed with or be accompanied by a statement of the amount of fine, compensation, restitution or costs which the person thereunto required by the order has failed to pay and such endorsement or, as the case may be, statement shall be certified as correct—

- (a) in the case of an order whereunder such person is required to make payment to the Crown or to a person or authority on behalf of the Crown,—
  - (i) if made by the Supreme Court of Queensland, under the hand of the Registrar or a Deputy Registrar of that court;
  - (ii) if made by a District Court, under the hand of the Registrar of that court;
  - (iii) if made by a Children's Court, under the hand of the clerk of the court at the place where the order was made;
- (b) in the case of an order whereunder such person is required to make payment of compensation or restitution to a person other than the Crown and other than a person or authority on behalf of the Crown, under the hand of the person to whom payment is required to be made.

Upon the expiration of thirty days after the filing of a copy of an order in the registry of a court of competent jurisdiction such order shall be of the same force and effect and all proceedings and remedies for the enforcement thereof with costs may be taken as if such order were a judgment of the court in the registry of which such copy order is filed ordering payment of the amount of fine, compensation, restitution or costs required to be paid together with costs.

(b) An order to pay compensation, restitution or costs shall not be made against a parent or guardian of a child unless such parent or guardian has been given an opportunity of being heard on that matter.

(c) An order to pay compensation, restitution or costs may be made against a parent or guardian of a person dealt with by a court on the basis that he is a child notwithstanding that he is not under or apparently under the age of seventeen.

(3) A court may order that a child be committed to the care and control of the Director for any period permitted by paragraph (g) or paragraph (k) of subsection (1) of this section notwithstanding that before the expiration of such period such child shall have attained the age of eighteen years.

Such a child shall, subject to this Act, remain in the care and control of the Director until the expiration of the period for which he was ordered to be so committed.

(4) Before the expiration of any period for which a person is committed to the care and control of the Director pursuant to paragraph (g) or paragraph (k) of subsection (1) of this section or pursuant to an application made under this subsection the Director may cause such a person who has not attained the age of eighteen years to be brought before the court which ordered him to be so committed or before a court of like jurisdiction.

If the Director satisfies such court that the best interests of such person require it such court shall order that such person be committed to the care and control of the Director for a further period not exceeding two years.

A court shall not order a person to be so committed for a period which would extend beyond the date such person attains the age of nineteen years.

(5) A child ordered pursuant to paragraphs (i) or (j) of subsection (1) of this section to be imprisoned or detained shall by virtue of such order be deemed to have been ordered by the court to be committed to the care and control of the Director.

**63. Order on children convicted of serious offences.** (1) Notwithstanding the provisions of any other Act or the foregoing provisions of this Act or of any rule of law when a child is convicted of an offence for which he would be liable, were he not a child, to imprisonment with hard labour for life or is convicted of—

(a) an offence of attempting to commit an offence defined in section 212, 317, 319, 319A, or 467 or in subsection (1) of section 467A of "*The Criminal Code*";

(b) an offence of attempting to commit an offence defined in section 469 of "*The Criminal Code*" when, to establish the offence of which he is convicted, a circumstance of aggravation referred to in special case I or II under that section is relied upon;

(c) an offence defined in section 214, 321, 349, 412, 462 or 470 of "*The Criminal Code*";

the court before which he is so convicted may in its discretion order that such child be detained during Her Majesty's pleasure in such place and on such conditions as the Minister may, from time to time, direct.

A child so ordered to be detained shall continue to be detained in such place and on such conditions as the Minister from time to time directs notwithstanding that in the meantime such child has attained the age of eighteen years:

Provided that when the Minister has directed, either before or after the commencement of this Act, that such a child be detained in a prison within the meaning of "*The Prisons Acts, 1958 to 1964*," whether a

particular prison is thereby specified or not, until the Minister directs that he be detained elsewhere, such child shall be detained in such prison within the meaning of those Acts, as the Comptroller-General of Prisons from time to time orders.

In this section the term "place" includes any prison within the meaning of "*The Prisons Acts, 1958 to 1964*," and any hospital, institution or any place declared by the Governor in Council by Order in Council to be a "place" within the meaning of this section.

(2) A child ordered pursuant to this section to be detained shall, by virtue of such order be deemed to have been ordered by the court to be committed to the care and control of the Director.

**64. (1) Guardianship of person committed to care and control.** When a court orders that a person be committed to the care and control of the Director the guardianship of such person shall thereupon pass to and, for so long as such order continues in force, vest in the Director.

When such an order ceases to be in force the guardianship of the child in care shall pass to and vest in the person or persons who, but for such order, would in law be guardian of such child in care.

(2) **Effect of order of committal to care and control.** Except in relation to a child in care—

(a) who is, for the time being, lawfully imprisoned or otherwise detained pursuant to an order of any court other than an order whereby he is only committed to the care and control of the Director; or

(b) to whom section sixty-three of this Act applies,

an order committing a child to the care and control of the Director shall be sufficient authority for any person acting on behalf of the Director at any time while such order continues in force to take such child in care into his custody and to deliver such child in care to such place as the Director from time to time directs and for the person in charge of any such place to receive and keep such child in care so delivered until he is otherwise lawfully dealt with.

**65. Duty of Director to child committed to care and control.** When a person is committed to the care and control of the Director it shall be the duty of the Director to utilize his powers and the resources of the Department so as to further the best interests of such child in care and, in the performance of that duty and without limiting the Director's discretion in that regard, the Director may from time to time make use of such facilities and services as may be available or be made available by—

(a) any parent of such child in care;

(b) a relative or friend of such child in care;

(c) any person approved by the Director;

(d) placing such child in care in an institution established or licensed pursuant to Part IV of this Act;

(e) placing such child in care in a hostel or any other place considered by the Director to be in the best interests of such child.

The Director may impose such conditions upon the use he makes or proposes to make of any of such facilities and services as he considers to be in the best interests of the child in care concerned.

**66. Discharge from care and control and from supervision.** (1) The Governor in Council may, at any time, order the discharge of any person who, upon conviction for an offence,—

(a) has been ordered (before or after the commencement of this Act) to be committed to the care and control of the Director; or

(b) in relation to whom it has been ordered that the Director exercise supervision,

and the Minister may, by writing under his hand, order the discharge of any person who, otherwise than upon conviction for an offence, has been ordered to be committed to the care and control of the Director or in relation to whom it has been ordered that the Director exercise supervision.

Upon the making of such an order of discharge the person concerned shall be forthwith discharged from the care and control or, as the case may be, the supervision of the Director in accordance with the order and if he is then in detention shall be released therefrom.

(2) The Governor in Council or, as the case may be, the Minister may, by the order discharging a person from the care and control of the Director order—

(a) in the case of a person who, by virtue of section sixty-three of this Act is deemed to be subject to such care and control, that the Director exercise supervision over and in relation to such person until he attains the age of eighteen years or, should he have already attained the age of seventeen years at the date of such discharge, that the Chief Probation Officer appointed under and for the purposes of "*The Offenders Probation and Parole Act of 1959*" exercise supervision over and in relation to such person for such period as the Governor in Council, by such order, fixes;

(b) in the case of any other person that the Director exercise supervision over and in relation to such person until he attains the age of eighteen years,

and in any such case the person so discharged shall be subject to the supervision of the Director or, as the case may be, the Chief Probation Officer accordingly.

(3) Upon the discharge of a person from the care and control of the Director the order of committal to such care and control shall cease to be in force.

**67. Effect of supervision order.** (1) When a court or the Governor in Council or Minister orders that the Director or the Chief Probation Officer exercise supervision over and in relation to any person—

(a) the court or, as the case may be, the Governor in Council or Minister, in such order, may specify the matters and objects in relation to which the Director or, as the case may be, the Chief Probation Officer is to exercise his supervision;

(b) the Director or, as the case may be, the Chief Probation Officer may, pursuant to such order, order the person concerned, a parent or guardian of such person or any two or more of such persons to do or refrain from doing any act or thing (including attendance at attendance centres maintained for the purposes of this Act, whether or not a court has so ordered) which, in the opinion of the Director or, as the case may be, Chief Probation Officer, pertains to a matter or object specified in such order or, in so far as not so specified, is in the best interests of the person being supervised.

(2) Every order issued pursuant to paragraph (b) of the preceding subsection shall be in writing under the hand of the Director, or, as the case may be, Chief Probation Officer or some person authorized by him in that behalf.

(3) A person who contravenes or fails to comply with an order issued pursuant to paragraph (b) of subsection (1) of this section commits an offence against this Act.

**68. Breach of supervision order.** (1) If the Chief Probation Officer—

(a) is satisfied that a person over and in relation to whom he is exercising supervision is not co-operating with him to achieve the objects of the order whereby such person was made subject to his supervision or is contravening or failing to comply with any order issued by the Chief Probation Officer pursuant to paragraph (b) of subsection (1) of the last preceding section; or

(b) is not satisfied that the conditions under which such a person is living are conducive to the welfare of such person, he shall report accordingly to the Director.

(2) If the Director—

(a) is satisfied that a person over and in relation to whom he is exercising supervision is not co-operating with him to achieve the objects of the order whereby such person was made subject to his supervision or is contravening or failing to comply with any order issued by the Director pursuant to paragraph (b) of subsection (1) of the last preceding section; or

(b) is not satisfied that the conditions under which such a person is living are conducive to the welfare of such person; or

(c) receives a report from the Chief Probation Officer under the preceding subsection,

the Director may cause an officer of the Department or any police officer without further authority than this Act to take such person into custody on behalf of the Director and, as soon as practicable,—

(i) in the case of a person who was ordered to be detained pursuant to section sixty-three of this Act, to return such person to the custody wherein he was detained immediately prior to his discharge into the supervision of the Director or the Chief Probation Officer and such person shall be therein detained in accordance with this Act during Her Majesty's pleasure until the Minister otherwise orders or until he is otherwise lawfully dealt with; or

(ii) in the case of any other person, to bring such person before a Children's Court notwithstanding that he is not a child.

(3) A Children's Court before which a person is brought pursuant to paragraph (ii) of the last preceding subsection shall—

(a) order such investigations and medical examinations to be made in relation to such person as to the court appear necessary or desirable and, if it does so order, be furnished with reports of such investigations and examinations;

(b) remand such person into the temporary custody of the Director until such investigations and examinations are completed;

(c) hear any objection to the return of such person to the care and control of the Director;



(d) if it appears to such court that the best interests of such person require it, adjourn such proceeding to another Children's Court whereupon it shall be deemed that such person was brought before such other Children's Court in the first instance;

(e)—

(i) commit or, as the case may be, recommit such person to the care and control of the Director until he attains the age of nineteen years; or

(ii) extend the period during which the Director is to exercise supervision over and in relation to such person until he attains the age of nineteen years; or

(iii) specify matters and objects or, as the case may be, further matters and objects in relation to which the Director is to exercise his supervision,

whichever order or orders the court considers warranted in the circumstances.

(4) When a court has, pursuant to this section, varied a supervision order the order as so varied shall be deemed to be the order under which the Director is to exercise supervision over and in relation to the person concerned and may be carried into effect under section sixty-seven of this Act accordingly.

## PART VIII—PROTECTION OF CHILDREN

### *Division I—Health and Welfare of Children*

**69. Offences in relation to the health of children.** (1) A person having a child in his charge shall not ill-treat, neglect, abandon or expose him in a manner likely to cause him unnecessary suffering or to injure his physical or mental health nor suffer him to be so ill-treated, neglected, abandoned or exposed.

**Penalty:** Two hundred pounds or imprisonment for twelve months or both such fine and imprisonment.

If any person who contravenes any provision of this subsection has benefited or would, but for any provision or rule of law preventing his so doing, benefit or, to his knowledge, stands to benefit, directly or indirectly, by reason of any property or any interest therein accruing to him or to any other person upon the death of the child in question he shall be liable to a fine of five hundred pounds or to imprisonment for two years or to both such fine and imprisonment.

(2) A person convicted of an offence against the preceding subsection may, instead of, or in addition to, any punishment to which he is liable, be ordered to enter into his recognizance, with such surety or sureties or without any surety as the court may determine, in such amount as the court thinks fit conditioned that he shall keep the peace and be of good behaviour for a period not exceeding one year and that he shall observe such further terms and conditions as are specified by the court or prescribed by the Governor in Council (who is hereby thereunto empowered) and to be imprisoned until such recognizance is or, as the case may require, recognizances are entered into but so that such imprisonment shall not be for a period longer than three months.

If during the period of his recognizance such person is again convicted of a contravention of any provision of the preceding subsection or of an offence of the same or a similar nature or contravenes or fails to obey any condition of his recognizance or any further term or condition which he is required to obey by order of a court or prescription of the Governor in Council he is liable to have his recognizance forfeited and, in addition, he commits an offence against this Act.



(3) A person having the charge of a child shall be deemed to have neglected him in a manner likely to cause him unnecessary suffering or to injure his health physical or mental, as the circumstances may indicate, if—

- (a) being able to so provide from his own resources, he fails to provide adequate food, clothing, medical treatment, lodging or care for such child; or
- (b) being unable to so provide from his own resources, he fails to take all lawful steps within his knowledge to procure the provision of adequate food, clothing, medical treatment, lodging and care for such child.

(4) A person may be convicted of an offence against this section notwithstanding—

- (a) that suffering or injury to the health of the child in question or the likelihood of suffering or injury to the health of the child in question was avoided by the action of another person; or
- (b) that the child in question has died.

(5) No provision of this section shall be construed to prejudice the rights of a parent, guardian, teacher or other person having lawful charge of a child to administer reasonable punishment to such child.

(6) A person charged with any offence against this section may be convicted of any other offence against this section which is established by the evidence.

(7) When a person appears before a court charged with an offence against subsection (1) of this section the court may, in the absence of proof of age, decide upon its own view, without further inquiry or after such inquiry as it considers warranted in the circumstances, whether a person concerned in the charge is a child and if such court decides that such person is a child it shall be so deemed until the contrary is proved.

**70. Power to arrest offenders.** Any police officer may arrest without warrant, any person who—

- (a) within the sight of such police officer commits an offence against section sixty-nine of this Act when the name and address of such person are unknown to such police officer and he cannot forthwith ascertain the same;
- (b) has committed or whom such police officer believes on reasonable grounds to have committed an offence against section sixty-nine of this Act if—
  - (i) he believes on reasonable grounds that such person will abscond; or
  - (ii) he does not know the name and address of such person and cannot forthwith ascertain the same.

**71. Power to take child into custody.** Any officer of the Department or any police officer may report the facts constituting an offence against section sixty-nine of this Act to a justice who may issue his written authority to take the child concerned in such offence into custody and to convey him to and to keep him in a place of safety until he can be lawfully dealt with pursuant to this Act.

Any officer of the Department or any police officer may carry out the authority of a justice issued under this section.

**72. Power to search.** When any person makes it appear to a Stipendiary Magistrate or Magistrate of Children's Courts by information on oath that there is reasonable cause to suspect that an offence against section sixty-nine of this Act has been committed or is being committed and that such person is *bona fide* acting in the interests of the child concerned in such offence such magistrate may issue his warrant authorizing all officers of the Department and all police officers to search for such child and for that purpose to enter any premises and to take into custody any person whom they believe on reasonable grounds to be a child in respect of whom such an offence has been or is being committed and to convey him to a place of safety and to there keep him until he can be lawfully dealt with pursuant to this Act.

For the purpose of executing such a warrant the person executing the same—

- (a) may be accompanied by a legally qualified medical practitioner;
- (b) if he is other than the person on whose information the warrant is founded, shall be accompanied by that person unless the magistrate who issues the warrant otherwise directs;
- (c) may enter (using such force as is reasonable), together with any person lawfully accompanying him, any premises or place wherein the person executing the warrant reasonably suspects such child to be.

#### *Division II—Registration to Take Charge of Children*

**73. Application of certain provisions of this Division.** The provisions of sections seventy-four, seventy-five and seventy-seven of this Act shall not apply in respect of the having in charge of any child—

- (a) by any person over the age of seventeen years who has charge of such child—
  - (i) with the authority of a parent, relative or guardian of such child; and
  - (ii) in the premises which prior to the commencement of such charge has been the place of residence of such child; and
  - (iii) during the temporary absence from such premises of such parent, relative or guardian;
- (b) by any person over the age of seventeen years who has charge of such child—
  - (i) with the authority of a parent, relative or guardian of such child; and
  - (ii) while such child is *bona fide* paying a visit to or residing with such person either during the temporary absence from such child's place of residence of such parent, relative or guardian or for the purpose of—
    - (a) such child's having a holiday;
    - (b) securing education for such child;
    - (c) obtaining medical treatment for such child from or under a legally qualified medical practitioner;
    - (d) any other like or prescribed object.

No provision of this section shall be construed to extend to a temporary absence, visit or residence the purpose of which is to enable a person having charge of a child to have charge of such child permanently.

**74. Registration of persons having charge of children.** (1) Any person other than the Director, a person acting on his behalf, a father, mother, relative, or guardian of the child concerned and other than a person who, were he charged with an offence under section seventy-seven of this Act, would, by that section, be provided with a defence to such charge who proposes to take into his charge a child under the age of ten years for a period exceeding forty-eight hours shall apply to the Director in or to the effect of the prescribed form to be registered for such purpose.

Upon receipt of such an application the Director shall cause the applicant to be investigated with a view to ascertaining his suitability for such purpose.

(2) If the Director determines that such an applicant is suitable for such purpose he may register the applicant accordingly and, if he does so, shall give to the applicant a certificate in or to the effect of the prescribed form.

(3) A registration effected pursuant to this section shall be sufficient registration, for so long as it subsists, for the purpose of the person so registered taking into his charge any further child or children under the age of ten years.

**75. Registration of premises for the care of children under ten years.** (1) Any person other than the Director, a person acting on his behalf, a father, mother, relative or guardian of the child concerned, who desires to use any premises other than premises referred to in paragraph (a) of subsection (2) of section seventy-seven of this Act for the purpose of having in his charge a child under the age of ten years for a period exceeding forty-eight hours, shall apply to the Director in or to the effect of the prescribed form for registration of such premises for such use.

(2) Upon receiving such an application the Director shall cause the premises concerned to be inspected by an officer of the Department who, for this purpose, may be accompanied by a legally qualified medical practitioner.

(3) If the Director grants such an application he—

- (a) shall specify as a condition of such registration, the maximum number of children who may at any time be cared for in the premises concerned;
- (b) may, from time to time, impose such other conditions upon such registration as he thinks fit;
- (c) may, from time to time, vary, revoke or re-impose any such condition;
- (d) shall issue to the applicant a certificate of registration which shall identify the premises concerned; and
- (e) shall, from time to time, provide the applicant with a list of the conditions for the time being applicable in respect of such registration.

(4) A registration effected pursuant to this section shall be sufficient registration, for so long as it subsists, for the purpose of the premises so registered being used, subject to and in accordance with conditions imposed by the Director, for having in charge any further child or children under the age of ten years.

**76. Cancellation of registration.** (1) The Director may at any time by notice in writing call upon a person—

(a) who is registered pursuant to section seventy-four of this Act;  
or

(b) in respect of whose premises a certificate of registration has been issued pursuant to section seventy-five of this Act,

to show cause why such registration should not be cancelled and if within fourteen days after the giving of such notice such person does not show such cause to the satisfaction of the Director, the Director may cancel the registration concerned.

(2) Upon such cancellation the Director shall in writing notify the person concerned thereof and such person shall within seven days after receipt of such notice surrender to the Director the certificate issued by the Director in respect of the registration so cancelled.

**77. Offence to have charge of child in contravention of this Part.** (1) A person who, in any premises, has in his charge a child under the age of ten years for a period in excess of forty-eight hours commits an offence against this Act unless—

(a) such person is the Director or a person acting on his behalf, a father, mother, relative or guardian of the child concerned;  
or

(b)—

(i) such person is registered under this Part; and

(ii) such premises are registered under this Part.

In any proceeding in respect of an offence against this section the court may form its own view of the age of any child concerned and, if it is of opinion that such child is under the age of ten years, may convict the defendant notwithstanding that the age of such child has not been proved.

(2) A person shall not be convicted of an offence under the preceding subsection if it is shown—

(a) in relation to a charge which alleges that the premises concerned were not registered under this Division, that such premises were, at the relevant time—

(i) a hospital within the meaning of "*The Hospitals Acts, 1936 to 1964*";

(ii) an institution within the meaning of "*The Charitable Institutions Management Act of 1885*";

(iii) a private hospital within the meaning of "*The Health Acts, 1937 to 1964*";

(iv) an institution licensed under Part IV of this Act;

(v) an institution wholly maintained by the State;

(vi) a school, institution or establishment conducted solely for educational purposes;

(vii) premises wherein, in addition to the child concerned, there was also present, at the relevant time, a father, mother, relative or guardian of such child and such father, mother, relative or guardian was not absent from such premises for a period in excess of forty-eight consecutive hours during such child's stay in such premises; or

(viii) premises exempted by or under this Act from the provisions of section seventy-five of this Act;

(b) in relation to a charge which alleges that the defendant was not registered under this Division, that such defendant was, at the relevant time,—

- (i) a person in charge of any of the premises referred to in provisions (i) to (vii) (both inclusive) of paragraph (a) of this subsection and that the child concerned was, at the relevant time, in his charge in one of such premises; or
- (ii) a person exempted by or under this Act from the provisions of section seventy-four of this Act.

(3) **Exemption by Director.** In any case where the Director is satisfied that the provisions of sections seventy-five or seventy-four of this Act need not apply he may, by writing under his hand, exempt the premises concerned or the person in charge thereof or both from those provisions either generally or for such period as he therein specifies and may, by notice in writing to the person in charge of premises so exempted or, as the case may be, to the person so exempted, revoke such an exemption.

A person shall not be convicted of an offence under subsection (1) of this section if it is shown that such an exemption subsisted at the time in question in respect of the premises or, as the case may be, person concerned.

**78. Director's powers relating to children in unregistered premises.** Where the Director is satisfied that any child is in the charge of any person contrary to the provisions of this Division then whether or not such person is prosecuted for an offence thereby committed the Director may—

- (a) transfer such child to the custody of a father, mother, relative or guardian of such child; or
- (b) transfer such child to the care of a person registered under this Act upon a parent, relative or guardian of such child entering into an agreement with such registered person for the care and maintenance of such child; or
- (c) admit such child into his care and protection,

and, for the purposes of this section, take the child concerned into his custody or cause the child to be taken into the custody of some person on his behalf.

**79. Duties of persons in charge of premises required to be registered.** A person in charge of premises required to be registered under this Division shall—

- (a) keep upon such premises a register in the prescribed form and shall enter or cause to be entered therein all such particulars as are prescribed;
- (b) comply with every condition for the time being applicable in respect of the registration of such premises;
- (c) produce for the inspection of the Director or of any officer of the Department the register required by this section to be kept;
- (d) within seven days after the reception into such premises of a child under the age of ten years, notify the Director in or to the effect of the prescribed form of all such particulars as are prescribed;
- (e) provide every child cared for in such premises with adequate food, clothing, medical treatment, lodging and care;

- (f) at all times keep every part of such premises in a fit and proper state for the care of children;
- (g) secure for every child being cared for in such premises adequate education and religious training of a type and form approved by the Director;
- (h) do, observe and carry out all acts, requirements and directions prescribed by this Act or specified by any order of the Director in relation to such premises or the care of any child therein;
- (i) upon the removal of a child from such premises, forthwith notify the Director of such removal;
- (j) upon the death of a child being cared for in such premises, forthwith notify the Director and the police officer in charge of the police station nearest to such premises of such death;
- (k) forthwith notify the Director of every change in the abode of such person.

Where there are two or more persons in charge of any such premises and the duty in question may be adequately performed by one of such persons it shall be deemed sufficient compliance with this section if one of such persons performs or causes to be performed that duty.

**80. Responsibility of person in charge of premises required to be registered.** A person in charge of premises required to be registered under this Division shall be responsible not only for his own acts or defaults in relation to a child in his charge or in relation to such premises but also for any act or default in relation to such child or premises of any person employed by him in or in connection with such premises.

It is immaterial for the purposes of establishing the liability of such a person in charge that, in respect of any such act or default, he—

- (a) did not know of such act or default; or
- (b) had instructed the person who has done such act or made such default not to do such act or not to make such default.

**81. Power to inspect and to issue orders relating to premises required to be registered.** (1) The Director or any officer of the Department authorized in writing by him may at all reasonable hours enter and inspect every part of—

- (a) premises required to be registered under this Division; or
- (b) premises which the Director reasonably suspects to be premises required to be registered under this Division.

(2) The person who makes such an inspection may issue an order in writing to the person in charge of such premises specifying such matters as, in the opinion of such first-mentioned person, are necessary to comply with the provisions of this Division or to comply with the conditions for the time being applicable in respect of the registration of such premises.

- (3) The person who makes such inspection may be accompanied by—
- (a) a police officer; and
  - (b) a legally qualified medical practitioner.

(4) Any person who—

- (a) wilfully obstructs any person making an inspection pursuant to this section or a person lawfully accompanying him; or
- (b) fails to comply with an order issued pursuant to this section either forthwith or, if a time is specified in such order, within the time specified,

commits an offence against this Act.

**82. (1) Restriction on placing child with a view to adoption.** A person who, for the time being, has a child in his charge whether by virtue of his being a parent, relative or guardian of such child or otherwise, shall not place such child in the charge of any other person with a view to the adoption of such child by such other person unless—

- (a) the Director has first approved thereof; or
- (b) such other person is a father, mother or relative of such child.

**(2) Restriction on receiving child with a view to adoption.** A person shall not receive into his charge a child with a view to his adoption of such child unless—

- (a) the Director has first approved thereof; or
- (b) such person is a father, mother or relative of such child.

**83. Restriction on the removal of new-born children from premises.**

A person in charge of premises in which a woman has given birth to a child shall not permit such child to be taken from such premises, unless such child is in the charge of its mother, without first obtaining the consent in writing of the Director.

**84. Restriction on payment for child in the charge of another.** (1) A person shall not receive into his charge or agree to receive into his charge a child under the age of ten years in consideration of the payment of valuable consideration (in money or in kind) otherwise than by way of periodical instalments unless he has first obtained the written approval of the Director.

(2) A person shall not make or agree to make nor receive or agree to receive a payment of such valuable consideration which—

- (a) is for a longer period than four weeks; or
- (b) exceeds the amount prescribed.

(3) The provisions of subsections (1) and (2) of this section do not apply—

- (a) to the Director or a person acting on his behalf, father, mother or guardian of the child concerned; or
- (b) to a relative of the child concerned who has charge of the child in such circumstances that the Director is satisfied that such provisions need not apply and has certified in writing accordingly (the Director being hereby thereunto empowered); or
- (c) where, in addition to the child concerned, there is also present a father, mother, relative or guardian of such child and such father, mother, relative or guardian is not absent for a period in excess of forty-eight consecutive hours.

(4) The evidence of any officer of the Department that the Director has not certified in the manner referred to in paragraph (b) of the last preceding subsection shall be accepted in any proceeding as *prima facie* evidence of that fact.

**85. Children born out of wedlock.** (1) This section applies in respect of every child who, in a case referred to in subsection (2) of this section, is not legitimate at the date of his birth or who, in a case referred to in subsection (3) of this section, is not, at the date of his death, legitimate or taken to have been born in lawful wedlock.



(2) The occupier of premises in which a child in respect of whom this section applies is born shall within three days after the birth of such child give notice in writing thereof to the district registrar or assistant district registrar of the registry district in which such birth occurs.

(3) The occupier of premises in which any child under the age of six years in respect of whom this section applies dies or to which the body of any such child who has died under that age is brought shall within twenty-four hours of the death of such child or the reception of his body, as the case may be, give notice in writing of such death to the district registrar or assistant district registrar of the registry district in which such death or reception as the case may be, occurred.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section—

(a) if the premises in question are not situated within the boundaries of a city or town, the occupier thereof—

(i) may give the notice required of him by this section to the police officer in charge of the nearest police station; and

(ii) may give the notice required of him by this section within one week after the birth, death or, as the case may be, reception of a body, has occurred;

(b) if the occupier of the premises in question is the mother of the child notice of whose birth is required by this section to be given, such occupier may give the notice required of her by this section within three weeks after such birth has occurred.

(5) In any proceeding in respect of an offence against any of the preceding subsections of this section it shall be a defence that the defendant had no reason to believe and did not believe the child a notice of whose birth, death, or, as the case may be, the reception of whose body is required by this section to be given is or was a child to whom this section applies.

(6) (a) A district registrar, assistant district registrar or police officer in charge of a police station who receives a notice required by this section to be given shall forthwith notify the Director of the receipt of such notice and of the particulars shown therein.

(b) In the case of the birth of a child to whom this section applies the Director, upon learning of such birth, shall take all steps to ensure that the well-being of such child and of its mother are adequately provided for.

(7) Every person (other than a district registrar within the meaning of "*The Registration of Births, Deaths and Marriages Act of 1962*") who knows of the birth, death or, as the case may be, reception in or into any premises of the body of a child in relation to whom or which notice is required by this section to be given shall forthwith inform the occupier of such premises that the child concerned is or was a child to whom this section applies unless he believes on reasonable grounds that such occupier already is aware of that fact and of the fact of such birth, death or reception.

(8) No provision of this section shall be construed to prejudice or affect—

(a) the provisions of "*The Registration of Births, Deaths, and Marriages Act of 1962*";

(b) the provisions of Division II of Part III of "*The Health Acts, 1937 to 1964*"; or

- (c) the provisions of this Act which impose upon any person the duty to give notice to the Director in relation to any child in his charge.

**86. Day care centres.** The person in charge of a day care centre shall comply with the provisions of regulations made pursuant to this Act in relation to such a centre.

The Local Authority having jurisdiction in the area in which such a centre is situated shall administer and enforce such regulations.

#### PART IX—GUARDIANSHIP AND CUSTODY OF INFANTS

**87. Meaning of terms.** In this Part, unless the context otherwise indicates or requires and without prejudice to any provision of section eight of this Act, the following terms have the meanings respectively assigned to them in this section:—

“Court”—The Supreme Court of Queensland and a Judge thereof and a Children's Court constituted by a Magistrate of Children's Courts or a Stipendiary Magistrate;

“Father”—Does not include the natural father of an illegitimate child;

“Parent”—Includes a person who is in law liable to maintain the infant concerned and a person who is entitled to custody of such infant.

**88. Principle on which questions relating to custody, &c., of infants are to be decided.** (1) Where in any proceeding before the court or any other court of competent jurisdiction the custody or upbringing of an infant, or the administration of any property belonging to or held on trust for an infant, or the application of the income thereof is in question the court in deciding that question shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father.

(2) The mother of an infant has the like powers to apply to the court in respect of any matter affecting the infant as are possessed by the father.

**89. Rights of surviving parent as to guardianship.** (1) On the death of the father of an infant the mother, if she is surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly with any guardian appointed by the father.

(2) When no guardian has been appointed by the father (who is deceased) of an infant, or if the guardian or all the guardians appointed by such a father is or are dead or refuses or refuse to act, the court may, if it thinks fit, appoint a guardian to act jointly with the mother of the infant.

(3) On the death of the mother of an infant the father, if he is surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly with any guardian appointed by the mother.

(4) When no guardian has been appointed by the mother (who is deceased) of an infant, or if the guardian or all the guardians appointed by such a mother is or are dead or refuses or refuse to act, the court may, if it thinks fit, appoint a guardian to act jointly with the father of the infant.

(5) If, pursuant to this section, a guardian has been appointed by the court to act jointly with a mother or, as the case may be, father of an infant as guardian of such infant such appointed guardian shall, until the court otherwise orders, continue to act as guardian after the death of such surviving mother or, as the case may be, father but if such surviving mother or, as the case may be, father has appointed a guardian or guardians of such infant the guardian appointed by the court shall act jointly with the guardian or guardians appointed by such surviving mother or, as the case may be, father as guardian of such infant.

**90. Power of father and mother of an infant to appoint guardians.**

(1) The father of an infant may, by deed or (if otherwise competent at law to make a will) by will, appoint any person or persons to be guardian or guardians of the infant after the death of such father.

(2) The mother of an infant may, by deed or (if otherwise competent at law to make a will) by will, appoint (and in the case of the mother of an illegitimate infant shall be deemed always to have had the power to so appoint) any person or persons to be guardian or guardians of the infant after the death of such mother.

(3) Any guardian so appointed shall act jointly with the surviving mother or, as the case may be, father of the infant for so long as such mother or father lives unless such mother or father objects to his so acting.

If such mother or father so objects, or if any guardian so appointed considers that such mother or father is unfit to have the custody of such infant, such guardian may apply to the court to declare as to the guardianship in issue and thereupon the court may—

- (a) refuse to make any order or declaration in which case the mother or, as the case may be, father shall continue as sole guardian of the infant concerned; or
- (b) order that the guardian or guardians so appointed or any of them and, when there are more than one guardian so appointed, whether or not any of them is party to such application, shall act jointly with such mother or, as the case may be, father as guardian of the infant concerned; or
- (c) order that the guardian or guardians so appointed or any of them and, when there are more than one guardian so appointed, whether or not any of them is party to such application, shall be guardian of the infant concerned in lieu of such mother or, as the case may be, father.

When the court makes an order upon an application made pursuant to this section, it may—

- (d) make such order with respect to the custody of the infant and the right of access to such infant by such mother or father or other guardian as, having regard to the welfare of the infant, the court thinks fit;
- (e) order that such mother or, as the case may require, father shall pay to the guardian who, from time to time, has lawful custody of the infant concerned towards the maintenance of such infant such weekly or other periodical sum as, having regard to the means of such mother or father, the court thinks reasonable.

(4) When guardians are appointed by both father and mother of an infant, the guardians so appointed shall, after the death of the surviving such parent act jointly as guardian of such infant.

**91. Power of court to appoint guardian.** When an infant has no parent, no guardian of the person and no other person having parental rights in relation to him the court, upon the application of any person, may, if it thinks fit, appoint the applicant to be guardian of the infant.

**92. Powers of a guardian.** (1) Subject to the provisions of any Act rule of law or order of a court of competent jurisdiction, a guardian in Queensland who is acting as such by virtue of this Act or who has been appointed pursuant to this Part may,—

- (a) if he is guardian of the person of the infant concerned,—
  - (i) institute and maintain proceedings against any person wrongfully detaining or taking away the infant from his custody or control and recover damages in respect thereof to the use of the infant;
  - (ii) take into his custody and control the infant and the tuition of the infant;
- (b) if he is guardian of the estate of the infant concerned,—
  - (i) take into his custody and control the profits of all lands, tenements and hereditaments of the infant and the management of the goods, chattels and personal estate of the infant to the use of the infant;
  - (ii) institute and maintain such proceedings in relation to the property of the infant as may be necessary for effectually carrying out any of the powers conferred by the last preceding subparagraph.

(2) Subject to an order of any court of competent jurisdiction a guardian may exercise a power conferred by the preceding subsection from time to time until the infant subject to the guardianship attains the age of twenty-one years and no longer.

**93. Court may make orders as to custody and maintenance of infants.**

(1) Upon application by the mother or the father of an infant (which application may be made without next friend), the court may make such order as it thinks to be in the best interests of the infant concerned regarding the custody of such infant and the right of access to such infant by its father or, as the case may require, its mother.

In determining such an application the court shall have regard to—

- (a) the welfare of the infant;
- (b) the conduct of the mother and the father of the infant;
- (c) the wishes of both the mother and father of the infant.

(2) Where such an order has been made the court may, upon application by the mother or father of the infant concerned, or, if both such mother and father have died, by any guardian appointed in accordance with the provisions of this Act, vary or discharge such order in such manner as it thinks to be in the best interests of the infant concerned.

(3) Upon an application made pursuant to this section the court—

- (a) may make such order regarding the costs of the mother or, as the case may require, the father or guardian and the liability of any person therefor as the court thinks just;
- (b) may make such order regarding the maintenance of the infant concerned and the liability of the mother or, as the case may be, the father of such infant to make weekly or other periodical payments towards such maintenance as the court, having regard to the means of the person who is to be ordered to pay such maintenance, thinks reasonable.

(4) The court may exercise all or any of the powers conferred by this section notwithstanding that the mother of the infant concerned is, at the time, residing with the father of such infant:

Provided that an order made by the court pursuant to this section shall not be enforceable and no liability under such an order shall accrue while such mother resides with such father and if such residence continues for a period of three months after such order is made such order shall cease to have any force and effect.

**94. When maintenance order may be enforced by a clerk of the Magistrates Court.** (1) The court may by maintenance order made pursuant to this Part or by a subsequent order made upon the application of the person having custody of the infant in respect of whose maintenance such order has been made direct that such maintenance (including, in the case of a subsequent order, all arrears of maintenance accrued under the maintenance order and unpaid at the date of the making of such subsequent order, the amount of which arrears may be determined by the court) shall be paid to the clerk of the court at a place appointed for holding Magistrates Courts specified by the court:

Provided that, in the case of a subsequent order, the court shall not direct in manner provided for in this subsection unless it is satisfied, having regard to the proviso to subsection (4) of the last preceding section, that the maintenance order is enforceable.

(2) Upon the filing in the registry of the Supreme Court of Queensland or upon the making by a Children's Court of an order containing the direction provided for in the preceding subsection the registrar or, as the case may require, clerk of the court shall forward an office copy thereof (and, in the case of an order subsequent to a maintenance order, an office copy of such maintenance order, and any order varying the same) to the clerk of the court at the place appointed for holding Magistrates Courts specified in the direction aforesaid.

When and as often as a subsequent order varying or discharging the maintenance order is filed in the registry of the Supreme Court of Queensland or is made by a Children's Court the registrar or, as the case may require, clerk of the court shall forward an office copy of that subsequent order to the appropriate clerk of the court.

Every such office copy shall be made and forwarded as prescribed free of charge and may be so forwarded by prepaid registered post or by delivering the same to the appropriate clerk of the court at his office.

(3) Upon the receipt of an office copy of a maintenance order forwarded to him pursuant to this section the clerk of the court shall enter the same in a register to be kept by him for the purpose and thereupon the maintenance order shall, subject to any further order varying or discharging the same, be of the same force and effect and may be enforced under "*The Maintenance Acts, 1949 to 1954*," or any Act passed in substitution therefor and all proceedings and remedies for the enforcement thereof may be taken as if such order were a maintenance order made pursuant to "*The Maintenance Acts, 1949 to 1954*," or, as the case may require, any Act passed in substitution therefor by a Magistrates Court and containing a direction that the payment of maintenance be made to the clerk of the court and, notwithstanding anything to the contrary in this Act contained, it shall, for the purpose of taking all such proceedings and remedies for the enforcement thereof be deemed to be enforceable and remain in full force and effect until the direction referred to in subsection (1) of this section is suspended, varied or rescinded by the court or the maintenance order which includes such direction is discharged by the court.

A Magistrates Court shall not have or exercise any power to vary, suspend or discharge any such order or, while it subsists, to substitute a new order in its stead.

(4) The court may at any time suspend, vary or rescind a direction made pursuant to this section.

(5) The provisions of this section shall operate so as not to prejudice the jurisdiction, powers and authority of the court or the enforcement of any maintenance order in any other manner provided by law.

**95. Power of court to remove guardian.** The court may, in its discretion, if it is satisfied that it is in the best interests of the infant concerned, remove from his office any testamentary guardian or any guardian appointed pursuant to this Part and, if the court is satisfied that it is in the best interests of the infant concerned, appoint another guardian in place of the guardian so removed.

**96. Production of infant.** (1) When a parent of an infant applies to the court for a writ or order for the production of such infant and the court is of opinion that such parent has abandoned or deserted the infant or that he has otherwise so conducted himself that the court should not enforce his right to the custody of the infant, the court may, in its discretion, refuse to issue such writ or make such order.

(2) If, upon such an application, it appears to the court that the applicant—

(a) has abandoned or deserted such infant; or

- (b) has allowed such infant to be brought up by a person or persons other than the applicant at such person's or persons' expense for such a period and under such circumstance that the court is satisfied that the applicant was unmindful of his parental duties.

the court shall not order the delivery of such infant to the applicant unless the applicant satisfies the court that, having regard to the welfare of the infant, he is a fit person to have the custody of the infant.

(3) If at the date of such an application such infant is being or has been brought up by a person or persons other than the applicant the court may, if it issues the writ or makes the order applied for, further order that the applicant pay to such other person or persons the whole of the costs properly incurred by him or them in bringing up such infant (the amount of which costs may be determined by the court) or such portion of such costs as the court thinks just and reasonable having regard to all the circumstances of the case.

**97. Power of court as to infant's religious education.** If, upon an application by a parent of an infant for the production or custody of such infant it appears to the court that—

- (a) the applicant ought not to have custody of such infant; and
- (b) the infant is being brought up in a religion different to that in which the applicant has a legal right to require that the infant should be brought up, the court may, in its discretion, if the applicant so requires it, make such an order as it thinks fit to secure that such infant be brought up in the religion in which the applicant so requires.

The provisions of this section shall not be construed to prejudice—

- (a) the power of the court to inform itself of and to have regard to the wishes of such infant as to what order, if any, should be made; or
- (b) the right of such infant to make a free choice in relation to the matter.

**98. Disputes between joint guardians.** When two or more persons who are joint guardians of an infant do not agree on any matter affecting the welfare of such infant, any of them may apply to the court for its direction and the court may make such order regarding the matter in difference as it thinks proper.

**99. Rules of Court.** The power to make Rules of Court conferred upon the Governor in Council by "*The Supreme Court Act of 1921*," includes power to make such Rules in relation to the exercise by the Supreme Court of Queensland of its jurisdiction conferred by this Act.

**100. (1) Children's Court not competent in certain applications.** Notwithstanding any provision of this Act a Children's Court shall not be competent to hear any application made pursuant to or referred to in this Part—

- (a) if the infant in relation to whom such application is made is not a child at the date of the making of such application; or



(b) the determination of which application—

- (i) involves the administration or application of any property belonging to or held on trust for an infant, or the income thereof; or
- (ii) would or would be likely to rescind, discharge, vary or otherwise affect an order made by the Supreme Court of Queensland in respect of the infant concerned.

(2) **Venue of applications to Children's Court.** An application to be made to a Children's Court pursuant to this Part shall be made to the Children's Court in the Magistrates Courts district in which the infant, in respect of whom such application is to be made, is at the date of the making of such application.

(3) If the Magistrate constituting a Children's Court to which an application is made pursuant to this Part considers that such application could more properly or conveniently be determined by the Supreme Court of Queensland he shall refrain from dealing with such application.

An appeal shall not lie from such a decision.

**101. (1) Removal of proceeding into Supreme Court.** When a proceeding has been commenced pursuant to this Part in a Children's Court any party to or person likely to be affected by any order made in such proceeding may apply by originating summons to a Judge of the Supreme Court of Queensland for an order that such proceeding be removed from the Children's Court into the Supreme Court of Queensland and, if a Judge so orders, such proceeding shall be thereupon removed from the jurisdiction of the Children's Court accordingly.

Upon such an application a Judge may make an order sought or may refuse to make any order and in either case make such order as to costs as he thinks proper.

(2) **Appeal from Children's Court.** Any person who feels aggrieved by a decision or order of a Children's Court made in a proceeding commenced pursuant to this Part may, except as in this Part is otherwise provided, appeal to a Judge of the Supreme Court of Queensland.

Every such appeal shall be by way of re-hearing.

**102. Inherent jurisdiction of Supreme Court preserved.** No provision of this Part shall be construed to restrict or prejudice the jurisdiction of the Supreme Court of Queensland to appoint and remove guardians or otherwise in relation to infants.

#### **PART X—FOSTER PARENTS**

**103. Placing of children in care.** The Director may place any child in care in the charge of any person approved by him as a foster parent under this Part if the Director is satisfied that it is in the best interests of such child that he be so placed.

A child so placed shall remain in such charge until—

- (a) he ceases to be a child in care; or
- (b) the Director otherwise determines.

whichever event first occurs.

**104. Approval of foster parents.** (1) A person who desires to act as a foster parent to a child in care shall make an application in or to the effect of the prescribed form to the Director for his approval.

Every such applicant shall furnish to the Director a certificate of a legally qualified medical practitioner in or to the effect of the prescribed form relating to such applicant.

(2) The Director may refer such an applicant to the Director-General of Health and Medical Services for the purpose of medical examination.

The Director-General of Health and Medical Services shall cause an applicant so referred to him to be examined by a legally qualified medical practitioner and such medical practitioner to furnish a certificate in or to the effect of the prescribed form to the Director as to his findings upon such examination.

(3) The Director may, upon being satisfied that such an applicant is a fit and proper person to be a foster parent, approve of such applicant for that purpose.

(4) The Director may, at any time, revoke an approval given by him pursuant to this section.

**105. Restriction on male foster parent.** (1) The Director shall not approve of any male to be a foster parent unless such male is residing with and supporting his wife who is also approved by the Director as a foster parent.

(2) When foster parents in whose charge is a child in care cease to reside together as man and wife the Director may in his discretion—

- (a) resume charge of such child;
- (b) replace such child with other foster parents;
- (c) permit such child to remain in the charge of such foster mother if she is still living; or
- (d) permit such child to remain in the charge of such foster father if he is still living,

whichever course appears to the Director to be in the best interests of such child.

**106. No person to be foster parent unless approved.** A person shall not act or represent himself to be prepared to act as a foster parent in relation to a child in care unless such person is approved for that purpose by the Director.

**107. Duties of foster parents.** (1) Every foster parent having in his charge a child in care shall—

- (a) provide such child with adequate food, clothing, medical treatment, lodging and care;
- (b) keep every part of the home at all times in a fit and proper state for the care of such child;
- (c) secure for such child adequate education and religious training of a type and form approved by the Director;
- (d) do, observe and carry out all acts, requirements and directions prescribed by this Act or by any order of the Director in relation to the home or the upbringing of such child;
- (e) accurately keep such books and records as are prescribed;
- (f) furnish to the Director correct returns in relation to all such matters and things and at such time or times as are prescribed.

(2) The Director may, by order under his hand, require every foster parent to do all such acts and to observe and carry out all such requirements and directions in relation to a child in care in his charge as are specified in such order.

(3) Every foster parent shall be responsible not only for his own acts or defaults in relation to a child in care in his charge or in relation to the home in question but also for any act or default in relation to such child or home of any member of his family or of any person employed by him in or in connection with the home.

It is immaterial for the purpose of establishing liability of a foster parent for an offence against this Act that, in respect of any such act or default, such foster parent—

(a) did not know of such act or default; or

(b) had instructed the person who has done such act or made such default not to do such act or not to make such default.

**108. Payment of maintenance to foster parents.** Subject to appropriation by Parliament of money for the purpose, the Director may pay to a foster parent in whose charge a child in care is, for the care and maintenance of such child, such sum as is prescribed.

**109. Home of foster parents need not be registered.** It shall not be necessary for foster parents who have in their charge a child in care to register under Division II of Part VIII of this Act either themselves or the premises used by them as their home.

#### PART XI—EMPLOYMENT OF CHILDREN

**110. Employment of children in care.** (1) The Director may arrange the employment or apprenticeship of any child in care and may place such child in employment or apprenticeship in accordance with this Act.

In exercising the power conferred upon him by this subsection, the Director shall—

(a) ensure, so far as he is able, that the child concerned is placed in employment or apprenticeship best suited to his capabilities;

(b) ensure that the employer or master of the child concerned, subject to this Act, pays to or to the use of such child, at the least, such wage as is required by any Act or law, industrial award or industrial agreement applicable in relation to such child and abides by all other requirements of any such Act, law, award or agreement;

(c) if there be no Act, law, industrial award or industrial agreement applicable in the circumstances, use his best endeavours to secure for the child concerned the best wage and conditions of employment he can arrange.

(2) An agreement for the employment and an indenture of apprenticeship of a child in care shall be exempt from the provisions of "*The Stamp Acts, 1894 to 1963.*"

(3) The fact that prior to his completion of a period of employment or apprenticeship a person ceases to be a child in care shall not affect the validity and effect of any agreement or indenture, entered into or any act done in relation to the arrangement of such employment or apprenticeship while such person was a child in care.

(4) When prior to his completion of a period of employment or apprenticeship the guardianship of a child in care passes from the Director to any person in accordance with this Act the person who, from time to time, is guardian of such child shall be deemed to be the guardian who is a party to any agreement or indenture entered into by the Director with respect to such employment or apprenticeship as guardian of such child in care and to be bound by the covenants and agreements therein made on the part of the Director who shall thereupon be discharged from any obligation thereunder in respect of a breach of such covenants or agreements occurring after the date such guardianship passes from the Director.

If such guardianship becomes vested in more than one person such persons shall be bound, pursuant to this section, jointly and severally.

**111. Payment of wage of child in care.** (1) Except as is otherwise prescribed, or required by any Act or law, a notice issued pursuant to this section or an agreement relating to the employment or apprenticeship of the child in care concerned, the employer or master of a child in care shall pay to such child all wages earned by him in his employment or apprenticeship.

(2) The Director or an officer of the Department authorized by him may, by notice in writing to a child in care, require such child to pay the whole or any part of a wage paid to him to the Director.

The Director shall deposit all money received by him pursuant to such a requisition to a Savings Bank to be held on interest bearing account on trust for such child.

(3) If a child in care to whom a notice has been given pursuant to the last preceding subsection fails to obey the requisition therein contained the Director or officer of the Department authorized by him may, by notice in writing to the employer or master of such child, require such employer or master to pay to the Director the wage, or part thereof, which, but for such requisition, would be payable to such child.

The employer or master to whom a notice is given, pursuant to this subsection shall comply with the requisition therein contained on and from the pay-day next following the receipt by him of such notice until the Director or an officer of the Department authorized by him otherwise directs or the child concerned ceases to be a child in care whichever first occurs.

**112. Director's power to deal with and dispose of property of child in care.** (1) The Director may, from time to time, apply property held or deposited by him for or on behalf of a child in care and interest accrued thereon, or any part thereof, for or towards any purpose which, in the Director's opinion, is for the benefit of such child in care.

The Director may, from time to time, sell any such property for the best price he can obtain either by public auction or private treaty and shall deposit the nett proceeds of such a sale, or so much thereof as is not immediately required for a purpose in this subsection mentioned, to a Savings Bank to be held on interest bearing account on trust for the child in care concerned.

The Director may exercise the powers conferred on him by this subsection notwithstanding that the owner of such property has ceased to be a child in care.

(2) When a child in care—

(a) attains the age of eighteen years; or

(b) ceases to be in care,

whichever is the later to occur, the Director shall pay or deliver to such person all property then held or deposited by the Director for or on behalf of such person and interest accrued thereon unless the Minister directs pursuant to the next succeeding subsection.

(3) The Minister may, by writing under his hand, direct that property held or deposited by the Director for or on behalf of any person who is or was a child in care shall continue to be so held or deposited until the owner thereof attains the age of twenty-one years and the Director shall comply with such a direction unless and until he disposes of such property and interest accrued thereon pursuant to the next succeeding subsection.

(4) If before the Director pays or delivers to a person who is or was a child in care property held or deposited by the Director for him or on his behalf—

(a) such person becomes a patient within "*The Mental Health Acts, 1962 to 1964*," or otherwise during his lifetime, by operation of law and without appointment or declaration in that behalf on his part his property other than that so held or deposited by the Director becomes held in trust or managed for him; or

(b) such person dies,

the Director shall—

(c) in any case referred to in paragraph (a) of this subsection, pay or deliver such property and interest accrued thereon to the person who in law is entitled to hold such property for such person and thereupon the Director shall be absolved from the management of such property and from any liability for subsequent misapplication or non-application thereof;

(d) in the case referred to in paragraph (b) of this subsection, sell for the best price he can obtain either by public auction or private treaty so much of such property as, in his opinion, is saleable (except such articles of a personal nature as the Minister directs, which articles shall be disposed of as the Minister in the particular case directs) and pay the nett proceeds of such a sale and all other money he is then holding or has on deposit for such person into Consolidated Revenue.

Upon the recommendation of the Minister the Governor in Council may approve that the whole or any part of such money paid into Consolidated Revenue be paid to such person or persons being a parent, relative, kinsman or beneficiary of the deceased person concerned or any person who would upon intestacy be entitled to his estate or any part thereof and in such proportions as the Governor in Council directs or to the Director for the benefit of children in care generally and the Treasurer of Queensland shall cause payment to be made accordingly.

Neither the estate of such deceased person nor any person claiming to be entitled to such estate or any part thereof as a beneficiary or upon intestacy shall be entitled to any part of property held or deposited by the Director for or on behalf of such deceased person or to any part of money paid into Consolidated Revenue pursuant to this subsection except as prescribed by this subsection.

(5) If the Director does not know of the whereabouts of a person for whom he is holding or has on deposit property pursuant to this section when he is required by this section to pay or deliver such property to such person the Director shall continue to retain such property and if, by the expiration of one year, no person has established his entitlement to such property to the satisfaction of the Director he shall sell for the best price he can obtain either by public auction or private treaty so much thereof as, in his opinion, is saleable and shall pay the nett proceeds of such a sale and all other money he is then retaining for such person and interest accrued thereon to the credit of The Trust Fund established pursuant to "The Audit Acts, 1874 to 1965," and shall dispose of all other such property as he thinks fit.

(6) In this section the expression "nett proceeds of such a sale" means the proceeds of a sale of property in question less the expenses incurred by the Director in arranging and effecting such sale.

**113. Unauthorized street-trading by children prohibited.** Any person who employs in street trading a child who—

- (a) being of or over the age of twelve years and under the school leaving age as provided for from time to time by law is not licensed under the next succeeding section of this Act; or
- (b) being licensed under the next succeeding section of this Act, is employed by him in street trading of a description or at a time not authorized by such licence, or otherwise than in compliance with the conditions set forth in such licence; or
- (c) is under the age of twelve years.

commits an offence against this Act.

**114. Licence for street-trading.** (1) The Director or an officer of the Department authorized by him may issue to any child of or above the age of twelve years and under the school leaving age as provided for from time to time by law a licence in writing authorizing such child to engage in a description of street-trading specified therein in accordance with this Act.

Any such licence issued shall be issued for a term not exceeding six months but, subject to a like limitation, may be renewed from time to time.

The Director or such officer may specify conditions to be applicable to any licence issued by him pursuant to this subsection and if he does so he shall set forth such conditions in such licence.

(2) The Director or, as the case may be, officer of the Department called upon to issue or renew such a licence shall not issue or renew the same unless he is satisfied that the physical and spiritual welfare and education of the child concerned will not suffer by the description of street-trading in question.

(3) The Director may at any time cancel a licence issued pursuant to this section.

(4) A child to whom a licence under this section is, for the time being, issued shall—

- (a) while he is engaging in street-trading, carry such licence upon his person;

- (b) upon demand of the Director, an officer of the Department or a police officer, produce such licence to the person demanding it;
- (c) upon notice from the Director that his licence has been cancelled, surrender such licence to the Director.

**115. Offence to employ children in certain occupations.** Any person who counsels or procures or, having the custody of the child concerned, allows a child—

- (a) to be in any place for the purpose of begging or receiving alms or inducing the giving of alms whether under the guise or pretence of singing, playing, performing, selling or otherwise; or
- (b) who is under the school leaving age as provided for from time to time by law to be employed or engaged—
  - (i) in any work in or about racing stables;
  - (ii) in connection with the training of any quadruped for racing;
  - (iii) as a jockey in any horse or pony race;
- (c) to engage in any dangerous or indecent performance;
- (d) who is not the holder of a permit issued for the purpose pursuant to the next succeeding section of this Act to be employed or used—
  - (i) as a performing artist in any place being used for a broadcast or television performance or for the photographing of scenes to be depicted in a cinematographic film;
  - (ii) in any premises licensed under law for public entertainment;
  - (iii) in any circus;
  - (iv) in any place set apart for spectators at any sporting event or in or near any way of access to or egress from any such place,

commits an offence against this Act.

It is a defence to a charge of an offence against subparagraph (ii) of paragraph (b) of this section that the person, club or association under whose management the racing for which the quadruped concerned was being trained would be conducted did not permit betting on such racing and that the defendant believed on reasonable grounds that betting on such racing would not occur.

It is a defence to a charge of an offence against subparagraph (iii) of paragraph (b) of this section that the person, club or association under whose management the race in which the child concerned was employed or engaged as a jockey was conducted did not permit betting on such race and that the defendant believed on reasonable grounds that betting on such race would not occur.

It is a defence to a charge of an offence against paragraph (d) of this section that the charge relates to an occasion of entertainment the proceeds of which were, at the time of the occurrence thereof, to be applied or substantially applied to any church, school, charitable or patriotic purpose and have been so applied.

**116. Director may issue permits.** (1) Subject to this section, the Director may, upon application made by or on behalf of a child, issue a permit to any child authorizing such child to be employed or used in any of the places or premises specified in paragraph (d) of the last preceding section of this Act.



(2) When the Director issues a permit pursuant to the preceding subsection he shall issue the same subject to such conditions as are prescribed in relation to the issue of such permit and subject to such conditions as he specifies in a particular case.

Without limiting the conditions which may be prescribed or so specified such conditions may include—

- (a) the purpose for which such permit is issued;
- (b) the period for which such permit is to continue in force;
- (c) the hours within which the holder of such permit may be employed or used.

The Director shall set forth in each such permit the conditions applicable to such permit.

(3) The Director shall not issue a permit pursuant to subsection (1) of this section—

- (a) unless he is satisfied that the child concerned is physically fit to be employed or used for the purpose proposed in the application for such permit and that the physical and spiritual welfare and education of such child will not be prejudiced by such employment or use;
- (b) which permit authorizes a child to be employed or used between the hours of eleven o'clock at night and six o'clock in the morning or on a Sunday;

Provided that the Director may grant such a permit to a child authorizing such child to be employed or used in a broadcast or television performance on a Sunday between the hour of eight o'clock in the forenoon and the hour of eight o'clock in the afternoon for the purposes of a religious programme sponsored by a church or religious body.

(4) The Director may at any time cancel a permit issued pursuant to subsection (1) of this section and may, from time to time, vary the conditions applicable to such a permit.

The Director shall cause written notice of any such cancellation or variation to be given to the holder of the permit in question or to such holder's guardian.

The holder of a permit which has been cancelled by the Director shall, upon notice from the Director of such cancellation being given to him or his guardian, surrender such permit to the Director.

(5) A child to whom a permit under this section is, for the time being, issued shall—

- (a) while he is employed or used in any place in relation to which he should, pursuant to this Part, hold such a permit, carry such permit upon his person;
- (b) upon demand of the Director, an officer of the Department or a police officer, produce such permit to the person demanding it.

**117. Holder of a permit to be employed in accordance therewith.**

Any person who counsels or procures or, having custody of the child concerned, allows a child who is the holder of a permit issued under section one hundred and sixteen of this Act to be employed or used otherwise than in accordance with such permit commits an offence against this Act.

**118. Power of entry and search.** (1) The Director or an officer of the Department authorized by him or a police officer may at all reasonable hours of the day or night enter any place referred to in section one hundred and fifteen of this Act in which a child is employed or being used or in which the Director or such officer or police officer reasonably suspects that a child is employed or being used and may make all such investigations and enquiries in relation to such child as he thinks desirable.

The Director or such officer of the Department may be accompanied by a police officer and a legally qualified medical practitioner and such police officer may be accompanied by a legally qualified medical practitioner.

(2) A person who—

- (a) fails to answer truthfully to the best of his knowledge and belief any question asked of him by the Director or an officer of the Department authorized by the Director or a police officer in the course of an investigation or enquiry being made pursuant to the preceding subsection; or
- (b) wilfully obstructs the Director or such officer or police officer in making an entry, investigation or enquiry pursuant to the preceding subsection,

commits an offence against this Act.

## PART XII—MAINTENANCE BY RELATIVES OF CHILDREN IN NEED OF ASSISTANCE AND CHILDREN IN CARE

**119. (1) Definition of "relative" and "child".** In this Part the term "relative" means a person bearing to the child concerned one of the relationships referred to in the next succeeding section and the term "child" means a person in respect of whom the Director is giving assistance pursuant to Part V of this Act and a child in care.

(2) **Application of this Part.** The provisions of this Part are in addition to and not in substitution for any other provision of law providing for the securing of maintenance of any person.

**120. Priority in liability of relatives.** The undermentioned relatives of a child shall be liable to pay or contribute to the maintenance of such child according to their respective abilities and in the following order of priority:—

- (i) father;
- (ii) mother;
- (iii) step-parent;

Provided that if both the father and mother of a child are living and are able to contribute towards such maintenance a step-parent of such child shall not be liable under the provisions of this section.

**121. Maintenance order.** (1) Upon complaint that any person is a relative of a child and is able to pay or contribute to the maintenance of such child any justice may issue his summons directed to such person and requiring him to appear before a Magistrates Court at a time and place to be stated in the summons.

(2) In addition to the powers and jurisdiction exercisable by a Magistrates Court under "*The Justices Acts, 1886 to 1964*," the court by which the matter of such complaint is heard or is to be heard may from

time to time cause a summons to be issued and directed to any person alleged to be a relative of the child concerned requiring him to appear before the court at a time and place to be stated in the summons.

(3) If the court is satisfied that the person summoned or, where there are two or more persons summoned, any one or more of such persons, is a relative of the child concerned and is able to pay or contribute to the past or future maintenance of such child the court may order the person or persons in respect of whom it is so satisfied to pay to the Director—

(a) such sum for the past maintenance of the child as to the court seems sufficient, either by way of a lump sum payment or instalments as the court directs; and

(b) future maintenance at such rate per week as to the court seems sufficient and at such times and in such manner as the court directs.

(4) When a court proposes to make a maintenance order under this section against two or more relatives of a child it shall make a separate order against each of them and shall fix the amounts or proportions payable by each such relative.

(5) A court shall not make a maintenance order for the payment in advance of future maintenance otherwise than by periodical instalments not exceeding four weeks in advance unless with the consent of the Minister first had and obtained.

(6) Every maintenance order shall be served upon the relative or relatives against whom it is directed in such manner as is prescribed or as the court which makes such order in any case directs:

Provided that every such order shall operate from its pronouncement notwithstanding that a formal order has not been drawn up, signed or served.

(7) (a) A complaint made pursuant to this section may be made—

(i) in relation to the maintenance of any number of children provided such children, where there are two or more, have at least one common relative;

(ii) in respect of any number of persons alleged to be relatives of the child or children concerned.

(b) When, pursuant to this section, a court makes a maintenance order in relation to the maintenance of two or more children it shall direct separately the rates per week of the respective payments thereunder for the maintenance of each child concerned.

## **122. Powers of court in proceeding concerning illegitimate children.**

Upon the hearing of a complaint made pursuant to this Act in relation to the maintenance of an illegitimate child—

(a) the court shall not be satisfied that a particular male person is the father of the child on the uncorroborated evidence of the mother;

(b) the court shall not make a maintenance order against any person alleged to be the father of the child if it is satisfied that at about the time the child was conceived the mother was a common prostitute or had had sexual intercourse with a man other than such person.

**123. Undertaking to pay maintenance.** (1) Any person, whether a relative of the child concerned or not, may undertake in writing to pay or contribute to the maintenance of a child.

Every such undertaking shall be signed by the person who gives the same.

Such an undertaking may be accepted—

(a) if a complaint has been made in relation to the maintenance the subject of such undertaking, by the Magistrates Court in which such complaint is filed; or

(b) if such a complaint has not been made, by the Director or an officer of the Department,

and upon acceptance such undertaking shall in relation to the person giving such undertaking be deemed to be a maintenance order made by a Magistrates Court pursuant to this Part against the person giving such undertaking.

The acceptance of such an undertaking shall be evidenced by an endorsement made on such undertaking which endorsement shall be signed—

(c) in the case of an acceptance by a Magistrates Court, by the justice who constitutes or the justices who constitute such court;

(d) in any other case, by the Director or, as the case may be, the officer of the Department who has accepted such undertaking.

(2) In any proceeding under this Part against any person for failure to comply with an undertaking given pursuant to the preceding subsection or for securing his compliance with such an undertaking a document purporting to be such an undertaking given by a person of the same name as the person against whom such proceeding is taken and claimed, either in the complaint by which such proceeding is commenced or in evidence adduced in relation to such complaint, to be the undertaking on which the proceeding is founded shall be evidence and, in the absence of evidence in rebuttal thereof, conclusive evidence—

(a) of the particulars stated in such document; and

(b) that the signature appearing thereon as the signature of the person who gave such undertaking was affixed thereto by the person against whom such proceeding is taken.

**124. Enforcement of liability to pay maintenance.** (1) Upon complaint that any person liable under a maintenance order made pursuant to this Part has made default in complying with such order or that the complainant reasonably suspects that any such person intends to evade compliance therewith a justice may issue his summons directed to such person and requiring him to appear before a Magistrates Court at a time and place to be stated in the summons.

(2) Upon the hearing of any such complaint the court may order the person so liable to find security sufficient in the opinion of the court that he will comply with the order for default under which or for intent to evade which he has been summoned and the court may further order, by the same or a subsequent order, that in default of such person's finding sufficient security within the time specified by the court such person be imprisoned for a period not exceeding six months unless the order to find security is sooner complied with.

The court which orders the finding of security may determine the sufficiency of any proposed security and in what manner such security is to be given.

**125. Variation of maintenance order.** (1) Upon complaint of any person liable under a maintenance order made pursuant to this Part or of the Director or of an officer of the Department authorized by the Director in that behalf a justice may issue his summons directed—

- (a) in the case of a complaint of a person liable under such an order, to the Director or an officer of the Department;
- (b) in any other case, to the person or persons liable under the order the subject of the complaint,

requiring the person or persons to whom it is directed to appear before a Magistrates Court at a time and place to be stated in such summons to show cause why such order should not be discharged, suspended, varied or, as the case may require, why another order should not be made in substitution therefor.

(2) Upon the hearing of a complaint made pursuant to the preceding subsection a Magistrates Court may exercise all or any of the following powers:—

- (a) cause a summons to be issued to any person who appears to the court to have an interest in the matter of the complaint requiring him to appear before the court at a time and place to be stated in the summons;
- (b) enquire into the ability of the complainant, being a person liable under such an order, and of any other person summoned to appear before the court to pay or contribute to the maintenance of the child concerned;
- (c) enquire into the relationships existing between the persons before the court or summoned to appear before the court and the child concerned;
- (d) discharge or suspend for a specified time any order previously made under this Part under which any of the persons before the court or summoned to appear before the court is liable to pay or contribute to the maintenance of the child concerned;
- (e) increase or reduce the periodical sum ordered to be paid or contributed by any or all of such persons for or towards the maintenance of the child concerned;
- (f) make a further order or orders against all or any of such persons in relation to the maintenance of the child concerned;
- (g) in the case of an undertaking accepted pursuant to section one hundred and twenty-three of this Act, order that such undertaking cease to operate;
- (h) make an order to pay maintenance in lieu of any such undertaking.

When a Magistrates Court has ordered that an undertaking accepted pursuant to section one hundred and twenty-three of this Act shall cease to operate the person theretofore liable under such undertaking shall not be liable thereunder for any maintenance of the child concerned accruing after the date the undertaking ceases to operate in accordance with such order.

**126. Hearing of complaints in camera.** Notwithstanding the provisions of any other Act or of any rule of law or practice a Magistrates Court shall, upon the hearing of a complaint made pursuant to this Part, exclude from the court all persons except—

- (i) officers of the court;
- (ii) parties to the complaint and their respective counsel or solicitors;
- (iii) persons summoned pursuant to this Part to appear upon the hearing of such complaint and their respective counsel or solicitors;
- (iv) the Director or, in his stead, an officer of the Department;
- (v) a child in relation to whose maintenance such complaint is made if such child is present.

**127. (1) Husband or wife compellable witnesses.** In any proceeding commenced pursuant to this Part a husband and a wife shall be competent and compellable witnesses both on his or her own behalf and for or against the other of them, but an admission or statement then made by either of them shall not be used on any other occasion except in proceedings for perjury alleged to have been committed in the course of giving evidence in such proceeding.

**(2) Defaulter under maintenance order and his employer compellable to adduce evidence.** A court before which a person is charged with failure to comply with a maintenance order made pursuant to this Part may—

- (a) order the defendant to attend before the court at a time specified in the order and to be examined concerning his means and ability to comply with the maintenance order;
- (b) order the defendant to state to the court or to give to the court within a specified period a statement signed by him specifying—
  - (i) the name and address of his employer or, if he has more than one employer, of each of his employers;
  - (ii) particulars as to his earnings; and
  - (iii) such particulars as are necessary to enable him to be identified by each of his employers; and
- (c) order any person who appears to the court to be indebted to the defendant or to be an employer of the defendant to give to the court, within a time fixed by the court, a statement signed by him or on his behalf containing such particulars as are specified in the order of his indebtedness to the defendant or, as the case may be, of all earnings of the defendant payable by that person during a period specified by the court.

A document purporting to be a statement referred to in the preceding paragraph shall be received in the proceeding wherein the statement was ordered to be given as evidence of its contents and shall be deemed to be such a statement until the contrary is proved.

**(3) A person who—**

- (a) fails to comply with an order made against him pursuant to subsection (2) of this section; or
- (b) in any statement made or given to a court under an order made pursuant to subsection (2) of this section makes a statement which to his knowledge is false or misleading in a material particular or which he does not believe on reasonable grounds to be true.

commits an offence against this Act.

**128. Proceedings subject to the Justices Acts.** Every proceeding instituted pursuant to this Part and every step therein shall, so far as possible, be instituted, conducted and taken subject to and in accordance with "*The Justices Acts, 1886 to 1964.*"

**129. Complaint and averments.** (1) Except where it is otherwise provided by this Part, every complaint made pursuant to this Part shall be made by the Director or by an officer of the Department authorized by the Director in that behalf.

(2) In any proceeding under this Part it shall not be necessary to prove the authority of the complainant to make the complaint.

(3) An averment in a complaint made pursuant to this Part that—

- (a) any person is a relative of the child concerned; or
- (b) any person is able to pay or contribute to the maintenance of the child concerned; or
- (c) any sum has been expended upon or is due for or in respect of maintenance of the child concerned.

shall, except in the case of provision (a) of this subsection when it is averred in relation to an illegitimate child that any person is the father of such child, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the fact averred.

**130. Offence to disobey maintenance order or to desert children in care.** (1) A person against whom a maintenance order is made pursuant to this Part who—

- (a) fails to comply with such order; or
- (b) leaves or attempts to leave the State without making arrangements for future payments of maintenance of the child concerned to the satisfaction of the Director,

commits an offence against this Act.

(2) A relative of a child who—

- (a) unlawfully deserts such child; or
- (b) fails to provide such child with maintenance,

commits an offence against this Act.

(3) Upon hearing a complaint for an offence against this section the court, if satisfied that the child concerned has been or is about to be deserted by the defendant or is without maintenance and that the defendant is a relative of such child liable to pay or contribute for or towards the maintenance of such child or is otherwise liable to pay or contribute for or towards the maintenance of such child, may, in addition to or in lieu of any other penalty prescribed by this Act, order such person, either at that hearing or at an adjournment thereof, to find sufficient security within the time specified by the court that—

- (a) he will comply with the maintenance order concerned; or
- (b) he will not desert such child; or
- (c) he will provide such child with maintenance.

The court which orders the finding of security may determine the sufficiency of any proposed security and in what manner such security is to be given.

If the defendant does not find such security within the time specified by the court, the court may commit the defendant to prison for a period not exceeding six months unless such order is sooner complied with.



(4) Upon complaint of the Director or of an officer of the Department authorized by the Director in that behalf that he reasonably suspects that any person has committed an offence against this section any justice may issue his warrant, directed to all officers of the Department and all police officers, for the arrest of the person complained against.

Such warrant may be executed by any officer of the Department or any police officer.

### PART XIII—GENERAL PROVISIONS

#### **131. Parents to be informed of whereabouts of child in care.**

The Director shall cause a parent of a child in care to be informed of the whereabouts, from time to time, of such child in care unless the Director is of opinion that the giving, of such information is not in the best interests of the child in care concerned.

**132. Visits to children in care.** (1) Subject to this section, a parent of a child in care may visit such child in care at such times as are prescribed and, in default of such prescription, at all reasonable hours of day.

(2) The Director may, by order in writing, direct that in a particular case or particular cases a parent or the parents of a child in care—

(a) shall not have access to such child in care; or

(b) shall be permitted such access only subject to the conditions and at the times specified by the Director in such order.

When the Director has issued an order pursuant to this subsection every person who has charge of the child in care concerned shall, for so long as such order continues in force, deny to the parent or, as the case may require, parents of such child in care access to such child in care except, in the case of such an order issued pursuant to paragraph (b) of this subsection, in accordance with the terms of such order.

(3) A person who has charge of a child in care shall record in a book to be kept for the purpose every visit made to such child in care by a parent of such child in care.

Such a record or a writing purporting to be an extract from such a record shall, upon its production in any proceeding, be evidence, and, in the absence of evidence to the contrary, conclusive evidence, of the facts thereby recorded so far as such record relates to the subject matter of that proceeding.

(4) A person other than a parent of a child in care shall not visit or communicate with a child in care except with the approval of the Director or of an officer of the Department authorized by the Director in that behalf first had and obtained and in accordance with such approval.

**133. Offence to remove child in care without authority.** A person who—

(a) without the authority in writing of the Director removes any child in care from any place or from the charge or employment of any person wherein such child in care has been placed in accordance with this Act before the expiration of the period for which such child in care has been so placed; or

- (b) aids, counsels or procures any child in care to escape or abscond from any place or from the charge or employment of any person wherein such child in care has been placed in accordance with this Act or to break his indentures of apprenticeship; or
- (c) knowing a child in care to have so escaped or absconded as aforesaid and that he is a child in care, harbours or conceals such child in care; or
- (d) being an officer of the Department or a person employed in an institution wherein a child in care has been placed in accordance with this Act permits such child in care to escape or by his default enables such child in care to escape,

commits an offence against this Act unless in the case of a removal referred to in paragraph (a) he acts under the authority of this Act.

**134. Child in care not to leave State.** (1) The Director may approve, subject to such conditions as he thinks fit, that a child in care leave the State either temporarily or permanently.

The Director may from time to time vary such conditions and, if he does so, shall inform the child in care of every such variation.

(2) A child in care shall not leave the State temporarily or permanently except with the approval of the Director first had and obtained.

A child in care who leaves the State with the approval of the Director shall at all times during his absence comply with the conditions, if any, to which such approval is for the time being subject.

(3) A person shall not take a child in care out of the State temporarily or permanently except with the approval of the Director first had and obtained.

A person who, with the approval of the Director, takes a child in care out of the State shall at all times during the absence of such child in care from the State cause such child in care to comply with the conditions, if any, to which such approval is for the time being subject.

**135. Absconding children.** (1) The Director or any officer of the Department or any police officer may without further authority than this Act, arrest or cause to be arrested and take or cause to be taken to such institution or place as the Director orders—

- (a) any child in care who escapes or absconds from any place wherein he is for the time being detained, or from the charge of any person in whose charge he is, for the time being, placed;
- (b) any person who, being a person over and in relation to whom the Director is exercising supervision pursuant to this Act, absconds from the custody of a person in whose custody he is;
- (c) any child in care who, when ordered so to do by the Director, fails to surrender himself to the custody of the Director at such place as the Director orders.

(2) A person referred to in paragraphs (a), (b) or (c) of the preceding subsection who does or, as the case may be, fails to do any of the acts specified in those paragraphs commits an offence against this Act.

**136. Power to take certain persons into custody.** When so required by the Director, any officer of the Department or any police officer, with such assistants as are reasonably required for the purpose, may without other authority than this Act,—

- (a) take into custody on behalf of the Director any child in care and (save where this Act otherwise prescribes) any other child who the Director is empowered by this Act to take into his custody;
- (b) bring such child in care or other child to such hospital, institution or other place as the Director directs,

and for such purposes may—

- (c) enter upon and into any premises and any part thereof where such child in care or other child is or is supposed or suspected to be; and
- (d) use such force as is reasonably necessary to overcome any resistance to the exercise of any power by this section conferred.

**137. Order on parent or guardian to attend.** (1) When a Judge or justice considers it desirable and practicable that a parent or guardian of a child concerned in any proceeding before him should be present before him he may adjourn the proceeding to a certain time and place and may order that such parent or guardian appear before him at such time and place and may, from time to time, order such parent or guardian to appear before him at such other times and places to which the proceeding may, from time to time, be adjourned and may order that such parent or guardian be paid by the Director such expenses as would be paid to him if he were a witness in such proceeding.

A Judge or justice may so order notwithstanding that any other parent or guardian of the child concerned has appeared before him.

(2) When an order made pursuant to the preceding subsection has been made in the absence of the parent or guardian against whom it is directed a copy of such order or, in the case of such an order made by a justice sitting as a Children's Court or a Magistrate's Court or sitting to take an examination of witnesses in relation to an indictable offence, a minute of such order signed by the justice who made the same, shall be served on such parent or guardian and may be so served by—

- (a) delivering the same personally to the person against whom such order is directed; or
- (b) leaving the same with some person for him at the address appearing in the records of the court or tribunal wherein such order was made as his place of residence or, if there be no such address, at his usual place of residence; or
- (c) serving the same in any manner allowed by the rules of the court wherein such order was made.

A person who serves a copy or minute of such an order may, within three days after such service, attend before any justice having jurisdiction in the State or part of the State or the Commonwealth in which such copy or minute was served and depose, on oath and in writing, to the service thereof.

Upon its production in any proceeding such deposition shall be sufficient evidence of the service of such copy or minute upon the parent or guardian against whom such order was directed.

(3) If a parent or guardian in respect of whom an order has been made pursuant to subsection (1) of this section fails to comply with such order the Judge or justice who made such order or a Judge or justice exercising a like jurisdiction to the jurisdiction of the Judge or justice who made such order may, if he is satisfied that a copy or, as the case may be, minute of such order was duly served upon the parent or guardian against whom such order was directed or that the making and substance of such order was otherwise known to such parent or guardian, issue a warrant for the apprehension of such parent or guardian and his production before the court or justice concerned.

**138. Power to prohibit publication of certain matter concerning proceedings.** (1) A court, or a justice taking an examination of witnesses in relation to an indictable offence may, in relation to any proceeding before such court or justice in which a child is concerned, direct that—

- (a) a report of such proceeding (other than a report thereof for the purposes of the Department or the Department of Justice or such other purpose as the court or justice directs) shall not be made;
- (b) any report of such proceeding shall not reveal the name, address or school or include any particulars likely to lead to the identification of any child concerned in such proceeding whether as the person against or in respect of whom such proceeding is taken or as a witness therein or as a person in relation to whom an offence is alleged to have been committed;
- (c) there shall not be published any picture of or including a child concerned in such proceeding in any of the ways referred to in paragraph (b) of this subsection or of or including any other person which is likely to lead to the identification of such a child.

except so far as such court or justice may permit.

(2) A person who makes a report or publishes any matter in contravention of a direction given pursuant to the preceding subsection commits an offence against this Act.

The provisions of this subsection or any prosecution instituted for an offence against the preceding subsection shall not affect the liability of any person to be dealt with for contempt on account of his disobedience to such a direction.

**(3) Power to exclude child in certain circumstances.** When in any proceeding before any court or justice brought in respect of a child it appears to such court or justice that information is about to be given knowledge of which by such child—

- (a) would not be in the best interests of such child; or
- (b) would be likely to injuriously affect the regard in which such child should hold his parent or guardian,

such court or justice may cause such child to be excluded from the room in which such court or justice is then sitting until such information has been given:

Provided that a court or justice shall not exercise the power by this subsection conferred so as to exclude such child during the hearing of evidence relating to the commission by him of an offence which is the subject of the proceeding before such court or justice.

**139. Reference to certain offences prohibited.** In any proceeding in which a person is charged with or has been convicted of an offence, any offence for which he has been dealt with under the provisions of paragraph (k) of subsection (1) of section sixty-two of this Act shall not be mentioned in evidence or in a statement relating to his character or antecedents and if so mentioned shall be disregarded.

Such a person shall not be asked and if asked shall not be required to answer any question relating to such lastmentioned offence notwithstanding that the question would be admissible under section 618A of "*The Criminal Code*."

**140. Proof of court orders.** Where in any proceeding it becomes necessary to prove that any court has made in relation to a person concerned in such proceeding an order made pursuant to this Act, a document purporting to be the original, duplicate or certified copy of such order and, in the case of a certified copy, purporting to be so certified by the person ordinarily having custody of the original thereof, shall, upon its production and upon proof of the identity of the person in relation to whom such order was made with the person concerned in such proceeding, be sufficient evidence of the making of such order.

**141. Vacating orders in default of notice to parent or guardian.** If a parent or guardian of a child in respect of whom a court has made an order pursuant to this Act satisfies the court which made such order that—

- (a) he is a person to whom notice of the proceeding in which such order was made was required by this Act to be given; and
- (b) such notice was not given to him a reasonable time before such order was made; and
- (c) such order was made in his absence,

such court may, in its discretion set aside such order and, if it does so, may, at any time thereafter, proceed to hear and determine afresh the matter in relation to which such order was made.

**142. Powers of Department's representative in relation to court proceedings.** (1) When a child is being tried or sentenced in respect of an offence or is being otherwise dealt with before any court or before any justice sitting to take an examination of witnesses in relation to an indictable offence the Director, an officer of the Department or other representative of the Department shall be entitled to be present and, if present, may examine and cross-examine witnesses and may be heard with respect to the question of the conviction or acquittal of such child and the manner in which such child should be punished or otherwise dealt with by the court or justice.

(2) All cases under this Act heard on the complaint of the Director or an officer of the Department may be conducted by the Director or an officer of the Department.

(3) Until the contrary is proved, the authority of the Director or an officer of the Department to do any act or take any proceeding for the purposes of this Act shall be presumed.

**143. Guardianship of Director.** For so long as the Director is guardian of an infant he shall be deemed to be guardian of the person and the estate of such infant.

While a child who, pursuant to the provisions of this Act, has been remanded into the temporary custody of the Director remains so remanded the Director may do all such acts and give all such consents in relation to such child as he might lawfully do and give if he were the guardian of such child.

**144. Secrecy provisions.** (1) The Director, Deputy Director and every other person appointed (whether before or after the commencement of this Act) to the Department for the purposes of this Act or of any Act repealed by this Act shall take and subscribe and abide by the prescribed oath of fidelity and secrecy which may in any case be administered by any justice.

A person engaged in carrying this Act into effect shall preserve and aid in preserving secrecy with regard to all matters which come to his knowledge in his official capacity under this Act and shall not communicate any such matter to any person except—

- (a) for the purpose of carrying this Act into effect; or
- (b) to a lawfully constituted court or tribunal.

(2) A person appointed for the purposes of this Act or a person assisting such an appointee in carrying this Act into effect who inserts or publishes in the records of the Department or makes or gives any allegation, comment or opinion in respect of any matter touching or concerned with the history, family background or welfare of any child shall not thereby incur any liability if he has acted in good faith and without malice and with reasonable care.

In any proceeding taken against any such person on account of such an insertion or publication the burden of proof that such person has acted otherwise than in good faith or with malice or without reasonable care shall lie upon the plaintiff.

(3) A person shall not publish any information which—

- (a) is of a confidential nature; and
- (b) which, to his knowledge, is contained in the records of the Department or which has been given to him by an officer of the Department or other person engaged in carrying this Act into effect or which has been given to him for the purposes of the Department.

Penalty: Five hundred pounds or imprisonment for twelve months.

A court shall not convict a person of a contravention of this subsection if it is satisfied that—

- (a) the publication of such information was made for the purpose of carrying this Act into effect; or
- (b) the welfare of the child concerned in such information demanded such publication.

(4) The provisions of the last preceding subsection shall not apply to a publication of such information—

- (a) made pursuant to an order of the Supreme Court of Queensland or a Circuit Court;
- (b) made in a proceeding before any court which involves the child concerned in such information; or
- (c) made, with the approval of the Minister, to any person with a view to the social or educational benefit of children in care generally.

(5) For the purposes of this section the expression "records of the Department" includes any report of an investigation or examination made in relation to any person upon an order of a court pursuant to this Act.

**145. (1) Examination under Act to be performed notwithstanding lack of consent.** Where a court has ordered that a medical examination be made in relation to any person it shall be lawful to make such examination notwithstanding that such person or his parent or guardian has not consented thereto.

**(2) Proof of reports made for purposes of Act.** A document appearing to be a report of an investigation or examination made in relation to any person upon the order of a court made pursuant to this Act, shall, upon its production before the court which ordered such investigation or examination, be admitted into evidence as such a report and as evidence of the matters contained therein.

Where the court which receives such a report or the person in relation to whom the investigation or examination the subject of such report was made requires it the person who made such investigation or examination shall be called as a witness to give evidence of his investigation or, as the case may be, examination and of his findings thereon and, should the case require it, the person who made such report shall be called as a witness to give evidence of his findings in relation to such investigation or examination.

For the purpose of taking such evidence the Judge or magistrate constituting the court may cause to be excluded from the court the following persons—

- (a) any person who is not a party to the proceeding before such court;
- (b) any person (including the person in relation to whom the investigation or examination in question was made except where he is not represented) who, in the opinion of such Judge or magistrate, having regard to—
  - (i) the best interests of the person in relation to whom such investigation or examination was made; and
  - (ii) the preservation of proper relations between such last-mentioned person and any other person,

should not be present during the taking of such evidence.

The provisions of this subsection shall not be construed to authorise a Judge or magistrate to cause to be so excluded any *bona fide* representative of a party to the proceeding in question or a representative of the Department.

**(3) Publication of report made for purposes of Act.** A report admitted into evidence pursuant to subsection (1) of this section shall not be published in open court but a copy thereof shall be given—

- (a) where the person in relation to whom the investigation or examination concerned was made is legally represented, to his counsel or solicitor;
- (b) where such person is not represented by counsel or solicitor, to such person or his parent or guardian;
- (c) to the Director or the representative of the Department present in the court.



**146. Evidence of child.** Where in any proceeding against any person for an offence against this Act a child tendered as a witness does not in the opinion of the court hearing the charge understand the nature of an oath the evidence of such child may be received, though not upon oath, if in the opinion of such court such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

A person shall not be convicted of the offence charged on the uncorroborated evidence of a child received pursuant to this section.

The evidence of such child though not given on oath or on affirmation, but otherwise taken and reduced into writing as a deposition, shall be deemed to be a deposition to all intents and purposes.

Any child whose evidence is received as aforesaid who wilfully gives false evidence, which otherwise would be perjury, shall be deemed guilty of perjury.

**147. Property given for benefit of children in care.** All property given, devised or bequeathed to the Director or the Department for the benefit of children in care or any of them shall be held, invested, applied and dealt with in such manner not inconsistent with this Act or with the terms of any trust declared with respect to such property as the Minister considers to be in the best interests of children in care generally or, as the case may require, of the particular child or children in care intended to be benefited by such property.

**148. Offence to contravene Act.** A person who contravenes or fails to comply with a provision of this Act commits an offence against this Act.

A person who commits an offence against this Act for which a specific penalty is not otherwise prescribed is liable to a fine of two hundred pounds or to imprisonment for six months or to both such fine and imprisonment.

A proceeding in respect of an offence against this Act or in respect of an application under this Act for an order of a court other than the Supreme Court of Queensland, a Circuit Court or a District Court may, where a procedure is not otherwise provided for by this Act, be taken in a summary way under "*The Justices Acts, 1886 to 1964.*"

**149. Applications may include several infants.** An application made pursuant to this Act to any court or to the Director may be made in respect of any number of infants who have or had at least one parent in common or who, at the date of such application, are members of the one family.

**150. Assistance to officers of Department.** An officer of the Department in the exercise of a power or the performance of a duty or function under this Act may be accompanied by a police officer who may do all acts and things reasonably required to assist such officer in the exercise of his power or the performance of his duty or function.

**151. Appropriation.** Except where it is otherwise prescribed, all money received in respect of penalties or fees under this Act shall be paid into Consolidated Revenue.

**152. Regulations.** The Governor in Council may from time to time make regulations not inconsistent with this Act providing for, regulating or prohibiting all matters which are necessary or desirable or convenient for carrying this Act into effect or for achieving or better achieving the objects and purposes of this Act and, without in any way limiting the generality of the foregoing powers, in respect of all or any of the following matters:—

- (1) The duties, powers, functions and privileges of officers of the Department and other persons engaged in the administration of this Act;
- (2) The standards in relation to the selection and approval of foster parents and foster homes, the duties and responsibilities of foster parents and the rates of payment to foster parents for the maintenance of children in their charge;
- (3) The registration of premises used or to be used for the care of children apart from their parents, relatives or guardians, the classification of such premises and the maximum number of children to be accommodated in such premises, the standards of such premises and the registration, duties and responsibilities of persons in charge of such premises;
- (4) The standards, duties and responsibilities of persons assisting in the placement of children other than children in care;
- (5) The conditions of employment or apprenticeship of children in care and the form and content of indentures of apprenticeship to be entered into by such children;
- (6) The management, control and supervision of admission centres, homes, assessment, remand and treatment centres training centres, hostels, attendance centres and other types of institutions established by the Governor in Council pursuant to this Act;
- (7) The standards, management, control and supervision of institutions, admission centres, child training centres, attendance centres and other facilities established or to be established otherwise than by the Governor in Council, the approval and licensing of any of the same and the duties and responsibilities of the persons in charge of any of the same towards the children in their care;
- (8) The standards, management, control and supervision of day care centres and the duties and responsibilities of the persons in charge thereof towards the children in their care, fees to be paid in relation to such centres and the purposes for which and the persons or bodies to which such fees are payable;
- (9) The custody, care, maintenance, health, education, employment, apprenticeship and placement of children in care;
- (10) The visiting and disciplining of children in care and other matters related to the well-being of such children:

- (11) The management and control of the property of children in care;
- (12) The medical, dental and nursing attention of children in care;
- (13) The rates of payment and assistance to be granted to institutions licensed under Part IV of this Act for the care of children and the conditions on which the same shall be granted;
- (14) The assistance to be given pursuant to Part V of this Act;
- (15) The conditions to be observed by a person over and in relation to whom the Director or Chief Probation Officer is to exercise supervision by order of a court, the Governor in Council or the Minister;
- (16) The performing by children in television, broadcasting and public entertainment;
- (17) The employment of and engaging by children in street-trading;
- (18) The records required for or accumulated in the administration of this Act, secrecy concerning such records and the manner of dealing with such records;
- (19) The form and content of agreements, appointments, authorities, reports and documents required by or entered into or prepared pursuant to this Act;
- (20) The fees to be paid under this Act and the purposes for which such fees are to be paid;
- (21) All matters required or permitted by this Act to be prescribed.

**153. Publication of Orders in Council and regulations.** (1) Every Order in Council or regulation made under this Act shall—

- (a) be published in the *Gazette*;
- (b) upon such publication, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication unless a later date is specified in such Order in Council or regulation for its commencement when, in such event, it shall take effect from that later date; and
- (d) be laid before Parliament within fourteen sittings days after such publication if Parliament is in session and, if not, then within fourteen sitting days after the commencement of the next session of Parliament.

(2) If Parliament passes a resolution of which notice has been given at any time within fourteen sitting days after an Order in Council or regulation has been laid before it disallowing such Order in Council or regulation or any part thereof, that Order in Council or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done or omitted to be done thereunder in the meantime or to the making of a further Order in Council or, as the case may be, regulation.

(3) In this section the term "sitting days" means days on which Parliament sits for the despatch of business.

**154. Amendments to "The Adoption of Children Act of 1964".** "*The Adoption of Children Act of 1964*" is amended in the manner and to the extent set out in Schedule II to this Act.

That Act as amended by this Act may be cited as "*The Adoption of Children Acts, 1964 to 1965*."

### SCHEDULE I

[s. 3]

"*The State Children Acts, 1911 to 1955*"

"*The Infant Life Protection Acts, 1905 to 1935*"

"*The Children's Protection Acts, 1896 to 1945*"

"*The Children's Courts Acts, 1907 to 1930*"

"*The Guardianship and Custody of Infants Acts, 1891 to 1952*".

### SCHEDULE II

[s. 154]

Amendments to "*The Adoption of Children Act of 1964*"

Provision amended	Manner and extent of amendment
Section 6	Omitting the definition "Director" and inserting in its stead the following definition:— " "Director"—The Director of the Department of Children's Services under " <i>The Children's Services Act of 1965</i> ": The term includes the Deputy Director of the Department of Children's Services when, pursuant to that Act, exercising any power, authority or function or performing any duty conferred or imposed by that Act on the Director;"
Section 19	Omitting from subsection (7) the words " <i>The State Children Acts, 1911 to 1955</i> " and inserting in their stead the words " <i>The Children's Services Act of 1965</i> ";
Section 27	Omitting from subsection (2) the words " <i>The State Children Acts, 1911 to 1955</i> " and inserting in their stead the words " <i>The Children's Services Act of 1965</i> ";
Section 35	In subsection (1)— (a) omitting the words "State Child" where they twice occur and inserting in their stead where so omitted the words "child in care"; (b) omitting the words " <i>The State Children Acts, 1911 to 1955</i> " and inserting in their stead the words " <i>The Children's Services Act of 1965</i> "; (c) omitting the words "lastmentioned Acts" and inserting in their stead the words "that Act";
Section 61	Omitting the words "State Children Department" where they twice occur and inserting in their stead where so omitted the words "Department of Children's Services";

SCHEDULE II—*continued*Amendments to "*The Adoption of Children Act of 1964*"—*continued*

Provision amended	Manner and extent of amendment
Section 62	Omitting— (a) the words "State Children Department" where they thrice occur and inserting in their stead where so omitted the words "Department of Children's Services"; (b) the words "subsection (2) of section 7A of " <i>The State Children Acts, 1911 to 1955</i> "" and inserting in their stead the words "section twelve of " <i>The Children's Services Act of 1965</i> "".