

CHAPTER 145

PREVENTION OF CRUELTY TO CHILDREN

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CHAPTER 145

PREVENTION OF CRUELTY TO CHILDREN

An Act for the prevention of cruelty to and for the protection of children.

1904-7.
1958-55.
L.N. 168/
1967.
1981-36.
1994-18.
1996-28.

[10th December, 1904]

Commence-
ment.

1. This Act may be cited as the *Prevention of Cruelty to Children Act*.

Short title.

PART I

Preliminary

2. For the purposes of this Act, the expression

Interpreta-
tion.

"Child Care Board" means the Child Care Board established by the *Child Care Board Act*;

Cap. 381.

"child care centre" has the meaning assigned to it by section 2 of the *Child Care Board Act*;

Cap. 381.

"place of safety" means

- (a) a child care centre designated by the Child Care Board;
- 1981-36.
- (b) a hospital; or
- (c) any other institution or place designated by the Child Care Board;

"scheduled offences" means the offences specified in the *Schedule*.

Schedule.

Provisions
as to
parents and
meaning of
custody,
charge or
care.

3. (1) The provisions of this Act relating to the parent of a child shall apply to the step-parent of the child and to any person cohabiting with the parent of the child, and the expression "parent", when used in relation to a child, includes the guardian and every person who is by law liable to maintain the child.

(2) This Act shall apply in the case of a parent who, being without the means to maintain a child, fails to provide for its maintenance under the Acts relating to the relief of the poor, in like manner as if the parent had otherwise neglected the child.

(3) For the purposes of this Act, any person who is the parent of a child shall be presumed to have the custody of the child and any person to whose charge a child is committed by its parent shall be presumed to have charge of the child and any person having actual possession or control of a child shall be presumed to have the care of the child.

Right of
parents, etc.,
to adminis-
ter
punishment
not affected.

4. Nothing in this Act shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.

PART II

Cruelty to children

Offences
involving
cruelty to
children.

5. (1) Any person over the age of 16 years, having the custody, charge or care of any child under the age of 16 years, who wilfully assaults, ill-treats, neglects, abandons or exposes such child or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child unnecessary suffering or injury to its health (including injury to, or loss of sight or hearing or limb or organ of the body and any mental derangement), shall be guilty of a misdemeanour and shall be liable on conviction on indictment to a fine of \$120 and, in default of payment of such fine, to imprisonment for 1 year, or to imprisonment for 1 year or to both such fine and imprisonment, or on summary conviction to a fine of \$24 and, in default of payment of such fine, to imprisonment for 3 months or to imprisonment for 3 months, or to both such fine and imprisonment.

(2) A person may be convicted of an offence under this section either on indictment or by a court of summary jurisdiction, notwithstanding the death of the child in respect of whom the offence is committed.

(3) Where it is proved that a person indicted under this section was interested in any sum of money accruable or payable in the event of the death of the child and had knowledge that such sum of money was accruing or becoming payable, the court may increase the amount of the fine under this section so that the fine does not exceed \$960 or, in lieu of awarding any other penalty under this section, sentence the person to imprisonment for 5 years.

(4) A person shall be deemed to be interested in a sum of money under this section if he has any share in or any benefit from the payment of that money, though he is not a person to whom it is legally payable.

6. (1) Any constable may take into custody, without warrant, any person Arrest of offenders.

(a) who, within view of such constable, commits an offence under this Act or any of the scheduled offences, where the name and residence of such person are unknown to such constable and cannot be ascertained by such constable; or

(b) who has committed or who he has reason to believe has committed any offence under this Act or any of the scheduled offences, if he has reasonable ground for believing that such person will abscond or if the name and address of such person are unknown to and cannot be ascertained by the constable.

(2) Where a constable arrests any person without warrant in pursuance of this section, the constable in charge of the station to which such person is conveyed shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice or to cause injury or damage to the child against whom the offence is alleged to have been committed, release the person arrested on bail in accordance with the *Bail Act* subject to a duty to appear at the hearing of the charge. Cap. 122A.

PART III

Child Protection

Detention of
child in
place of
safety.

7. (1) A constable may take to a place of safety any child in respect of whom an offence under this Act or any of the scheduled offences has been or there is reason to believe has been committed.

1981-36.

(2) A child so taken to a place of safety, and also any child under the age of 16 years who seeks refuge in a place of safety, may there be detained and brought before a magistrate within 28 days after being detained, and that magistrate may make an order under subsection (3) or may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of any such offence with regard to the child has been determined by the committal for trial or conviction or discharge of such person.

(3) Where it appears to a magistrate that an offence under this Act or any of the scheduled offences has been committed in the case of any child that is brought before him, and that the health or safety of the child will be endangered unless an order is made under this subsection, the magistrate may, without prejudice to any other power under this Act, make such order as circumstances require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence and, if a charge is made against any person within that time, until the charge has been determined by the committal for trial, conviction or discharge of that person, and any such order may be carried out notwithstanding that any person claims the custody of the child.

1981-36.

(4) The Child Care Board must provide for the reception of children brought to places of safety in pursuance of this Act.

(5) The court before which a parent is brought charged with an offence under this Act may order the parent to pay to the Child Care Board the expenses incurred in keeping a child.

8. (1) Where a person having the custody, charge or care of a child under the age of 16 years has been

Court orders with respect to child subject of an offence.

(a) convicted of committing in respect of such child an offence under this Act or any of the scheduled offences; or

(b) committed for trial for any such offence; or

(c) bound over to keep the peace towards such child by any court,

that court, either at the time when the person is so convicted, committed for trial or bound over and without requiring any new proceedings to be instituted for the purpose or at any other time, may, if satisfied on enquiry that it is expedient so to deal

with the child, order that the child be taken out of the custody of the person so convicted, committed for trial or bound over and be committed to the custody of the Child Care Board, a relative of the child or some other fit person named by the court (such relative or other person being willing to undertake such custody) until the child attains the age of 16 years or for any shorter period. 1981-36.

(2) A court may, of its own motion or on the application of the relative, the other person referred to in subsection (1) or of the Child Care Board, renew, vary or revoke an order made under subsection (1). 1981-36.

(3) No order shall be made under subsection (1) unless a parent of the child has been convicted of, or committed for trial for, the offence or is under committal for trial for having been, or has been proved to have been, party or privy to the offence or has been bound over to keep the peace towards such child.

(4) Every order under subsection (1) shall be in writing, and any such order may be made by the court in the absence of the child.

(5) The consent of any person to undertake the custody of a child in pursuance of such order shall be proved in such manner as the court may think sufficient to bind him.

(6) Where an order is made under subsection (1) in respect of a person who has been committed for trial, then if that person is acquitted of the charge or if the charge is dismissed for want of prosecution, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(7) The Minister responsible for Welfare, in any case where it appears to him to be for the benefit of a child who has been committed to the custody of any person in pursuance of this section, may empower such person to procure the emigration of the child but, except with such authority, no person to whose custody a child is so committed shall procure its emigration. L.N. 168/1967.

9. (1) Where a child is committed to the custody of the Child Care Board or of any person, the Child Care Board or the person, as the case may be, has control over the child as if the Child Care Board or the person were the parent of the child, notwithstanding that the child is claimed by its parent. Main-tenance of child committed to custody of any person under court order. 1981-36.

(2) Any court having power so to commit a child shall have power to make the like orders on the parent of the child to contribute to its

maintenance during such period as if the child were detained under any enactment relating to the Reformatory and Industrial Schools.¹

1981-36. (3) Any such order may be made on the complaint or application of the Child Care Board or of the person to whose custody the child is for the time being committed, and either at the time when the order for the child's committal to custody is made or subsequently; and the sums contributed by the parent shall be paid to such person as the court may name and be applied for the maintenance of the child.

(4) Where a person fails to pay any sum payable by him in pursuance of any such order, the amount due shall be recovered in a summary manner.

1981-36. (5) Where an order under this Act to commit a child to the custody of the Child Care Board, a relative or other person is made in respect of a person who has been committed for trial for an offence, the court shall not have power to order the parent of the child to contribute to its maintenance prior to the trial of that person.

Warrant
to search
for and
remove
child.
1981-36.

10. (1) Where it appears to any magistrate, on information made before him on oath by the Child Care Board or any person who, in the opinion of the magistrate, is *bona fide* acting in the interests of a child under the age of 16 years, that there is reasonable cause to suspect that such child has been or is being assaulted, ill-treated or neglected in any place within the jurisdiction of such magistrate in a manner likely to cause the child unnecessary suffering or to be injurious to its health or that any scheduled offence has been or is being committed in respect of such a child, the magistrate may issue a warrant authorising

1981-36. (a) the Child Care Board or any person named therein to search for such child and, if it is found to have been or to be assaulted, ill-treated or neglected in such a manner, or that any such offence has been or is being committed in respect of the child, to take it to, and detain it in, a place of safety, until it can be brought before a magistrate; or

¹ See Reformatory and Industrial Schools Act, Cap. 169.

(b) the Child Care Board or any person to remove the child, with or without search, to a place of safety and detain it there until it can be brought before a magistrate. 1981-36.

(2) The magistrate before whom the child is brought may cause it to be dealt with in the manner provided by section 7.

(3) Any magistrate issuing a warrant under this section may by the same warrant cause any person accused of any offence in respect of the child to be apprehended and brought before a magistrate and proceedings to be taken for punishing such person according to law.

(4) Any person authorised by warrant under this section to search for any child or to remove any child, with or without search, may enter (if need be by force) any house, building or other place specified in the warrant and may remove the child therefrom.

(5) Every warrant issued under this section shall be addressed to and executed by some officer of police, who shall be accompanied by the person making the information if such person so desires, unless the magistrate by whom the warrant is issued otherwise directs, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a registered medical practitioner.

(6) It shall not be necessary in any information or warrant under this section to name the child.

10A. Any person having the care, custody or control of a child under 12 years of age who leaves the child unattended for an unreasonable period of time without making reasonable provision for the supervision and safety of the child is guilty of an offence and liable on summary conviction to a fine of \$1 000, or 1 year imprisonment, or both. Unattended child. 1981-36.

PART IV

Evidence and Procedure

11. (1) Where a magistrate is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child, in respect of whom an offence under this Act or any of the scheduled offences is alleged to have been committed, would involve serious danger to its life or health, the magistrate may take Extension of power to take deposition of child.

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in writing the deposition of such child on oath and shall thereupon subscribe the same and add thereto a statement of his reason for taking the same and of the day when and place where the same was taken and of the names of the persons, if any, present at the taking thereof.

L.N. 8/
1964.

(2) The magistrate taking any such deposition shall transmit the same with his statement, if the deposition relates to an offence for which any accused person is already committed for trial, to the Director of Public Prosecutions and a copy of the same, together with a copy of his statement, to the Registrar for the use of the trial judge.

Admission
of deposition
of child in
evidence.

Cap. 116.

12. Where, on the trial of any person on indictment for any offence under this Act or any of the scheduled offences, the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child, in respect of whom the offence is alleged to have been committed, would involve serious danger to its life or health, any deposition of the child taken under the *Magistrates Jurisdiction and Procedure Act* or this Act shall be admissible in evidence either for or against the accused person without further proof thereof

- (a) if it purports to be signed by the magistrate by or before whom it purports to be taken; and
- (b) if it is proved that reasonable notice either verbal or in writing of the intention to take the deposition has been given to the person against whom it is proposed to use the same as evidence and that that person or his attorney-at-law had, or might have had if he had chosen to be present, an opportunity of cross-examining the child making the deposition.

Evidence
of child of
tender
years.

13. (1) Where, in any proceeding against any person for an offence under this Act or for any of the scheduled offences, the child in respect of whom the offence is charged to have been committed or any child of tender years who is tendered as a witness does not, in the opinion of the court, understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if, in the opinion of the court, such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

(2) The evidence of such child, though not given on oath but otherwise taken and reduced into writing in accordance with rule 14 of the *Magistrates Courts (Criminal Procedure) Rules, 1958*, shall be deemed to be a deposition within the meaning of that rule.

L.N. 51/
1958.

(3) No such person shall be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused.

(4) Any child whose evidence is received under this section and who wilfully gives false evidence shall be liable to be indicted or tried by a magistrate for such offence.

14. Where, in any proceedings relating to an offence under this Act or any of the scheduled offences, the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to its life or health and is further satisfied that the evidence of the child is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

Power to
proceed in
absence of
child.

15. Where a person is charged with an offence under this Act or any of the scheduled offences in respect of a child who is alleged in the charge or indictment to be under any specified age and the child appears to the court to be under that age, such child shall, for the purposes of this Act, be deemed to be under that age, unless the contrary is proved.

Presumption
of age of
child.

16. (1) Where a person is charged with committing an offence under this Act or any of the scheduled offences in respect of 2 or more children, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty for each child unless upon separate informations.

Mode of
charging
offences and
limitation of
time.

(2) The same information or summons may also charge the offences of assault, ill-treatment, neglect, abandonment or exposure,

together or separately, but when those offences are charged together the person charged shall not be liable to a separate penalty for each.

(3) A person shall not be summarily convicted of an offence under this Act or of a scheduled offence unless the offence was wholly or partly committed within 6 months before the information was laid but, subject as aforesaid, evidence may be taken of acts constituting or contributing to constitute the offence and committed at any previous time.

(4) Where an offence under this Act or any scheduled offence charged against any person is a continuous offence, it shall not be necessary to specify in the information, summons or indictment the date of the acts constituting the offence.

s. 2.

SCHEDULE

1994-18. 1. Any offence under

Cap. 141. (a) section 21 of the *Offences Against the Person Act*;

Cap. 151. (b) section 15 of the *Sexual Offences Act*; or

Cap. 151. (c) section 56 of the *Sexual Offences Act*.

2. Any offence against a child under the age of 16 years under

(a) section 10; or

(b) section 11;

Cap. 151. of the *Sexual Offences Act*.

3. Any offence involving bodily injury to a child under the age of 16 years.