

WESTERN AUSTRALIA

ANNO SEXTO

VICTORIÆ REGINÆ

No. 8

An Act to regulate the Apprenticeship and otherwise to provide for the Guardianship and Control of a certain class of Juvenile Immigrants.

[Assented to 10th September, 1842.]

Preamble

WHEREAS certain juvenile immigrants have recently been transmitted to this Colony with and under special directions from Her Majesty's Principal Secretary of State for the Colonies for the purpose of being apprenticed within the same, and it is probable that others of the same class will hereafter be transmitted in like manner and for the like purpose; and whereas it is expedient to regulate by law the mode and duration of such apprenticeship, and to provide for the due enforcement of relative rights and obligations thereunder, and otherwise for the general superintendence and control of such immigrants: Be it therefore enacted by His Excellency the Governor of Western Australia, by and with the advice and consent of the Legislative Council thereof, that in order to obviate any uncertainty as to the objects and applicability of this Act, a notice published by His Excellency's command in the 'Government Gazette' setting forth that certain persons therein named are immigrants to be apprenticed under this Act shall be conclusive evidence in all proceedings at law, before Justices of the Peace or otherwise, that such persons (on due proof of identity, if requisite) are within the operation of this Act.

Government notice in 'Gazette' to be evidence that such immigrant is under the operation of Act

Governor to appoint Guardian

2. And be it enacted that it shall be lawful for His Excellency the Governor, by any writing under his hand and seal of office, to appoint a Guardian for and over all such juvenile immigrants as aforesaid under the style or official designation of 'Guardian of Government Juvenile Immigrants.'

Guardian with approbation of Governor to apprentice immigrants

3. And be it enacted that it shall be lawful for such Guardian, with the approbation of the Governor, to apprentice any such juvenile immigrant as aforesaid in manner hereinafter set forth for any term not less than two years nor exceeding five years to any master or mistress, for the purpose of being instructed in any art, handicraft, trade or calling.

Form of indenture in triplicate

4. And be it enacted that every such apprenticeship as aforesaid shall be effected by an instrument in writing in the form or to the effect (as nearly as circumstances may admit) set forth in the Schedule to this Act, and countersigned by the Governor; and every such instrument shall be drawn and executed in triplicate, whereof one part shall be retained by the Guardian, another part by the master, and the third part shall be transmitted by the Guardian to the Clerk of the Bench of Magistrates for the district within which such master shall be resident,

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or in case there be no such Clerk, then to any Magistrate in the neighbourhood of such residence.

5. And be it enacted that no such Guardian as aforesaid shall incur any personal liability whatever by reason of his entering into and executing any such instrument of apprenticeship; and that all rights, powers and remedies accruing to or exercisable by any such Guardian as aforesaid under or by virtue of any such instrument by him executed shall survive and vest to and in his successor for the time being in the said office of Guardian.

Guardian not personally liable. Powers, &c., to be vested in successor

6. And be it enacted that from and immediately after the arrival in this Colony of any such immigrant as aforesaid until he shall be apprenticed as aforesaid (and in case of the dissolution or determination of any such apprenticeship before the expiration of the stipulated time thereof until such immigrant shall have been re-apprenticed for the residue of such term), every such immigrant shall be subject to the management, orders and control of such Guardian as aforesaid for the time being in like manner to all practicable intents and purposes as if such Guardian were a master under this Act, and shall be subject during any such interval to the like punishments and by the like mode of proceeding for any misconduct towards such Guardian as may be inflicted under this Act for any like misconduct of an apprentice towards a master.

Previous to, and on dissolution before completion of apprenticeship, immigrant to be deemed apprentice of Guardian

7. And be it enacted that every such Guardian as aforesaid shall have the general superintendence over the moral, religious and technical instruction, the health, comfort, and general treatment of all such immigrants as aforesaid during their apprenticeship, and shall for that purpose have right of access at all seasonable times to see and converse with any apprentice under this Act, and shall in all matters connected with such superintendence not specially provided for by this Act conform himself to such written instructions as he shall from time to time receive from His Excellency the Governor.

Guardian to have general superintendence and access to apprentice

8. And be it enacted that it shall be lawful for any Justice of the Peace, upon complaint on oath by any master or mistress or by any such Guardian as aforesaid against any apprentice bound under this Act touching or concerning any misdemeanour, misconduct or ill-behaviour in the service of such master or mistress, to issue his warrant for bringing such apprentice before any two or more Justices of the Peace, who may hear, examine and determine the same, and upon conviction thereof may punish the offender by commitment to any House of Correction or Common Gaol with hard labour for any term not exceeding three calendar months, and may fine such offender to the extent of all or any part of any annual allowance then due to him; and in case of a second or further conviction, may order (in addition to such fine and imprisonment with hard labour) that such offender shall undergo a whipping not exceeding three dozen lashes.

Complaint by master or mistress

9. And be it enacted that any time so spent in prison by an apprentice as aforesaid shall not be reckoned part of his term.

Time of confinement to be added to term of indenture

10. And be it enacted that in case of any such second or further conviction, the convicting Justices with the written consent of the Guardian may dissolve such apprenticeship in addition to any such punishment as aforesaid.

Justices may also dissolve apprenticeship

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Complaints by
apprentices

11. And be it enacted that it shall be lawful for any Justice of the Peace upon complaint on oath by any apprentice bound under this Act or by any such Guardian as aforesaid on behalf of any such apprentice touching any misusage, neglect of due instruction, default in payment of any annual allowance, refusal of necessary provision or clothing or other ill-treatment of or towards such apprentice by his master or mistress, to summon such master or mistress to appear before any two or more Justices of the Peace at a reasonable time to be named in the summons, and upon proof on oath to their satisfaction of the matter of such complaint (whether the master or mistress be present or not if service of such summons be also on oath proved) the said Justices may order payment of such annual allowance or of such portion thereof as shall appear to them to be due, and may also award a pecuniary compensation or amends to such apprentice not exceeding five pounds or may discharge such apprentice by warrant or certificate under their hands and seals; or may (if the Justice of the case shall in their discretion so require) at one and the same time by way of cumulative remedy order and award such payment of annual allowances and amends and grant such discharge; and such order for payment of any allowance or arrears thereof, and such awards of amends may be carried into effect by distress and sale of the goods and effects of such master or mistress; and all sums paid or levied under any such order or award shall be handed over to such Guardian as aforesaid for the time being to be by him disposed of for the use and benefit of the apprentice entitled to the same in such manner as His Excellency the Governor shall from time to time in writing direct.

On default of
master or mis-
tress Guardian
or Justice of the
Peace may pro-
vide necessaries
for burial, and
recover same
from master

12. And be it enacted that if default shall be made by any master or mistress in providing medical attendance and necessaries for any apprentice bound under this Act or in duly providing for the decent and Christian burial of any such apprentice, it shall be lawful for any such Guardian as aforesaid for the time being or for any Justice of the Peace to make due provision of and for such medical attendance, necessaries, and burial, and if the costs and charges thereof respectively be not paid by such master or mistress within thirty days after written demand of payment thereof, signed by such Guardian or Justice, shall have been left at the usual residence of such master or mistress, such costs and charges may be summarily recovered on the complaint of such Guardian or Justice in like manner as the wages or annual allowance of an apprentice are and is hereinbefore made recoverable.

Indenture only
to continue in
force for three
months after
death of master

13. And be it enacted that in case of the death of any master or mistress during the period of any such apprenticeship as aforesaid, such indenture of apprenticeship shall not continue or be in force during any longer time than for three calendar months next after the death of such master or mistress; and that during such three calendar months, such apprentice shall continue to live with and serve as an apprentice the executors and administrators of such master or mistress some or one of them or such person or persons as such executors or administrators some or one of them shall appoint; and in every such case such executors and administrators or their appointee or appointees shall be subject and entitled during such period as last aforesaid to the same summary remedies as are hereinbefore provided against or for a master or mistress.

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14. And be it enacted that within such three calendar months as last aforesaid it shall be lawful for any two Justices of the Peace, on application made by the widow of such master or husband of such mistress, or by any son, daughter, brother or sister of such master or mistress, by endorsement on any such indenture of apprenticeship, subscribed also by such applicant, to order that such apprentice shall serve as an apprentice any one of such persons making such application as aforesaid (such person having lived with and having formed part of the family of such master or mistress at the time of his or her death) for the residue of the term mentioned in such indenture of apprenticeship, and such person shall be and be deemed and taken to all intents and purposes the master or mistress of such apprentice under this Act in like manner as if such apprentice had been originally bound to such person by such indenture, and from the date of such order the executors and administrators and the personal estate and effects of the master or mistress so dying as aforesaid shall be released and discharged from any covenant or agreement contained in any such indenture on the part of any such master or mistress.

Justices may endorse indenture to widow or husband, &c.

15. And be it enacted that all and singular the regulations and provisions hereinbefore made and directed to take place on the death of the original master or mistress, shall be deemed and taken to relate to the like event of the death of any such subsequent master or mistress and to their several relations and representatives before enumerated from time to time as often as the case shall happen during the continuance of the term mentioned in any such indenture of apprenticeship.

Death of original master or mistress

16. And be it enacted that in case no such application shall be made as aforesaid within three calendar months next after the death of any such master or mistress or in case such two Justices to whom any such application as aforesaid shall have been made, shall not think fit that such apprenticeship should be continued then, the said apprenticeship shall be determined, and the indenture of apprenticeship and covenants therein contained shall be at an end in like manner as they would have been at the expiration of the term therein mentioned.

Apprenticeship determined and indenture at an end

17. And be it enacted that in the event of any master or mistress becoming insolvent or having been absent from the Colony for any period exceeding three months, it shall be lawful for any two Justices of the Peace, at the request of the Guardian, to dissolve such apprenticeship if it shall appear to them that it is expedient so to do.

When master insolvent, or absent from the Colony for above three months, Justices may dissolve apprenticeship at request of Guardian

18. And be it enacted that this Act may be amended or repealed by any Act to be passed during the present session.

Act may be amended

JOHN HUTT,
GOVERNOR.

SCHEDULE REFERRED TO BY THE ANNEXED ACT

FORM OF A DEED OF APPRENTICESHIP

This Indenture, made the _____ day of _____ between A.B., of _____ Guardian of Government Juvenile Immigrants, in the Colony of Western Australia, under an Act passed in the sixth year of Her Majesty Queen Victoria, entitled 'An Act to regulate the Apprenticeship and otherwise to provide for the Guardianship

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and Control of a certain Class of Juvenile Immigrants,' of the one part, and C.D., of _____ in the said Colony _____ of the other part: Witnesseth that the said A.B., in exercise of the authority for that purpose in him vested by the said Act of Council, doth hereby put and place E.F., one of the said immigrants, to be an apprentice with and under him the said C.D. for the space of _____ years from the date hereof. The said E.F. during all the said term shall well and faithfully serve the said C.D. in all such lawful business as the said E.F. shall be put unto by command or sanction of his said master according to the power, wit and ability of him the said E.F., and shall in all things behave himself honestly, obediently and orderly towards the said C.D., his family and household, and the said C.D. for himself, his executors and administrators, doth hereby promise and covenant to and with the said A.B. and with each and every the successor and successors of the said A.B. in the said office of Guardian under the said Act, that he the said C.D., to the best of his skill and ability, the said E.F., in the craft, mystery (*occupation or calling*) of a _____, which he the said C.D. now useth, will teach and instruct or cause to be taught and instructed as much as thereunto belongeth or in anywise appertaineth, and that the said C.D. during the said term shall find and allow unto the said E.F. sufficient meat, drink, apparel, washing, lodging, medical attendance and necessaries and all other things needful or meet for an apprentice, and pay or cause to be paid to the said A.B. or his successor for the time being as aforesaid, for the benefit of the said E.F., the sum of _____ for the _____ year of the said term, the sum of _____ for the _____ year of the said term (*etc.*) by half-yearly payment in each and every year; and shall and will, at the costs and charges of the said C.D., his executors or administrators, provide decent and Christian burial for the said apprentice in case such apprentice shall die during the said term, and shall and will within _____ days after such death report the same in writing to the nearest Magistrate, together with the cause and circumstances of such death to the best of the knowledge and belief of the said C.D., and shall and will on and during every Sabbath day during the said term exempt the said E.F. from labour, and secure his attendance at Divine worship so far as circumstances will admit, and shall and will at all seasonable times during the said term admit the said A.B. or his successor for the time being as aforesaid to have access to the said E.F. for the purpose of inquiring into the health, comfort, progress in instruction and general treatment of the said E.F., and afford to the said E.F. reasonable facility and opportunity of writing to his Guardian or to his friends and of receiving letters from his said Guardian and friends.

In witness, &c.,

(Signed)

A.B., Guardian of Government Juvenile Immigrants.
C.D.

(Countersigned)

Governor.