

The Children of the State Act 1918, Tasmania

1918 – 1936

Other Names:

- The Children's Act 1918
- Children's Charter 1918

URL: http://www.austlii.edu.au/au/legis/tas/num_act/tcc9gvn15233/

Details

The Children of the State Act 1918, also known as the Children's Charter, The Children's Act and by its full title 'An Act to consolidate and amend Youthful Offenders, Destitute and Neglected Children's Act, 1896', make better provision for the Protection, Control, Maintenance, and Reformation of Neglected and Destitute Children, and for other purposes" (Act no.9 Geo.V No.15), superseded the Youthful Offenders, Destitute and Neglected Children's Act 1896 (Act no.60 Vict. No.24).

The Children of the State Act repealed the Juvenile Offenders Act (1875), Youthful Offenders, Destitute and Neglected Children's Act (1896), and the Youthful Offenders, Destitute and Neglected Children's Act (1905).

The new Act created the Children of the State Department, broadened the definition of neglect, and brought the boarded out children of single mothers, previously managed by the Police Department, under the care of the Children of the State Department. The Act also provided for probation officers and for women magistrates to sit in children's courts. It was repealed in 1936 by the Infants Welfare Act 1935 (Act no.26 Geo. V No.96).

Changes in cultural attitudes towards working class children since the passage of the Youthful Offenders, Destitute and Neglected Children's Act meant the new Act placed more emphasis on the physical care of wards of state and their happiness. According to clause 137, the purpose of the Act was to ensure that:

the care and discipline of a child of the State should approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance.

The definition of neglect included a child:

- Found in a 'house of ill-fame' or known to keep company with a prostitute or someone who might be one.
- Found stealing in a public place or who associated with a thief, alcoholic, or someone who had no obvious way of making a living.
- With no financial support or place to live.

- Who begged or spent a lot of time in public places without having any apparent reason to be there or who slept outside or in public at night.
- Who did not have enough food, care, clothing, and medical care, or place to live, and who was 'neglected' or 'ill-treated' in a way that had or might cause permanent injury.
- Who avoided going to school.
- Who because of the 'neglect', alcoholism, or some other failing of his or her parents, did not have enough parental control and education or was encouraged to be lazy.
- Who was illegitimate with a mother who was either dead or unable to support him or her.
- Who took part in a dangerous public performance.
- Who was deserted by his or her parents.
- Whose parents were in prison for an indictable offence, such as murder or manslaughter, which had to be tried before a jury.
- Who was a girl soliciting men or who was in a public place at night without an adequate reason.
- Who was under fourteen and street trading.
- Who was 'uncontrollable' according to a court. Parents could also still surrender their children as 'uncontrollable'.
- Whose life, health or morality was endangered by the behaviour of his or her parents.
- Whose home was not a suitable place for a child.

Under the Infant Life Protection Act (1907), the Police Department supervised the foster mothers of illegitimate babies whose mothers had boarded them out so that they could work. The new Act transferred these babies to the Children of the State Department. However, to avoid the 'stigma' of neglect, they did not become wards of state. Their mothers remained their legal guardians.

The Act provided for children's courts to be established by a special proclamation of the Governor. Cases involving children could now be heard away from the court room used by adults and at different times. People not directly involved were removed from the room and the charge was recorded in a different book.

The jurisdiction of Children's Courts extended to cases that could be heard by Police Magistrates, a Court of Petty Sessions or by a Justice of the Peace. It did not include indictable offences.

By providing for one or more special magistrates for children's courts, the Act enabled women to preside over them. In their absence, a Police Magistrate or two Justices of the Peace could officiate.

The Act abolished the death sentence for children.

The Act provided for voluntary probation officers to investigate complaints and give the court information about children's habits, behaviour, and way of life. They could visit and supervise the children before and after a hearing, and help them to find work. The officer's role was to 'advise, assist and befriend' the children in their charge. A child could be assigned a probation officer instead of being made a ward of state.

Like the Youthful Offenders, Destitute and Neglected Children's Act, the Children of the State Act suspended Habeas Corpus by placing children in the guardianship of the Secretary of the Children of the State Department.

Under the Youthful Offenders, Destitute and Neglected Children's Act, children could be arrested without a warrant by a member of the public and brought before a magistrate for committal. Under the Children of the State Act, a summons had to be issued before the police or a probation officer could arrest a child or search the child's home. However, children could be removed from a brothel, opium den, or the home of a thief without a warrant. Absconding children could be arrested by the police or an employee of the Department without a warrant.

Foster mothers had to be of good character and health. If the Secretary of the Children of the State Department agreed, they could find an apprenticeship for their foster child.

To encourage them to take care of their apprentices, employers also became foster parents.

Adopted and apprenticed children were inspected every 3 months instead of yearly as before. Foster homes had weekly inspections.

The fine for mistreating a ward of state was increased from £10 to £20.

The provisions for collecting maintenance from parents were reinforced. If a court suspected that a parent or relative would evade payments, a security had to be offered. A warrant could be issued for arrears of one month. The penalty for not complying with a maintenance order was 6 months imprisonment.

It remained an offence to contact a ward without permission, even for parents. The fine remained £10 and the prison sentence was increased from 14 days to 3 months.

Section 19 of the 1918 *Children of the State Act* extended the provisions relating to certified children's homes that had been introduced in the Youthful Offenders, Destitute and Neglected Children's Act 1896, so that:

- The Managers of certified institutions could not make changes to the buildings of these Homes without obtaining permission of the Minister.
- If a Minister was not satisfied with the conditions of the Home, he could withdraw the certificate after giving six months notice. Alternatively, the Minister could refuse to admit children to the institution for a specific period of time.
- Managers who wished to resign the certification of their Home had to give six months notice.
- State wards could no longer be admitted to a Home if its certification was about to be withdrawn but those children who were already there had to be accommodated until the certification expired.
- The Managers of a certified Home could refuse to accept a ward of state but once he or she was admitted they had to accommodate him or her until the child's period of detention expired.
- The Managers were entitled to receive financial support for each ward of state from the government.

Under Section 11 of the *Children of the State Act*, the Managers of the institution became the guardians of wards of state.

More info

Chronology

- Juvenile Offenders Act 1875, Tasmania (1875 - 1918)
- Youthful Offenders Destitute and Neglected Children's Amendment Act 1905, Tasmania (1905 - 1918)
- Youthful Offenders, Destitute and Neglected Children's Act 1896, Tasmania (1896 - 1918)
 - **The Children of the State Act 1918, Tasmania (1918 – 1936)**
 - Infants' Welfare Act 1935, Tasmania (1935 - 1961)
 - Child Welfare Act 1960, Tasmania (1960 - 2003)
 - Children, Young Persons and Their Families Act 1997, Tasmania (2000 - current)

Related Entries

Related Glossary Terms

- [Juvenile Delinquency \(1850s - 1990s\)](#)

The *Children of the State Act* is the first legislation in Tasmania to state how a child considered to be delinquent should be treated.

Is amended by

- [Children's Charter Amendment Act 1923, Tasmania \(1923 - 1936\)](#)
- [The Children's Charter Amendment Act 1921, Tasmania \(1921 - 1936\)](#)

Related Places

- [Cape Barren Island Reserve \(1881 - 1951\)](#)

Children from Cape Barren Island were committed to the 'care' of the state as neglected under the *Children of the State Act*.

Related Organisations

- [Children's Court of Tasmania \(1905 - current\)](#)
- [Women's Health Association \(1901 - 1920?\)](#)
- [Magistracy Departments, State of Tasmania \(1901 - 1989\)](#)
- [Neglected Children's Department, State of Tasmania \(1901 - 1918\)](#)
Under the *Children of the State Act*, the Children of the State Department replaced the Neglected Children's Department.
- [Children of the State Department, State of Tasmania \(1918 - 1934\)](#)

Resources

- Evans, Caroline, [Landmarks in Mothering: Tasmanian Child Welfare Legislation, 1895-1918](#), Australia and New Zealand Legal History E-Journal, 2006
- Evans, Caroline, [Perceptions of fatherhood in Tasmania's Neglected Children's Department, 1896-1918](#), Tasmanian Historical Research Association: papers and proceedings, 2003
- Evans, Caroline, [Idealists, Pragmatists and 'Simple-Minded' Scamps: The Tasmanian Mental Deficiency Board and State 'Care' in the 1920s](#), Australian Historical Studies, 2017
- Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), [To Remove and Protect](#), 2014

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