

New Zealand.



ANALYSIS.

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1907, No. 42.

AN ACT to make Better Provision for the Protection of the Lives of Infants. Title.
[20th November, 1907.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Infant Life Protection Act, 1907, and shall come into operation on the first day of January, nineteen hundred and eight. Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.

“Foster-parent” means the holder of a license under this Act to receive and retain any infant for the purpose of nursing and maintaining it apart from its parents or guardians :

“Foster-home” means the place of abode in which a foster-parent is licensed to receive and retain any infant :

“Infant” means a child under or apparently under the age of six years :

“Minister” means the Minister of Education :

“Secretary” means the Secretary to the Department of Education :

“Prescribed” means prescribed by regulations made under the authority of this Act.

Appointment of officers.

3. The Minister may from time to time appoint such officers as he deems necessary for the purposes of this Act, and may assign to any such officer such duties, authorities, and functions as he thinks fit.

Unauthorised person not to receive infant.

4. (1.) It shall not be lawful for any person, in consideration of any payment or reward, to receive or retain in his care or charge any infant for the purpose of nursing or maintaining it apart from its parents or guardians for a longer period than seven consecutive days unless such person is licensed under this Act as a foster-parent.

(2.) The Minister may from time to time by warrant exempt from the provisions of this section—

(a.) Any institution that is supported wholly or in part by moneys of the Crown or by public subscription; or

(b.) Any person who, being a near relative of an infant, desires to take charge thereof; or

(c.) Any person as to whom the Minister is satisfied that such provisions should not apply.

Application for license.

5. Every person who desires to obtain a license under the provisions of this Act shall make application in the prescribed form to the Secretary or to such other officer as the Minister from time to time appoints to receive such applications.

License.

6. (1.) If, after such inquiry as he thinks fit, the Secretary or other officer as aforesaid is satisfied as to the character and fitness of the applicant and the suitability of the house proposed to be used by the applicant as a foster-home, he shall issue a license to the applicant.

(2.) The holder of a license shall be entitled to receive and maintain in the house specified in the license any infants (not exceeding at any one time the number specified in the license) for the purpose of nursing or maintaining such infants apart from their parents or guardians.

(3.) The license shall have effect for a period of one year from the date of issue, and may be renewed from year to year in the manner hereinbefore provided with respect to the issue of licenses.

Revocation of license.

7. (1.) The license may at any time during its currency be revoked by the Minister; and on any such revocation the Minister may make such order as he thinks fit for the removal of any infants then in the foster-home and for their reception in some other foster-home or otherwise, or he may issue a warrant for the admission of any such infant to an industrial school.

(2.) Such warrant shall have the same effect as an order of admission to an industrial school made by a Magistrate under the Industrial Schools Act, 1882.

Record-book.

8. (1.) The foster-parent shall at all times keep a record-book in the prescribed form, and shall at the prescribed times and in the prescribed manner enter in such record-book such particulars as may be required by regulations to be entered.

(2.) Any foster-parent who fails to observe the requirements of this section, or who makes any false entry in any such record-book, shall be liable to a fine not exceeding twenty pounds.

Provisions as to maintenance-moneys.

9. (1.) No payment or reward shall be made or given to or received by a foster-parent in respect of any infant except in pursu-

ance of an agreement approved by the Secretary or other person authorised by the Minister.

(2.) If default is made in payment of any sum payable under any such agreement, the amount thereof, or such part of that amount as the Secretary thinks fit, may be paid to the foster-parent by the Secretary, and shall be recoverable by the Secretary in the manner provided by section fourteen hereof :

Provided that no such payment shall be made by the Secretary after the child attains the age of fifteen years, or is removed from the foster-home, or dies.

(3.) Where any such agreement is for payment of a lump sum, such lump sum shall be deposited with the Secretary or other officer as aforesaid and not paid to the foster-parent, and in such case the foster-parent shall be entitled to receive from the Secretary out of the sum so deposited a weekly payment of such amount as may be agreed between the Secretary and the foster-parent :

Provided that, save as aforesaid, no payment out of the sum so deposited shall be receivable by the foster-parent after the infant dies or is removed from the foster-home, and the residue then remaining in the hands of the Secretary shall be returned to the person from whom it was received.

10. When and so long as any sum of money recoverable by the Secretary by virtue of the last preceding section remains unpaid, the Secretary for the time being shall have and may exercise, to the exclusion of any other person, the same powers and rights in respect of the child on whose behalf the said sum was paid as if the Secretary were the guardian of such child appointed by the Supreme Court under the Infants Guardianship and Contracts Act, 1887, but the powers and rights so conferred upon the Secretary shall cease when the child attains the age of fifteen years.

Secretary to have powers of guardian.

11. (1.) Any officer appointed under this Act may at any time enter any foster-home, or any premises in which he has reason to believe that any infant is being maintained contrary to the provisions of this Act, and may inspect every part of any such foster-home or premises and examine the state and condition of the infants therein, and also the record-book hereinbefore mentioned.

Powers of inspection.

(2.) Such officer may at any time be accompanied by a registered medical practitioner.

(3.) Such officer may at any time in cases of emergency (of which he shall be sole judge) remove any infant from any foster-home or other premises as aforesaid.

(4.) Every person who obstructs or hinders any such officer in the performance of his duties is liable to a fine not exceeding twenty pounds.

12. Subject to the provisions of the last preceding section, it shall not be lawful for any person to remove any child (whether under or over the age of six years) from a foster-home, or for the foster-parent to permit such removal, except with the written consent of the Secretary or other officer authorised by the Minister to give such consent.

Infant not to be removed from foster-home except with consent of officer.

13. (1.) If any infant dies in a foster-home, the foster-parent shall within twenty-four hours after the death give notice thereof to

Death of infant in foster-home.

the constable in charge of the nearest police-station, who shall forthwith communicate to the Coroner the fact of the death and such circumstances relating to the same as he is aware of.

(2.) On such communication the Coroner shall procure a report from a registered medical practitioner as to the cause of death, and shall then decide whether or not under the special circumstances of the case an inquest is necessary.

(3.) It shall be the duty of the Coroner at such inquest to inquire not only into the immediate cause of death, but also into all the circumstances relating to the treatment and condition of the infant during life which in his opinion should be inquired into in the public interest.

(4.) It shall not be lawful for the foster-parent to cause or permit the body of such infant to be buried until the Coroner so authorises by writing under his hand.

(5.) A full report of the circumstances attending the death of every such child shall be forwarded by the constable to the Secretary.

Expenses paid by
Crown recoverable
from near relatives.

14. (1.) All moneys of the Crown expended under the authority of this Act in respect of any infant (including the expense of medical attendance and of the burial of any infant) shall be a debt due to the Crown for which the near relatives of the infant shall be jointly and severally liable.

(2.) The said debt shall be recoverable in a Magistrate's Court, or in any other Court of competent jurisdiction, by action at the suit of the Secretary for the time being in his own name on behalf of the Crown.

(3.) Any near relative paying such debt or any part thereof shall have a right of indemnity as against the father and mother of such infant, and as against any person who has been adjudged to be the father of such infant under the Destitute Persons Act, 1894, and a right of equal contribution as against all other near relatives of such infant; but for the purposes of this subsection "near relative" in the first line thereof shall not include any person who has been adjudged to be the father of an illegitimate infant.

(4.) The term "near relative" in this section includes, except as aforesaid,—

(a.) Any person who is a near relative of the infant within the meaning of the Destitute Persons Act, 1894:

(b.) Any person who has been adjudged to be the father of an illegitimate infant under the said Act:

(c.) Any person who would be a near relative of an infant within the meaning of the said Act if such infant were the legitimate child of its mother and of the person who has been so adjudged to be its father.

(5.) If and whenever any person has been adjudged to be the father of an illegitimate infant, the Registrar of Births for the district in which such infant was born shall, upon receiving notice thereof, which the Magistrate or Justices making such order are required to give, enter the name of such person in the register of such birth as the father of such infant.

15. Every person who commits a breach of any of the provisions of this Act is liable, if no express provision has been made in this Act to the contrary, to a fine not exceeding fifty pounds or to imprisonment for any period not exceeding six months. Penalty for offences.

16. The cost of administration of this Act shall be paid out of moneys from time to time appropriated by Parliament for that purpose. Cost of administration of Act.

17. The Governor may from time to time, by Order in Council gazetted, make regulations to give effect to the provisions of this Act. Regulations.

18. When any infant is adopted under the Adoption of Children Act, 1895, the provisions of this Act shall apply to such infant and to the person or persons adopting the same in the same manner and to the same extent as if no such adoption had taken place. Act to apply to adopted children.

19. (1.) The Infant Life Protection Act, 1896, is hereby repealed. Repeal.

(2.) All persons duly registered as licensees under that Act shall be deemed to be licensed as foster-parents under this Act. Saving.

General.

20. (1.) It shall be the duty of the occupier of any house in which a child is born alive to give notice of the fact of the birth, the date on which it occurred, and the name of the mother or father of the child, to the Registrar of Births of the district in which the birth took place. Notice of birth to be given to Registrar of Births.

(2.) Such notice shall be in writing, delivered or posted by registered letter to the said Registrar within seventy-two hours after the birth if in a city or borough, or twenty-one days in any other case.

(3.) If the occupier fails to comply with the provisions of this section he shall be liable to a fine not exceeding five pounds.

(4.) The Registrar shall keep a register of the births of which notice is so given, but such register shall be open for inspection by such persons only as are authorised by the Minister.

(5.) The requirements of this section are in addition to and not in substitution for the requirements of the Registration of Births and Deaths Act, 1875.

21. (1.) Notwithstanding anything contained in section five of the Adoption of Children Act, 1895, if the Judge or Magistrate making an order of adoption of any child is satisfied that any parent or guardian of the child is for any reason unfit to have the custody or control of the child, and that notice of the application for the order of adoption has been given to such parent or guardian, the said Judge or Magistrate may, if he thinks fit, in making the said order dispense with the consent of such parent or guardian. In certain cases of adoption consent of parents may be dispensed with.

(2.) Any parent or guardian whose consent is thus dispensed with may, within one month after the making of the order of adoption, make application to any Judge of the Supreme Court, on notice to the adopting parent or parents, to discharge such order, and the said Judge may in his discretion discharge such order accordingly on such terms as he thinks fit. Any such discharge shall have the same

effect as a discharge made under section nine of the Adoption of Children Act, 1895.

Onus of proof.

22. In any prosecution for an offence against section four or section nine of this Act, the burden of proving that no payment or reward has been received by the defendant shall lie upon the defendant.

Power to clear the Court.

23. On the hearing of any case under section eighteen of the Industrial Schools Act, 1882, the Magistrate may order that all persons may be excluded from the Court:

Provided that such order shall not operate to exclude any counsel, solicitor, constable, witness, parent or guardian, or accredited newspaper representative, or the representative of any institution or organization interested in the welfare of children.