

New Zealand.

ANNO VICESIMO NONO

VICTORIÆ REGINÆ.

No. 45.

ANALYSIS.

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AN ACT to amend the Law relating to Masters and Apprentices. Title.

[30th October 1865.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled as follows—

I. The Short Title of this Act shall be “The Master and Apprentice Act 1865.” Short Title.

II. Sections XI. XII. XIII. XIV. XV. and XVI. of an Ordinance of the Legislative Council of New Zealand intituled “An Ordinance for the support of Destitute Families and Illegitimate Children” are hereby repealed Provided that all things done or commenced before the passing hereof under the said sections or any of them shall have the same effect and may be concluded as if they had been done or commenced under this Act. Repealing clause.

III. The word “master” in this Act shall mean any person to whom any child shall be bound apprentice by indenture or by assignment of the indenture unless there be something in the subject or context repugnant to such constructions and nothing herein contained shall be taken to extend to the articulated clerks of attorneys or solicitors or the clerks or apprentices of any person engaged in teaching of any professional or scientific pursuit or to any apprentice on whose binding a greater sum than thirty pounds shall have been *bonâ fide* paid as the amount of fee or premium or to any parties bound by any indenture of apprenticeship in which there may be a clause expressly exempting them from the operation of this Act. Interpretation clause. Exemption.

IV. All masters of apprentices in New Zealand shall have such and the like powers over every such apprentice as the master of every apprentice has by the laws of England and shall be amenable and responsible for the due performance of the contract entered into Laws of England relating to Master and Apprentice to extend to New Zealand.

Master and Apprentice.

between or on the part of such apprentice and themselves respectively in such and the like manner as the master of any apprentice would be by the laws of England so far as the same are applicable to New Zealand and are not inconsistent with any of the provisions of this Act.

Government appren-
tices.

V. Any officer in service of the Government having the special direction and control of persons of any particular description of trade or calling within New Zealand may take and receive such and so many apprentices as he may require to serve under him and his respective successors in office in the employment of the Government for a term of not less than three nor more than seven years in such arts or trades as he may deem expedient.

An indenture of ap-
prenticeship shall be
executed.

VI. Before any such apprentice shall be bound as aforesaid an indenture of apprenticeship shall be duly executed by the parent or guardian of the said apprentice (or if such apprentice shall have no parent or guardian living by two Justices residing nearest to the district where such apprentice may be residing) and by the said apprentice of the one part and by the officer as aforesaid on the other part and that in every such indenture shall be specified the particular art or trade in which the said apprentice is to be initiated and employed and every such indenture so entered into shall be binding on the said apprentice on the one part and such officer of Government for the time being and his or their successors in office on the other part respectively.

Orphan apprentices.

VII. The persons who shall have the control or management of any orphan school or any other public institution of an eleemosynary nature may from time to time nominate and return to the Colonial Secretary the names of persons who may bind children under their charge as apprentices and may from time to time change such nomination and the persons so nominated if approved by the Colonial Secretary but not otherwise shall be capable of binding such children as apprentices and may if they shall so think fit bind by indenture in writing children above the age of twelve years under the care or control of their respective institutions to be apprenticed to any farmer householder tradesman or other person exercising any art or manual occupation for a term which shall not exceed a period of five years and which shall expire when such children respectively shall attain the age of nineteen years or (if females) marry with the consent of the person or persons appointed under the provisions of any Act in force relating to marriage to give consent to the marriage of minors.

Indentures of ap-
prentices shall be
executed.

VIII. Before any child shall be bound apprentice under this Act an indenture of apprenticeship shall be executed by the person or persons authorized in the preceding section to bind such apprentice of the one part and by the master to whom such child shall be appointed to be bound apprentice of the other part and every such indenture so entered into shall be binding on such child on the one part and such master on the other part and shall contain a covenant on the part and behalf of such master that during the said term of apprenticeship the master shall and will provide such apprentice with sufficient and suitable food clothing and bedding and that such apprentice shall attend divine service when practicable at least once on every Sunday and shall have particular attention paid to his morals and also that such master shall pay into a Savings' Bank in the said Colony in the name of such apprentice the yearly sum of two pounds if a male and thirty shillings if a female for each and every year during the last three years of the said apprenticeship when the term of such apprenticeship shall be for the term of five years to be paid to him or her with the interest thereof at the expiration of his or her apprenticeship.

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IX. Any householder tradesman farmer or other person exercising any trade art or manual occupation may take by indenture in writing any apprentice above the age of twelve years to be instructed in such trade art or occupation for a term which shall not exceed five years and which shall expire at the time when such apprentice shall attain the age of nineteen years or (if a female) marry with the consent of the person or persons appointed under the provisions of any Act in force relating to marriage to give consent to the marriage of minors. Apprentice may be taken.

X. Such indenture of apprenticeship shall be executed by the parent or guardian of the said apprentice or (if he shall have no parent or guardian) by two Justices residing in or nearest to the district where such apprentice may be residing of the one part and by the master to whom the said apprentice shall be bound of the other part and shall contain such covenants and provisos as are usually inserted in the indentures of such apprentices in England and which shall be binding upon the parties executing the said indenture. Indenture of apprenticeship to be executed.

XI. Any two Justices may with the consent of either of the parents if living and within New Zealand but if otherwise then without such consent bind by indenture any child above the age of twelve years in respect of whose maintenance any order shall have been made under the provisions of any Act now or hereafter to be enforced enabling Justices to make orders for the maintenance of children deserted or left without adequate means of support to be apprenticed to any householder tradesman farmer or other person exercising any art or manual occupation for a term which shall not exceed five years and which shall expire at the time when such child shall attain the age of nineteen years or (if a female) marry with the consent of the person or persons appointed under the provisions of any Act in force relating to marriage to give consent to the marriage of minors and every such binding shall be as effectual to all intents and purposes as if the child had been of full age and had bound himself to be such apprentice. Deserted children may be apprenticed.

XII. The master of any apprentice or the executors or administrators of the master in the event of his death may by indorsement on the indenture of apprenticeship or by any other instrument in writing by and with the consent of two Justices under their hand assign such apprentice to any fit and proper person who is willing to take such apprentice for the residue of the term mentioned in such indenture of apprenticeship and the person to whom such apprentice is intended to be assigned shall at the same time by indorsement on the counterpart of such indenture or by writing under his hand stating the said indenture of apprenticeship and the indorsement and consent aforesaid declare his acceptance of such apprentice and acknowledge himself and his executors and administrators to be bound by the agreements and covenants mentioned on the part of the said master of such apprentice to be done and performed and in such case such apprentice shall be deemed and taken to be the apprentice of such subsequent master to whom such assignment shall be made to all intents and purposes whatsoever. Any master may with consent of two Justices assign such apprentice to any other fit and proper person.

XIII. No master shall put away or transfer his apprentice to another or in any way discharge or dismiss his apprentice from his service without such consent as aforesaid under the penalty of ten pounds. Penalty for unauthorized transfer or discharge.

XIV. In case of any difference arising between any master and any apprentice the party feeling aggrieved shall make his complaint before two Justices of the Peace who shall have power and authority in their discretion to make such order and direction as the equity of the case shall require and the said Justices may in the case aforesaid or upon Jurisdiction of Justices.

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proof of ill-usage or neglect of duty by the master cancel the indenture of apprenticeship and discharge such apprentice from all obligation to serve thereunder by certificate under their hands and seals which certificate shall be a full and sufficient bar to any action which may be brought on such indentures.

Ill-usage of apprentices.

XV. Any master who shall ill-treat or who shall neglect to instruct properly or otherwise discharge his duty towards his apprentice may be summoned to appear before two or more Justices and upon conviction shall be fined by the said Justices any sum not exceeding ten pounds.

Punishment of apprentices offending.

XVI. Any two Justices of the Peace upon application or complaint made on oath by any master against any apprentice concerning any breach of duty disobedience or ill-behaviour in his service shall hear examine and determine the same in a summary way and may if they think fit punish the offender by commitment to solitary confinement in any gaol for any time not exceeding three days Provided always that such punishment shall in no case be inflicted upon any apprentice under fourteen years of age or upon any female apprentice.

Apprentices absented themselves.

XVII. If any apprentice shall absent himself from his master's service before the term of apprenticeship shall have expired he shall at any time thereafter whenever he shall be found be compelled to serve his master for so long a time as he shall have so absented himself from such service unless he shall make reasonable satisfaction to his master for the loss his master shall have sustained by such absence and so from time to time as often as any apprentice shall without leave of his master absent himself from such service before the term of his contract shall be fulfilled and in case any such apprentice shall refuse to serve as hereby required or to make such reasonable satisfaction to his master such master may complain on oath to any Justice of the Peace who may issue a warrant under his hand for apprehending any such apprentice to be brought before any two Justices of the Peace who shall hear the complaint in a summary way and determine what satisfaction shall be made to such master and in case such apprentice shall not give security to make satisfaction according to such determination he may be committed to any gaol for a time not exceeding three months besides serving the period of time for which such apprentice was absent.

No *certiorari*.

XVIII. No conviction order warrant or other matter made or purporting to be made by virtue of this Act shall be removed by *certiorari* or otherwise into the Supreme Court.

Application of fines.

XIX. Any fine recovered under this Act against a master for ill-usage or neglect to discharge his duty towards his apprentice shall in the discretion of the Justices who shall have imposed such fine be disposed of either towards any charitable institution in the district or place where such master shall reside or for the use of such apprentice as a compensation for such ill-usage or neglect as aforesaid.

Appeal.

XX. Any person who shall think himself aggrieved by any fine penalty or punishment imposed or directed by and under this Act may appeal against the conviction to the Court of General Sessions of the Peace or the Supreme Court according to the provisions of any Act now or which may hereafter be in force for the regulation of appeals of the like nature.

Commencement of this Act.

XXI. This Act shall commence and come into operation on the fifth day of January next after the passing hereof and not before.