

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. No person to receive infants unless licensed and house registered. 4. Minister may exempt certain institutions and persons. 5. Application for license. 6. Provisions with respect to applications. 7. Inspector of Police to report on application. 8. Commissioner may grant or refuse license. Conditions of license. 9. Register of licenses and Homes to be kept. 10. Number of infants specified in license may be received. 11. Inspection of Homes and infants. 12. Regulations as to inspection. 13. Licensee to keep a record-book. Particulars to be entered therein. 14. Record-book to be open to inspection. 15. Entries to be made at time infant received or removed. 16. No infant to be removed without warrant of Inspector. 17. Form of warrant. 18. Notice of intention to cancel license. | <ol style="list-style-type: none"> 19. Appeal. 20. If no appeal, license deemed cancelled. 21. Notice of appeal to be sent to Minister. 22. Hearing of appeal. 23. If appeal allowed, license to be returned. 24. If appeal dismissed, license deemed cancelled. 25. Rights and privileges to cease on cancellation. 26. Custody of infants when license cancelled. 27. Infants may be removed before license cancelled. 28. Notice of death of infant. 29. Coroner to authorise burial. 30. Inquiries to be made at inquest. 31. Coroner to make special report. 32. Penalty for breach of Act. 33. License to be produced to Court. Notice to Commissioner of conviction. 34. Court may cancel license for certain offences. 35. Prohibition from obtaining new license. 36. Duplicate. 37. Certificate as to entry in register to be evidence. 38. Regulations. 39. Adoption of Children and Industrial Schools Acts not affected. 40. Repeal. Saving. |
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1896, No. 23.

Title. AN ACT to make Better Provision for the Protection of the Lives of Infants. [12th October, 1896.]

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

Short Title. 1. The Short Title of this Act is “The Infant Life Protection Act, 1896.”

Interpretation. 2. In this Act, if not inconsistent with the context,—
“Commissioner” means the person for the time being holding the office of Commissioner of Police:
“Infant” means any child under or apparently under the age of four years:
“Licensee” means the holder of a license as Infants’ Home keeper under this Act:
“Minister” means the Minister of Justice, or such other member of the Executive Council (being a responsible

Minister of the Crown) as for the time being is acting for him :

“ Prescribed ” means prescribed by regulations to be made from time to time by the Governor in Council.

3. From and after the commencement of this Act it shall not be lawful for any person, in consideration of any payment or reward at any time made or given or to be made or given to such person, to receive or retain in his care or charge in any house any infant for the purpose of nursing or maintaining it apart from its parents or guardians for a longer period than three consecutive days, unless,—

No person to receive infants unless licensed and house registered.

(1.) Such person is the holder of a license under this Act as an Infants' Home keeper in respect of such house ; and

(2.) Such house is registered under this Act as an Infants' Home.

4. (1.) The Minister may from time to time, by warrant in the prescribed form, exempt from the provisions of the last-preceding section hereof—

Minister may exempt certain institutions and persons.

(a.) Any institution of a public nature established for the reception of infants ; 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 such provisions should not apply.

(2.) In order to enable such warrant to be applied for, any Justice of the Peace may in any particular case, by order in the prescribed form, suspend the operation of the last-preceding section hereof for any period not exceeding eight days.

(3.) Every such warrant by the Minister, or order by a Justice, shall, before being issued, be recorded in the prescribed manner.

5. Any person desiring to obtain a license as an Infants' Home keeper under this Act shall make application therefor in writing to the Commissioner.

Application for license.

6. With respect to every such application the following provisions shall apply :—

Provisions with respect to applications.

(1.) The application shall be in the prescribed form, and shall set forth the full name, occupation, and address of the applicant, and, if married, the full name, occupation, and address of the husband or wife, as the case may be, and whether husband or wife are living together with or apart from one another :

(2.) The situation of the house which the applicant desires to have registered as an Infants' Home, the number of rooms therein, and the size of each room :

(3.) The maximum number of infants the applicant proposes to keep in the house when registered :

(4.) Such other particulars as to the applicant and the house as are prescribed :

(5.) The application shall be recommended in the prescribed form by not less than three householders who can certify that the applicant is of good character, and fit to be trusted with the care of infants,

Inspector of Police to report on application.

7. On receipt of the application the Commissioner shall refer it to the Inspector of Police for the district in which the house is situate; and the Inspector, after making full inquiry, shall report in writing as to the character and fitness of the applicant, the suitability of the house, and the maximum number of infants that should be kept therein.

Commissioner may grant or refuse license.

8. Upon the receipt and consideration of such report the Commissioner may grant or refuse the license as he thinks fit, and with respect to every such license the following provisions shall apply:—

Conditions of license.

(1.) The license shall be in the prescribed form, and, unless sooner cancelled, shall continue in force until the thirty-first day of December next following the date of the grant thereof, but may be renewed from year to year in the prescribed mode:

(2.) The license shall set forth the full name of the licensee, the situation of the Infants' Home in respect whereof the license is granted, and the maximum number of infants that the licensee may lawfully receive and maintain therein:

(3.) No fee shall be payable for the grant or renewal of a license.

Register of licenses and Homes to be kept.

9. The Commissioner shall cause to be kept a register, in the prescribed form, wherein shall be entered the following particulars in respect of every license:—

(1.) The full name, occupation, and address of the licensee:

(2.) The situation of the Infants' Home in respect whereof the license is issued:

(3.) The maximum number of infants that the licensee may lawfully receive and maintain therein:

(4.) Such other particulars as are prescribed.

Number of infants specified in license may be received.

10. The license whilst in force shall entitle the holder thereof to receive and maintain in the therein-mentioned Infants' Home (but not elsewhere) infants not exceeding the number specified in the license.

Inspection of Homes and infants.

11. Every Infants' Home and the infants therein shall at all reasonable times be open to inspection by the Commissioner, or by any medical practitioner or member of the Police Force whom the Commissioner authorises, whether generally or specially, in that behalf, or by any Justice of the Peace.

Regulations as to inspection.

12. In addition to the inspection provided for by the last-preceding section hereof, every Infants' Home and the infants therein shall at all times be open to inspection under regulations to be made by the Governor in Council, and for that purpose the regulations for the time being in force relating to the boarding-out of children under "The Industrial Schools Act, 1882," may be adopted, with such modifications and additions as the Governor in Council may think fit.

Licensee to keep a record-book.

13. Every licensee shall at all times keep a record-book in the prescribed form, wherein shall be correctly entered from time to time in respect of every infant, and forthwith as the events occur,—

Particulars to be entered therein.

(1.) The date on which the infant is received into the Infants' Home.

(2.) The age, sex, and full name of the infant so received.

- (3.) The full name, occupation, and address of the parents or guardians of such infant, and of the person from whom it is so received.
- (4.) The consideration paid, or agreed to be paid, to the licensee in respect of such infant.
- (5.) The date on which, and the circumstances under which, any infant dies or is removed from the Infants' Home, and, in the latter case, the name, occupation, and address of the person removing it.
- (6.) Such other particulars as are prescribed.

14. The record-book shall at all times be open to inspection by the Commissioner or any person authorised by him, and shall be so kept as that all entries relating to each infant shall be shown together, and separate from those relating to any other infant.

Record-book to be open to inspection.

15. It shall not be lawful for any licensee to receive any infant into the Infants' Home, or to permit its removal therefrom, unless at the time such infant is so received or removed the entries in the said book relating thereto are made by the licensee, and signed as correct by the person from whom the infant is so received or by whom it is so removed, as the case may be.

Entries to be made at time infant received or removed.

16. It shall not be lawful for any person to remove any infant (whether under or over the age of four years) from an Infants' Home, or for the licensee thereof to permit such removal, except with the written warrant of the Inspector of Police for the district wherein the Infants' Home is situate, or of some officer of police authorised by him in that behalf.

No infant to be removed without warrant of Inspector.

17. Such warrant shall be in the prescribed form, and, before giving the same, the Inspector or officer shall satisfy himself that the person removing the infant is entitled so to do, and that the entry relating thereto in the record-book is duly made and signed.

Form of warrant.

18. (1.) If at any time it is made to appear to the Commissioner that any licensee is not conducting the Infants' Home in a satisfactory manner, or is not a fit person to hold the license, he may give notice in the prescribed form to the licensee that (subject to appeal in manner hereinafter provided) the license will be cancelled at the expiration of ten days from the service of such notice.

Notice of intention to cancel license.

(2.) Service of such notice may be effected by delivering the same to the licensee, or by leaving it at the licensee's Infants' Home.

19. (1.) At any time not later than six days from the date of the service of such notice the licensee may give to the Commissioner notice of appeal.

Appeal.

(2.) Service of the notice of appeal may be effected by delivering the same either to the Commissioner or to the aforesaid Inspector of Police.

20. If no notice of appeal is duly served, then forthwith on the expiration of the aforesaid period of ten days the license shall be deemed to be cancelled.

If no appeal, license deemed cancelled.

21. If the notice of appeal is duly served, the Commissioner shall forward the same to the Minister.

Notice of appeal to be sent to Minister.

22. (1.) The Minister may himself hear and determine the appeal, or may appoint a fit person so to do, and the determination when arrived at shall be final and conclusive.

Hearing of appeal.

(2.) The appeal shall be heard and determined at such time and place and in such manner as the Minister appoints, and due notice of the time and place shall be given to the Commissioner and the licensee.

If appeal allowed, license to be returned.

23. If the appeal is decided in favour of the licensee, it shall be allowed without costs, and the license shall be returned to him.

If appeal dismissed, license deemed cancelled.

24. (1.) If the appeal is decided against the licensee, it shall be dismissed with or without costs, as the Minister or other person determining the appeal thinks fit, and the license shall be deemed to be cancelled as from the date of such decision.

(2.) If the appeal is dismissed with costs, the amount thereof shall be fixed by the Minister or other person determining the appeal, and shall be recoverable from the licensee as a debt due to the Crown.

Rights and privileges to cease on cancellation.

25. (1.) Forthwith upon the cancellation of a license in manner hereinbefore provided, all the rights and privileges of the licensee thereunder shall absolutely cease and determine, and the license (if not previously delivered up) shall be delivered up by the licensee to the Commissioner on demand.

(2.) The Commissioner shall retain every cancelled license, and in the prescribed manner record the cancellation thereof, and remove the licensee's name and Infants' Home from the register.

Custody of infants when license cancelled.

26. (1.) Forthwith upon the cancellation of a license the Commissioner shall by warrant in the prescribed form order all the infants in the licensee's Infants' Home to be removed therefrom and properly cared for.

(2.) For such purpose the Commissioner may make arrangements with any fit person to take the care and custody of such infants, or by warrant in the prescribed form may order them to be conveyed and admitted to the nearest industrial school.

(3.) Such last-mentioned warrant shall have the same effect as an order of committal to an industrial school made by a Stipendiary Magistrate under "The Industrial Schools Act, 1882."

Infants may be removed before license cancelled.

27. The powers of the last-preceding section hereof conferred upon the Commissioner may, in his discretion, be exercised by him at any time between the service of notice of intention to cancel the license and the actual cancellation thereof, or allowance of the appeal:

Provided that if the appeal is allowed the infants shall be forthwith restored to the custody of the licensee.

Notice of death of infant.

28. If any infant dies whilst an inmate of an Infants' Home, or in the custody of the licensee thereof, the licensee shall within twelve hours after the death give notice thereof to the police officer in charge of the nearest police-station, and thereupon an inquest shall be held by the Coroner.

Coroner to authorise burial.

29. It shall not be lawful for the licensee to cause or permit the body of such infant to be buried until the Coroner so authorises by writing under his hand.

Inquiries to be made at inquest.

30. It shall be the duty of the Coroner holding such inquest to inquire not only into the immediate cause of death, but also into all circumstances which are calculated to throw light upon the treatment and condition of the infant during life, or which, in his opinion, should be inquired into in the public interest.

31. In addition to his ordinary finding, the Coroner shall make a special report to the Minister, both as to the cause of death and as to all other matters connected therewith which, in his opinion, concern the public interest or the administration of this Act.

Coroner to make special report.

32. If any licensee or other person commits any breach of any of the provisions of this Act, or in any way fails or neglects to faithfully comply therewith, he is guilty of an offence, and is liable in respect of each such offence to a penalty of any sum not exceeding twenty-five pounds, or to imprisonment for any period not exceeding six months.

Penalty for breach of Act.

33. (1.) In all proceedings against a licensee for any offence under this Act he shall produce to the Court his license.

License to be produced in Court.

(2.) Whenever a licensee is convicted of an offence under this Act, the license, together with a notice of the conviction, shall be forthwith sent by the Clerk of the convicting Court to the Commissioner, who shall thereupon proceed for the cancellation of the license in manner provided in section seventeen hereof.

Notice to Commissioner of conviction.

34. If any licensee is convicted of—

(1.) Cruelty to any infant; or

(2.) Receiving or maintaining in his custody a greater number of infants than his license permits; or

(3.) Failing or neglecting to duly give notice of the death of an infant, as required by this Act,—

Court may cancel license for certain offences.

then and in any such case, and notwithstanding anything hereinbefore contained, the convicting Court shall, in addition to imposing a penalty, declare the license to be cancelled, and thereupon the license shall be deemed to be cancelled accordingly, and the Clerk of the convicting Court shall send notice thereof to the Commissioner, who shall in the prescribed manner record the same, and remove the licensee's name and Infants' Home from the register.

35. No person whose license has been cancelled under the provisions of the last-preceding section hereof shall at any time thereafter be allowed to receive or hold a license.

Prohibition from obtaining new license.

36. On satisfactory proof of the destruction or loss of a license, the Commissioner may in the prescribed manner issue a duplicate thereof.

Duplicate.

37. The register shall be sufficient evidence of all matters contained therein, and a certificate in the prescribed form, purporting to be under the hand of the Commissioner, as to any entry or cancellation in the register shall be *prima facie* evidence thereof without the production of the register itself.

Certificate as to entry in register to be evidence.

38. (1.) The Governor in Council may from time to time make regulations for any of the following purposes:—

Regulations.

(a.) Directing what forms shall be used under this Act:

(b.) Arranging Infants' Homes into classes according to size and accommodation, and fixing the maximum number of infants to be received or maintained in Homes of any particular class:

(c.) Regulating the inspection of infants and Infants' Homes:

(d.) Directing anything by this Act expressed to be prescribed:

(e.) Generally for giving effect to the purposes and provisions of this Act.

(2.) Any such regulation may impose in respect of the breach thereof a penalty of any sum not exceeding twenty-five pounds, or imprisonment for any period not exceeding six months.

(3.) All such regulations shall be gazetted.

Adoption of Children
and Industrial
Schools Acts not
affected.

39. Nothing in this Act shall be construed—

(1.) To repeal or otherwise affect any of the provisions of “The Adoption of Children Act, 1895”; nor

(2.) To apply to any child lawfully adopted under the last-mentioned Act, or committed or sent to any industrial school under “The Industrial Schools Act, 1882.”

Repeal.
Saving.

40. “The Infant Life Protection Act, 1893,” is hereby repealed; but all persons duly registered under that Act shall be deemed to be licensees under this Act, and all houses duly registered under that Act shall be deemed to be duly-registered Infants’ Homes under this Act.