

ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

****

CAP. CXXXII.

An Act for consolidating and amending the Law relating to Industrial Schools in *Scotland*.

[6th *August* 1861.]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preliminary.

Short Title.

1. This Act may be cited for all Purposes as "The Industrial Schools (*Scotland*) Act, 1861."

Limits of Act.

2. This Act shall extend to *Scotland* only.

Interpretation of Terms.

3. The following Words and Expressions shall have the Meanings hereby assigned to them respectively, unless there be something in the Subject or Context repugnant to such Construction:

"Managers" shall include the Directors, Managers, or other Persons who shall have the Management or Control of any such Industrial School as is herein-after mentioned:

"Parent" shall include any Person legally liable to maintain a Child:

"Magistrate"

"Magistrate" shall include any Sheriff, Sheriff Substitute, or Justice of the Peace of a County, or Judge in a Police Court, and any Provost or Baillie of a City or Burgh.

Certified Industrial Schools.

Mode of certifying Industrial Schools.

4. Her Majesty's Secretary of State for the Home Department, herein-after referred to as the Secretary of State, may, upon the Application of the Managers of any School in which industrial Training is provided, and Children are fed as well as taught, and in which Provision for clothing and lodging Children shall have been made to an Extent deemed requisite by the Person appointed as after mentioned, appoint such Person as he may think fit to examine into the Condition of the School, and to report to him thereon; and if satisfied with such Report, he may by Writing under his Hand certify that such School is fitted for the Reception of such Children as may be sent there, in pursuance of this Act, and shall cause a Copy of the Certificate to be sent to the Sheriff Clerk and to the Clerk of the Peace of the County or Ward thereof, and to the Town Clerk of every Burgh within such County in which the School is situate; but no School shall be certified under this Act and also under the Act of the Session of the Seventeenth and Eighteenth Years of Her Majesty, Chapter Eighty-six, intituled *An Act for the better Care and Reformation of youthful Offenders in* Great Britain.

Withdrawal of Certificate by Secretary of State.

5. Every Industrial School that has been certified under this Act, herein-after referred to as "a certified Industrial School," shall from Time to Time, and at least once in each Year, be inspected by a Person to be appointed by the Secretary of State; and it shall be lawful for the Secretary of State, if dissatisfied with the Condition of such School as reported to him, by Notice under his Hand, addressed to the Managers of such School, to declare that the Certificate is withdrawn, from and after a Day to be specified in such Notice, not less than Two Months after the Date thereof.

Notice of Withdrawal.

6. Any such Notice as aforesaid may be served on the Managers of such School by delivering the same personally to any One of them, or by sending it, by Post or otherwise, in a Letter addressed to them or any of them at the said School, or at the usual or last known Place of Abode of any Manager, or of the authorized Secretary, and a Copy of the Notice shall be sent to the Clerk of the Peace of the County or Ward thereof in which the School is situate, and to the Town Clerk of every Burgh within such County; and any School on the Managers of which such Notice has been served shall from

from and after the Day therein specified cease to be a certified Industrial School within the Meaning of this Act.

Local Reformatories may receive youthful Offenders and Vagrant Children.

7. Where in any City, Town, or Place there has been erected, under Local Act of Parliament or otherwise, any House of Refuge for youthful Offenders, or any Reformatory or Industrial School or other similar Institution, it shall be lawful for the Commissioners, Directors, or Managers thereof to receive and maintain therein, if willing so to do, all such young Persons as may be sent thereto under the Act of the Seventeenth and Eighteenth Years of Queen *Victoria*, Chapter Eighty-six, "for the better Care and Reformation of youthful Offenders in *Great Britain*," or the Act of the Eighteenth and Nineteenth Years of Queen *Victoria*, Chapter Eighty-seven, to amend the said recited Act, or under any of them, and to apply such Portion of the Fund under their Control as they may think proper for their Training, Maintenance, and Disposal, such House of Refuge, School, or Institution having always been previously sanctioned under the said recited Acts or either of them, as the Case may be.

Resignation of Certificate by Managers.

8. The Managers of any certified Industrial School may, upon giving Six Months previous Notice of their Intention so to do, in Writing under the Hand of One or more of them, or of the authorized Secretary, require the Secretary of State to withdraw the Certificate given to such School, and accordingly, at the Expiration of Six Months from the Date of the Notice, such Certificate shall be deemed to be withdrawn, and from thenceforth it shall not be lawful to send or receive there any more Children under this Act; but the Managers of a certified Industrial School shall not, except in manner provided by this Section, have Power, without the Consent of the Secretary of State, expressed in Writing, to withdraw from the Obligation of educating, clothing, lodging, and feeding any Children that at the Time of the giving such Notice may be in the School under any Order granted in pursuance of the Provisions of this Act, until the Certificate be withdrawn, or until such Children be removed to some other Industrial School by an Order of the Secretary of State; and if such Managers make default in so doing, they, or such of them as fail therein, shall each of them incur a Penalty not exceeding Five Pounds for each Default, to be recovered in a summary Manner before any Magistrate having Jurisdiction in the Place where such School is situate.

Admission of Children to and their Status at School.

Description of Children liable to be sent to School.

9. Children of the Descriptions herein-after mentioned may be sent to certified Industrial Schools in pursuance of the Provisions of this Act; that is to say,

1. Any

1. Any Child apparently under the Age of Fourteen Years found begging or receiving Alms, or being in any Street or public Place for the Purpose of begging or receiving Alms:
2. Any Child apparently under the Age of Fourteen Years that is found wandering, and not having any Home or settled Place of Abode or proper Guardianship, or any visible Means of Subsistence, or that frequents the Company of reputed Thieves:
3. Any Child apparently under the Age of Twelve Years who, having committed an Offence punishable by Imprisonment or some less Punishment, ought nevertheless, in the Opinion of the Magistrate, regard being had to his Age and to the Circumstances of the Case, to be sent to an Industrial School:
4. Any Child under the Age of Fourteen Years whose Parent represents that he is unable to control him, and that he desires such Child to be sent to an Industrial School, in pursuance of this Act, and who at the same Time gives such Undertaking or other Security as may be approved by the Magistrate before whom he is brought, in pursuance of this Act, to pay all Expenses incurred for the Maintenance of such Child at School: Provided that no Child who, on being brought before the Magistrate, is proved to have been previously sentenced to Imprisonment for any Period of more than Thirty Days, shall be deemed to be within the Provisions of this Act.

Power to Magistrates to send Children to School.

10. Any Person, whether a Constable or not, may bring before a Magistrate any Child that is herein-before declared to be liable to be sent to an Industrial School; and the Magistrate shall make full Inquiry into all the Facts of the Case, and if satisfied on such Inquiry that this Act applies to such Child, and that it is expedient to deal with him under its Provisions, may, by Writing under his Hand, order the Child to be sent, for such Period as he may think necessary, for his Education and Training, to any certified Industrial School, whether situate within his Jurisdiction or not, the Managers of which are willing to receive such Child; subject to this Qualification, that it shall be the Duty of the Magistrate to select, if possible, an Industrial School conducted in accordance with the Religious Persuasion to which the Parent of the Child appears to him to belong: Provided also, that the Magistrate shall have Power, while Inquiry is being made respecting such Child, or respecting a School to which he may be sent, to order him to be taken to the Poorshouse belonging to the Parish or Combination in which such Child has been found, or where there is no such Poorshouse, or where it is at an inconvenient Distance, to such other Place, not being a Prison, as he may appoint, and to be detained therein, at the Cost of such Parish or Combination, for any Time not exceeding Seven Days, or until an Order shall be made,

previous

previous to the Expiration thereof, for the Discharge of such Child, or for his being sent to a certified Industrial School, as herein-before provided, and such Child shall be so detained accordingly by the Keeper of such Poorshouse, or by such other Person as such Order shall be addressed to.

Lodging, &c. Child at School.

11. The Managers of every such certified Industrial School may, at their Discretion, permit any Child sent there in pursuance of this Act to sleep or lodge at the Dwelling of his Parent, or of any trustworthy and respectable Person, so that they educate, feed, and clothe the Child in all respects as if he were lodging in the School itself, and that they report to the Secretary of State in such Manner as he shall require every Instance in which they exercise a Discretion under this Section.

Children not to be sent to Schools to which Parents, &c. object.

12. If the Parent or Guardian or nearest surviving Relative of any Child who may have been sent to or whom it may be intended to send to an Industrial School, under the Provisions of this Act, shall certify to the Magistrate by whom the Order may have been or may be about to be made, within Fourteen Days from the Day of the making of such Order, that they object to such Child being sent to or detained in the School named or about to be named, and shall name another School or Institution in *Great Britain*, duly certified as aforesaid, and shall signify their Desire that such Child may be sent thereto, and shall prove that the Managers thereof are willing to receive such Child, and shall pay or find sufficient Security to pay any additional Expense which his or her Removal may occasion, over and above that of sending him or her to the certified School on which the Order shall be about to be made or shall have been made, and in case the Removal shall take place from one such School to another, then to pay the whole Expense, such Magistrate shall direct such Child to be sent to such last-mentioned School or Institution accordingly: Provided always, that if any such Child who shall have become chargeable to any Parish, and shall, under the Provisions of this Act, be sent from *Scotland* to any School out of *Scotland*, might have been removed from *Scotland* under the Provision of the Eighth and Ninth of Queen *Victoria*, Chapter Eighty-three, at the Instance of the Inspector of the Poor of the Parish to which such Child has become chargeable, had he or she not been sent out of *Scotland* under the Provisions of this Act, the Chargeability on such Parish for such Child shall, on his or her being so sent out of *Scotland*, cease and determine.

As to Settlement and Chargeability of Children sent from Scotland to any School out of Scotland.

Child chargeable to Parish to be sent to

13. In the Case of any Child chargeable at the Time to any Parish, or who has been so chargeable within Three Months preceding, if

Parochial Industrial School, if any.

if there shall be in such Parish an Industrial certified School maintained by the Parochial Board thereof, and if the Inspector of the Poor of such Parish shall certify to the Magistrate who may be about to make an Order for sending such Child to a certified Industrial School, or, where such Order has been made, within Fourteen Days of the Day of making the same, that he requires such Child to be sent to the certified Industrial School in such Parish maintained by the Parochial Board thereof, such Magistrate shall direct such Child to be sent to such last-mentioned School accordingly, the Inspector of the Poor defraying the Expense of conveying such Child thither.

Limitation of Stay at School.

14. No Child shall in pursuance of this Act be detained against his Consent in any certified Industrial School after he has attained the Age of Fifteen Years.

Discharge of Child from School.

15. The Secretary of State may from Time to Time, by Writing under his Hand, remove any Child sent to an Industrial School in pursuance of this Act from one certified Industrial School to another, so that the whole Period of the Detention of such Child at Industrial Schools be not thereby increased: He may also, in like Manner, discharge any Child from an Industrial School, either absolutely or upon Condition of the Parent of such Child or any other Relation undertaking to educate, clothe, and feed him, or entering into such other Undertaking as the Secretary of State may require.

Power to discharge from School before Expiry of Period of Attendance.

16. It shall be lawful for any Magistrate, on the Application of the Parents or of the Directors or Managers of any certified Industrial School to which any such Child may have been transmitted, under the Provisions of this Act, or of the Inspector of the Poor of the Parish in the first instance or ultimately liable for his or her Support, if satisfied that a suitable Employment has been provided for the Child, or, in the Case of any Child falling under the Class specified in Paragraph Four of the Ninth Clause hereof, on default of the Parent to make Payment of the Expenses of the Cost of such Child's Maintenance at School, or if he shall otherwise see Cause, to discharge such Child from such School before the Expiry of the Period for which he may have been sent there.

Power to make Rules, &c.

17. It shall be lawful for the Directors and Managers of such Schools and Institutions as aforesaid to make all necessary Rules, Orders, and Byelaws for the Regulation and Management of the Schools and Institutions as aforesaid under their Charge, not repugnant to the Provisions of this Act; but no such Rules, Orders, or Byelaws shall

shall be enforced until they have been submitted to and approved by the Secretary of State.

Maintenance of Children at School.

Maintenance of Child at School.

18. The Commissioners of Her Majesty's Treasury, upon the Representation of the Secretary of State, may defray, out of Monies provided by Parliament for the Purpose, the whole Cost of the Maintenance of any Children sent to School, in pursuance of this Act, except such Children as are sent to School in pursuance of this Act at the Desire of their Parents, and on their Representation that they are unable to control them, at such Rate *per* Head as may be determined by him, or such Portion of the Cost as may not be recovered from the Parent of the Child in manner herein provided, or such other Portion as the Secretary of State may recommend.

Order for Payment of Maintenance.

19. The Magistrate by whom any Child is sent to School in pursuance of this Act, or any Magistrate having Jurisdiction within the District where the School is situate to which any Child is sent in pursuance of this Act, or in which the Parent of such Child shall reside, upon an Application made by any Person appointed by the Secretary of State for that Purpose, or by any Agent of such Person, shall have Authority to make an Order on the Parent of such Child either at the Time of the Child being first sent to School, or at any Time during his Continuance at School, for the Payment of the Expenses of his Maintenance at School to an Amount not exceeding Five Shillings for every Week during which the Child remains at such School, and such Order shall be held to be and shall have all the Effect of a Decree in each Week for Payment of the Sum decerned to be paid for such Week; and under the Warrant for Arrestment therein contained, and which such Magistrate is hereby authorized to grant when he sees fit, it shall be lawful to arrest weekly, for Payment of such weekly Sum as aforesaid, the Wages of the Defender due and current, and such Arrestment shall attach not only the Wages due and payable to the Defender at the Date thereof, but also the Wages current for the Week or other Term or Period in the course of which such Arrestment is executed, any Law or Statute to the contrary notwithstanding; and the Provisions of the Act of the Eighth and Ninth Years of the Reign of Her Majesty, Chapter Eighty-three, for the Punishment of Parents deserting their Children, or refusing or neglecting to maintain them, shall be held and deemed and are hereby directed to be applicable to the Case of Parents refusing or neglecting to pay the Amount so charged upon such Parents as aforesaid.

20. The

Variation of Order.

20. The Order made by the Magistrate may specify the Time during which the Parent is to pay the Sums thereby directed to be paid, or it may be indefinite, and until further Order; and any Magistrate having Jurisdiction to make such Order may from Time to Time vary the same whenever Circumstances require it, on the Application either of the Parent or of any Person appointed by the Secretary of State to receive the Money, or by the Agent of such Person, on Fourteen Days Notice being first given of such Application to such Person or his Agent, or to such Parent, respectively.

Case of Child chargeable to Parish.

21. Where any Child sent to an Industrial School in pursuance of this Act then is, or within Three Months of the Time of his being so sent has been chargeable to any Parish, the Parochial Board and Inspector of the Poor of the Parish shall, as long as he continues so chargeable, be liable to repay to the Commissioners of Her Majesty's Treasury all Expenses incurred in maintaining such Child at School in pursuance of this Act, to an Amount not exceeding Five Shillings *per* Week, and in default of Payment such Expenses may be recovered by any Person appointed by the Secretary of State, or by his Agent, in a summary Manner, before any Magistrate having Jurisdiction in the Place in which the Parish is situated: Provided always, that nothing in this Act contained shall be construed to prevent any Parochial Board on whose Funds the Cost of Support of any such Child as aforesaid shall have become a Charge from adopting such Steps for his or her Removal as may be competent to them under the Provisions of the Eighth and Ninth *Victoria*, Chapter Eighty-three.

Absconding from School.

Penalty on Child absconding.

22. If any Child, whether lodging in the School or elsewhere, before attaining the Age of Fifteen Years, or before being duly discharged, wilfully absconds from the School to which he is sent in pursuance of this Act, or neglects to attend thereat, or wilfully refuses to conform to the Regulations thereof, any Magistrate having Jurisdiction in the Place in which the School is situate or in which the Child is retaken may, by Writing under his Hand, order him to be sent back to the School, and to be detained there until he attains the Age of Fifteen Years, or for such shorter Period as the Magistrate thinks fit; or, instead of sending him back to such last-mentioned School, the Magistrate may commit him, under the Provisions of the Act of the Session of the Seventeenth and Eighteenth Years of *Victoria*, Chapter Eighty-six, to any Reformatory School certified under the said Act.

Penalty on inducing Child to abscond.

23. Any Person who directly or indirectly withdraws a Child from the certified Industrial School to which he has been sent previously

viously to his attaining the Age of Fifteen Years, or before being duly discharged, or who induces or aids him to abscond, or who knowingly conceals or harbours him, or in any way prevents his Return, shall for every such Offence incur a Penalty not exceeding Five Pounds, or shall be liable, at the Discretion of the Magistrate, to be imprisoned for any Period not exceeding Twenty Days.

Recovery of Penalties.

Mode of recovering Penalties.

24. Penalties may be recovered under this Act by summary Complaint, at the Instance of the Person or Persons entitled to sue therefor, before any Magistrate having Jurisdiction in the Place where the Party complained on resides, or in which the Act for which the Penalty has been incurred was committed, according to the Form of Procedure provided by the Eighty-first Section of the Act of the Session of the Eighth and Ninth Years of the Reign of Her present Majesty, Chapter Eighty-three, for the Recovery of the Penalties thereby imposed, and such Magistrate shall have and may exercise all and the like Powers as are conferred on the Sheriff for that Purpose by the said Act.

Evidence.

Evidence of School being certified.

5. Whenever the Secretary of State grants a Certificate to or withdraws it from any Industrial School, in pursuance of this Act, he shall cause a Notice of such Grant or Withdrawal to be published in the *Edinburgh Gazette* within One Calendar Month, and such Publication shall be sufficient Evidence of the Fact in all Proceedings before Justices and other Courts.

Evidence of Order of Justices.

26. The Order made by the Magistrate sending any Child to a certified Industrial School shall be forwarded to the Managers thereof, and shall be a sufficient Warrant for the Detention of the Child.

Evidence of Certificate of School, Identity of Child, and making of Orders.

27. Whenever it is necessary to prove that any Industrial School is duly certified under this Act, the Production of an attested Copy of the Certificate or of the Notice published in the *Edinburgh Gazette* shall be sufficient Evidence thereof; and the Production of the Order under which any Child has been sent to or is detained in any certified Industrial School under this Act, or a Copy of such Order, with a Memorandum signed by One of the Managers or their authorized Secretary, or by the Superintendent or Master or Matron of any such School, that the Child named in such Order was duly received into and is at the signing thereof detained in such School, or has been otherwise disposed of according to Law, and the Production of any Order made under this Act, or a Copy thereof, certified by the Clerk to the Magistrate to be a correct Copy, shall in all

Proceedings whatsoever be sufficient Evidence of the due making and signing of all or any of such Orders, Memorandum, and Certificate respectively, and of the sending, Detention, and Identity of the Child or Parent named in such Orders respectively, without Proof of the Signatures of the Magistrates or other Persons appearing to have signed the same respectively.

Forms.

Use of Form in Schedule.

28. No Summons, Notice, or Order made for the Purpose of carrying into effect the Provisions of this Act shall be invalidated for Want of Form only; and the Form in the Schedule to this Act annexed, or any Form to the like Effect, may be used in the Case to which it refers, and when used shall be deemed sufficient.

Repeal of Acts.

Acts herein named repealed.

29. There shall be repealed the Acts herein-after mentioned; that is to say,

1. An Act passed in the Session holden in the Seventeenth and Eighteenth Years of Her Majesty, Chapter Seventy-four, intituled *An Act to render Reformatory and Industrial Schools in* Scotland *more available for the Benefit of vagrant Children:*
2. An Act passed in the Session holden in the Nineteenth and Twentieth Years of Her Majesty, Chapter Twenty-eight, intituled *An Act to make further Provision for rendering Reformatory and Industrial Schools in* Scotland *more available for the Benefit of vagrant Children:*

Provided that such Repeal shall not affect—

1. Any Certificate given or anything duly done under any Act hereby repealed:
2. Any Order made under any Act hereby repealed:
3. Any Penalty, Forfeiture, or other Punishment incurred under any Act hereby repealed, or any Remedy for recovering or enforcing the same.

Application of Act to existing certified Schools.

30. This Act shall apply to all Schools certified under the Acts hereby repealed or either of them, and to all Children sent to any Industrial School under the Acts hereby repealed or either of them, in the same Manner in all respects as if such Certificate had been given or Children been sent under the Provisions of this Act, with this Qualification, that no Child shall be detained at any Industrial School in pursuance of any Order made under the repealed Acts for a longer Period than he would have been detained if this Act had not passed.

Continuance of Act.

31. This Act shall continue in force until the First Day of *January* One thousand eight hundred and sixty-four, and no longer.

SCHE-

SCHEDULE.

FORM (A.)

Order sending Child to Industrial School.

to wit. } To the Constable of and to the Managers of the certified Industrial School at :

WHEREAS a certain Child named *A.B.* was this Day brought before me, One of Her Majesty's Justices of the Peace for the County of [*or as the Case may be*] under the Provisions of the Industrial Schools Scotland Act, 1861: Now therefore I, the said , being satisfied that the said Act applies to such Child, and that it is expedient to deal with him [*or* her] under its Provisions, order you the said Constable in pursuance of the said Act to take the said Child, and him [*or* her] safely convey to the certified Industrial School at aforesaid, and there to deliver him [*or* her], together with this Order; and I do hereby command you the said Managers to receive the said Child into your Charge in the said School, and there to detain, educate, clothe, and feed him [*or* her] for the Period of from the Date hereof.

Given under my Hand, this Day of
at in the County aforesaid.

[*Signature of Magistrate.*]

FORM (B.)

Order on Parent for Payment towards the Maintenance of the Child.

The Sheriff [*or as the Case may be*] having considered the Complaint of *E.F.*, duly authorized by One of Her Majesty's Principal Secretaries of State, made under the "Industrial Schools (Scotland) Act, 1861," and having heard Parties thereon [*or as the Case may be*, in Absence of *C.D.*, *designing him*, duly cited, but not appearing], pursuant to Section 16. of the said Act, decerns the

the *C.D.*, complained on, weekly and every Week from the Day of to pay to the said *E.F.*, or to such Person as the said *E.F.* may from Time to Time authorize to receive the same, the Sum of Shillings for the Maintenance, Clothing, Education, Care, and Training of *A.B.*, Son [*or as the Case may be*] of the said *C.D.*, now detained in the certified Industrial School of under an Order by of Date until the said Child shall attain the Age of Fifteen Years, or shall be lawfully discharged from the said School, and grants Warrant of Arrestment to be executed by any Constable or Messenger at Arms.

Given under my Hand, this Day of at in the County aforesaid.

[*Magistrate's Signature.*]

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