

Superseded by revised Act 232

MALAYAN UNION.

No. 33 of 1947.

F.M. Ord.: 1/48;

L.N. 661/53

O. 49/57

Am. Act. 40/66

An Ordinance to unify and amend the law relating to
Children and Young Persons.

G. E. J. GENT,
Governor.

7th August, 1947.

IT IS HEREBY ENACTED by the Governor of the
Malayan Union in accordance with the provisions of
section 85 of the Malayan Union Order in Council,
1946, as follows:

PART I.

PRELIMINARY.

1. (1) This Ordinance may be cited as the Children and Young Persons Ordinance, 1947, and shall come into force on such day as the Governor may, by notification in the Gazette, appoint. *In force on 22.12.47 vide S.N. 8528/47*

Short title and commencement.

(2) The Governor may appoint different days for the coming into force of different Parts and provisions of this Ordinance.

2. (1) In this Ordinance and in any rules made thereunder, unless there is something repugnant in the subject or context—

Interpretation.

“child” means—

(a) in the case of a person employed or engaged to take part in any public entertainment, a person under the age of sixteen years; and

(b) in the case of a transferred child, a female under the age of fourteen years save as otherwise provided in Part III; and

(c) in any other case, a person under the age of fourteen years;

“Commissioner” means the Commissioner for Labour, Malayan Union and such other officers as the Governor may, by notification in the Gazette, declare to be vested with all or any of the powers conferred and duties imposed upon the Commissioner by this Ordinance or by any rules made thereunder;

*L Minister
+ LN-332/58*

“employ” and “employment” used in reference to a child or young person, mean employment in any labour exercised by way of a trade or for the purposes of gain, whether the gain be to the child or to any other person;

“entertainment” includes an exhibition or performance but does not include any entertainment given by the pupils of any registered school at or under the auspices of such school; and a person is deemed to take part in an entertainment when such person is employed in, or in connection with such entertainment whether as a performer, stage hand, musician or otherwise howsoever;

~~“Gazette” means the Malayan Union Government~~

332/58 ~~Gazette;~~

“guardian” in relation to a child or young person includes any person who, in the opinion of the Court having cognizance of any case in relation to the child, or in which the child is concerned, has, for the time being, the charge of, or control over the child or young person;

“legal guardian” in relation to a child or young person means a person lawfully appointed by deed or will or by the order of a competent Court to be the guardian of that child or young person;

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“place of safety” means any place or institution appointed to be such under section 34 of this Ordinance or any other suitable place, the occupier of which is willing temporarily to receive a child;

“Protector” includes the ^{Director of Social Welfare} Chief Social Welfare Officer, Malayan Union, any Area Welfare Officer, and such other officers as the ^{Governor} Governor may, by notification in the *Gazette*, declare to be vested with all or any of the powers conferred and duties imposed upon a Protector by this Ordinance or by any rules made thereunder;

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 minister charged with responsibility for social welfare

“public entertainment” means an entertainment to which the public or any section of the public is admitted or in connection with which any charge, whether for admission or not, is made to, or any collection or subscription is received at such entertainment from, any of the audience;

“transferred child” means a transferred child as defined in section 12 of this Ordinance;

“young person” means

(a) in the case of a person employed or engaged to take part in any public entertainment, a person who has attained the age of sixteen years and is under the age of eighteen years; and

(b) in any other case, a person who has attained the age of fourteen years and is under the age of eighteen years.

(2) For the purposes of this Ordinance a person shall be deemed to have reached any specified age when he has, since his birth, completed that number of years of life reckoned according to the Gregorian calendar.

PART II.

WELFARE.

3. (1) If any person over the age of fourteen years, who has the custody, charge or care of any child, or any person over the age of eighteen years who has the custody charge or care of any young person, wilfully assaults, ill-treats, neglects, abandons or exposes such child or young person or causes or procures such child or young person to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause such child or young person unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence, and liable to imprisonment for a term which may extend to two years or to a fine not exceeding one thousand dollars, or to both such imprisonment and fine, and for the purposes of this section a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health, if he wilfully neglects to provide adequate food, clothing, medical aid, or lodging for the child or young person.

Punishment
for cruelty
to children
and young
persons.

(2) A person may be convicted of an offence under this section, notwithstanding that actual suffering or injury to health, or the likelihood of such suffering or injury to health, was obviated by the action of another person.

(3) A person may be convicted of an offence under this section, notwithstanding the death of the child or young person in respect of whom the offence is committed.

(4) Upon the trial of any person over the age of fourteen years charged with culpable homicide of a child of whom he had the custody, charge or care, or upon the trial of any person over the age of eighteen years charged with culpable homicide of a young person of whom he had the custody, charge or care, it shall be lawful for the Court, if satisfied that the accused is guilty of an offence under this section in respect of such child or young person, to find the accused guilty of such offence.

Begging.

4. (1) Any person who causes or procures any child, or, having the custody, charge or care of a child, allows that child, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise, shall be liable to imprisonment for three months, or to a fine of two hundred and fifty dollars, or to both such imprisonment and fine.

(2) If a person having the custody, charge or care of a child is charged with an offence under this section, and it is proved that the child was in any street, premises, or place for any such purpose as aforesaid, and that the person charged allowed the child to be in the street, premises, or place, he shall be presumed to have allowed him to be in the street, premises or place for that purpose unless the contrary is proved.

Detention of child in a place of safety.

5. (1) A police officer, or any person authorised by a Magistrate or by a Protector or by the Commissioner or a Justice of the Peace may take to a place of safety any child in respect of whom an offence under this Part of this Ordinance or any offence involving bodily injury to a child has been, or there is reason to believe has been, committed.

(2) A child so taken to a place of safety, and also any child who seeks refuge or protection, may be detained in a place of safety until he can be brought before a Magistrate's Court and the Court may make such order as is mentioned in the next following subsection, or may cause the child to be dealt with as circumstances may admit and require, until the charge made against any person in respect of any offence as aforesaid with regard to the child has been determined by the conviction or discharge of such person.

(3) When it appears to a Court that an offence under this Part of this Ordinance or any offence involving bodily injury to a child has been committed in respect of any child who is brought before it and that it is expedient, in the interests of the child, that an order should be made under this sub-section, the Court may, without prejudice to any other power under this Part of this Ordinance, make such order as circumstances require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and, if a charge is made against any person within that time, until the charge has been determined by the conviction of that person and in case of conviction, for such further time not exceeding twenty-one days as the Court which convicted may direct, and any such order may be carried out notwithstanding that any person claims the custody of the child.

6. Any of the persons mentioned in section 32 of this Ordinance may take to a place of safety any child who appears to be destitute, and any child so taken to a place of safety may be detained there for protection.

Detention of destitute children.

7. (1) If it appears to a Magistrate's Court, on information or complaint made by any of the persons mentioned in section 32 of this Ordinance that there is reasonable cause to suspect—

Warrant to search for or remove a child or young person.

(a) that any child or young person has been or is being assaulted, ill-treated, or neglected in any place within the jurisdiction of the Court, in a manner likely to cause the child or young person unnecessary suffering, or to be injurious to his health; or

(b) that an offence under this Part of this Ordinance or any offence involving bodily injury to a child or young person, has been or is being committed in respect of the child or young person,

the Magistrate's Court may issue a warrant authorizing any police officer named therein to search for such child or young person, and, if it appears to such officer that such child or young person has been or is being assaulted, ill-treated, or neglected in manner aforesaid, or that any such offence as aforesaid has been or is being committed in respect of the child or young person to take him to and detain him in a place of safety, until he can be brought before a Court,

or authorizing any police officer to remove the child or young person, with or without search, to a place of safety and detain him there until he can be brought before a Court; and the Court before whom the child or young person is brought may commit him to the care of a relative or other fit person in like manner as if the person in whose care he was had been committed for trial for an offence under this Part of this Ordinance and the provisions of section 5 of this Ordinance shall apply.

(2) A Magistrate's Court issuing a warrant under this section may, by the same warrant, cause any person accused of any offence in respect of the child or young person to be apprehended and brought before the Court, and proceedings to be taken against such person according to law.

(3) Any police officer authorised by warrant under this section to search for any child or young person, or to remove any child or young person with or without search may enter (if need be by force) any house, building or other place specified in the warrant, and may remove the child or young person therefrom.

(4) Every warrant issued under this section shall be addressed to and executed by a police officer, who shall be accompanied by the person laying the information, if such person so desire, unless the Court by which the warrant is issued otherwise directs, and may also if the Court by which the warrant is issued so directs, be accompanied by a Government medical officer.

(5) It shall not be necessary in any information or warrant under this section to name the child or young person but, in such case, the child or young person shall be described as particularly as the knowledge of the informant or the Court permits.

Repealed
Child
labour.

8. (1) No child under the age of eight years shall be employed in any form of labour.

(2) No child under the age of twelve years shall be employed in any employment, except agricultural or horticultural light work carried on collectively by the family of the child or by the local community, or on light work of a domestic character in the household of a natural parent or legal guardian of the child.

(3) No child shall be employed in any factory, godown or workshop.

(4) No child shall be employed or work in any capacity, upon any small craft which is, or should be, licensed under the Ports Enactment of the Federated Malay States or the Ports Ordinance of the Straits Settlements, or under any other Enactment providing for the licensing of small craft, or in any ship, except in any case where the craft or ship is under the personal charge of the parent or legal guardian of the child.

F.M.S.
Cap. 171.
S.S.
Cap. 149.

(5) Nothing in the foregoing provisions of this section shall apply to employment of children upon work approved and supervised by the Department of Education carried on in any Government or other technical school or in a training ship.

(6) No child or young person shall be employed upon any form of labour or employment under any circumstances or under any conditions which may be prohibited by the ~~Governor in Council~~ from time to time by rules made under this Ordinance.

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(7) Any person who employs a child or young person in contravention of the provisions of this section or of any rule made under this Ordinance and any parent or guardian who knowingly or negligently suffers or permits such employment, shall be guilty of an offence, and liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term which may extend to three months or to both such fine and imprisonment, or, in case of a second or subsequent offence, to a fine not exceeding one thousand dollars or to imprisonment which may extend to two years or to both such fine and imprisonment.

Penalty.

9. (1) If it shall be shown to the satisfaction of the ~~Governor in Council~~, upon the application of the Commissioner and after such enquiry as the ~~Governor in Council~~ may think fit to direct, that the wages of children or young persons, or both, employed in any industry or type of employment or in any area, are insufficient, having regard to the nature of the work and the conditions of employment, it shall be lawful for the ~~Governor in Council~~ to prescribe, by order, minimum rates of wages to be paid to children or young persons or both in that industry, type of employment or area.

Power to prescribe minimum wages for children and young persons.

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(2) Any such order shall be published in the *Gazette* and shall have effect from the date of publication, unless some other date is named therein.

(3) Any person contravening the provisions of any such order shall be guilty of an offence and shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a term which may extend to six months or to both such fine and imprisonment and, for a second or subsequent offence, shall be liable to a fine not exceeding two thousand dollars and to imprisonment for a term which may extend to two years or to both such fine and imprisonment.

10. (1) No child under the age of twelve shall take part in a public entertainment which is promoted or performed for the profit of the promoter or performers or both.

(2) No child or young person shall take part in any performance in a public entertainment which performance is dangerous to life or limb.

(3) No child or young person under the age of seventeen years shall take part in any public entertainment without the licence of the Commissioner.

(4) Before issuing any such licence, the Commissioner shall be satisfied as to the health and physical fitness to perform of such child or young person and that proper measures have been and will be taken for the preservation of the health, and for securing kind treatment, of such child or young person.

(5) The Commissioner, may, in his discretion, refuse to issue a licence on the ground that the child or young person is not actually under the protection of at least one parent or of a legal guardian or that the conditions of employment or wages to be paid are unsatisfactory or inadequate or on any other grounds, whether similar to the foregoing or not, that may appear to him reasonable or proper, and he may, in his discretion, cancel any licence on any ground for which he could refuse to issue a licence, or for the breach of any condition thereof, but shall, if so required, furnish the child or young person or his parent or guardian with the grounds of such refusal or cancellation in writing.

(6) Any person aggrieved by the refusal or cancellation of a licence by a Commissioner other than the Commissioner for Labour, Malayan Union, may appeal to the ~~Resident Commissioner of the State or Settlement, whose decision shall be final~~; and any person aggrieved by the refusal or cancellation of a

Penalty.

Children and young persons taking part in public entertainments.

Commissioner for Labour F.M.S. 1/10/47

licence by the Commissioner for Labour, Malayan Union, may appeal to the ~~Governor in Council~~ whose decision shall be final.

minister
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(7) An order cancelling a licence shall have effect until it is set aside on appeal.

(8) In granting a licence the Commissioner shall impose such conditions as may be prescribed and may impose such additional conditions as he thinks fit.

(9) Licences issued under this section shall apply throughout the Malayan Union and shall expire on the 31st day of December in each year.

(10) In respect of any licence issued there shall be charged and paid such fee as the ~~Chief Secretary~~ may from time to time notify in the *Gazette*.

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11. Any person who—

(a) employs or procures a child or young person to perform or take part in any public entertainment; or

Penalty for
contravention
of section 10.

(b) having the custody, charge or care of a child or young person, suffers such child or young person to perform or take part in such entertainment; or

(c) being a person licensed under the Theatres and Places of Public Amusement Enactment of the Federated Malay States or the corresponding Enactment of any Malay State or the Theatres Ordinance of the Straits Settlements, suffers a child or young person to take part in such entertainment;

F.M.S.
Enactment
No. 47 of
1936.
S.S.
Cap. 210.

in contravention of the provisions of section 10 of this Ordinance, or of any rule made under this Ordinance or any condition or restriction contained in any licence issued under section 10 of this Ordinance, shall be liable to a fine not exceeding five hundred dollars or to imprisonment for a term which may extend to six months or to both such fine and imprisonment, and the Court shall thereupon cancel the licence issued in respect of such child and, if the person convicted is the holder of a licence under the Theatres and Places of Public Amusement Enactment of the Federated Malay States or any corresponding Enactment of any Malay State or of the Theatres Ordinance of the Straits Settlements, the Court may also order the cancellation of such licence or its suspension for such period as the Court may think fit.

F.M.S.
Enactment
No. 47 of
1936.
S.S.
Cap. 210.

PART III.

TRANSFERRED CHILDREN.

12. (1) In this Ordinance,

“transferred child” means a female under the age of fourteen years who is living apart from her natural father or mother but does not include a female:

- (a) who is living with a grand-parent, a brother or sister by the whole or half blood, or a brother or sister of a deceased parent by the whole blood; or
- (b) who is over the age of twelve and is married and is living with her husband or with a parent or grand-parent of her husband; or
- (c) who has been *bona fide* and lawfully adopted and is living with the adopter; or
- (d) who is living with a legal guardian; or
- (e) who is registered as a mui tsai under the Mui Tsai Enactment of the Federated Malay States or of any Malay State or the Mui Tsai Ordinance of the Straits Settlements;
or

F.M.S.
Cap. 157.
Johore
Enact.
No. 120.
Perlis
Enact.
No. 5/53.
Trengganu
No. 1 of 1354.
S.S. Cap. 34.

- (f) who is living with a person other than her natural father or mother in pursuance of an order of a Court of competent jurisdiction or in pursuance of an order made under Part II of this Ordinance or under the Women and Girls Protection Enactment of the Federated Malay States or the corresponding Enactment of any Malay State or the Women and Girls Protection Ordinance of the Straits Settlements or under the Mui Tsai Enactment of the Federated Malay States or of any Malay State or the Mui Tsai Ordinance of the Straits Settlements; or

F.M.S.
Cap. 156.

S.S. Cap. 33.

F.M.S.
Cap. 157.
Johore
Enact.
No. 120.
Perlis Enact.
No. 5/53.
Trengganu
No. 1 of 1354.
S.S. Cap. 34.

- (g) who is an inmate of any orphanage, hospital, home or institution maintained by Government or of any approved place declared to be such under section 34 of this Ordinance;
or

(h) who is a boarder at a school registered under the Registration of Schools Enactment of the Federated Malay States or the corresponding Enactment of any Malay State or the Registration of Schools Ordinance of the Straits Settlements, or is regularly attending such a school and is living with a friend or relative of her natural father or mother or of her legal guardian or adopter, with the consent of the father, mother, legal guardian or adopter, as the case may be.

F.M.S.
Cap. 159.

S.S.
Cap. 139.

(2) The expressions "transferred child" and "child" shall be deemed to apply to a female in respect of whom a bond has been executed or a committal order made under this Part of this Ordinance until such time as the bond or order is discharged or the female reaches the age of eighteen, whichever is the earlier event.

13. A transferred child shall be deemed, until the contrary is proved, to be in the care, custody, or control of the person with whom or in whose house she is living.

Presumption.

14. (1) After the commencement of this Ordinance, every person who has or intends to have a transferred child in his care, custody or control in the Malayan Union, whether the transfer was made or is to be made within or without the Malayan Union, shall forthwith notify such transfer or intended transfer to a Protector.

Notification
of transfers.

(2) The father, mother, legal guardian or guardian of every such transferred child as is referred to in sub-section (1) of this section shall, if resident in the Malayan Union, also notify such transfer or intended transfer to the same Protector.

(3) On receiving such notification the Protector may make such inquiry as he thinks fit as to the reasons for the transfer or intended transfer of the child and as to the suitability for that purpose of the person who has or intends to have the care, custody or control of the child.

(4) If after such inquiry the Protector deems it expedient in the interests of the child, he may either—

(a) refuse to accept the notification and order that the child be returned to or remain in the care, custody or control of her father, mother, legal guardian or guardian, as the case may be, or

(b) accept the notification on condition that the person, who has or intends to have the care, custody or control of the child, furnish security as provided in sub-section (3) of section 17 of this Ordinance.

(5) If default be made in complying with any condition of a bond made under the preceding subsection, the Protector may make an order as provided in sub-section (4) of section 17 of this Ordinance.

(6) The Protector shall register particulars relating to any child in respect of whom an order has been made under paragraph (a) of sub-section (4), or security has been given under paragraph (b) of sub-section (4), or an order has been made under sub-section (5), of this section and also particulars relating to her parents and to any person who has had or has the care, custody or control of such child, or who has made a notification in respect of such child.

(7) Except as otherwise provided in sub-section (4) of this section, the Protector shall accept every notification made under this section and shall record particulars thereof.

15. (1) When the transfer of a child has been notified and accepted under the preceding section, the person to whom such child has been transferred shall, if at any subsequent time—

(a) he intends to return the child to the care, custody or control of her father, mother, legal guardian or other person from whom he obtained her; or

(b) he intends to take or send the child out of the State or ~~Settlement~~ for a period of more than one month; or

(c) without his knowledge or consent, the child has left his care, custody or control;

report in person to a Protector and shall, whenever practicable, bring or cause to be brought before such Protector the transferred child and her father or mother or legal guardian or other person from whom he obtained her.

(2) On receiving a report under the preceding subsection the Protector shall make a note thereof and shall, if the father, mother, legal guardian or such other person is believed to be in the Malayan Union

Obligations subsequent to notification.

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and was not present at the time of such report, send written information thereof to the last known place of abode of such father, mother, legal guardian or other person.

16. When the transfer of a child has been notified and accepted under section 14 of this Ordinance, any second or subsequent transfer of such child shall also be notified in accordance with the provisions of that section.

Subsequent transfers to be notified.

17. (1) Whenever a Protector has reason to believe that there is, within the area, ^{or the} State or ~~Settlement~~ within which he exercises jurisdiction, a transferred child—

Power of Protector to require production of a transferred child in certain cases.

(a) in respect of whose transfer no notification has been made within one week after the transfer; or

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(b) who for any reason is in need of supervision; he may, by summons under his hand addressed to the person who has or is believed to have the care, custody or control of such child, require such person to appear and to produce the child before him at the time and place specified in the summons.

(2) If a person on whom a summons has been served under the preceding sub-section fails to produce the child at the time and place specified therein, the Protector may issue a warrant authorising any person named therein to search for such child and produce her before him. Any child named or described in such warrant may be removed to a place of safety and there temporarily detained until the Protector has completed his inquiry under this Part of this Ordinance or may, for the like period, be temporarily committed to the custody of a relative or other fit person on such terms and conditions as the Protector may require.

(3) On production of a child before the Protector in pursuance of a summons or warrant issued under this section, he shall hold such inquiry as he thinks fit and, if after such inquiry he is of the opinion that there has been a failure to notify as required by this Part of this Ordinance or that such child is in need of supervision, he may order the person having the care, custody or control of such child to furnish him with copies of her and such person's photographs, and to furnish a bond or other security to the satisfaction of the Protector that such child, for so long as she is

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under the age of eighteen years or for any shorter period, will not leave the area, ~~State or Settlement~~ ^{or the} and be transferred to the care, custody or control of any other person without the previous consent of a Protector and will not be ill-treated or neglected or employed, used or trained for any immoral or unlawful purpose or in any immoral or unlawful manner and that she will be produced before a Protector whenever he so requires.

(4) If default be made in complying with any order made or any condition of a bond furnished under the preceding sub-section, the Protector may, without or in addition to enforcing the bond or other security, by warrant under his hand, order that the child, in respect of whom the order was made, be taken out of the custody of the person in whose care, custody or control the child is and committed to a place of safety or, on such security and on such conditions as the Protector may require, to the custody of a relative or other fit person until the child attains the age of eighteen years or for any shorter period.

(5) The Protector shall register particulars relating to any child in respect of whom an order has been made under this section and particulars relating to her parents and any person who has had or has the care, custody or control of such child.

Transferred
child leaving
area, State or
Settlement.

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18. (1) Whenever a Protector is of opinion that it is in the interest of any transferred child in respect of whom a bond has been executed under this Part of this Ordinance that such child should be permitted to leave the area, ~~State or Settlement~~ ^{or the} in which she then is, the Protector may grant such permission upon being supplied with such photographs as he may require and upon a bond or other security being given to his satisfaction that the person, in whose care, custody or control such child is, will bring the child before such public officer whether within or without the Malayan Union and within such period and at such destination as may be specified in the bond.

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(2) The giving of such further security shall not relieve any person who furnished security under this Part of this Ordinance from any obligation under the conditions of the bond entered into other than the condition relating to departure from the area, ~~State or Settlement~~ ^{or the} until the child has left the area, ~~State or Settlement~~ ^{or the}.

19. (1) A Protector or any officer generally or specially authorised in that behalf in writing by a Protector may, at any time, require the person having the care, custody or control of a transferred child in respect of whom a bond has been executed under this Part of this Ordinance to produce such child before him for inquiry, or may visit and inspect the place where such child lives or is believed to live or to be. Supervision.

(2) The Protector or such officer may inquire into the condition and treatment of such child and her wages (if any), food and living conditions generally and, for the purposes of such inquiry, the Protector or such officer as aforesaid may require any person to answer any questions he may think proper to ask and such person shall be legally bound to answer truthfully to the best of his ability.

(3) Any person who obstructs or hinders or attempts to obstruct or hinder the Protector or any such officer in the exercise of the powers conferred by this section shall be guilty of an offence against this Ordinance.

20. (1) When a Protector has reason to believe that a transferred child has been or is being ill-treated or neglected or employed, used or trained for any immoral or unlawful purpose or in any immoral or unlawful manner, he may issue a warrant as provided in sub-section (2) of section 17. Ill-treatment of transferred child.

(2) On production of a child before the Protector in pursuance of a warrant issued under the preceding sub-section, or whenever a transferred child appears before a Protector and alleges that she has been ill-treated or neglected or employed, used or trained for any immoral or unlawful purpose or in any immoral or unlawful manner, the Protector shall hold such inquiry as he thinks fit and may after such inquiry either make an order as provided in sub-section (3) of section 17 or an order as provided in sub-section (4) of section 17.

(3) The Protector shall register particulars relating to any child in respect of whom an order has been made under this section and particulars relating to her parents and any person who has had or has the custody of such child.

21. (1) It shall not be necessary in any summons or warrant issued under this Part of this Ordinance to name the child, but, in such case, the summons or warrant shall describe the child as particularly as the knowledge of the Protector permits. Provisions as to process and search.

(2) Any person authorised by warrant issued under this Part of this Ordinance to search for any child may enter (if need be by force) any house, building, land, enclosure, vessel or other place where he believes the child to be and may remove the child therefrom.

Review of orders.

22. A Protector may, of his own motion or on the application of any person, at any time and from time to time, review, vary or revoke any order made by him under this Part of this Ordinance.

Appeals.

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D. S. W.

Chief Social Welfare Officer, and, in the case of an order Im.Ord.:1/48

Minister charged with responsibility for Social & Welfare N-332/58

23. (1) Any person aggrieved by any order made by a Protector under this Part of this Ordinance or by the refusal of a Protector to review any such order may, if the order was made by a Protector other than the ~~Chief Social Welfare Officer~~ ^{Director of Social & Welfare}, appeal to the ~~Resident Commissioner of the State or Settlement~~ whose decision shall be final; and, if the order was made by the ~~Chief Social Welfare Officer~~ ^{Director of Social & Welfare} or by the Secretary for Chinese Affairs acting under section 36 of this Ordinance, may appeal to the ~~Governor in Council~~, and the ~~Resident Commissioner~~ or the ~~Governor in Council~~, as the case may be, may make such order therein as to him seems just.

(2) Any order made under this Part of this Ordinance shall have effect until varied or revoked on appeal.

Saving.

24. Nothing done in pursuance of the provisions of this Part of this Ordinance shall prevent a prosecution under any other provision of this Ordinance or under any other law.

Harbouring.

25. Any person who harbours any child knowing or having reason to believe that such child is a transferred child shall report the fact to a Protector or at a Police Station within a period of forty-eight hours.

PART IV.

TRAFFICKING IN CHILDREN.

Unlawful transfer of possession, custody or control of a child.

26. (1) Every person who takes any part in any transaction the object or one of the objects of which is to transfer or confer, wholly or partly, temporarily or permanently, the possession custody or control of a child for any valuable consideration shall be liable to imprisonment of either description for any term not exceeding two years.

(2) Every person shall be liable to imprisonment for any term not exceeding two years, who without lawful authority or excuse harbours or has in his possession custody or control any child with respect to whom the temporary or permanent possession custody or control has been transferred or conferred for valuable consideration by any other person within or without the Malayan Union.

(3) It shall be a defence in any prosecution under this section to prove that the transfer took place in contemplation of or pursuant to a *bona fide* marriage or adoption and that at least one of the natural parents of the child or the legal guardian was a consenting party to the marriage, or to the adoption by the adopting party, and had expressly consented to the particular marriage or adoption.

27. Any person who by or under any false pretence, false representation, or fraudulent or deceitful means, made or used either within or without the Malayan Union, brings or assists in bringing any child into the Malayan Union shall be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding five thousand dollars, or to both such fine and imprisonment.

Importation
of child by
false
pretences.

28. A Protector or any person authorised in that behalf by a Protector in writing may require any child and any person who may appear to have the custody or control of such child to appear before the Protector at any reasonable time and at any convenient place, and the Protector may examine such child as to his reasons for entering or being in the Malayan Union and may examine such person respecting such child, and such child and such person shall be legally bound to answer such questions truthfully to the best of their ability.

Power to
examine
children and
persons in
charge of
them.

29. If a Protector has reasonable cause to suspect that any child—

Power of
Protector to
require
security.

- (a) has been brought into the Malayan Union either after having been transferred for valuable consideration, or by fraud, misrepresentation or any false pretence; or
- (b) has been transferred to the custody or control of any person for valuable consideration either within or without the Malayan Union; or

(c) is being detained against his will by some person other than his parent or lawful guardian;

he may either

(i) require any person in whose custody or under whose control the child appears to be to furnish him with copies of such child's and such person's own photographs, and to furnish security to the satisfaction of the Protector that such child will not leave the area ^{of the} State or ~~Settlement~~ in which he then is without the previous consent in writing of the Protector, and will not be transferred to the care or custody of any other person without the previous consent in writing of the Protector, and that he will be produced before the Protector whenever he requires it; or

(ii) in the first instance, or if default be made in complying with any order made under paragraph (i) of this section, make an order similar to an order under sub-section (4) of section 17 of this Ordinance, as if the child in question were a transferred child.

Inspection.

30. (1) A Protector or any officer generally or specially authorised in that behalf in writing by the Protector may at any time visit and inspect the place where any child in respect of whom security has been furnished under section 29 lives or is believed to live or to be.

(2) The Protector or any such officer may inquire into the condition and circumstances of such child and for the purposes of such inquiry, the Protector or such officer as aforesaid may require any person to answer any questions he may think proper to ask and such person shall be legally bound to answer such questions truthfully to the best of his ability.

(3) Any person who obstructs or hinders or attempts to obstruct or hinder a Protector or any such officer in the exercise of the powers conferred by this section shall be guilty of an offence and shall be liable to a fine not exceeding five hundred dollars or to imprisonment for a term which may extend to six months or to both such fine and imprisonment.

LN. 332/58

PART V.

GENERAL.

31. (1) A Protector or the Commissioner or any officer generally or specially authorized in that behalf in writing by a Protector or the Commissioner may enter, and for that purpose may use force if necessary, and search any vessel, house, building, land, enclosure or other place where he has reasonable cause to suspect that an offence against this Ordinance or any rule made thereunder has been or is being committed.

Powers of search.

(2) Any person who obstructs or hinders or attempts to obstruct or hinder a Protector or the Commissioner or any such officer as aforesaid in the exercise of the powers conferred by this section shall be guilty of an offence against this Ordinance.

32. No Court shall take cognizance of any offence punishable under this Ordinance except with the written sanction of the Public Prosecutor or a Deputy Public Prosecutor or upon a complaint made by—

When Court may take cognizance of offence.

- (a) the Protector;
- (b) the Commissioner;
- (c) a Magistrate;
- (d) a Justice of the Peace;
- (e) a Police Officer not below the rank of Inspector; or
- (f) any other person authorized in writing by the ~~Resident Commissioner in any State or Settlement~~ ^{as the case may be} or by the Protector or by the Commissioner, either by name or office, to make complaints of offences under this Ordinance.

~~Minister~~ ^{Chief Minister} ~~in any State~~

F.M. Ord: 1/48.
LN-332/58

33. (1) Where, in any proceedings under this Ordinance, a person is alleged to be a child or young person, the Court, after making such inquiry as it thinks fit as to the age of that person, may determine and declare his age, and for the purposes of this Ordinance the age so declared by the Court shall be deemed to be the true age of that person, unless and until the contrary is proved.

Court may determine and declare age of child or young person.

(2) Where a person is charged with an offence under this Ordinance in respect of a person apparently under a specified age it shall be a defence to prove that the person was actually of, or over, that age.

Minister for Industrial & Social Relations

L.N.
661/53

Places of safety and approved homes.

Gazette—

34. The ~~Chief Secretary~~ may by notification in the

- (a) appoint places or institutions to be places of safety under this Ordinance; and
- (b) declare any orphanage, hospital, home, institution or place to be an approved place for the purposes of this Ordinance.

Offences and penalties.

35. Any person who—

- (a) refuses to answer, to the best of his knowledge and belief, any question which he is legally bound to answer and which is asked of him by any officer appointed or authorised under this Ordinance; or
- (b) makes, signs or delivers, or causes to be made, signed or delivered, any wilfully false or incorrect notification, report or statement; or
- (c) refuses to allow an officer appointed or authorised under this Ordinance such entry or access to any house, building, land, enclosure, vessel or other place as he is required by this Ordinance to allow; or
- (d) contravenes or fails to comply with any provision of this Ordinance or of any rule made thereunder; or
- (e) contravenes or fails to comply with any order, summons or warrant lawfully made by a Protector under this Ordinance;

shall be guilty of an offence and shall, if no other penalty be provided, be liable on conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment not exceeding six months, or to both such fine and imprisonment.

d/o. 49/57

Secretary for Chinese Affairs to have the power of a protector.

~~36. The Secretary for Chinese Affairs may, at his discretion, exercise at any time any or all of the powers conferred upon a Protector by this Ordinance.~~

certificate of protector to evidence.

37. A certificate purporting to be under the hand of a Protector as to any entry in a register or any other record, or as to any matter or thing which he is authorised by this Ordinance, or any rules made thereunder, to make or to do shall be *prima facie* evidence of the entry having been made, and of the contents thereof and of the matter or thing having been done or not done.

38. Any person to whose care a child or young person is committed under this Ordinance shall, whilst the order is in force, have the like control over the child or young person as if he were the parent, and shall be responsible for the maintenance of the child or young person, and the child or young person shall continue in the care of such person notwithstanding that he is claimed by his parent or any other person, and if any person—

Maintenance of child or young person when committed to any person.

- (a) knowingly assists or induces, directly or indirectly, a child or young person to escape from the person to whose care he is committed; or
- (b) knowingly harbours, conceals, or prevents from returning to such person, a child or young person who has so escaped, or knowingly assists in so doing;

he shall be guilty of an offence and liable on conviction to imprisonment for a term which may extend to three months, or to a fine not exceeding two hundred and fifty dollars or to both such fine and imprisonment.

Yang di Perlembuan Besar Agung L.N. 332/58

39. (1) The ~~Governor in Council~~ may make rules ^{Rules.} to give effect to the provisions of the Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely—

- (a) the care, maintenance and education of children or young persons committed to the care, custody or control of any person under the provisions of this Ordinance, and the duties of persons to whose care, custody or control such children or young persons have been committed;
- (b) the prohibition of forms, circumstances, and conditions of labour for children under section 8 of this Ordinance; and the regulation of conditions of labour of children and young persons and their production for inspection;
- (c) the regulation of hours and days of work of children and young persons;

** Children + Young Persons Rules, 1947 - S.N. 8529/22/12/47*

- (d) the regulation of night work, both as to hours and conditions of children and young persons;
- (e) the prescription of conditions to be attached to licences for the employment of children or young persons in public entertainments;
- (f) the care, detention, temporary absence, maintenance and education of children and young persons in places of safety;
- (g) the inspection of approved places and returns to be furnished by persons in charge of such places;
- (h) the time within which notifications under section 14 and reports under section 15 of this Ordinance shall be made and the manner in which such notifications and reports shall be recorded or noted;
- (i) the particulars (including photographs or other means of identification) to be furnished in relation to transferred children, their parents or persons required to make notifications in respect of transferred children or persons having the custody of such children;
- (j) the forms of orders, warrants, summonses and bonds;
- (k) the forms of registers and other records required to be kept and the manner in which they shall be kept;
- (l) the furnishing of information as to changes of address of transferred children or the persons having custody of them, and the transfer of records and registers in such cases;
- (m) the time and manner of lodging and determining appeals.

(3) Such rules shall be published in the *Gazette* and shall come into operation on such publication or at such other date as may be provided therein.

40. Any power exercisable by a Magistrate's Court under this Ordinance may also be exercised by the Court of a District Judge.

41. The several Enactments and Ordinance mentioned in the first and second columns of the Schedule to this Ordinance are repealed to the extent mentioned in the third column of that Schedule. Repeals.

SCHEDULE.

(Section 41.)

REPEALS.

Ordinance and Enactments.	Short title.	Extent of repeal.
F.M.S. (Cap. 158) ...	The Children Enactment ...	The whole
S.S. Ordinance No. 17 of 1939 ...	The Children Ordinance ...	The whole
Johore (Cap. 115) ...	The Children Enactment ...	The whole
Kedah No. 21 of 1354	The Children Enactment ...	The whole

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