

**CHAPTER 369**

**ORPHANAGES**

*Ordinances*  
Nos.22of 1941,  
45 of 1946.

AN ORDINANCE TO PROVIDE FOR THE REGISTRATION AND CONTROL OF ORPHANAGES AND OTHER INSTITUTIONS FOR THE BOARDING, CARE AND MAINTENANCE OF ORPHANS AND DESERTED CHILDREN, AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[11th July, 1941.]

Short title.

**1.** This Ordinance may be cited as the Orphanages Ordinance.

Orphanages to be registered.

**2.** On and after the appointed date no orphanage shall be established or maintained unless that orphanage has been registered under this Ordinance as hereinafter provided.

Prohibition of establishment of new orphanages before appointed date.

**3.** No new orphanage shall be established at any time during the period beginning on the 11th day of July, 1941, and ending on the appointed date:

Provided that nothing in the preceding provisions of this section shall be deemed to prohibit the maintenance, during that period, of any orphanage established prior to the 11th day of July, 1941.

Registrar of Orphanages.

**4.** (1) For the purposes of this Ordinance, there may be appointed a person, by name or by office, to be or to act as a Registrar of Orphanages for the whole of Sri Lanka or for any specified area in Sri Lanka.

(2) No Registrar shall exercise or discharge any power or function vested in or assigned to him by or under this Ordinance in respect of any orphanage situated outside the area for which he is appointed.

(3) Where a Registrar of Orphanages is appointed for the whole of Sri Lanka, any reference in this Ordinance to the Registrar appointed for any area shall be deemed to be a reference to the Registrar of Orphanages appointed for the whole of Sri Lanka.

**5.** (1) There may be appointed a person, by name or by office, to be or to act as an inspector of orphanages for the purposes of this Ordinance.

(2) An inspector of orphanages shall, in the exercise, discharge and performance in any area of the powers, functions and duties vested in, assigned to or imposed on him by or under this Ordinance, be subject to the general direction and control of the Registrar of Orphanages appointed for that area.

**6.** (1) Every application for the registration of an orphanage shall—

- (a) be made to the Registrar appointed for the area in which the orphanage is situated;
- (b) be in the prescribed form and contain the prescribed particulars ; and
- (c) be signed by the manager of the orphanage.

(2) Every Registrar shall submit every application received under subsection (1), together with his report thereon, to the Minister, and the Minister may make order granting or refusing the application. The decision of the Minister on any such application shall be final.

(3) An application for the registration of an orphanage may be refused—

- (a) if the Minister is satisfied that adequate provision has not been made to secure that sufficient funds will be available for the proper administration of the orphanage;

- (b) if the Minister is satisfied that adequate provision has not been made for the proper training, education, accommodation, care or maintenance of orphans or deserted children in the orphanage;
- (c) if the manager or any other person employed in the orphanage, whether for remuneration or otherwise or whether on the staff of the orphanage or as a servant therein, or in any other capacity, has been convicted of any offence, or is of such repute or character as, in the opinion of the Minister, renders him unfit to be employed in any orphanage, or to be entrusted with any control over, or any duties in connexion with, any orphan or deserted child; or
- (d) in such other circumstances as may be prescribed.

Issue of certificate of registration.

**7.** (1) Where an order has been made under section 6 for the registration of an orphanage, the Registrar appointed for the area in which the orphanage is situated shall issue to the manager of that orphanage a certificate of registration which shall be in the prescribed form and shall, unless previously surrendered to the Registrar, continue in force until it is cancelled as hereinafter provided.

(2) No orphanage shall at any time be deemed to be registered under this Ordinance, unless a certificate of registration is at that time in force in respect of that orphanage.

Visitors.

**8.** The Minister may appoint any two or more persons, by name or by office, to be Visitors of any orphanage.

Returns and information.

**9.** (1) The manager of every orphanage shall, on or before the prescribed date in each year, furnish to the Registrar appointed for the area in which the orphanage is situated a return in the prescribed form setting out the prescribed particulars in respect of that orphanage.

(2) The manager of any orphanage shall, whenever required so to do by notice under the hand of the Registrar appointed for the

area in which the orphanage is situated, furnish to the Registrar all such information and particulars as he may require in respect of that orphanage.

**10.** (1) Any Registrar or inspector of orphanages may at any time enter and inspect any orphanage, and may, for the purposes of such inspection, make such examination thereof as he may consider necessary, including an examination into the state and management of the orphanage and the condition and treatment of the orphans and deserted children therein.

Inspection of orphanages.

(2) Any person appointed under section 8 to be a Visitor of an orphanage may exercise, in respect of that orphanage, the powers conferred on an inspector of orphanages by subsection (1).

**11.** If the Registrar appointed for any area is satisfied that the management of any orphanage in that area, or the accommodation provided for, or the treatment of, the orphans and deserted children therein, is such as to endanger their welfare, the Registrar may, with the prior approval of the Minister, serve in the prescribed manner on the manager of that orphanage such general or special directions with respect to the matters aforesaid, or any of them, as the Registrar may think expedient for the welfare of the orphans and deserted children in the orphanage; and it shall be the duty of the manager of the orphanage to comply with or give effect to any such special or general direction.

Service of directions on manager of orphanage.

**12.** (1) Where a Magistrate's Court is satisfied on the application of any Registrar or inspector of orphanages that the manager of an orphanage who has been duly served with any general or special direction under section 11 has failed to comply with, or give effect to, any such direction, the court may, after such inquiry, if any, as the court may deem necessary, issue notice on the manager of that orphanage to show cause why the certificate of registration relating to that orphanage should not be cancelled for failure to comply with such direction.

Order of cancellation of certificate of registration.

(2) If the manager of the orphanage fails to appear in response to any notice issued under subsection (1), or having appeared,

fails to show cause why the certificate of registration relating to that orphanage should not be cancelled, the court may make order cancelling the certificate of registration.

(3) (a) The manager of the orphanage may appeal to the Court of Appeal against any order of cancellation made by a Magistrate's Court under subsection (2); and any Registrar or inspector of orphanages, as the case may be, may appeal to the Court of Appeal against an order whereby the Magistrate's Court has refused to cancel the certificate of registration relating to any orphanage.

(b) Every appeal under paragraph (a) shall be preferred by petition to the Court of Appeal which shall be filed in the Magistrate's Court within ten days of the date of the order against which the appeal is preferred ; and such petition shall, in the case of an appeal by the manager of an orphanage, bear stamps to the value of five rupees.

(c) The Court of Appeal may on any appeal under this subsection confirm, vary or reverse the order of the Magistrate's Court, or direct that further inquiry be made or that the manager be given a further opportunity of showing cause, or may make such other order as the justice of the case may require ; and at the hearing of any such appeal the procedure to be followed shall be such as the Court of Appeal may direct either generally or in any particular case.

Effect of cancellation of certificate of registration.

**13.** Where an order is made under section 12 or section 18 cancelling the certificate of registration relating to an orphanage and no appeal is preferred against that order, or where the Court of Appeal has, on any appeal under this Ordinance, confirmed the order of cancellation or made order cancelling the certificate of registration—

(a) any inspector of orphanages, or the Registrar appointed for the area in which the orphanage is situated, or any other person authorized for the purpose in writing under the hand of the Registrar, may enter the orphanage and remove the orphans

and deserted children who are found therein to the Children's Home or to such other place as may be prescribed; and

(b) no orphan or deserted child shall be received into the orphanage or be maintained therein:

Provided, however, that nothing hereinbefore contained shall, in the case of any orphan or deserted child who was received into the orphanage before the order of cancellation was, as the case may be, made or confirmed, be deemed to prohibit his maintenance therein until such time as he is removed therefrom under the provisions of paragraph (a).

**14.** (1) The Minister may establish a Children's Home for the reception of orphans and deserted children who are removed from orphanages under the provisions of section 13, or who are found to be homeless or without visible means of subsistence.

(2) All expenses incurred in the management and administration of the Children's Home shall be paid out of moneys voted by Parliament for the purpose.

(3) There may be appointed a person by name or by office to be or to act as the warden of the Children's Home, and such other officers and servants as may be necessary for the management of the Home.

(4) The management and administration of the Children's Home shall be under the control of a board of management consisting of a chairman and such other members, not exceeding three in number, as may be appointed by the Minister. The warden of the Children's Home shall be the secretary to the board.

**15.** It shall be the duty of the warden of the Children's Home, subject to the general direction and control of the board of management and in accordance with regulations, to take all such steps as may be necessary to provide for the care and maintenance of every orphan and deserted child received into the Home and to arrange for his admission into an orphanage or for his return to his home:

Duties of warden of Children's Home.

Provided, however, that—

- (a) the warden shall not arrange for the admission of any such orphan or deserted child into any orphanage other than—
  - (i) an orphanage for persons of the religious persuasion to which the orphan or deserted child belongs; or
  - (ii) an orphanage maintained by a poor relief authority under the Poor Law Ordinance;
- (b) any such orphan or deserted child may be detained in the Children's Home until such time as he attains the age of eighteen years, if arrangements cannot be made before that time for his admission into an orphanage or for his return to his home.

Maintenance grant for orphanages.

**16.** (1) Subject to the provisions of subsections (2) and (3), the Registrar appointed for any area may from time to time pay to the manager of any registered orphanage in that area, out of moneys voted by Parliament for the purpose, a maintenance grant in respect of the orphans and deserted children maintained in the orphanage and, where any other children are also maintained in the orphanage, a maintenance grant in respect of such of those children as are proved to have been admitted to the orphanage before the appointed date.

(2) No maintenance grant shall be paid under subsection (1) except in accordance with regulations which shall be made for the purpose of—

- (a) prescribing the circumstances in which, and the conditions subject to which, such grants may be paid ; and
- (b) fixing the amount to be paid as a maintenance grant in respect of each child of each class or description of children.

(3) The provisions of subsection (1) shall not have effect until such date as may be

fixed in that behalf by the Minister by Notification published in the Gazette.

(4) For the purposes of this section, such of the deaf, dumb, or blind persons maintained in the School for the Deaf and Blind (whether on its original premises at Mount Lavinia or elsewhere) as are proved to have been admitted to that school before the appointed date shall, notwithstanding anything in section 19 (1), be deemed to be children until they attain the age of twenty-one years.

**17.** (1) The Minister may make Regulations. regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters;—

- (a) all matters stated or required in this Ordinance, to be prescribed, or for or in respect of which, regulations are authorized or required to be made under this Ordinance ;
- (b) the form of applications for the registration of orphanages and the particulars to be contained in such applications;
- (c) the form of certificates of registration and the form of returns to be made under this Ordinance;
- (d) the books and registers to be kept by Registrars and the particulars to be entered therein;
- (e) the service of all directions, orders and notices under this Ordinance ;
- (f) the places (other than the Children's Home) to which orphans and deserted children may be removed under section 13;
- (g) the inspection of orphanages;
- (h) the circumstances in which orphans and deserted children may be admitted into the Children's Home,

their accommodation and maintenance therein and their discharge therefrom;

- (i) all matters connected with or incidental to the matters or subjects specifically referred to in this subsection.

(3) No regulation shall have effect until it has been approved by Parliament, nor until notification of such approval has been published in the Gazette.

(4) Every regulation made by the Minister shall upon the publication in the Gazette of a notification of the approval of that regulation as provided for in subsection (3), be as valid and effectual as if it were herein enacted.

Offences and penalties.

**18.** (1) Any person who—

- (a) establishes or maintains any orphanage in contravention of any provision of this Ordinance;
- (b) omits or refuses to furnish any return or information required to be furnished under this Ordinance;
- (c) knowingly makes any false statement in any application or return made or furnished by him under this Ordinance or supplies any false information when required to furnish any information under this Ordinance;
- (d) resists or obstructs any person in the performance of the duties imposed or in the exercise of the powers conferred on such person by or under this Ordinance; or
- (e) commits a breach of any provision of this Ordinance or of any regulation,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(2) Where any orphan or deserted child is received into or maintained in any

orphanage, which has been established or is maintained in contravention of any provision of this Ordinance, the manager of the orphanage and the person for the time being in charge of the orphanage shall severally be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(3) Where the manager of a registered orphanage is convicted under subsection (1) of any offence, the court may, in addition to any other punishment which it may impose for that offence, make order cancelling the certificate of registration relating to that orphanage, and where such an order is made, the provisions of subsection (3) of section 12 shall apply in like manner as if the order was made under that section.

**19.** (1) In this Ordinance, unless the Interpretation. context otherwise requires—

"appointed date" means the 1st day of March, 1944;

" certificate of registration" means a certificate of registration issued by a Registrar under section 7 ;

" child " means a person under the age of eighteen years;

" Children's Home " means the Children's Home established under section 14;

" deserted ", when applied to a legitimate child, means a child deserted by both parents, or deserted by one parent, the other being dead or incapable of acting as a parent, or a child, both of whose parents are incapable of acting as parents ; and when applied to an illegitimate child, means a child deserted by its mother, or a child whose mother is incapable of acting as a parent;

" inspector of orphanages" means an inspector of orphanages appointed under section 5;

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" manager " means the person or persons responsible for the management of an orphanage, and in the case of an orphanage that has not been established, means the person responsible for the establishment thereof;

" orphan ", when applied to a legitimate child, means a child, both of whose parents are dead, or one of whose parents is dead, the other being incapable of acting as a parent; and when applied to an illegitimate child, means a child whose mother is dead;

" orphanage " includes every home or other institution for the reception, boarding, care or maintenance mainly of orphans or deserted children, being a home or institution supported wholly or partly by voluntary contributions ;

" prescribed " means prescribed by regulation;

" registered " means registered under this Ordinance;

" Registrar " means a Registrar of Orphanages appointed under section 4;

" regulation " means a regulation made by the Minister under section 17.

(2) For the purposes of this Ordinance a person shall be deemed to be incapable of acting as a parent if such person—

- (a) is under sentence of imprisonment; or
- (b) has been adjudged by a competent court to be of unsound mind ; or
- (c) is permanently bedridden or disabled and is an inmate of a hospital or of any institution for the reception and maintenance of poor persons.

20. Every orphanage established or maintained by any poor relief authority in pursuance of the provisions of the Poor Law Ordinance or in aid of which contributions are made by any such authority under those provisions shall be deemed, for the purposes of this Ordinance, to be an institution supported wholly or partly by voluntary contributions, and the provisions of this Ordinance shall apply accordingly in the case of every such orphanage.

Application of Ordinance to orphanages maintained or aided by poor relief authorities.

21. The provisions of this Ordinance shall be in addition to and not in substitution of, the provisions of any other written law relating to orphanages or to orphans or deserted children:

Savings.

Provided, however, that where there is any conflict or inconsistency between the provisions of this Ordinance and the provisions of any such written law, the provisions of this Ordinance shall prevail.