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Tasmania

The laws

Decade	Laws applying specifically to Aboriginal children	General child welfare laws/adoption laws
1890s		The Prevention of Cruelty to and Better Protection of Children Act 1895 <i>Repealed by Infants' Welfare Act 1935</i>
		Youthful Offenders, Destitute and Neglected Children's Act 1896 <i>Repealed by The Children of the State Act 1918</i>
1900s		Infant Life Protection Act 1907 <i>Repealed by The Children of the State Act 1918</i>
1910s	<p>Cape Barren Island Reserve Act 1912</p> <p>An Act 'to provide for the subdivision of the Cape Barren Island reserve and for occupation of portion thereof by the descendants of Aboriginal natives'.</p> <p><i>Key provisions</i></p> <p>Secretary for Lands responsible for promoting welfare and well-being of residents of the reserve. Cape Barren Island reserve, which was created in 1881, to be subdivided into homestead and agricultural blocks. Persons named in schedule and their widows and descendants may make application for licences to occupy land free of rent. Residents required to reside continuously in their houses for six months each year. Licences may be bequeathed to widow or descendants but if widow who is a licensee marries 'a white man' all her rights to the licence cease. Persons over 21 years who are not licensed occupiers or lessees may be removed from reserve. 'In order to encourage the settlement of the half-castes in other parts of Tasmania outside the Reserve' an applicant may be granted a licence to occupy Crown land elsewhere in Tasmania. Regulations may be made for the control of residents upon the reserve.</p> <p><i>Repealed by Cape Barren Island Reserve Act 1945</i></p>	<p>The Children of the State Act 1918</p> <p><i>Repealed by Infants' Welfare Act 1935</i></p>

Decade	Laws applying specifically to Aboriginal children	General child welfare laws/adoption laws
		<p>Adoption of Children Act 1920</p> <p>Provided for the legal adoption of children under the age of 17 years for the first time in Tasmania. Police Magistrates given the power to make an adoption order but the Registrar-General may also exercise the power. The written consent of parents or legal guardian required unless the child is a child of the State or a 'deserted child'. A deserted child is 'any child who, in the opinion of a police Magistrate, is deserted and has ceased to be cared for and maintained by its parents or by such one of them as is living'.</p> <p><i>Amended by</i> <i>Adoption of Children Act 1941</i> – age of a 'child' for adoption raised to 21 years.</p>
1940s	<p>Cape Barren Island Reserve Act 1945</p> <p>Islanders required to develop and cultivate land on Cape Barren Island within the following five years or it reverts to the Crown.</p> <p><i>Key provisions</i></p> <p>Surveyor-General to 'manage and regulate the use and enjoyment of the Reserve' and 'exercise a general supervision and care over all matters affecting the interests and welfare of the residents of the Reserve'. Leases to contain covenants that lessor will make substantial improvements to the land, fence and cultivate the land and that his wife and family will reside on it for at least nine months per year. Lessee may bequeath lease to a member of his family, which comprises only his wife and children, living on the reserve at the time of death. Any person over the age of 21 who is not a lessee, or the son of a lessee who is permanently employed by and receiving wages from a lessee, may be removed from the reserve. Regulations may be made for the peace, order and good government of the reserve.</p> <p><i>Expired 1951</i></p>	

After 1935, Aboriginal children were taken from Cape Barren Island and surrounding islands under the *Infants Welfare Act 1935* and subsequent child welfare legislation.

1930s	<p>Infants Welfare Act 1935</p> <p>'An Act to consolidate and amend the Law relating to Welfare of Children and the Protection of Infant Life'.</p> <p><i>Definitions</i></p> <p><i>child</i> – any boy or girl under the age of 17 years</p> <p><i>child of the State</i> – a convicted or neglected child or any other child received into or committed to an institution or to the care of the Social Services Department</p> <p><i>neglected child</i> – includes a child who associates with a thief or a drunkard; who begs in a public place; who is not provided with the necessary food, nursing, clothing, medical aid and lodging or is neglected, ill-treated, or exposed by one or both of his parents; who is an habitual truant; who is found by a children's court to be uncontrollable, who is illegitimate and whose mother is dead or unable to take charge of him/her; whose home, 'by reason of the neglect, cruelty, or depravity' of either of his parents, is an unfit place for a child</p> <p><i>Key provisions</i></p> <p>A child may be apprehended as neglected and detained in a receiving home or other specified place to be taken before a children's court. The court may commit a neglected or uncontrollable child to the care of the Social Services Department or to an institution. Where a child is charged with being neglected or uncontrollable, the parents have a right to be heard, but if the parents do not appear the court can hear the matter without them. A child may also be admitted to the care of the director on the application of his/her parent or near relative or any person of good repute to be dealt with in the same way as a neglected or uncontrollable child. The Director of Social Services is the guardian of every child of the State and may place a child in a receiving home or in an institution; board-out, apprentice or place the child in service; or place the child in the custody of a suitable person. An offence to wilfully ill-treat, neglect, abandon or expose a child; communicate with a child in an institution; or, being a near relative liable to maintain a child, to desert the child or leave the child without adequate means of support.</p> <p><i>Repealed by Child Welfare Act 1960</i></p>
1940s	<p>Domestic Assistance Services Act 1947</p> <p>Established a domestic assistance service to assist in homes where the mother is unable to undertake 'ordinary domestic duties by reason of pregnancy or maternity, or by reason of accident, sickness or infirmity of any kind' or where the lack of domestic assistance service in the home is a cause of hardship'</p>
1960s	<p>Child Welfare Act 1960</p> <p>Replaced the 1935 Act. Under this Act honorary child welfare officers may be appointed. In 1966 there was an honorary child welfare officer appointed on Flinders Island.</p>

	<p><i>Definitions</i></p> <p><i>neglected</i> – similarly defined to 1935 Act. In practice the only grounds now used are that the child’s parents or guardians are ‘unfit to exercise care or guardianship’ or are not exercising it and the child is in need of care or protection, in order to secure that he/she is properly cared for or that he/she is prevented from falling into ‘bad associations or from being exposed to moral danger’; or the child is ‘beyond the control of parents or guardians with whom he is living’. Proper care and guardianship deemed not to be exercised if the child is not provided with necessary food, lodging, clothing, medical aid or nursing or the child is neglected, ill-treated or exposed by a parent or guardian</p> <p><i>Key provisions</i></p> <p>Children’s court may declare a child found to be neglected, or brought before it ‘on the application of a parent, guardian or relative of the child or a person of good repute having the care and custody of the child’, to be a ward or make a supervision order which requires the child to be under the supervision of a child welfare officer or probation officer.</p> <p><i>Amended by</i></p> <p><i>Child Welfare Act 1963</i> – deleted the power of a ‘person of good repute’ to apply for a child to be made a ward.</p>
	<p>Adoption of Children Act 1968</p> <p>Consolidated and amended the previous laws relating to adoption. The Registrar-General may no longer exercise the powers of a police Magistrate in relation to adoption. Before an adoption order is made a report must be made regarding the proposed adoption by the Department of Social Welfare or an approved private adoption agency. The welfare and interests of the child must be served by the adoption. The only agency approved under this Act was the Catholic Private Adoption Agency.</p> <p><i>Repealed by Adoption of Children Act 1988</i></p>
1970s	<p>Child Protection Act 1974</p> <p>Where it appears to a court that a child under 12 years may have suffered injury as a result of cruel treatment the Magistrate may order that the child be taken to a ‘place of safety’ for up to 30 days. Application may be heard <i>ex parte</i>. Where a court is satisfied that the child has also suffered injury through ill treatment the magistrate may declare the child to be a ward of the State.</p>
1980s	<p>Adoption of Children Act 1988</p> <p>Replaced 1968 Act. Includes provisions enabling adult adoptees to obtain information about themselves.</p>