

Chapter 4

What the schools were required to do

4.01 The Children Act, 1908 described in very broad terms the functions of industrial schools and reformatories. The duties and responsibilities of owners and managers of these schools were set out in the Rules and Regulations for the Certified Industrial Schools in Saorstát Éireann which were approved by the then Minister for Education in 1933.

4.02 The 1933 Rules are set out in full as follows:

RULES AND REGULATIONS

FOR THE

CERTIFIED INDUSTRIAL SCHOOLS

IN SAORSTÁT ÉIREANN

Approved by the Minister for Education, under the 54th

Section of the Act, 8 Edw. VII., Ch. 67.

1. NAME AND OBJECT OF SCHOOL.

Date of Certificate. _____

Number for which Certified....Accommodation is provided in this School for only ____ children. This number shall not be exceeded at any one time. No child under the age of six years is chargeable to the State Grant, and of the children of the age of six years and upwards not more than ____ are chargeable to that Grant.

2. CONSTITUTION AND MANAGEMENT.

3. CONDITIONS OF ADMISSION.

Being [Roman Catholic Girls/ Boys] sent under the provisions of the Children Act, 1908, or the School Attendance Act, 1926, or the Children Act, 1929, or otherwise as the Management may determine.

4. LODGING.

The children lodged in the School shall have separate beds. Every decision to board out a Child, under the 53rd Section of the Children Act, 1908, shall have received previous sanction from the Minister for Education, through the Inspector of Industrial Schools.

5. CLOTHING.

The children shall be supplied with neat, comfortable clothing in good repair, suitable to the season of the year, not necessarily uniform either in material or colour.

6. DIETARY.

The Children shall be supplied with plain wholesome food, according to a Scale of Dietary to be drawn up by the Medical Officer of the School and approved by the Inspector. Such food shall be suitable in every respect for growing children actively employed and supplemented in the case of delicate or physically under-developed children with special food as individual needs require. No substantial alterations in the Dietary shall be made without previous notice to the Inspector. A copy of the Dietary shall be given to the Cook and a further copy kept in the Manager's Office.

7. LITERARY INSTRUCTION.

Subject to Rule 8, all children shall be instructed in accordance with the programme prescribed for National Schools, Juniors (that is, children under 14 years of age) shall have for literary instruction and study not less than four and a half hours five days a week and Seniors (that is children of 14 years of age and upwards) shall have for the same purpose not less than three hours, five days a week; at least two-thirds of the periods mentioned to be at suitable hours between breakfast and dinner, when the most beneficial results are likely to be obtained. Religious Instruction may be included in those periods, and, in the case of Seniors, reasonable time may be allotted to approved general reading. Should the case of any individual pupil call for the modification of this Rule it is to be submitted to the Inspector for approval. Senior boys shall receive lessons in Manual Instruction which may be interpreted to mean training in the use of carpenter's tools.

8. SCHOOLS.

The Manager may arrange for children to attend conveniently situated schools, whether Primary, Continuation, Secondary or Technical, but always subject to (a) the sanction of the Inspector in each case, and (b) the condition that no increased cost is incurred by the State.

9. INDUSTRIAL TRAINING.

Industrial employment shall not exceed three and a half hours daily for Juniors or six hours daily for Seniors. The training shall, in the case of boys, be directed towards the acquisition of skill in and knowledge of farm and garden work or such handicraft as can be taught, due regard being given to fitting the boys for the most advantageous employment procurable. The training for girls shall in all cases be in accordance with the Domestic Economy Syllabus, and shall also include, where practicable, the milking of cows, care of poultry and cottage gardening.

Each school shall submit for approval by the Inspector a list setting forth the occupations which constitute the industrial training of the children and the qualifications of the Instructors employed to direct the work. Should additional subjects be added or any subject be withdrawn or suspended, notification shall be made to the Inspector without delay.

10. INSPECTION.

The progress of the children in the Literary Classes of the Schools and their proficiency in Industrial Training will be tested from time to time by Examination and Inspection.

11. RELIGIOUS EXERCISES AND WORSHIP.

Each day shall be begun and ended with Prayer. On Sundays and Holidays the Children shall attend Public Worship at some convenient Church or Chapel.

12. DISCIPLINE.

The Manager or his Deputy shall be authorised to punish the Children detained in the School in case of misconduct. All serious misconduct, and the Punishments inflicted for it, shall be entered in a book to be kept for that purpose, which, shall be laid before the Inspector when he visits. The Manager must, however, remember that the more closely the School is modelled on a principle of judicious family government the more salutary will be its discipline, and the fewer occasions will arise for resort to punishment.

13. PUNISHMENTS.

Punishments shall consist of:—

- (a) Forfeiture of rewards and privileges, or degradation from rank, previously attained by good conduct.
- (b) Moderate childish punishment with the hand.
- (c) Chastisement with the cane, strap or birch.

Referring to (c) personal chastisement may be inflicted by the Manager, or, in his presence, by an Officer specially authorised by him, and in no case may it be inflicted upon girls over 15 years of age. In the case of girls under 15, it shall not be inflicted except in cases of urgent necessity, each of which must be at once fully reported to the Inspector. Caning on the hand is forbidden.

No punishment not mentioned above shall be inflicted.

14. RECREATION.

Seniors shall be allowed at least two hours daily, and Juniors at least three hours daily, for recreation and shall be taken out occasionally for exercise beyond the boundaries of the school, but shall be forbidden to pass the limits assigned to them without permission.

Games, both indoor and outdoor, shall be encouraged; the required equipment shall be provided; and supervision shall be exercised to secure that all children shall take part in the Games.

Fire Drill shall be held once at the least in every three months, and each alternate Drill shall take place at night after the children have retired to the dormitories. A record of the date and hour of each Drill shall be kept in the School Diary.

15. VISITS (RELATIVES AND FRIENDS).

Parents, other Relations, or intimate Friends, shall be allowed to visit the children at convenient times, to be regulated by the Committee or Manager. Such privilege is liable to be forfeited by misconduct or interference with the discipline of the School by the Parents, Relatives, or Friends. The Manager is authorised to read all Letters which pass to or from the Children in the School, and to withhold any which are objectionable.

Subject to approval of the Inspector, holiday leave to parents or friends may be allowed to every well conducted child who has been under detention for at least one year, provided the home conditions are found on investigation to be satisfactory. Such leave shall be limited to seven days annually.

In a very special or urgent case, such as the serious illness or death of a parent, the Manager may also, at his discretion, if applied to, grant to any child such brief leave of absence as will enable the child to spend not more than one night at home: the circumstances to be reported forthwith to the Inspector's Office.

16. CHILDREN PLACED OUT ON LICENCE OR APPRENTICED.

Should the Manager of a School permit a Child, by Licence under the 67th Section of the Children Act of 1908, to live with a trustworthy and respectable person, or apprentice the Child to any trade or calling under the 70th Section of the Act, notice of such placing out on Licence, or apprenticeship of the Child, accompanied by a clear account of the conditions attaching thereto, shall be sent, without delay, to the Office of the Inspector.

17. STATE GRANT.

Under the present financial arrangement no Child will be paid for out of the Funds voted by the Oireachtas until it has reached the age of Six Years. A Child, however, under the age of Six Years may be sent to the School under an Order of Detention signed by a District Justice; but in such case the State allowance for maintenance will not be made until it shall appear from the Order of Detention that the Child is Six Years old – from that date only will it be regularly paid for.

18. PROVISION ON DISCHARGE.

On the discharge of a Child from the School, at the expiration of the period of Detention, or when Apprenticed, he (or she) shall be provided, at the cost of the Institution, with a sufficient outfit, according to the circumstances of the discharge. Children when discharged shall be placed, as far as practicable, in some employment or service. If returned to relatives or friends, the travelling expenses shall be defrayed by the Manager, unless the relatives or friends are willing to do so. A Licence Form shall be issued in every case and the Manager shall maintain communication with discharged Children for the full period of supervision prescribed in Section 68(2) of the Children Act, 1908. The Manager shall recall from the home or from employment any child whose occupation or circumstances are unsatisfactory, and he shall in due course make more suitable disposal.

19. VISITORS.

The School shall be open to Visitors at convenient times, to be regulated by the Committee (or Manager), and a Visitors' Book shall be kept. The term "visitors" means members of the Public interested in the school.

20. TIME TABLE.

A Time Table, showing the Hours of Rising, Work, School Instruction, Meals, Recreation, Retiring etc., shall be drawn up, shall be approved by the Inspector of Industrial Schools, and shall be fixed in the Schoolroom, and carefully adhered to on all occasions. All important deviations from it shall be recorded in the School Diary.

21. JOURNALS, etc.

The Manager (or Master or Matron) shall keep a Journal or Diary of everything important or exceptional that passes in the School. All admissions, discharges, licences and escapes shall be recorded therein, and all Record Books shall be laid before the Inspector when he visits the School.

22. MEDICAL OFFICER.

- I. A Medical Officer shall be appointed who shall visit the school periodically, a record of his visits being kept in a book to be provided for the purpose.
- II. Each child shall be medically examined on admission to the School, and the M.O.'s written report on the physical condition of the Child should be carefully preserved.
- III. A record of all admissions to the School Infirmary shall be kept, giving information as to ailment, treatment, and dates of admission and discharge in each case. Infirmary

cases of a serious nature and cases of more than three days duration shall be notified to the Inspector's Office.

- IV. The M.O. shall make a quarterly examination of each child individually, and give a quarterly report as to the fitness of the children for the training of the school, their general health, and the sanitary state of the school. The quarterly report shall be in such form as may be prescribed from time to time by the Minister for Education. Application shall be made to the Minister for the discharge of any child certified by the M.O. as medically unfit for detention.
- V. Dental treatment and periodic visits by a Dentist shall be provided and records of such visits shall be kept.

In the event of the serious illness of any child, notice shall be sent to the nearest relatives or guardian and special visits allowed.

23. INQUESTS.

In the case of violent death, or of sudden death, not arising in the course of an illness while the child is under treatment by the M.O., a report of the circumstances shall be at once made to the local Gardaí for the information of the Coroner, a similar report being at the same time sent to the Inspector.

24. RETURNS, etc.

The Manager (or Secretary) shall keep a Register of admissions and discharges, with particulars of the parentage, previous circumstances, etc., of each Child admitted, and of the disposal of each Child discharged, and such information as may afterwards be obtained regarding him, and shall regularly send to the Office of the Inspector the Returns of Admission and Discharge, the Quarterly Accounts for their maintenance, and any other returns that may be required by the Inspector. All Orders of Detention shall be carefully kept amongst the Records of the School.

25. INSPECTOR.

All Books and Journals of the School shall be open to the Inspector for examination. Any teacher employed in the school who does not hold recognised qualifications may be examined by the Inspector, if he thinks it necessary, and he shall be informed of the qualifications of new teachers on their appointment. Immediate notice shall be given to him of the appointment, death, resignation, or dismissal of the Manager and Members of the School Staff.

26. GENERAL REGULATIONS.

The Officers and Teachers of the School shall be careful to maintain discipline and order, and to attend to the instruction and training of the Children, in conformity with these Regulations. The Children shall be required to be respectful and obedient to all those entrusted with their management and training, and to comply with the regulations of the School.

27. REMOVAL TO A REFORMATORY.

Whenever a Child is sent to a Reformatory School, under the provisions of the 71st or 72nd Sections of the Children Act of 1908, the Manager shall, without delay, report the case to the Inspector.

28. CHILD NOT PROFESSING RELIGIOUS PERSUASION OF THE MANAGER TO BE REMOVED BY THE SCHOOL.

In order to insure a strict and effectual observance of the provisions of the 66th Section of the Children Act of 1908, in every case in which a Child shall be ordered to be detained in a School managed by Persons of a different Religious Persuasion from that professed by the Parents, or surviving Parent, or (should that be unknown), by the Guardians or Guardian of such Child; (or should that be unknown) different from that in which the Child appears to have been baptized or (that not appearing), different from that professed by the Child the Manager or Teachers of such School shall, upon becoming acquainted with the fact, or having reason to believe that such is the fact, give notice in writing, without delay, to the Inspector, who will thereupon immediately take any necessary steps in the matter.

29. ESCAPES.

Should any Escape from the School occur, the Manager shall, with as little delay as possible, notify the particulars to the nearest Gardaí Station, to the Gardaí Superintendents of the County and adjoining Counties, and to the Inspector's Office.

These Rules have been adopted by the Managers of _____ Industrial School.

Corresponding Manager

_____ 19

Approved under the 54th Section of the Children Act of 1908.

Minister for Education

_____ 19

Discipline in schools

4.03 Discipline was an important issue in all the schools, and excessive corporal punishment for breaches of discipline was the most common complaint of former pupils. Unlike sexual abuse, which was in all circumstances wrong and unlawful, physical abuse arose, amongst other reasons, out of the then legal entitlement of school authorities to chastise pupils physically. It is important, therefore, to set out fully what the law was in relation to punishment, and to ensure that actions are judged by standards appropriate to their time.

4.04 The basic law was set out in the Children Act, 1908 which recognised the existing common law right of a parent or teacher to punish a child. Section 37 provided:

Nothing in this Part of this Act shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child or young person to administer punishment to such child or young person.

4.05 The common law position was that a teacher was entitled to punish a child if the child was of an age when he or she could appreciate the correction; when the punishment was both moderate and reasonable; when the implement used was fit for the purpose and not inappropriate. As to the amount of punishment, that varied with the age, sex and physical condition of the child.

4.06 The Children Act, 1908 recognised the existing right to punish children but did not alter it. The Act brought together and consolidated the provisions relating to industrial schools and reformatory schools, and also authorised the making of rules and regulations for running such institutions. Pursuant to that statutory authority, rules and regulations were produced in a form that remained substantially unchanged during the lifetimes of the schools. The Manager of the School signed the certification form containing the rules and regulations and returned it to the Department. The result was that there was official acceptance by the School, through its Manager's signature, of the rules and regulations contained in the certificate. This was the system that operated until the early 1930s.

4.07 In 1933, instead of sending separate documents for signature to each school, the Minister embodied the rules in one standard form that was sent to the schools, and these rules are set out in full above. Although the precise form of the document changed over the years, from the late nineteenth century until 1933, when it crystallised into its final shape, the terms and conditions were essentially the same. The regulations governing the schools during the period of this Inquiry are those in the standardised form of 1933.

4.08 The relevant sections of the 1933 Rules and Regulations relating to corporal punishment are set out again in full below.

Rules and regulations governing corporal punishment

4.09 The 1933 Department of Education Rules and Regulations for Certified Industrial Schools were aimed at reducing corporal punishment to a minimum, and to controlling as far as possible such punishments as were inflicted.

4.10 Regulation 13 stated:

Punishments shall consist of:—

- (a) Forfeiture of rewards and privileges, or degradation from rank, previously attained by good conduct.
- (b) Moderate childish punishment with the hand.
- (c) Chastisement with the cane, strap or birch.

Referring to (c) personal chastisement may be inflicted by the Manager, or, in his presence, by an Officer specially authorised by him, and in no case may it be inflicted upon girls over 15 years of age. In the case of girls under 15, it shall not be inflicted except in cases of urgent necessity, each of which must be at once fully reported to the Inspector. Caning on the hand is forbidden.

No punishment not mentioned above shall be inflicted.

4.11 This regulation was prefaced by a clause which counselled caution in its use. It said:

The Manager or his Deputy shall be authorised to punish the Children detained in the School in case of misconduct. All serious misconduct, and the Punishments inflicted for it, shall be entered in a book to be kept for that purpose, which shall be laid before the Inspector when he visits. The Manager must, however, remember that the more closely the School is modelled on a principle of judicious family government the more salutary will be its discipline, and the fewer occasions will arise for resort to punishment.¹

Instructions in regard to the infliction of corporal punishment in national schools

4.12 The 1946 Rules and Regulations for National Schools applied to the 'education provision'² within the industrial and reformatory schools. Regulation 96 of these Rules gave specific instructions for the use of corporal punishment in national schools. It stated:

¹ Regulation 12 of the Rules and Regulations for the Certified Industrial Schools in Saorstát Éireann, 1933, approved by the Minister of Education under the Children Act, 1908.

² The Department submits this wording 'education provision' means, in other words, the internal national school.

- 96.(1) Corporal Punishment should be administered only for grave transgression. In no circumstances should corporal punishment be administered for mere failure at lessons.
- (2) Only the principal teacher, or such other member of the staff as may be duly authorised by the manager for the purpose, should inflict corporal punishment.
- (3) Only a light cane or rod may be used for the purpose of corporal punishment which should be inflicted only on the open hand. The boxing of children's ears, the pulling of their hair or similar ill-treatment is absolutely forbidden and will be visited with severe penalties.
- (4) No teacher should carry about a cane or other instrument of punishment.
- (5) Frequent recourse to corporal punishment will be considered by the Minister as indicating bad tone and ineffective discipline.

4.13 This regulation did not permit the use of the leather strap in the classroom.

4.14 In November 1946, Circular No 11/1946, which was signed by Michael Ó Síochfhrada, the Department of Education Inspector, gave more detailed guidelines on the use of corporal punishment. It was directed to the Managers of all industrial schools. The title of the Circular was 'Discipline and Punishment in Certified Schools'. It impressed upon Resident Managers their 'personal responsibility to ensure that the official regulations' on matters of discipline and punishment were 'faithfully observed by all the members of the staffs of these schools'. The Circular stated that corporal punishment should only be used as a last resort, where other forms of punishment had been unsuccessful as a means of correction.

4.15 The Circular went on to stipulate:

- Corporal punishment 'should be administered only for grave transgressions, and in no circumstances for mere failure at school lessons or industrial training'.
- 'Corporal punishment should in future be confined to the form usually employed in schools, viz slapping on the open palm with a light cane or strap'.
- 'This punishment should only be inflicted by the Resident Manager or by a member of the school staff specially authorised by him for the purpose'.
- Any other form of corporal punishment which tends to humiliate a child or expose the child to ridicule before the other children is also forbidden. Such forms of punishment would include special clothing, cutting off a girl's hair, and exceptional treatment at meals.

4.16 The Circular attempted to marry the provisions of the 1933 Rules and Regulations for Certified Schools with the new 1946 Rules and Regulations for National Schools. In so doing, a certain amount of ambiguity arose with regard to the use of a leather strap, which was clearly not permitted in the classroom by the 1946 Rules and Regulations.

4.17 In December 1946, Circular 15/46, signed by Michael Breathnach, Secretary of the Department of Education, and entitled 'Circular to Managers and Teachers in regard to the infliction of Corporal Punishment in National Schools' was sent to all national schools. It appears from this document that two additions were made to section 96(1) and (3) which did not appear when the original 1946 Rules and Regulations were circulated to the schools (these additions are identified by italics):

Rule 96(1): Corporal punishment should be administered only for grave transgression. *In no circumstances should corporal punishment be administered for mere failure at lessons.*

(3) Only a light cane or rod may be used for the purpose of corporal punishment *which should be inflicted only on the open hand.* The boxing of children's ears, the pulling of their hair or similar ill-treatment is absolutely forbidden and will be visited with severe penalties.

4.18 The Circular did not authorise the use of a leather strap as an implement of punishment in national schools.

4.19 In 1956, a further Circular from the Department of Education, Circular 17/56 entitled ‘Circular to Managers and Teachers of National Schools in regard to Corporal Punishment’, was issued. This Circular was in response to publicity which had been given to the matter of corporal punishment in national schools, and was issued to re-affirm the Department’s policy with regard to corporal punishment and to give guidance to those ‘who may be disposed to contravene Rule 96 of the Code’. The Circular stated:

In re-issuing that rule, set out hereunder, opportunity is being taken to announce an amendment, printed in italics, of Section (3).

4.20 The full Rule 96 was then set out, with the amendment to section (3) as follows:

(3) Only a light cane, rod *or leather strap* may be used for the purpose of corporal punishment which should be inflicted only on the open hand. The boxing of children’s ears, the pulling of their hair or similar ill-treatment is absolutely forbidden and will be visited with severe penalties.

4.21 This amendment is significant, in that it authorised at an official level the use of the leather strap in national schools after a 10-year gap. The evidence would indicate, however, that the leather strap was used in schools throughout this period.

4.22 The status of these Circulars could be debated. They were not statutory provisions, neither were they regulations or statutory instruments made under legislative authority conferred on the Department. The Department was, however, the relevant regulatory body and was clearly in a position to issue guidelines and recommendations and instructions. It appears that a school could not be prosecuted for breach of instructions contained in such Circulars. Neither, it would appear, could the Department enjoin observance by way of court order. The Circulars can be regarded as possessing a certain authority, on the basis that they represented the thinking of the Minister and the Department of what constituted reasonable and moderate punishment in schools at that time. Such views would not be binding on a court, but it would appear that they would have been relevant to the consideration by a judge or jury as to what was moderate or reasonable in the way of punishment in a school.

4.23 Abolition of corporal punishment did not occur in Irish schools until 1st February 1982, when Department of Education Circular 9/82 stated that any teacher who used corporal punishment was now to be ‘regarded as guilty of conduct unbefitting a teacher’ and would be subject to ‘severe disciplinary action’.

4.24 Although this Circular could have provided grounds for a civil action against a teacher who acted in breach of it, it was not until 1997³ that physical punishment by a teacher became a criminal offence.

4.25 Submissions made by the Christian Brothers and other Congregations on the subject of corporal punishment and physical abuse emphasised that the historical context is essential to any investigation. In particular, the fact that such punishment was permissible and widespread in schools and homes at the relevant time needed to be taken into consideration. The rules and prohibitions set out what was permissible or recommended in using corporal punishment, but it did not follow that departure from them constituted physical abuse. Neither did it follow that conduct that was occurring in other schools or in families at the time could not be abusive.

³ Section 24 of the Non-Fatal Offences Against the Person Act, 1997 provides:

‘The rule of law under which teachers are immune from criminal liability in respect of physical chastisement of pupils is hereby abolished’.

With the removal of this immunity, teachers are now subject to section 2(1) of the 1997 Act, which provides that:

‘A person shall be guilty of the offence of assault, who, without lawful excuse, intentionally or recklessly—

(a) directly or indirectly applies force to or causes an impact on the body of another ...’.

Teachers who physically chastise pupils may now be guilty of an offence and liable to 12 months’ imprisonment and/or a fine of £1,500, pursuant to section 3(1) of the 1997 Act.

4.26 The complexities of this question can be exaggerated and are, in fact, more theoretical than real. People who lived during the time when corporal punishment was legally permissible in schools, and was acceptable in family circumstances, have no difficulty in deciding whether punishments that they experienced or witnessed were excessive. Teachers, parents and children knew what was acceptable, and were able to condemn excesses. They also knew what amounted to cruelty and brutality. The documentary, and much of the oral evidence about physical abuse related to instances that were considered at that time to be wrong, judged by contemporary standards, not by those of today. The term 'physical abuse' was not used, but the concepts underlying the term were well understood.

Punishment book

4.27 Pursuant to regulation 12 of the 1933 Rules and Regulations for Certified Industrial Schools, all industrial schools were required to keep a punishment book, in which all serious punishments were to be recorded. Only two such books, relating to a short period of time,⁴ were discovered to the Investigation Committee in the course of its inquiries, indicating that there was a complete disregard for this requirement on the part of school Managers. This had serious implications for the work of this Committee. Any investigation into historical abuse depends, amongst other factors, on proper records being maintained; and the information gleaned from one of the punishment books, from St Patrick's Industrial School, Upton, would indicate that such records would have been a very important reference for the investigation.

⁴ St Patrick's Industrial School, Upton, County Cork and St Joseph's Industrial School, Dundalk, County Louth.