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OF
THE BAHAMAS

1799—1987

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CHAPTER 90.

CHILDREN AND YOUNG PERSONS
(ADMINISTRATION OF JUSTICE).

AN ACT RELATING TO CHILDREN AND YOUNG PERSONS.

[2nd July 1947.]

[Commencement 18th September 1947.]

21 of 1947.
13 of 1950.
3 of 1953.
11 of 1954.
53 of 1954.
9 of 1959.
2 of 1960.
G.N. 187 of
1964.
46 of 1964.
E.L.A.O., 1974.
13 of 1978.
5 of 1987.

1. This Act may be cited as the Children and Young Persons (Administration of Justice) Act.

Short title.

2.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

“child” means a person under the age of fourteen years;

“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 young person or in which the child or young person is concerned, has for the time being the charge of or control over the child or young person;

“Minister” means the Minister responsible for Child Protection ;

E.L.A.O., 1974.

“place of safety” means any place of detention, police station, hospital, surgery or any other suitable place, the occupier of which is willing temporarily to receive a child or young person;

“probation officer” means a person appointed under this Act by the Governor-General acting in accordance with the advice of the Public Service Commission to be a probation officer;

E.L.A.O., 1974.

“rules” means the rules made under this Act;

53 of 1954, s. 2.

“superintendent” means the person responsible for the management of an industrial school, or place of detention;

“young person” means a person who has attained the age of fourteen years and is under the age of eighteen years.

(2) In this Act references to a “place of detention” shall be read, in respect of magisterial districts in which no place of detention has been provided, as if they were references—

(a) where the child or young person is a male in New Providence under the age of sixteen years, to an industrial school; or

(b) where the child or young person is a male in any district other than New Providence, to either an industrial school or to a prison, as may seem fit to the officer or court to whom the child or young person is brought; or

(c) where the young person is a male in New Providence over the age of sixteen years, to a prison;

(d) where the child or young person is a female, to such institution as may be approved for the purpose of the detention of females by the Minister.

E.L.A.O., 1974.

PART I.

JUVENILE COURTS.

*Juvenile courts.
E.L.A.O., 1974.*

3.—(1) The Chief Justice may by Order establish in any magisterial district a juvenile court which shall exercise such jurisdiction as may be conferred upon it by this Act.

(2) A juvenile court shall consist of a magistrate as chairman and other members as hereinafter provided.

E.L.A.O., 1974.

(3) The Minister after consultation with the Chief Justice may by Order in respect of any juvenile court appoint a panel of not less than six persons from whom the members, other than the chairman, of the court at any sitting thereof shall be selected as hereinafter provided, and every appointment to the panel shall be for a definite period but shall be revocable at any time by the Minister after consultation with the Chief Justice.

E.L.A.O., 1974.

(4) At any sitting of a juvenile court the court shall consist of the chairman and two other members, one at least of whom shall be a woman, selected by the chairman from the panel of persons appointed under subsection (3) of this section.

E.L.A.O., 1974.

*Jurisdiction and powers of juvenile courts.
Ch. 42.*

4. A juvenile court shall have the jurisdiction conferred upon juvenile courts by this Act and in addition all those powers of a magistrate under the Magistrates Act which are necessary for the exercise of that jurisdiction.

Decision of majority of juvenile court to prevail.

5. In the determination of any question or matter before a juvenile court the decision of the majority of the members of the court shall prevail:

Provided that any question of law that arises shall be decided by the chairman alone and that the chairman alone shall decide whether any question is or is not a question of law.

6. In the exercise of any jurisdiction conferred upon a juvenile court the members thereof shall enjoy immunities as are enjoyed by a magistrate in the exercise of his jurisdiction.

Immunities of members of juvenile courts.

7.—(1) Subject as hereinafter provided, in any magisterial district in respect of which a juvenile court has been established under section 3 of this Act, no charge against a child or young person, and no application whereof the hearing is by rules of court made under section 16 of this Act assigned to juvenile courts shall be heard by any court other than a juvenile court:

Exclusive jurisdiction of juvenile courts.

Provided that—

(a) a charge made jointly against a child or young person and a person who has attained the age of eighteen years shall be heard by a magistrate; and

(b) where a child or young person is charged with an offence the charge may be heard by a magistrate if a person who has attained the age of eighteen years is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence; and

(c) where, in the course of any proceedings before a magistrate, it appears that the person to whom the proceedings relate is a child or young person, nothing in this section shall be construed as preventing the court, if it thinks fit so to do, from proceeding with the hearing and determination of those proceedings.

(2) A juvenile court sitting for the purpose of hearing a charge against, or an application relating to, a person who is believed to be a child or young person, may, if it thinks fit so to do, proceed with the hearing and determination of the charge or application, notwithstanding that it is discovered that the person in question is not a child or young person.

Procedure in juvenile courts prior to hearing.

8.—(1) Every matter brought before a juvenile court shall be heard and determined in a summary way.

(2) Where a child or young person is brought before a juvenile court for any offence it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(3) Where a child is brought before a juvenile court charged with any offence other than homicide the case shall be finally disposed of in the juvenile court.

(4) Where a young person is brought before a juvenile court charged with any indictable offence other than homicide and the court considers that it is expedient, in the interests of the young person, to deal summarily with the case, the court shall put to the young person the following question, telling him that he may consult his parent or guardian before replying: "Do you wish to be tried by the court or by a jury?" and the court shall explain the meaning of being so tried and the place where the trial would be held.

(5) Where a child or young person is brought before a juvenile court charged with homicide, or where a young person is brought before a juvenile court charged with any other indictable offence and either the court does not consider it expedient to deal with the case summarily or the person charged does not agree to be tried by the juvenile court, the court shall remit the case to a magistrate to be dealt with in accordance with the provisions of the Magistrates Act, the Criminal Procedure Code Act and the Penal Code.

Ch. 42.
Ch. 84.
Ch. 77.
5 of 1987, Sch.
Plea.

9. Where the court proceeds to hear and determine the charge it shall first ask the person charged whether he admits the offence.

10.—(1) If the child or young person does not admit the offence the court shall then hear the evidence of the witnesses in support thereof. At the close of the evidence in chief of each such witness, the magistrate shall ask the child or young person, or if he sees fit, the child's parent or guardian, whether he wishes to put any questions to the witnesses.

(2) If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the court to put to the witnesses such questions as appear to be necessary. The

Procedure at hearing.

court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(3) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(4) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

(5) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of enquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded. The court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

11.—(1) Juvenile courts shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred upon them by this Act.

Sittings of juvenile courts.

(2) A juvenile court shall sit either in a different building or room from that in which sittings of courts other than juvenile courts are held, or on different days from those on which sittings of such other courts are held; and no persons shall be present at any sittings of a juvenile court except—

(a) members and officers of the court;

(b) parties to the case before the court, their counsel, and witnesses and other persons directly concerned in that case;

(c) the parents or guardians of any child or young person concerned in that case;

(d) such other persons as the court may specially authorise to be present.

Prohibition of publication of matter likely to identify child or young person.

11 of 1954, s. 2.

5 of 1987, s. 2.

Representation by counsel.

Signification of judgments, orders and process.

Appeals.

Power to make rules of court.
46 of 1964, Schd. Ch. 41.

12. No person shall publish the name, address, school, photograph or anything likely to lead to the identification of a child or young person appearing in any juvenile court save with the permission of the Court. Any person who acts in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine of two hundred dollars.

13. A party to any proceedings in a juvenile court may be represented therein by counsel.

14. Any order, judgment or process purporting to be signed by the chairman of a juvenile court shall be deemed to have been duly made, given or issued by the court and the record of any proceedings before a juvenile court shall be deemed to be a true record of the proceedings, and judicial notice shall be taken by all courts of any order, judgment, process or record purporting to be so signed.

15. An appeal shall lie from the decision of a juvenile court in the same cases and in the same manner as from a decision of a magistrate.

16. The Rules Committee under section 29 of the Supreme Court Act may from time to time make rules of court for regulating the practice (including scales of fees) in respect of proceedings of any kind in a juvenile court, and may by the same or other rules assign to juvenile courts the determination of any applications or classes of applications concerning children or young persons.

PART II.

CRUELTY TO CHILDREN.

Cruelty to children.

17.—(1) If any person who has attained the age of eighteen years and has the custody, charge or care of any child or young person under that age wilfully assaults, ill-

treats, neglects, abandons or exposes him, or causes or permits him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause him unnecessary suffering or injury to 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 shall be liable upon summary conviction to a fine not exceeding two hundred and fifty dollars or imprisonment for one year or both, or, upon conviction before the Supreme Court, to a fine not exceeding one thousand dollars or imprisonment for three years or both.

5 of 1987, Sch.

(2) For the purposes of this section a parent or other person legally liable to maintain a child shall be deemed to have neglected him in a manner likely to cause injury to his health if he has failed to provide adequate food, clothing, medical aid or lodging for him.

(3) A person may be convicted of an offence under this section—

(a) 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; or

(b) notwithstanding the death of the child or young person in question.

18. Any peace officer or any probation officer may take into custody without warrant—

Powers of arrest.

(a) any person who in his view commits an offence under section 17 of this Act; or

(b) any person who has committed, or whom he has reason to believe to have committed, an offence under the preceding section, if the peace officer or probation officer has reasonable grounds for believing that the person will abscond or he does not know and cannot ascertain his name and address.

PART III.

INDUSTRIAL SCHOOLS AND PLACES OF DETENTION.

19. This Part shall apply to New Providence but may be extended to such places in the Out Islands as the Minister may by Order direct.

Application.

E.L.A.O., 1974.

Minister may declare places or premises to be industrial schools or places of detention.

20.—(1) The Minister may by Order declare any place or premises to be an industrial school or a place of detention.

(2) Any industrial school or place of detention may be appropriated to boys or girls or to boys and girls as the Minister may direct.

E.L.A.O., 1974.

Age limits.
13 of 1950, s. 2.

21. No child under the age of ten years shall be received into an industrial school or a place of detention and no person shall be retained in an industrial school after he has attained the age of sixteen years.

Form of detention orders.
53 of 1954, s. 3, Schedule.

22.—(1) An order for the commitment of a child or young person to an industrial school or place of detention shall be in the form in the Schedule to this Act.

(2) The production of such order, or a certified copy thereof, shall be sufficient evidence of the authority to detain such child or young person in such industrial school or place of detention until the child or young person shall attain the age specified in the order:

Provided that the superintendent of such industrial school or place of detention shall not incur any liability for damages if, owing to the absence of a certificate of the birth of such child or young person, he detains such child or young person after such child or young person has attained the age specified in the order in the reasonable belief that such child or young person has not attained that age.

Visitors.
E.L.A.O., 1974.

23.—(1) It shall be lawful for the Minister to appoint a visiting committee for any industrial school or place of detention declared under this Act.

(2) Any minister of the religious denomination specified in the detention order as that to which the child or young person appears to belong may visit the child or young person at the industrial school or place of detention, for the purpose of instructing him in religion, on such days and at such times as may be fixed by rules.

Escape and failure to comply with licence or recall.
9 of 1959, s. 2.

24.—(1) A child or young person who has been ordered to be sent to an industrial school or place of detention and who—

(a) escapes from such industrial school or place of detention, or from any hospital or institution in which he is receiving medical attention; or

(b) escapes whilst being conveyed to or from such industrial school or place of detention or to or from any hospital or institution; or

(c) being outside such industrial school or place of detention, runs away from the person in whose charge he is, or fails to return to such industrial school or place of detention upon the revocation of his licence; or

(d) being outside such industrial school or place of detention under the provisions of section 30 of this Act, fails to return to such industrial school or place of detention when required so to do; or

(e) being outside such industrial school or place of detention under the provisions of section 31 of this Act, fails to return to such industrial school or place of detention upon the expiration of the period of time for which he was so permitted to be outside such industrial school or place of detention or fails to comply with the conditions, if any, imposed by the superintendent under the provisions of the said section 31; or

(f) being under supervision as provided in subsection (1) of section 32 of this Act fails to return to such industrial school or place of detention upon being recalled,

may be apprehended without warrant and returned to such industrial school or place of detention.

(2) Any person who—

(a) knowingly assists directly or indirectly any child or young person to escape—

(i) from an industrial school or place of detention; or

(ii) during the currency of an order for the commitment of such child or young person, from any hospital or institution in which such child or young person is receiving medical attention; or

(iii) during the currency of an order for the commitment of such child or young person, from any other place whatsoever at which such child or young person is, under the provisions of this Act, at the time of the escape; or

(b) directly or indirectly induces any child or young person so to escape; or

(c) knowingly harbours or conceals, or assists in so doing a child or young person who has escaped or run away under the provisions of (a), (b), (c), (d), (e), or (f) of subsection (1) of this section; or

(d) knowingly harbours or conceals a child or young person whose licence has been revoked or who has been recalled to an industrial school or place of detention, or knowingly assists in so doing,

shall be guilty of an offence and shall be liable on summary conviction to a fine of seventy-five dollars or to imprisonment for two months, or to both such fine and such imprisonment.

S of 1987, Sch.

Inquest on death of detained child.

25. A coroner's inquest shall in every case be held whenever a child dies while detained in an industrial school or place of detention.

Children and young persons detained but not living in industrial schools. S3 of 1954, s. 5.

26. Where a child or young person committed to an industrial school is by virtue of the provisions of this Act or of any rule not living within the precincts of the school he shall nevertheless for all purposes of discipline be subject to all rules applicable to inmates of the school.

Provisions regarding places of detention. E.L.A.O., 1974.

27. It shall be lawful for the authority or person responsible for the management of any institution other than a prison or industrial school whether supported out of the public funds or by voluntary contributions, to agree with the Minister for the use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the Minister.

Expenses.

28. The expenses incurred in respect of any industrial school or place of detention, including the expenses of the maintenance of any child or young person detained therein, shall be defrayed out of moneys provided for that purpose by Parliament.

Power to discharge or vary order. S3 of 1954, s. 6. E.L.A.O., 1974.

29. The Minister may at any time, on the recommendation of the superintendent and the visiting committee, order any child or young person—

(a) to be discharged from an industrial school or place of detention; or

(b) to be removed from one industrial school or place of detention to another or from an industrial school to a place of detention or from a place of detention to an industrial school, but so that the total period of his detention shall not be increased by such removal; or

(c) to be released from an industrial school or place of detention under a licence to be issued by the superintendent in the form prescribed by the rules, in order that such child or young person may live under the charge of any trustworthy and respectable person named in the licence and willing to receive and take charge of him; and—

(i) in the case of a child, to keep him in regular attendance at a school;

(ii) in the case of a young person, to keep him in regular attendance at a school or regularly employed in some trade, occupation or calling;

Provided that the Minister may, on the recommendation of the superintendent and the visiting committee, order the superintendent to revoke such licence and to recall such child or young person to an industrial school or place of detention.

30.—(1) The superintendent of an industrial school or place of detention may, with the approval of the visiting committee, grant a licence in the form prescribed by the rules to any inmate of such industrial school or place of detention who is a young person permitting him to be outside such industrial school or place of detention between the hours of six o'clock in the morning and six o'clock in the evening other than on Sundays and public holidays for the purpose of being gainfully employed by an employer approved by the visiting committee, but such young person shall be deemed to remain under the supervision of the said superintendent, who may at any time revoke such licence without incurring any liability for damages suffered by the employer.

Permission for inmate to engage in extramural employment. S3 of 1954, s. 7.

(2) Any person employing a young person as provided in subsection (1) hereof shall be required to render weekly to the superintendent a report on the conduct of the young person in such form as may be prescribed by the rules.

(3) The earnings of a young person employed under the provisions of subsection (1) hereof shall be paid by the employer to the superintendent, who shall—

(a) deduct therefrom, from time to time, and pay to the young person such sums as may be necessary for his expenses whilst outside the industrial school or place of detention in the course of his employment; and

(b) from time to time invest the balance of such earnings in trust for the young person in such manner and upon such conditions as may be prescribed by the rules.

Permission for inmate to visit home or be absent from industrial school or place of detention in certain circumstances.
9 of 1959, s. 3.

31.—(1) The superintendent of an industrial school or place of detention may, with the approval of the visiting committee, permit an inmate of such industrial school or place of detention from time to time to visit his home for such period between the hours of two o'clock in the afternoon and six o'clock in the evening upon such conditions as the superintendent may decide.

(2) In the case of the serious illness of a relative of an inmate of an industrial school or place of detention or of any other person, not being a relative of such inmate, but who stands in loco parentis to such inmate, the superintendent of such industrial school or place of detention may, in his discretion, permit such inmate to be outside the industrial school or place of detention for a period not exceeding forty-eight hours at any one time, upon such conditions as the superintendent may decide.

Supervision and recall after expiration of period of detention.
53 of 1954, s. 7.

32.—(1) A child or young person sent to an industrial school or place of detention shall, if under the age of sixteen years at the expiration of the period of detention, be under the supervision of the superintendent of such industrial school or place of detention, until such child or young person attains the age of sixteen years.

E.L.A.O., 1974.

(2) The Minister may order the superintendent to recall to such industrial school or place of detention, as the case may be, any child or young person who is under supervision as provided in subsection (1) hereof, and the superintendent shall thereupon, by notice in the form prescribed by the rules, recall such child or young person:

Provided that the Minister shall not make such order unless in his opinion it is necessary in the interests of such child or young person to recall him.

(3) A child or young person who has been recalled as hereinbefore provided, shall be released as soon as the Minister considers that such child or young person can properly be released, and in no case shall such child or young person be detained—

- (a) after the expiration of a period of six months from the date of his recall; or
- (b) after attaining the age of sixteen years.

PART IV.

JUVENILE OFFENDERS.

33. Arrangements shall be made for preventing a child or young person while detained in a police station or while being conveyed to or from any criminal court, from associating with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged and for ensuring that a girl (being a child or young person) shall while so detained, being conveyed, or waiting, be under the care of a woman.

Separation of children and young persons from adults in police stations, courts, etc.

34. Where a person apparently under the age of eighteen years is apprehended, with or without warrant, and cannot be brought forthwith before a court the officer to whom such person is brought shall enquire into the case, and may in any case, and—

Bail of children and young persons arrested.

(a) unless the charge is one of homicide or other grave crime; or

(b) unless it is necessary in the interests of such person to remove him from association with any undesirable person; or

(c) unless the officer has reason to believe that the release of such person would defeat the ends of justice,

shall release such person on a recognizance with or without sureties, for such amount as will, in the opinion of the officer, secure the attendance of such person upon the hearing of the charge, being entered into by him or by his parent or guardian, or other responsible person.

35. Where a person apparently under the age of eighteen years having been arrested is not so released as aforesaid the officer to whom such person is brought shall cause him to be detained in a place of detention until he can be brought before a court unless the officer certifies—

Custody of children and young persons not discharged on bail after arrest.

(a) that it is impracticable to do so; or

(b) that he is of so unruly or depraved a character that he cannot be safely so detained; or

(c) that by reason of his state of health or his mental or bodily condition it is inadvisable so to detain him,

and the certificate shall be produced to the court before which the person is brought.

Remand or
committal to
custody in place
of detention.

36.—(1) Any court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a place of detention named in the commitment to be there detained for the period for which he was remanded or until he is thence delivered in due course of law:

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

(2) A commitment under this section may be varied or, in the case of a young person who proves to be so unruly a character that he cannot be safely detained in such custody or to be of so depraved a character that he is not a fit person to be so detained, revoked by any court acting in or for the place in or for which the court which made the order acted, and if it is revoked the young person may be committed to prison.

Sittings of courts
hearing charges
against children
and young
persons.

37. A court other than a juvenile court when hearing charges against children or young persons shall, unless the child or young person is charged jointly with any other person, not being a child or young person, sit either in a different building or room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings are held.

Attendance at
court of parent
of a child or
young person
charged with an
offence, etc.

38.—(1) Where a child or young person is charged with any offence or is for any other reason brought before a court, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(2) Where a child or young person is arrested or taken to a place of safety, the person by whom he is arrested or the officer in charge of the police station to which he is brought, or the person by whom he is taken to the place of safety, as the case may be, shall cause the parent or guardian of the child or young person, if he can be found, to be warned to attend at the court before which the child or young person will appear.

(3) The court for the purpose of enforcing the attendance under the provisions of this section of a parent or guardian shall have the like powers as a magistrate's court in relation to enforcing the attendance of a witness.

(4) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person:

Provided that, if the person is not the father, the attendance of the father may also be required.

(5) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

39.—(1) Where a child or young person is charged before any court with any offence for the commission of which a fine, damages or costs may be imposed and the court is of the opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without any other punishment, the court may in any case, and shall, if the offender is a child, order that the fine, damages or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

Power to order
parent to pay
fine, etc., instead
of child or young
person.

(2) Where a child or young person is charged with any offence, the court may order his parent or guardian to give security for his good behaviour.

(3) An order under this section may be made against a parent or guardian, who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(4) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress or imprisonment in like manner as if the order had been made on conviction of the parent or

guardian of the offence with which the child or young person was charged.

(5) A parent or guardian may appeal against an order under this section to the Supreme Court.

Restrictions on punishment of children and young persons.

40.—(1) No child shall be sentenced to imprisonment or be committed to prison in default of payment of a fine, damages or costs.

(2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way, whether by probation, fine, committal to a place of detention or industrial school, or otherwise.

(3) A young person sentenced to imprisonment shall not be allowed to associate with adult prisoners.

Abolition of the sentence of death in case of children and young persons. 3 of 1953, s. 2.

41. Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if, in the opinion of the court, he was, at the time when the offence was committed, under the age of eighteen years; but in lieu thereof the court shall sentence him to be detained during Her Majesty's pleasure; if so sentenced he shall notwithstanding anything in the other provisions of this Act be liable to be detained in such place and under such conditions as the Governor-General may direct, and while so detained shall be deemed to be in legal custody.

Detention in the case of certain crimes committed by children and young persons.

42. Notwithstanding anything in this Act to the contrary where a child or young person is convicted of an attempt to murder or of manslaughter or of wounding with intent to do grievous bodily harm, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Act be liable to be detained in such place and on such conditions as the Governor-General may direct, and whilst so detained shall be deemed to be in legal custody.

Commitment of child or young person to place of detention.

43. Where a child or young person is convicted of an offence punishable, in the case of an adult, with penal servitude or imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damages or costs, and the court considers that none of the other methods in which the case may legally be

dealt with is suitable, the court may order that he be committed to custody in a place of detention for a period not exceeding six months.

44. Where a child or young person is charged with any offence other than homicide and the court is satisfied that the charge is proved the court may make an order discharging the offender conditionally on his entering into a recognizance with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during such period not exceeding three years, as may be specified in the order. A recognizance entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Act referred to as a "probation order".

Probation of orders.

45. The person named in any probation order shall be—

Who to be named as probation officer.

(a) a probation officer appointed for the district in or for which the court acts; or

(b) if the court considers it expedient on account of the place of residence of the offender, or for any other special reason, a probation officer appointed for some other district; or

(c) if the court considers that the special circumstances of the case render it desirable, or if no person has been appointed as a probation officer, any other person.

46. The person named in a probation order may at any time be relieved of his duties, and, in such case or in the case of the death of the person so named, another person may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

Substitution of other person as probation officer.

47. The court before which any person is bound by his recognizance under this Act to appear for conviction or sentence, may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance and may, on being satisfied that the conduct of that person has been such as

Power to vary conditions of recognizance.

to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

Provision where offender fails to observe conditions of recognizance.

48.—(1) If the court before which an offender is bound by his recognizance to appear for conviction or sentence, or any court, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

(2) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a court.

(3) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(4) A court before which a person is bound by his recognizance to appear for conviction or sentence on being satisfied that he has failed to observe any conditions of his recognizance, may forthwith, without any further proof of his guilt, deal with him as for the original offence.

Effect of probation order.

49. A probation order shall, for the purpose of re-vesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

Powers of court.

50. Where a child or young person charged with any offence is tried by any court and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act or for otherwise enabling the court to deal with

the case, the case should be dealt with, and may deal with the case—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering a recognizance; or
- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person or of an institution, such relative, person or institution being willing to receive him; or
- (e) by sending the offender to an industrial school; or

- * (f) by ordering the offender to be caned; or
- (g) by ordering the offender to pay a fine, damages or costs; or
- (h) by ordering the parent or guardian of the offender to pay a fine, damages or costs; or
- (i) by ordering the parent of the offender to give security for his good behaviour; or
- (j) by committing the offender to custody in a place of detention provided under this Act; or
- (k) where the offender is a young person, by sentencing him to imprisonment; or
- (l) by dealing with the case in any other manner in which it may legally be dealt with:

2 of 1960, s. 2.

Provided that nothing in this section shall be construed as authorising the court to deal with any case in any manner in which it could not be dealt with apart from this section.

51. Any person or institution other than an industrial school or a place of detention to whose care a child or young person is committed under paragraph (d) of section 50 of this Act, shall, whilst the commitment order is in force, have the like control over the child or young person as a parent, and shall be responsible for his maintenance.

Control of person to whose care child or young person is committed.

52. The Minister may at any time discharge a child or young person from the care of any fit person or institution to whose care he is committed under paragraph (d) of section 50 of this Act either absolutely or on such conditions as the Minister may approve.

Power to vary or discharge order. G.N. 187 of 1964, s. 3. E.L.A.O., 1974.

* But see now Penal Code (Ch. 77) section 117.

Escape.

53.—(1) Any child or young person who escapes from a person or institution to whose care he has been committed under paragraph (d) of section 50 of this Act, may be apprehended without warrant and may be brought back to that person or institution, if willing to receive him, or may be brought before a court and that court may make any order with respect to him which it might have made if he were brought before it as juvenile offender.

(2) The provisions of subsection (2) of section 24 of this Act shall apply mutatis mutandis in the case of escape from the custody of a person or institution as provided for by paragraph (d) of section 50 of this Act.

Provision as to
affiliation orders.
13 of 1978, s. 24.

54.—(1) Where a child or young person who is ordered by a court under section 50(d) to be committed to the care of a person or institution, or who is ordered by a court under section 50(e) to be detained in an industrial school, is a child for whose maintenance an affiliation order is in force, that court may at the same time, and any magistrate's court having jurisdiction in the place where the putative father is for the time being residing may subsequently at any time, order the payments under the affiliation order to be paid to the person entitled under section 55 of this Act to receive contributions in respect of the child or young person.

(2) Applications for orders under this section may be made by the persons by whom and the circumstances in which applications for contribution orders may be made.

(3) Where an order under this section with respect to an affiliation order is in force—

(a) any sums received under the affiliation order shall be applied in like manner as if they were contributions made under a contribution order;

(b) if the putative father changes his address he shall forthwith give notice thereof to the person who immediately before the change, was entitled to receive payment under the order, and if he fails to do so, he is guilty of an offence and liable on summary conviction to a fine not exceeding twenty-five dollars.

Contribution
orders.

55.—(1) Where an order has been made under the provisions of paragraph (d) of section 50 of this Act committing a child to the care of a person or institution

the court may at the same time or subsequently make an order (hereinafter referred to as a "contribution order") on the parent of the child or young person, or on any person liable to maintain the child or young person, requiring him to contribute to his maintenance, for so long as the order for his commitment is in force, such weekly sum as the court having regard to his means thinks fit.

(2) A contribution order may be made on the complaint or application of the person or institution to whose care the child or young person has been committed and any sum contributed in pursuance of the order shall be paid to such person as the court may direct and shall be applied for or towards the maintenance of the child.

(3) A person on whom a contribution order has been made shall, if he changes his address, forthwith give notice thereof to the person who was, immediately before the change, entitled to receive the contributions and, if he fails to do so, he shall be guilty of an offence and liable on conviction to a fine not exceeding twenty dollars.

5 of 1987, s. 2.

56. An order for the commitment of a child or young person to the care of a person or institution shall be in writing and may be made in the absence of the child affected; and the consent of any person or institution to undertake the care of the child or young person in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind that person or institution.

Provisions
relating to
commitment
orders.

PART V.

ILL-TREATED AND NEGLECTED CHILDREN AND YOUNG PERSONS.

57.—(1) For the purposes of this Act a child or young person shall be deemed to be ill-treated or neglected—

When child to be
deemed ill-
treated, etc.

(a) who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is either falling into bad associations or is exposed to moral danger; or

(b) in respect of whom an offence under section 17 of this Act has been committed.

(2) Without prejudice to the generality of the provisions of paragraph (a) of the preceding subsection, it shall be evidence that a child or young person is falling into bad associations or is exposed to moral danger if—

(a) he is found destitute, or deserted by his parent or guardian

(b) he is under the care of a parent or guardian, who by reason of criminal or drunken habits is unfit to have the care of him;

(c) he is found sleeping at night in the open air, or is found wandering without any settled place of abode, or without visible means of subsistence, or is found wandering having no parent or guardian or a parent or guardian who does not exercise proper care and guardianship;

(d) he is found begging or receiving alms or inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise) or is found in any street, premises or place for the purpose of so begging or receiving alms or inducing the giving of alms;

(e) the child or young person is a female member of a household whereof a member has committed the offence of incest in respect of another member of that household;

(f) he frequents the company of any reputed thief or vagrant;

(g) he frequents the company of any common or reputed prostitute;

(h) the child or young person, being a female, lodges or resides in or frequents a house or part of a house used by prostitutes for the purposes of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour her seduction or prostitution;

(i) he frequents any public bar or any gambling house;

(j) he is found unlawfully buying or receiving or in possession of any dangerous drug:

Provided that a child shall not be deemed to come within the scope of paragraph (g) of this subsection if the

only common or reputed prostitute whose company he frequents is his mother and it is proved that she exercises proper guardianship and due care to protect the child from falling into bad associations and from exposure to moral danger.

(3) If any person, by any act or omission knowingly or wilfully causes a child or young person to become ill-treated or neglected within the meaning of paragraph (a) of subsection (1) of this section, or knowingly or wilfully contributes to a child or young person so becoming ill-treated or neglected he shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or, alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment with hard labour for any term not exceeding six months.

S of 1987, s. 2.

58.—(1) Any person having reasonable grounds for believing that any child or young person is ill-treated or neglected may bring him before a juvenile court and, if the court is satisfied that the child is ill-treated or neglected, it may order the child or young person to be taken out of the custody, charge or care of any person and to be committed to the care of a relative of the child or young person or some other fit person or institution named by the court (such relative or other person or institution being willing to undertake such care) until the child or young person attains the age of eighteen years, or for any shorter period, and may in addition to or in substitution for such order make an order that the child or young person be placed under the supervision of a probation officer.

Powers of court.

(2) The court may of its own motion or on the application of any person from time to time by order renew, vary or revoke such order.

59. The provisions of sections 51 to 56 inclusive shall mutatis mutandis apply to a commitment to the care of a person or institution under the provisions of this Part of this Act.

Miscellaneous provisions regarding commitment under this Part.

60.—(1) If it appears to a justice of the peace on information on oath laid by any person who, in the opinion of the justice, is acting in the interests of the child that there is reasonable cause to suspect—

Warrant to search for child, etc.

(a) that an offence under section 17 of this Act has been or is being committed in respect of the child; or

(b) that the child is an ill-treated or neglected child within the meaning of paragraph (a) of subsection (1) of section 57 of this Act,

the justice may issue a warrant authorising any peace officer or probation officer named therein to search for the child, and if it is found that such an offence has been or is being committed in respect of the child or that he is an ill-treated or neglected child as aforesaid, to take him to and detain him in a place of safety until he can be brought before a juvenile court.

(2) Any peace officer or probation officer authorised by warrant under this section to search for and take any child may enter (if need be by force) any house, building or other place specified in the warrant, and may remove the child therefrom.

(3) The person executing the warrant under this section shall be accompanied by the person laying the information if that person so desires unless the justice by whom the warrant is issued otherwise directs and may also, if the justice by whom the warrant is issued so directs, be accompanied by a registered medical practitioner.

(4) A justice issuing a warrant under this section may by the same warrant cause any person accused of any offence under section 17 of this Act in respect of the child to be apprehended and brought before a court for proceedings to be taken against him according to law.

(5) It shall not be necessary in any information or warrant under this section to name the child.

PART VI.

REFRACTORY CHILDREN AND YOUNG PERSONS.

Powers of court.

61. Where the parent or guardian of a child or young person proves to a juvenile court that he is unable to control the child or young person, the court, if satisfied—

(a) that it is expedient so to deal with the child or young person; and

(b) that the parent or guardian understands the results which will follow from and consents to the making of the order,

may order the child or young person to be sent to a place of detention or may order him to be placed for a specified period, not exceeding three years, under the supervision of a probation officer or of some other person appointed for the purpose by the court.

PART VII.

PROBATION OFFICERS.

62. The Governor-General acting in accordance with the advice of the Public Service Commission may by notice in the Gazette appoint a fit and proper person or persons of either sex and either by name or as holding any public office for the time being to be a probation officer of any district, and may from time to time appoint a deputy probation officer for any district to act in the absence or during the illness, or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of a district.

Probation officers.
E.L.A.O., 1974.

63. A probation officer when acting under a probation order shall be subject to the control of the courts for the district for which he is appointed.

Control of courts.

64. It shall be the duty of a probation officer, subject to the directions of the court—

Duties of probation officer.

(a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order or, subject thereto, as the probation officer may think fit;

(b) to see that he observes the condition of his recognizance;

(c) to report to the court as to his behaviour;

(d) to advise, assist and befriend him, and, when necessary, to endeavour to find him suitable employment.

PART VIII.

SUPPLEMENTAL.

65.—(1) Any peace officer or a probation officer or any person authorised in that behalf by a justice of the peace may take to a place of safety any child or young

Removal or remand to a place of safety.

person apprehended in pursuance of the provisions of section 58 of this Act, and the child or young person may be detained in the place of safety until he can be brought before a juvenile court.

(2) If the juvenile court is not in a position to decide what order, or whether any order, ought to be made in respect of such a child, the court may make such order as it thinks fit for the detention or continued detention of the child in a place of safety.

(3) An interim order under this subsection shall not remain in force for more than twenty-eight days; but if at the expiration of that period the court deems it expedient so to do, it may make a further interim order.

Presumption or determination of age.

66. Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due enquiry as to the age of that person, and for that purpose shall require the production of a birth certificate or other direct evidence as to the date of birth and in the absence of such certificate or evidence, a certificate signed by a medical practitioner giving his opinion as to such age, and the age presumed or declared by the court to be the age of the person so brought before it shall for the purposes of this Act, be deemed to be the true age of that person and, where it appears to the court that the person so brought before it is of the age of eighteen years or upwards, that person shall for the purposes of this Act be deemed not to be a child or young person.

PART IX.

GENERAL.

Principles to be observed by all courts in dealing with children and young persons.

67. Every court in dealing with a child or young person who is brought before it either as an ill-treated or neglected child or young person or as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.

Power to make rules.

68. The Minister may make rules—

(a) in respect of industrial schools and places of detention—

- (i) regulating discipline and the manner in which such discipline is to be enforced;
- (ii) prescribing the conditions under which inmates may be permitted to live with trustworthy and respectable persons;
- (iii) providing for the apprenticing of inmates who are young persons to any trade, calling or service;
- (iv) prescribing the manner and conditions of the investment of moneys earned by inmates engaged in extra-mural employment;
- (v) prescribing the duties of the visiting committee;
- (vi) providing penalties for the breach by any inmate of any rule;
- (vii) prescribing the conditions of and forms of licences which may be granted under the provisions of this Act;
- (viii) prescribing the conditions of and forms of notices of revocation of licences granted under the provisions of this Act;
- (ix) prescribing the conditions of and forms of orders and notices of recall issued under the provisions of this Act;
- (x) prescribing the form of report to be rendered by the employer of an inmate of an industrial school or place of detention engaged in extra-mural employment;

(b) in respect of persons or institutions to whose care children or young persons are committed—

- (i) regulating discipline and the manner in which discipline is to be enforced;
- (ii) prescribing the duties and remuneration of such persons and institutions;

(c) generally for carrying into effect the objects of this Act.

69. Save insofar as other provision is expressly made in this Act nothing in this Act shall be deemed to affect any other law relating to children or young persons.

Saving.