

SOUTH AUSTRALIA

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT, 1979

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **18 March 1993**.*

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 24 July 1989.

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DIVISIONAL PENALTIES

CHILDREN'S PROTECTION AND YOUNG OFFENDERS ACT, 1979

being

Children's Protection and Young Offenders Act, 1979,
No. 44 of 1979 [Assented to 15 March 1979]¹

as amended by

Children's Protection and Young Offenders Act Amendment Act, 1980, No. 50 of 1980 [Assented to 3 July 1980]²

Children's Protection and Young Offenders Act Amendment Act, 1982, No. 65 of 1982 [Assented to 1 July 1982]

Children's Protection and Young Offenders Act Amendment Act, 1984, No. 43 of 1984 [Assented to 24 May 1984]³

Statutes Amendment (Bail) Act, 1985, No. 6 of 1985 [Assented to 7 March 1985]⁴

Statute Law Revision Act, 1986, No. 14 of 1986 [Assented to 20 March 1986]⁵

Statutes Amendment (Children's Bail) Act, 1986, No. 33 of 1986 [Assented to 10 April 1986]⁶

Children's Protection and Young Offenders Act Amendment Act, 1986, No. 34 of 1986 [Assented to 10 April 1986]⁷

Children's Protection and Young Offenders Act Amendment Act, 1988, No. 29 of 1988 [Assented to 21 April 1988]⁸

Statutes Amendment and Repeal (Sentencing) Act, 1988, No. 51 of 1988 [Assented to 5 May 1988]⁹

Children's Protection and Young Offenders Act Amendment Act (No. 2), 1988, No. 81 of 1988 [Assented to 1 December 1988]

Children's Protection and Young Offenders Act Amendment Act (No. 3), 1988, No. 82 of 1988 [Assented to 1 December 1988]

Adoption Act, 1988, No. 90 of 1988 [Assented to 1 December 1988]¹⁰

Children's Protection and Young Offenders Act Amendment Act, 1989, No. 31 of 1989 [Assented to 4 May 1989]¹¹

Children's Protection and Young Offenders Act Amendment Act, 1990, No. 21 of 1990 [Assented to 26 April 1990]¹²

Statutes Amendment (Criminal Law Sentencing) Act 1991 No. 22 of 1991 [Assented to 18 April 1991]¹³

Director of Public Prosecutions Act 1991 No. 49 of 1991 [Assented to 21 November 1991]¹⁴

Statutes Repeal and Amendment (Courts) Act 1991 No. 69 of 1991 [Assented to 12 December 1991]¹⁵

Statutes Amendment (Sentencing) Act 1992 No. 34 of 1992 [Assented to 21 May 1992]¹⁶

Police (Police Aides) Amendment Act 1992 No. 60 of 1992 [Assented to 12 November 1992]¹⁷

2.

- ¹ Came into operation (except ss. 9(3)(b), 50(2), (3) and the part of the schedule affecting the Guardianship of Infants Act, 1940) 1 July 1979: *Gaz.* 28 June 1979, p. 1951; s. 50(2) came into operation 19 February 1981: *Gaz.* 19 February 1981, p. 455; remainder of suspended provisions repealed by the Children's Protection and Young Offenders Act Amendment Act, 1980.
- ² Came into operation 3 July 1980: *Gaz.* 3 July 1980, p. 3.
- ³ Came into operation 2 May 1985: *Gaz.* 2 May 1985, p. 1364.
- ⁴ Came into operation 7 July 1985: *Gaz.* 9 May 1985, p. 1398.
- ⁵ Came into operation (except Schedules. 3, 4 and 6) 31 July 1986: *Gaz.* 17 July 1986, p. 269; Sched. 6 came into operation 1 September 1986: *Gaz.* 7 August 1986, p. 474; Sched. 3 came into operation 24 July 1989: *Gaz.* 29 June 1989, p. 1756.
- ⁶ Came into operation 30 March 1987: *Gaz.* 26 February 1987, p. 440.
- ⁷ Came into operation (except s. 4) 30 March 1987: *Gaz.* 26 February 1987, p. 440; s. 4 will not be brought into operation (the paragraph it inserted was subsequently repealed by Act No. 29 of 1988, s. 6).
- ⁸ Came into operation 1 September 1988: *Gaz.* 25 August 1988, p. 795.
- ⁹ Came into operation (except ss. 3-6, 12, 15-20, 22-27, 30-39, 41-68, 70-78) 12 May 1988: *Gaz.* 12 May 1988, p. 1181; ss. 3 and 4 came into operation 8 September 1988: *Gaz.* 8 September, 1988, p. 994; remainder of Act came into operation 1 January 1989: *Gaz.* 15 December 1988, p. 2009.
- ¹⁰ Came into operation 17 August 1989: *Gaz.* 17 August 1989, p. 566.
- ¹¹ Came into operation (except Sched. 1) 1 January 1989: s. 2(1); Sched. 1 came into operation 24 July 1989: *Gaz.* 29 June 1989, p. 1756.
- ¹² Came into operation 1 January 1991: *Gaz.* 6 December 1990, p. 1685.
- ¹³ Came into operation 30 May 1991: *Gaz.* 30 May 1991, p. 1702.
- ¹⁴ Came into operation 6 July 1992: *Gaz.* 25 June 1992, p. 1869.
- ¹⁵ Came into operation 6 July 1992: *Gaz.* 2 July 1992, p. 209.
- ¹⁶ Came into operation 30 September 1992: *Gaz.* 24 September 1992, p. 1150.
- ¹⁷ Came into operation 18 March 1993: *Gaz.* 18 March 1993, p. 914.

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix 1.

An Act to provide for the protection, care and rehabilitation of children; to provide for the welfare of the community; and for other purposes.

The Parliament of South Australia enacts as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Children's Protection and Young Offenders Act, 1979*.

* * * * *

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Interpretation

4. In this Act, unless the contrary intention appears—

"adult court" means the Supreme Court of South Australia or a District Criminal Court:

"alternative offence", in relation to an offence for which a child has been committed for trial, means any other offence—

(a) that is founded upon facts alleged against the child in proceedings for the first mentioned offence;

and

(b) that bears the same or a lesser penalty than the first mentioned offence:

"assessment panel" means an assessment panel constituted under the *Community Welfare Act, 1972*:

"child"—

(a) in relation to any proceedings (other than proceedings for offences), means a person who had not attained the age of 18 years at the commencement of those proceedings;

and

(b) in relation to proceedings for an offence, means a person who had not attained the age of 18 years on the date of the alleged offence:

"children's aid panel" means a children's aid panel constituted under Part IV:

"the Children's Court" or "the Court" means the *Children's Court of South Australia* constituted under Part II:

"complaint" includes information:

"the Department" means the Department for Community Welfare:

"the Director-General" means the person for the time being holding, or acting in, the office of Director-General of Community Welfare:

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"guardian", in relation to a child, means a parent of the child and any person (other than the Minister) who is the legal guardian of the child or who has the immediate custody and control of the child:

"homicide" means—

(a) an offence against section 11, 12, 13, 16 or 17 of the *Criminal Law Consolidation Act, 1935*;

(b) an offence against section 270a of that Act of attempting to commit an offence referred to in paragraph (a);

or

(c) an offence against section 270ab of that Act:

"Judge" means a Judge or an Acting Judge of the Children's Court:

"magistrate" means a magistrate within the meaning of the *Magistrates Act, 1983*:

"the Minister" means the Minister of Community Welfare, or any other Minister of the Crown for the time being discharging the duties of office of that Minister, or acting in the exercise or performance of powers or functions delegated by that Minister:

"minor indictable offence" means minor indictable offence within the meaning of the *Justices Act, 1921*:

"panel" means screening panel, children's aid panel or assessment panel:

"parent", in relation to a child, includes a stepmother or stepfather of the child:

"pecuniary sum" means—

(a) a fine;

(b) compensation;

(c) costs;

(d) a sum payable pursuant to a bond or a guarantee ancillary to a bond;

or

- (e) any other amount payable pursuant to an order or direction of the Court under Part IV,

and includes a levy imposed under the *Criminal Injuries Compensation Act, 1978*:

"prescribed unit", in relation to a sum in default, means—

- (a) \$50;

or

- (b) if some other amount is prescribed, that amount,

and includes any fraction left over after dividing the sum in default by the relevant amount:

"prison" means a prison administered under the *Correctional Services Act, 1982*, and any police prison, police station, watch-house or lock-up:

* * * * *

"Senior Judge" means the Senior Judge or the Acting Senior Judge of the Children's Court:

"screening panel" means a screening panel constituted under Part IV:

* * * * *

"special justice" means a special justice within the meaning of the *Justices Act, 1921*:

* * * * *

"training centre" means a home established by the Minister under the *Community Welfare Act, 1972*, for the reception, detention, correction and training of children:

"the *Training Centre Review Board*" means the board established under Division VI of Part IV:

"truancy" means the offence of truancy under the *Education Act, 1972*:

"working day" means a day of the week other than Saturday, Sunday or a public holiday:

"youth project centre" means a youth project centre established under the *Community Welfare Act, 1972*.

Note: For definition of divisional penalties see Appendix 2.

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Factors to be considered when dealing with a child

7. (1) In any proceedings under this Act, any court, panel or other body or person, in the exercise of powers in relation to the child the subject of the proceedings, must seek to secure for the child such care, protection, control, correction or guidance as will best lead to the proper development of the child's personality and to the child's development into a responsible and useful member of the community and, in so doing, must consider the following factors:

- (a) the need to preserve and strengthen the relationship between the child and parents and other members of the child's family;
- (b) the desirability of leaving the child within the child's own home;
- (c) the desirability of allowing the education or employment of the child to continue without interruption;
- (ca) the child's ethnic or racial background and the need to guard against damage to the child's sense of cultural identity;
- (d) where appropriate, the need to ensure that the child is aware of his or her responsibility to bear the consequences of any action against the law;
- (da) where the child is being dealt with as an adult for an offence, the deterrent effect that any sentence under consideration may have on the child or other persons;

and

- (e) where appropriate, the need to protect the community, or any person, from the violent or other wrongful acts of the child.

(2) Where the proceedings are under Part III, the court, panel or other body or person must, in complying with the requirements of subsection (1), regard the interests of the child as the paramount consideration.

PART II

CONSTITUTION AND JURISDICTION OF CHILDREN’S COURT

Constitution of Children’s Court

8. (1) The *Children’s Court of South Australia* is established.

(2) The Court is constituted of the following members:

- (a) the District Court Judges designated by the Governor, by instrument in writing, as Judges of the Children’s Court;
- (b) the magistrates designated by the Governor, by instrument in writing, as members of the Children’s Court;

and

(c) every special justice and justice of the peace.

(3) The Governor may appoint a Judge of the Children’s Court to be the Senior Judge of the Court and may, where it appears necessary or expedient to do so, appoint a Judge of the Children’s Court to be an Acting Senior Judge of the Court for a period specified in the instrument of appointment.

(4) The Governor may, by further instrument in writing, vary or revoke any instrument referred to in subsection (2).

(5) The Senior Judge may delegate to any Judge of the Children’s Court any powers, duties or functions under section 54 or 87.

(6) A delegation under subsection (5) is revocable at will, and does not prevent the exercise or performance of any power, duty or function by the Senior Judge.

Jurisdiction of Children’s Court

9. (1) Subject to this Act, no complaint against a child may be heard or disposed of in any court other than the Children’s Court.

(2) The validity of any decision, judgment or order of a court is not affected by non-compliance with subsection (1) in a particular case.

(3) Subject to this Act, the Children’s Court has, in relation to proceedings—

(a) under Part III;

* * * * *

or

(c) on an appeal under the *Community Welfare Act, 1972*,

all the powers of a local court under the *Local and District Criminal Courts Act, 1926*.

8.

(4) In addition to the powers conferred by subsection (3), the Children's Court has the following powers:

(a) in relation to any proceedings under Part III, the power to hear and determine any matter *ex parte* in such circumstances as the Court thinks fit;

and

(b) in relation to any proceedings to which subsection (3) applies, any prescribed power.

(5) The provisions of the *Justices Act, 1921*, apply, subject to this Act, with necessary modifications to and in relation to proceedings in the Children's Court upon a complaint against a child and, for the purposes of any such proceedings (other than a preliminary examination), the Children's Court has all the powers of the Magistrates Court.

How jurisdiction of Court is exercisable

10. Subject to this Act or any other Act, the jurisdiction of the Children's Court is exercisable by the members of the Court in the following manner:

(a) by a Judge, magistrate or special justice, sitting alone;

or

(b) by two justices of the peace, sitting together.

Sittings of Court

11. (1) So far as is reasonably practicable, the Children's Court must not sit in a building in which some other court is simultaneously sitting.

(2) The Senior Judge of the Children's Court may make the necessary administrative arrangements for the hearing and disposal of all proceedings before the Court.

(3) Any number of members of the Children's Court may sit contemporaneously in exercising the jurisdiction of the Court.

PART III

CHILDREN IN NEED OF CARE OR PROTECTION

Application for declaration

12. (1) Where the Minister is of the opinion that a child is in need of care or protection because—

- (a) a guardian of or a person residing with the child has maltreated or neglected the child to the extent that the child has suffered, or is likely to suffer, physical or mental injury, or to the extent that the child's physical, mental or emotional development is in jeopardy;
- (b) the guardians of the child are unable or unwilling to exercise adequate supervision and control over the child;
- (c) the guardians of the child are unable or unwilling to maintain the child;

* * * * *

or

- (d) the guardians of the child are dead, have abandoned the child, or cannot, after reasonable enquiries, be found,

the Minister may apply to the Children's Court for a declaration that the child is in need of care or protection.

(1a) Before making an application under this section in respect of a child, the Minister—

- (a) should, except in cases where urgent action is required, arrange for a conference between appropriate employees of the Department and the Children's Interests Bureau to provide advice assisting the Minister to decide on the action that should be taken in relation to the child;

and

- (b) should, unless of the opinion that to do so would not be in the best interests of the child, have the guardians of the child notified in writing of the action that is contemplated, the possible consequences of an application under this section, and of the availability of legal advice and any other relevant assistance.

(2) The following persons are parties to an application under this section:

- (a) the Minister;
- (b) the child to whom the application relates;
- (c) each guardian of the child;

and

10.

- (d) where a ground of the application is that a person residing with the child has maltreated or neglected the child—that person.

Service of application

13. (1) The Minister must cause a copy of an application under section 12 to be served—

- (a) on the child to whom the application relates, if the child is of or above the age of 10 years;

and

- (b) on each other party to the application.

(2) The application must be served personally, but—

- (a) if it is not practicable to serve the application personally on a party (not being the child);

or

- (b) if the whereabouts of such a party has not, after reasonable enquiries, been ascertained,

the application may be served on that person by post addressed to the person at his or her last known place of residence or employment.

(3) A copy of an application for service in accordance with this section must be endorsed with a notification of the place, date and time for the hearing of the application.

(4) The Court must not, unless it thinks urgent action is required, proceed to hear an application under this section if any party served with the application has not had at least five days' notice of the hearing.

Orders Court may make

14. (1) If the Court finds, on an application under this Part, that a child is in need of care or protection on any of the grounds referred to in section 12, the Court will make a declaration to that effect and, subject to subsection (2), may do any one or more of the following things:

- (a) place the child under the guardianship of the Minister or any other person for a specified period;

- (b) place the child under the control of the Director-General for a specified period, but only to such extent, specified in the order, as the Court thinks necessary to secure the proper care, protection or control of the child;

- (c) direct that the child reside, or not reside, with a specified person or in a specified place;

- (d) direct that a guardian of the child take specified steps to secure the proper care, protection or control of the child;

- (e) direct a person who is, or has been, residing with the child (if that person is a party to the application) to do any one or more of the following:

11.

- (i) to cease or refrain from residing in the same premises as the child;
- (ii) to refrain from coming within a specified distance of the child's residence;
- (iii) to refrain from having any contact with the child except in the presence of some other person;

or

- (iv) to refrain from having any contact at all with the child;
- (f) if an order is made under paragraph (a) or (b), direct—
- (i) that any specified person be allowed, or not be allowed, access to the child;
 - (ii) that the Minister or other guardian exercise his or her powers under the order in a specified manner;
- (g) make such other ancillary orders as the Court thinks fit.

(2) Where the Court finds that a child is in need of care or protection on the ground that a person (not being a guardian) residing with the child has maltreated or neglected the child, the Court may not make an order for guardianship under subsection (1)(a) unless satisfied that the guardians of the child knew, or ought to have known, of the maltreatment or neglect.

(3) Upon declaring that a child is in need of care or protection, the Court may, in such circumstances as it thinks fit, adjourn the proceedings for a period not exceeding three months.

(4) Upon any adjournment under this section, the Court may make any order referred to in subsection (1), to have effect for the period of the adjournment.

(5) On the expiration of the period of adjournment or at such earlier time as the Court, on application by a party to the application, allows, the Court may—

- (a) declare that the child is no longer in need of care or protection and discharge any order;
- (b) affirm the declaration that the child is in need of care or protection;
- (c) affirm or vary the terms of any order;
- (d) discharge any order;

or

- (e) make any order that the Court is empowered to make under subsection (1).

(6) No order under this section may extend beyond the time at which the child attains the age of 18 years.

(7) A party to the application (other than the child) who, having been served personally with an order made under this section, contravenes or fails to comply with the order is guilty of an offence.

Penalty: Division 8 imprisonment.

Variation or discharge of orders

15. (1) A party to an application under this Part may apply to the Court for an order to terminate, or vary, an order made by the Court under section 14 in respect of the child.

* * * * *

(3) Subject to subsection (4), a copy of an application under this section must be served by the applicant on each other party to the proceedings in the manner provided by section 13(2).

(4) Where a child makes an application under this section, the Court must effect service of the application on behalf of the child.

(5) A copy of an application for service in accordance with this section must be endorsed with a notification of the place, date and time for the hearing of the application.

(6) The Court may, on an application under this section—

(a) declare that the child is no longer a child in need of care or protection and discharge the order;

(b) affirm the declaration that the child is in need of care or protection;

(c) affirm or vary the terms of the order;

or

(d) discharge the order and substitute for it any other order that it is empowered to make under section 14.

General power of adjournment

16. (1) The Court may adjourn the hearing of an application under this Part for a period not exceeding 35 days.

(2) The Court must not, except with the approval of the Senior Judge, adjourn the hearing of an application more than once.

(3) The Court may, on an adjournment under this section, do any one or more of the following things:

(a) place the child under the guardianship of the Minister;

(b) direct that the child reside with a specified person or in a specified place;

(c) direct that a guardian of the child take specified steps to secure the proper care, protection or control of the child;

- (d) if an order is made under paragraph (a), direct—
 - (i) that any specified person be allowed, or not be allowed, access to the child;
 - (ii) that the Minister exercise his or her powers under the order in a specified manner;
- (e) make such other ancillary orders as the Court thinks fit.

(4) An order under subsection (3) has effect only during the period of the adjournment.

(5) A party to the application (other than the child) who, having been served personally with an order made under this section, contravenes or fails to comply with the order is guilty of an offence.

Penalty: Division 8 imprisonment.

Procedural provisions

17. (1) In proceedings under this Part the Court is not bound by the rules of evidence, but may inform itself upon any matter relating to the proceedings in such manner as the Court thinks fit.

(2) Any fact to be proved by a person in proceedings under this Part is sufficiently proved if it is proved on the balance of probabilities.

(2a) Proceedings under this Part must be dealt with expeditiously.

(3) In proceedings under this Part the Court may, upon the application of—

- (a) a relative of the child;
 - (b) a person who has at any time had care of the child;
- or
- (c) any other person who has counselled, advised or aided the child,

hear any submissions the applicant wishes to make in respect of the child.

(3a) The Court must not proceed to hear an application under this Part unless—

- (a) the child to whom the application relates is represented in the proceedings by a legal practitioner;

or

- (b) the Court is satisfied that the child has made an informed and independent decision not to be so represented.

(3b) Where the child is to be represented by, but is not capable of properly instructing, a legal practitioner, the legal practitioner must represent to the Court his or her view as to what constitutes the interests of the child.

(3c) The Court must not make a final order in proceedings under this Part unless—

(a) the child has been afforded a reasonable opportunity to appear in person before the Court and make such representations to the Court as the child wishes;

or

(b) the Court is satisfied that the child is not capable of appearing and making representations.

(4) The Court may require such reports as the Court thinks desirable to assist it in making any determination, decision or order under this Part.

(5) Where the Minister makes an application under this Part, and the Court is satisfied that no other party to the proceedings wishes to dispute the application, the Court may proceed to hear and determine the application in the absence of those other parties.

(6) If the Court thinks it desirable to do so in order to expedite the proceedings, it may, at any time before or during the hearing of an application under this Part, convene a conference between the parties to the proceedings for the purposes of determining which matters are, or are not, in dispute, or of resolving any matters in dispute.

(7) A member of the Court other than the member who is hearing, or is to hear, the proceedings will preside over such a conference.

(8) Counsel for a party to the proceedings will, unless the party requests to the contrary, attend the conference.

(9) Evidence of anything said or done at a conference is inadmissible in proceedings under this Act or any other Act or law (other than proceedings arising out of the conduct of any person during the conference).

Orders for costs

18. Where the Court dismisses an application made under this Part by the Minister, the Court may make such order for costs against the Minister in favour of any other party to the proceedings as the Court thinks fit.

Detention of children suspected to be in need of care or protection

19. (1) Where an application under this Part has been made in respect of a child, a member of the Children's Court may make an order for the removal of the child from any place.

(2) An officer of the Department authorized for the purpose by the Minister, or any member of the police force may, without an order or other warrant, remove from any place any child suspected on reasonable grounds of being a child in need of care or protection or in immediate danger of suffering physical or mental injury.

(3) An authorized officer of the Department or a member of the police force may, for the purpose of removing a child pursuant to this section, enter or break into any place or premises and use such force as is reasonably necessary.

(4) Where a child has been removed from a place pursuant to this section, the child may be held in custody by the Director-General with a person, or in a place (other than a prison or a training centre), approved by the Minister, until the child is brought before the Court for the hearing of an application under this Part.

(5) A child who is held in custody pursuant to this section must be brought before the Court for the hearing of an application under this Part no later than the next working day following the day on which the child was taken into custody.

How jurisdiction is exercised

20. (1) Where an application under this Part comes on for hearing before a special justice or two justices of the peace, the justice, or justices, must not proceed to hear and determine the application, but must adjourn the hearing for a period not exceeding 35 days and refer the matter to the Senior Judge for directions, and the justice, or justices, may, by order, place the child to whom the proceedings relate under the guardianship of the Minister for the period of the adjournment.

(2) Subject to subsection (1), applications under this Part must be heard and determined by a Judge or magistrate of the Court.

* * * * *

Effect of guardianship order

22. While a child is under the guardianship of the Minister or any other person pursuant to an order under this Part, the Minister or other person is the lawful guardian and entitled to the custody of the child to the exclusion of the rights of any other person.

Powers of Director-General

23. (1) Subject to this Act, the Director-General may from time to time make provision for the care of a child who is under the guardianship of the Minister pursuant to this Part in any of the following ways:

- (a) by placing the child, or permitting the child to remain, in the care of a guardian or relative of the child;
- (b) by placing the child in the care of a person who is an approved foster parent for the purposes of the *Community Welfare Act, 1972*, or any other suitable person;
- (c) by placing the child in any home established or licensed under the *Community Welfare Act, 1972*, or in any other suitable place, and by making such directions as to the care and keeping of the child in that home as the Director-General thinks fit;
- (d) by placing the child, if it is necessary or desirable for the sake of the physical or mental health of the child, in a hospital;

or

- (e) by making such other provision for the care of the child as the circumstances of the case may require.

(2) Whenever a child has been dealt with under subsection (1), the Director-General must notify the guardians of the child in writing at their last known addresses of the manner in which the child has been so dealt with.

(3) An officer of the Department authorized for the purpose by the Minister, or a member of the police force, may, without any warrant, remove a child who is under the guardianship of the Minister from any place, and for that purpose may enter or break into any place or premises and use such force as is reasonably necessary.

Review of child's progress and circumstances

24. (1) Where a child is subject to an order under this Part, a review of the progress and circumstances of the child—

(a) must, in the case of a child under the guardianship of the Minister, be carried out at least once in each year that the child remains under that guardianship;

and

(b) may, in any other case, be carried out at the Minister's discretion at such intervals as the Minister thinks fit.

(2) A review under this section will be conducted by a panel of persons appointed by the Minister, of whom—

(a) one must be—

(i) an employee of the Department working with the Children's Interests Bureau;

or

(ii) some other person (not being an employee of the Department) who is a suitable representative of the interests of the child;

and

(b) one must be an employee of the Department.

PART IV

YOUNG OFFENDERS

DIVISION I—SCREENING PANELS

Application of this Division

25. This Division does not apply in relation to—

- (a) homicide;
- (b) any offence, other than a prescribed offence, under the *Motor Vehicles Act, 1959*, or the *Road Traffic Act, 1961*, alleged to have been committed by a child of or above the age of 16 years;
- (ba) any prescribed offence relating to the parking or standing of a vehicle, alleged to have been committed by a child of or above the age of 16 years;
- (bb) any alternative offence to an offence for which a child is already before a court;
- (bc) an offence against section 17 of the *Bail Act, 1985*;
- (bd) an offence, other than a prescribed offence, under the *State Transport Authority Act, 1974*, alleged to have been committed by a child of or above the age of 15 years;

or

- (c) truancy.

Screening panel list

26. (1) The Director-General must prepare and maintain a list containing the names and addresses of persons qualified in accordance with subsection (2) for membership of screening panels constituted under this Act.

(2) The following persons are qualified to be members of screening panels:

- (a) members of the police force approved by the Chief Secretary;

* * * * *

and

- (b) officers of the Department approved by the Minister.

Constitution of screening panels

27. A screening panel is constituted of—

- (a) an officer of the Department;

and

- (b) a member of the police force,

chosen from the screening panel list.

Functions of screening panels

28. (1) A person must—

- (a) before laying a complaint against a child for an offence;

or

- (b) where the person has apprehended a child without warrant pursuant to Division III, forthwith upon that apprehension,

refer the matter to a screening panel for consideration.

(2) Subject to subsection (2a), a screening panel must, after considering the allegations against a child and any existing reports of the Department or of the Police Department on the child, decide whether the matter is to be brought before the Children's Court on complaint or dealt with by a children's aid panel, and must certify accordingly.

(2a) If a screening panel is of the opinion, after considering the matters referred to in subsection (2), that the child should not be dealt with at all for the alleged offence, it may certify accordingly and may, if it thinks it is appropriate to do so, recommend that the child be cautioned by a member of the police force against committing further offences.

(3) No person is to be required or is entitled to appear before, or make representations to, a screening panel.

- (4) There is no appeal against a decision of a screening panel.

Where screening panel cannot reach agreement

29. Where the members of a screening panel are unable to agree on any matter, they must appear in chambers before a Judge or magistrate of the Court, whose decision on the matter will be final.

Procedure on decision by screening panel

30. (1) Where a screening panel has certified that a child is not to be dealt with at all for an alleged offence, or that a matter is to be heard before a children's aid panel—

- (a) subject to this Act, no complaint may be laid against the child;

and

- (b) if the child has been apprehended without warrant pursuant to Division III, the child must be released from detention, or a bail agreement entered into by the child under the *Bail Act, 1985*, must be terminated (as the case may require).

(2) The release of a child from detention, or the termination of a bail agreement, pursuant to subsection (1) does not render that detention or bail agreement unlawful.

(3) Where a screening panel has certified that a matter is to be heard before the Children's Court, a complaint must be laid against the child.

(4) Nothing in this Division derogates from the discretion of any person to decide at any time not to lay a complaint against a child.

DIVISION II—CHILDREN'S AID PANELS

Children's aid panel list

31. (1) The Director-General must prepare and maintain a list containing the names and addresses of persons who are qualified in accordance with subsection (2) for membership of children's aid panels constituted under this Act.

(2) The following persons are qualified to be members of children's aid panels:

- (a) members of the police force approved by the Chief Secretary;
- (b) officers of the Department approved by the Minister;
- (c) officers of the Education Department approved by the Minister of Education;
- (d) such other persons as are approved by the Minister.

Constitution of children's aid panels

32. (1) A children's aid panel will be constituted of—

- (a) where an offence (other than a drug offence or truancy) is alleged, a member of the police force and an officer of the Department;
 - (ab) where a drug offence is alleged, a member of the police force and a person approved by the Minister;
 - (b) where truancy is alleged, an officer of the Department and an officer of the Education Department;
 - (c) where truancy and any offence other than a drug offence are alleged, a member of the police force, an officer of the Department and an officer of the Education Department;
- and
- (d) where truancy and a drug offence are alleged, a member of the police force, an officer of the Education Department and a person approved by the Minister,

chosen by the Director-General from the children's aid panel list.

(2) A person who sat on a screening panel in relation to a child is not thereby debarred from sitting on a children's aid panel for the purpose of dealing with the same child.

(3) In this section—

"drug offence" means an offence against Part V of the *Controlled Substances Act, 1984*.

Children's aid panel must notify child of proceedings

33. (1) Where—

(a) it is alleged that a child has committed an offence of truancy;

or

(b) a screening panel has certified that a matter is to be heard before a children's aid panel,

the children's aid panel must forthwith notify the child of the date, time and place at which the child must appear before the panel.

(2) A notice given to a child under subsection (1)—

(a) must state the allegations made against the child and specify the offence the child is alleged to have committed;

and

(b) must contain a statement to the effect that if the child does not admit the allegations the child may notify the children's aid panel accordingly, and that if the panel is so notified, the case will be brought before the Children's Court.

(3) Where a child notifies the children's aid panel that he or she does not admit the allegations, a complaint must thereupon be laid against the child for the alleged offence.

Social background and other reports

34. (1) Upon the request of a children's aid panel, the Commissioner of Police or the Director-General, or, in the case of truancy, the Director-General of Education, must cause to be prepared for the information and guidance of the children's aid panel a report setting out, as far as may be reasonably ascertainable and relevant to the matter under consideration, details of the alleged offence and of the personal circumstances and social background of the child to whom the proceedings relate.

(2) A panel may request the Director-General to obtain any further information or reports that may be necessary or desirable for the purpose of dealing with a child under this Part and the Director-General must, so far as is reasonably practicable, comply with such a request.

Duties and powers of children's aid panels

35. (1) Before a children's aid panel proceeds to deal with a child, the panel—

(a) must explain to the child the allegations that have been made;

(b) must satisfy itself that the child admits the allegations;

(c) must inform the child that he or she is entitled to request, at any stage of the proceedings, that the matter be referred to the Children's Court for hearing and determination;

and

(d) must explain to the child the implications to the child according to whether the matter is dealt with by the panel under this Division or is brought before the Children's Court.

(2) A children's aid panel has the following powers in dealing with a child under this Part:

(a) the panel may warn or counsel the child and the child's guardians;

(b) the panel may request the child to undertake, in writing, to comply with such directions as may be given by the panel, including directions as to any training or rehabilitative programme to be undergone by the child;

(c) the panel may request a guardian of the child to undertake, in writing, to comply with such directions as may be given by the panel to assist or supervise the child in any training or rehabilitative programme to be undergone by the child;

(d) the panel may vary the terms of any undertaking on the application of the child or a guardian of the child, but not so as to extend the period of the undertaking;

and

(e) the panel may, at any time within the period of an undertaking, request the child to give a fresh undertaking in substitution for that existing undertaking, but not so as to extend the period of that undertaking.

(3) A children's aid panel may require that an undertaking be given for such period, not exceeding six months, as it thinks fit.

(4) No undertaking can require a child to change the child's place of residence.

Panel to refer matter to Children's Court in certain circumstances

36. (1) A children's aid panel must refer a matter before the panel to the Children's Court where—

(a) the child, at any stage of the proceedings, requests that the matter be heard and determined by the Court;

or

(b) the offence is not admitted by the child.

(2) A children's aid panel may refer a matter before it to the Children's Court where—

(a) the child, or a guardian of the child, does not appear before the panel in accordance with a requirement of the panel;

(b) the child, or a guardian of the child, refuses to give an undertaking requested by the panel;

or

(c) the child breaches an undertaking within the period of the undertaking.

(3) Where a matter is referred by a children's aid panel to the Court, the panel must notify the Court in writing of the reason for so referring the matter and also cause written notification to be given to the child and a guardian of the child of the decision of the panel to refer the matter.

Procedure on decision of children's aid panel

37. (1) Subject to subsection (2), where a child is dealt with by a children's aid panel, no criminal proceedings may be brought in any court against the child for the alleged offence.

(2) Where a children's aid panel has referred a matter to the Children's Court, a complaint must thereupon be laid against the child in respect of the alleged offence, notwithstanding any time limits provided under the *Justices Act, 1921*, or any other Act.

No legal representation at panel hearings, etc.

38. (1) A child appearing before a children's aid panel will not be allowed representation by a legal practitioner or other person, but the panel must hear submissions from the child, or any guardian of the child, and may, at its own discretion, hear submissions from any person who has been counselling, advising or aiding the child.

(2) No person other than the child, any guardian of the child, or any other person authorized by the panel, may be present at a sitting of a children's aid panel.

(3) A children's aid panel is not empowered to authorize a representative of the news media to be present at a sitting of the panel.

Certain evidence not admissible

39. Nothing said or done in any proceedings before a children's aid panel is admissible as evidence in any subsequent proceedings in respect of the offence the child is alleged to have committed.

Provisions relating to disclosure of appearance of child before a children's aid panel

40. (1) Subject to this Act, no appearance of a child before a children's aid panel—

(a) may be alleged in any proceedings before a court other than a court exercising jurisdiction under this Act;

or

(b) may be disclosed, except with the approval of the Minister, by any body or person exercising powers under this Act in relation to the child.

(2) A person who suffers injury, loss or damage resulting from an offence alleged to have been committed by a child is entitled, upon request, to be informed of the fact that the child has appeared before a children's aid panel in respect of the alleged offence.

(3) A person who has appeared before a children's aid panel for an alleged offence may, without incurring any liability under any Act or law, refuse or fail (except in proceedings before a court exercising jurisdiction under this Act) to disclose that appearance to any other person or to furnish information from which it could reasonably be inferred that he or she has appeared before a children's aid panel for an alleged offence.

Places at which children’s aid panels must not sit

41. A children’s aid panel must not sit for the purpose of exercising any of its functions under this Act in any place commonly used as a courthouse or office of police.

DIVISION III—APPREHENSION AND REMAND

Apprehension

42. (1) Where a complaint is laid alleging that a child has committed an offence, any justice may summon the child to appear before the Children’s Court at a date, time and place specified in the summons or may, instead of issuing a summons, issue a warrant for the apprehension of the child.

(2) Any member of the police force may, without warrant, apprehend a child who is reasonably suspected of having committed an offence.

(3) A member of the police force may, for the purpose of apprehending a child pursuant to this section, enter or break into any place or premises and use such force as is reasonably necessary.

(3a) A child who is apprehended, whether under this section or any other Act or law, must be dealt with in accordance with the *Summary Offences Act, 1953*.

(4) Where a child is not granted bail under the *Bail Act, 1985*, the child must be detained by the Director-General with a person (where practicable), or in a place (other than a prison), approved by the Minister and must (unless released from detention pursuant to a decision of a screening panel) be brought before the Children’s Court for the purpose of remand not later than the next working day following the date of apprehension.

(5) Notwithstanding subsection (4), where a child is apprehended outside the prescribed area and it is not reasonably practicable to detain the child in the manner provided by subsection (4), the child may be detained—

(a) in a police prison;

or

(b) in a police station, watch-house or lock-up approved by the Minister.

* * * * *

Powers of Court upon remand

44. (1) Subject to this section, a child may from time to time be remanded by the Court at any stage of any proceedings under this Part, and upon any remand the Court may, by order—

(a) allow the child to go at large;

(b) release the child on bail;

(c) release the child into the custody of any suitable person;

or

- (d) remand the child in custody—
 - (i) where the Court has committed the child to an adult court for trial pursuant to any of the provisions of this Part—until the child is released or delivered in due course of law;
 - or
 - (ii) in any other case—for a period not exceeding 28 days,
to be detained in a place (other than a prison) approved by the Minister.

* * * * *

(3) An order under subsection (1) may be revoked by the Court (whether constituted of the same judicial officer or officers or not) and the Court may substitute for the order any other order it is empowered to make under that subsection.

(4) Where a child has been committed to an adult court for trial, the adult court must, if at any time it remands the child in custody, order that the child be detained in a place (other than a prison) approved by the Minister.

(5) Notwithstanding subsections (1) and (4), a child who has been remanded in custody for trial in a place that is outside the prescribed area may, during the course of the trial and while awaiting sentence, be detained—

- (a) in a police prison;
- or
- (b) in a police station, watch-house or lock-up approved by the Minister,

if it is not reasonably practicable to detain the child during that period in the manner provided by those subsections.

Child detained in police prison, etc., to be segregated from adults

44a. Where a child is being detained in a police prison, police station, watch-house or lock-up pursuant to this Division, the person for the time being in charge of the police prison, police station, watch-house or lock-up must take such steps as are reasonably practicable to keep the child from coming into contact with any adult person detained in that place.

DIVISION IV—TRIAL AND SENTENCING

Homicide to be tried in Supreme Court

45. A child charged with homicide must be tried in the Supreme Court.

Committal to adult court at request of child

46. (1) Subject to section 47, where a child who is charged with an indictable offence requests trial by jury in an adult court, the Children’s Court—

- (a) if it is satisfied that the child has received independent legal advice with respect to the implications of trial in an adult court, will conduct a preliminary examination;

and

- (b) if it is then satisfied that there is a case to answer, will commit the child for trial in the appropriate adult court.

(2) A child may not make a request under this section—

- (a) if determination of an application under section 47 is pending;

or

- (b) if, pursuant to such an application, an order has been made that the child be tried in an adult court.

Committal to adult court for trial or sentencing on application by Director of Public Prosecutions

47. (1) Where the Director of Public Prosecutions is of the opinion that a child charged with an indictable offence (other than a minor indictable offence) should, by reason of the gravity of the circumstances of the offence, or the fact that the child has previously been found guilty of more than one serious offence, be tried in the appropriate adult court, the Director may apply to a Judge of the Supreme Court for an order that the child be so tried.

(2) An application by the Director for an order that a child be tried in an adult court may be made at any time before any plea is taken from the child by the Children's Court.

(3) Where a member of the police force who has laid a complaint against a child is of the opinion that the child is one in respect of whom the Director is likely to exercise powers under this section, that member may notify the Children's Court accordingly and the Children's Court will not proceed to deal further with the child except by way of remand until the Director advises the Court that no such application is to be made, or until such an application is determined or withdrawn.

(4) The Director must, in any application made under this section, set out the facts upon which the application is made and furnish a copy of the statement of any proposed witness for the prosecution.

(5) The Director must cause a copy of the application and, if the Supreme Court Judge so directs, a copy of any statement by a proposed witness to be served upon the child and each guardian of the child whose whereabouts is known to the Director, and the application must be endorsed with a notification of the place, date and time for the hearing of the application.

(6) The Judge will hear any submissions made by the child and by any guardian of the child who is present at the hearing of the application.

Preliminary examination

48. Subject to this Act, the Children's Court will conduct a preliminary examination in relation to a child who is, by virtue of any provision of this Act, to be tried in an adult court.

Power of adult court to deal with alternative offences

48a. Where a child has been committed to an adult court for trial for an offence, the following provisions apply:

- (a) the child may be tried and sentenced, or otherwise dealt with, by the adult court upon information for that offence, or for an alternative offence;
- (b) the child may be sentenced or otherwise dealt with for any offence of which the child has lawfully been found guilty by the adult court.

Provisions relating to pleas in the Children’s Court

49. (1) A child who is charged with an offence must, unless the child is to be tried in an adult court pursuant to this Act, plead guilty or not guilty to the charge at the commencement of the hearing in the Children’s Court, and the Court will proceed to deal with the matter summarily.

(2) Where a child has pleaded guilty to a charge of an offence, the Court may, at any stage of the proceedings, if it is of the opinion that the child may not be guilty of the offence charged, order that the plea of guilty be withdrawn and a plea of not guilty be entered.

(3) Where the Court has exercised its powers under subsection (2), the child is not entitled to plead *autrefois convict* by reason of the plea of guilty.

Provisions relating to verdict of Court

50. (1) Where a child charged with an indictable offence is before the Children’s Court, the Court has full power to record any alternative verdict that an adult court may record in relation to the offence charged.

(2) In any proceedings before the Children’s Court under this Part the Court must deliver its verdict as expeditiously as is reasonably practicable after the hearing of evidence and addresses by counsel (if any) is concluded.

* * * * *

(5) Any verdict of the Court in relation to an indictable offence (other than a minor indictable offence) must be accompanied by a statement of the reasons of the Court for reaching that verdict.

Victim impact statements

50a. (1) This section applies in relation to an offence committed by a child as a result of which some other person ("the victim") suffers injury, loss or damage.

(2) Subject to subsection (3), the prosecutor must, for the purposes of assisting the court to discharge its obligation to bring a child found guilty of an offence to which this section applies to an awareness of his or her responsibility to bear the consequences of breaking the law, furnish the court with particulars (that are reasonably ascertainable and are not already before the court in evidence or a pre-sentence report) of the impact of the offence on the victim.

(3) The prosecutor must not furnish particulars under subsection (2) if the victim so requests.

Sentencing powers of Children’s Court

51. (1) Subject to this Act, where the Children’s Court finds a charge (other than a charge of truancy) proved against a child, the Court may, by order—

- (a) upon convicting the child, sentence the child to a period of detention of not less than two months nor more than two years in a training centre, but no period of detention may be ordered unless the Court has first obtained a report on the child and the child's circumstances from an assessment panel;
- (ab) upon convicting the child, or without convicting the child—
- (i) impose a sentence of a specified number of hours of community service to be performed by the child;
 - (ii) direct that the child be under the supervision of an officer of the Department for the duration of that sentence;
- and
- (iii) direct that the child obey the lawful directions of the community service officer and supervising officer to whom he or she is assigned;
- (b) upon convicting the child, or without convicting the child, discharge the child upon a bond with or without guarantees to be of good behaviour and appear before the Court for sentence if the child fails during the term of the bond to observe any of its conditions, and upon any one or more of the following conditions that the Court may think fit to include in the bond:
- (i) that the child be under the supervision of an officer of the Department or other person nominated by the Director-General and obey the directions of that officer or person;
 - (ii) that the child attend a youth project centre at such times as may be stipulated in the bond or required by the Director-General and obey any directions that may be given by or on behalf of the person in charge of that centre;
 - (iii) that the child participate in such project or programme as the Director-General may require;
 - (iiia) that the child attend or participate in such educational or recreational programmes as the Court specifies;
 - (iv) that the child reside with such person, or in such place, as may be stipulated in the bond;
 - (v) that the child attend before the Court at such times as may be specified in the bond for the purpose of reviewing the child's progress or circumstances;
- and
- (vi) any other condition that the Court may think necessary or desirable;
- (c) upon convicting the child, or without convicting the child, impose a fine not exceeding—

(i) the maximum fine prescribed under the relevant Act or law for the offence;

or

(ii) \$1 000,

whichever is the lesser;

(ca) upon convicting the child, or without convicting the child, direct the child to attend or participate in such educational or recreational programmes as the Court specifies in the order;

or

(d) upon convicting the child, or without convicting the child, discharge the child without penalty.

(1a) Where the Court finds a charge against a child proved but does not convict the child, the Court may, if it considers that the circumstances constituting the offence with which the child was charged were of a trifling nature, order that, in any subsequent proceedings for an offence against the child before a court other than a court exercising jurisdiction under this Act, no reference be made to the charge against the child or the proceedings before the Court.

(2) The Children's Court is not empowered—

(a) to sentence a child to imprisonment;

or

(b) to fine a child, require a child to enter into a bond or disqualify a child from holding or obtaining a licence to drive a motor vehicle, otherwise than in accordance with this Part.

(3) Subject to this Act, the Court may make any other order for which provision is made under any Act or law in relation to the offence of which the child has been found guilty.

(4) The Court may exercise its powers under both paragraphs (b) and (c) of subsection (1) in respect of the same offence.

(5) A bond under this section—

(a) is effective for such period, not exceeding two years;

and

(b) subject to subsection (5a), binds the child for such sum,

as may be specified in the bond.

(5a) The sum for which a child who has been found guilty of a summary offence or a minor indictable offence may be bound under a bond under this section is limited—

(a) in the case of a child under the age of 15 years, to \$200;

and

(b) in the case of any other child, to \$500.

(6) Where the Court has convicted and sentenced a child to a period of detention, the Court may suspend the sentence upon the child entering into a bond, with or without guarantees, upon condition that the child be of good behaviour and—

(a) upon any one or more of the conditions referred to in subsection (1)(b);

or

(b) upon—

(i) the condition that the child participate in a work project or programme for a period determined in accordance with subsection (6b) and, during those hours, obey the directions of an officer of the Department or other person nominated by the Director-General;

and

(ii) any other condition that the Court may think necessary or desirable.

(6a) The Court must not include a condition referred to in subsection (6)(b)(i) in a bond unless—

(a) the period of the suspended sentence of detention is four months or less;

and

(b) the Court has first obtained a report on the child from an assessment panel recommending that such a condition would be appropriate in the circumstances.

(6b) Where the Court includes a condition referred to in subsection (6)(b)(i) in a bond, the following provisions apply:

(a) the period (in hours) of participation in the work project or programme is determined by multiplying the number of days of detention under the suspended sentence by two;

(b) the child cannot be required to participate in a work project or programme for more than eight hours on any one day;

(c) the bond expires on the completion by the child of the period of participation in the work project or programme.

(7) Where a child whose sentence has been suspended pursuant to subsection (6) complies with the conditions of the bond, the sentence of detention is, upon the expiration of the period of the bond, wholly extinguished.

(8) Where the Court is of the opinion that a child of any age who has been found guilty of an offence is not a fit and proper person to hold or obtain a licence to drive a motor vehicle, or that disqualification is an appropriate penalty for the offence committed, the Court may, in addition to any other orders it may make in relation to the child, with or without convicting the child, make an order disqualifying the child from holding or obtaining such a licence, except for such purposes (if any) as may be specified in the order—

(a) as from a day or time specified in the order;

and

(b) either for a period specified in the order, or until further order.

(9) Upon application by the child, a Judge or magistrate of the Court may, if satisfied that it is just or expedient to do so, vary or revoke any order for disqualification made under subsection (8).

(10) A child is not entitled to apply to a court of summary jurisdiction for an order removing a disqualification pursuant to section 172 of the *Road Traffic Act, 1961*, until after attaining the age of 18 years.

(11) Subject to this Act, the Court must, before dealing with a child under this section, have regard to all the facts and circumstances relating to the child and the offence that are known to the Court, and the Court may exercise its discretion on the question of penalty as provided by this section without being bound by a minimum penalty (if any) prescribed in any Act for the offence proved against the child.

(12) Where the Court has found a charge of a major indictable offence proved against a child, the Court will record a conviction unless there are, in the opinion of the Court, special reasons for not recording a conviction against the child, and the Court states those reasons in its judgment, or unless the Court is of the opinion that a major indictable offence should be taken into account in fixing sentence for any other offence in accordance with subsection (13), and that a conviction should not be recorded in respect of the offence taken into account.

(13) Where the Court finds charges of a number of offences proved against a child, and the Court proposes to sentence the child in respect of one or more, but not all, of those offences, the Court may, in fixing sentence, take into account the offences in respect of which the child is to be discharged without penalty.

Sentencing for truancy

52. Where the Children's Court finds a charge of truancy proved against a child, the Court may in relation to that charge make an order under section 51(1)(b) or (d).

Court may reduce fine in certain circumstances

53. (1) Where the Children's Court imposes a fine on a child who has been found guilty of an offence, the Court may, after determining the amount that it believes ought properly to be imposed, reduce the amount of the fine to such extent as it thinks fit, having regard to the means of the child, and the child's ability to pay any fine so imposed.

(2) The Court may, in imposing a fine upon a child, order that the fine be paid at such time, or in such instalments, as the Court thinks fit.

How jurisdiction under this Part is to be exercised

54. (1) Subject to subsection (2), the hearing of a major indictable offence must be dealt with by a Judge of the Children's Court.

(2) Where it is not reasonably practicable for a Judge of the Court to deal with a matter referred to in subsection (1), the Senior Judge may direct that a magistrate of the Court deal with the matter.

(3) A Judge or magistrate of the Court must hear a minor indictable offence.

(4) A special justice or justices of the peace may not, in sentencing a child—

(a) sentence the child to detention;

(b) impose a fine exceeding \$100;

or

(c) require the child to enter a bond for more than one year, or upon any condition other than that the child be of good behaviour.

(5) A magistrate of the Court may not sentence a child to detention for more than one year.

(6) Where the Court is constituted of a magistrate, a special justice or justices of the peace who is, or are, of the opinion that an order should be made in relation to the child before the Court that cannot be made by the Court as presently constituted because of this section, the Court must remand the child for sentence and forthwith refer the matter to the Senior Judge, who must give such directions as he or she thinks fit for the re-constitution of the Court for the purpose of sentencing the child.

(7) Nothing in this section prevents any member of the Court, on making an order for payment of a pecuniary sum, from making an order for detention in default of payment.

Sentence of life imprisonment for murder

55. (1) A child who is convicted of murder must be imprisoned for life.

(2) A non-parole period cannot be fixed in respect of a sentence of life imprisonment imposed under this section.

Sentencing child as an adult

56. (1) Subject to this Act, where a child is committed to an adult court for trial otherwise than upon the child's own request, that court may, upon finding the child guilty of an offence—

(a) deal with the child as an adult;

(b) make any order in relation to the child that could be made by the Children's Court if it were dealing with the child, or were empowered to deal with the child;

or

(c) remand the child to the Children's Court for sentencing.

(2) Where a child is found guilty by an adult court of an alternative offence to the offence for which the child was committed for trial, the court cannot deal with the child for that offence as if he or she were an adult, unless—

(a) the offence is an indictable (but not minor indictable) offence;

and

(b) the court is satisfied that, by reason of the gravity of the circumstances of the offence or the fact that the child has previously been found guilty of more than one serious offence, the child should be dealt with as if he or she were an adult.

(3) This section does not apply to a child who has been found guilty of murder.

Sentencing of children who requested trial in an adult court

57. Where a child is committed to an adult court for trial at the child's own request the court may—

(a) make any order in relation to the child that could be made by the Children's Court if it were dealing with the child;

or

(b) remand the child to the Children's Court for sentencing.

Detention of child sentenced as adult

58. (1) Subject to subsection (2), a child who has been sentenced to imprisonment by an adult court will serve that sentence in prison.

(2) An adult court that has sentenced a child to imprisonment may, by order, direct that the child be detained in a training centre for such period of the sentence as the court thinks fit, but not extending beyond the time at which the child attains the age of 18 years.

(3) Subject to subsection (4), where an order is made under subsection (2) in respect of a child, this Act applies to the child, to the exclusion of the *Correctional Services Act, 1982*, while he or she is in a training centre as if the child had been sentenced to detention in a training centre.

(4) The following provisions of the *Correctional Services Act, 1982*, apply to and in relation to a child who is being detained in a training centre pursuant to this section:

(a) Part VII (remission) applies to a child who is serving a sentence of imprisonment for a term exceeding three months, or a number of sentences under which the child is liable to imprisonment for more than three months, with the following modifications:

(i) a reference to a prisoner will be taken to be a reference to a child;

(ii) a reference to a prison will be taken to be a reference to a training centre;

(iii) a reference to the Chief Executive Officer will be taken to be a reference to the Director-General;

- (b) Division III of Part VI (release on parole) applies to a child in respect of whom a non-parole period has been fixed, with the following modifications:
- (i) a reference to the Board will be taken to be a reference to the *Training Centre Review Board*;
 - (ii) a reference to a prisoner will be taken to be a reference to a child;
 - (iii) a reference to a prison will be taken to be a reference to a training centre;
 - (iv) a reference to a parole officer will be taken to be a reference to an officer of the Department.

(5) Subsection (4) operates in relation to a child detained in a training centre pursuant to an order made before the commencement of the *Children's Protection and Young Offenders Act Amendment Act, 1990*, so that the child's entitlement to earn remission accrues only in respect of detention or imprisonment served after that commencement.

(6) Where a child who is on parole attains the age of 18 years—

- (a) the preceding provisions of this section cease to apply to and in relation to the child;
- (b) any reference in the parole conditions to the *Training Centre Review Board* will be taken to be a reference to the Parole Board;

and

- (c) any reference in the parole conditions to an officer of the Department will be taken to be a reference to a parole officer.

Release on licence of children convicted of murder

58a. (1) Where a child who has been sentenced to imprisonment for life is being detained in a training centre, the Supreme Court may, on the application of the child, authorize the release of the child from detention on licence.

(2) On the Supreme Court authorizing the release of a child under subsection (1), the *Training Centre Review Board* must order the release of the child on licence on the day specified by the Court.

(3) The release of a child on licence under this section will be subject to such conditions as the *Training Centre Review Board* thinks fit and specifies in the licence.

(4) Where the Supreme Court has refused an application by a child for release on licence, the child may not further apply for release for a period of six months, or such lesser or greater period as the Court may have directed on refusing the application.

(5) The *Training Centre Review Board* may, on the application of the Crown or the child, vary or revoke any condition of a licence under this section.

(6) The *Training Centre Review Board* may, on the application of the Minister, cancel a release on licence under this section if satisfied that the child has contravened a condition of the licence.

(7) Where an application has been made for the cancellation of a child's release on licence, a member of the *Training Centre Review Board* may—

(a) summon the child to appear before the Board;

or

(b) apply to a justice for a warrant for the apprehension and detention of the child pending determination of the application.

(8) Where a child who has been summoned to appear before the *Training Centre Review Board* fails to attend in compliance with the summons, the Board may—

(a) determine the application in the child's absence;

or

(b) direct a member of the Board to apply to a justice for a warrant for the apprehension and detention of the child for the purpose of bringing him or her before the Board.

(9) A member of the *Training Centre Review Board* may apply to a justice for a warrant for the apprehension and return to custody of a child whose release on licence has been cancelled by the Board.

(10) Where a child who has been released on licence commits an offence while subject to that licence and is sentenced to imprisonment or detention for that offence, the release on licence is, by virtue of this subsection, cancelled.

(11) If a child who is to be returned to custody on cancellation of his or her release on licence has attained the age of 18 years, he or she will be returned to custody in such prison as the Chief Executive Officer of the Department of Correctional Services directs.

(12) A child released on licence pursuant to this section will, unless the release is earlier cancelled, remain subject to that licence until the Supreme Court, on the application of the Crown or the child, discharges the child absolutely from the sentence of life imprisonment.

(13) Both the Crown and the child are parties to any application under this section.

(14) A copy of an application under this section must be served on a guardian of the child, unless—

(a) it is not practicable to do so;

or

(b) the whereabouts of all of the guardians of the child cannot, after reasonable inquiries, be ascertained.

(15) For the purposes of determining an application under this section, the Supreme Court—

(a) may hear, or receive submissions from, any person it thinks fit;

and

- (b) may direct the *Training Centre Review Board* or any other body or person to furnish the Court with such reports as the Court may require.

(16) An appeal lies to the Full Court against—

- (a) a decision of the Supreme Court on an application by a child to be released on licence under this section;
- (b) a decision of the Supreme Court on an application by a child released on licence to be discharged from a sentence of life imprisonment.

(17) Subject to a contrary order of the Full Court, an appeal cannot be commenced after 10 days from the date of the decision against which the appeal lies.

(18) On an appeal, the Full Court may—

- (a) confirm, reverse or annul the decision subject to appeal;
- (b) make any order that it considers should have been made in the first instance;
- (c) make any consequential or ancillary orders.

(19) Subject to subsection (20), where—

- (a) the Supreme Court decides—
 - (i) to release a child on licence under this section;or
 - (ii) to discharge a child released on licence from a sentence of life imprisonment;

and

- (b) counsel appearing on behalf of the Crown give immediate notice that an appeal against the decision will be instituted,

the decision has no force or effect pending the outcome of the appeal.

(20) if the Crown gives notice under subsection (19) of an appeal against a decision of the Supreme Court but then a person acting on behalf of the Crown subsequently files with the Supreme Court a notice that the Crown does not desire to proceed with the appeal, the decision will take effect.

DIVISION IVA—SPECIAL PROVISIONS RELATING TO COMMUNITY SERVICE

Community service cannot be imposed unless there is a placement for the child

58b. A court cannot sentence a child to community service unless the court is satisfied, on the report of an officer of the Department, that there is, or will be within a reasonable time, a placement for the child at a community service centre reasonably accessible to the child.

Ancillary orders

58c. Where a court imposes a sentence of community service upon a child, the court must make an ancillary order (which will be taken to be a sentence imposed by the court) requiring the child—

- (a) to report to a specified place not later than two working days after the date of the order unless, within that period, the child receives a notice from an officer of the Department to the contrary;

and

- (b) to perform the community service for not less than four or more than 24 hours in each week in accordance with the directions of the community service officer to whom he or she is assigned.

Performance of community service

58d. Where a court imposes a sentence of community service upon a child the following provisions apply:

- (a) the number of hours of community service specified by the court cannot exceed 90;
- (b) the court cannot specify a number of hours of community service to be performed by a child who is already performing, or is liable to perform, community service, where the aggregate of that number and the number of hours previously specified would exceed 90;
- (c) the period specified by the court within which the community service must be performed cannot exceed four months;
- (d) the child cannot, except in circumstances approved by the Minister, be required to perform the community service for a continuous period exceeding eight hours;
- (e) one hour of any period of community service exceeding four hours is to be a meal break;
- (f) the child cannot be required to perform community service at a time that would interfere with his or her remunerated employment, or with a course of training or instruction relating to, or likely to assist him or her in obtaining, such employment;
- (g) the child cannot be required to perform community service at a time that would cause him or her to offend against a rule of a religion that he or she practises;
- (h) the attendance of the child at any educational or recreational course of instruction approved by the Minister will be taken to be performance of community service;

and

- (i) the child will not be remunerated for the performance of any community service pursuant to the order.

Insurance cover for children performing community service

58e. The Minister must, at the cost of the Crown, insure a child against death or bodily injury arising out of, or occurring in the course of, performance by the child of community service pursuant to a sentence.

Community service may only involve certain kinds of work

58f. The work selected for the performance of community service—

- (a) must be for the benefit of—

- (i) persons who are disadvantaged through age, illness, incapacity or any other adversity;
- (ii) an organization that does not seek to secure a pecuniary profit for its members;

or

- (iii) a Public Service administrative unit, an agency or instrumentality of the Crown or a local government authority;

and

- (b) must not be work that would ordinarily be performed by a person for fee or reward and for which funds are available.

DIVISION V—SPECIAL PROVISIONS RELATING TO BONDS

Variation or discharge of bond

59. (1) Where a child has entered into a bond under this Part, the court may—

- (a) on application by the Minister, the child, or a guarantor of the bond, vary the conditions of the bond;

or

- (b) on application by the Minister, the child, or a guardian of the child, and on being satisfied that the child's conduct has been such that it is unnecessary or undesirable that the child should remain subject to the conditions of the bond, discharge the bond.

(2) Subject to subsection (3), no order can be made under subsection (1) on an application by the Minister, unless the child, the Commissioner of Police and any guarantor of the bond have received reasonable notice of the application and have been given a reasonable opportunity of calling such evidence and making such representations to the court as may be relevant to the application.

(3) The court may, by order, dispense with the giving of notice of any application under this section in such circumstances as it thinks fit.

(4) Where the child, a guardian of the child or a guarantor of the bond makes an application under this section, the court must cause notice of the application to be given to the Minister and the Commissioner of Police.

(5) Where an order is made under this section varying the conditions of a bond, the bond has effect as varied in accordance with the order.

(6) An application may be made under this section for an order varying the conditions of a bond, or discharging the bond, by a person subject to the bond who has attained the age of 18 years, and in such a case the court may deal with the application in all respects as if the applicant were a child.

Explanation and review of bonds

60. (1) Where a child enters into a bond, or the conditions of a bond are varied, under this Part, the court itself must explain the bond to the child and cause the child to be furnished with a notice in writing stating in simple language the conditions that the child is required to observe.

(2) The Minister must cause a review to be made of the progress and circumstances of a child who is under the supervision of a person pursuant to a condition of a bond, at least once in each period of six months during the term of the bond.

Breach of bond

61. (1) Subject to this section, where the Minister or a member of the police force of or above the rank of inspector considers that a child who has entered into a bond under this Part before a court has failed to observe any of the conditions of the bond, he or she may cause a complaint to be laid in that court.

(1a) In proceedings upon a complaint under this section, a certificate produced by the prosecution purporting to be signed by the Minister, or a member of the police force of or above the rank of inspector, and stating that he or she caused the complaint to be laid against the child is, in the absence of proof to the contrary, proof of the facts so stated.

(2) Upon a complaint being laid under subsection (1), the court may—

(a) issue a warrant for the apprehension of the child;

or

(b) issue a summons to the child, and serve a notice upon any guarantor of the bond, requiring the child and any such guarantor to appear before the court at the place, date and time specified in the summons or notice.

(3) A child who has been apprehended pursuant to this section must be brought before the court as soon as reasonably practicable, and may be detained by the Director-General in any place (other than a prison) approved by the Minister until brought before the court.

(4) The court—

(a) on the hearing of a complaint laid under subsection (1);

or

(b) on the oral application of the prosecutor in any proceedings before the court for an offence to which the child has pleaded guilty,

upon being satisfied that the child has failed to observe a condition of a bond, may make an order for the payment of any amount, or part of any amount, due under the bond and—

(c) if the child has not been sentenced for the offence to which the bond relates, may make any order in relation to the child that the court had power to make in dealing originally with the child for that offence;

or

(d) if the child has been sentenced to detention for the offence to which the bond relates and the sentence has been suspended, must, subject to subsection (5), forthwith order that the suspension be revoked and the sentence carried into effect.

(5) Where a child is subject to a suspended sentence and the court is satisfied that the failure of the child to observe the conditions of the bond is trivial, or that there are proper grounds upon which the failure should be excused, the court—

(a) may refrain from ordering that the sentence be carried into effect;

(b) may extend the term of the bond by a period not exceeding one year;

(c) may, in the case of a bond requiring the child to participate for a specified number of hours in a work project or programme, cancel the whole or a number of any of those hours that remain unperformed.

(5a) Where a court orders that a suspended sentence be carried into effect, the court—

(a) may, if it considers that there are special circumstances justifying it in so doing, reduce the term of the suspended sentence;

and

(b) may direct that time spent by the child in custody pending determination of the proceedings for breach of bond be counted as part of the term of the suspended sentence.

(6) No order may be made under this section against the child or any guarantor—

(a) unless the child, or the guarantor, as the case may be, is present at the hearing;

or

- (b) unless a summons was duly served on the child, or a notice was duly served on the guarantor, at least seven clear days before the date of the hearing.

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DIVISION VI—SPECIAL PROVISIONS RELATING TO DETENTION

Subdivision 1—Escape from custody

61a. (1) A detained child—

- (a) who escapes from a training centre or from any person who has the actual custody of the child pursuant to this Act;

or

- (b) who is otherwise unlawfully at large,

is guilty of an offence.

Penalty: Six months detention in a training centre.

(2) A term of detention to which a child is sentenced for an offence against this section must be served immediately and any other detention or imprisonment to which the child is liable is suspended while that term is being served.

(3) If the child is in prison at the time at which a sentence imposed under this section is due to commence, the sentence must be served in prison.

(4) A detained child is not, while unlawfully at large, serving his or her sentence of detention.

(5) Section 51 does not apply in relation to an offence against this section.

(6) In this section—

"detained child" means a child—

- (a) who is subject to detention in a training centre or other place (not being a prison) pursuant to an order of a court under this Part or Part IVA;

or

- (b) who is in the custody of an escort pursuant to Division VIA of this Part.

Subdivision 2—Release

The Training Centre Review Board

62. (1) The *Training Centre Review Board* is established.

(2) The *Training Centre Review Board* consists of the following members:

- (a) the Judges of the Children's Court;
- (b) two persons with appropriate skills and experience in working with young people, appointed by the Governor upon the recommendation of the Attorney-General;

and

- (c) two persons with appropriate skills and experience in working with young people, appointed by the Governor upon the recommendation of the Minister.

(3) At least one of the persons appointed under subsection (2)(b) and (c) must be a woman and at least one such person must be a man.

(4) An appointed member of the *Training Centre Review Board* holds office for such term, and upon such conditions, as the Governor determines and specifies in the instrument of appointment and, upon the expiration of a term of office, is eligible for reappointment.

(4a) The Governor may appoint a suitable person to be a deputy of an appointed member of the *Training Centre Review Board* and such a person may act as a member of the *Training Centre Review Board* in the absence of that member.

(5) A member of the *Training Centre Review Board* is entitled to receive such allowances and expenses as the Governor may from time to time determine.

(6) The Governor may remove an appointed member of the *Training Centre Review Board* from office on the grounds of—

- (a) mental or physical incapacity;
- (b) dishonourable conduct;

or

- (c) neglect of duty.

(7) The office of an appointed member of the *Training Centre Review Board* becomes vacant if the member—

- (a) dies;
- (b) completes a term of office;
- (c) resigns by notice in writing given to the Attorney-General;

or

- (d) is removed from office by the Governor pursuant to subsection (6).

(8) Upon the office of an appointed member of the *Training Centre Review Board* becoming vacant, a person must be appointed to that office in accordance with this section.

(9) Where the office of an appointed member of the *Training Centre Review Board* becomes vacant before the expiration of the member's term of office, the person appointed in the member's place will be appointed only for the balance of that term.

(10) When sitting to review any matter under this Act, the *Training Centre Review Board* must be constituted of—

(a) a Judge (who will preside at the sitting);

and

(b) two of the appointed members.

(11) When sitting to review the progress and circumstances of a child, the *Training Centre Review Board* must permit the legal representative, or a guardian, of the child to make submissions to the Board.

Review of detention by *Training Centre Review Board*

63. Where a child has been sentenced to detention in a training centre, the *Training Centre Review Board* must review the progress and circumstances of the child while in the training centre, at intervals of not more than three months, and at any other time upon the request of the Director-General.

Leave of absence

63a. (1) The Director-General may, by written order, grant a child detained in a training centre leave of absence from the training centre—

(a) for the medical or psychiatric examination, assessment or treatment of the child;

(b) for the attendance of the child at an educational or training course;

(c) for the participation of the child in any form of recreation, entertainment or community service;

(d) for such compassionate purpose as the Director-General thinks fit;

or

(e) for any purpose related to criminal investigation.

(2) Leave of absence under this section may be subject to such conditions as the Director-General thinks fit, including, where the Director-General thinks it is appropriate, a condition that the child will be in the custody of and supervised by one or more officers of the Department authorized by the Minister for the purpose.

(3) The Director-General may, by written order, revoke any leave of absence granted under this section, or vary or revoke any of the conditions to which it is subject.

(4) Where a child is still at large after the revocation or expiry of leave of absence, the child may be apprehended without warrant by a member of the police force or an officer of the Department authorized by the Minister for the purpose.

(5) A child who is still at large after the expiry of leave of absence will be taken to be unlawfully at large.

Conditional release from detention

64. (1) The *Training Centre Review Board* may authorize the Director-General to grant a child, subject to any conditions that the Board thinks proper, periods of leave from a training centre during which the child will not be subject to the supervision of the Director-General.

(2) The *Training Centre Review Board* may at any time order the release of a child who has been sentenced to detention in a training centre, subject to the following conditions:

(a) a condition that the child be under the supervision of an officer of the Department and that the child obey the directions of that officer;

and

(b) any other condition that the Board thinks fit.

(2a) Subsection (2) does not apply in relation to a child who is, pursuant to an order of an adult court made under section 58, serving part of a sentence of imprisonment in a training centre.

(3) The conditions upon which a child is released from a training centre under this section are binding upon the child for the unexpired period of the detention order.

(4) Where the Minister considers that a child has failed to observe any condition imposed by the *Training Centre Review Board* under this section, the Minister may apply to the Board for an order that the child be returned to a training centre.

(5) Subject to subsection (5a), the Minister must cause a copy of an application under subsection (4) to be served upon the child and a guardian of the child, and the application must be endorsed with a notice of the place, date and time for the hearing of the application.

(5a) Where the Minister believes on reasonable grounds that, if served with an application under subsection (4), the child would be likely to abscond, the Minister may apply to a Judge—

(a) to issue a warrant for the apprehension of the child;

and

(b) to dispense with the requirement to serve the application under subsection (4).

(5b) A Judge will not grant an application under subsection (5a) unless satisfied, on information given on oath, that there are reasonable grounds to believe that, if served with the application under subsection (4), the child would be likely to abscond.

(5c) Where—

(a) a child upon whom a notice under subsection (4) is to be served cannot be found;

or

(b) a child, having been served with such a notice, fails to attend before the Board on an application under this section,

a member of the Board may apply to a justice for a warrant for the apprehension of the child.

(6) A warrant issued under this section authorizes the apprehension of the child referred to in the warrant by a member of the police force or an officer of the Department authorized for the purpose.

(7) A child who has been apprehended pursuant to a warrant issued under this section must be brought before the Board as soon as reasonably practicable, and may be detained by the Director-General in any place (other than a prison) approved by the Minister until brought before the Board.

(8) If the Board finds the allegation proved it may order that the child be returned to detention under the original order.

Absolute release from detention by Court

65. (1) Where a child has been released from a training centre pursuant to section 64, the Children's Court may, on the application of the child, a guardian of the child, or the Director-General made upon a recommendation of the *Training Centre Review Board*, order that the child be discharged absolutely from the detention order.

(2) An application under this section cannot be made if a previous application in respect of the child has been determined by the Court within the last preceding period of three months.

(3) The Court may, for the purposes of determining an application under this section, hear, or receive submissions from, any person it thinks fit.

DIVISION VIA—TRANSFER OF YOUNG OFFENDERS

Interpretation

65a. In this Division—

"appropriate authority" of another State means a person who is vested with authority under a corresponding law—

(a) to authorize or arrange for the transfer of a young offender to this State;

or

(b) to authorize or arrange for the transfer of a young offender from this State to that State:

"correctional order" means an order under a law of this State or any other State for dealing with children who commit offences, being an order—

- (a) for the detention (other than remand) of such a child;
- (b) requiring such a child to perform community service;
- (c) providing for the conditional release of such a child;
- (d) placing such a child on probation or parole or under any form of supervision:

"correctional system", in relation to a State, means the system of law, judicial and administrative authorities, correctional and other institutions under which children who commit offences are dealt with in that State:

"corresponding law" means a law of another State declared by regulation to be a law corresponding to this Division:

"escort" means a person in whose custody a young offender is placed for the purpose of bringing a young offender into the State, or taking a young offender out of the State, in pursuance of arrangements made under this Division:

"State" includes the Australian Capital Territory and the Northern Territory:

"young offender" means a person—

- (a) who has been found guilty of an offence committed while under the age of 18 years;
- and
- (b) who is subject to a correctional order.

Transfer of young offenders to other States

65b. (1) The Minister may make arrangements with the appropriate authority of another State for the transfer of a young offender to that other State.

(2) Before entering into arrangements under this section, the Minister must be satisfied—

- (a) that any rights of appeal against the correctional order have been exhausted or have expired;
- (b) that the young offender will be dealt with in the correctional system of the other State in substantially the same way as if he or she had remained in the correctional system of this State;
- (c) that the transfer is in the best interests of the young offender;

and

(d) that—

(i) the young offender consents to the transfer;

or

(ii) there are special reasons justifying the transfer notwithstanding that the young offender does not consent.

(3) Before consenting to a transfer, a young offender must be allowed a reasonable opportunity to obtain independent legal advice on the question of whether the transfer is in his or her best interests.

(4) An arrangement under this section will not be carried into effect unless it has been ratified by the Court.

(5) Where a young offender is transferred to another State in pursuance of an arrangement under this section, the Minister will transmit to the appropriate authority of that other State—

(a) a copy of the relevant correctional order;

(b) a statement of—

(i) any period of detention served by the young offender in pursuance of the order;

(ii) any community service performed by the young offender in pursuance of the order;

(iii) any period for which the young offender has been subject to conditional release;

(iv) any period for which the young offender has been on probation or parole or under supervision;

(v) any remissions of sentence to which the young offender has become entitled;

(c) a report on the young offender.

(6) Where the Minister arranges for the transfer to another State of a young offender who is in detention, the Minister will arrange for the young offender to be taken to the other State in the custody of a suitable escort and delivered into detention in that other State.

(7) Where a young offender goes or is transferred to another State and is accepted into the correctional system of that other State in pursuance of arrangements under this section, the relevant correctional order ceases to operate in this State.

Transfer of young offenders to this State

65c. (1) The Minister may make arrangements with the appropriate authority of another State for the transfer of a young offender from that other State to this State.

(2) Before entering into arrangements under this section, the Minister must be satisfied—

- (a) that the young offender is over the age of 10 years;
- (b) that there is in force in this State a law that substantially corresponds to the law against which the young offender offended;
- (c) that the young offender is not liable to detention for an indeterminate period;
- (d) that the young offender will be dealt with in the correctional system of this State in substantially the same way as if he or she had remained in the correctional system of the other State.

(3) Where a young offender is transferred to this State in pursuance of arrangements under this section—

- (a) a copy of the correctional order must be filed in the Court;

and

- (b) the young offender will be dealt with under the law of this State as if—
 - (i) the correctional order had been made under the law of the State;
 - (ii) any period of detention, community service, conditional release, probation, parole or supervision served by the young offender in pursuance of the order had been served in the State;
 - (iii) any entitlement to remission of sentence that had accrued prior to the transfer had accrued under the law of the State.

Adaptation of correctional orders to different correctional systems

65d. (1) An arrangement made under this Division for the transfer of a young offender may provide that the correctional order will operate with such modifications as are necessary to ensure its effective operation in the correctional system of the State to which the young offender is to be transferred.

(2) Any such modifications relating to a correctional order made under the law of another State must be endorsed on the order on its registration under this Act.

Custody during escort

65e. (1) An escort in whose custody a young offender has been placed for the purpose of bringing the young offender into, or taking the young offender out of, the State has, while in the State, lawful custody of the young offender.

(2) If a young offender escapes from the custody of an escort, the young offender may be arrested without warrant for the purpose of being returned to lawful custody.

DIVISION VII—GENERAL PROVISIONS

Age of criminal responsibility

66. There is a conclusive presumption that no child under the age of 10 years can commit an offence.

Prohibition of joint charges

67. (1) Subject to subsection (2), a child cannot be charged jointly with a person who is not a child.

(2) Subsection (1) does not apply in relation to a charge against a child that is, pursuant to this Part, to be heard and determined by an adult court.

Reports

68. (1) Subject to subsection (3), no report relating to the social background or personal circumstances of a child may be tendered to a court before the court has found an offence proved against the child.

(2) Where a child is found not guilty by a court, any report relating to the social background of the child prepared for the purposes of the proceedings must be destroyed.

(3) This section does not prevent the court from receiving during the course of a hearing any psychiatric or medical evidence relating to the child, insofar as that evidence is relevant to the guilt or innocence of the child.

(4) The court in determining sentence must not take into account any matter given in evidence, or appearing in any report presented, to the court, if the matter is disputed by the child, any guardian of the child or the prosecutor, unless the court has decided that the matter has been proved beyond reasonable doubt.

Attendance at court of guardian of child charged with offence

69. (1) Where a child is before a court in proceedings under this Part, the court may order that a guardian attend at the court before which the case is heard or determined during all the stages of the proceedings, unless sooner excused by the court.

(2) When the court makes an order under subsection (1), it may adjourn the hearing of the case, and must cause the order to be served upon the guardian named in the order.

(3) Any person who, having been served with an order under this section, fails to attend the court in compliance with the order is guilty of an offence.

Penalty: Division 9 fine.

Counsellors, etc., may make submissions to court

70. In proceedings under this Part, a court may, upon the application of a person who has been counselling, advising or aiding the child the subject of the proceedings, or upon the application of any guardian of the child, hear any submissions that person or guardian wishes to make in respect of the child.

Assessment panel report must be obtained for referral to youth project centres

71. A child cannot be required by a court to attend a youth project centre unless the court has first obtained and considered a report on the child from an assessment panel.

Duties of assessment panels under this Part

72. Where an assessment panel is required to furnish a report in any proceedings under this Part, the assessment panel—

(a) must investigate and report on the personal circumstances and social background of the child;

and

(b) may make such recommendations as to the treatment, correction, or rehabilitation of the child as it thinks appropriate.

Costs

72a. (1) The Children's Court may make such order for costs against a child found guilty of an offence as the Court thinks fit and may direct the manner and time in which the costs must be paid.

(2) A child who has been ordered to pay costs may apply to the Children's Court for an order varying the time or manner of payment of the costs.

(3) Upon an application under subsection (2), the Court may make such orders as the Court thinks appropriate.

Power of court to order compensation or restitution

73. (1) A Judge or magistrate of the Court or an adult court may, subject to this section, on the application of the prosecutor made at the hearing, order a child against whom any charge for an offence before the court has been proved to pay compensation, or make restitution, in respect of any damage or loss occasioned by the offence to any person who has suffered that damage or loss.

(2) The court may not make an order under this section unless it is of the opinion that the making of such an order would contribute to the rehabilitation of the child.

(3) The amount that the court may order any child to pay under this section cannot exceed \$10 000.

(4) Before making an order under this section, the court must satisfy itself as to the amount of the loss or damage occasioned by the offence.

(5) If the court is of the opinion that the evidence is not sufficient to enable it to determine the amount of the damage or loss, it may decline to make an order.

(6) Subject to subsection (3), an order under this section may direct the child to pay, within such period as the court specifies in the order, such sum as the court thinks reasonable, either as one payment or by instalments, and in determining the amount of the order, the court must have regard to the means of the child and the child's ability to pay the amount ordered.

(7) Where the court has made an order for the payment of money under this section, the child must pay that money to the clerk of the court, for transmission to the person in whose favour the order was made.

* * * * *

(9) An order under this section is not a bar to other proceedings by or on behalf of the person who suffered the damage or loss, but that person is not entitled to recover, in respect of the damage or loss, an amount exceeding the amount of the damage or loss.

(10) The powers of the court under this section may be exercised upon the relevant charge being proved and with or without a conviction being recorded against the child.

(11) The court may not make any order against a child for compensation or restitution except pursuant to this section or the *Criminal Injuries Compensation Act, 1978*.

Name and address of child to be given in certain circumstances

74. Where a child is proceeded against or dealt with under this Part for an alleged offence, any person who intends to commence proceedings for loss or damage arising out of the commission of that alleged offence may at any time, upon application in writing to the Commissioner of Police, be furnished with the name and address of that child.

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PART IVA

ENFORCEMENT OF PECUNIARY SUMS AND OTHER ORDERS

DIVISION I—ENFORCEMENT OF PECUNIARY SUMS

Payment of pecuniary sum to the Court

75aa. Subject to any order of the Court or direction of a clerk of the Court to the contrary, a pecuniary sum, or any instalment of a pecuniary sum, is payable to the Court, notwithstanding that the order for the pecuniary sum is in favour of some person.

Default in payment of instalments

75a. If the Children's Court has directed that a pecuniary sum be paid in instalments and default is made in payment of any such instalment, the whole of the balance of the pecuniary sum becomes due and payable on that default.

Detention in default of payment

75b. (1) Subject to this Act, an order for payment of a pecuniary sum is enforceable by detention (or imprisonment in the case of a guarantor) in default of payment.

(2) The term of detention or imprisonment to be served in default of payment will be—

(a) a term calculated on the basis of one day for each prescribed unit of the amount outstanding;

or

(b) three months,

whichever is the lesser.

(3) Where a child or guarantor is in default of payment of a pecuniary sum, the Children's Court may, subject to subsection (4), issue a mandate or a warrant of commitment for the term of detention or imprisonment appropriate to the amount outstanding under the order.

(4) A mandate or warrant must not be issued until the person has been in default of payment for one month, unless—

(a) the Court is satisfied that there are reasonable grounds for suspecting that the person will abscond without making payment;

or

(b) the person in default is already serving some term of detention or imprisonment.

(5) The detention or imprisonment to which a person becomes liable by virtue of a mandate or warrant issued under this section (after this section comes into operation) will be cumulative on any other term of detention or imprisonment that the person is liable to serve by virtue of any other such mandate or warrant.

Driver's licence disqualification for default

75ba. (1) Where a child is in default of payment of a pecuniary sum imposed in relation to an offence arising out of the use of a motor vehicle and the default has endured for one month or more, the court may, instead of issuing a mandate, disqualify the person from holding or obtaining a driver's licence until the pecuniary sum has been fully satisfied.

(2) On receiving notification from the court of a disqualification under this section, the Registrar of Motor Vehicles must cause written notice of the disqualification to be given personally or by post to the child in default.

(3) A disqualification under this section takes effect 14 days after notice is given in accordance with subsection (2) unless the sum in default is paid before that time.

(4) The Court may, on application by the child, revoke the disqualification if the court is satisfied that the sum in default, although not paid in full, has been reduced and that continued disqualification would result in undue hardship to the child.

(5) Nothing in this section prevents the Court from issuing a mandate against a child for the enforcement of a pecuniary sum during a period of disqualification imposed under this section in respect of that sum, if the Court is of the opinion that it is appropriate to do so.

(6) The Court must, on a pecuniary sum in respect of which disqualification under this section has been imposed being fully satisfied (whether by payment or detention) or a disqualification being revoked under subsection (4), notify the Registrar of Motor Vehicles in writing accordingly.

(7) In this section—

"driver's licence" includes a learner's permit.

Warrant for sale of goods

75c. (1) Where a person has been in default of payment of a pecuniary sum for more than one month the Court may, if of the opinion that to do so would supply, or substantially reduce, the amount outstanding, order the sale of goods owned by the person, and issue a warrant authorizing the seizure and sale of those goods.

(2) The goods that may be seized pursuant to a warrant under this section are those that could be taken in bankruptcy proceedings.

(3) If the person in default or any other person alleges that any particular goods are not liable to seizure and sale under this section, the person executing the warrant must not proceed to sell those goods until the Court has, on the application of a clerk of the Court, determined the matter.

(4) For the purposes of determining an application under subsection (3), the Court may issue a summons requiring the attendance of such persons as the Court thinks fit to call before it.

(5) Where a person other than the person in default claims an interest in goods the subject of a warrant under this section, the Court may, if satisfied of the validity of the claim—

(a) exclude the goods from the warrant;

or

- (b) direct the application of the proceeds of the sale in such manner as the Court considers just.

(6) The surplus proceeds from a sale pursuant to a warrant under this section must be returned to the person in default.

(7) Goods seized pursuant to a warrant but not sold must be returned to the person in default or left at the place from which they were taken.

(8) If the proceeds from the sale of goods pursuant to a warrant are insufficient to meet the amount in respect of which the warrant was issued (including any costs of issue and execution of the warrant), the balance outstanding is enforceable by detention (or imprisonment in the case of a guarantor) in accordance with this Part.

Costs of process will be added

75d. The costs of issuing and executing a mandate or warrant under this Division will be added to the amount in respect of which it was issued.

Person in default may pay person executing the warrant

75e. (1) Where a person against whom a mandate or warrant has been issued under this Division pays to the person executing the mandate or warrant the amount in respect of which it was issued, together with the costs of issuing and executing it, the mandate or warrant is satisfied.

(2) A person to whom any money has been paid in accordance with subsection (1) must issue a receipt for the payment and forward the amount to the Court.

Postponement or suspension of warrants

75f. (1) Where a person in default of payment of a pecuniary sum applies to the Children's Court for relief under this section, the Court may, subject to such conditions as to payment of the sum as the Court thinks fit, postpone the issue of a mandate or warrant under this Part or suspend its operation (as the case may require).

(2) The conditions referred to in subsection (1) may include a condition requiring that specified security for payment be given.

(3) A postponement or suspension under this section may be revoked by the Children's Court for breach of condition.

(4) Subject to rules of court, the powers of the Children's Court under this section are exercisable by a clerk of the Court.

(5) Subject to rules of court, where a clerk exercises powers of the Children's Court under this section in relation to a person and the person is aggrieved by a decision made by the clerk, the person may apply to the Court for a review of the decision.

(6) The Court may, on completion of the review—

- (a) confirm the decision;

- (b) quash the decision and substitute any decision that the Court thinks should have been made in the first instance;

- (c) make any ancillary order (including an order as to costs) it thinks fit.

Remission of pecuniary sum

75g. (1) The Children's Court may, on the application of the person liable under an order for payment of a pecuniary sum, remit the outstanding amount under the order if the Court is satisfied that, in all the circumstances of the case, no other order under this Division would be appropriate.

(2) Upon the Court making an order under subsection (1), the liability of the person in default to comply with the order for payment of the sum is wholly extinguished.

***Ex parte* orders**

75h. (1) The power to issue a mandate or a warrant of commitment under this Division or to disqualify a person from holding or obtaining a driver's licence will, unless the Court decides otherwise, be exercised without hearing the person in default.

(2) Any other order under this Division may, at the discretion of the Court, be made without hearing the person in default and, if so made, must be served on the person personally.

(3) Where the order is for sale of goods, no action for enforcement of the order may be taken until ten days after service of the order.

Amount in default is reduced by detention or imprisonment served

75i. (1) Where a mandate or warrant issued under this Division is executed, the amount in respect of which the mandate or warrant was issued is reduced by one prescribed unit for each day served in a training centre or prison pursuant to the mandate or warrant.

(2) If the person at any time pays to the Children's Court or the superintendent of the training centre or prison manager the amount then outstanding under the mandate or warrant, together with the costs of issuing and executing it, the sentence of detention or imprisonment is wholly extinguished.

(3) If the person at any time pays to the Children's Court or the superintendent of the training centre or prison manager a part of the amount then outstanding under the mandate or warrant, the balance of the period of detention or imprisonment still to be served will be reduced by the proportion that the amount so paid bears to that outstanding amount (ignoring any fraction or any part of a day).

(4) A training centre superintendent or prison manager to whom any money has been paid must issue a receipt for the payment and forward the amount to the Children's Court.

(5) Where a person has served a period of detention fixed under this Part, the whole of the amount in respect of which the mandate or warrant was issued is extinguished.

(6) For the purposes of this section, the deduction from a person's earnings or allowance while in a training centre or prison of the amount of a levy payable under the *Criminal Injuries Compensation Act, 1978*, will be taken to be payment by the person of that amount.

Periodic detention on default in payment of pecuniary sum

75j. (1) Subject to subsection (2), where a mandate for the detention of a child has been issued for the purpose of enforcing an order for payment of a pecuniary sum against the child, the Director-General may, with the consent of the child, direct that he or she serve the period of detention on a periodic, non-residential basis.

(2) The Court, upon making an order for payment of a pecuniary sum against a child, may order that the Director-General refrain from exercising the powers conferred by subsection (1) in any proceedings for the enforcement of that order.

(3) Where the Director-General directs that a child serve a period of detention on a periodic, non-residential basis, the following provisions apply:

- (a) the total number of hours of periodic detention to be served by the child will be computed on the basis of eight hours (or, if a lesser number is prescribed, that number) for each day of detention specified in the mandate;
- (b) the child must not serve more than eight hours of periodic detention on any one day;
- (c) the child must serve the detention on a periodic basis in accordance with the directions of the Director-General;
- (d) without limiting the generality of paragraph (c), the Director-General may require the child to participate in such work projects or programmes as the Director-General thinks appropriate whilst the child is in detention;
- (e) the mandate for the detention of the child will not be executed whilst the child complies with the directions of the Director-General.

(4) Where a child has served at least two-thirds of the total number of hours of periodic detention and has complied with all the directions of the Director-General, the Director-General may, if of the opinion that good reason exists for doing so, release the child from the obligation to serve such number of the remaining hours of periodic detention as the Director-General thinks fit.

(5) Where a mandate for the detention of a child is executed as a result of failure to comply with the directions of the Director-General given under this section, the period of detention specified in the mandate will be reduced by one day for each eight hours (or, if a lesser number of hours has been prescribed under subsection (3), that number) of periodic detention served by the child.

Civil liability cannot be diminished

75k. Notwithstanding any other provision of this Part, a person cannot diminish a civil liability by serving a period of detention or imprisonment pursuant to this Division.

DIVISION II—ENFORCEMENT OF NON-PECUNIARY ORDERS

Community service orders may be enforced by detention

75l. (1) Subject to this section, an order requiring performance of community service is enforceable by detention.

(2) The period of detention to be served in default of compliance is—

(a) a period calculated on the basis of one day for each eight hours of community service remaining to be performed;

or

(b) three months,

whichever is the lesser.

(3) If it appears to the Children's Court, by evidence given on oath, that a child has failed to comply with an order requiring performance of community service, the Court may—

(a) issue a notice requiring the child to appear before the Court at the time and place specified in the notice to show cause why a mandate should not be issued against the child for the default;

or

(b) issue a warrant for the child's arrest.

(4) If a child fails to appear before the Court as required by a notice issued under subsection (3), the Court may issue a warrant for the child's arrest.

(5) If the Court is satisfied that the child has failed to comply with the order requiring performance of community service, the Court may issue a mandate for the appropriate period of detention determined in accordance with subsection (2).

(6) The Court may, on issuing a mandate under subsection (5), direct that the detention to which the child becomes liable by virtue of the mandate be cumulative on any other period of detention or term of imprisonment being served, or to be served, by the child.

(7) Notwithstanding subsection (5), if the Court is satisfied that the failure of a child to comply with an order requiring performance of community service was trivial or that there are proper grounds on which the failure should be excused, the Court—

(a) may refrain from issuing a mandate;

and

(b) may—

(i) extend the term of the order for community service by such period, not exceeding two months, as the Court thinks necessary for the purpose of enabling the child to perform the remaining hours of community service (if any);

(ii) if the sentence has expired, impose a further order, for a term not exceeding two months, requiring the child to perform the number of hours of community service unperformed under the previous order;

- (iii) cancel the whole or a number of the unperformed hours of community service under the order.

Other non-pecuniary orders may be enforced by detention

751a. (1) If it appears to the Court, by evidence given on oath, that a child has failed to comply with an order requiring the child to do some act (other than the performance of community service or the payment of a pecuniary sum), the Court may—

- (a) issue a notice requiring the child to appear before the Court at the time and place specified in the notice to show cause why he or she should not be dealt with for the default;

or

- (b) issue a warrant for the child's arrest.

(2) If a child fails to appear before the Court as required by a notice issued under subsection (1), the court may issue a warrant for the child's arrest.

(3) If the Court is satisfied that the child has failed to comply with the order, the Court may—

- (a) sentence the child to such period of detention (not exceeding three months) as the Court thinks fit;
- (b) issue a mandate against the child;
- (c) if the Court thinks it appropriate to do so, direct that the period of detention be cumulative on any other period of detention or term of imprisonment being served, or to be served, by the child.

PART V

APPEALS AND RECONSIDERATION OF SENTENCE

Appeals from orders, etc., under Part III, and other Acts

76. (1) An appeal lies to the Supreme Court from any final order, declaration or adjudication made by the Children's Court—

(a) under Part III;

or

(b) under any other Act.

(2) An appeal under this section will be heard by a single Judge of the Supreme Court.

Appeals from order, etc., under Part IV

77. An appeal to the Supreme Court from any final conviction, order or adjudication of the Children's Court made in proceedings under Part IV will be heard—

(a) in respect of a major indictable offence, by the Full Court of the Supreme Court;

and

(b) in any other case, by a single Judge of the Supreme Court.

Single Judge may refer appeal to Full Court

78. Nothing in this Division derogates from the power of a Judge of the Supreme Court to refer an appeal to be heard by the Full Court of the Supreme Court.

Powers of Supreme Court on appeal

79. The Supreme Court when hearing an appeal from the Children's Court may exercise the same powers and make any order or adjudication in relation to a child that could lawfully have been made by the Children's Court acting under the powers conferred on it by this Act.

Reconsideration by Judge of sentences imposed by certain other members of the Court

80. (1) Subject to this section, where a finding that a charge against a child is proved is made by the Children's Court as constituted by a magistrate, a special justice or two justices of the peace, and an order is made against or in relation to the child in consequence of that finding, a Judge of the Court may, upon an application made under subsection (2), reconsider the order and may—

(a) confirm the order;

or

(b) discharge the order and substitute for it any other order the Court could have made in relation to the offence.

(2) Subject to this section, an application for reconsideration of an order may be made, in accordance with the rules of court under this Act—

(a) by the child, within one month after the date of the order;

or

(b) by the Minister, on behalf of the child, at any time after the date of the order.

* * * * *

(4) The Court must notify the applicant and all other parties concerned with the application of the place, date and time for the hearing of the application.

(5) Subject to subsection (7), where an appeal to the Supreme Court is instituted in respect of the original order, no application under this section may thereafter be made by the child.

(6) Subject to subsection (7), where an application for reconsideration is made under subsection (1), no appeal lies to the Supreme Court against the order in respect of which reconsideration is sought.

(7) Where an application under this section, or a notice of appeal to the Supreme Court, is withdrawn, all other parties concerned must be notified accordingly, and thereupon an appeal lies to the Supreme Court, or an application may be made under this section (as the case may require) in all respects as if the date of that withdrawal were the date upon which the original order was made.

(8) An appeal lies to the Supreme Court from any order made by a Judge of the Children's Court under this section.

PART VI

THE CHILDREN'S COURT ADVISORY COMMITTEE

Establishment of the *Children's Court Advisory Committee*

81. (1) The *Children's Court Advisory Committee* is established.

(2) The Advisory Committee consists of three members appointed by the Governor, of whom—

- (a) one (the Chairman) will be a Judge of the Supreme Court or a District Court Judge;
- (b) one will be a person who, in the opinion of the Attorney-General, has wide knowledge or experience in the field of law enforcement, and who is nominated by the Attorney-General;

and

- (c) one will be a person who, in the opinion of the Minister, has a wide knowledge of and experience in the field of community welfare, and who is nominated by the Minister.

(3) A member of the Advisory Committee holds office for such term, and upon such conditions, as the Governor determines and specifies in the instrument of appointment.

(4) A member of the Advisory Committee is, on the expiration of a term of office, eligible for reappointment.

(5) The Governor may appoint a suitable person to be a deputy of a member of the Advisory Committee and such a person may act as a member of the Advisory Committee in the absence of that member.

Allowances and expenses

82. A member of the Advisory Committee is entitled to receive such allowances and expenses as the Governor may from time to time determine.

Removal from and vacancies of office

83. (1) The Governor may remove a member of the Advisory Committee from office on the grounds of—

- (a) mental or physical incapacity;
- (b) dishonourable conduct;

or

- (c) neglect of duty.

(2) The office of a member of the Advisory Committee becomes vacant if the member—

- (a) dies;
- (b) completes a term of office;

(c) resigns by notice in writing given to the Attorney-General;

or

(d) is removed from office by the Governor pursuant to subsection (1).

(3) Upon the office of a member of the Advisory Committee becoming vacant, a person must be appointed to that office in accordance with this Act.

(4) Where the office of a member of the Advisory Committee becomes vacant before the expiration of the member's term of office, the person appointed in the member's place will be appointed only for the balance of that term.

Functions of the Advisory Committee

84. (1) The functions of the Advisory Committee are to—

(a) monitor and evaluate the administration and operation of this Act;

(b) cause such data and statistics in relation to proceedings before the Children's Court to be collected as it thinks fit, or as the Attorney-General may direct;

(c) perform any other functions prescribed by this Act;

and

(d) perform such other functions as the Governor may, by proclamation, assign to the Advisory Committee.

(2) The Advisory Committee has full power to perform any act necessary or expedient for the performance of the functions for which the Advisory Committee is established.

Reports

85. (1) The Advisory Committee must, not later than 31 October in each year, report to the Attorney-General on the administration and operation of this Act during the previous financial year.

(2) The Advisory Committee must investigate and report to the Attorney-General on any matter pertaining to this Act that has been referred to the Advisory Committee by the Attorney-General for investigation and report.

(3) The Attorney-General must, as soon as practicable after receiving a report submitted under subsection (1), cause a copy of the report to be laid before each House of Parliament.

PART VII

MISCELLANEOUS

Determination of a person's age

86. (1) The Children's Court, an adult court or a children's aid panel will, in determining the age of a person for the purpose of any proceedings under this Act, act on the best evidence or information that is reasonably available but, in the absence of any such evidence or information, the court or panel may itself estimate the age of the person.

(2) Where, in any proceedings before a court, it becomes apparent to the court that the person the subject of those proceedings should, by reason of age, be dealt with in some other court, the court may remand that person to appear in the appropriate court.

(3) Nothing done by a court or a children's aid panel in respect of any person is invalid by reason of the fact that the court or panel acted upon a mistaken belief that the person was of a certain age.

Change of venue

87. (1) If it appears to the Children's Court that proceedings before the Court could be more conveniently, economically or fairly heard and determined by some other member, or members, of the Court, the Court may forthwith refer the matter to the Senior Judge who will give such directions as to the hearing and determination of the proceedings as the Senior Judge thinks fit.

(2) The parties to the proceedings must be notified of any change made to the place, date or time for the hearing of the proceedings pursuant to this section.

Certain reports must be made available to child

88. (1) In proceedings before the Children's Court, or before an adult court pursuant to this Act, a copy of every report received by the court must be furnished to the child to whom the proceedings relate, to any guardian who is a party to the proceedings or is present in court and, where the proceedings are under Part IV, to the prosecutor, and any of those persons, or counsel for any of those persons, will be permitted by the court to cross-examine the person, or any of the persons, by whom the report was made, or who carried out any investigation on which the report was based.

(2) Notwithstanding subsection (1), if the court is of the opinion that a report contains material that, if disclosed, may be prejudicial to the welfare of the child, the court may order that the whole, or any part, of the report not be furnished in accordance with subsection (1).

(3) This section does not apply to a report received by the Children's Court in proceedings for an adoption order.

Right of audience of officers of the Department

89. In proceedings under this Act before the Children's Court or an adult court, any officer of the Department may appear before the court for the purposes of—

- (a) conducting proceedings under Part III;
- (b) tendering any report or making submissions in relation to the manner in which a child is to be dealt with pending or during trial, or while awaiting sentence;

or

- (c) tendering any report or making submissions in relation to the sentencing of a child.

Legal representation of children

90. Where, in proceedings before the Children’s Court, or before an adult court pursuant to this Act, the court is of the opinion that the child to whom the proceedings relate needs legal representation and that such representation has not been arranged by or on behalf of the child, the court may, by order, make such provision for the legal representation of the child as it thinks fit.

Court must explain proceedings to child, etc.

91. (1) In proceedings before the Children’s Court, or before an adult court pursuant to this Act, the court must satisfy itself that the child to whom the proceedings relate understands the nature of those proceedings.

(2) Where a child by, or in respect of whom, proceedings have been brought before the Children’s Court, or before an adult court pursuant to this Act, is not represented by counsel or solicitor, the court—

- (a) must explain to the child in simple language the nature of the allegations against, or concerning, the child and the legal implications of those allegations;

and

- (b) must, where the child has been charged with an offence, explain to the child in simple language the elements of the offence that must be established by the prosecution.

(3) No order or adjudication of a court is defective on the ground of failure to comply with this section where the court has substantially complied with this section.

(4) A child who has been charged with an offence must be furnished, as soon as reasonably practicable after being so charged, with a written statement in the prescribed form of the child’s rights in respect of legal representation, and of the manner in which the child may obtain legal advice, representation or assistance.

(5) Where a child has been sentenced to a fine or ordered to make any other payment of money, the court must cause the child to be furnished with a notice in writing stating in simple language the amount the child must pay and the time and place at which payment is to be, or may be, made.

Persons who may be in court

92. (1) Subject to this section, no person may be present at any sitting of the Children’s Court, or at any sitting of an adult court dealing with a child under this Act, except—

- (a) members and officers of the court;
- (b) officers of the Department;
- (c) parties to the case before the court, and the legal practitioners representing those parties;
- (d) the prosecutor;

- (e) witnesses while giving evidence or while permitted by the court to remain in court;
- (ea) an alleged victim of the offence before the court (that is to say, a person who suffered injury, loss or damage resulting from the offence);
- (f) any guardian of the child;
- (g) any member of the *Children's Court Advisory Committee*;
- (h) such other persons as the court specially authorizes to be present.

(1a) Subsection (1) does not apply in relation to a sitting of an adult court dealing with a child charged with homicide or dealing with a child pursuant to an order made under section 47.

(1b) Where an alleged victim of the offence before the court is a witness in the proceedings, the court may exclude him or her from the court at any time if the court thinks it necessary or desirable to do so for the purposes of the due administration of justice.

(2) Any person who is a genuine representative of the news media may be present at a sitting of a court when the court is dealing with a child under Part IV.

(3) Nothing in this section abrogates the power of a court to exclude any person from a sitting of the court.

Restriction on reports of proceedings

93. (1) A person must not publish, by radio, television, newspaper or in any other manner, a report of a charge laid against a child, if the report identifies the child or contains information tending to identify the child.

(1a) Subject to this section, a person must not publish, by radio, television, newspaper or in any other manner, a report of any proceedings before the Children's Court, or before an adult court pursuant to this Act.

(2) Unless otherwise ordered by the court, a report of proceedings under Part IV may be published in accordance with this section.

* * * * *

(4) Unless permitted by an order under subsection (5), a person must not, in publishing a report of proceedings under Part IV, reveal the name, address or school, or include any particulars or publish any picture or film calculated to lead to the identification, of any child who is concerned in those proceedings, whether as a person against whom or in respect of whom those proceedings were taken, or as a witness in those proceedings.

(5) The court may, by order, dispense with the requirements of subsection (4) to such extent and subject to such conditions as may be specified in the order.

(6) A person who acts in contravention of this section, or fails to comply with any order of a court under this section, is guilty of an offence.

Penalty: Division 5 fine.

Detention and search by officers of Department

94. An officer of the Department authorized by the Director-General for the purpose may have the lawful custody of a child against whom or in relation to whom proceedings under this Act have been, or are about to be, brought, while that child is being conveyed to or from a court, or while the child is within the precincts of the court, and may, at any time, search the child and remove any object that the officer considers may be injurious to any person or property.

Hindering an officer of the Department

95. A person who hinders an officer of the Department in the exercise of powers under this Act is guilty of an offence.

Penalty: Division 10 fine.

Delegation, etc.

96. (1) The Minister may, from time to time, by instrument in writing, delegate to the Director-General such of the Minister's powers, duties, responsibilities and functions under this Act as the Minister thinks fit.

(2) The Director-General may delegate to any officer of the Department any of the powers, duties, responsibilities and functions vested in, or delegated to, the Director-General under this Act.

(3) A delegation under this section is revocable at will, and does not prevent the exercise or performance of any power, duty, responsibility or function by the Minister or Director-General.

(4) In proceedings under this Act, a certificate purporting to be signed by the Minister or the Director-General and stating that the person named in the certificate is an officer of the Department and is authorized by the Minister, or the Director-General (as the case may be) to conduct any proceedings under this Act on his or her behalf, is sufficient proof of the facts so stated.

Issue of warrant

97. No person may issue an order for the removal of a child from any place, or a warrant for the apprehension of a child, unless that person is satisfied that the allegations made in respect of the child by the person seeking the order or warrant have been substantiated on oath.

Detention of children in emergencies

97a. (1) Notwithstanding any other provision of this Act, if the Minister is of the opinion that an emergency has arisen (whether out of an industrial dispute or any other circumstance) by virtue of which it is impossible or impracticable to detain children in training centres or other approved places as provided by this Act, a child who is to be detained under this Act may be detained—

(a) in a police prison;

or

(b) in a police station, watch-house or lock-up approved by the Minister,

until the emergency is, in the opinion of the Minister, over.

(2) The person for the time being in charge of the place in which a child is being detained pursuant to this section must take such steps as are reasonably practicable to keep the child from coming into contact with any adult person being detained in the same place.

Detention for contempt or enforcement of order for payment of money

98. (1) Notwithstanding any Act or law to the contrary, no order for imprisonment may be made against a child for—

(a) contempt of court;

or

(b) the enforcement of any fine or other order for the payment of money,

but where, but for this section, an order for imprisonment could be made under any Act or law in respect of any matter referred to under paragraph (a) or (b)—

(c) an order may be made for the detention of the child in a place (other than a prison) approved by the Minister;

and

(d) the provisions of that Act or law apply with the necessary modifications to, and in relation to, the order for detention.

(2) For the purposes of this section, but without limiting the generality of subsection (1)(d), a reference in any Act to imprisonment will be read as a reference to detention, and a reference in any Act to a warrant or writ by virtue of which a person may be committed to prison will be read as a reference to a mandate for detention.

Mandates

99. (1) Where an order has been made for the detention of a child in a training centre or other place, a mandate in the prescribed form must be issued for apprehending and taking the child to that training centre or place, and for the child's detention for the duration of that order.

(2) A mandate issued pursuant to subsection (1) is a sufficient warrant for the apprehension, taking and detention of the child in accordance with its terms.

* * * * *

Special provisions relating to work projects or programmes

99b. Where a child is required to participate in a work project or programme, pursuant to a condition of a bond under section 51 or to a requirement of the Director-General under section 75j, the following provisions apply:

(a) the Minister must, at the cost of the Crown, insure the child against death or bodily injury arising out of, or occurring in the course of, work undertaken during the project or programme;

(b) the child must not be required to participate in the project or programme at a time that would interfere with the child's gainful employment or with a course of training or instruction relating to, or likely to assist the child in obtaining, gainful employment;

(c) the child is not entitled to remuneration for work undertaken during the project or programme;

- (d) the project or programme must be for the benefit of—
- (i) persons who are disadvantaged through age, illness, incapacity or any other adversity;
 - (ii) an organization that does not seek to secure a pecuniary profit for its members;
- or
- (iii) a Public Service administrative unit, an agency or instrumentality of the Crown or a local government authority;
- (e) the child must not be required to undertake work that would ordinarily be performed by a person for fee or reward and for which funds are available.

Transfer of children in detention to other training centre or prison

100. (1) Where a child has been detained in, or remanded to, a training centre pursuant to an order of a court, the Director-General may in such circumstances as the Director-General thinks fit direct that the child be removed and placed in some other training centre.

(1a) Upon making a direction under subsection (1), the Director-General must give notice in writing of the direction to the *Training Centre Review Board*.

(1b) The *Training Centre Review Board* must conduct a review of a direction made by the Director-General under subsection (1)—

- (a) at the meeting of the Review Board next held after receiving notice of the direction;
- or
- (b) if the Chairman of the Review Board is of the opinion that the matter is urgent, at a meeting of the Review Board convened earlier for the purpose.

(1c) The *Training Centre Review Board* may—

- (a) confirm, vary or revoke the direction of the Director-General;
- and
- (b) give any further or other direction that the Board thinks necessary or expedient.

(1d) The Director-General must cause a decision of the *Training Centre Review Board* made under subsection (1c) to be carried into effect.

(1e) Where a child who is of or above the age of 18 years is being detained in a training centre or any other place pursuant to an order of a court, the child or the Director-General on behalf of the child may apply to a Judge of the Children's Court for an order that the child be held in custody in a prison for the remainder of the period of detention.

(1f) The Court will not make an order under subsection (1e) unless satisfied that, in the circumstances, a prison would be an appropriate place for the child to be held for the remainder of the period of detention.

(2) Where, upon application made to a Judge of the Children's Court by the Director-General, the Court is satisfied that a child who—

(a) is of or above the age of 16 years;

and

(b) has been remanded to, or is being detained in, a training centre or any other place pursuant to an order of a court,

cannot be properly controlled in that training centre or other place, has within the period of 14 days preceding the date of the application been found guilty of assaulting a person employed, or detained, in that training centre or other place, or has persistently incited others in the training centre or other place to cause a disturbance, the Court may, by order, direct that the child be held in custody in a prison for the remainder of the period of detention.

(3) Where an application has been made under subsection (2) and the Court is satisfied that the child is likely to be a danger to others, the Court may order that the child be held in custody in a prison until the Court has determined the application.

(4) The Court may, on the application of the Director-General, the child or a guardian of the child, revoke an order made under subsection (2).

(5) Where a child is held in custody in a prison pursuant to an order under this section, the *Correctional Services Act, 1982*, applies to and in relation to that child.

Attorney-General's powers and functions may not be delegated, etc., to any other Minister

101. Notwithstanding any Act or law to the contrary, a power or function vested in, or assigned to, the Attorney-General by or under this Act—

(a) cannot, by executive act, be vested in, or assigned to, any other Minister;

and

(b) cannot be delegated to any other Minister.

Summary offences

102. An offence against this Act is a summary offence.

Rules of Court

103. (1) The Senior Judge of the Children's Court may make rules in respect of the practice and procedure of the Court.

(2) The rules may provide that provisions of rules or regulations made under any other Act apply with such modifications as may be specified in the rules.

Regulations

104. (1) The Governor may make such regulations as the Governor considers necessary or expedient for the purpose of giving effect to the objects and provisions of this Act.

(2) Without limiting the generality of subsection (1), the Governor may make regulations—

- (a) prescribing the practice and procedure of screening panels;
- (b) prescribing the practice and procedure of children's aid panels;
- (c) prescribing the practice and procedure of the *Training Centre Review Board*;
- (d) prescribing the forms to be used under this Act;
- (e) prescribing the procedures to be observed in relation to the detention of a child prior to being dealt with by a court, or while a child is being conveyed to or from any court, or while a child is in attendance at any court;

and

- (f) prescribing fines, not exceeding a division 11 fine in each case, for breaches of the regulations.

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SCHEDULE OF TRANSITIONAL PROVISIONS

DIVISION I

*(Transitional provision from Children's Protection
and Young Offenders Act, 1979, s. 6(1))*

This Act applies in relation to any offence, or any circumstances which could give rise to proceedings in relation to a child, whether that offence or those circumstances occurred before or after the commencement of this Act.

DIVISION II

*(Transitional provisions from Children's Protection
and Young Offenders Act Amendment Act, 1989)*

1. Subject to clauses 2 and 3, Part IVA of the principal Act applies in relation to a child or surety who has defaulted in payment of a pecuniary sum, or a child who has failed to comply with a non-pecuniary order, whether the default or failure occurred before or after the commencement of that Part.

2. This Act does not affect a period of detention or imprisonment for the enforcement, or in default of payment, of a pecuniary sum, where the period of detention or imprisonment was fixed after 1 January, 1989, but before the date of assent to this Act.

3. This Act does not affect any proceedings taken under section 73(8) of the principal Act for the recovery of arrears under an order for compensation or restitution, where those proceedings were commenced after 1 January, 1989, but before the day of assent to this Act.

4. A recognizance in force under the principal Act immediately before the commencement of the first schedule will, on that commencement, be taken to be a bond.

APPENDIX 1**LEGISLATIVE HISTORY**

(entries in bold type indicate amendments incorporated since the last reprint)

Repeals

The *Children's Protection and Young Offenders Act, 1979*, repealed the following Acts:

Juvenile Courts Act, 1971

Juvenile Courts Act Amendment Act, 1972

Juvenile Courts Act Amendment Act, 1974

So much of the *Statute Law Revision Act (No. 3), 1975*, as amended the *Juvenile Courts Act, 1971-1974*

The *Children's Protection and Young Offenders Act, 1979*, amended the following Acts:

Criminal Injuries Compensation Act, 1978

Education Act, 1972-1976

Guardianship of Infants Act, 1940-1975

Justices Act, 1921-1977

Legislative History

- Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 24 July 1989. A schedule of these alterations was laid before Parliament on 3 August 1989.

Section 2:	deleted in pursuance of the <i>Acts Republication Act, 1967</i> , as its function is now exhausted
Section 3:	repealed by 14, 1986, s. 3(1) (3rd Sched.)
Section 4:	definition of "alternative offence" inserted by 65, 1982, s. 2; amended by 21, 1990, s. 3(a) definition of "group I offence" repealed by 69, 1991, s. 10(a) definition of "group II offence" repealed by 69, 1991, s. 10(a) definition of "group III offence" repealed by 69, 1991, s. 10(a) definition of "homicide" substituted by 34, 1986, s. 3 definition of "magistrate" inserted by 14, 1986, s. 3(1) (3rd Sched.) definition of "pecuniary sum" inserted by 31, 1989, s. 3; amended by 21, 1990, s. 3(b) definition of "prescribed unit" inserted by 31, 1989, s. 3 definition of "prison" inserted by 50, 1980, s. 3; amended by 14, 1986, s. 3(1) (3rd Sched.) definition of "the repealed Act" repealed by 14, 1986, s. 3(1) (3rd Sched.) definition of "simple offence" repealed by 69, 1991, s. 10(b) definition of "special magistrate" repealed by 14, 1986, s. 3(1) (3rd Sched.) definition of "truant" repealed and definition of "truancy" inserted in its place by 14, 1986, s. 3(1) (3rd Sched.) definition of "working day" inserted by 29, 1988, s. 3
Section 5:	repealed by 14, 1986, s. 3(1) (3rd Sched.)
Section 6(1):	being a transitional provision has been transferred to the Schedule of Transitional Provisions

Section 6(2) - (6):	deleted in pursuance of the <i>Acts Republication Act, 1967</i> , as their function is now exhausted
Section 7:	amended and redesignated to read as s. 7(1) by 29, 1988, s. 4; amended by 21, 1990, s. 4
Section 7(2):	inserted by 29, 1988, s. 4(c)
Section 8(2):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 9(3)(b):	repealed by 50, 1980, s. 4
Section 9(5):	amended by 14, 1986, s. 3(1) (3rd Sched.); 69, 1991, s. 10(c)
Section 10:	amended by 14, 1986, s. 3(1) (3rd Sched.)
Heading preceding section 12:	substituted by 29, 1988, s. 5
Section 12(1):	amended by 29, 1988, s. 6(a), (b), (d)
Section 12(1)(ca):	inserted by 34, 1986, s. 4; repealed by 29, 1988, s. 6(c)
Section 12(1a):	inserted by 29, 1988, s. 6(e)
Section 12(2):	substituted by 29, 1988, s. 6(f)
Section 13(1) and (2):	substituted by 29, 1988, s. 7(a)
Section 13(4):	inserted by 29, 1988, s. 7(b)
Section 14(1):	amended by 14, 1986, s. 3(1) (3rd Sched.); substituted by 29, 1988, s. 8(a)
Section 14(2):	substituted by 29, 1988, s. 8(a)
Section 14(3):	amended by 14, 1986, s. 3(1) (3rd Sched.); 29, 1988, s. 8(b)
Section 14(5):	substituted by 29, 1988, s. 8(c)
Section 14(7):	substituted by 29, 1988, s. 8(d); amended by 31, 1989, Sched. 1
Section 15(1):	amended by 29, 1988, s. 9(a)
Section 15(2):	repealed by 29, 1988, s. 9(b)
Section 15(6):	amended by 29, 1988, s. 9(c)
Section 16(1):	amended by 29, 1988, s. 10(a)
Section 16(2):	substituted by 29, 1988, s. 10(b)
Section 16(3):	substituted by 29, 1988, s. 10(c)
Section 16(4):	inserted by 29, 1988, s. 10(c)
Section 16(5):	inserted by 29, 1988, s. 10(c); amended by 31, 1989, Sched. 1
Section 17(2a):	inserted by 29, 1988, s. 11(a)
Section 17(3a) - (3c):	inserted by 29, 1988, s. 11(b)
Section 17(4):	substituted by 29, 1988, s. 11(c)
Section 17(6) - (9):	inserted by 29, 1988, s. 11(d)
Section 18:	amended by 29, 1988, s. 12
Section 19(2):	amended by 29, 1988, s. 13
Section 20(1):	amended by 14, 1986, s. 3(1) (3rd Sched.); 29, 1988, s. 14
Section 20(2):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 21:	repealed by 29, 1988, s. 15
Section 22:	substituted by 29, 1988, s. 16
Section 24:	substituted by 29, 1988, s. 17
Section 25:	amended by 65, 1982, s. 3; 33, 1986, s. 4(a); 29, 1988, s. 18
Section 26(2):	amended by 21, 1990, s. 5
Section 26(2)(ab):	repealed by 60, 1992, Sched. 2
Section 27:	amended by 21, 1990, s. 6; 60, 1992, Sched. 2
Section 28(2):	amended by 65, 1982, s. 4(a)
Section 28(2a):	inserted by 65, 1982, s. 4(b)
Section 29:	amended by 65, 1982, s. 5; 14, 1986, s. 3(1) (3rd Sched.)
Section 30(1):	amended by 65, 1982, s. 6(a); 33, 1986, s. 4(b)
Section 30(2):	amended by 33, 1986, s. 4(c)
Section 30(4):	amended by 65, 1982, s. 6(b)
Section 31(2):	amended by 43, 1984, s. 3; 21, 1990, s. 7
Section 32(1):	amended by 43, 1984, s. 4(a)-(f); 21, 1990, s. 8
Section 32(3):	inserted by 43, 1984, s. 4(g); amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 33(1):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 35(3):	amended by 14, 1986, s. 3(1) (3rd Sched.)

Section 40:	redesignated as s. 40(1) by 21, 1990, s. 9
Section 40(2) and (3):	inserted by 21, 1990, s. 9
Section 42(3a):	inserted by 33, 1986, s. 4(d)
Section 42(4):	amended by 33, 1986, s. 4(e)
Section 42(5):	inserted by 50, 1980, s. 5
Section 43:	amended by 6, 1985, s. 3; repealed by 33, 1986, s. 4(f)
Section 44(1):	amended by 33, 1986, s. 4(g)
Section 44(2):	repealed by 33, 1986, s. 4(h)
Section 44(3):	amended by 34, 1986, s. 5
Section 44(4):	inserted by 50, 1980, s. 6
Section 44(5):	inserted by 65, 1982, s. 7
Section 44a:	inserted by 65, 1982, s. 8
Section 46(2):	amended by 49, 1991, Sched. 2
Section 47(1) - (4):	amended by 49, 1991, Sched. 2
Section 47(5):	amended by 65, 1982, s. 9; 49, 1991, Sched. 2
Section 48:	amended by 65, 1982, s. 10
Section 48a:	inserted by 65, 1982, s. 11
Section 50(2):	amended by 50, 1980, s. 7(a)
Section 50(3) and (4):	repealed by 50, 1980, s. 7(b)
Section 50a:	inserted by 21, 1990, s. 10
Section 51(1):	amended by 50, 1980, s. 8(aa); 31, 1989, Sched. 1; 21, 1990, s. 11; 22, 1991, s. 7(a)
Section 51(1a):	inserted by 34, 1986, s. 6(a)
Section 51(2):	amended by 31, 1989, Sched. 1
Section 51(5):	amended by 14, 1986, s. 3(1) (3rd Sched.); 34, 1986, s. 6(b); 31, 1989, Sched. 1
Section 51(5a):	inserted by 34, 1986, s. 6(c); amended by 31, 1989, Sched. 1; 69, 1991, s. 10(d)
Section 51(6):	substituted by 34, 1986, s. 6(d); amended by 31, 1989, Sched. 1; 22, 1991, s. 7(b)
Section 51(6a) and (6b):	inserted by 34, 1986, s. 6(d); amended by 31, 1989, Sched. 1
Section 51(7):	amended by 31, 1989, Sched. 1
Section 51(9):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 51(12):	amended by 50, 1980, s. 8(a); 69, 1991, s. 10(e)
Section 51(13):	inserted by 50, 1980, s. 8(b)
Section 54(1):	amended by 69, 1991, s. 10(f)
Section 54(2):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 54(3):	amended by 14, 1986, s. 3(1) (3rd Sched.); 69, 1991, s. 10(g)
Section 54(4):	amended by 31, 1989, Sched. 1
Section 54(5):	substituted by 34, 1986, s. 7
Section 54(6):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 54(7):	inserted by 50, 1980, s. 9; substituted by 31, 1989, Sched. 1
Section 55:	substituted by 51, 1988, s. 8; redesignated as s. 55(1) by 21, 1990, s. 13
Section 55(2):	inserted by 21, 1990, s. 13
Section 56:	substituted by 65, 1982, s. 12
Section 56(2):	substituted by 21, 1990, s. 12
Section 57:	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 58(1):	substituted by 51, 1988, s. 9(a)
Section 58(3):	amended by 14, 1986, s. 3(1) (3rd Sched.); substituted by 51, 1988, s. 9(b); 21, 1990, s. 14
Section 58(4) - (6):	inserted by 21, 1990, s. 14
Section 58a:	inserted by 51, 1988, s. 10
Section 58a(7):	amended by 81, 1988, s. 2(a)
Section 58a(8):	amended by 81, 1988, s. 2(b)
Section 58a(9):	amended by 81, 1988, s. 2(c)
Section 58a(16) - (20):	inserted by 82, 1988, s. 2

Division IVA of Part IV comprising ss. 58b - 58f and heading
inserted by 21, 1990, s. 15

Section 58d:	amended by 34, 1992, s. 32
Section 59(1), (2) and (4):	amended by 31, 1989, Sched. 1; 34, 1992, s. 33
Section 59(5) and (6):	amended by 31, 1989, Sched. 1
Section 60:	amended by 31, 1989, Sched. 1
Section 61(1):	amended by 65, 1982, s. 13(a); 31, 1989, Sched. 1
Section 61(1a):	inserted by 65, 1982, s. 13(b)
Section 61(2):	amended by 31, 1989, Sched. 1; 34, 1992, s. 34(a), (b)
Section 61(4):	substituted by 65, 1982, s. 13(c); amended by 31, 1989, Sched. 1
Section 61(5):	substituted by 65, 1982, s. 13(c); amended by 31, 1989, Sched. 1; 34, 1992, s. 34(c), (d)
Section 61(5a):	inserted by 65, 1982, s. 13(c); amended by 31, 1989, Sched. 1
Section 61(6):	amended by 34, 1992, s. 34(e)
Section 61(7):	repealed by 31, 1989, s. 4
Section 61a and heading:	inserted by 21, 1990, s. 16
Heading preceding section 62:	inserted by 21, 1989, s. 16
Section 62(4a):	inserted by 34, 1986, s. 8
Section 63a:	inserted by 21, 1990, s. 17
Section 64(1):	amended by 65, 1982, s. 14
Section 64(2):	amended by 51, 1988, s. 11; 21, 1990, s. 18(a)
Section 64(2a):	inserted by 21, 1990, s. 18(b)
Section 64(5):	amended by 34, 1986, s. 9(a)
Section 64(5a) and (5b):	inserted by 34, 1986, s. (9b)
Section 64(5c):	inserted by 34, 1986, s. 9(b); amended by 81, 1988, s. 3
Section 64(6):	substituted by 34, 1986, s. 9(b)
Section 64(7):	amended by 34, 1986, s. 9(c)
Section 65(3):	inserted by 50, 1980, s. 10

Division VIA of Part IV comprising ss. 65a - 65e and heading
inserted by 29, 1988, s. 19

Section 69(3):	amended by 31, 1989, Sched. 1
Section 72a:	inserted by 31, 1989, s. 5
Section 72a(2):	amended by 34, 1992, s. 35(a)
Section 72a(3):	amended by 34, 1992, s. 35(b)
Section 73(1):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 73(3):	amended by 21, 1990, s. 19(a)
Section 73(6):	amended by 14, 1986, s. 3(1) (3rd Sched.); 21, 1990, s. 19(b)
Section 73(8):	repealed by 31, 1989, s. 6
Section 75:	repealed by 31, 1989, s. 7

Part IVA comprising ss. 75a - 75l and headings inserted by
31, 1989, s. 8

Section 75aa:	inserted by 34, 1992, s. 36
Section 75b:	substituted by 34, 1992, s. 37
Section 75ba:	inserted by 34, 1992, s. 37
Section 75c(3):	amended by 34, 1992, s. 38(a)
Section 75c(8):	amended by 34, 1992, s. 38(b)
Section 75e(2):	amended by 34, 1992, s. 39
Section 75f(1):	amended by 34, 1992, s. 40(a), (b)
Section 75f(3):	amended by 34, 1992, s. 40(c)
Section 75f(4) - (6):	inserted by 34, 1992, s. 40(d)
Section 75h(1) and (2):	substituted by 34, 1992, s. 41(a)
Section 75h(3):	amended by 34, 1992, s. 41(b)

Section 75i(1):	amended by 34, 1992, s. 42(a)
Section 75i(2):	amended by 34, 1992, s. 42(b)
Section 75i(3):	amended by 34, 1992, s. 42(c)
Section 75i(4):	amended by 34, 1992, s. 42(d)
Section 75l:	amended by 21, 1990, s. 20; substituted by 34, 1992, s. 43
Section 75la:	inserted by 34, 1992, s. 43
Section 76(2):	substituted by 34, 1986, s. 10
Section 77:	amended by 69, 1991, s. 10(h)
Section 80(1):	amended by 21, 1990, s. 21(a), (b)
Section 80(3):	repealed by 33, 1986, s. 4(i)
Section 80(8):	amended by 21, 1990, s. 21(c)
Section 81(4):	inserted by 34, 1986, s. 11
Section 81:	redesignated to read as subsections (1) - (5) respectively in pursuance of the <i>Acts Republication Act, 1967</i>
Section 87(1):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 88(3):	inserted by 90, 1988, Sched.
Section 89:	amended by 50, 1980, s. 11
Section 91(5):	inserted by 65, 1982, s. 15
Section 92(1):	amended by 21, 1990, s. 22(a), (b)
Section 92(1a) and (1b):	inserted by 21, 1990, s. 22(c)
Section 92(2):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 93(1):	inserted by 34, 1986, s. 12
Section 93(1a):	previously designated as s. 93(1); redesignated to read as s. 93(1a) by 34, 1986, s. 12
Section 93(2):	substituted by 21, 1990, s. 23(a)
Section 93(3):	repealed by 21, 1990, s. 23(a)
Section 93(4):	amended by 21, 1990, s. 23(b)
Section 93(6):	amended by 31, 1989, Sched. 1
Section 95:	amended by 31, 1989, Sched. 1
Section 97a:	inserted by 31, 1989, s. 9
Section 98:	substituted by 50, 1980, s. 12
Section 99(1):	substituted by 50, 1980, s. 13(a)
Section 99(2):	amended by 50, 1980, s. 13(b), (c)
Section 99a:	inserted by 50, 1980, s. 14; repealed by 31, 1989, s. 10
Section 99b:	inserted by 34, 1986, s. 13; amended by 31, 1989, s. 11, Sched. 1; 21, 1990, s. 24
Section 100(1):	amended by 50, 1980, s. 15(a)-(c)
Section 100(1a) - (1d):	inserted by 50, 1980, s. 15(d)
Section 100(1e) and (1f):	inserted by 34, 1986, s. 14
Section 100(5):	amended by 14, 1986, s. 3(1) (3rd Sched.)
Section 104:	substituted by 31, 1989, Sched. 1
Schedule:	amended by 50, 1980, s. 16; repealed by 14, 1986, s. 3(1) (3rd Sched.)
Schedule of Transitional Provisions:	inserted in pursuance of the <i>Acts Republication Act, 1967</i>

APPENDIX 2

DIVISIONAL PENALTIES

At the date of publication of this reprint divisional penalties are, as provided by section 28a of the *Acts Interpretation Act, 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	-	\$500
10	-	\$200
11	-	\$100
12	-	\$50

Note: This appendix is provided for convenience of reference only.