

LAWS OF TRINIDAD AND TOBAGO

CHILDREN ACT

CHAPTER 46:01

Act
4 of 1925
Amended by
20 of 1936
14 of 1939
24 of 1946
44 of 1946
6 of 1953
40 of 1961
16 of 1962
136/1976
20 of 1979
45 of 1979
15 of 1981
17 of 1981

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of
Subsidiary Legislation**

This Chapter contains no subsidiary legislation.

Note

For the sittings of the Juvenile Court under this Act *see* G.N. 170/1979 and L.N. 91/1981.

Corrigendum

At page 42, in section 70(1), in line 2, for the word "rules" substitute the word "Rules".

Note

on

Adaptation

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by L.N. 52/1980, but no marginal reference is made to this Notice where any such amendments is made in the text.

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CHILDREN ACT

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CHAPTER 46:01

CHILDREN ACT

An Act relating to the protection of children and young persons, industrial schools and orphanages, and juvenile offenders.1950 Ed.
Ch. 4 No. 21.

4 of 1925.

[17TH MARCH 1925]

Commence-
ment.

1. This Act may be cited as the Children Act.

Short title.

2. In this Act—

Interpretation.
[16 of 1962].

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

“guardian,” in relation to a child, young person, or youthful offender, includes any person who, in the opinion of the court having cognisance of any case in relation to the child, young person, or youthful offender, or in which the child, young person, or youthful offender is concerned, has for the time being the charge of or control over the child, young person, or youthful offender;

“legal guardian,” in relation to an infant, child, young person, or youthful offender, means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

“Magistrate” includes a Justice;

“Minister” means the Minister to whom responsibility for Industrial Schools and Orphanages is assigned;

“place of safety” means any Police Station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive an infant, child, or young person;

“public place” includes any public park, garden, wharf, jetty, or railway station, and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

“street” includes any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not;

“young person” means a person who is fourteen years of age or upwards and under the age of sixteen years.

PART I

PREVENTION OF CRUELTY TO CHILDREN AND YOUNG PERSONS

Punishment for
cruelty to
children and
young persons.
[45 of 1979].

3. (1) If any person over the age of sixteen years, who has the custody, charge, or care of any child or young person, wilfully assaults, ill-treats, neglects, abandons, or exposes the child or young person, or causes or procures the child or young person to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause the child or young person unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement) that person is liable—

(a) on conviction on indictment, to a fine of four thousand dollars, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment for two years; and

(b) on summary conviction, to a fine of one thousand dollars, or alternatively, or in addition thereto, to imprisonment for six months;

and for the purposes of this section, a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, he fails to provide adequate food, clothing, medical aid, or lodging for the child or young person.

(2) A person may be convicted of an offence under this section, either on indictment or summarily, notwithstanding that actual suffering or injury to health, or the likelihood of such suffering or injury to health, was obviated by the action of another person.

(3) A person may be convicted of an offence under this section, either on indictment or summarily, notwithstanding the death of the child or young person in respect of whom the offence is committed.

Punishment to
be increased if
money
accruable to
offender on
death of child.

(4) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruable or payable in the event of the death of the child or young person, and had knowledge that such sum of money was accruing or becoming payable, then—

(a) in the case of a conviction on indictment, the court may, in its discretion, either increase the amount of the fine under this section so that the fine does not

exceed eight thousand dollars; or, in lieu of awarding any other penalty under this section, sentence the person to imprisonment for five years; and

(b) in the case of a summary conviction, the court in determining the sentence to be awarded shall take into consideration the fact that the person was so interested and had such knowledge.

(5) A person is deemed to be directly or indirectly interested in a sum of money under this section if he has any share in or any benefit from the payment of that money, though he is not a person to whom it is legally payable. Interest in share.

(6) A copy of a policy of insurance, certified by an officer or agent of the insurance company granting the policy to be a true copy, shall, in any proceedings under this section, be *prima facie* evidence that the child or young person therein stated to be insured has been in fact so insured, and that the person in whose favour the policy has been granted is the person to whom the money thereby insured is legally payable. Policy of insurance proved by certified copy.

(7) An offence under this section is in this Part referred to as an offence of cruelty. Offence of cruelty.

4. Where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) whilst the infant was in bed with some other person over sixteen years of age, and that the other person was at the time of going to bed under the influence of drink, that other person shall be deemed to have neglected the infant in a manner likely to cause injury to its health within the meaning of this Part. Suffocation of infants.

Other offences in relation to children and young persons

5. (1) If any person causes or procures any child or young person, or, having the custody, charge, or care of a child or young person, allows that child or young person, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms, whether or not there is any pretence of singing, playing, dancing, performing, offering anything for sale, or otherwise, that person is liable, on summary conviction, to a fine of one thousand dollars, or alternatively, or in addition thereto, to imprisonment for three months. Begging.

(2) If a person having the custody, charge, or care of a child or young person is charged with an offence under this section, and it is proved that the child or young person was in any street, premises, or place for any such purpose as aforesaid, and that the person charged allowed the child or young person to be in the street, premises, or place, he is presumed to have allowed him to be in the street, premises, or place for that purpose unless the contrary is proved.

Exposing children to risk of burning.

6. If any person over the age of sixteen years who has the custody, charge, or care of any child under the age of seven years allows that child to be in any room or yard containing a coalpot, stove, or other fire not sufficiently protected to guard against the risk of the child being burnt or scalded, without taking reasonable precautions against that risk, and by reason thereof the child is killed, or suffers serious injury, he is liable, on summary conviction, to a fine of four hundred dollars. This section shall not, nor shall any proceedings taken thereunder, affect any liability of any such person to be proceeded against by indictment for any indictable offence.

Allowing children or young persons to be in brothels.

7. (1) If any person having the custody, charge, or care of a child or young person between the ages of four and sixteen allows that child or young person to reside in or to frequent a brothel, he is liable, on conviction on indictment or summarily, to a fine of one thousand dollars, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment for six months.

Ch. 11:08.

(2) Nothing in this section shall affect the liability of a person to be indicted under section 36 of the Offences against the Person Act, but upon the trial of a person under that section the jury may, if they are satisfied that the accused is guilty of an offence under this section, find the accused guilty of such offence.

Causing, encouraging, or favouring seduction or prostitution of young girl.

8. (1) If any person having the custody, charge, or care of a girl under the age of sixteen years causes or encourages the seduction or prostitution or unlawful carnal knowledge of that girl, he is liable, on conviction on indictment, to imprisonment for two years.

(2) For the purpose of this section, a person is deemed to have caused or encouraged the seduction or prostitution or unlawful carnal knowledge (as the case may be) of a girl who has been seduced or has become a prostitute or has been unlawfully carnally known, if he knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

9. (1) Where it is shown to the satisfaction of a Magistrate, on the complaint of any person, that a girl under the age of sixteen years is, with the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution or of being unlawfully carnally known or living a life of prostitution, the Magistrate may adjudge her parent or guardian to enter into a recognisance to exercise due care and supervision in respect of the girl.

Binding over persons having custody of young girl.

(2) The provisions of the Summary Courts Act with respect to recognisances to be of good behaviour (including the provisions as to the enforcement thereof) shall apply to recognisances under this section.

Ch. 4:20.

Arrest of offenders and provision for safety of children.

10. (1) Any constable may take into custody, without warrant, any person—

Power of arrest.

(a) who, within view of the constable, commits an offence under this Part or any of the offences mentioned in the Schedule where the name and residence of such person are unknown to the constable and cannot be ascertained by the constable; or

Schedule.

(b) who has committed, or who the constable has reason to believe has committed, an offence of cruelty, or any of the offences mentioned in the Schedule, if he has reasonable ground for believing that such person will abscond, or if the name and address of such person are unknown to and cannot be ascertained by the constable.

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(2) Where a constable arrests any person without warrant in pursuance of this section, the officer in charge of the Police Station to which such person is brought shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice or to cause injury or danger to the child or young person against whom the offence is alleged to have been committed, release the person arrested on his entering into such recognisance, with or without sureties, as may in the judgment of such officer be required to secure the attendance of such person upon the hearing of the charge.

Release on bail of persons arrested without warrant.

11. (1) A constable, or any person authorised by a Magistrate, may take to a place of safety any child or young person in respect of whom an offence under this Part or any of the offences mentioned in the Schedule, has been, or there is reason to believe has been, committed.

Detention of child or young person in place of safety.

Schedule.

Order pending
hearing.

(2) A child or young person so taken to a place of safety, and also any child or young person who seeks refuge in a place of safety, may there be detained until he can be brought before a Magistrate, and such Magistrate may make such order as is mentioned in the next following subsection, or may cause the child or young person to be dealt with as circumstances may admit and require, until the charge made against any person in respect of any offence as aforesaid with regard to the child or young person has been determined by the conviction or discharge of such person.

Order pending
enquiry.
Schedule.

(3) Where it appears to any Magistrate that an offence under this Part, or any of the offences mentioned in the Schedule, has been committed in respect of any child or young person who is brought before him, and that it is expedient in the interests of the child or young person that an order should be made under this subsection, the Magistrate may, without prejudice to any other power under this Act, make such order as circumstances require for the care and detention of the child or young person until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and, if a charge is made against any person within that time, until the charge has been determined by the conviction or discharge of that person, and, in case of conviction, for such further time not exceeding twenty-one days as the court which convicted may direct, and any such order may be carried out notwithstanding that any person claims the custody of the child or young person.

Disposal of
child or young
person by order
of court.

12. (1) Where a person having the custody, charge, or care of a child or young person has been—

- (a) convicted of committing in respect of such child or young person an offence under this Part or any of the offences mentioned in the Schedule,
- (b) committed for trial for any such offence, or
- (c) bound over to keep the peace towards such child or young person,

Schedule.

by any court, that court, either at the time when the person is so convicted, committed for trial, or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any other time, may, if satisfied on enquiry that it is expedient so to deal with the child or young person, order that the child or young person be taken out of the custody, charge, or care of the person so convicted, committed for trial, or bound over, and be committed to the care of a relative of the child or young person or some other fit person named by the court (such relative or other

person being willing to undertake such care), until he attains the age of sixteen years, or for any shorter period, and that court or any court of like jurisdiction may of its own motion, or on the application of any person, from time to time by order renew, vary, and revoke any such order.

(2) If the child or young person has a parent or legal guardian, no order shall be made under this section unless the parent or legal guardian has been convicted of or committed for trial for the offence, or is under committal for trial for having been, or has been proved to the satisfaction of the court making the order to have been, party or privy to the offence, or has been bound over to keep the peace towards the child or young person, or cannot be found.

No order if child has fit legal guardian.

(3) Every order under this section shall be in writing, and any such order may be made by the court in the absence of the child or young person; and the consent of any person to undertake the care of a child or young person in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind him.

Order, how made.

(4) Where an order is made under this section in respect of a person who has been committed for trial, then, if that person is acquitted of the charge, or if the charge is dismissed for want of prosecution, the order shall forthwith be void, except with regard to anything that may have been lawfully done under it.

Order void on acquittal.

(5) The Minister may at any time, in his discretion, discharge a child or young person from the care of any person to whose care he is committed in pursuance of this section, either absolutely or on such conditions as the Minister approves, and may, if he thinks fit, make rules in relation to children or young persons so committed to the care of any person, and to the duties of such persons with respect to such children or young persons.

Discharge.

Rules.

(6) The Minister, in any case where it appears to him to be for the benefit of a child or young person who has been committed to the care of any person in pursuance of this section, may empower such person to procure the emigration of the child or young person, but, except with such authority, no person to whose care a child or young person is so committed shall procure his emigration.

Emigration.

(7) Nothing in this section shall be construed as preventing the court, instead of making an order as respects a child under this section, from ordering the child to be sent to an Orphanage in any case in which the court is authorised to do so under Part III.

Orphanage.

Maintenance and control of child or young person committed to care of any person under order of court.

13. (1) Any person to whose care a child or young person is committed under this Part shall, whilst the order is in force, have the like control over the child or young person as if he were his parent, and shall be responsible for his maintenance, and the child or young person shall continue in the care of such person, notwithstanding that he is claimed by his parent or any other person; and if any person—

(a) knowingly assists or induces, directly or indirectly, a child or young person to escape from the person to whose care he is so committed; or

(b) knowingly harbours, conceals, or prevents from returning to such person, a child or young person who has so escaped, or knowingly assists in so doing,

he is liable, on summary conviction, to a fine of one thousand dollars or to imprisonment for two months.

Parent to contribute to maintenance.

(2) Any court having power so to commit a child or young person shall have power to make the like orders on the parent of or other person liable to maintain the child or young person to contribute to his maintenance during such period as aforesaid, and such orders shall be enforceable in like manner as if the child or young person were ordered to be sent to a certified school under Part III.

Payment of contributions.

(3) Any such order may be made on the complaint or application of the person to whose care the child or young person is for the time being committed, and either at the time when the order for the committal of the child or young person to his care is made, or subsequently; and the sums contributed by the parent or such other person shall be paid to such person as the court may name, and be applied for the maintenance of the child or young person.

No contributions by parent pending trial.

(4) Where an order under this Part to commit a child or young person to the care of some relative or other person is made in respect of a person who has been committed for trial for an offence, the court shall not have power to make an order under this section on the parent or other person liable to maintain the child or young person prior to the trial of the person so committed.

Attachment of pension or income.

(5) Any court making an order under this section for contribution by a parent or such other person may, in any case where there is any pension or income payable to such parent or other person and capable of being attached, after giving the person by whom the pension or income is payable an opportunity of being heard, further order that such part as the court may see fit of the

pension or income be attached and be paid to the person named by the court. Such further order shall be an authority to the person by whom such pension or other income is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first mentioned person.

(6) An order under this section may be made by any court before which a person is charged with an offence under this Part, and without regard to the place in which the person to whom the payment is ordered to be made may reside.

14. (1) In determining the person in whose care the child or young person shall be committed under this Part, the court shall endeavour to ascertain the religious persuasion to which the child or young person belongs, and shall, if possible, select a person of the same religious persuasion, or a person who gives such undertaking as seems to the court sufficient that the child or young person shall be brought up in accordance with its own religious persuasion, and such religious persuasion shall be specified in the order.

Religious persuasion of persons to whom child or young person is committed.

(2) In any case where the child or young person has been placed pursuant to any such order with a person who is not of the same religious persuasion as that to which the child or young person belongs, or who has not given such undertaking as aforesaid, the court which made the order, or any court of like jurisdiction, shall, on the application of any person in that behalf, and on its appearing that a fit person, who is of the same religious persuasion, or who will give such undertaking as aforesaid, is willing to undertake the care of the child or young person, make an order to secure his being placed with a person who either is of the same religious persuasion or gives such undertaking as aforesaid.

Transfer order.

(3) Where a child or young person has been placed with a person who gives such undertaking as aforesaid, and the undertaking is not observed, the child or young person is deemed to have been placed with a person not of the same religious persuasion as that to which the child belongs, as if no such undertaking had been given.

Transfer if undertaking not observed.

15. (1) If it appears to a Magistrate on complaint on oath laid by any person who, in the opinion of the Magistrate, is acting in the interests of a child or young person, that there is reasonable cause to suspect—

Warrant to search for or remove a child or young person.

- (a) that the child or young person has been or is being assaulted, ill-treated, or neglected in any place within the jurisdiction of the Magistrate, in a manner likely to cause the child or young person unnecessary suffering, or to be injurious to his health, or
- (b) that an offence under this Part, or any offence mentioned in the Schedule, has been or is being committed in respect of the child or young person,

Schedule.

the Magistrate may issue a warrant authorising any constable to search for such child or young person, and, if it is found that he has been or is being assaulted, ill-treated, or neglected in manner aforesaid, or that any such offence as aforesaid has been or is being committed in respect of the child or young person, to take him to and detain him in a place of safety until he can be brought before a Magistrate, or authorising any constable to remove the child or young person with or without search to a place of safety and detain him there until he can be brought before a Magistrate; and the Magistrate before whom the child or young person is brought may commit him to the care of a relative or other fit person in like manner as if the person in whose care he was had been committed for trial for an offence under this Part.

(2) A Magistrate issuing a warrant under this section may, by the same warrant, cause any person accused of any offence in respect of the child or young person to be apprehended and brought before a Magistrate, and proceedings to be taken against such person according to law.

Entry by force.

(3) Any constable authorised by warrant under this section to search for any child or young person, or to remove any child or young person with or without search, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove the child or young person therefrom.

Execution of warrant.

(4) Every warrant issued under this section shall be executed by a constable, who shall be accompanied by the person laying the information, if such person so desire, unless the Magistrate by whom the warrant is issued otherwise directs, and may also, if the Magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

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

Evidence and procedure

16. As respects proceedings against any person for an offence under this Part, or for any of the offences mentioned in the Schedule, Part II, of the Evidence Act shall apply.

Evidence of accused person. Schedule. Ch. 7:02.

17. (1) Where a Magistrate is satisfied by the evidence of a duly qualified medical practitioner that the attendance before a court of any child or young person, in respect of whom an offence under this Part or any of the offences mentioned in the Schedule, is alleged to have been committed, would involve serious danger to the life or health of the child or young person, the Magistrate may take in writing the deposition of the child or young person on oath, and shall thereupon subscribe the deposition and add thereto a statement of his reason for taking the deposition, and of the day when and place where the deposition was taken, and of the names of the persons (if any) present at the taking thereof.

Special power to take deposition.

Schedule.

(2) The Magistrate taking any such deposition shall transmit it with his statement—

Preservation of deposition.

- (a) if the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the court for trial at which the accused person has been committed; and
- (b) in any other case, to the Clerk of the Peace of the magisterial district in which the deposition has been taken;

and the Clerk of the Peace to whom any such deposition is transmitted shall preserve, file, and record the deposition.

18. Where, on the trial of any person on indictment for an offence of cruelty, or any of the offences mentioned in the Schedule, the court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the court of any child or young person in respect of whom the offence is alleged to have been committed would involve serious danger to the life or health of the child or young person, any deposition of the child or young person taken under the Indictable Offences (Preliminary Enquiry) Act, or under this Part of this Act, shall be admissible in evidence either for or against the accused person without further proof thereof—

Admission of deposition in evidence. Schedule.

Ch. 12:01.

- (a) if it purports to be signed by the Magistrate by or before whom it purports to be taken; and

- (b) if it is proved that reasonable notice of the intention to take the deposition has been served upon the person against whom it is proposed to use it as evidence, and that that person or his counsel or his solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the child or young person making the deposition.

Evidence of child of tender years.
Schedule.

19. (1) Subject to subsection (2), where, in any proceeding against any person for an offence under this Part, or for any of the offences mentioned in the Schedule, the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the Court understand the nature of an oath, the evidence of that child may be received though not given upon oath, if, in the opinion of the Court, the child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth; and the evidence of the child, though not given on oath, but otherwise taken and reduced into writing in accordance with the Indictable Offences (Preliminary Enquiry) Act, or of this Part of this Act, shall be deemed to be a deposition within the meaning of that Act and that Part respectively.

Ch. 12:01.

(2) For the purposes of this section—

- (a) a person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of subsection (1) and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused; and
- (b) any child, whose evidence is received as aforesaid and who wilfully gives false evidence under such circumstances that, if the evidence had been given on oath, he would have been guilty of perjury is, subject to this Act liable, on summary conviction, to be adjudged such punishment as might have been awarded had he been charged with perjury and the case dealt with summarily under section 95 of the Summary Courts Act.

Ch. 4:20.

Power to proceed in absence of child.
Schedule.

20. Where, in any proceedings with relation to an offence under this Part, or any of the offences mentioned in the Schedule, the court is satisfied that the attendance before the court of any child or young person in respect of whom the offence is alleged to

have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child or young person.

21. (1) Where a person is charged with committing an offence under this Part or any of the offences mentioned in the Schedule, in respect of two or more children or young persons, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty for each child or young person except upon separate informations.

Mode of charging offence and limitation of time. Schedule.

(2) The same information or summons may also charge any person as having the custody, charge, or care, alternatively or together, and may charge him with the offences of assault, ill-treatment, neglect, abandonment, or exposure, together or separately, and may charge him with committing all or any of these offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together, but when these offences are charged together, the person charged shall not be liable to a separate penalty for each.

Different offences may be charged, but only one penalty inflicted.

(3) A person shall not be summarily convicted of an offence under this Part, or of an offence mentioned in the Schedule, unless the offence was wholly or partly committed within six months before the information was laid; but, subject as aforesaid, evidence may be taken of acts constituting, or contributing to constitute, the offence, and committed at any previous time.

Limitation of time for prosecution. Schedule.

(4) When an offence under this Part or any offence mentioned in the Schedule, charged against any person is a continuous offence, it shall not be necessary to specify in the information, summons, or indictment, the date of the acts constituting the offence.

Continuous offence. Schedule.

Supplemental

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

Right of parent, etc., to administer punishment.

23. (1) In this Part, the expression "fit person," in relation to the care of any child or young person, includes any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children.

Interpretation. "Fit person".

(2) For the purposes of this Part—

Person liable
for
maintenance.

(a) any person who is the parent or legal guardian of a child or young person or who is legally liable to maintain a child or young person is presumed to have the custody of the child or young person, and, as between father and mother, the father shall not be deemed to have ceased to have the custody of the child or young person by reason only that he has deserted, or otherwise does not reside with, the mother and child or young person;

Person who has
charge of child.

(b) any person to whose charge a child or young person is committed by any person who has the custody of the child or young person is presumed to have charge of the child or young person; and

Person who has
care of child.

(c) any other person having actual possession or control of a child or young person is presumed to have the care of the child or young person.

PART II

JUVENILE SMOKING

Sale of tobacco
to children.

24. If any person sells to a person apparently under the age of sixteen years any cigarettes or cigarette papers, whether for his own use or not, he is liable, on summary conviction, in the case of a first offence to a fine of one hundred dollars, and in the case of a second offence to a fine of two hundred dollars, and in the case of a third or subsequent offence to a fine of four hundred dollars.

Forfeiture of
tobacco.

25. Any constable shall seize any cigarettes or cigarette papers in the possession of any person apparently under the age of sixteen whom he finds smoking in any street or public place, and any cigarettes or cigarette papers so seized shall be disposed of in such manner as the Commissioner of Police may direct, and such constable shall be authorised to search any boy so found smoking, but not a girl.

Automatic
machines for
sale of tobacco.

26. (1) Where it is shown to the satisfaction of a Magistrate, on the complaint of any person, that any automatic machine for the sale of cigarettes kept on any premises is being extensively used by children or young persons, the Magistrate may order the owner of the machine or the person on whose premises the machine is kept to take such precautions to prevent the machine

being so used as may be specified in the order, or, if necessary, to remove the machine, within such time as may be specified in the order.

(2) If any person against whom any such order has been made fails to comply with the order, he is liable, on summary conviction, to a fine of two hundred dollars, and to a further fine of forty dollars for each day during which the offence continues.

27. The provisions of this Part which make it an offence to sell cigarettes or cigarette papers, and which authorise the seizure of cigarettes and cigarette papers, shall not apply where the person to whom the cigarettes or cigarette papers are sold, or in whose possession they are found, was at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business. Exemptions.

28. (1) For the purposes of this Part, the expression "cigarette" includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking. Application of Part II. "Cigarette" defined.

(2) This Part shall apply to tobacco other than cigarettes in like manner as it applies to cigarettes, except that a person shall not be guilty of an offence for selling such other tobacco to a person apparently under the age of sixteen years if he did not know, and had no reason to suspect, that it was for the use of that person. Tobacco.

(3) This Part shall apply to smoking mixtures intended as a substitute for tobacco in like manner as it applies to cigarettes. Smoking mixtures.

PART III

INDUSTRIAL SCHOOLS AND ORPHANAGES

29. (1) For the purposes of this Part— Interpretation—Part III.

"certified school" means an Industrial School or Orphanage which is certified in accordance with the provisions of this Part;

"child," used in reference to a child ordered to be sent to a certified Orphanage or to be transferred from a certified Industrial School to a certified Orphanage, applies to that child during the whole period of detention, whether in the

Orphanage or out on licence, notwithstanding that the child attains the age of fourteen years before the expiration of that period;

“Industrial School” means a school for the industrial training of youthful offenders, in which youthful offenders are lodged, clothed, and fed, as well as taught;

“Inspector” means the Inspector of Industrial Schools and Orphanages appointed under this Part;

“Orphanage” means a school for the industrial training of children, in which children are lodged, clothed, and fed, as well as taught.

Managers of school.

(2) The persons for the time being having the management or control of a school shall be deemed the managers thereof for the purposes of this Part.

Government schools.

30. (1) Government Industrial Schools and Orphanages shall be established within Trinidad and Tobago and the provisions of this Part, with the exception of the provisions of sections 33 to 42 (both inclusive), shall apply to all such schools as if they were certified schools.

(2) The expense attendant upon the establishment, conduct, and maintenance of such schools shall be paid out of moneys provided by Parliament.

Appointment of Inspector.

31. (1) There shall be in the public service an Inspector of Industrial Schools and Orphanages.

(2) The Inspector shall perform all the duties imposed on him by this Part and shall be charged with the general superintendence of all schools established under this Part, or existing at the time of the commencement of this Act, and shall, in particular, from time to time inspect all Industrial Schools and Orphanages and shall make such reports and in such form as the Minister may from time to time direct.

Application of Act to certain schools and their inmates.

32. (1) The Industrial School and Orphanages known respectively as the Diego Martin Boys' Industrial School, the Belmont Girls' Industrial School, the Belmont Orphanage, and the Tacarigua Orphanage, shall be deemed to be certified schools within the meaning of this Part, and this Part shall apply to all such schools, and to youthful offenders and children detained in such schools.

(2) In any order in council, proclamation, bye-law, rule, or regulation, and in any legal document, made before 17th March 1925, references to a Reformatory School shall be deemed references to an Industrial School, and references to an Industrial School shall be deemed references to an Orphanage.

33. (1) The President may convey, lease, or otherwise assure land for the site of a school to be established under this Part to such persons or person as managers or manager, upon such terms and subject to such conditions and stipulations relative to reconveyance, forfeiture, and resumption of such land or otherwise as to him shall seem fit and proper.

Land for site of school.

(2) Upon the withdrawal of any certificate as hereinafter provided, the President or any person authorised by him may make entry upon and resume possession of all lands which may have been conveyed, leased, or otherwise assured to any person under this section, and of all buildings and erections thereon. Such entry upon and resumption of any such lands and buildings by the President or any person so authorised by him shall operate as a reconveyance or surrender thereof, as the case may be, to the State by the person to whom the same shall have been conveyed, leased, or otherwise assured; and such lands and buildings shall from that time onward become absolutely vested in the State.

Resumption of land.

Certification of schools

34. (1) The Minister may, upon the application of the managers of any Industrial School or Orphanage, direct the Inspector to examine into the condition and regulations of the school and its fitness for the reception of youthful offenders or children to be sent there under this Part, and to report to him thereon.

Certification of schools.

(2) The Minister, if satisfied with the report of the Inspector, may certify that the school is fit for the reception of youthful offenders or children to be sent there in pursuance of this Part.

35. (1) The Minister if dissatisfied with the condition, rules, management, or superintendence of a certified school, may, at any time, by notice served on the managers of the school, declare that the certificate of the school is withdrawn as from a time specified in the notice, being not less than six months after the date of the notice; and at that time the withdrawal of the certificate shall take effect, and the school shall cease to be a certified school.

Power of Minister to withdraw certificate.

(2) The Minister may, if he thinks fit, instead of withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of youthful offenders or children to the school for such time as may be specified in the notice or until the notice is revoked.

Resignation of certificate by managers.

36. The managers of a certified school may, on giving six months', and the executors or administrators of a deceased manager (if only one) of a certified school may, on giving one month's, notice in writing to the Minister of their intention so to do, resign the certificate for the school, and, accordingly, at the expiration of six months or one month (as the case may be) from the date of the notice (unless before that time the notice is withdrawn), the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or resignation of certificate.

37. A youthful offender or child shall not be received into a certified school in pursuance of this Part after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate for the school or after the date of a notice of resignation of the managers to teach, train, lodge, clothe, and feed any youthful offenders or children detained in the school at the respective dates aforesaid shall, except so far as the Minister otherwise directs, continue until the withdrawal or resignation of the certificate takes effect, or until the discontinuance of payments under rules made under this Part towards the expenses of the offenders and children detained in the school, whichever may first happen.

Disposal of inmates on withdrawal or resignation of certificate.

38. Where a school ceases to be a certified school, the youthful offenders or children detained therein shall be, by order of the Minister, either discharged or transferred to some other certified school in accordance with this Part relating to discharge and transfer.

Publication of grant, etc., of certificate.

39. A notice of the grant of a certificate to an Industrial School or Orphanage, or of withdrawal or resignation of such a certificate, shall within one month be published in the *Gazette*.

Duties and powers of managers

Liabilities of managers.

40. The managers of a certified Orphanage, though not of a certified Industrial School, may decline to receive any youthful

offender or child proposed to be sent to them in pursuance of this Part, but when the managers, whether of a certified Industrial School or Orphanage, have once accepted any such offender or child they shall be deemed to have undertaken to teach, train, lodge, clothe, and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate for the school, or until the discontinuance of payments under Rules made under this Part towards the expenses of the offenders or children detained in the school, as hereinafter provided, whichever may first happen.

41. The managers of a certified school may at any time, and shall, whenever so required by the Minister, make Rules for the management and discipline of the school, but the Rules so made shall in all cases be subject to approval by the Minister.

Power to make rules.

42. No substantial addition to or alteration in the buildings of a certified school shall be made without the approval in writing of the Minister.

Approval of alteration, etc., of buildings.

Mode of sending offenders and children to certified schools and their treatment therein

43. Where a youthful offender is charged before the High Court or before a Magistrate with an offence punishable in the case of an adult by imprisonment, and in the opinion of the Court before which he is charged such youthful offender is ten years of age or upwards but less than sixteen years of age, the Court, if satisfied on enquiry that it is expedient so to deal with the youthful offender, may order him to be sent to a certified Industrial School.

Commitment of offenders between 10 and 16 years of age to Industrial Schools.

44. (1) Any person may, without a warrant, bring before a Magistrate any person apparently under the age of fourteen years who—

Children liable to be sent to Orphanages. [17 of 1981].

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any street, premises or place for the purpose of so begging or receiving alms;
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship;

- (c) is found destitute, not being an orphan and having both parents or his surviving parent undergoing imprisonment;
- (d) has no parent, guardian, or other person able and willing to provide for or control him;
- (e) is under the care of a parent or guardian, who, by reason of criminal or drunken habits, is unfit to have the care of the child;
- (f) is the daughter of a father who has been convicted of an offence under section 34 or section 35 of the Offences against the Person Act, in respect of any of his daughters;
- (g) frequents the company of any reputed thief, or of any common or reputed prostitute; or
- (h) is lodging or residing in a house or the part of a house used by any prostitute for the purposes of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child;

Ch. 11:08.

and the Magistrate before whom a person is brought as coming within one of these descriptions, if satisfied on enquiry of that fact, and that it is expedient so to deal with him, may order him to be sent to a certified Orphanage; but a child shall not be treated as coming within the description contained on paragraph (g) if the only common or reputed prostitute whose company the child frequents is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

Detention of child under 10 years in Orphanage.

(2) Where a child apparently under the age of ten years is charged before the High Court or before a Magistrate with an offence punishable in the case of an adult by imprisonment or a less punishment, the Court, if satisfied on enquiry that it is expedient so to deal with the child, may order him to be sent to a certified Orphanage.

Child of ten or eleven years may be sent to Orphanage in lieu of Industrial School.

(3) Where a child, apparently of the age of ten or eleven years, who has not previously been convicted, is charged before a Magistrate with an offence punishable in the case of an adult by imprisonment or a less punishment, and the Magistrate is satisfied that the child should be sent to a certified school but, having regard to the special circumstances of the case, should not be sent to a certified Industrial School, and is also satisfied that the character and antecedents of the child are such that he will not

exercise an evil influence over the other children in a certified Orphanage, the Magistrate may order the child to be sent to a certified Orphanage, having previously ascertained that the managers are willing to receive the child; but where the Magistrate so orders the Minister may, on the application of the managers of the Orphanage, by order transfer the child to a certified Industrial School.

(4)(a) Where a parent or guardian of a child proves to a Magistrate that he is unable to control the child, and that he desires the child to be sent to an Orphanage under this Part, the Magistrate, if satisfied on enquiry that it is expedient so to deal with the child, and that the parent or guardian understands the results which will follow, may order him to be sent to a certified Orphanage.

Inability of parent to control child.

(b) However, if the Magistrate thinks that it is expedient that the child instead of being sent to a certified Orphanage should be placed under the supervision of a probation officer, the Magistrate may deal with him in like manner as, if he had been charged with an offence, the Magistrate might have dealt with him under the Probation of Offenders Act, so however that the recognisance on entering into which he is discharged shall bind him to appear for having a detention order made against him.

Probation in lieu of detention order.

Ch. 13:51.

(5) Where, under this section, a court is empowered to order a child to be sent to a certified Orphanage, the court, in lieu of ordering him to be so sent, may, in accordance with the provisions of Part I, make an order for the committal of the child to the care of a relative or other fit person named by the Court, and the provisions of that Part shall, so far as applicable, apply as if the order were an order under that Part.

Committal to care of relative.

45. Any person may bring before a Magistrate any person apparently of the age of fourteen or fifteen years so circumstanced that if he were a child he would come within one or other of the descriptions mentioned in section 44(1), and the Magistrate, if satisfied on enquiry of that fact and that it is expedient so to deal with him, may, in accordance with the provisions of Part I, make an order for his committal to the care of a relative or other

Committal of young person to care of relative or fit person in certain cases.

fit person named by the Magistrate, and the provisions of that Part shall, so far as applicable, apply as if the order were an order under that Part.

In such cases, young persons may be placed under supervision of probation officer. [40 of 1961]. Ch. 13:51.

46. Where, under the provisions of this Part, an order is made for the committal of a child or young person to the care of a relative or other fit person named by the Court, the Court may, in addition to such order, make an order under the Probation of Offenders Act that the child or young person be placed under the supervision of a welfare officer (probation) provided that the recognisance into which the child, if not charged with an offence, or the young person is required to enter, shall bind him to appear and submit to the further order of the Court.

Operation of order may be deferred.

47. An order of a Court ordering a youthful offender or child to be sent to and detained in a certified school (in this Act referred to as a detention order) may, if the Court thinks fit, be made to take effect either immediately or at any later date specified therein, regard being had to the age or health of the youthful offender or child.

Choice of school.

48. (1) The school to which a youthful offender or child is to be sent under a detention order shall be such school as may be specified in the order, being, in the case of a certified Orphanage, some school the managers of which are willing to receive the youthful offender or child.

(2) Pending the receipt of the approval or direction of the Minister, where required under this Part, the youthful offender or child in respect of whom a detention order has been made, by direction of the Court by which such order was made, be detained either in a place of detention or in the custody of any person named by the Court, and the provisions of this Part with respect to the detention of youthful offenders or children under a detention order shall apply to an offender or child directed to be detained as aforesaid.

Conveyance to school.

49. (1) The person by whom any youthful offender or child ordered to be sent to a certified school is detained shall, at the appointed time, deliver him into the custody of the constable responsible for his conveyance to school, who shall deliver him to the superintendent or other person in charge of the school in which he is to be detained, together with the order or other document in pursuance of which the offender or child was detained and is sent to the school.

(2) The detention order in pursuance of which the youthful offender or child is sent to a certified school shall be a sufficient authority for his conveyance to and detention in the school, or any other school to which he is transferred under this Part.

Detention order effective on transfer.

50. The detention order shall specify the time for which the youthful offender or child is to be detained in the school, being—

Period of detention.

(a) in the case of a youthful offender sent to an Industrial School, until such offender attains the age of eighteen years. However, the court may, if it thinks fit, on the application of the managers of a certified Industrial School and with the consent of such offender, make an order extending the time of detention in the case of a female until she attains the age of twenty-one years; and

(b) in the case of a child sent to an Orphanage, until such child attains the age of sixteen years. However, the court may, if it thinks fit, on the application of the managers of a certified Orphanage and with the consent of such child, make an order extending the time of detention in the case of a male until he attains the age of eighteen years and in the case of a female until she attains the age of twenty-one years.

51. (1) The High Court or a Magistrate, in determining the school to which a youthful offender or child is to be sent, shall endeavour to ascertain the religious persuasion to which the offender or child belongs, and the detention order shall, where practicable, specify the religious persuasion to which the offender or child appears to belong, and a school conducted in accordance with that persuasion shall, where practicable, be selected.

Provision as to religious persuasion.

(2) In all cases in which the religion of the parents or guardians of any youthful offender or child is not known, such offender or child shall be deemed to belong to that religious persuasion in which he shall appear to have been baptized, or of which he shall profess to be a follower.

Presumption as to religious persuasion.

(3) Where an order has been made for sending a youthful offender or child to a certified school which is not conducted in accordance with the religious persuasion to which the offender or child belongs, the parent, step-parent, or guardian, or, if there be no parent, step-parent, or guardian, then the god-parent or nearest adult relative may apply—

Order to remove.

(a) if the detention order was made by a Magistrate, then to such Magistrate, and

(b) in any other case, to the Minister,

to remove or send the offender or child to a certified school conducted in accordance with the offender's or child's religious persuasion, and the Magistrate or Minister, as the case may be, shall, on proof of the offender's or child's religious persuasion, comply with the request of the applicant.

Application within thirty days.

(4) For the purposes of subsection (3)—

(a) the application must be made before the offender or child has been sent to a certified school, or within thirty days after his arrival at the school;

(b) the applicant must show to the satisfaction of the Magistrate or Minister that the managers of the school named by him are willing to receive the offender or child.

(5) Nothing in subsection (4) shall be construed as preventing any such person as mentioned above from making an application to the Minister after the expiration of the said period of thirty days to exercise the powers of transfer conferred upon him by the other provisions of this Act.

When no school conducted according to religion of offender or child.

52. If there is no school in Trinidad and Tobago conducted in accordance with the religious persuasion of any youthful offender or child, and the High Court or Magistrate is by reason thereof unable to choose a school, then and in such case the youthful offender or child shall be sent to such school as the Minister may direct, or as may be prescribed for such cases by rules made under the authority of this Part.

Exemption from religious instruction, etc.

53. The parent or guardian, or if there is no parent or guardian, then the god-parent or nearest adult relative, of any youthful offender or child directed to be sent to a school which is not conducted according to the religious persuasion of the youthful offender or child, may claim, by notice in writing addressed to the managers of the school, the exemption of the youthful offender or child from attending prayer, or religious worship, or from any lesson or series of lessons on a religious subject, and the youthful offender or child shall be exempted accordingly.

Manager to submit notice claiming exemption to Inspector.

54. It shall be the duty of the managers to submit such notice to the Inspector for his information and guidance, and the managers shall, in every such case, make proper provision for enabling any

such youthful offender or child to attend divine worship at his church or place of worship and to receive religious instruction according to the doctrines or formularies of the denomination, church, or sect to which he may belong.

55. (1) If the managers of any school permit or suffer any youthful offender or child to attend prayer or religious worship, or to be taught any particular religious doctrine, from the attendance at which, or from the teaching of which, any exemption has been claimed by notice as provided in section 53, the Inspector shall make full enquiry into the matter and report thereon to the Minister.

Inspector to report to Minister when exemption not observed.

(2) The Minister may on such report, if he thinks fit, order the youthful offender or child to be transferred to some other school.

Minister on report may transfer offender.

56. (1) When a youthful offender or child is detained in a certified school, the managers of the school may at any time, with the consent of the Minister, by licence, permit the offender or child to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him.

Placing out on licence.

(2) Any licence so granted shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

Forfeiture of licence.

(3) The managers of the school may at any time, by order in writing made with the approval of the Minister, revoke any such licence, and order the offender or child to return to the school.

Revocation of licence.

(4) Any youthful offender or child escaping from the person with whom he is placed in pursuance of this section, or refusing to return to the school when required to do so on the revocation or forfeiture of his licence, is liable to the same penalty as if he had escaped from the school itself.

Escape.

(5) The time during which a youthful offender or child is absent from a certified school in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school; but where a youthful offender or child has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

Licence period to be deemed part of time of detention.

(6) Where a licence has been revoked or forfeited, and the youthful offender or child refuses or fails to return to the school, a

Parent may be summoned to produce child.

Magistrate, if satisfied by complaint on oath that there is reasonable ground for believing that his parent or guardian could produce the youthful offender or child, may issue a summons requiring the parent or guardian to attend before him on such day as may be specified in the summons, and to produce the child, and if he fails to do so without reasonable excuse he is, in addition to any other liability to which he may be subject under this Part, liable on summary conviction to a fine of forty dollars.

Discharge and transfer.

57. (1) The Minister may at any time order a youthful offender or a child to be discharged from a certified school, either absolutely or on such conditions as the Minister approves, and may, where the order of discharge is conditional, revoke the order on the breach of any of the conditions on which it was granted; and thereupon the youthful offender or child shall return to the school, and if he fails to do so he and any person who knowingly harbours or conceals him or prevents him from returning to school is liable to the same penalty as if the youthful offender or child had escaped from the school.

Transfer orders.

(2) The Minister may order—

- (a) a youthful offender or child to be transferred from one certified Industrial School to another or from one certified Orphanage to another;
- (b) a youthful offender under the age of fourteen years detained in a certified Industrial School to be transferred to a certified Orphanage;
- (c) a child over the age of twelve years detained in a certified Orphanage, who is found to be exercising an evil influence over the other children in the school, to be transferred to a certified Industrial School;

but the whole period of detention of the offender or child shall not be increased by the transfer, and where the school to which a child is ordered to be transferred is a certified Orphanage, the order shall have no effect unless the managers signify their willingness to receive the child.

Transfer for medical treatment.

(3) The Minister may, by writing under his hand, order a youthful offender or child detained in a certified school to be transferred for medical treatment and care to a hospital or asylum, upon such terms and conditions and for such period as shall seem proper. When the Chief Medical Attendant of any hospital or asylum certifies under his hand to the Minister that any such youthful offender or child is in a fit state to be dis-

charged therefrom, the Minister shall, by writing under his hand, order such youthful offender or child to be sent back to the certified school from which he was originally transferred, there to be detained until completion of his unexpired term in such school.

(4) If the youthful offender or child fails to return to the school as mentioned in subsection (3), he and any person who knowingly harbours or conceals him or prevents him from returning to school is liable to the same penalty as if the youthful offender or child had escaped from the school.

Failure to return to school.

58. (1) Where a person who has been sent to a certified Industrial School, is, either while at the school or after his discharge from the school, convicted, whether on indictment or summarily, of an offence for which he can, or could were he an adult, be sentenced to imprisonment without the option of a fine, and is, in the opinion of the court before which he is charged, not more than seventeen years of age, the court may, in addition to or in lieu of sentencing him according to law to any other punishment, order that he be again sent to a certified Industrial School for any period not less than one year nor more than five years, but not in any case extending beyond the date on which such person will, in the opinion of the court, attain the age of eighteen years.

Re-committal to Industrial School.

(2) A person ordered to be sent to a certified Industrial School shall not in addition be sentenced to imprisonment.

59. The Minister may, if he thinks fit, at any time order a person sentenced to imprisonment, who, in the opinion of the Minister, is under the age of seventeen years, to be transferred from prison to a certified Industrial School and there to be detained for any period not less than one year nor more than five years, but not in any case extending beyond the date on which such person will, in the opinion of the Minister, attain the age of eighteen years.

Transfer from prison to an Industrial School.

60. The managers of a certified school may, if a youthful offender or child detained in or placed out on licence from such certified school has conducted himself well for at least twelve months, bind such youthful offender or child, provided he is over thirteen years of age and consents thereto, as an apprentice to any trade, calling, or service, for such term, in such form, and under such conditions as are approved of by the Minister, notwithstanding that the period of detention of such youthful offender or child has not expired, and the apprenticing shall be valid and effectual to all intents as if the managers were his parents. No such term of

Power to apprentice.

apprenticeship shall continue for a longer period than five years or beyond the day when the apprentice attains the age of twenty-one years in the case of a youthful offender, or, in the case of a child, of eighteen years.

Offences in relation to certified schools and apprentices

Refusal to conform to rules.

61. (1) If a youthful offender detained in a certified Industrial School is guilty of a serious and wilful breach of the rules of the school, or of inciting other inmates of the school to such a breach, he is liable, on summary conviction, to have the period of his detention in the school increased by such period not exceeding six months as the Magistrate directs, or, if of the age of sixteen years or upwards, to be imprisoned for three months; and if sentenced to imprisonment he shall, at the expiration of the term thereof, be brought back to the school, there to be detained during a period equal to so much of his period of detention as remained unexpired at the time of his being sent to prison.

(2) If a child of the age of twelve years or upwards detained in a certified Orphanage is guilty of a serious and wilful breach of the rules of the school, or of inciting other inmates of the school to such a breach, he is liable, on summary conviction, to be sent to a certified Industrial School, and to be there detained subject and according to the provisions of this Part.

(3) A period of detention may be increased in pursuance of this section notwithstanding that the period as so increased will extend beyond the limits imposed by this Part.

Escaping from Industrial School.

62. (1) If a youthful offender detained in a certified Industrial School escapes from the school, he may, at any time before the expiration of his period of detention, be apprehended without warrant, and may be then brought before a Magistrate; and he shall be liable, on conviction, to be brought back to the school from which he escaped and to have the period of his detention therein increased by such period, not exceeding six months, as the Magistrate directs, or, if of the age of sixteen years or upwards, to be imprisoned for three months; and if sentenced to imprisonment he shall, at the expiration of the term thereof, be brought back to the school.

Escaping from Orphanage.

(2) If a child detained in a certified Orphanage escapes therefrom, he may, at any time before the expiration of his period of detention, be apprehended without warrant, and may be then

brought before a Magistrate; and he shall be liable, on conviction, to be brought back to the Orphanage from which he escaped, or, if of the age of twelve years or upwards, to be sent to a certified Industrial School, and to be there detained subject and according to the provisions of this Part.

(3) In computing the time during which a youthful offender or child, who, having escaped, is brought back to a certified school, is thereafter liable to be detained in that school, the time during which he was absent from the school, including the time (if any) during which he was imprisoned under this section, shall not be reckoned as part of the period of detention.

Period of
escape not
reckoned in
period of
detention.

(4) Where the period for which a youthful offender or child, on being brought back to the school from which he escaped, is liable to be detained therein would, by virtue of this section, whether on account of any increase in the period of detention or otherwise, extend beyond the limits imposed by this Part, the youthful offender or child may, notwithstanding anything in this Part, be detained in the school in accordance with this section.

Detention
beyond
limitation
period.

(5) If any person—

- (a) knowingly assists or induces, directly or indirectly, an offender or child detained in or placed out on licence from a certified school to escape from the school or from any person with whom he is placed out on licence, or
- (b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on licence, an offender or child who has so escaped, or knowingly assists in so doing,

Assisting to
escape and
harbouring, etc.

he is liable, on summary conviction, to a fine of one thousand five hundred dollars or to imprisonment for three months.

63. If any youthful offender or child apprenticed under this Part, wilfully neglects or refuses to conform to the terms and conditions of his apprenticeship, or quits his master's service without the leave of his master, he is liable, on summary conviction, to be sent back to the school from which he came, there to be detained during a period equal to so much of his term of apprenticeship as remains unexpired at the time of committing the offence; or the Magistrate may order him to be sent to an Industrial School, there to be detained for an equal period; and every apprentice absent without leave from his master's service may be arrested without a warrant by any constable.

Offences by
apprentice.

Offences by
masters.

64. Where a master is made liable by law or by contract to provide his apprentice with good and sufficient food, lodging, and clothing, and with medical care and attendance when ill, and to procure the regular attendance of the apprentice at the place of worship of the religious denomination in which he has been brought up, and to send the apprentice to the office of the Inspector, and to allow the Inspector to visit the apprentice at his residence, and the master wilfully and without lawful excuse refuses or neglects to provide such good and sufficient food, lodging, clothing, and medical care and attendance, whereby the health of the apprentice is or is likely to be seriously or permanently injured, or wilfully and without lawful excuse refuses or neglects to procure the attendance of the apprentice at a place of worship, or to send the apprentice to the Inspector, or to allow the Inspector to visit the apprentice, or to comply with any condition in respect of the apprentice for which such master is by law or by contract made liable, the master is liable on summary conviction to a fine of one thousand dollars, or to imprisonment for six months.

Contributions by parents

Contributions
by parents.
[15 of 1981/
17 of 1981].

65. (1) The parent or other person legally liable to maintain a youthful offender or child ordered to be sent to or detained in a certified school shall, if able to do so, contribute to his maintenance therein a sum not exceeding the cost of maintenance of such youthful offender or child in the school at the rate from time to time prescribed.

For the purposes of this section, the term "parent" includes the father of a child born out of wedlock.

(2) A Magistrate may, upon the hearing of the complaint, as hereinafter provided, against any person in respect of the maintenance of any child, if it is alleged in the complaint that he is the father of such child, make a paternity order against him in accordance with section 22 of the Family Law (Guardianship, Domicile and Maintenance) Act; and a Magistrate making an order under this section may direct that any amount payable under the said Family Law (Guardianship, Domicile and Maintenance) Act, shall for the future be paid to the Inspector and to the extent thereof be applied towards the payment of the amount ordered to be paid under this Part.

Ch. 46:08.

Order of Court.

(3)(a) The court by which a detention order is made shall, at the time of making that order, unless

it considers that it is not in possession of the necessary information; and

- (b) any Magistrate may, on complaint being made by or at the instance of the Inspector, at any time whilst the youthful offender or child is detained in the school,

make an order on such parent or other person for the payment to the Inspector of such weekly sum, as, having regard to the ability of the parent or other person, seems reasonable during the whole or any part of the time for which the youthful offender or child is liable to be detained in the school.

(4) If the court making the detention order is the High Court, then that court may, if it thinks fit, remit the case to the Magistrate of the district in which the youthful offender or child was committed for trial, for the purpose of making an order under this section, and, upon the case being so remitted, the Magistrate shall have power to make any such order under this section as the High Court might have made.

(5) Every such order may specify the time during which the payment is to be made, or may direct the payment to be made until further order.

(6) Any order made under this section may, on application being made either by the person on whom the order is made or by or at the instance of the Inspector, and on fourteen days' notice of such application being given to the Inspector or person on whom the order was made, be varied by any court which would have had power to make the order.

Variation of order.

(7) An order made under this section shall be binding on the person on whom it is made. However, if that person was not summoned to attend the sitting of the Court at which the order was made, the order shall be served on him, and shall be binding on him unless he makes an application against it within three weeks from the date of such service to the court by which the order was made, on the ground either that he is not liable to maintain the youthful offender or child, or that he is unable to contribute the sum specified in the order, and, on any such application being made, the court may confirm the order with or without modifications or may rescind it.

Order binding.

Application to modify or rescind.

(8) Where a parent or other person has been ordered under this section to contribute to the maintenance of a youthful offender or child, he shall give notice of any

Change of address of parent.

change of address to the Inspector, and if he fails to do so without reasonable excuse he is liable, on summary conviction, to a fine of one hundred dollars.

(9) All sums received under this section shall be paid to the Comptroller of Accounts.

Remission of contributions.

(10) The Minister may, in his discretion, remit wholly or partially any payment ordered to be made under this section.

(11) A constable, if so required by the Inspector, shall take proceedings under this section on behalf of the Inspector.

Contribution by person other than parent.

(12) Where there is some person, other than the parent, liable to maintain a youthful offender or child, an order under this section may be made on that person notwithstanding that there may be also a parent.

Attachment of pension or income.

(13) Any court making an order under this section for contribution by a parent or other such person may, in any case where there is any pension or income payable to such parent or other person and capable of being attached, after giving the person by whom the pension or income is payable an opportunity of being heard, further order that such part as the court may see fit of the pension or income be attached and be paid to the person named by the court. Such further order shall be an authority to the person by whom such pension or other income is payable to make the payment so ordered, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to such first named person.

Enforcement of payment of contributions.

(14) All sums of money ordered to be paid under this section may be recovered summarily by distress and sale of the goods and chattels of the person upon whom such order is made, and in case no sufficient distress is found, such person may be imprisoned, with or without hard labour, for any term not exceeding two months.

Supplemental provisions

Power to send offenders conditionally pardoned to Industrial School. [136/1976].

66. Where a youthful offender has been sentenced to imprisonment, and has been pardoned by the President on condition of his placing himself under the care of some charitable institution for the reception and reformation of youthful offenders, the Minister may direct him, if under the age of sixteen years, to be sent to a certified Industrial School for a period of not less than three and not more than five years, but not in any case extending beyond the time when he will, in the opinion of the Minister,

attain the age of eighteen years; and thereupon the youthful offender shall be subject to all the provisions of this Part as if he had been originally sentenced to detention in a certified Industrial School.

67. Every person authorised by the managers of a certified school to take charge of any youthful offender or child ordered to be detained under this Part for the purpose of conveying him to or from the school, or of apprehending and bringing him back to the school in case of his escape or refusal to return, shall, for that purpose and while engaged in that duty, have all the powers, protection, and privileges of a constable.

Persons in charge of youthful offenders to have powers of constable.

68. (1) An order or other act of the Minister under this Part may be signified under the hand of the Minister.

Orders and notices.
[16 of 1962].

(2) An order or other act of the managers of a certified school under this Part may be signified under the hands of the managers or their secretary or clerk.

(3) Any notice may be served on the managers of a certified school by being delivered personally to any one of them, or by being sent by post or otherwise, in a letter addressed to them or any of them at the school, or at the usual or last known place of abode of any of the managers or of their secretary or clerk.

(4) No summons issued, notice given, or order made for the purpose of carrying into effect the provisions of this Part shall be invalidated for want of form only.

69. (1) The production of the *Gazette* containing a notice of the grant, or of the withdrawal or resignation, of a certificate to a certified school shall be sufficient evidence of the fact of a certificate having been duly granted to the school named in the notice, or of the withdrawal or resignation of such a certificate.

Rules respecting evidence of documents.

(2) The grant of a certificate to a certified school may also be proved by the production of the certificate itself, or of a document purporting to be a copy of the certificate and to be attested as such by the Inspector.

(3) A certificate purporting to be signed by one of the managers of a certified school, or by their secretary or clerk, or by the superintendent or other person in charge of the school, to the effect that the youthful offender or child therein named was duly received into, and is at the date of the signing thereof detained in, the school, or has been otherwise dealt with according to law, shall be evidence of the matters therein stated.

(4) An instrument purporting to be an order of a court under this Part and to be signed by the person constituting the court which made the order, or purporting to be a copy of such an order, and to be certified as such a copy by the clerk to that court, shall be evidence of the order.

(5) A copy of the rules purporting to be the rules of a certified school, and to be signed by the Inspector, shall be evidence of the rules of that school.

(6) A certificate purporting to be under the hand of the Inspector stating that any sum due from a parent or other person for the maintenance of a child or young person is overdue and unpaid, shall be evidence of the facts stated therein.

(7) A school to which any youthful offender or child is directed to be sent in pursuance of this Part shall, until the contrary is proved, be deemed to be a certified school.

Rules.

70. (1) The Minister may, for the purposes of this Part, make rules with respect to the following matters, that is to say:

- (a) as to the management and discipline of any certified school or place of detention, and to prescribe the punishment for all offences against the rules or discipline of any certified school or place of detention;
- (b) to determine the sums or allowances to be from time to time paid or made out of moneys provided by Parliament for the upkeep and the expenses incidental thereto of any certified school or place of detention;
- (c) as to the allowances to be from time to time made out of moneys provided by Parliament for the maintenance and support of children and youthful offenders detained in any certified school or place of detention, including the expenses of removal in the case of any child or offender ordered to be transferred from one school to another and the expenses attendant upon dealing with children or offenders under the provisions of this Part;
- (d) as to all such other matters and things as may appear necessary or expedient for effectually carrying into operation the provisions of this Part or as to which specific authority is given in this Act to make rules.

However, no offender who is punished in pursuance of such rules is liable to be punished under section 61.

(2) All such rules shall be subject to affirmative resolution of Parliament and when so affirmed shall have the same force and effect as if they were contained in this Act.

Approval by Parliament.

(3) The Minister may also prescribe the forms to be used for the purposes of this Part and all such forms so prescribed shall be published in the *Gazette*.

Forms.

PART IV

JUVENILE OFFENDERS

71. Where a person apparently under the age of sixteen years is apprehended with or without warrant, and cannot be brought forthwith before a Magistrate, the officer in charge of the Police Station to which such person is brought shall enquire into the case and may in any case, and shall—

Bail of children and young persons arrested.

- (a) unless the charge is one of homicide or other grave crime;
- (b) unless it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute;
- (c) unless the officer has reason to believe that the release of such person would defeat the ends of justice,

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

72. Where a person apparently under the age of sixteen years having been apprehended is not so released as aforesaid, the officer in charge of the Police Station to which such person is brought shall cause him to be detained in a place of detention provided under this Part until he can be brought before a Magistrate, unless the officer certifies—

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

- (a) that it is impracticable to do so;
- (b) that he is of so unruly a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and the certificate shall be produced to the Magistrate before whom the person is brought.

Association with adults during detention in Police Station.

73. The Commissioner of Police shall make arrangements for preventing, so far as practicable, a child or young person while being detained in a Police Station from associating with an adult, other than a relative, charged with an offence.

Remand or committal to custody in place of detention.

74. (1) A Magistrate, on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a place of detention provided under this Part and named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law. However, in the case of a young person, it shall not be obligatory on the Magistrate so to commit him if the Magistrate certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

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

Attendance before Magistrate of parent of child or young person charged with an offence, etc.

75. (1) Where a child or young person is charged with any offence, or where a child is brought before a Magistrate on an application for an order to send him to a certified Orphanage, his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance and the person so charged or brought before the Magistrate is a child, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

Parent of arrested child to be warned to attend court.

(2) Where the child or young person is arrested, the constable by whom he is arrested or the officer in charge of the Police Station to which he is brought shall cause the parent or guardian of the child or young person, if he can be found, to be warned to attend at the court before which the child or young person will appear.

Enforcing attendance of parent.

(3) Where a child or young person is arrested or charged with any offence, or where an application is made to a Magistrate for an order to send a child to a certified Orphanage, a summons or warrant may be issued by a Magistrate to enforce the attendance of the parent or guardian for the purpose of enabling such

parent or guardian to take part in the proceedings and enabling orders to be made against him, in the same manner as if a complaint were made upon which a summons or warrant could be issued against a defendant under the Summary Courts Act, and a summons to the child or young person may include a summons to the parent or guardian to enforce his attendance for the said purpose.

Ch. 4:20.

(4) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person; but if that person is not the father, the attendance of the father may also be required.

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

No attendance if child removed from custody of parent.

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

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

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

Security for good behaviour of child.

(3) Where a Magistrate thinks that a charge against a child or young person is proved, he may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

Order on parent without conviction of child.

(4) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made

Order though parent fails to attend.

without giving the parent or guardian an opportunity of being heard.

Sums recoverable from parent by distress.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

Limitation of costs.

77. Where a child or young person is himself ordered by a Magistrate to pay costs in addition to a fine, the amount of the costs so ordered to be paid shall in no case exceed the amount of the fine, and (except so far as the Magistrate may think fit expressly to order otherwise) all fees payable or paid by the complainant in excess of the amount of costs so ordered to be paid shall be remitted or repaid to him, and the Magistrate may also order the fine or any part thereof to be paid to the complainant in or towards the payment of his costs.

Restrictions on punishment of children and young persons.

78. (1) A child shall not be sentenced to imprisonment for any offence or committed to prison in default of payment of a fine, damages, or costs.

(2) A young person shall not be sentenced to imprisonment for any offence.

(3) A young person shall not be sentenced to imprisonment for an offence or committed to prison in default of payment of a fine, damages, or costs, unless the court certifies that the young person is of so unruly a character that he cannot be detained in a place of detention provided under this Part, or that he is of so depraved a character that he is not a fit person to be so detained.

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

Abolition of death sentence in case of person under eighteen.
[6 of 1953].

79. Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of eighteen years; but in lieu thereof the court shall sentence him to be detained during the State's pleasure, and, if so sentenced, he shall be liable to be detained in such place and under such conditions as the Minister may direct, and whilst so detained shall be deemed to be in legal custody.

80. Where a child or young person is convicted on indictment of an attempt to murder, or of manslaughter, or of wounding with intent to do grievous bodily harm, and the court is of opinion that no punishment which, under the provisions of this Act, it is authorised to inflict is sufficient, the court may sentence the offender to be detained for such period as may be specified in the sentence; and, where such a sentence is passed, the child or young person shall, during that period, notwithstanding anything in the other provisions of this Act, be liable to be detained in such place and on such conditions as the Minister may direct, and whilst so detained shall be deemed to be in legal custody.

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

81. (1) A person in detention pursuant to the directions of the Minister under sections 79 and 80 may, at any time, be discharged by the Minister on licence.

Provisions as to discharge of children and young persons detained in accordance with directions of Minister.

(2) A licence may be in such form and may contain such conditions as the Minister may direct.

(3) A licence may at any time be revoked or varied by the Minister, and, where a licence has been revoked, the person to whom the licence related shall return to such place as the Minister may direct, and if he fails to do so may be apprehended without warrant and taken to that place.

82. Where a child or young person is convicted of an offence punishable, in the case of an adult, with imprisonment, or would, if he were an adult, be liable to be imprisoned in default of payment of any fine, damages, or costs, and the court considers that none of the other methods in which the case may legally be dealt with is suitable, the court may, in lieu of sentencing him to imprisonment or committing him to prison, order that he be committed to custody in a place of detention provided under this Part and named in the order, for such term as may be specified in the order, not exceeding the term for which he might, but for this Part, be sentenced to imprisonment or committed to prison, nor in any case exceeding one month.

Substitution of custody in place of detention for imprisonment.

83. Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with, namely, whether—

Methods of dealing with children and young persons charged with offences. [40 of 1961].

(a) by dismissing the charge;

(b) by discharging the offender on his entering into a recognisance;

- (c) by so discharging the offender and placing him under the supervision of a welfare officer (probation);
- (d) by committing the offender to the care of a relative or other fit person;
- (e) by sending the offender to an Industrial School;
- (f) by sending the offender to an Orphanage;
- (g) by ordering the offender to be whipped;
- (h) by ordering the offender to pay a fine, damages, or costs;
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs;
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour;
- (k) by committing the offender to custody in a place of detention provided under this Part;
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may legally be dealt with.

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

Provision of
places of
detention.

84. (1) The Commissioner of Police shall provide such places of detention for each magisterial district as may be required for the purposes of this Act; but nothing shall prevent the same place of detention being provided for two or more magisterial districts.

(2) If more than one place of detention is provided for any magisterial district, the Commissioner may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided and another place for the other purposes.

(3) The authority or persons responsible for the management of any institution other than a prison, whether supported out of public funds or by voluntary contributions, but subject in the case of an institution supported out of public funds to the approval of the Minister, may agree with the Commissioner for the use of the institution or any part thereof as a place of detention on such terms as may be agreed upon between them and the Commissioner.

(4) In selecting the place of detention to which a child or

young person is to be committed, the court or police officer shall have regard, where practicable, to the religious persuasion of the child or young person.

(5) Where it is intended to bring a person before a Magistrate as coming, or as being a person who, if a child, would come, within one of the descriptions mentioned in section 44 (1), and it is necessary that accommodation should be temporarily provided for him, a place of detention may be used for his accommodation until he can be brought before a Magistrate in like manner as if he had been apprehended.

85. (1) The order of judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Part shall be delivered with the child or young person to the person in charge of the place of detention, and shall be a sufficient authority for his detention in that place in accordance with the tenor thereof.

Provisions as to custody of children and young persons in places of detention.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody, and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(3) The Minister shall cause places of detention provided under this Part to be inspected, and may make rules as to the places to be used as places of detention, and as to their inspection, and as to the classification, treatment, employment, and control of children and young persons detained in custody in a place of detention provided under this Part, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with those rules.

86. The expenses incurred by the Commissioner of Police in respect of any place of detention provided by him, including the expenses of the maintenance of any child or young person detained therein, whether detained on apprehension or committed to custody on remand or commitment for trial or in lieu of imprisonment or in default of payment of a fine, damages, or costs, shall be defrayed out of such moneys as are from time to time provided by Parliament.

Expenses of maintenance of child or young person.

87. (1) A Magistrate, when hearing charges against children or young persons, or when hearing applications relating to a child or young person at which the attendance of the child or young per-

Juvenile courts.

son is required, shall, unless the child or young person is charged jointly with any other person not being a child or young person, sit either in a different building or room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings are held, and a Magistrate's court so sitting is in this Act referred to as a Juvenile court.

(2) Where, in the course of any proceedings in a Juvenile court, it appears to the court that the person charged or to whom the proceedings relate is of the age of sixteen years or upwards, or where, in the course of any other proceedings before a Magistrate, it appears that the person charged or to whom the proceedings relate is under the age of sixteen years, nothing in this section shall be construed as preventing the court, if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

(3) Provision shall be made for preventing persons apparently under the age of sixteen years whilst being conveyed to or from court, or whilst waiting before or after their attendance in court, from associating with adults charged with any offence other than an offence with which the person apparently under the age of sixteen years is jointly charged.

(4) In a Juvenile court no persons other than the Magistrate and officers of the court and the parties to the case, their solicitors and counsel, and other persons directly concerned in the case, shall, except by leave of the Magistrate, be allowed to attend; but *bona fide* representatives of a newspaper shall not be excluded except by special order of the court.

(5) No person shall publish the name, address, school, photograph or anything likely to lead to the identification of the child or young person before the court, save with the permission of the court or in so far as required by this Act. Any person who contravenes this subsection is liable, on summary conviction, to a fine of four hundred dollars.

PART V

RESTRICTIONS ON EMPLOYMENT OF YOUNG PERSONS

88. (1) In this Part—

“certified Industrial School” and “certified Orphanage” have the meanings assigned to these terms in Part III of this Act;

“employ” and “employment” include employment in any labour exercised by way of trade or for the purposes of gain, whether the gain be to the child or to any other person;

“industrial undertaking” includes particularly—

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including ship-building, and the generation, transformation, and transmission of electricity and motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gaswork, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure;
- (d) transport of passengers or goods by road or rail or inland waterway, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand;

“night” signifies a period of at least eleven consecutive hours, including the interval between ten o’clock in the evening and five o’clock in the morning.

(2) This Part shall not apply to children employed in factories as defined in the Factories Ordinance. Ch. 30 No. 2.
(1950 Ed.)

89. The President may by Order define the line of division which separates industry from commerce and agriculture, and declare any particular undertaking to be an industrial undertaking for the purposes of this Part. President may
define industrial
undertakings.

90. (1) Any employer who employs a person under the age of eighteen years at night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the family of the proprietor or owner are employed, and other than as provided in subsection (2), is guilty of an offence. Restrictions on
employment at
night of persons
under eighteen
years.

(2) Persons over the age of sixteen years may be employed

during the night in the following industrial undertakings on work which by reason of the nature of the process, is required to be carried on continuously day and night:

- (a) manufacture of raw sugar; and
- (b) any other undertaking which may be declared to come under the exception created by this subsection by Order of the President.

Restrictions on employment of children under fourteen years.

91. (1) Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed; and any person who employs any such child or permits him to work in contravention of this section is guilty of an offence.

(2) This section shall not apply to work done by any child under the age of fourteen years who is under order of detention in a certified Industrial School or certified Orphanage or who is receiving instruction in manual labour in any school supervised by public authority.

Employer to keep register of persons under sixteen.

92. Every employer in an industrial undertaking shall keep a register of all persons under the age of sixteen years employed by him, and enter therein the names, addresses, and dates of birth of every such person. Such register shall on request be produced for inspection by any member of the Police Service at any reasonable hour of any working day. An employer who fails to comply with this section is liable, on summary conviction, to a fine of one thousand dollars.

Persons under fourteen years not to be employed on vessels.

93. (1) Children under the age of fourteen years shall not be employed or work on any vessel other than a vessel upon which only members of the same family are employed; and any person who employs any such child or permits him to work in contravention of this section is guilty of an offence.

(2) Every shipmaster shall keep a register of all persons under the age of sixteen years employed on board his vessel or a list of them in the articles of agreement, showing therein the names and addresses and dates of birth of every such person. Such register or list shall on request be produced to any member of the Police Service at any reasonable hour of any working day. A shipmaster who fails to comply with this section is liable, on summary conviction, to a fine of one thousand dollars.

(3) For the purposes of this section "vessel" includes all

ships and boats of any nature whatsoever engaged in maritime navigation, whether publicly or privately owned, but excludes ships of war.

94. (1) A child under the age of twelve shall not be employed.

Prohibition of employment of child under twelve years. Penalty for employment.

(2) Any person who employs a child under the age of twelve is guilty of an offence.

(3) Any parent or guardian of a child under the age of twelve who conduces to the commission of the alleged offence by wilful default, or by habitually neglecting to exercise due care is guilty of an offence.

Neglectful parent.

(4) Where the offence of taking a child under the age of twelve into employment is committed by an agent or workman of the employer, the agent or workman is guilty of an offence as if he were the employer.

Liability of agent or employer.

(5) Where a child under the age of twelve is taken into employment on the production, by or with the privity of the parent or guardian, of a false or forged certificate, or on the false representation by his parent or guardian that the child is not under the age of twelve, the parent or guardian is guilty of an offence.

False certificate or representation as to age.

95. If in a charge for an offence under this Part it is alleged that the child in respect of whom the offence was committed was under the age of twelve at the date of the commission of the alleged offence, he shall for the purposes of this Part be presumed at that date to have been under the age of twelve unless the contrary is proved.

Presumption of age.

96. Any person committing an offence against this Part, other than an offence under section 92 or section 93(2) is liable on summary conviction to a fine of one hundred dollars for a first offence, and for a second and every other conviction to a fine of four hundred dollars.

Penalties.

PART VI

MISCELLANEOUS AND GENERAL

97. In addition and without prejudice to any powers which a court may possess to hear proceedings *in camera*, the court may, where a person who, in the opinion of the court, is a child or

Power to clear court whilst child or young person is giving evidence in certain cases.

young person, is called as a witness in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, direct that all or any persons, not being officers of the court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of the child or young person. Nothing in this section shall authorise the exclusion of *bona fide* representatives of a newspaper.

Prohibition on children being present in court during the trial of other persons.

98. No child (other than an infant in arms) shall be permitted to be present in court during the trial of any person charged with an offence, or during any proceedings preliminary thereto, and if so present he shall be ordered to be removed, unless he is the person charged with the alleged offence, or during such time as his presence is required as a witness or otherwise for the purposes of justice.

Presumption and determination of age.

99. (1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it is of the age of sixteen years or upwards, that person shall, for the purposes of this Act, be deemed not be a child or young person.

Presumption of age. Schedule.

(2) Where, in a charge or indictment for an offence under this Act, or any of the offences mentioned in the Schedule, it is alleged that the person by or in respect of whom the offence was committed was a child or young person, or was under or above any specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child or young person or to have been under or above the specified age, as the case may be, he shall, for the purposes of this Act, be presumed at that date to have been a child or young person or to have been under or above that age, as the case may be, unless the contrary is proved.

Charge or indictment not bad for misdescription. Schedule.

(3) Where, in any charge or indictment for an offence under this Act, or any of the offences mentioned in the Schedule,

it is alleged that the person in respect of whom the offence was committed was a child or was a young person, it shall not be a defence to prove that the person alleged to have been a child was a young person or the person alleged to have been a young person was a child, in any case where the acts constituting the alleged offence would equally have been an offence if committed in respect of a young person or child respectively.

(4) Where a person is charged with an offence under this Act in respect of a person apparently under a specified age, it shall be a defence to prove that the person was actually of or over that age. Defence of over age.

100. (1) Except where otherwise expressly provided, all offences under this Act may be prosecuted, and all penalties incurred may be imposed or recovered, in the manner provided by the Summary Courts Act. Recovery of penalties.
Ch. 4:20.

(2) All orders of a Magistrate under this Act shall be made, and all proceedings in relation to any such orders shall be taken, in the manner provided by the Summary Courts Act. Procedure.

(3) Any party to such proceedings who thinks himself aggrieved by the order or decision of a Magistrate under this Act may appeal from such order or decision in the manner provided by the Summary Courts Act. Appeals.

SCHEDULE

Any offence under sections 21, 32, 48 or 54 of the Offences against the Person Act, and any offence against a child or young person under sections 6, 34 to 40 inclusive, 45 or 61 of that Act, or under sections 4 or 5 of the Summary Offences Act. (Sections 10, 15—21 and 99).
[20 of 1979].

Buggery or any other offence involving bodily injury to a child or young person.
