

CHILDREN ACT

CHAPTER 46:01

**Act
4 of 1925**

Amended by

20 of 1936	45 of 1979
14 of 1939	15 of 1981
24 of 1946	17 of 1981
44 of 1946	27 of 1986
6 of 1953	18 of 1994
40 of 1961	19 of 1994*
16 of 1962	28 of 1996
136/1976	68 of 2000*
20 of 1979	2 of 2002
	3 of 2007

*See Note on page 2

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-82	..

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Sitting of Juvenile Court

For the sittings of the Juvenile Court under this Act, *see* GN 170/1979 and LN 91/1981.

Maintenance Orders

For Maintenance Orders under sections 13 and 65 of this Act *see* Schedule I, Item 6, to the Attachment of Earnings (Maintenance) Act (Ch. 45:52).

Note on Act No. 19 of 1994

Section 15 of Act No. 19 of 1994 provides as follows:

“Validating of
acts done under
repealed
provisions.

Ch. 11:28.

15. The taking of a child or young person to a place of safety under the Act or the making of an Order under the Act in respect of an offence specified in a provision referred to in the Schedule to the Act which was repealed by the First Schedule to the Sexual Offences Act is not invalid by reason solely of that repeal.”.

Note on Act No. 68 of 2000

Act No. 68 of 2000 [i.e., the Children (Amendment) Act, 2000] has made substantial amendments to this Act, (i.e., the Children Act, Ch. 46:01) but Act No. 68 of 2000 had not, at the date of the revision of this Act, been proclaimed.

Act No. 68 of 2000 is contained in an Appendix to this Act.

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 LN 52/1980, but no marginal reference is made to this Notice where any such amendments is made in the text.

CHAPTER 46:01

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]

Commencement.

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

Short title.

2. In this Act—

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

Interpretation.
[16 of 1962
19 of 1994
3 of 2007].

“Court” means the Industrial Court established under the Industrial Relations Act;

Ch. 88:01.

“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;

“inspector” means a person designated as such under section 92A;

“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 place appointed by the Minister to be a place of safety for the purpose of the Act, or any hospital or other suitable, secure place the occupier of which is willing temporarily to receive a juvenile;

“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 upward 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
19 of 1994].

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 ten 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 five 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.

(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—

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

(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 twenty thousand dollars; or, in lieu of awarding any other penalty under this section, sentence the person to imprisonment for twelve 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

Suffocation of infants.

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.

OTHER OFFENCES IN RELATION TO CHILDREN AND YOUNG PERSONS

Begging.

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.

(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.

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.

Allowing children or young persons to be in brothels. [27 of 1986].

(2) Nothing in this section shall affect the liability of a person to be indicted under section 21 of the Sexual Offences 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.

Ch. 11:28.

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

Causing, encouraging, or favouring seduction or prostitution of child or young person. [19 of 1994].

(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 child or young person who has been seduced or has become a prostitute or has been unlawfully carnally known, if he knowingly allowed the child or young person 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 child or young person 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 child or young person.

Binding over persons having custody of child or young person. [19 of 1994].

(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.

Order for counselling.
[19 of 1994].

9A. Where under sections 3, 5, 6, 8 and 9, a person is convicted of an offence, the Court shall have the power to make an Order for the convicted person to be submitted for counselling.

ARREST OF OFFENDERS AND PROVISION FOR SAFETY OF CHILDREN

Power of arrest.
[18 of 1994].

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

Schedule.

(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.

Release on bail of persons arrested without warrant.

(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 bail in accordance with the Bail Act, subject to a duty to appear before a Magistrate's Court at such time and place as the officer appoints.

Ch. 4:60.

Detention of child or young person in place of safety.
[19 of 1994].

11. (1) A constable, a person referred to in section 15(1)(a) 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, or is likely to be, committed.

Schedule.

(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 hearing.

(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.

Order pending enquiry. Schedule.

(4) A constable or a person referred to in section 15(1)(a) shall make a written report of action taken under this section to his superior officer within seventy-two hours of the taking of the action.

11A. A person who takes a child or young person to a place of safety under section 11 or 15 shall cause that child or young person to appear before a Magistrate in Chambers no later than eight days from the date the child or young person is so taken or if the child or young person cannot appear, that person shall advise the Magistrate accordingly.

Child or young person to appear before Magistrate in eight days once taken to a place of safety. [19 of 1994].

Disposal of child or young person by order of Court.

Schedule.

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,

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.

No order if child has fit, legal guardian.

(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.

Order, how made.

(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.

(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.

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—

Maintenance and control of child or young person committed to care of any person under order of Court. [19 of 1994].

- (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.

(7) A Magistrate, in making an order, shall do so with the child's or young person's welfare as the paramount consideration, taking into account the wishes of the child or young person involved where such wishes can be reasonably ascertained.

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.

Care Order.
[19 of 1994].

15. (1) If it appears to a Magistrate on complaint on oath of—

- (a) a public officer experienced or qualified in social work who is approved by the Minister in writing; or
- (b) a person who in the opinion of the Magistrate is acting in the interest of a child or young person,

that a child or young person has suffered or is suffering harm so as to cause concern for the welfare of that child or young person, or is likely to suffer such harm, the Magistrate may require a parent or guardian to appear before him.

(2) A Magistrate may act in accordance with subsection (1) in proceedings under section 11, 12, 44, or 45.

(3) Where, in proceedings referred to in subsections (1) and (2), the Magistrate is satisfied that the child or young person has suffered, is suffering or is likely to suffer harm sufficient to cause concern for the welfare of that child or young person, the Magistrate may, with the child or young person's welfare as the paramount consideration, taking into account the wishes of the child or young person involved where such wishes of the child or young person can be reasonably ascertained, order that the child or young person—

- (a) remain in the custody of a parent or guardian, subject to a period of supervision by a named person or authority, and subject to such conditions as are specified in the order; or
- (b) be committed to the care of a relative of the child or young person or other fit person named by the Court, such relative or other fit person being willing and able to undertake such care.

(4) An order made under subsection (3) may also—

- (a) provide for access to the child or young person by a parent or legal guardian; and
- (b) provide for supervision and monitoring of the order in such manner as is specified in the order.

(5) An order made under subsection (3) may be renewed, varied or revoked as the case may be, by the Court making the order on the application of any person who in the opinion of the Court, is acting in the interest of the child or young person.

(6) Section 12(3) shall apply in respect of an order made under this section.

(7) Where proceedings are before a Magistrate under subsection (1), section 11, 12, 44(1) or 45 in respect of a child or young person—

- (a) who is a ward of Court;
- (b) in respect of whom there is in force an order of the High Court relating to custody, guardianship or access; or
- (c) in respect of whom proceedings relating to or affecting him are before or pending in the High Court under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act or the Matrimonial Proceedings and Property Act,

Ch. 46:08.

Ch. 45:51.

the Magistrate shall refer the proceedings to the High Court whereupon those proceedings subject to subsections (8), (9) and (10) shall be continued as if they had been properly and duly commenced in that Court under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act or the Matrimonial Proceedings and Property Act, whichever applies.

(8) In proceedings removed to the High Court under subsection (7), the High Court may make an order under subsection (2), or such other order as it sees fit.

(9) At any stage of the proceedings in which an order under subsection (2) may be made, the Court may—

- (a) in the case of the High Court, on its own motion;
- (b) in the case of the Magistrate, by summons; or
- (c) on the application of any person acting in the interest of the child or young person,

join as a party to the proceedings any person who ought to have been joined as a party or whose presence before the Court is desirable or necessary to determine the matter.

(10) Nothing in this section precludes the High Court or the Magistrate, as the case may be, in proceedings in which an order under subsection (2) may be made, from making an interim order, including an interim care order, pending the appearance of the child or young person, parent or guardian, or other person.

(11) For the purposes of this section—
“harm” includes—

(a) wilful neglect;

(b) assault;

(c) ill-treatment;

(d) physical, sexual or mental abuse;

*(e) a prescribed offence as defined in section 3 of the Domestic Violence Act; and

(f) a situation where any child or young person is being used as a drug courier and drug pusher by those having his custody, charge or care; and

an offence under sections 3, 4, 5, 6, 7 and 8 of the Act.

Ch. 45:56.

(12) Where a complaint on oath has been made under subsection (1) and where the circumstances so require, the Magistrate may issue a warrant 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 is brought before a Magistrate.

(13) 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 cause proceedings to be taken against such person according to law.

(14) 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.

(15) Every warrant issued under this section shall be executed by a constable, who shall be accompanied by the person

* Act No. 10 of 1991 was repealed by Act No. 27 of 1999.

laying the information, if such person so desires, unless the Magistrate by whom the warrant is issued otherwise directs, and the constable may also, if the Magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(16) 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 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. [28 of 1996].

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.

Admission of deposition in evidence. Schedule.

Ch. 12:01.

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—

- (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 Attorney-at-law 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.

Children's evidence to be unsworn. [28 of 1996].

Ch. 12:01.

19. (1) A child's evidence in criminal proceedings shall be given unsworn.

(2) Before receiving the evidence of a child under subsection (1), a Court shall hold an enquiry to determine whether the child is possessed of sufficient intelligence to justify the reception of his evidence, and understands the duty of speaking the truth.

(3) A child's unsworn evidence may be taken and reduced to writing in accordance with the Indictable Offences (Preliminary Enquiry) Act, or this Part, and shall be deemed to be a deposition within the meaning of that Act and this Part.

(4) The unsworn evidence of a child may not be corroborated by the unsworn evidence of another child.

(5) Subject to subsection (6), a person may not be convicted of an offence unless the evidence admitted under this section and given on behalf of the prosecution is corroborated by some other material particular implicating the accused and such corroboration may consist of evidence other than oral evidence.

(6) Notwithstanding subsection (5), an accused person may be convicted on the uncorroborated evidence of a child provided that the Court warns the jury of the danger of convicting the accused person on the uncorroborated evidence of a child.

(7) A 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 99 of the Summary Courts Act.

Ch. 4:20.

19A. Where a video recording is admitted in evidence under section 19B(1), cross-examination of the witness shall be by means of an electronic device linking the voice and imagery of the accused or his Attorney-at-law with the voice and imagery of such witness who is a child and who is alleged—

Cross-examination of child victim. [28 of 1996].

- (a) to be the person against whom the offence was committed; or
- (b) to have witnessed the commission of the offence.

19B. (1) In proceedings to which this section applies, a video recording of an interview which is conducted between an adult and a child (hereinafter in this Part called “the child witness”) who is not the accused or one of the accused, and which relates to any matter in issue in the proceedings, may, with the leave of the Court, be given in evidence in so far as it is not excluded under subsection (3).

Admissibility of video recorded evidence. [28 of 1996].

(2) This section applies to all criminal proceedings in which—

- (a) the offence charged involves an assault on, or injury or threat of injury to a person;

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- (b) the offence charged is an offence under this Part;
- (c) as the offence charged is an offence under the Sexual Offences Act; or
- (d) the offence charged is of attempting or conspiring to commit, or of aiding and abetting, counselling, procuring or inciting the commission of an offence falling within paragraph (a), (b) or (c).

(3) Where a video recording is tendered in evidence under this section, the Court may, subject to the exercise of any power to exclude evidence which is otherwise admissible, give leave under subsection (1) unless—

- (a) it appears that the child witness will not be available for cross-examination;
- (b) any Rules of Court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the Court;
- (c) the Court is of the opinion having regard to all the circumstances of the case, that in the interest of justice the recording ought not to be admitted.

(4) Where leave is granted under subsection (3), the Court may direct that any part of the recording be excluded if it thinks it would not be in the interest of justice to allow its admission.

Child witness to be called.
[28 of 1996].

19C. Where a video recording is admitted under section 19B, the child witness shall be called by the party who tendered the recording in evidence but that witness shall not be examined in chief on any matter which, in the opinion of the Court, has been dealt with adequately in his recorded testimony.

Video recorded evidence treated as direct oral testimony.
[28 of 1996].

19D. (1) Where a video recording is given in evidence under section 19B, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony, and any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible, but no such statement shall be capable of corroborating any other evidence given by him.

(2) In estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn.

19E. For the purposes of sections 19A to 19D—
“child” means a person who was at the time when the video recording was made, under the age of sixteen and who has not attained the age of eighteen at the time of the cross-examination;
“statement” includes any representation of fact, whether made in words or otherwise; and
“video recording” means any recording on any medium from which a moving image may by any means be produced and includes the accompanying soundtrack.

Interpretation.
[28 of 1996].

19F. The Rules Committee established by the Supreme Court of Judicature Act, may, subject to negative resolution of Parliament, make Rules of Court for the purposes of the operation of sections 19A to 19D.

Rules of Court.
Ch. 4:01.
[28 of 1996].

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.

Power to proceed in absence of child.
Schedule.

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,

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

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.

Limitation of time for prosecution. Schedule.

(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.

Continuous offence. 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.

SUPPLEMENTAL

Right of parent, etc., to administer punishment.

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.

Interpretation—“Fit person”. [19 of 1994].

23. (1) In this Part, the expression “fit person”, in relation to the care of any child or young person, includes any body corporate, authority, agency or society established for the reception of children and young persons to whom this Act applies.

Person liable for maintenance.

(2) For the purposes of this Part—

(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;

- (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
- (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.

Person who has charge of child.

Person who has care of child.

PART II

JUVENILE SMOKING

24. If any person sells to a person apparently under the age of sixteen years any tobacco products, whether for his own use or not, he is liable, on summary conviction, in the case of a first offence to a fine of two thousand dollars, in the case of a second offence to a fine of five thousand dollars, in the case of a third or subsequent offence to a fine of seven thousand five hundred dollars.

Sale of tobacco to children. [2 of 2002].

25. Any constable shall seize any tobacco products in the possession of any person apparently under the age of sixteen whom he finds smoking in any street or public place, and any tobacco products 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.

Forfeiture of tobacco. [2 of 2002].

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 tobacco products 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.

Automatic machines for sale of tobacco. [2 of 2002].

(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.

Vendor to display sign. [2 of 2002].

26A. (1) Every vendor of tobacco products shall cause to be displayed at all times in a prominent place in that part of the premises where the tobacco products are offered for sale, a sign, written in large, bold, legible, upper case characters that reads as follows:

**THE SALE OF TOBACCO PRODUCTS TO
INDIVIDUALS UNDER THE AGE OF
EIGHTEEN YEARS IS PROHIBITED**

(2) A person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of one thousand dollars.

Exemptions. [2 of 2002].

27. The provisions of this Part which make it an offence to sell tobacco products, and which authorise the seizure of tobacco products, shall not apply where the person to whom the tobacco products 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.

Application of Part II. [2 of 2002].

28. (1) For the purposes of this Part—
 “tobacco products” means cigarettes, cigars, chewing tobacco, pipe tobacco or tobacco in any of its forms and cigarette paper;
 “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;
 “cigarette paper” means paper used for rolling tobacco to be used for cigarettes.

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

PART III

INDUSTRIAL SCHOOLS AND ORPHANAGES

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

Interpretation of
Part III.
[19 of 1994].

“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, or a home or institution, in which children are lodged, clothed, and fed, as well as taught.

(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.

Managers of
school.

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.

Government
schools.

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

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

Appointment of
Inspector.

(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 Schools 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.

Land for site of school.

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.

Resumption of land.

(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.

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.

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.

Resignation of certificate by managers.

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

Effect of withdrawal or resignation of certificate.

certificate for the school or after the date of a notice of resignation of the certificate; but the obligation hereinafter mentioned 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.

Power to make Rules.

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.

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 ten and sixteen 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 27 of 1986].

- (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;

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- (f) is the daughter of a father who has been convicted of an offence under section 6 or section 12 of the Sexual Offences 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,

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 in 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 ten years of age 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 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.

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

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.

Presumption
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 baptised, or of which he shall profess to be a follower.

Order to
remove.

(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—

(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.

53. The parent or guardian, or if there is no parent or guardian, then the godparent 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.

Exemption from religious instruction, etc.

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.

Manager to submit notice claiming exemption to Inspector.

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.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

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Children

Forfeiture of 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.

Revocation 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.

Escape.

(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.

Licence period to be deemed part of time of detention.

(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.

Parent may be summoned to produce child.

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

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UPDATED TO DECEMBER 31ST 2012

and if he fails to do so he and any person who knowingly harbours or conceals him or prevents him from returning to the school is liable to the same penalty as if the youthful offender or child had escaped from the school.

(2) The Minister may order—

Transfer orders.

- (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.

(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 discharged 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.

Transfer for
medical
treatment.

(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.

Re-committal
to Industrial
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.

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

Transfer from
prison to an
Industrial
School.

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.

Power to
apprentice.

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 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**

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.

Refusal to conform to rules.

(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.

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 Industrial School.

(2) If a child detained in a certified Orphanage escapes therefrom, he may, at any time before the expiration of his period

Escaping from Orphanage.

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.

Period of escape not reckoned in period of detention.

(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.

Detention beyond limitation period.

(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.

Assisting to escape and harbouring, etc.

(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,

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

Offences by apprentice.

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.

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.

Offences by
masters.

CONTRIBUTIONS BY PARENTS

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.

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

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

Ch. 46:08.

(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.

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 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.

Change of address of parent.

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

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

Remission of contributions.

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

(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.

Contribution by person other than parent.

(13) Any Court making an order under this section for contribution by a parent or other such person may, in any case

Attachment of pension or income.

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.

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

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.

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 the 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. [18 of 1994].

- (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 bail in accordance with the Bail Act, subject to a duty to appear before a Magistrate's Court at such time and place as the officer appoints.

Ch. 4:60.

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. [19 of 1994].

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

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.

(3) Where a child or young person is arrested or charged with any offence, or in proceedings referred to in section 15(1) or (2), 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.

Enforcing attendance of parent.

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.

(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 conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

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

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

Security for good behaviour of child.

Order on parent without conviction 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 though parent fails to attend.

(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 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.

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.

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

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

Substitution of custody in place of detention for imprisonment.

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.

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

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—

- (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.

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.

Provision of
places of
detention.

(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.

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

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.

(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.

Expenses of maintenance of child or young person.

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.

Juvenile Courts.

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 person 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 Attorneys-at-law, 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;

Interpretation of
Part V.

“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 shipbuilding, 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.).

President may
define industrial
undertakings.

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.

Restrictions on
employment at
night of persons
under eighteen
years of age.

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.

(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.

91. (1) A child under the age of sixteen years shall not be employed or work in any public or private undertaking, or in any branch thereof, other than an undertaking in which only members of his 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.

Restrictions on employment of a child under the age of sixteen years. [3 of 2007].

(2) This section shall not apply to work done by—

- (a) a child and young person in schools for general, vocational or technical education or in other training institutions; or
- (b) a child at least fourteen years of age in undertakings, provided that the work is carried out in accordance with conditions prescribed by the Minister with responsibility for education, after consultation with the organisations of employers and workers concerned and the work is an integral part of—
 - (i) a course of education or training for which a school or training institution is primarily responsible;
 - (ii) a programme of training mainly or entirely in an undertaking, which programme has been approved by the Minister with responsibility for education; or

- (iii) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

(3) In this section “family” means parents, brothers, sisters and other lineal antecedents and descendants.

Employers to keep register of persons under the age of eighteen years. [3 of 2007].

92. (1) All employers shall keep and maintain a register of every person under the age of eighteen years employed by them, as well as the name, address, and date of birth of every such person.

(2) The register shall on request by an inspector of the Ministry with responsibility for labour be produced for inspection at any reasonable hour of any working day.

(3) An employer who fails to comply with this section is liable, on summary conviction, to a fine of two thousand five hundred dollars and to imprisonment for six months.

Inspectors. [3 of 2007].

92A. (1) The Minister to whom responsibility for labour is assigned may designate in writing a suitably qualified public officer as an inspector in his Ministry.

(2) Subject to section 92B an inspector shall have the authority to require a parent or guardian or an employer or any other person authorised by an employer, except a person engaged in a confidential and professional relationship with that employer—

- (a) to give him information with respect to remuneration paid to, and the terms and conditions of service enjoyed by, a person under the age of eighteen years in the service of that employer; and
- (b) to permit him to inspect any record, pay sheet or certificate or representation of age relating to a person under the age of eighteen years.

Powers of entry. [3 of 2007].

92B. (1) An inspector may at a reasonable time and with the permission of the owner or occupier of any premises, enter the premises where a person under the age of eighteen years is employed or where there is any book, record or other document relating to a person under the age of eighteen years which may afford evidence as to the contravention of any provision of this Act and—

- (a) if necessary, with the assistance of any person, search the premises for any book, record, certificate or representation of age or other document; and

(b) examine such book, record, certificate or other document.

(2) Where during the course of the examination under subsection (1), it appears to the inspector that there has been a contravention of this Act, he may—

(a) require the parent, guardian, employer, or any other person in the service of that employer to give him all reasonable assistance with, and to answer all questions relating to, the examination; or

(b) seize and take away book, record or other document, relating to a person under the age of eighteen years and retain them until they are required to be produced in any proceeding; but where such book, record or other document is necessary for the continued operations of the business, an employer shall be allowed reasonable access to them.

(3) An inspector shall not demand entry to any premises under subsection (1) except on the warrant of a Court.

(4) Where it is shown to the satisfaction of a Judge, on sworn information in writing, that admission to premises has been refused or withheld and that there is reasonable ground for entry into the premises for any purpose stated in subsection (1), the Judge may, subject to subsection (5), by warrant under his hand, authorise entry on the premises.

(5) A Judge shall not issue a warrant under subsection (4) unless he is satisfied either that written notice of the intention to apply for a warrant has been given to the occupier; or that the giving of such notice would defeat the object of the entry.

(6) Where an inspector enters any premises by virtue of this section he may take with him any other person as may be necessary to effect the purpose of his entry.

(7) A warrant issued under this section shall continue in force for such reasonable time as may be necessary to effect the purpose for which it was issued.

(8) A person who obstructs any person doing anything that he is authorised to do under this section or any person who, unless he is unable to do so, fails or refuses to do anything which he is required under this section to do, commits a contempt of the Industrial Court, and shall be dealt with as such by that Court as provided under the Industrial Relations Act.

Ch. 88:01.

(9) In this section, “Judge” means the President or Vice-President of the Industrial Court.

93. (Repealed by Act No. 3 of 2007).

Neglectful parent.
[3 of 2007].

94. A parent or guardian who conduces to the employment of a child under the age of sixteen years through wilful default, or by habitually neglecting to exercise due care, is guilty of an offence.

Liability of agent or employer.
[3 of 2007].

94A. Where the offence of taking a child under the age of sixteen years 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.

False certificate or representation of age.
[3 of 2007].

94B. Where a child under the age of sixteen years 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 sixteen years, the parent or guardian is guilty of an offence.

Presumption of age.
[3 of 2007].

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 sixteen 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 sixteen unless the contrary is proved.

Penalties.
[3 of 2007].

96. A person who commits an offence for which there is no penalty specified under this Part is liable on summary conviction to a fine of twelve thousand dollars and to imprisonment for twelve months.

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 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 Attorneys-at-law, 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.

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

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.

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

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 to be a child or young person.

Presumption and determination of age.

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Children

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.

Defence of over age.

(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.

Recovery of penalties.

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.

Ch. 4:20.

Procedure.

(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.

Appeals.

(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.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2012

SCHEDULE

(Sections 10,
15–21 and 99).
[20 of 1979
19 of 1994
28 of 1996].

Any offence under—

- (a) the Sexual Offences Act; Ch. 11:28.
 - (b) sections 21 and 48 of the Offences Against the Person Act, Ch. 11:08.
and any offence against a child or young person under
section 6 of that Act; and
 - (c) section 4 or 5 of the Summary Offences Act, or under Ch. 11:02.
sections 6, 7, 8, 9 and 11 of the Sexual Offences Act. Ch. 11:28.
-

CHILDREN (AMENDMENT) ACT, 2000

ACT NO. 68 OF 2000

APPENDIX

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2012

CHILDREN (AMENDMENT) ACT, 2000

ACT NO. 68 OF 2000

An Act to amend the Children Act, Ch. 46:01.

[ASSENTED TO 23RD OCTOBER 2000]

1. This Act may be cited as the Children (Amendment) Act, 2000 and shall come into operation on such day as is fixed by the President by Proclamation. Short title and commencement.

2. In this Act “the Act” means the Children Act. Interpretation. Ch. 46:01.

3. Section 2 of the Act is amended by— Section 2 amended.

(a) inserting in the appropriate alphabetical sequence the following definition:

“Authority” means the Children’s Authority established under the [64 of 2000] Children’s Authority Act, 2000”;

(b) deleting the word “fourteen” in the definition of “child” and substituting the word “eighteen”;

(c) amending the definition of “place of safety” by inserting after the word “means” the words “the Children’s Authority,”; and”; and

(d) deleting the definition of “young person” and substituting the following definition:

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

3A. The Act is amended by inserting after section 2 the following: Section 2A inserted.

“Rights and responsibilities.

2A. (1) The guiding principles for parents in relation to their children are contained in Parts A and B of the Second Schedule respectively.

(2) The guiding principles describing the rights and responsibilities of children are contained in Parts C and D of the Second Schedule respectively.”

Section 3 amended.

4. Section 3 of the Act is amended in subsection (1) by deleting the word “sixteen” and substituting the word “eighteen”.

Section 4 amended.

5. Section 4 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”.

Section 6 amended.

6. Section 6 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”.

Section 7 amended.

7. Section 7 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”.

Section 9 amended.

7A. Section 9 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”.

Section 12 amended.

8. Section 12 of the Act is amended—

(a) in subsection (1), by deleting the word “sixteen” and substituting the word “eighteen”; and

(b) in subsection (7), by deleting all the words commencing with the words “an Orphanage” and substituting the words “a children’s home, foster home or making any other order as it thinks fit”.

Section 13 amended.

9. Section 13 of the Act is amended in subsection (2), by deleting the words “a certified school under Part III” and substituting the words “a community residence under the Children’s Authority Act”.

Section 18 amended.

9A. Section 18 of the Act is amended by deleting the words “life or health of the child” and substituting the words “life or physical, mental or psychological health of the child”.

Section 19 amended.

9B. Section 19 is amended in subsection (7) by inserting after the words “A child” the words “, over the age of ten,”.

- 10.** Section 19E of the Act is amended by— Section 19 amended.
- (a) renumbering that section as subsection (2); and
 - (b) inserting the following new subsection (1):
 - “(1) For the purpose of section 19, a ‘child’ means a person under the age of ten.”.
- 10A.** Section 22 of the Act is amended— Section 22 amended.
- (a) by renumbering section 22 as 22(1); and
 - (b) by inserting after section 22(1) as renumbered the following subsection:
 - “(2) Reasonable punishment referred to in subsection (1), in relation to a teacher, does not include corporal punishment.”.
- 11.** The Act is amended in section 24 by— Section 24 amended.
- (a) deleting the word “sixteen” and substituting the word “eighteen”; and
 - (b) deleting the words “one hundred dollars”, “two hundred dollars” and “four hundred dollars” and substituting the words “five hundred dollars”, “one thousand dollars” and “one thousand five hundred dollars” respectively.
- 11A.** Section 25 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”. Section 25 amended.
- 11B.** Section 26 of the Act is amended by deleting the words “two hundred dollars, and to a further fine of forty dollars” and substituting the words “one thousand dollars, and to a further fine of two hundred and fifty dollars”. Section 26 amended.
- 11C.** Section 28 of the Act is amended by deleting the word “sixteen” and substituting the word “eighteen”. Section 28 amended.
- 12.** The Act is amended by repealing sections 29 to 42 inclusive. Sections 29 to 42 repealed.

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Children (Amendment)

Section 43
amended.

13. Section 43 is amended by deleting the word “sixteen” and substituting the word “eighteen”.

Section 44
amended.

14. (1) Section 44 of the Act is amended in subsection (1)—

(a) by deleting the word “fourteen” and substituting the word “eighteen”; and

(b) by deleting paragraph (f) and substituting the following:

“(f) is the child of a person who has been convicted of an offence under section 6 or section 12 of the Sexual Offences Act in respect of any of his children.”.

Ch. 11:28.

Section 45
amended.

14A. Section 45 is amended by deleting the words “fourteen or fifteen” and substituting the words “seventeen or eighteen”.

Section 50
amended.

15. Section 50 of the Act is amended in—

(a) paragraph (a), by deleting the words “in the case of a female until she attains” and substituting the word “to”;

(b) paragraph (b), by—

(i) deleting the word “sixteen” and substituting the word “eighteen”;

(ii) deleting the words “in the case of a male until he attains the age of eighteen and in the case of a female until she attains” and substituting the word “to”.

Section 54
amended.

16. Section 54 of the Act is amended by deleting the words “Inspector for his” and substituting the words “Authority for its”.

Section 55
amended.

17. Section 55 of the Act is amended by deleting the word “Inspector” and substituting the word “Authority”.

Section 56
amended.

18. Section 56 of the Act is amended by—

(a) deleting subsection (1) and substituting the following subsection:

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“Temporary
placement
of child.
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56. (1) Where a person who is not a foster parent as defined by Part V of the Children’s Community Residences, Foster Homes and Nurseries Act, wishes to care for a child who is—

- (a) in the care of a community residence;
- (b) not a youthful offender; and
- (c) is not related to him,

he shall apply to the manager of the community residence for a licence for such care.”;

(b) inserting after subsection (1) the following subsections:

“(1A) Where an application has been made under subsection (1), the manager of the community residence shall notify the Authority of such application and shall supply the following particulars:

- (a) (i) name and address;
- (ii) occupation and place of work; and
- (iii) marital status of the applicant;
- (b) relationship of the applicant if any with the child;
- (c) period of intended placement;
- (d) suitability of child for such placement; and
- (e) the reason for such placement.

(1B) Upon investigation by the Authority as to the suitability of such placement, the Authority may authorise the manager to permit the child to be temporarily placed out with the applicant.”.

18A. The Act is amended by repealing sections 60, 63, 64 and 66.

Sections 60, 63,
64 and 66
repealed.

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Children (Amendment)

Section 61
amended.

19. Section 61(1) of the Act is amended by deleting all the words after “as the Magistrate directs”.

Section 62
amended.

20. Section 62 of the Act is amended in subsection (1), by deleting all the words after “to be imprisoned for three months” and substituting the words “he shall be liable to be sent to an Industrial Training Centre as established by the Young Offenders Detention Act, for a term of three months and at the expiration of the term thereof he may be required to serve the balance period in a community residence.”.

Ch. 13:05.

Section 65
amended.

21. Section 65 of the Act is amended by deleting the word “Inspector” wherever it occurs and substituting the word “Authority”.

Section 69
repealed.

22. Section 69 of the Act is repealed.

Section 70(1)
repealed and
substituted.

22A. The Act is amended by repealing section 70(1) and substituting the following:

“70(1) The Minister may, for the purposes of this Part, make Rules with respect to all matters and things as may appear necessary and expedient for effectually carrying into operation the provisions of this Part.”.

Sections 71 and
72 amended.

22B. The Act is amended in sections 71 and 72 by deleting the word “sixteen” and substituting the word “eighteen”.

Section 78
amended.

23. Section 78(1) of the Act is amended by inserting after the word “child”, the words “under the age of fourteen”.

Section 83
amended.

24. Section 83 of the Act is amended by deleting paragraphs (g) and (l).

Section 87
amended.

25. Section 87 of the Act is amended by deleting the word “sixteen” wherever it occurs and substituting the word “eighteen”.

Section 99
amended.

26. Section 99 of the Act is amended—

(a) in subsection (1), by—

(i) deleting the words “whether charged with an offence or not, is brought before any

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Court otherwise than for the purpose of giving evidence” and substituting the words “charged with an offence is brought before any Court,”;

(ii) deleting the words “this Act” and substituting the words “Part IV”;

(b) by inserting after subsection (1), the following new subsection (1A):

“(1A) Notwithstanding subsection (1), where a person 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 eighteen years or upwards, that person shall, for the purposes of this Act, be deemed not to be a child or young person.”.

27. (1) The Act is amended by—

Act amended.

(a) deleting the words “school” and “certified school” wherever they occur and substituting the words “Community Residence”;

(b) deleting the words “Industrial School” or “certified Industrial School” wherever they occur and substituting the words “Rehabilitation Center”; and

- (c) deleting the words “Orphanage” or “certified Orphanage” wherever they occur and substituting the words “Children’s Home”;
- (d) deleting the words “detention order”, “detention” and “detained” wherever they occur and substituting the words “placement order”, “placement” and “placed” respectively.

SECOND SCHEDULE

PART A

PARENTAL RIGHTS

Every biological or adoptive parent of a child in Trinidad and Tobago has rights in respect of that child under the laws of Trinidad and Tobago including but not limited to—

1. the right to give the child a name of the parent’s choice;
2. the right to pass on the nationality of the parent to the child;
3. the right not to be separated from the child without the parent’s consent unless the relevant Authorities decide that this would be in the best interest of the child;
4. the right to provide religious direction and guidance to the child;
5. the right to request the State’s assistance in caring for the child where the parents are unable to do so themselves;
6. the right to send the child to a State-supported school at the State’s expense, or to a private or denominational school at the parent’s own expense.

PART B

Every person in Trinidad and Tobago who is a parent of a child, or who acts in *loco parentis*, has responsibilities under the law in respect of the parenting function including but not limited to—

1. the responsibility to register the birth of the child with the relevant authorities;

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2. the responsibility, within the parents' abilities and financial capacities, to secure the conditions of living adequate for the child's physical, mental, spiritual and moral development;
3. the responsibility to send the child to school, or to provide for education at home of an equal standard;
4. the responsibility to guide and direct the child without the use of any cruel, inhuman or humiliating punishment;
5. the responsibility to ensure that the child has time for rest, recreation, creative expression and play;
6. the responsibility not to arbitrarily interfere with the child's privacy;
7. the responsibility to protect the child from unlawful physical violence and all forms of physical or emotional abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the parent's care;
8. the responsibility to make arrangements for the care of the child when the parent is absent from the child;
9. the responsibility to ensure that the child under the age of twelve years is not engaged in labour.

PART C

Every person under the age of eighteen years, born in Trinidad and Tobago, or born to, or adopted by, parents who are citizens of Trinidad and Tobago is a child and is subject to care and protection under the law including but not limited to—

1. the right to live, survive and grow;
2. the right to be registered at birth or upon adoption, and to be a citizen of Trinidad and Tobago;
3. the right not to be discriminated against under the law on the basis of age, race, origin, colour, religion or sex;
4. the right not to be discriminated against or punished because of the beliefs or actions of one's family members;
5. the right to know and, as far as possible, to be cared for by one's parents;
6. the right not to be separated from one's parents against one's will, other than by a Court of law;
7. the right to privacy in one's own family, home, and in respect of one's correspondence;

8. the right to hold ideas of one's own, including religious beliefs and to express those views freely in matters affecting themselves;
9. the right to associate with other people for a peaceful purpose;
10. the right not to be treated with violence by a family member, a teacher, a public officer or by any other person;
11. the right to free education up to the age of twelve;
12. the right not to have to work at anything that is dangerous or that will interfere with education;
13. where the child has broken the law and is in custody, the right not to be subjected to, inhuman or degrading punishment. A child under the age of eleven giving evidence in a Court matter shall not be subject to the laws governing perjury and shall have the option of giving evidence by electronic means;
14. the right not to be subject to capital punishment, nor to life imprisonment without the possibility of release;
15. the right of a child offender not to be placed in custody with adult prisoners.

PART D

Every person under the age of eighteen years in Trinidad and Tobago, having the special protection under the law granted to a child, has responsibilities under the law which shall be observed subject to their age and understanding but not limited to—

1. respect and to obey the law;
2. not to take or to harm the property of other people without that person's permission;
3. to learn about human rights and to respect the rights of others;
4. to respect the guidance of parents, except where the law says otherwise;
5. to attend school until the age of twelve;
6. to learn about and respect one's culture, language and country;
7. to express one's views about matters which affect oneself;
8. to respect the environment;
9. to respect one's own religious beliefs and the religious beliefs of others.