

CHAPTER 44.

CHILDREN AND YOUNG PERSONS.

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CHAPTER 44.

CHILDREN AND YOUNG PERSONS.*

35 of 1945.
12 of 1947.
22 of 1949.
19 of 1952.

An Ordinance relating to Children and Young Persons.

[31ST DECEMBER, 1945.]

1. This Ordinance may be cited as the Children and Young Persons Ordinance, and shall apply to the Colony and to the Protectorate. Short title.

PART I.—PRELIMINARY.

2. In this Ordinance, unless the context otherwise requires— Interpreta-
tion.

“approved school” means a school established by the Governor under the provisions of section 31 or any place or institution declared to be an approved school under the provisions of that section;

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

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

“juvenile court” means a Magistrate’s Court sitting as prescribed in sub-sections (1) and (2) of section 3 for the hearing and determination of cases relating to children or young persons and includes a juvenile court held by a Magistrate and two or more Justices of the Peace by virtue of an Order in Council made under section 4; 19 of 1952.

“probation officer” means a person appointed as such under this Ordinance and includes a deputy probation officer or assistant probation officer;

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

PART II.—SPECIAL PROVISIONS AS TO PROCEDURE.

3. (1) A Magistrate’s court when hearing charges against children or young persons shall, if practicable, unless the child or young person is charged jointly with any other person not Juvenile
courts.

* The title of this Ordinance has been changed from “Young Persons and Children”.

being a child or young person, sit in a different building or room from that in which the ordinary sittings of the court are held or on different times from those at which the ordinary sittings are held.

(2) If in the course of any proceedings in a Magistrate's court it appears to the court that the person charged or to whom the proceedings relate is under the age of seventeen years the court shall continue with the hearing and determination of the case in accordance with the provisions of this Ordinance, but nothing herein shall be deemed to make it necessary for such court to adjourn the case in order to comply with the provisions of this section, and a court so sitting shall be a juvenile court for the purposes of this Ordinance.

Cap. 39.

(3) If 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 seventeen years or upwards the court shall proceed with the hearing and determination of the case in accordance with the provisions of the Criminal Procedure Ordinance but nothing herein shall be deemed to make it necessary for such court to adjourn the case into the public court room unless the court considers it desirable so to do, and the court so constituted shall be a Magistrate's court:

19 of 1952.

Provided that where the juvenile court is being held by a Magistrate and two or more Justices of the Peace in accordance with the provisions of an Order in Council made under section 4, the Justices of the Peace shall withdraw and the Magistrate shall proceed with the hearing and determination of the case.

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

(5) In a juvenile court no person other than the members and officers of the court, the relatives of the accused and the parties to the case, their advocates, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend:

Provided that *bona fide* representatives of a newspaper or news agency shall not be excluded except by special order of the court:

Provided further that 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 juvenile court save with the permission of the court or in so far as required by the provisions of this Ordinance. Any person who acts in contravention of the provisions of this proviso shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding ten pounds.

4. Notwithstanding the provisions of section 32 of the Courts Ordinance the Governor in Council may by Order provide that, in any Judicial District specified therein, a juvenile court may, subject to the directions of the Chief Justice, be held by a Magistrate having jurisdiction therein and two or more Justices of the Peace.

Special
juvenile
courts.

Cap. 7.

19 of 1952.

5. Where a person apparently under the age of seventeen years is apprehended with or without a warrant and cannot be brought forthwith before a court, the officer in charge of the police station to which such person is brought shall—

Bail of
children and
young
persons
arrested.

(a) unless the charge is one of homicide or any offence punishable with imprisonment for a term exceeding seven years; or

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

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

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

6. It shall be the duty of the Commissioner of Police to make arrangements for preventing, so far as practicable, a child or young person while in custody, from associating with an adult, other than a relative, charged with an offence.

Association
with adults
whilst in
custody.

7. When a child or young person is brought before a juvenile court for any offence other than homicide the case shall be finally disposed of in such court.

Juvenile
court may
dispose of
all cases
other than
homicide.

8. It shall be the duty of a juvenile court when hearing a charge against a child or young person to explain to him in simple language the substance of the alleged offence.

Charge to be
explained.

Accused to be asked to show cause.

9. After explaining the substance of the alleged offence the court shall ask the child or young person what he has to say in explanation thereof and whether he admits the offence.

Record of proof of offence.

10. If the statement made by the child or young person amounts to a plea of guilty the court shall record that the offence is proved.

Hearing.

11. If the child or young person does not admit the offence or if the court does not accept the accused's statement as a plea of guilty the court shall then hear the evidence of the witnesses for the prosecution.

Cross-examination of witnesses.

12. At the close of the evidence of each witness the court shall put to the witness such questions as appear to be necessary or desirable—either for the purpose of establishing the truth or otherwise of the facts alleged or to test the credibility of the witness.

Accused may question prosecution witnesses.

13. The accused may put questions to each witness produced against him, and the answer of the witness thereto shall be part of his evidence.

Duty of Court when accused is without counsel.

14. If the accused does not employ counsel, the court shall, at the close of the examination of each witness for the prosecution, ask the accused whether he wishes to put any questions to that witness.

Defence.

15. If after the prosecution witnesses have given their evidence the court is satisfied that the facts properly before it establish a *prima facie* case against the accused which, if unanswered, would leave no reasonable doubt as to his guilt the court shall hear the witnesses for the defence and any further statement which the accused may wish to make in his defence.

Procedure upon proof of offence.

16. If the child or young person admits the offence and the court accepts his plea or if after hearing the witnesses the court is satisfied that the offence is proved the court shall record that the offence is proved and shall then, except in cases where the circumstances are so trivial as not to justify such a procedure, obtain such information as to his character, antecedents, home life, occupation and health as may enable it to deal with the case in the best interest of the child or young person, and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the court may from time to time remand the child or young person or may release him on bail.

17. Where a child or young person is charged with any offence, the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.

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

18. (1) When 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, having made such inquiry as it considers necessary, record a finding as to the age of such person.

Determination of age.

(2) No order or judgment of a juvenile court shall be invalidated by any subsequent proof that the age of the person has not been correctly stated to the court, and the age found by the court to be the age of the person brought before it shall, for the purposes of this Ordinance, be deemed to be the true age of that person.

19. Where it appears to the court that any person brought before it is of the age of seventeen years or upwards, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

Persons appearing to be of the age of seventeen years or upwards.

PART III.—TREATMENT OF YOUNG OFFENDERS.

20. (1) The Governor may, by notice in the *Gazette*, appoint a fit and proper person or persons of either sex, and either by name or as holding any public office for the time being, to be a probation officer or officers for each district, and may from time to time appoint a deputy probation officer for any district to act in the absence or during the illness or incapacity of the probation officer, and may appoint an assistant probation officer to perform under the direction of the probation officer all or any of the duties of a probation officer in any portion of a district.

Appointment of probation officers.

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

(2) Where a child or young person is charged with an offence other than homicide, and the court is satisfied that the charge is proved, the court may make an order discharging the offender conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour and to appear to be further dealt with when called upon at any time during such period, not exceeding three years, as may be specified in the order. A recognisance entered into under this section shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order

Probation orders.

during the period specified in the order, such person being willing to undertake such supervision, and such other conditions for securing such supervision as may be specified in the order.

(3) The person named in any probation order shall be—

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

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

(c) if the court considers that the special circumstances of the case render it desirable, or if no person has been appointed as a probation officer, a person who has not been appointed a probation officer for any district.

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

(5) It shall be the duty of the probation officer, subject to the control of the Court—

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

(b) to see that he observes the conditions of his recognisance;

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

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

Power to vary conditions of release.

21. The court before which any person is bound by his recognisance under this Ordinance to appear to be further dealt with may, after notice to the offender, vary the conditions of the recognisance and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognisance.

Provision in case of offender failing to observe conditions of release.

22. (1) If the court before which an offender is bound by recognisance to appear to be further dealt with, or any court, is satisfied by information on oath that the offender has failed to observe any of the conditions of the recognisance, it may issue a warrant for his apprehension, or may if it thinks fit,

instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

(2) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by recognisance to appear to be further dealt with, be brought before any other magistrate's court.

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

(4) A court, before which a person is bound by recognisance to appear to be further dealt with, on being satisfied that he has failed to observe any condition of the recognisance, may forthwith deal with him as for the original offence.

23. (1) Where a child or young person has been found guilty of an offence for the commission of which a fine, compensation or costs may be imposed, and the court is of opinion that the case would be best met by the imposition of a fine, compensation 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, compensation 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 instead of child or young person.

(2) 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 no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Any sums imposed and ordered to be paid by a parent or guardian under this section may be recovered from him by distress.

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

24. (1) No child shall be sentenced to imprisonment.

Imprisonment.

(2) No young person shall be sentenced to imprisonment unless the court considers that none of the other methods in

which the case may be legally dealt with by the provisions of this or any other Ordinance is suitable.

(3) A young person sentenced to imprisonment shall, so far as circumstances permit, not be allowed to associate with adult prisoners.

Alternative punishment in certain cases.

25. Where a child or young person is charged with any offence other than homicide or other than an offence punishable with imprisonment for a term exceeding seven years, and the court is satisfied that the offence is proved, the court may, in addition or alternatively to any other order which may be made, under this Ordinance in its discretion either—

(a) discharge the child or young person without making any order;

(b) order the child or young person to be repatriated at the expense of Government to his home or district of origin; or

(c) order the child or young person to be handed over to the care of a fit person or institution named in the order, such person or institution being ready to undertake such care.

When approved school order may be made.

26. (1) Where a child or young person is charged with an offence punishable, in the case of an adult, with imprisonment and the court is satisfied that the offence is proved, the court may order that he be committed to custody of an approved school until he attains the age of eighteen years or for any shorter period:

Provided that no person shall be committed to an approved school for a shorter period than two years, unless at the time of the order the young person is over the age of sixteen years, in which case the order for committal shall be for the period until such person attains the age of eighteen years.

(2) An order made under this section is in this Ordinance referred to as an approved school order.

PART IV.—CHILDREN AND YOUNG PERSONS IN NEED OF CARE AND PROTECTION.

Power of juvenile courts in respect of children in need of protection.

27. (1) Any administrative officer, police officer above the rank of sub-inspector or authorized person may bring before a juvenile court any child or young person who—

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

(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; or

(c) is either falling into bad associations, or exposed to moral danger, or beyond control; or

(d) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child or young person, his mother, undergoing imprisonment; or

(e) is under the care of a parent or guardian of criminal or drunken habits; or

(f) frequents the company of any reputed thief, or common or reputed prostitute; or

(g) is being persistently ill-treated or neglected by his parent or guardian; or

(h) is lodging or residing in a house or the part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child or young person.

and the court before which a person is brought as coming within one of those descriptions, if satisfied on enquiry of that fact, may either—

(i) order him to be sent to an approved school; or

(ii) commit him to the care of any fit person, whether a relative or not, or any institution willing to undertake the care of him until the child or young person attains the age of 18 years or for any shorter period:

Provided that the Court may at any time on the application of the person or institution to whose care any female child or young person is committed under this section, and with the consent of such child or young person, extend the period for which she was so committed until she attains the age of 21 years; or

(iii) order his parent or guardian to enter into a recognisance to exercise proper care and guardianship; or

(iv) without making any other order, or in addition to making an order under either of the last two foregoing paragraphs make an order placing him for a specified period, not exceeding three years, under the supervision of a probation officer, or of some other person appointed for the purpose by the Court.

(2) For the purposes of this section the expression "authorised person" means a probation officer or any other person authorised by the Governor to institute proceedings under this section.

Power of parent or guardian to bring child or young person before juvenile court.

22 of 1949.

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

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

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

may order the child or young person to be sent to an approved school, or may order him to be placed for a specified period, not exceeding three years, under the supervision of a probation officer, or of some other person appointed for the purpose by the Court, or (without making any other order or in addition to making such order as is last mentioned) may commit him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him.

Conditions of Orders made under sections 27 and 28.

22 of 1949.

29. The following provisions shall apply in respect of the preceding two sections—

(1) An order for committal to an approved school shall be an approved school order and shall be for a period of not less than two years or in the case of a young person over the age of 16 years for the period until such person attains the age of 18 years;

(2) every order shall be in writing;

(3) any person or institution to whose care a child or young person is committed shall, whilst the order is in force, have the like control over him as the parent, and shall be responsible for his maintenance, and he shall continue in the care of such person or institution, notwithstanding that he is claimed by his parent or any other person and if any person—

(a) knowingly assists or induces directly or indirectly, a person in respect of whom an order has been made to escape from the person or institution to whose care he is committed; or

(b) knowingly harbours, conceals or prevents from returning to such person or institution, a person in respect

of whom an order has been made who has so escaped, or knowingly assists in so doing,

he shall be liable to a fine not exceeding twenty-five pounds, or to imprisonment for three months or to both such fine and imprisonment;

(4) the Governor may at any time discharge a child or young person from the care of any person or institution to whose care he has been committed by a court, either absolutely or on such conditions as the Governor approves, and may, if he thinks fit, make rules in relation to children or young persons so committed to the care of any person or institution, and to the duties and remuneration of such persons or institution with respect to such children or young persons.

30. (1) Any court having power to commit a child or young person to an institution, fit person or approved school shall have power to make orders on the parent or guardian or other person liable to maintain the child or young person to contribute to his maintenance during the period of committal such sums as the Court shall think fit and may from time to time vary such orders. Such orders shall be known as contribution orders.

Contribution
Orders.

22 of 1949.

(2) A contribution order may be made on the application of the person or institution to whose care the child or young person is for the time being committed or, in the case of an approved school on the application of the manager thereof, and either at the time when the order for the committal of the child or young person is made or subsequently, and the sums contributed by the person on whom the contribution order was made shall be paid to such person or institution as the Court may name or to the manager of the approved school, as the case may be, and applied for the maintenance of the child or young person;

(3) In default of payment of any sum due under a contribution order, the person or institution or the manager of the approved school, as the case may be, in whose favour the contribution order was made may sue for the same as a civil debt owing to him by the person on whom such order was made.

(4) A person on whom a contribution order has been made under this section shall give notice of any change of address, to the person or institution or the manager of the approved school, as the case may be, in whose favour the contribution order was made, and if he fails to do so without reasonable excuse he shall be liable to a fine not exceeding ten pounds.

PART V.—APPROVED SCHOOL.

Approved
school.

31. (1) The Governor may establish schools or may declare any school or institution to be an approved school for the purposes of this Ordinance.

(2) The Governor may appoint a fit and proper person or persons to be the manager or managers of any approved school under this section.

Approved
school order.

32. (1) An approved school order shall specify—

(a) the school to which the child or young person is to be sent; and

(b) the person who is to be responsible for conveying him to such school.

(2) Every such order shall contain such information as is in the opinion of the court material to be known by the manager of such school.

(3) A certified copy of every such order shall be delivered to the person responsible for conveying the child or young person to the school and shall be delivered by him to the manager thereof.

(4) Such order shall be sufficient authority for the detention of the child or young person in such school according to the tenor thereof.

Approved
school order
may not
come into
immediate
operation.

33. The operation of an approved school order may be suspended pending completion of arrangements for the reception of the child or young person into an approved school, or on account of his ill-health or for other good and sufficient reason, and in such a case the court may remand him in custody or may order him to be committed to the care of some fit and proper person willing to undertake such custody, or may release him on bail.

Authority for
detention.

34. (1) A child or young person whilst detained in an approved school in accordance with the provisions of this Ordinance and whilst being conveyed to or from such school shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back thereto.

(2) Any person who knowingly assists or induces a child or young person to escape from an approved school or knowingly harbours or conceals a child or young person who has so escaped, or prevents him from returning, shall on summary conviction be liable to a fine not exceeding twenty-five pounds or to imprisonment for three months or to both such fine and imprisonment.

35. If the manager of an approved school is satisfied that a person whose period of detention therein is about to expire needs further care or training he may, with the approval of the Governor, detain him for a further period not exceeding one year, so, however, that he is not detained beyond the date upon which he attains the age of eighteen years.

Extension of
period of
detention.

36. (1) A person sent to an approved school shall after the expiration of the period of his detention be under the supervision of the manager of his school until he attains the age of eighteen years.

Supervision
and recall
after
expiration
of order.
12 of 1947.

(2) (a) If the manager of a school is satisfied that it is in the best interests of the person under supervision as aforesaid that the said person should be recalled to the school, the manager shall make application to the court for an order authorising him to recall such person to the school.

(b) Notice of any application as aforesaid shall be served on the person whom it is intended to recall and on the parent or guardian of such person to give him and the parent or guardian as the case may be an opportunity of being present at the hearing thereof.

(c) If, after hearing the manager of the school, and after hearing what, if anything, the person in respect of whom the order is sought and his parent or guardian have to say, the magistrate is of the opinion that it is in the best interests of the said person that he should be recalled, the magistrate shall make an order accordingly, authorising the manager to recall such person to the school, and the manager may thereupon recall to the school forthwith such person.

(d) If any person in respect of whom an order has been made as aforesaid shall without lawful excuse fail to obey any such order, he may be apprehended without warrant and taken to the school.

(3) A person who has been so recalled shall be released as soon as the manager thinks that he can properly be released and in no case shall he be detained after he has attained the age of eighteen years.

(4) For the purposes of this Ordinance a person who is out under supervision from an approved school shall be deemed to be under the care of the manager of the school.

37. If the manager of an approved school is satisfied that any person committed to the school is of so unruly or depraved a character that it is undesirable that he should remain at such school, he may cause such person to be brought before a

Power of
manager to
bring person
detained
before a
court.

magistrate's court having jurisdiction in the place where the school is situated or before the court which made the approved school order, and such court may in respect of such person make any order which could have been legally made by the committing court under the provisions of this Ordinance.

Discharge, transfer, and release from approved school.

38. The manager of an approved school may—

(a) with the approval of the Governor order any child or young person to be removed from one approved school to another;

(b) order any child or young person to be released from an approved school on condition that such child or young person shall live under the charge of any trustworthy and respectable person named in the order of release willing to receive and take charge of him and to keep such child or young person employed at some trade, occupation or calling.

PART VI.—REMAND HOMES.

Establishment of remand homes.
22 of 1949.

39. (1) The Governor may by Order establish a remand home in respect of any area which shall be specified in the order and any remand home so established may be situate either within or without the area for which it is established.

(2) The Governor may with the consent of the authority or persons responsible for the management of any institution other than a prison establish a remand home in such institution or any part thereof.

(3) A child or young person who may lawfully be remanded in custody to any place situated within the area for which a remand home has been established may be so remanded to the remand home for such area wherever such home is situated.

Provisions as to custody of children and young persons in remand homes.
22 of 1949.

40. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a remand home shall be delivered with the child or young person to the person-in-charge of the home and shall be sufficient authority for his detention in the home in accordance with the tenor thereof.

(2) A child or young person while so detained and while being conveyed to and from the remand home shall be deemed to be in legal custody.

(3) The Governor shall cause remand homes to be inspected, and may by Order in Council make rules as to the running and management of remand homes, and as to their inspection, and as to the classification, treatment, employment and control of

children and young persons detained in custody in remand homes, and for the children and young persons while so detained, being visited from time to time by persons appointed in accordance with those rules.

(4) A child or young person who escapes from a remand home may be apprehended without warrant and brought back thereto, and any person who knowingly assists or induces a child or young person so to escape, or knowingly harbours or conceals a child or young person who has so escaped, or prevents him from returning, shall on summary conviction be liable to a fine not exceeding twenty-five pounds or to imprisonment for three months or to both such fine and imprisonment.

PART VII.—APPEALS.

41. Every appeal against an order or sentence made or passed by a juvenile court under the provisions of this Ordinance shall be entered within seven days of the date of the order or sentence appealed against: Time for appeal.

Provided that the Supreme Court may for good cause admit an appeal out of time.

PART VIII.—GENERAL.

42. The Governor in Council may make rules for carrying this Ordinance into effect, and in particular for prescribing such matters relating to the management, control, discipline and interior economy of approved schools as may appear necessary. Power to make rules.

43. Save in so far as other provision is expressly made in this Ordinance, nothing in this Ordinance shall be deemed to affect any other law relating to the trial and punishment of offenders. Saving.

TITLE V.

PROBATE AND ADMINISTRATION OF ESTATES.

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