

Cap. 23] CHILDREN AND YOUNG PERSONS

CHAPTER 23

CHILDREN AND YOUNG PERSONS

Ordinances
Nos. 48 of 1939,
13 of 1944,
42 of 1944,
12 of 1945,
Act.
No. 47 of 1956

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF JUVENILE COURTS, FOR THE SUPERVISION OF JUVENILE OFFENDERS, FOR THE PROTECTION OF CHILDREN AND YOUNG PERSONS, AND FOR OTHER CONNECTED PURPOSES.

[Parts I, II, and III- 28th April, 1952.]
[Parts IV and V (except section 76) not in operation.]*
[Part VI and section 76-31st December, 1952.]

Short title and date of operation.

1. This Ordinance may be cited as the Children and Young Persons Ordinance, and shall come into operation on such date as the President, may appoint by Proclamation published in the Gazette:

[§ 2, 13 of 1944.] Provided that different dates may be appointed for the coming into operation of different provisions of this Ordinance.

PART I

ESTABLISHMENT OF JUVENILE COURTS, JURISDICTION OF
AND PROCEDURE IN JUVENILE COURTS, &c.

JUVENILE COURTS

Juvenile Courts.

2. A court of summary jurisdiction sitting for the purpose of hearing any charge against a child or young person or for the purpose of exercising any other jurisdiction conferred on a Juvenile Court by or under this Ordinance or any other written law shall be known as a Juvenile Court.

Children's Magistrates.
[§3, 13 of 1944.]

3. (1) There may be appointed, for each Magistrate's Court, a person or persons, by name or by office, to be or to act as Magistrate or Magistrates of that court when that court is sitting as a Juvenile Court.

* Part IV is repealed by Act No. 47 of 1956.

(2) There may be appointed, for each Municipal Court, a person or persons, by name or by office, to be or to act as Magistrate or Magistrates of that court when that court is sitting as a Juvenile Court.

(3) Where the number of persons to be appointed for any court under subsection (1) or subsection (2) is less than three, the person or each of the persons to be so appointed must be an attorney-at-law or a person who holds or has held judicial office; and in every other case, one at least of the persons to be so appointed for any court must be an attorney-at-law or a person who holds or has held judicial office.

(4) A woman shall not be disqualified, by reason only of her sex, from being appointed as a Magistrate under subsection (1) or subsection (2).

(5) Every person appointed under subsection (1) or subsection (2) shall be known as a Children's Magistrate of the judicial division or municipal town for which he is appointed, and is hereinafter referred to as " a Children's Magistrate ".

(6) Where the number of Children's Magistrates appointed for any Magistrate's Court or Municipal Court is less than three, the jurisdiction conferred by this Ordinance or by any other written law on such court, sitting as a Juvenile Court, shall be exercised by the Magistrate or either of the Magistrates so appointed.

(7) Where the number of Children's Magistrates appointed for any Magistrate's Court or Municipal Court is three or more, the jurisdiction conferred by this Ordinance or by any other written law on such court, sitting as a Juvenile Court, may be exercised either—

- (a) by any one of such Magistrates sitting alone, if he is an attorney-at-law or holds or has held judicial office; or
- (b) by any three of such Magistrates sitting together including in every such case one who is an attorney-at-law or holds or has held judicial office.

Cap. 23] CHILDREN AND YOUNG PERSONS

(8) In any case where any three Children's Magistrates sit together as provided in subsection (7), such Magistrates shall elect one of their number to be the chairman of the court for the sitting, and-

- (a) the proceedings of the court, and the evidence given before the court, shall be recorded by the chairman;
- (h) the verdict of the court, and every order made by the court, shall be signed by the chairman and by at least one of the other Magistrates;
- (c) the decision of the majority of such Magistrates shall, in the event of any difference of opinion between such Magistrates, be the decision of the court.

(9) In this section, "judicial office" does not include the office of President of a Rural Court* or the office of Children's Magistrate.

Jurisdiction of
Juvenile Courts.

4. (1) Notwithstanding anything in any written law to the contrary but subject as hereinafter provided, a Magistrate's Court sitting as a Juvenile Court shall have jurisdiction to hear and determine any case in which a child or young person is charged with any offence other than a scheduled offence and any question of law or fact arising in such case.

(2) A Municipal Court sitting as a Juvenile Court shall have no jurisdiction to hear and determine any case in which a child or young person is charged with having committed an offence other than an offence which, in the case of an adult, is triable by such Municipal Court under the provisions of the Municipal Councils Ordinance or of any other written law.

(3) A Rural Court sitting as a Juvenile Court shall have no jurisdiction to hear and determine any case in which a child or young person is charged with having committed any offence other than an offence, which, in the case of an adult, is triable by such court under the provisions of the Rural Courts Ordinance* or of any other written law.

* The references to "Rural Court" and "the Rural Courts Ordinance" in this Ordinance should be omitted consequent to the repeal of the Rural Courts Ordinance by the Administration of Justice Law, No. 44 of 1973.

CHILDREN AND YOUNG PERSONS [Cap. 23]

5. (1) Subject as hereinafter provided, no charge against a child or young person and no application whereof the hearing is by this Ordinance or by any other written law assigned to Juvenile Courts, shall be heard by a court of summary jurisdiction which is not a Juvenile Court :

Assignment of certain matters to Juvenile Courts.

Provided that—

- (a) no case in which a child or young person is charged with having committed a scheduled offence shall be heard and determined by a Juvenile Court; and
- (b) a charge made jointly against a child or young person and a person who has attained the age of sixteen years shall be heard by a court of summary jurisdiction other than a Juvenile Court ; and
- (c) where in any case a child or young person is charged with an offence, the charge may be heard by a court of summary jurisdiction which is not a Juvenile Court, if a person who has attained the age of sixteen years is in the same case charged with the abetment of that offence ; and
- (d) where, in the course of the proceedings before any court of summary jurisdiction other than a Juvenile Court, it appears that the person to whom the proceedings relate is a child or young person, nothing in this section shall be construed as preventing the court, if it thinks fit so to do, from proceeding with the hearing and determination of those proceedings.

6. No direction, whether contained in this Ordinance or in any other written law, that a charge shall be brought before a Juvenile Court, shall be construed as restricting the powers of any court of summary jurisdiction which is not a Juvenile Court to entertain an application for bail or for a remand and to hear such evidence as may be necessary for that purpose.

Order for bail by courts not sitting as Juvenile Courts.

7. (1) A Juvenile Court shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred on such court by or under this Ordinance or any other written law.

Sittings of a Juvenile Court.

Cap. 23] CHILDREN AND YOUNG PERSONS

(2) A Juvenile Court shall sit in a different building or room from that in which sittings of courts other than Juvenile Courts are held:

Provided, however, that this subsection shall not apply in the case of a Rural Court sitting as a Juvenile Court, if a different building or room is not available for the sittings of such Juvenile Court.

(3) No person shall be present at any sitting of a Juvenile Court except—

- (a) members and officers of the court;
- (b) parties to the case before the court, their attorneys-at-law and witnesses and other persons directly concerned in that case; and
- (c) such other persons as the court may specially authorize to be present.

Power of Juvenile Court to proceed with hearing where accused person is not a child or young person.

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

(2) Where the court before which any person is bound by his recognizance under Chapter XXV of the Code of Criminal Procedure Act, No. 15 of 1979 or under the provisions of the Rural Courts Ordinance or any rules made thereunder to appear is a Juvenile Court, the attainment by him of the age of sixteen years shall not deprive that court of jurisdiction to enforce his attendance and deal with him in respect of any failure to observe the conditions of his recognizance, or of jurisdiction to vary or discharge the recognizance.

Procedure in Juvenile Courts.

9. (1) Where a child or young person is brought before a Juvenile Court for any offence which that court has jurisdiction to hear and determine, it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(2) Where a child is brought before a Juvenile Court for any offence which that court has jurisdiction to hear and determine, the case shall be tried and determined in that court.

(3) Where a young person is brought before a Municipal Court or a Rural Court sitting as a Juvenile Court, for any offence which that Juvenile Court has jurisdiction to hear and determine, the case shall be tried and determined by such Juvenile Court.

(4) Where a young person is brought before a Magistrate's Court sitting as a Juvenile Court for any offence which that Juvenile Court has jurisdiction to hear and determine, the following provisions shall apply:—

- (a) Where the offence alleged against the young person is an offence other than an indictable offence, the case shall be tried and determined by the Juvenile Court ;
- (b) Where the offence alleged against the young person is an indictable offence—
 - (i) the court shall, if it is of opinion that it is expedient that the case should be summarily disposed of, put to the young person the following or a similar question, telling him that he may consult his parent or guardian or a friend before replying :—

"Do you wish to be tried by this court or by a higher court ? ",

and the court shall explain to the young person and to his parent or guardian, if present, the meaning of being so tried ; and if the young person on being so questioned states that he wishes to be tried by the Juvenile Court, the case shall be tried and determined by that court:

Provided that if the court becomes satisfied at any time during the hearing that the case should be tried by a higher court, the Juvenile Court shall discontinue the proceedings against that

young person and direct that the charge should be preferred in a Magistrate's Court of competent jurisdiction ;

- (ii) if the court is of opinion that it is not expedient that the case should be summarily disposed of, or if the young person in answer to the question put to him under paragraph (i) states that he wishes to be tried by a higher court, the Juvenile Court shall discontinue the proceedings against that young person and direct that the charge should be preferred in a Magistrate's Court of competent jurisdiction.

(5) In every case which is tried by a Juvenile Court in accordance with the provisions of this section the court shall adopt the following procedure:—

- (a) The court shall ask the child or young person whether he admits that he committed the offence ;
- (b) If the child or young person does not admit that he committed the offence, the court shall then hear the evidence of the witnesses in support of the charge. At the close of the evidence-in-chief of each such witness, the court shall ask the child or young person, or if it thinks fit, the parent or guardian of the child or young person, whether he wishes to put any question to the witnesses ; and the child or young person, or the parent or guardian may, if he so desires, put any questions accordingly. The child or young person may, instead of asking any questions, make a statement, if he so desires;
- (c) It shall be the duty of the court to put to every witness who gives evidence in support of the charge such questions as appear to the court to be necessary ;
- (d) The court may put to the child or young person such questions as may be necessary to explain anything in any statement made by the child or young person ;

CHILDREN AND YOUNG PERSONS [Cap. 23]

- (e) If it appears to the court that a prima facie case is made out, the evidence of any witness for the defence shall be taken and the child or young person shall be allowed to give evidence or to make any statement;
- (f) If the child or young person admits that he committed the offence or if the court is satisfied on the evidence adduced that the child or young person committed the offence, he shall be asked if he desires to say anything in extenuation of the offence or in mitigation of punishment or otherwise.

10. (1) Where a Juvenile Court is satisfied that a child or young person is guilty of an offence in respect of which that court has jurisdiction under this Ordinance, the court shall, for the purpose of deciding how the child or young person should be dealt with, take into consideration any information which may be available regarding the antecedents and circumstances of the child or young person, including any information supplied by a probation officer under section 17, and may summon and examine any probation officer or other person and may also put to the child or young person any question arising out of such information or examination.

Procedure on finding of guilty in Juvenile Courts.

(2) For the purpose of enabling any information regarding the antecedents and circumstances of the child or young person to be obtained, the court may, if it is a Magistrate's Court sitting as a Juvenile Court, remand the child or young person for a period not exceeding twenty-one days to a remand home or to the custody of a fit person ; and when any child or young person has been so remanded the court may—

- (a) in his absence extend the period for which he is remanded, so, however, that he appears before the court at least once in every twenty-one days; and
- (b) when the required information has been obtained, deal with him finally.

Cap. 23] *CHILDREN AND YOUNG PERSONS*

Restriction on reports of proceedings in Juvenile Courts.

11. No report of any proceedings before a Juvenile Court shall be published in any newspaper, magazine, or other journal:

Provided that nothing in this section shall affect the bona fide publication of any report of any such proceedings in any scientific journal or other publication devoted exclusively to the protection or welfare of children or young persons;

Provided further that no report in any such journal or publication shall reveal the name, address, or school, or any other particulars calculated to lead to the identification of, any child or young person concerned in such proceedings.

Rules of court.

12. (1) The Judges of the Supreme Court, or any five of them, of whom the Chief Justice shall be one, may frame rules of court for regulating the procedure and practice in Magistrates' Courts and Municipal Courts sitting as Juvenile Courts; and the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply to the procedure and practice in such Juvenile Courts, in so far as those provisions are not inconsistent with the provisions of this Ordinance or of any rules framed under this subsection.

(2) The matters for which rules may be framed under subsection (1) shall be deemed to be added to the list of matters for which *rules may be framed, constituted, and established under section 49 of the Courts Ordinance: and the provisions of that section of that Ordinance shall apply accordingly to any rules of court framed under subsection (1) for the purposes of this Ordinance.

(3) The Minister of Justice may frame rules for regulating the procedure and practice in Rural Courts sitting as Juvenile Courts; and the provisions of the Rural Courts Ordinance and of any rules made thereunder relating to the procedure and practice in criminal cases before such courts shall, in so far as those provisions are not inconsistent with the provisions of this Ordinance or of any rules made under this subsection, apply in cases heard by a Rural Court sitting as a Juvenile Court.

* After the repeal of the Courts Ordinance rules of the Supreme Court are framed under Article 136 of the Constitution.

(4) The matters for which rules may be framed under subsection (3) shall be deemed to be added to the matters for or in respect of which rules may be made under the Rural Courts Ordinance relating to the procedure and practice in criminal cases before Rural Courts ; and the provisions of that Ordinance shall apply accordingly to any rules made under subsection (3) for the purposes of this Ordinance.

PART II

**SPECIAL PROVISIONS APPLICABLE TO ALL COURTS IN
RELATION TO CHILDREN AND YOUNG PERSONS**

PRELIMINARY PROCEEDINGS

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

Separation of children and young offenders from adults in police stations, courts, &c.

14. (1) Where a person apparently under the age of sixteen years is arrested, with or without warrant, and cannot be brought forthwith before the competent court of summary jurisdiction, the person making the arrest shall take such person to the nearest police station and the officer in charge of that station shall inquire into the case and shall release such person if a recognizance is entered into by him or his parent or guardian (with or without sureties) for such an amount as will, in the opinion of the officer, secure his attendance upon the hearing of the charge :

Bail or detention of children and young persons arrested.

Provided, however, that where the competent court of summary jurisdiction is a Magistrate's Court, the officer in charge of the station may detain and deal with him in the manner provided in subsection (2) if—

(a) the charge is in respect of a scheduled offence;

Cap. 23] CHILDREN AND YOUNG PERSONS

- (b) it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute ; or
- (c) the officer has reason to believe that the release of such person would defeat the ends of justice.

(2) Where a person apparently under the age of sixteen years having been arrested is not so released as provided in subsection (1), the officer in charge of the station shall cause him to be detained in a remand home or in the residence of any person nominated by the Minister under subsection (3) until he can be brought before the competent court of summary jurisdiction, unless the officer certifies—

- (a) that it is impracticable to do so ; or
- (b) that he is of so unruly a character that he cannot safely be 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 court before which he is brought.

(3) The Minister may by notification in the Gazette nominate for any area any number of responsible persons in whose residences any person apparently under the age of sixteen years may be detained for the purposes of subsection (2).

Remand or committal to custody in remand homes or in charge of fit and proper persons.

15. (1) Any court on remanding or committing for trial a child or young person who is not released on bail, shall, instead of committing him to prison, commit him to custody in a remand home, or in the residence of a fit and proper person 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 :

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot safely be 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 safely be 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 the court which made the order, or if application cannot conveniently be made to that court, by the nearest Magistrate's Court having jurisdiction in the place where the court which made the order sat, and if it is revoked, the young person may be committed to prison.

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

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

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

(3) A court may issue a summons requiring the attendance of a parent or guardian at such time and place as may be specified therein ; and any summons so issued shall—

- (a) when issued by a Magistrate's Court or Municipal Court sitting as a Juvenile Court, be deemed to be a summons which the court is empowered to issue under the Code of Criminal Procedure Act, No. 15 of 1979 and the provisions of Chapter V of that Act shall apply accordingly;
- (b) when issued by a Rural Court sitting as a Juvenile Court, be deemed to be a summons which the court is empowered to issue under the Rural Courts Ordinance and the provisions

Cap. 23] CHILDREN AND YOUNG PERSONS

of that Ordinance and of any rules made thereunder, relating to such a summons, shall apply accordingly.

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

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

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

Notice to probation officers of charges against and applications relating to children and young persons.

17. (1) Where a child or young person is to be brought before a Magistrate's Court or before a Juvenile Court in respect of an offence alleged to have been committed by him, or as being in need of care or protection, the officer in charge of the police station to which the child or young person is taken shall forthwith notify the day and hour when and the nature of the charge or other grounds on which, the child or young person is to be brought before the court, to the probation officer, or one of the probation officers, for the area within the jurisdiction of such court.

(2) A probation officer who has received a notification under the last foregoing subsection shall make such investigations and render available to the court such information as to the home surroundings, school record, health, and character of the child or young person as appear to him to be likely to assist the court.

GENERAL PROVISIONS AS TO PROCEEDINGS IN COURT

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

18. No child (other than an infant in arms) shall be permitted to be present in court during the trial of any other person charged with an offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purpose of justice ; and any child present in court when under this section he is not to be permitted to be so shall be ordered to be removed.

19. (1) Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a child or young person is called as a witness, the court may direct that all or any persons, not being members or 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 that witness.

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

(2) The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings *in camera*.

20. (1) In relation to any proceedings in any court, other than a Juvenile Court, which arise out of any offence against, or any conduct contrary to, decency or morality—

Prohibition of publication of certain matter in newspapers.

(a) no report of the proceedings in any newspaper, magazine, or other journal shall reveal the name, address, or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken, or as being a witness therein ; and

(b) no picture shall be published in any newspaper, magazine or other journal, as being or including a picture of any child or young person so concerned in the proceedings as aforesaid.

(2) Any person who publishes any matter in contravention of subsection (1) shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding five hundred rupees.

PRINCIPLES TO BE OBSERVED BY ALL COURTS IN DEALING WITH CHILDREN AND YOUNG PERSONS

21. Every court in dealing with a child or young person who is brought before it, either as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the child or young person

General considerations.

Cap. 23] CHILDREN AND YOUNG PERSONS

and shall in a proper case take steps for removing him from undesirable surroundings, and for securing that proper provision is made for his education and training.

YOUNG OFFENDERS

Removal of disqualifications attaching to any offence.

22. No conviction or finding of guilty of a child or young person shall be regarded as a conviction of an offence for the purposes of any disqualification attaching to such conviction.

Restrictions on punishment of children and young persons.

23. (1) A child shall not be ordered to be imprisoned for any offence, or be committed to prison in default of payment of a fine.

(2) A young person shall not be ordered to be imprisoned for any offence, or be committed to prison in default of payment of a fine, unless the court certifies that he is of so unruly a character that he cannot be detained in a remand home or certified school or that he is of so depraved a character that he is not a fit person to be so detained.

(3) The provisions of subsection (2) shall be in addition to and not in substitution of any other provisions of any written law limiting or restricting the power of a court to order a person to be imprisoned in default of a fine, and such other provisions shall apply in the case of a young person in so far as they are not inconsistent with the provisions of subsection (2).

Punishment of certain grave crimes.

24. (1) Where in lieu of sentence of death, a sentence of detention during the President's pleasure has, under section 53 of the Penal Code, been passed by any court in respect of a person who, in the opinion of the court is under the age of sixteen years, the court may order that person to be detained in a remand home until the pleasure of the President is made known.

(2) Where a child or young person is convicted on indictment of any scheduled offence other than murder and the court is of opinion that none of the other methods in which the case may legally be dealt with is suitable, the court may sentence the offender to be detained for such period as may be specified in the

sentence ; and where such a sentence has been passed the child or young person shall, during that period, notwithstanding anything in the other provisions of this Ordinance, be liable to be detained in such place and on such conditions as the Minister may direct.

Where such a sentence is passed, the court shall remand the child or young person to a remand home pending his detention pursuant to the directions of the Minister.

[§ 4, 13 of 1944.]

(3) A person detained pursuant to the directions of the President or Minister under this section shall, while so detained, be deemed to be in legal custody.

(4) Any person so detained as aforesaid may, at any time, be discharged by the Minister on licence. Such a licence may be in such form and may contain such conditions as the Minister may direct, and may at any time be revoked or varied by the Minister.

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.

25. (1) Where a child or young person is found guilty by any court of an offence punishable in the case of an adult with imprisonment, whether with or without a fine, the court may order that he be committed to custody in a remand home for such term as may be specified in the order, not exceeding the term for which he might, but for this Ordinance, be ordered to be imprisoned, nor in any case exceeding one month.

Substitution of custody in remand home for imprisonment.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

26. (1) Where a child who has attained the age of twelve years or a young person is found guilty by any court of an offence punishable in the case of an adult with imprisonment, whether with or without a fine, the court may order him to be sent to an approved or certified school.

Power to send a child or young offender to an approved or certified school.

[§ 5, 13 of 1944.]

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

Cap. 23] CHILDREN AND YOUNG PERSONS

Power to
commit child
or young
offender to
care of
probation
officer or
parent, &c.

27. (1) Where a child or young person is found guilty by any court of any offence the court may—

(a) order him to be delivered to his parent or guardian or nearest adult relative, on such parent, guardian, or relative executing a bond, with or without sureties, that he will be responsible for the good behaviour of the child or young person for any period not exceeding one year; or

[§ 22, 42 of 1944.]

(b) order him to be placed for a period not exceeding three years in charge of some fit person, whether a relative or not, who is willing to undertake the care of him, or

(c) make any order which the court is competent to make under section 306 of the Code of Criminal Procedure Act, No. 15 of 1979, discharging the child or young person conditionally on his entering into a recognizance; or

[§ 22, 42 of 1944.]

(d) except where the court is a Rural Court, make a probation order in respect of the child or young person, subject to and in accordance with the provisions of any other written law relating to the release of offenders on probation.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 28 (1) or section 29 (1).

(3) Where a court makes an order under paragraph (b) of subsection (1), it may in such order give such directions with regard to the supervision of the child or young person as it may think fit.

(4) Where a court makes an order under paragraph (c) of subsection (1), the provisions of Chapter XXV of the Code of Criminal Procedure Act, No. 15 of 1979, shall be applicable in the case of the child or young person in respect of whom the order is made.

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

28. (1) Where a child or young person is charged before any court with any offence punishable in the case of an adult with a fine the court, if it is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, may in any case, and shall if the offender is a child,

order that the fine 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.

(2) In any case in which an order is made under subsection (1), the court may in addition make an order under section 29 (1).

(3) An order under subsection (1) may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(4) Any sum ordered under subsection (1) to be paid by a parent or guardian may be recovered from him as if it were a fine and 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 is charged.

(5) A parent or guardian may appeal to the Court of Appeal against an order under subsection (1) if made by any court other than the Court of Appeal and the provisions of Chapter XXVIII of the Code of Criminal Procedure Act, No. 15 of 1979, shall be apply to an appeal so preferred.

29. (1) Where a child or young person who is a male is found guilty by any court of any offence, the court may, if it is for any reason of opinion that the case is one in which corporal punishment should be inflicted, make order that the child or young person shall receive not more than six strokes with a light cane or rattan, such strokes to be inflicted in the presence of the court and, if the parent of the child or young person desires to be present, in his presence :

Infliction of corporal punishment on a child or young person.

Provided that no order under this section shall be made in any case unless the court also makes an order under not more than one of the following sections :—

25 (1), 26 (1), 27 (1) and 28 (1).

(2) Every court which makes an order under subsection (1), shall record in writing its reasons for making such order.

Cap. 23] CHILDREN AND YOUNG PERSONS

Discharge of child or young person after admonition.

30. Where a child or young person is found guilty of any offence by any court, the court, in any case in which it is of opinion that it is not necessary or expedient to deal with the child or young person under the provisions of sections 25 to 29, may after due admonition discharge the child or young person.

Power of other courts to remit a child or young offender to Juvenile Courts.

31. (1) Any court by or before which a child or young person is found guilty of an offence other than murder may, if it thinks fit, remit the case to the Magistrate's Court sitting as a Juvenile Court of the district within which the offence was committed ; and where any such case is so remitted, the offender shall be brought before such Juvenile Court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court.

(2) No appeal shall lie against an order of remission made under subsection (1), but nothing in this subsection shall affect any right of appeal against the verdict or finding on which such an order is founded, and a person aggrieved by the order of the Juvenile Court to which the case was so remitted may appeal to the Court of Appeal as if he had been tried and found guilty by the Juvenile Court.

(3) A court by which an order remitting a case to a Juvenile Court is made under subsection (1) may give such directions as appear to be necessary with respect to the custody of the offender or for his release on bail until he can be brought before the Juvenile Court, and shall cause to be transmitted to the Juvenile Court a certificate setting out the nature of the offence and stating that the offender has been found guilty thereof and that the case has been remitted for the purpose of being dealt with under subsection (1).

Power of Minister to send certain children and young offenders to approved or certified schools.

32. The Minister may by order direct that—

- (a) a child or young person with respect to whom he is authorized to give directions under section 24 (2); or
- (b) a young person who has been ordered to be imprisoned and has been pardoned by the President on condition of his agreeing to undergo training in a school,

shall be transferred or sent to and detained in an approved or certified school specified in the order ; and any such order shall be an authority for the detention of the person to whom it relates until such date as may be specified in the order :

Provided that the date to be so specified shall be not later than that on which he will in the opinion of the Minister attain the age of nineteen years nor later—

- (a) in the case of a person who was sentenced to detention under section 24 (2), than the date on which his detention would have expired ;
- (b) in the case of a young person who has been sentenced to imprisonment and pardoned as aforesaid, than three years from the date as from which his sentence began to run.

33. The words " conviction " and " sentence " shall cease to be used in relation to children and young persons dealt with summarily and any reference in any written law to a person convicted, a conviction or a sentence shall, in the case of a child or young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding, as the case may be.

Miscellaneous provisions as to summary proceedings against children and young persons,

CHILDREN AND YOUNG PERSONS IN NEED OF CARE OR PROTECTION

34. (1) For the purposes of this Ordinance a child or young person in need of care or protection means a person who is—

Definition of "in need of care or protection".

- (a) a child or young person who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is either falling into bad associations, or exposed to moral danger, or beyond control; or
- (b) a child or young person who—
 - (i) being a person in respect of whom any of the offences mentioned in the First Schedule has been committed; or

Cap. 23] CHILDREN AND YOUNG PERSONS

- (ii) being a member of the same household as a child or young person in respect of whom such an offence has been committed ; or
- (iii) being a member of the same household as a person who has been convicted of such an offence in respect of a child or young person ; or
- (iv) being a female member of a household whereof a member has committed an offence under section 17 of the Marriage Registration Ordinance in respect of another female member of that household,

requires care or protection ; or

- (c) a child in respect of whom an offence has been committed under section 77 (which relates to the punishment of vagrants preventing children from receiving education).

(2) For the purposes of this section, the fact that a child or young person is found destitute, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing or offering anything for sale), or is found loitering for the purpose of so begging or receiving alms, shall, without prejudice to the generality of the provisions of paragraph (a) of subsection (1), be evidence that he is exposed to moral danger.

Powers of
Juvenile
Courts in
respect of
children and
young persons
in need of
care or
protection.

[§ 6, 13 of 1944.]

35. (1) If a Magistrate's Court sitting as a Juvenile Court is satisfied that any person brought before the court under this section by any officer of a local authority, or by any police officer or authorized person, is a child or young person in need of care or protection the court may either—

- (a) if he has attained the age of twelve years, order him to be sent to an approved or certified school ;or
- (b) commit him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him ; or

CHILDREN AND YOUNG PERSONS [Cap. 23]

- (c) order his parent or guardian to enter into a recognizance to exercise proper care and guardianship ; or
- (d) 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) Any officer of a local authority, or any police officer or authorized person having reasonable grounds for believing that a child or young person is in need of care or protection may bring him before a Magistrate's Court sitting as a Juvenile Court.

[§ 6, 13 of 1944.]

(3) For the purposes of this section, the expression "authorised person" means any officer of a society which is authorized by general or special order of the President to institute proceedings under this section, and any person who is himself so authorized.

36. (1) Any court by or before which a person is convicted of having committed in respect of a child or young person any of the offences mentioned in the First Schedule or any offence under section 77, may—

Powers of other courts with respect to last foregoing section.

- (a) direct that the child or young person be brought before a Magistrate's Court sitting as a Juvenile Court with a view to that court making such order under the last foregoing section as may be proper ; or
- (b) if satisfied that the material before the court is sufficient to enable it properly to exercise jurisdiction, make any order which the Juvenile Court might make.

(2) Where any court has, under this section, directed that a child or young person be brought before a Magistrate's Court sitting as a Juvenile Court, it shall be the duty of the officer or person specified in that behalf in the order to bring the child or young person before such a court under section 35.

[§ 7, 13 of 1944.]

Cap. 23] CHILDREN AND YOUNG PERSONS

Removal or
remand of
child or
young person
to place of
safety.
[§ 8, 13 of 1944.]

37. (1) A police officer of a rank not below that of Sub-Inspector or any person authorized by any court, may take to a place of safety any child or young person in respect of whom any of the offences mentioned in the First Schedule to this Ordinance has been or is believed to have been committed, or who is about to be brought before a Juvenile Court in accordance with section 35 or section 36, and a child or young person so taken to a place of safety, and any child or young person who has taken refuge in a place of safety, may be detained there until he can be brought before a Juvenile Court.

(2) If a Juvenile Court before which any child or young person is brought is not in a position to decide whether any and, if so, what, order ought to be made under section 35 or section 36, it may make such interim order as it thinks fit for his detention or continued detention in a place of safety or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

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

SUPPLEMENTARY PROVISIONS AS TO ORDERS OF COURT

Supervision
by probation
officers or
other persons.

38. (1) Where a court makes an order under any of the provisions of this Ordinance placing a child or young person under the supervision of a probation officer or of some other fit person, that officer or person shall, while the order remains in force—

- (a) visit or receive reports from the child or young person under supervision at such reasonable intervals as may be specified in the order, or subject thereto, as the officer or person shall think fit;
- (b) see that the conditions of any recognizance entered into by or in respect of the child or young person are observed ;
- (c) make report to the court as to the behaviour of the child or young person ;

- (d) advise, assist, and befriend the child or young person and, when necessary, endeavour to find him suitable employment; and
- (e) if it appears necessary in the interests of the child or young person so to do, at any time while the order is in force and he is under the age of sixteen years, bring him before the Magistrate's Court sitting as a Juvenile Court, of the division within which he is resident, and that court may, if it thinks that it is desirable in his interests so to do, order him to be sent to an approved or certified school or commit him to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

(2) Where the probation officer or other person named in the order as aforesaid placing a child or young person under supervision has died or is unable for any reason to carry out his duties, or where it is made to appear that it is for any reason desirable that another person should be appointed in the place of that officer or person, a Juvenile Court may appoint another probation officer or person to act in his place.

39. (1) A court before making an approved school order with respect to any child or young person shall endeavour to ascertain his religious persuasion.

Regard to be had to religious persuasion of person sent to approved or certified school.
[§ 9, 13 of 1944.]

(2) A court or the President or the Minister, in determining the approved school to which a person is to be sent shall, where practicable, select a school for persons of the religious persuasion to which he belongs.

(3) Where an order has been made sending a person to an approved school which is not a school for persons of the religious persuasion to which he belongs, his parent, guardian, or nearest adult relative may apply—

[§ 9, 13 of 1944.]

- (a) if the order was made by a court of summary jurisdiction, to that court sitting as a Juvenile Court;
- (b) in any other case, to the Minister, to remove or send the person to a certified school, or to an approved school for persons of his religious persuasion,

Cap. 23] CHILDREN AND YOUNG PERSONS

and the court or the Minister shall, on proof of his religious persuasion and notwithstanding any declaration with respect thereto embodied in the approved school order, if any, relating to him, comply with the request of the applicant:

Provided that nothing in this subsection shall empower a court, or impose an obligation upon the Minister, to comply with any request as aforesaid unless—

- (a) accommodation is available at a certified school; or
- (b) the applicant has named an approved school for persons of the religious persuasion in question and shown to the satisfaction of the court or the Minister that the manager thereof has accommodation available.

Coming into force of approved or certified school order.

40. (1) An approved or certified school order may be made to take effect immediately, or its operation may be postponed to a later date specified in the order or to be subsequently specified by endorsement thereon in accordance with the provisions of this Ordinance :

Provided that the operation of any such order shall not be postponed except pending the completion of arrangements for the reception of the child or young person into a suitable school or on account of his ill-health.

(2) If an approved or certified school order is not made to take effect immediately, or if, at the time when such an order takes effect, the child or young person cannot be sent to the school, the court which made the order or any other court which would have jurisdiction to make an endorsement thereon under the next following section may make an order committing him either to custody in any place to which he might be committed on remand or to the custody of a fit person to whose care he might be committed under this Ordinance and, subject as hereinafter provided, that order shall have effect until he is sent to an approved or certified school in pursuance of the order:

Provided that an order made under this subsection shall not remain in force for more than twenty-eight days, but if at the expiration of that period any such court as aforesaid considers it expedient so to do the court may make a further order under this subsection.

(3) Any order made under this subsection may be made in the absence of the child or young person concerned.

41. (1) Every approved or certified school order shall contain a declaration as to the age and religious persuasion of the child or young person with respect to whom the order is made, and shall specify the name and address, if ascertainable, of the parents, guardian or nearest adult relative of the child or young person.

Contents of approved or certified school orders. [§ 10, 13 of 1944.]

(2) Every approved or certified school order which is made to take effect immediately shall—

- (a) specify the approved or certified school to which the child or young person with respect to whom the order is made is first to be sent, being that one of the available schools (whether situated within the jurisdiction of the court making the order or not) which the court, after considering any representations made to it, considers to be most suitable to the case ; and
- (b) state the authority or person who is to be responsible for conveying to the school the child or young person with respect to whom the order is made.

(3) Where an approved or certified school order is not made to take effect immediately, then if either the date to which its operation is postponed or the school to which the child or the young person is to be sent or the authority or person who is to be responsible for conveying him, is not specified in the order, the date, school, authority, or person, shall be subsequently specified by endorsement thereon.

(4) If for any reason a child or young person with respect to whom an approved or certified school order has been made cannot be received into the approved or certified school specified in or endorsed upon the

Cap. 23] CHILDREN AND YOUNG PERSONS

order, another school may be specified by an endorsement or further endorsement thereon, as the case may be.

(5) An endorsement under the foregoing provisions of this section may be made either—

(a) by the court which made the approved or certified school order ; or

(b) if the order was made by a court of summary jurisdiction, by that court, sitting as a Juvenile Court; or

(c) if the order was made by any court other than a court of summary jurisdiction—

(i) by the Magistrate's Court, sitting as a Juvenile Court, of the division in which the child or young person was committed for trial ; or

(ii) if the child or young person was not committed for trial, by the Magistrate's Court, sitting as a Juvenile Court, of the division within which he was resident;

and any such endorsement may be made in the absence of the child or young person concerned.

(6) An approved or certified school order made by reason of the commission of an offence under section 77 (which relates to the punishment of a vagrant preventing a child from receiving education) shall state that it is so made.

Duration of approved or certified school orders.

42. (1) Where a court orders a child to be sent to an approved or certified school, the order shall be an authority for his detention in an approved or certified school, as the case may be, until the expiration of a period of three years from the date of the order, and, if at the expiration of that period he is under the age of fourteen years, for his further detention until he attains that age,

(2) Where a court orders a young person to be sent to an approved or certified school the order shall be an authority for his detention in such school until the expiration of a period of three years from the date of the order.

CHILDREN AND YOUNG PERSONS [Cap. 23]

43. (1) The court which makes, or makes any endorsement upon, an approved or certified school order shall cause it to be delivered to the person responsible for conveying the child or young person to the school, and the authority or person conveying him to the school shall deliver the order to the headmaster or person for the time being in charge of the school.

Conveyance of children or young persons to approved or certified schools.

(2) The court by which an approved or certified school order is made shall cause a record in the prescribed form, embodying all such information in the possession of the court with respect to the child or young person as is in the opinion of the court material to be known by the manager of the school, to be prepared and transmitted to the headmaster or person for the time being in charge of the school.

(3) The authority or person specified in any approved or certified school order to be responsible for conveying a child or young person to the school shall be responsible for conveying him there and any expenses incurred in doing so shall be deemed to be an expense incurred in the administration of this Ordinance for the purposes of section 86.

(4) Where a child or young person has been ordered to be sent to an approved or certified school, any person who harbours, conceals, or aids him after the time has come for him to go to the school shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding two months or to a fine not exceeding two hundred rupees, or to both such imprisonment and fine,

(5) Where the authority or a person authorized to take a child or young person to an approved or certified school, is, when the time has come for the child or young person to go to the school, unable to find him or unable to obtain possession of him a Magistrate may, if satisfied by information on oath that some person named in the information can produce the child or young person, issue a summons requiring the person so named to attend at the court on such day as may be specified in the summons and produce the child or young person, and if he fails to do so without reasonable excuse he

shall in addition to any other liability to which he may be subject under the provisions of this Ordinance, be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

Extension of period of detention in approved or certified school.

44. If the manager of an approved or certified school is satisfied that a person whose period of detention therein is, under the foregoing provisions of this Ordinance, about to expire, needs further care or training and cannot be placed in suitable employment the manager may, with the approval of the Minister, detain him for a further period not exceeding six months, so, however, that he is not detained beyond the date on which he will attain the age of nineteen years :

Provided that the powers conferred by this section shall not extend to a person who, having been a person sentenced to detention under section 24 (2), is detained in an approved or certified school by order of the Minister.

Supervision and recall after expiration of order.

45. (1) A person sent to an approved or certified school shall, after the expiration of the period of his detention, be under the supervision of the manager of the school, if at the expiration of that period he has not attained the age of fourteen years, until he attains the age of sixteen years.

(2) The manager may, and, if the Minister so directs, shall, by notice in writing, recall to the school any person under his supervision who is at the date of recall under the age of sixteen years :

Provided that a person shall not be so recalled unless in the opinion of the manager, or, as the case may be, of the Minister, it is necessary in his interests to recall him.

(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—

- (a) after the expiration of a period of three months or such longer period not exceeding six months as the Minister may, after considering the circumstances of his case, direct; or
- (b) after attaining the age of sixteen years.

(4) The manager shall forthwith notify the Director-General of Education of the recall of any person and shall state the reasons for his recall, and when the manager releases any person so recalled he shall forthwith notify the Director-General of Education that he has done so. [§ 11,13 of 1944.] [§ 11, 13 of 1944.]

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

46. (1) Before making an order under this Ordinance committing a child or young person to the care of a fit person, the court shall endeavour to ascertain the religious persuasion of the child or young person, and in selecting the person to whose care the child or young person is to be committed, the court shall, if possible, select a person who is of the same religious persuasion as the child or young person or who gives an undertaking that he will be brought up in accordance with that religious persuasion.

Provisions as to making, duration, and effect, of orders of committal to fit persons.

(2) Every order committing a child or young person to the care of a fit person shall contain a declaration—

- (a) as to the age ; and
- (b) as to the religious persuasion,

of the child or young person with respect to whom it is made.

(3) Every order committing a child or young person to the care of a fit person shall, subject to the provisions of this Ordinance, remain in force until he attains the age of sixteen years.

(4) The person to whose care a child or young person is committed by any such order as aforesaid shall, while the order is in force, have the same rights and powers and be subject to the same liabilities in respect of his maintenance as if he were his parent, and the person so committed shall continue in his care notwithstanding any claim by a parent or any other person.

Cap. 23] CHILDREN AND YOUNG PERSONS

Application of Part II.

47. The provisions of this Part shall have effect in respect of criminal proceedings notwithstanding anything to the contrary in the Penal Code, the Code of Criminal Procedure Act, No. 15 of 1979, or any other written law; but such provisions of that Code, of that Act and of such other law as are not inconsistent with the provisions of this Part shall continue to apply in respect of such proceedings.

PART III

REMAND HOMES, APPROVED SCHOOLS, CERTIFIED SCHOOLS AND PERSONS TO WHOSE CARE CHILDREN AND YOUNG PERSONS MAY BE COMMITTED

REMAND HOMES

Establishment of remand homes, and appointment of Visitors.

48. (1) The Minister may by Order published in the Gazette establish one or more remand homes for the purposes of this Ordinance.

(2) The Minister may appoint one or more persons by name or by office to be Visitors to any remand home established under subsection (1).

Provisions as to custody of children and young persons in a remand home.

49. (1) Where a child or young person is committed to custody in a remand home, the order shall be delivered with the child or young person to the person in charge of the home and shall be sufficient authority for the detention of that child or young person in the home in accordance with the tenor of the order.

(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 lawful custody.

(3) 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 be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

APPROVED SCHOOLS

50. (1) The manager of any boarding school may apply to the Director-General of Education to approve the school for the purpose of the education, training and detention of children and young persons to be sent there in pursuance of this Ordinance, and the Director-General may, subject to the approval of the Minister, and after making such inquiries as he thinks fit, issue a certificate of approval to the manager of that school.

Approval of schools.
[§ 12, 13 of 1944.]

[§ 12, 13 of 1944.]

(2) If at any time the Minister is dissatisfied with the condition or management of a school so approved or considers its continuance as an approved school unnecessary, he may, by notice served on the manager, withdraw the approval of the school, as from a date specified in the notice, not being less than six months after the date of the notice, and upon the date so specified (unless the notice is previously withdrawn) the withdrawal of the approval shall take effect and the school shall cease to be an approved school:

Provided that the Minister, instead of withdrawing the approval, may by a notice served on the manager of the school prohibit the admission of persons to the school for such time as may be specified in the notice, or until the notice is revoked.

(3) The manager of an approved school may, on giving six months notice in writing to the Director-General of Education of his intention so to do, surrender the certificate of approval of the school, and at the expiration of six months from the date of the notice (unless the notice is previously withdrawn), the surrender of the certificate shall take effect, and the school shall cease to be an approved school.

[§12, 13 of 1944.]

(4) No person shall in pursuance of this Ordinance be received into the care of the manager of an approved school after the date of the receipt by the manager of the school of a notice of withdrawal of the certificate of approval of the school or after the date of a notice of intention to surrender the certificate ; but the obligations of the manager with respect to persons under his care at the respective dates aforesaid shall continue until the withdrawal or surrender takes effect.

(5) Notification of the grant of any certificate of approval of an approved school and of any notice of the

withdrawal of, or intention to surrender, such a certificate, shall, within one month from the date thereof, be published in the Gazette.

CERTIFIED SCHOOLS

Establishment of certified schools.

51. (1) The Minister may by Order published in the Gazette establish one or more certified schools for the purposes of this Ordinance.

(2) The Minister may appoint to each certified school—

- (a) a manager and such other officers as to him may seem necessary ;
- (b) one or more persons to be Visitors of that school.

[§ 13.13 of 1944.]

(3) The provisions of section 35 of the Education Ordinance shall apply *mutatis mutandis* in the case of every certified school and of the children and young persons in every such school.

Rules regarding remand homes and approved and certified schools.
[§ 14, 13 of 1944.]

52. (1) Rules may be made—

- (a) for the management, administration, inspection, and control of remand homes, approved schools, and certified schools ;
- (b) for the treatment, employment and control of children and young persons in remand homes, approved schools and certified schools, and for such children and young persons being visited from time to time by Visitors appointed under this Ordinance ;
- (c) for the classification of children and young persons in remand homes ;
- (d) for the grant of temporary leave of absence to children and young persons detained in approved or certified schools, for the grant to such children and young persons of licences permitting them to live outside such schools, and prescribing the persons by whom, and the conditions and restrictions subject to which, such leave or licence may be granted or revoked.

(2) Rules made under subsection (1) may distinguish between different schools or classes of schools.

(3) The power to make rules under subsection (1) shall— [§ 14, 13 of 1944.]

- (a) in the case of rules relating to remand homes and to children and young persons in remand homes, be vested in the Minister charged with the administration of the subject of Remand Homes;
- (b) in the case of rules relating to approved and certified schools and to children and young persons in such schools, be vested in the Minister charged with the administration of the subject of Education.

53. (1) The Minister may, by Order published in the Gazette, classify approved and certified schools according to the age of the persons for whom they are intended, the religious persuasion of such persons, the character of the education and training given therein, their geographical position, and otherwise as he thinks best calculated to secure that a person sent to an approved or certified school is sent to a school appropriate to his case, or as may be necessary for the purposes of this Ordinance.

Classification, administration, and management of approved and certified schools.

(2) The manager of an approved or certified school shall be bound to accept any person who, in pursuance of this Ordinance, is sent or transferred to his school or otherwise to his care, unless—

- (a) the school is an approved school for persons of a particular religious persuasion not being that of the person whom it is proposed to send or transfer ; or [§ 15, 13 of 1944.]
- (b) the manager of the school satisfies the Minister that there are already as many persons detained in that school, or, as the case may be, otherwise under his care, as is desirable.

54. (1) Where a child or young person who is detained in an approved school is of a religious persuasion other than that of the proprietor or manager of the school, such child or young person shall not, except with the express written consent of his parent, be required or permitted by the person for the time being

Religious instruction, &c., to person detained in approved school. [§ 16, 13 of 1944.]

in charge of the school to attend any religious worship or religious observance or any instruction in religious subjects in the school or elsewhere.

(2) Where a child who is detained in any approved school is of the same religious persuasion as that of the proprietor or manager of the school, such child or young person may be compelled by the person for the time being in charge of the school to attend any religious worship or religious observance or any instruction in religious subjects.

Escapes from approved and certified schools, &c.

55. (1) Any person who has been ordered to be sent to an approved or certified school and who—

- (a) escapes from the school in which he is detained or from any hospital, home or institution in which he is receiving medical attention ; or
- (b) being absent from his school on temporary leave of absence or on licence, runs away from the person in whose charge he is, or fails to return to the school upon the expiration of his leave, or upon the revocation of his licence,

may be apprehended without warrant, and may (the provisions of any other written law to the contrary notwithstanding), be brought before the Magistrate's Court, sitting as a Juvenile Court, of the division in which he is found or his school is situate ; and that court may (notwithstanding any limitations contained in this Ordinance upon the period during which he may be so detained in an approved or certified school) order him—

- (a) if he is under the age of sixteen years, to be brought back and to have the period of his detention in the school increased by such period not exceeding six months as the court may direct ; or
- (b) if he has attained the age of sixteen years, to be brought back and to have the period of his detention so increased or to be sent for a period of three years to any training school for youthful offenders established under the provisions of any written law.

(2) Where a person is under subsection (1) brought back to his school, the period of his detention shall (notwithstanding any limitations contained in this Ordinance upon the period during which he may be detained in an approved or certified school) be increased, over and above any increase ordered by a court, by a period equal to the period during which he was unlawfully at large.

(3) If any person knowingly—

- (a) assists or induces a person to commit any such offence as is mentioned in subsection (1) ; or
- (b) harbours or conceals a person who has committed such an offence, or prevents him from returning,

he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding two months, or to both such fine and imprisonment.

(4) If a Magistrate is satisfied by information on oath that an offence under subsection (1) has been committed and that there is reasonable ground for believing that some person named in the information could produce the offender, the court may issue a summons requiring that person to attend at the court on such date as may be specified in the summons, and to produce the offender, and if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Ordinance, be guilty of an offence and shall be liable to a fine not exceeding fifty rupees.

56. The Director-General of Education, and all such other officers of the Department of Education as may be specially or generally authorized by the Director-General in that behalf, shall, in the exercise and performance of the powers and duties conferred or imposed on them by or under this Ordinance, be subject to the general direction and control of the Minister charged with the administration of the subject of Education.

Powers, &c., of
Director-General
of Education and
other officers.
[§18, 13 of 1944.]

FIT PERSONS

General provisions as to children and young persons committed to the care of fit persons.

57. (1) The provisions of this section shall apply in relation to orders under this Ordinance committing a child or young person to the care of a fit person, and in this section the expressions " child" and " young person " mean a person with respect to whom such an order is in force irrespective of whether at the date of the making of the order, or at any subsequent date while the order is in force, he was, or is, a child or young person.

(2) The Minister may, if he thinks fit, make rules as to the manner in which children and young persons so committed are to be dealt with and as to the duties of the persons to whose care they are committed.

(3) The Minister may, at any time in his discretion, discharge a child or young person from the care of the person to whose care he has been committed and any such discharge may be granted either absolutely or subject to conditions.

(4) An order committing a child or young person to the care of a fit person may, on the application of any person, be varied or revoked—

(a) if the order was made by a court of summary jurisdiction, by that court sitting as a Juvenile Court;

(b) in any case, by the Magistrate's Court, sitting as a Juvenile Court, of the division within which the child or young person is residing.

(5) If, on an application made by the parent or guardian or any near relative of a child or young person committed by any such order as aforesaid, any court having power to vary or revoke the order is satisfied that he is not being brought up in accordance with his religious persuasion, the court shall, unless a satisfactory undertaking is offered by the person to whose care he has been committed, either revoke the order or vary it in such manner as the court thinks best calculated to secure that he is thenceforth brought up in accordance with that persuasion.

58. (1) A child or young person who runs away from a person to whose care he has been committed under this Ordinance may be apprehended without warrant and brought back to that person, if he is willing to receive him, and if he is not willing to receive him, may be brought-

Escapes from care of fit persons.

- (a) if the order committing him to the care of that person was made by a court of summary jurisdiction, before that court sitting as a Juvenile Court;
- (b) in any case, before the Magistrate's Court, sitting as a Juvenile Court, of the division in which he was residing immediately before he ran away ;

and that court may make any order with respect to him which the court might have made if that child or young person had been brought before it as being a child or young person who, having no parent or guardian, was beyond control.

(2) Any person who knowingly—

- (a) assists or induces a child or young person to run away from a person to whose care he has been committed under this Ordinance ; or
- (b) harbours or conceals a child or young person who has so run away, or prevents him from returning,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for a term not exceeding two months, or to both such fine and imprisonment.

***PART V**

**PREVENTION OF CRUELTY AND EXPOSURE TO MORAL AND
PHYSICAL DANGER**

OFFENCES

71. (1) If any person who has attained the age of sixteen years and has the custody, charge, or care of any child or young person, wilfully assaults, ill-treats, neglects, abandons, or exposes him, or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed, in a manner likely to cause him unnecessary suffering or injury to health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of an offence and shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding three years, or to both such fine and imprisonment.

Cruelty to
children and
young persons.

* Part IV -[Sections 59 to 70 (both inclusive)] is repealed by Act No. 47 of 1956.

Cap. 23] CHILDREN AND YOUNG PERSONS

(2) The provisions of subsection (1) shall be in addition to and not in substitution of the provisions of section 308 of the Penal Code.

(3) 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, having sufficient means for the purpose, he has failed to provide adequate food, clothing, medical aid or lodging for him.

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

(a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person ;

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

(5) Upon the trial of any person who has attained the age of sixteen years for any offence under section 296 or section 297 of the Penal Code, in respect of a child or young person of whom he had the custody, charge, or care, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section to find him guilty of that offence.

(6) Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person having lawful control or charge of a child or young person to administer punishment to him.

Causing or encouraging seduction or prostitution of girl under sixteen.

72. (1) If any person having the custody, charge or care of a young person being a female, causes or encourages the commission in respect of her of any offence under section 345 or section 364 or section 364A of the Penal Code, he shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding two years.

(2) Where any offence mentioned in subsection (1) has been committed in respect of a child or young

person being a female, a person shall, if he has knowingly allowed her to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character, be deemed to have caused or encouraged the commission of that offence for the purposes of this section.

73. If any person having the custody, charge or care of a child who has attained the age of four years or of a young person, allows that child or young person to reside in or to frequent a brothel, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred and fifty rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

Allowing persons under sixteen to be in brothels.

74. (1) Any person, other than the father or mother of a child or young person, who causes or procures 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, performing, offering anything for sale, or otherwise), shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

Causing or procuring persons under sixteen to beg.

(2) Where any person is arrested for or charged with an offence under subsection (1) in respect of any child or young person and it is claimed that an offence under that subsection has not been committed by reason of the fact that the person so arrested or charged is the father or mother of that child or young person, the burden of proving such fact shall be on the person so arrested or charged.

75. If any person gives, or causes to be given, to any child under the age of five years any excisable article within the meaning of the Excise Ordinance, except upon the order of a duly qualified medical practitioner,

Giving excisable article to children under five.

Cap. 23] *CHILDREN AND YOUNG PERSONS*

or in case of sickness, apprehended sickness, or other urgent cause, he shall be guilty of an offence and liable to a fine not exceeding fifty rupees.

Sale of tobacco, &c., to persons under sixteen.

76. (1) Any person who sells to a person apparently under the age of sixteen years any tobacco or cigarettes, shall be guilty of an offence and shall be liable, in the case of a first offence to a fine not exceeding twenty rupees, in the case of a second offence to a fine not exceeding fifty rupees, and in the case of a third or subsequent offence to a fine not exceeding one hundred rupees:

Provided that a person shall not be guilty of an offence under this section in respect of any sale to any person on the written order of the parent, guardian or employer of the person to whom the sale is made.

(2) Any police officer may seize any tobacco or cigarettes in the possession of any person apparently under the age of sixteen years whom he finds smoking in any street or public place, and any tobacco or cigarettes so seized shall be disposed of in such a manner as the Inspector-General of Police may direct.

(3) Nothing in this section shall make it an offence to sell tobacco or cigarettes to, or shall authorize the seizure of tobacco or cigarettes in the possession of any person who is at the time employed by a manufacturer of or dealer in tobacco, either wholesale or retail, for the purposes of his business.

(4) For the purposes of this section the expression "tobacco" includes smoking mixtures intended as a substitute for tobacco, and the expression "cigarettes" includes cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking.

Vagrants preventing children from receiving education.

77. (1) If a person habitually wanders from place to place and takes with him any child who has attained the age of five years he shall, unless he proves that the child is totally exempted from school attendance or that the child is not by being so taken with him prevented from receiving efficient elementary education, be guilty of an offence and shall be liable to a fine not exceeding ten rupees.

CHILDREN AND YOUNG PERSONS [Cap. 23]

(2) Any police officer who finds a person wandering from place to place and taking a child with him may, if he has reasonable ground for believing that the person is guilty of an offence under this section, apprehend him without a warrant, and may take the child to a place of safety in accordance with the provisions of this Ordinance.

78. Any offence under this Part shall, notwithstanding anything to the contrary in the First Schedule to the Code of Criminal Procedure Act, No. 15 of 1979, be a cognizable offence within the meaning of that Act.

Offences under this Part to be cognizable offences.

79. For the purposes of this Part—

Interpretation of Part V.

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

Any person to whose charge a child or young person is committed by any person who has the custody of him shall be presumed to have charge of the child or young person ;

Any other person having actual possession or control of a child or young person shall be presumed to have the care of him.

PART VI

SUPPLEMENTAL

SUPPLEMENTARY PROVISIONS AS TO LEGAL PROCEEDINGS

80. (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 inquiry as to the age of that person, and for that purpose shall take such evidence as may be

Presumption and determination of age.

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 Ordinance, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it has attained the age of sixteen years, that person shall for the purposes of this Ordinance be deemed not to be a child or young person.

(2) Where in any charge or indictment for any offence under this Ordinance or any of the offences mentioned in the First 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 had attained 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 to have attained the specified age, as the case may be, he shall for the purposes of this Ordinance be presumed at that date to have been a child or young person or to have been under or to have attained that age, as the case may be, unless the contrary is proved.

(3) Where, in any charge or indictment for any offence under this Ordinance or any of the offences mentioned in the First Schedule, it is alleged that the person in respect of whom the offence was committed was a child or was a young person, it shall not be a defence to prove that the person alleged to have been a child was a young person or the person alleged to have been a young person was a child in any case where the acts constituting the alleged offence would equally have been an offence if committed in respect of a young person or child respectively.

(4) Where a person is charged with an offence under this Ordinance 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.

Evidence of husband or wife of accused person.

81. Notwithstanding anything in the Evidence Ordinance contained, the wife or husband of a person charged with an offence specified in the First Schedule shall be a competent witness for the prosecution.

82. In any proceedings under this Ordinance a copy of an entry in the wages book of any employer of labour, or if no wages book be kept a written statement signed by the employer or by any responsible person in his employ, shall be evidence that the wages therein entered or stated as having been paid to any person, have in fact been so paid.

Evidence of wages.

83. Every bond or recognizance required to be executed or entered into under any provisions of this Ordinance by any court or to secure the attendance of any person at any court may be enforced—

Bonds and recognizances.

- (a) where the court is a Rural Court, in like manner as a bond or a recognizance executed or entered into under the provisions of any rules of criminal procedure for Rural Courts for time being in force;
- (b) in any other case, in like manner as a bond executed under the provisions of the Code of Criminal Procedure Act, No. 15 of 1979.

84. (1) An appeal shall lie from any order under this Ordinance in the following cases and by the following persons, that is to say—

Appeals from orders made under this Ordinance.

- (a) in the case of an order committing a child or young person to the care of a fit person, requiring a child or young person to be sent to a remand home or to an approved or certified school, or placing a child or young person under the supervision of a probation officer or other person, by the child or young person or by his parent or guardian on his behalf ;
- (b) in the case of an order requiring a person to enter into a recognizance to be responsible for the good behaviour of a child or young person, by the person required to enter into the recognizance.

(2) Nothing in subsection (1) shall be construed as affecting any right of appeal conferred by any provision of this Ordinance or of any other written law.

Cap. 23] *CHILDREN AND YOUNG PERSONS*

(3) Every appeal from any order made under this Ordinance by any court, other than the Court of Appeal or a Rural Court, shall lie to the Court of Appeal; and the provisions of sections 320 to 360 of the Code of Criminal Procedure Act, No. 15 of 1979 shall apply to every such appeal.

(4) For the purposes of any appeal from an order made by a Rural Court under this Ordinance such order shall be deemed to be an appealable decision of a Rural Court in a criminal case, and all the provisions of any written law for the time being in force relating to appeals from decisions of Rural Courts in criminal cases shall apply accordingly in the case of appeals from such orders.

APPOINTMENTS, EXPENDITURE, &C.

Power to appoint inspectors.

85. There may be appointed for the purposes of this Ordinance a chief inspector, and such number of inspectors as may be deemed fit.

Expenses of administration of Ordinance, [§21, 13 of 1944.]

86. (1) The expenses incurred in the administration of this Ordinance shall be paid out of the Consolidated Fund.

(2) The Minister in charge of the subject of Education may make regulations providing for the payment of moneys from State funds towards the expenses of the maintenance in approved schools of children and young persons ordered to be detained in such schools in pursuance of the provisions of this Ordinance, and prescribing the conditions upon which and the restrictions subject to which such payments may be made.

(3) Where regulations have been made under subsection (2), all such payments as are authorized thereby shall be made out of such moneys as may from time to time be voted by Parliament for the purpose.

Rules and regulations.

87. (1) Every rule and every regulation made by a Minister under this Ordinance shall be brought before Parliament by a motion that such rule or regulation shall be approved. No rule or regulation made by a Minister shall have

CHILDREN AND YOUNG PERSONS [Cap. 23]

effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(2) A rule or regulation made by a Minister when approved by Parliament shall upon the notification of such approval in the Gazette be as valid and effectual as if it were herein enacted.

88. In this Ordinance, unless the context otherwise requires— Interpretation.

"appointed date", where it occurs in any provision of this Ordinance, means the date on which that provision comes into operation by virtue of a Proclamation under section 1; [§ 24, 13 of 1944.]

"approved school" means a school approved by the Minister under section 50, and "manager of an approved school" means the person having the management or control of an approved school, and where there are two or more of such persons, includes those persons ;

"approved school order" means an order made by a court sending a child or young person to an approved school;

"certified school" means a school established under section 51 ;

"certified school order" means an order made by a court sending a child or young person to a certified school;

"child" means a person under the age of fourteen years;

"court" includes a court of summary jurisdiction ; [§ 24, 13 of 1944.]

"court of summary jurisdiction" means a Magistrate's Court or Municipal Court, and includes a Rural Court when exercising criminal jurisdiction ;

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

Cap. 23] *CHILDREN AND YOUNG PERSONS*

"indictable offence" means any offence which is, according to the First Schedule to the Code of Criminal Procedure Act, No. 15 of 1979, triable by the High Court;

"in need of care or protection" has the meaning assigned to that expression by section 34;

"local authority" means any Municipal Council or Urban Council or Pradeshiya Sabha;

"Municipal Court" means the court of a Municipal Magistrate;

"place of safety" means any remand home or hospital, or the residence of any person nominated by the Minister under section 14 (3);

"prescribed" means prescribed by regulation;

"probation officer" means a probation officer appointed under section 17 of the Probation of Offenders Ordinance;

"regulation" means a regulation made by the Minister under this Ordinance;

"scheduled offence" means an offence specified in the Second Schedule;

"young person" means a person who has attained the age of fourteen years and is under the age of sixteen years.

[Sections 34, 36, 80, and 81.]

FIRST SCHEDULE

OFFENCES AGAINST CHILDREN AND YOUNG PERSONS IN RESPECT OF WHICH SPECIAL PROVISIONS OF THIS ORDINANCE APPLY

(1) Any offence under section 308 or section 360 of the Penal Code.

(2) Any offence against a child or young person under any of the following sections of the Penal Code :—

Sections 296, 297, 343, 345, 357, 360A, 364, 364A, 365, 365A.

(3) Any offence against any of the following sections of this Ordinance:—

Sections 71, 72, 73 and 74.

(4) Any other offence involving bodily injury to a child or young person.

CHILDREN AND YOUNG PERSONS [Cap. 23]

SECOND SCHEDULE

[Section 88.]

LIST OF SCHEDULED OFFENCES

Offences under any of the following sections of the Penal Code:—

Section 296,
Section 297,
Section 300.
Section 301, and
Section 383.