



ANNO DECIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1966

No. 3 of 1966

An Act to consolidate and amend the law relating to the powers of courts to deal with neglected and uncontrolled children and with certain offences by young persons, and matters connected therewith, and for other purposes.

[Assented to 10th February, 1966.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I. PRELIMINARY.

Short title. 1. This Act may be cited as the "Juvenile Courts Act, 1965-1966".

Commencement. 2. This Act shall come into operation on a day to be fixed by proclamation.

Repeals. 3. (1) The Juvenile Courts Act, 1941-1965, is repealed.
(2) The Act specified in the first column of the Schedule to this Act is amended as specified in the third column thereof and, as so amended, may be cited as specified in the second column thereof.

Arrangement. 4. This Act is arranged as follows:—

PART I.—PRELIMINARY, ss. 1-7.

PART II.—CONSTITUTION AND JURISDICTION
OF JUVENILE COURTS, ss. 8-13.

**PART III.—GENERAL PROCEDURE AND POWERS
OF COURTS, ss. 14-24.**

**PART IV.—SPECIAL PROVISIONS RELATING TO
THE HEARING AND DETERMINA-
TION OF CHARGES, ETC., ss. 25-43.**

**PART V.—PROVISIONS RELATING MAINLY TO
NEGLECTED AND UNCONTROLLED
CHILDREN, ss. 44-52.**

**PART VI.—APPEALS FROM AND RECONSIDERA-
TION OF PENALTY BY JUVENILE
COURTS, ss. 53-55.**

PART VII.—GENERAL PROVISIONS, ss. 56-68.

THE SCHEDULE.

5. (1) In this Act, unless the context or subject matter or some other provision requires a different construction—

Interpretation.
cf. 13, 1941,
s. 3.

“child” means a child who has not attained the age of eighteen years; and, in the absence of positive evidence as to age, means a person apparently under the age of eighteen years :

“court” means the Supreme Court or any court of summary jurisdiction or any justice sitting to hold the preliminary examination on an information for an indictable offence :

“guardian”, in relation to a child, means a parent of the child or any person (other than the Minister) having the immediate custody and control of the child :

“homicide” includes the offences to which sections 11, 12, 13, 14, 14a, 16, 17 and 18 of the Criminal Law Consolidation Act, 1935-1965, relate :

“indictable offence” includes a minor indictable offence as defined in the Justices Act, 1921-1965 :

“institution” means an institution as defined in the Social Welfare Act ; but, in relation to proceedings in respect of a child pursuant to the Education Act, 1915-1965, means an institution as defined in section 48 of that Act :

“juvenile court” means a juvenile court as defined in section 8 of this Act ; and, for the purposes of section 6 of this Act, includes a court constituted as a juvenile court under the repealed Act :

“metropolitan area” means—

(a) that part of the State which is within ten miles of any part of the City of Adelaide or of the City of Port Adelaide ; and

(b) any other part of the State declared by proclamation to be included in the metropolitan area for the purposes of this Act :

“Minister” means Minister of Social Welfare :

“neglected child” means a neglected child as defined in the Social Welfare Act :

“parent” includes father, mother, step-father, step-mother and an adoptive parent within the meaning of the Social Welfare Act :

“reformatory institution” means a reformatory institution as defined in the Social Welfare Act and includes a private reformatory institution as defined in that Act :

“remand home” means a home within the meaning of the Social Welfare Act which is by proclamation under that Act set apart as an institution to be used as a remand home :

“repealed Act” means the Juvenile Courts Act, 1941-1965 :

“the department” means the Department of Social Welfare :

“the Director” means the person for the time being holding the office of Director of Social Welfare under the Social Welfare Act :

“the Social Welfare Act” means the Social Welfare Act, 1926-1965 :

“uncontrolled child” means an uncontrolled child as defined in the Social Welfare Act.

(2) In this Act, any reference to the Adelaide Juvenile Court shall be read as a reference to that court as constituted by a special magistrate.

Transitional
and saving
provisions.

6. (1) All proceedings commenced before courts that had been constituted as juvenile courts under the repealed Act and not finally heard and disposed of at the commencement of this Act shall be continued, heard and determined by those courts as so constituted as if this Act had not been enacted.

(2) All decisions, judgments and records of such courts shall continue to be decisions, judgments and records thereof.

(3) Such courts shall be held at such respective places and the sittings thereof shall take place on such days and during such periods as have been or shall be fixed in accordance with existing practice.

(4) Every order made by a juvenile court before the commencement of this Act and which at such commencement has not been complied with in full shall continue to be of full force and effect according to the tenor thereof.

(5) Where, before the commencement of this Act, notice of appeal has been given from any conviction by or from any order, determination or adjudication of a juvenile court or from any refusal by a juvenile court to make an order, and the appeal has not been heard and determined, the same shall be heard and determined as if this Act had not been enacted.

(6) Without limiting the application of the Acts Interpretation Act, 1915-1957, the provisions of that Act relating to the effect of repeals shall, except where inconsistent with this Act, apply and have effect to and in relation to the repeals enacted by this Act.

7. Where any Act, past or future, or any rule, regulation, proclamation or by-law made under or by virtue of such an Act provides that any order may be made or jurisdiction may be exercised by a juvenile court, such Act, rule, regulation, proclamation or by-law shall, unless the Act concerned otherwise provides, be deemed to provide that such order may be made or such jurisdiction may be exercised by a juvenile court constituted under this Act and the provisions of this Act shall for such purpose be deemed to be incorporated with that Act.

*Incorporation
with past and
future Acts.*

PART II.

CONSTITUTION AND JURISDICTION OF JUVENILE COURTS.

8. (1) Subject to the provisions of this Act, any court of summary jurisdiction, if constituted either of a special magistrate or of two justices chosen from a panel of justices prepared in accordance with the provisions of section 9 of this Act, shall, for the purposes of this Act, be a juvenile court.

*Juvenile
courts,
cf. 13, 1941,
s. 4.*

(2) Notwithstanding subsection (1) of this section, where, in the opinion of the clerk of the court of summary jurisdiction concerned, it is not reasonably practicable for the court to be constituted of a special magistrate or of two justices whose names are included in such panel, the court, if constituted of any two justices, may be a juvenile court.

Panel of justices for juvenile courts.
cf. 13, 1941, s. 5.

9. (1) The Attorney-General shall prepare for the whole of the State a panel of justices containing the names and addresses of justices who are, in his opinion, specially qualified to hear and determine proceedings against or in respect of children.

(2) The Attorney-General may, from time to time, revise the panel of justices prepared under this section.

Juvenile court to be constituted of special magistrate when available.
13, 1941, s. 7.

10. If, at any place where it is desired to hold a juvenile court, there is a special magistrate who is able to act, such juvenile court shall be constituted of such special magistrate and not of two justices.

Place of sitting.
cf. 13, 1941, s. 8; 1780, 1926, s. 100.

11. (1) So far as is reasonably practicable, a juvenile court shall not sit in any building while any court which is not a juvenile court is sitting therein.

(2) Every information, complaint, charge, summons or application referred to in section 12 of this Act, which is to be heard by a juvenile court within the metropolitan area, shall be heard only in such room or place as is, from time to time, appointed or approved of by the Minister for the purpose of the hearing of such informations, complaints, charges, summonses and applications.

Jurisdiction of juvenile courts.
cf. 13, 1941, s. 6.

12. (1) Except as otherwise expressly provided by this Act or any other Act—

- (a) an information, complaint or charge against a child ;
- (b) an information, complaint, charge or application under Division I of Part IV of the Social Welfare Act ; and
- (c) a complaint, summons or application under Part V of the Education Act, 1915-1965,

shall not be heard by any court of summary jurisdiction that is not a juvenile court. -

(2) Except as otherwise provided by this Act, an information, complaint, charge or any application or other proceedings against a person who has attained the age of eighteen years shall not be heard by a juvenile court.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, no conviction, order or adjudication of a court shall be invalid by reason only of a contravention of those subsections.

Power of justice to issue process.
cf. 13, 1941, s. 6.

13. No provision of section 8, section 11 or section 12 of this Act shall be construed as restricting the powers of any justice to sit in any convenient building, room or place for the purpose of issuing any summons, warrant or other process or of hearing an application for bail or of hearing such evidence as may be necessary for any of such purposes.

PART III.

GENERAL PROCEDURE AND POWERS OF COURTS.

14. (1) If it appears to a juvenile court that any information, complaint, charge or any application or other proceedings before the court can be more conveniently, economically or fairly heard and determined by some other juvenile court, the first-mentioned court may desist from further proceeding with the hearing, and if the court so desists, it shall by memorandum refer the proceedings for hearing and determination by the other juvenile court on a date and at a time which shall be specified in the memorandum and notified to the parties to the proceedings.

Change of
venue.
cf. 13, 1941,
s. 9.

(2) Upon so referring the proceedings, the court may suffer the defendant to go at large or remand him into suitable custody or discharge him upon his entering into a recognizance with or without sureties to appear before the court to which the proceedings have been referred upon the date and at the time so specified.

(3) Subsection (2) of this section shall not be construed as authorizing the court to remand a child to custody in a prison.

15. (1) Notwithstanding anything contained in sections 8, 11 and 12 of this Act, where, in the course of any proceedings before a court other than a juvenile court, it appears to the court that the person against whom the proceedings were instituted is a child, the following provisions of this subsection shall apply :—

Procedure
when fact that
defendant is
charged in
wrong court
becomes known
during hearing.
cf. 13, 1941,
s. 6.

- (a) The court may desist from further proceeding with the hearing of the proceedings, or it may, subject to this Act, proceed with the hearing and determination of those proceedings or, as the case requires, with the preliminary examination, as if it were a properly constituted juvenile court :
- (b) If the court so desists, it shall by memorandum refer the proceedings for hearing and determination by an appropriate juvenile court upon a date and at a time which shall be specified in the memorandum and notified to the parties to the proceedings :
- (c) Upon so referring the proceedings, the court may allow the child to go at large or remand him to custody in an institution or other suitable place (not being a prison) or to the temporary custody of a suitable person or discharge him upon his entering into a recognizance with or without sureties to appear before the court to which the proceedings have been referred upon the date and at the time so specified.

(2) Notwithstanding anything contained in sections 8, 11 and 12 of this Act, where, in the course of any proceedings before a juvenile court, it appears to the court that the person against whom the proceedings were instituted had attained the age of eighteen years before the commencement of such proceedings, the following provisions of this subsection shall apply :—

- (a) The court may desist from further proceeding with the hearing of the proceedings, or it may proceed with the hearing and determination of those proceedings or, as the case requires, with the preliminary examination as a court of summary jurisdiction that is not a juvenile court :
- (b) If the court so desists, it shall by memorandum refer the proceedings for hearing and determination by an appropriate court of summary jurisdiction upon a date and at a time which shall be specified in the memorandum and notified to the parties to the proceedings :
- (c) Upon so referring the proceedings, the court may allow the defendant to go at large or remand him into suitable custody or discharge him upon his entering into a recognizance with or without sureties to appear before the court to which the proceedings have been referred upon the date and at the time so specified.

(3) The court to which any proceedings are referred under this section shall have jurisdiction to hear and determine the proceedings.

Procedure
when child
attains age of
18 years
during hearing.

16. (1) Where a person who has not attained the age of eighteen years at the time when proceedings against him are commenced before a juvenile court attains that age before those proceedings are finally determined by that court, the court may continue to hear and determine the proceedings and may—

- (a) in lieu of sentencing such person to imprisonment, by order, send the person to an institution to be there detained or otherwise dealt with under the Social Welfare Act for a period of two years or for such lesser period as the court in its discretion deems fit ;
- (b) by an order in writing, place such person under the control of the Minister for a period of two years or for such lesser period as the court in its discretion deems fit ; or
- (c) make any other appropriate order which the court could lawfully have made if such person had not yet attained the age of eighteen years.

(2) Where a person, who has not attained the age of eighteen years at the time when proceedings against him are commenced before any court, attains that age before the Supreme Court makes an order on appeal from the order of that court, the Supreme Court may make any order that could be made by a juvenile court under subsection (1) of this section.

(3) Where a person, who has not attained the age of eighteen years at the time when proceedings against him for an offence to which section 41 of this Act relates are commenced before any court, attains that age before the Supreme Court, after committal thereto, sentences him upon conviction for the offence, the Supreme Court may make any order that could be made by a juvenile court under subsection (1) of this section.

(4) Where a person, who has not attained the age of eighteen years at the time when proceedings against him for an offence to which section 42 of this Act relates are commenced before any court, attains that age before the Supreme Court, after committal thereto, sentences him upon conviction for the offence, the Supreme Court may make any order that could be made by a juvenile court under subsection (1) of this section, or may exercise any of the powers authorized by that section as if the person had not attained the age of eighteen years.

(5) Where a person, who has not attained the age of eighteen years at the time when proceedings against him for an offence to which section 43 of this Act relates are commenced before any court, attains that age before the Supreme Court, after committal thereto, sentences him upon conviction for the offence, the Supreme Court may make any order authorized by that section as if the person had not attained the age of eighteen years.

17. (1) Where an information, complaint or charge comes before a juvenile court charging a child with the commission of an offence jointly with any other person or persons and one or more of the persons jointly charged is not a child, the court may—

Procedure
where child
charged
jointly with
adult.

- (a) if it is constituted of a special magistrate, direct that the proceedings against the child be heard and determined separately before a juvenile court or that the proceedings against the child and the other person or persons be heard and determined jointly before a juvenile court or before a court of summary jurisdiction that is not a juvenile court ; or
- (b) if it is constituted of two justices, submit the information, complaint or charge for the consideration of a special magistrate who shall direct that the pro-

ceedings against the child be heard and determined separately before a juvenile court or that the proceedings against the child and the other person or persons be heard and determined jointly before a juvenile court or before a court of summary jurisdiction that is not a juvenile court,

and those proceedings shall be heard and determined accordingly.

(2) Where those proceedings are heard and determined jointly before a juvenile court, that court, in relation to any accused person or defendant who is not a child, shall exercise its jurisdiction and powers as a court of summary jurisdiction that is not a juvenile court.

(3) Where those proceedings are heard and determined jointly before a court of summary jurisdiction that is not a juvenile court, that court, in relation to any accused person or defendant who is a child, shall exercise its jurisdiction and powers as if it were a juvenile court.

(4) Pending the hearing of the information, complaint or charge any court of summary jurisdiction or a justice may, in relation to the child or other person or persons, exercise the powers of a court which may be exercised under subsection (2) of section 14 of this Act in relation to a defendant.

Reference
cases to
Adelaide
Juvenile
Court.
cf. 13, 1941,
s. 14.

13. (1) Where any juvenile court, other than the Adelaide Juvenile Court, has found the offence or other matter alleged in an information, complaint or charge against a child proved, and is of the opinion that it is expedient to refer the case to the Adelaide Juvenile Court in order that the child may be further dealt with by that court, the first-mentioned court may—

- (a) refer the case by memorandum to the Adelaide Juvenile Court and remand the child to an institution or some other suitable place (not being a prison) and order that the child be brought before that court on a date and at a time specified in the order ; and
- (b) transmit to the Adelaide Juvenile Court the information, complaint or charge together with the evidence, a statement of the finding by the court, and any other relevant documents.

(2) When a case is so referred, the child may be examined and reported on by one or more physicians, psychologists or psychiatrists as directed or authorized by the Adelaide Juvenile Court.

(3) The Adelaide Juvenile Court shall consider the evidence taken by the court which heard the case, the finding of that court and the reports made upon the child pursuant to subsection (2) of this section and any other relevant matters, and may make any order authorized by law in respect of the child as if the information, complaint or charge against the child had been heard and determined by the Adelaide Juvenile Court.

19. (1) Where a child is charged with any offence or is for any other reason brought before a juvenile court, the court may order that his parents or guardian shall attend at the court before which the case is heard or determined during all the stages of the proceedings, unless sooner excused by the court.

Attendance at court of parent, etc. of child charged with offence.
cf. 13, 1941, s. 10.

(2) When the court makes an order under subsection (1) of this section directed to a guardian of the child who is not a parent of the child, the attendance of the father or the mother of the child, or both, may also be ordered.

(3) When the court makes an order under subsection (1) of this section, it may adjourn the hearing of the case.

(4) The court shall cause every such order to be served upon the parent or guardian named therein.

(5) Such order shall be deemed sufficiently served if a notice containing a copy thereof is served personally on such parent or guardian or posted addressed to him at his last known place of abode or business a reasonable time before the date of hearing of the case.

(6) Any person who, having been served with an order under this section, fails to attend the court in compliance therewith shall be guilty of an offence and liable to a fine not exceeding fifty pounds.

(7) Notwithstanding anything contained in this section, the court may, if it thinks it expedient and just to do so, proceed with the hearing and determination of the case in the absence of the parent or guardian.

20. (1) Notwithstanding anything contained in any other Act, where the hearing of any proceedings against a child is adjourned by a juvenile court or referred by one court to another under any provision of this Act and the child is not allowed to go at large and not released on bail, any juvenile court may, from time to time, order that the child be remanded to an institution or other suitable place (not being a prison) or in the temporary custody of a suitable person for a period not exceeding in each case, twenty-one days.

Remand of child during course of proceedings.
cf. 1780, 1923, s. 181.

(2) The court which makes an order under subsection (1) of this section, or the Adelaide Juvenile Court, may at any time revoke the order and in lieu thereof make another order remanding the child to an institution or other suitable place (not being a prison) or in the temporary custody of a suitable person for a period not exceeding twenty-one days.

(3) Notwithstanding anything contained in subsection (1) or subsection (2) of this section, the court referred to in either of those subsections, if constituted of a special magistrate, may, with the consent of the child or of the parent or guardian of the child, order that the child be remanded for a period exceeding twenty-one days but not exceeding thirty-five days.

Extension of
power to take
deposition of
child.
cf. 13, 1941,
s. 19.

21. (1) Where a justice is satisfied by the evidence of a legally qualified medical practitioner that the attendance before a court of any child in respect of whom an offence is alleged to have been committed would involve serious danger to his life or health, the justice may take in writing the deposition of the child, and shall thereupon sign the deposition and add thereto a statement of his reasons for taking it and of the day when and the place where it was taken and of the names of the persons (if any) present at the taking thereof.

(2) The justice shall, if the child is of or over the age of ten years, take the deposition on oath.

Admission of
deposition in
evidence.
cf. 13, 1941,
s. 20.

22. Where, in any proceedings in any court in respect of an offence against a child, the court is satisfied—

(a) by the evidence of a legally qualified medical practitioner that the attendance before the court of the child would involve serious danger to his life or health ; or

(b) that the child is dead,

any deposition of the child taken pursuant to section 21 of this Act shall be admissible in evidence either for or against the accused person without further proof thereof if it purports to be signed by the justice by or before whom it purports to have been taken ; but the deposition shall not be admissible in evidence against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon him and that he or his counsel or solicitor had, or might have had, if he had chosen to be present, an opportunity of cross-examining the child making the deposition.

In absence of
proof of age,
court to
determine age
of child on its
own view.
cf. 1780, 1926,
s. 119.

23. In the absence of proof of age, any court may determine upon its own view without further inquiry or after such inquiry as it deems warranted in the circumstances, whether a person charged before it is a child and the age of that person, and shall insert in the relevant mandate or order (if any) the age so determined.

24. A juvenile court before whom a child is brought may, if it has reason to suspect that the mental condition of a child is such as to affect the criminal responsibility of the child, cause the child to be examined by a properly qualified person, and may accept as evidence the written or oral report (whether on oath or otherwise) of such person as to the child's mental condition.

Examination
as to mental
condition of
child.
cf. 1780, 1926,
s. 107.

PART IV.

SPECIAL PROVISIONS RELATING TO THE HEARING AND DETERMINATION OF CHARGES, ETC.

25. Subject to this Act, the provisions of the Justices Act, 1921-1965, shall apply to and in relation to the hearing of any information, complaint or charge or other proceedings before a juvenile court and a juvenile court shall, in relation to such hearing, have all the powers of a court of summary jurisdiction.

Application of
Justices Act.

26. Where a child charged with an offence is not represented by counsel or solicitor, the court—

(a) shall satisfy itself that the child understands the charge and shall, if necessary, explain to him in simple language the nature of the allegations against him, including their legal implications, such as the intention to commit the offence, but no particular form of words shall be necessary; and

(b) may ask the child questions to elicit his version of the facts and may cross-examine any witnesses,

but no order or adjudication of a court shall be regarded as invalid or defective on the ground only of failure to comply with this section.

Duty of
court to
explain charge,
etc.
cf. 13, 1941,
s. 17.

27. (1) Where a child is charged before a juvenile court with any indictable offence or offences (other than homicide), the child at any stage of the proceedings, and whether any statement has been taken from any witness or not, may plead guilty to the charge or any of the charges laid against him.

(2) The court shall, at the commencement of the proceedings, inform the child and his parent or guardian (if present) of the child's right so to plead, and may, if it thinks fit, make a statement explaining the procedure under this section.

Power of
juvenile court
to take plea of
guilty to an
indictable
offence by
child.
cf. 57, 1956, s.
13 (1).

(3) Where a child pleads guilty pursuant to this section, the procedure of the court shall, subject to this Act, be the same as the procedure of a court of summary jurisdiction, and the provisions of the Justices Act, 1921-1965, shall, so far as they are applicable and not inconsistent with this Act, apply to and in relation to the hearing and determination of the charge.

(4) If, after the child has so pleaded guilty, the court, after consideration of any facts stated by the prosecutor or given in evidence, is of the opinion that the time for taking the plea should be postponed, it may order that the plea of guilty be withdrawn; and thereupon all further proceedings in respect of the offence shall, subject to this Act, be conducted in accordance with this Act and the Justices Act, 1921-1965, as if the child had not so pleaded guilty.

(5) If any such further proceedings are taken, the child shall not, by reason of his plea of guilty be entitled to plead *autrefois convict*.

Procedure
where child
charged with
indictable
offence does
not plead
guilty.
cf. 1479, 1921
s. 161.

28. (1) Where a child appears before a juvenile court constituted of a special magistrate on an information charging the child with an indictable offence (other than homicide) to which the child does not plead guilty, the court may, subject to this Act, hear and determine the matter before the court in a summary way or proceed to hold the preliminary examination and the provisions of Part V of the Justices Act, 1921-1965, shall, so far as they are applicable, apply to and in relation to the preliminary examination.

(2) Before exercising his discretion under subsection (1) of this section, the special magistrate constituting the court shall—

(a) explain to the child and his parent or guardian (if present) the relative implications of the matter being dealt with in a summary way and of committing the child for trial before the Supreme Court and give them an opportunity of making representations for the consideration of the magistrate; and

(b) have regard to the nature of the charge, the age of the child, the circumstances of the case and the representations made by or on behalf of the child or his parent or guardian or by the prosecutor or an officer of the department.

(3) The matter shall be heard and determined in a summary way unless the special magistrate is satisfied, having regard to all the facts and circumstances known to the court, that it is desirable, in the interests of the administration of justice, to commit the child for trial to the Supreme Court.

(4) Where a child appears before a juvenile court constituted of justices on an information charging the child with an indictable offence (other than homicide) to which the child does not plead guilty, the justices shall desist from further proceeding with the hearing and shall, by memorandum, refer the proceedings for hearing before a juvenile court constituted of a special magistrate upon a date and at a time which shall be specified in the memorandum and notified to the parties.

(5) The court so referring the proceedings shall have the same powers as it would have if it were referring the proceedings under section 14 of this Act.

29. (1) Where any proceedings against a child in a juvenile court are heard and determined in a summary way, the procedure and powers of the court shall, subject to this Act, be the same as the procedure and powers of a court of summary jurisdiction under the Justices Act, 1921-1965, and the provisions of that Act shall apply to and in relation to the hearing and determination of the proceedings accordingly.

Procedure and powers of juvenile court on summary trial.
cf. 1479, 1921, s. 161.

(2) Where an information charging a child with an indictable offence is heard and determined in a summary way by a juvenile court and, if that offence were tried before the Supreme Court, that court would have power to record an alternative verdict to the offence charged, the juvenile court may record an alternative verdict to the offence with which the child is charged.

30. Where—

Procedure on committal for trial.

(a) a child charged on information with an indictable offence before a juvenile court does not plead guilty of that offence; and

(b) the court does not decide to hear and determine the proceedings in a summary way,

the court shall hold the preliminary examination and the provisions of Part V of the Justices Act, 1921-1965, shall, so far as they are applicable, apply to and in relation to the preliminary examination.

31. (1) Subject to this section, a juvenile court constituted of a special magistrate which has found a child guilty of an indictable offence (other than homicide) following a plea of guilty or a summary hearing and determination may sentence the child in accordance with the powers of the court under this Act, or may commit the child to the Supreme Court for sentence in which case the provisions of Part V of the Justices Act, 1921-1965, shall, subject to this section, apply with necessary adaptations, so far as the same are applicable.

Power of juvenile court to sentence child for indictable offence or commit to Supreme Court for sentence.

(2) Before exercising his discretion under subsection (1) of this section, the special magistrate constituting the court shall—

- (a) explain to the child and his parent or guardian (if present) the nature of the discretion vested in the court and the relative implications of the child being sentenced in accordance with the powers of the juvenile court under this Act and of committing the child to the Supreme Court for sentence and give them an opportunity of making representations for the consideration of the magistrate; and
- (b) have regard to the nature of the charge, the age of the child, the circumstances of the case and the representations made by or on behalf of the child or his parent or guardian or by the prosecutor or an officer of the department.

(3) The juvenile court shall sentence the child in accordance with the powers of the court under this Act unless the special magistrate is satisfied, having regard to all the facts and circumstances known to the court, that it is desirable, in the interests of the administration of justice, to commit him to the Supreme Court for sentence.

(4) Where a child who has pleaded guilty before a juvenile court to an indictable offence is committed to the Supreme Court for sentence—

- (a) the juvenile court shall make written notes of the facts stated by the prosecutor and of any statement made by the defendant in contradiction or explanation of the facts stated by the prosecutor, and shall forward those notes to the Attorney-General together with the statements (if any) of witnesses tendered by the prosecutor to the court; and
- (b) the Attorney-General shall cause the notes and the statements of witnesses to be delivered to the proper officer of the Supreme Court at the place where the child is to appear for sentence, before or at the opening of that court on the first sitting thereof, or at such other time as the Judge who is to preside in such court may order.

(5) Where a child who has been found guilty of an indictable offence following a summary hearing and determination is committed to the Supreme Court for sentence—

- (a) the juvenile court shall forthwith forward the record of the case, or cause the same to be delivered, to the Attorney-General together with the information,

evidence, a statement of the finding by the court and other relevant documents (if any) ; and

- (b) the Attorney-General shall cause the record, information, evidence, statement and other relevant documents (if any) to be delivered to the proper officer of the Supreme Court at the place where the child is to appear for sentence, before or at the opening of that court on the first sitting thereof, or at such other time as the Judge who is to preside in such court may order.

(6) Upon the appearance of the child for sentence before the Supreme Court, that court may pass sentence or otherwise deal with him as if he had been committed for trial to that court and had pleaded guilty or been found guilty (as the case may be) in that court, and all the same consequences shall ensue as if he had been so committed and had so pleaded guilty or been found guilty ; but if, for any reason, it appears to the Judge of that court that the plea of guilty, if any, should be withdrawn, he may advise the child, and allow him, to withdraw such plea and, if the same be thereupon withdrawn, the child shall be deemed to have been committed for trial, and may forthwith, or after adjournment, and notwithstanding that no information has been filed in that court, be arraigned, and the case shall proceed in the usual course.

32. Where a child is committed by a juvenile court to the Supreme Court for trial or sentence, the juvenile court may release the child on bail or remand him to an institution or to any other suitable place (not being a prison) to be there detained until he is released or delivered in due course of law.

Remand on committal.

33. (1) When a child has pleaded guilty before a juvenile court or the court has found that the offence with which a child is charged or other matter alleged against a child is proved, the court may order that the child be examined by a physician, psychiatrist or psychologist directed by the court to conduct such examination.

Examination of child offenders.
cf. 13, 1941,
s. 18.

(2) The court may consider and act upon any report on the child prepared under subsection (1) of this section and any other report on the child's character, conduct, upbringing, physical condition and past history, if such report is prepared by a person to whom such matters are personally known or who has personally investigated those matters ; but, subject to subsection (3) of this section, before passing any sentence on the child—

- (a) so much of the contents of any such report as is detrimental to the child shall be made known to the

child or his parent, guardian, counsel or solicitor if the child, parent, guardian, counsel or solicitor so requests ;

(b) the child or his parent, guardian, counsel or solicitor shall, if he so requests, be given an opportunity of cross-examining the person who prepared the report on the matters dealt with therein ; and

(c) the court shall, if so required by the child, or his parent, guardian, counsel or solicitor, procure the attendance of such person before the court for cross-examination.

(3) Notwithstanding anything contained in subsection (2) of this section, the court, if it is of the opinion that the report contains material which, if disclosed to the child, may be prejudicial to the welfare of the child, may in its discretion order that the whole or any part of any such report shall not be made known to the child.

(4) Pending the examination of the child or the procuring of any report upon him, the court or a justice may, from time to time, adjourn the case.

(5) For the purposes of enabling a child to be examined as provided in this section, the court may order that the child be taken to an appropriate institution or other suitable place (not being an institution as defined in the Mental Health Act, 1935-1965, or a prison) and that the child submit himself to such examination.

Power of
juvenile courts
in relation to
penalty.
cf. 1780, 1926.
s. 113.

34. (1) Where a juvenile court has found the offence alleged in an information, complaint or charge against a child proved and the court has power to sentence the child for that offence, the court may —

(a) apply the provisions of the Offenders Probation Act, 1913-1963 ; or

(b) order the payment by the child of a fine not exceeding fifty pounds or, if a lesser maximum penalty is prescribed for the offence, a fine not exceeding that maximum.

(2) Without recording a conviction against a child, the court may exercise its powers under subsection (1) of this section or may impose such other penalty upon, or make such other order or adjudication in respect of, the child as it could have done if it had convicted him of the offence.

(3) The court shall, before dealing with a child under this section, have regard to all the facts and circumstances relating to the child and the offence or the matter alleged against him that are known to the court and the court may exercise its discretion on the question of penalty as provided in this section without being bound by the minimum penalty (if any) prescribed in any Act for the offence alleged against the child.

35. (1) If a child is found guilty and convicted by a juvenile court constituted of a special magistrate of an offence punishable by imprisonment, the court shall not sentence the child to imprisonment but may, subject to section 36 of this Act, by order, commit the child to a reformatory institution.

Power to
commit child to
institution.
cf. 1780, 1926
s. 113.

(2) If a child is found guilty and convicted by a juvenile court, whether constituted of a special magistrate or of justices, of any offence, whether punishable by imprisonment or not, the court may, subject to section 36 of this Act, by order in writing, place the child under the control of the Minister.

Power to place
child under
control of
Minister.
cf. 1780, 1926,
s. 113.

36. (1) Subject to subsection (2) of this section, where a child is committed to a reformatory institution or placed under the control of the Minister, the order committing him to a reformatory institution or placing him under the control of the Minister, shall, if it does not in fact so provide, be deemed to provide, as the case may be, that the child shall be detained in such reformatory institution or that the child shall remain under the control of the Minister, subject to the provisions of the Social Welfare Act, until he attains the age of eighteen years.

Period of
committal to
institution or
control by the
Minister.
cf. 1780, 1926,
ss. 113, 114.

(2) If any child at the time of being committed to a reformatory institution or placed under the control of the Minister is upwards of sixteen years of age, such child may be ordered by the court to be committed to a reformatory institution or placed under the control of the Minister, as the case may be—

(a) until he attains the age of eighteen years; or

(b) for any period not less than one year nor more than two years, provided that such period does not expire before the child attains the age of eighteen years.

37. A juvenile court constituted of justices, which finds a charge brought against a child for an offence punishable by imprisonment proved, shall not sentence the child to imprisonment nor make an order that the child be committed to a reformatory institution; but, if the court is of the opinion

Juvenile court
constituted of
justices not to
commit child to
prison or
institution.

that the child ought to be committed to a reformatory institution the court shall, by memorandum, refer the case to the Adelaide Juvenile Court as provided by section 18 of this Act or to some other convenient juvenile court constituted of a special magistrate in which case the provisions of section 18 of this Act shall apply and have effect as if that other juvenile court were the Adelaide Juvenile Court.

Power of juvenile court to disqualify child from holding or obtaining a driver's licence.

38. (1) In addition to the powers of a court of summary jurisdiction contained in the Road Traffic Act, 1961-1964, or any other Act, to make an order disqualifying a person from holding or obtaining a licence to drive a motor vehicle, a juvenile court may, in addition to any other order it may make upon a charge for any offence being proved against a child, make an order disqualifying the child from holding or obtaining a licence to drive a motor vehicle—

- (a) as from a day or time specified in the order ; and
- (b) either for a period specified in the order or until further order,

if the court is satisfied, having regard to all the facts and circumstances before the court, that the child is not a fit and proper person to hold or obtain such a licence.

(2) The powers of the court under subsection (1) of this section may be exercised upon the charge being proved and with or without a conviction being recorded.

(3) An order made under this section shall have the same force and effect as if it were an order made by the court under section 168 of the Road Traffic Act, 1961-1964.

(4) The provisions of this section shall not be construed as derogating from the application or meaning of subsection (2) of section 34 of this Act.

Child suffering from venereal disease or incapable of controlling sexual instincts.

39. (1) The powers of a court as defined in sections 77 and 77a of the Criminal Law Consolidation Act, 1935-1965, may be exercised by a juvenile court constituted of a special magistrate upon a charge against a child for any of the offences to which those sections apply being proved before such court and with or without a conviction being recorded.

(2) The provisions of this section shall not be construed as derogating from the application or meaning of subsection (2) of section 34 of this Act.

Power of juvenile court to order compensation or restitution. cf. 1121, 1913, s. 4; 27, 1952, s. 6; 56, 1953, s. 43; 50, 1961, s. 44.

40. (1) In addition to or in lieu of exercising any other powers of a juvenile court, any juvenile court may, subject to this section, on the application of the prosecutor, order a child against whom any charge for an offence before that court has been proved or the parent or guardian of such child or any two

or more of such persons to pay compensation or make restitution in respect of any damage or loss occasioned by the offence to any person who has suffered such damage or loss.

(2) The amount which the court may order any child or person to pay under this section shall not exceed the sum of two hundred pounds.

(3) Before making an order under this section, the court may require proof of the amount of loss or damage occasioned by the offence.

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

(5) Subject to subsection (2) of this section, an order under this section may direct the child, parent or guardian to pay such sum as the court thinks reasonable either as one payment or by instalments, and when making the order, the court shall have regard to the means of the child, parent or guardian against whom the order is made and, in the case of the parent or guardian, the extent, if any, to which the parent or guardian has, by his conduct or neglect or otherwise, conduced to the commission of the offence.

(6) Any order under this section may be enforced against the person against whom it is made in the same manner as if it were an order for the payment of money made by justices upon summary conviction of that person.

(7) An order under this section may be made against a child, parent or guardian present at the hearing in question, or against any parent or guardian who, having been required to attend the court during the hearing pursuant to an order served on him under section 19 of this Act, has failed to do so ; but, save as aforesaid, no such order shall be made without giving the child, parent or guardian an opportunity of being heard.

(8) An order under this section shall not be a bar to any other proceedings by or on behalf of the person who suffered the damage or loss, but such person shall not be entitled to recover, in respect of such damage or loss, a greater amount than the amount of the damage or loss suffered by him.

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

(10) The provisions of subsection (9) of this section shall not be construed as derogating from the application or meaning of subsection (2) of section 34 of this Act.

Powers of
Supreme Court.

41. (1) Where a child is committed to the Supreme Court for trial and found guilty of an offence (other than homicide), the Judge of the Supreme Court may, in his discretion—

- (a) make any order in relation to the child or his parent or guardian which may be made by a juvenile court constituted of a special magistrate ; or
- (b) remand the child to appear before a juvenile court constituted of a special magistrate to be dealt with as provided by this section.

(2) Where a Judge remands a child to appear before a juvenile court under this section—

- (a) he may give such directions as he thinks necessary for the custody of the child or for his release on bail and shall cause to be transmitted to the juvenile court a certified copy of the proceedings in the case and a certificate certifying—
 - (i) the nature of the offence ;
 - (ii) that the child has been found guilty of that offence ;
 - (iii) that the child has been remanded in custody or on bail to be dealt with in pursuance of this section ; and
 - (iv) any other matters which the Judge thinks ought to be brought to the notice of the juvenile court ; and
- (b) the juvenile court may sentence the child or otherwise deal with him as if the child had been tried and found guilty of the offence by that court.

Punishment of
children for
homicide.

42. Where a child has been charged with homicide (other than homicide amounting to murder) and been found guilty by the Supreme Court, that court may exercise its discretion on the question of penalty within the limits provided for the offence under the Criminal Law Consolidation Act, 1935-1965, or the court may make any order that could be made by a

juvenile court constituted of a magistrate against a child who has been convicted by such court of an offence punishable by imprisonment.

43. (1) On conviction of a child for murder the Supreme Court shall, by order, sentence him to be detained during the Governor's pleasure, and if so sentenced, he shall be detained in such place and under such conditions as the Governor may direct.

Punishment of
children for
murder.
cf. 18, 1941
s. 24.

(2) A person detained pursuant to the directions of the Governor under this section shall, while so detained, be deemed to be in lawful custody.

(3) Any person so detained may, at any time, be discharged by the Governor on licence which may be in such form and may contain such conditions as the Governor directs, and may, at any time, be revoked or varied by the Governor.

(4) Where a licence has been revoked, the person to whom the licence related shall return to such place as the Governor directs, and, if he fails to do so, may be apprehended without warrant and taken to that place and there detained.

PART V.

PROVISIONS RELATING MAINLY TO NEGLECTED AND UNCONTROLLED CHILDREN.

44. (1) Subject to the provisions of sections 46 and 47 of this Act, where a juvenile court finds that a complaint charging a child with being a neglected child or an uncontrolled child is proved, the court may, by order in writing—

Powers of
juvenile court
in relation to
neglected and
uncontrolled
children.
cf. 1780, 1926,
ss. 102, 103
106.

(a) commit the child to an institution ; or

(b) place the child under the control of the Minister.

(2) Subject to subsection (3) of this section, where a child is committed to an institution or placed under the control of the Minister, the order committing him to an institution or placing

him under the control of the Minister shall, if it does not in fact so provide, be deemed to provide, as the case may be, that the child shall be detained in such institution or that the child shall remain under the control of the Minister, subject to the provisions of the Social Welfare Act, until he attains the age of eighteen years.

(3) If any child at the time of being so committed to an institution or placed under the control of the Minister is upwards of sixteen years of age, such child may be ordered by the court to be committed to the institution or placed under the control of the Minister, as the case may be---

(a) until he attains the age of eighteen years ; or

(b) for any period not less than one year nor more than two years, provided that such period does not expire before the child attains the age of eighteen years.

(4) Before making an order under this section committing a child to an institution the court shall have regard to the welfare of the child and the desirability or otherwise of removing him from unsuitable surroundings and making proper provision for his care, training and control.

(5) Notwithstanding anything contained in subsection (2) or subsection (3) of this section, the court, upon finding that the complaint charging a child with being a neglected child or an uncontrolled child is proved, may adjourn the hearing of the case for a period not exceeding three months and for the period of the adjournment may by order remand the child in custody to an appropriate institution or place the child under the control of the Minister.

(6) Notwithstanding anything contained in subsection (5) of this section the court may on the application of an officer of the department, order that the child be brought before the court at any time during the period of the adjournment and the child shall be brought before the court accordingly.

(7) When a child is brought before a juvenile court following an adjournment under subsection (5) or upon an order made under subsection (6) of this section, the court may---

(a) dismiss the complaint or allow the withdrawal of the complaint if satisfied that satisfactory arrangements have been made for the child's welfare and that he is no longer a neglected child or an uncontrolled child ;
or

(b) make an order under subsection (1) of this section.

(8) No order shall be made under subsection (1) or (3) of this section in respect of a neglected child or an uncontrolled child without notice of the complaint in question being served on the parent or guardian of the child having the immediate custody and control of the child unless the whereabouts of the parent or guardian are unknown.

(9) Such notice shall be deemed to be sufficiently served if served personally on such parent or guardian, or posted addressed to him at his last known place of abode or business a reasonable time before the date of hearing of the complaint.

45. (1) Notwithstanding anything contained in any Act, a complaint (whether laid before or after the commencement of this Act) charging a child with being a neglected child or an uncontrolled child shall be deemed not to be a complaint charging the child with committing an offence within the meaning of this Act or any other Act, and any child in respect of whom such a complaint is proved shall be deemed not to be guilty or convicted of an offence in respect of that complaint.

Special provisions relating to complaint charging child with being a neglected or uncontrolled child.

(2) When hearing a complaint charging a child with being a neglected child or an uncontrolled child—

(a) the court shall not be bound by the laws or rules of evidence and may admit any evidence which, in the opinion of the court, will assist it to determine the complaint in a manner which appears to the court to be in the best interests of the child; and

(b) the court shall determine the complaint in the manner which appears to the court to be in the best interests of the child.

46. (1) Except as otherwise provided in this section, children found by a court to be neglected children or uncontrolled children and children liable to be committed to an institution pursuant to Part V of the Education Act, 1915-1965, shall not be committed by a court to reformatory institutions, but may be committed to institutions set apart by proclamation under the Social Welfare Act for the care of neglected or uncontrolled children or to such other institutions as the court considers appropriate.

Restrictions on powers of committing neglected and uncontrolled children to institutions, cf. 1780, 1926, ss. 111, 112.

(2) Notwithstanding anything contained in subsection (1) of this section or in the Social Welfare Act, if any child found by a juvenile court constituted of a special magistrate to be an uncontrolled child ought, in the opinion of the court, to be sent to a reformatory institution, such court may order the child to be committed to such an institution accordingly.

Limitation of powers of justices to commit uncontrolled children to reformatory institutions.

47. (1) A juvenile court constituted of justices which finds a complaint charging a child with being an uncontrolled child proved shall not order that the child be committed to a reformatory institution.

(2) If the court is of the opinion that the child ought to be committed to a reformatory institution, the court shall by memorandum refer the case to the Adelaide Juvenile Court as provided by section 18 of this Act or to some other convenient juvenile court constituted of a special magistrate in which case the provisions of section 18 of this Act shall apply and have effect as if that other juvenile court were the Adelaide Juvenile Court.

Power to apprehend neglected or uncontrolled child etc. without warrant.
cf. 1780, 1926,
ss. 101, 110.

48. (1) Any officer of the department or member of the police force may, without a warrant, apprehend any child appearing to such officer or member or suspected by him to be a neglected child or an uncontrolled child.

(2) Any officer of the department specially authorized in writing by the Director or any member of the police force may enter into or upon any house, building, or other premises for the purpose of apprehending and may, there or elsewhere, apprehend any child who is reasonably suspected of having committed an offence or of being a neglected child or an uncontrolled child.

(3) Where a child apprehended under any provision of this section is charged with any offence or with being a neglected child or an uncontrolled child, he shall, as soon as conveniently may be, be brought before a juvenile court so that the matter alleged against him may be heard and determined.

Issue of summons or warrant on complaint against a neglected or uncontrolled child.
cf. 1780, 1926,
s. 103a.

49. (1) Where a complaint is laid charging a child with being a neglected child or an uncontrolled child, any justice may summon the child to appear before a juvenile court at a time and place to be named in the summons so that the complaint against him may be heard and determined.

(2) A justice may, instead of issuing a summons, issue a warrant under his hand for the apprehension of the child and for his detention in an institution or other suitable place (not being a prison) until the hearing of the complaint.

(3) A child so apprehended shall, as soon as conveniently may be, be brought before a juvenile court so that the complaint against him may be heard and determined.

(4) Any child brought before a juvenile court and charged with being a neglected child or an uncontrolled child under this Act or the Social Welfare Act may be dealt with by the court as

provided by this Act notwithstanding that the child has not been summoned as aforesaid or that a warrant has not been issued for the apprehension of the child.

50. (1) Any proceedings under this Act or the Social Welfare Act relating to a neglected child or an uncontrolled child may be taken by the Director or any officer of the department who is authorized by the Director to take proceedings and all such proceedings may be conducted by that officer or any other officer of the department who is so authorized.

Power to take proceedings against neglected or uncontrolled children.
cf. 1933, 1930,
s. 13(a).

(2) A document purporting to be signed by the Director stating that the person therein named is an officer of the department, and is authorized by the Director to take proceedings or conduct cases under this Act or the Social Welfare Act shall be evidence of the facts so stated.

(3) Where a juvenile court is aware of its own knowledge that a person is an officer of the department duly authorized as provided by this section, the court may take judicial notice of that fact, in which case no proof of identity or authorization shall be required.

51. Where a child under the age of twelve years is charged with being a neglected child or an uncontrolled child and is committed to custody in an institution or other place of security for any period for which he is remanded pursuant to this Act, the presence of the child before the court or justice shall not be required while the court or justice hears any application or makes any order for a further remand of the child, unless the court or justice otherwise orders.

Presence of child under 12 years in court on further remand.
cf. 33, 1952,
s. 6.

52. (1) In any proceedings relating to neglected children or uncontrolled children, the court may receive as evidence and take into consideration any report from any member of the police force or officer of the department; and the contents of such report shall be made known to the child charged and his parent or guardian (if present in court) or their counsel or solicitors who shall be permitted to cross-examine such member or officer thereon.

Court may receive reports as evidence in certain cases.
cf. 1780, 1924,
s. 108.

(2) Notwithstanding anything contained in subsection (1) of this section, the court, if it is of the opinion that the report contains material which, if disclosed to the child, may be prejudicial to the welfare of the child, may in its discretion order that the whole or any part of any such report shall not be made known to the child.

(3) The provisions of this section shall not be construed as derogating from the application or meaning of subsection (2) of section 45 of this Act.

PART VI.

APPEALS FROM AND RECONSIDERATION OF
PENALTY BY JUVENILE COURTS.

Powers of
Supreme Court
on appeal.

53. The Supreme Court when hearing an appeal from a juvenile court may exercise the same powers and make any order or adjudication in relation to a child that could lawfully have been made by a juvenile court constituted of a special magistrate acting under the powers conferred on it by this Act.

Reconsider-
ation of penalty
by juvenile
court.

54. (1) Where an order or adjudication is made by a juvenile court whereby a person is sentenced or a neglected child or an uncontrolled child is committed to an institution or placed under the control of the Minister, that court or the Adelaide Juvenile Court may, upon an application made under subsection (2) of this section, reconsider and confirm or vary the order or adjudication; but any variation of the order or adjudication shall be within the limits within which the court would have had power to act if it were making the original order or adjudication.

(2) Subject to subsections (6) and (9) of this section, an application for reconsideration of the order or adjudication may be made by—

- (a) the person against whom the order or adjudication was made ;
- (b) a parent or guardian of such person ;
- (c) the complainant or informant in the proceedings in relation to which the order or adjudication was made ; or
- (d) an officer of the department,

and shall be in the prescribed form and delivered to the clerk of the court to which the application is made within one month after the date of the order or adjudication.

(3) When an application for reconsideration is received by the clerk of the court, he shall, if necessary, call for and obtain the original information or complaint and all other relevant documents, set a date for the hearing of the application and notify the applicant and all other parties concerned with the application of the date of the hearing.

(4) Subject to subsection (1) of this section, the court shall, upon hearing the application, reconsider the original order or adjudication and make an order confirming or varying the order or adjudication.

(5) Where an order has been made under this section confirming or varying an original order or adjudication, that order or adjudication shall have effect as so confirmed or varied.

(6) Where an appeal to the Supreme Court is instituted in respect of the original order or adjudication, no application to a juvenile court for reconsideration of that order or adjudication shall thereafter be made.

(7) Where an application for reconsideration of an original order or adjudication is made to a juvenile court under this section, no appeal shall lie to the Supreme Court against that order or adjudication.

(8) Subject to subsection (9) of this section, an appeal shall lie to the Supreme Court from any order of a juvenile court confirming or varying an original order or adjudication under this section.

(9) The Adelaide Juvenile Court may hear and determine an application for reconsideration under this section made by an officer of the department notwithstanding that such application is not made within one month from the date of the original order or adjudication; but there shall be no right of appeal to the Supreme Court from any order of the Adelaide Juvenile Court confirming or varying an original order or adjudication following an application heard and determined pursuant to this subsection.

55. (1) Where a court, other than a juvenile court makes an order against a person who is under the age of eighteen years, (whether sentencing him to imprisonment or otherwise) in the belief that that person is of or over that age, that order shall not be invalid but shall have full force and effect, and anything done thereunder shall be lawful, but the provisions of subsection (3) of this section shall apply to and in relation to such order.

Cases where person wrongly believed to be over or under 18 years of age. cf. 13, 1941, ss. 21, 22.

(2) Where any court makes an order against a person who is of or over the age of eighteen years in the belief that that person is under that age, that order shall not be invalid but shall have full force and effect, and anything done thereunder shall be lawful, but the provisions of subsection (3) of this section shall apply to and in relation to such order.

(3) The court by which any order referred to in subsection (1) or subsection (2) of this section was made or any court to which an appeal against the order or an application for reconsideration of the order has been or could have been brought or made shall, on an application by the person against whom the order was made, or by or on behalf of the Minister, have power to reconsider and vary the order and, for that purpose, to give any directions and make any order which the court deems proper.

PART VII.

GENERAL PROVISIONS.

Power to
exclude persons
from court.
cf. 1780, 1926,
s. 177; 13,
1941, s. 11.

56. (1) The room or place in which a juvenile court sits shall not be open to the public and at the hearing before a juvenile court of any information, complaint, charge or other proceedings against a child, the court may order that all persons not directly interested in the case shall be excluded from the court or place of hearing.

(2) A juvenile court may, in its discretion, order a child or the parent or guardian of a child to retire from the court or place of hearing during the hearing of any part of the proceedings in relation to the child.

Age of criminal
responsibility
cf. 13, 1941,
s. 23.

57. It shall be conclusively presumed that no child under the age of eight years can be guilty of an offence.

Convicted
children only to
be sent to
reformatory
institutions.
cf. 1780, 1926,
s. 111.

58. Except as in this Act or any other Act otherwise expressly provided, convicted children only shall be ordered to be sent to reformatory institutions.

Mandate for
detention.
cf. 1780, 1926,
s. 116.

59. (1) Whenever a child is ordered by a court to be sent to an institution, the court shall issue a mandate for the taking of the child to that institution and for his detention, subject to the Social Welfare Act, during the period for which he has by virtue of the order, been sent to that institution.

(2) Every such mandate shall be executed and obeyed by all persons to whom it is directed and delivered, and shall be forwarded with the child to the superintendent or matron of the institution and shall be a sufficient warrant for the taking and detention of the child named therein according to the tenor thereof, and no other warrant for such taking and detention shall be necessary.

Age and
religion of child
to be stated in
mandate.
cf. 1780, 1926,
s. 118.

60. (1) Every mandate by a court for the committal of a child to an institution and every order of a court placing a child under the control of the Minister shall contain a statement of the age and religion, so far as they are known, of the child, and where applicable, the cause for which, and institution in which, the child is to be detained or placed under such control.

(2) If there is no statement by the court in the mandate as to the age or religion of the child named therein, the Director may indorse on the mandate a statement of the age or religion of the child, so far as the same is known to him.

61. (1) A court shall not order a person who at the time of the making of the order is under the age of eighteen years to be imprisoned for default in payment of a fine or monetary penalty imposed by the court or for failure to comply with an order of the court for the payment of money, but may for any such default or failure order such person to be detained in a remand home or to be placed under the control of the Minister until the person attains the age of eighteen years or for such lesser period as the court in its discretion deems proper.

Punishment of child for non-compliance with order.
cf. 1780, 1926, s. 113(2); 57, 1956, s. 5.

(2) Where a justice is satisfied that—

cf. 57, 1956 s. 5.

(a) a warrant or mandate has been issued—

(i) committing a person under the age of eighteen years to the custody and control of the Children's Welfare and Public Relief Board ;

(ii) placing any such person under the control of the Minister ; or

(iii) committing any such person to detention in an institution,

by reason of default in compliance with an order or judgment of a court of summary jurisdiction ;

(b) the person has attained the age of eighteen years ; and

(c) the warrant or mandate has not been executed,

the justice may withdraw the warrant or mandate and issue a warrant of commitment in place of the first-mentioned warrant or mandate.

(3) Notwithstanding anything contained in the order or judgment, the warrant of commitment so issued shall order that the person be taken to a prison and there detained for such term of imprisonment as the justice deems proper, being a term of imprisonment which could have been ordered had the order or judgment been made in respect of a person who was, at the time of the making of the order or judgment, over the age of eighteen years, and the warrant shall be sufficient authority for its execution according to the tenor thereof by any person to whom it is directed.

(4) Where—

(a) a warrant or mandate—

(i) committing a person under the age of eighteen years to the custody and control of the Children's Welfare and Public Relief Board;

or

(ii) placing any such person under the control of the Minister,

for any period by reason of default in compliance with an order or judgment of a court of summary jurisdiction has been executed ; and

(b) the person attains the age of eighteen years before the expiration of the period,

notwithstanding anything contained in any Act, that person shall be under the control of the Minister for the remainder of the period, and the warrant or mandate shall be sufficient authority for that purpose, notwithstanding that the person has attained the age of eighteen years.

(5) Where—

(a) a warrant or mandate committing a person under the age of eighteen years to detention in an institution for any period by reason of default in compliance with an order or judgment of a court of summary jurisdiction has been executed ; and

(b) the person attains the age of eighteen years before the expiration of the period,

notwithstanding anything contained in any Act, that person may be detained in an institution for the remainder of the period, and the warrant or mandate shall be sufficient authority for that purpose, notwithstanding that the person has attained the age of eighteen years.

(6) In this section, unless the context otherwise requires, “institution” includes an institution within the meaning of the Maintenance Act, 1926-1963, as in force before the commencement of the Maintenance Act Amendment Act, 1965.

Parent or guardian of child may be punished in certain cases. cf. 1780, 1926 s. 105, as am. by 44, 1941, s. 11 ; 47, 1948, s. 7.

62. (1) If, on the hearing of any information or complaint before a juvenile court, any child is found guilty of any offence or is found to be a neglected child or an uncontrolled child, and the court is of the opinion that such child is guilty of such offence or is a neglected child or uncontrolled child wholly or partly in consequence of some fault of or lack of proper care or control on the part of the parent or guardian of such child, the court may, on the hearing or any adjournment thereof, and without any complaint made for that purpose, in its discretion punish such parent or guardian by a fine not exceeding fifty pounds, or by imprisonment for any term not exceeding six months.

(2) Notwithstanding anything contained in section 62c of the Justices Act, 1921-1965, the court may, under this section, punish a parent or guardian who, having been served with a notice under this section, has failed to attend the hearing, but, save as aforesaid, the court shall not punish the parent or

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

(3) A notice under this section shall be addressed to the parent or guardian and shall specify the time when and place where the information or complaint is to be heard, and may be given by the complainant or a member of the police force or an officer of the department.

(4) Any such notice shall be deemed sufficiently served if served personally on such parent or guardian or if posted addressed to him at his last known place of abode or business a reasonable time before the date of the hearing of the information or complaint.

63. At the hearing of any complaint or information against, or any application in respect of, a child, the Director or some other officer of the department authorized in writing by the Director, may be present, and examine and cross-examine witnesses, and be heard touching the acquittal or punishment of the child, or any other order in respect of the child.

Right of officer of the department to appear at trials of children.
cf. 1780, 1926, s. 179(1).

64. (1) Unless otherwise ordered by the court before which the proceedings are held, the result of any proceedings in a juvenile court or the result of any proceedings in the Supreme Court on an appeal or committal from a juvenile court may, subject to this section, be published or reported in a newspaper or by radio or television.

Restriction on reports on proceedings of juvenile courts.
cf. 13, 1941, s. 12.

(2) Unless permitted by virtue of an order of the court under subsection (4) of this section, a person shall not publish or report, whether by newspaper, radio, television or otherwise, the result of any proceedings in a juvenile court or of any proceedings in the Supreme Court on an appeal or committal from a juvenile court revealing the name, address or school, or including any particulars calculated to lead to the identification, of any child concerned in those proceedings, whether as the person against whom those proceedings were taken or as a person in respect of whom those proceedings were taken or as a witness in those proceedings, nor shall any person publish or show any picture or film as being or including the picture of any child concerned in those proceedings.

(3) A person who publishes or reports any matter in contravention of this section or in contravention of an order of a court under this section shall be guilty of an offence and liable to a fine not exceeding one hundred pounds.

(4) The court before which any proceedings referred to in subsection (2) of this section are taken may by order dispense with the requirements of that subsection to such extent as may be specified in the order.

Forms.
cf. 1780, 1926
ss. 200, 202.

65. (1) The several forms prescribed by regulations under this Act or any other Act, or forms to the like effect, may be used, with such modifications as the circumstances may require, and shall be sufficient for the several purposes to which they are applicable respectively.

(2) When no form is so prescribed, a form reasonably adapted to the circumstances of the case may be used, and shall be sufficient for its purpose.

(3) Every complaint, information, summons, conviction, application, mandate, order, notice or warrant shall be deemed valid and sufficient if the same is in any of the forms prescribed by or under the Act or regulations which may be applicable, with such modifications as the circumstances may require.

(4) No conviction, application, mandate, order, notice or warrant under this Act or any other Act shall be held to be void or insufficient for any mere matter of form or any technical error therein.

**Issue of
warrant by
justice.**
cf. 1780, 1926
s. 205.

66. No warrant for the apprehension of a child shall be issued under this Act by a justice before whom a complaint or information is laid against the child unless the complaint or information is substantiated to the satisfaction of the justice on oath made before him.

Regulations.
cf. 13, 1941
s. 16.

67. The Governor may make such regulations as may be necessary or convenient for carrying into effect the provisions and objects of this Act, including (but without limiting the generality of the foregoing) regulations for the purpose of—

- (a) regulating the practice and procedure in juvenile courts ;
- (b) prescribing the duties of clerks of juvenile courts ;
- (c) prescribing forms to be used under this Act ;
- (d) prescribing penalties, not exceeding fifty pounds in each case, for breaches of the regulations ;
- (e) preventing a child while detained in a police station, or while being conveyed to or from any court, or while waiting before or after attendance in any court, from associating with an adult (not being a relative) who is charged with or found guilty of any offence ;
- (f) ensuring that a girl (being a child) shall, while so detained, conveyed or waiting, be under the care of a woman ; and

(g) prescribing all such other matters and things as are necessary or required to be prescribed for the purposes of this Act.

68. All proceedings in respect of offences against this Act shall be disposed of summarily.

Summary
proceedings for
offences.
cf. 1760, 1926,
s. 204

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

EDRIC BASTYAN, Governor.

THE SCHEDULE.

Section 3 (2).

First column. Short Title of Act.	Second Column. Citation.	Third Column. Manner Amended.
Justices Act, 1921-1965	Justices Act, 1921-1965	Subsection (3) of section 75, and sections 92a, 92b, 123a, 161 and 161a are repealed.