

WESTERN AUSTRALIA

CHILD WELFARE ACT 1947.

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WESTERN AUSTRALIA

CHILD WELFARE

11° and 12° Geo. VI., No. LXVI.

No. 66 of 1947.

(Affected by Act No. 72 of 1957.)

[As amended by Acts:

- No. 52 of 1950, assented to 18 December, 1950;
No. 16 of 1952, assented to 7 November, 1952;
No. 73 of 1954,¹ assented to 14 January, 1955;
No. 45 of 1955, assented to 9 December, 1955;
No. 36 of 1956, assented to 18 December, 1956;
No. 77 of 1956, assented to 14 January, 1957;
No. 69 of 1957, assented to 6 December, 1957;
No. 74 of 1957,² assented to 10 December, 1957;
No. 45 of 1958, assented to 12 December, 1958;
No. 15 of 1959, assented to 8 October, 1959;
No. 28 of 1959,³ assented to 15 October, 1959;
No. 22 of 1962,⁴ assented to 4 October, 1962;
No. 43 of 1962,⁵ assented to 1 November, 1962;
No. 79 of 1965,⁶ assented to 7 December, 1965;
No. 27 of 1967,⁷ assented to 17 November, 1967;
No. 42 of 1967, assented to 21 November, 1967;
No. 29 of 1968, assented to 25 October, 1968;
No. 85 of 1969,⁸ assented to 17 November, 1969;
No. 39 of 1970, assented to 23 September, 1970;
No. 52 of 1971, assented to 10 December, 1971;
No. 27 of 1972,⁹ assented to 9 June, 1972;
No. 106 of 1975,¹⁰ assented to 1 December, 1975;
No. 36 of 1976,¹¹ assented to 9 June, 1976;
No. 73 of 1976,¹² assented to 6 October, 1976;
No. 10 of 1977,¹³ assented to 30 September, 1977;
No. 77 of 1979, assented to 6 December, 1979;
No. 57 of 1981,¹⁴ assented to 13 October, 1981;
No. 20 of 1982, assented to 27 May, 1982;
No. 57 of 1982,¹⁵ assented to 22 September, 1982
and reprinted pursuant to the Amendments Incorporation Act 1938.]

¹ Came into operation on 1 March, 1955; See *Gazette* 18/2/1955, p. 343.

² Came into operation on 1 February, 1958; See *Gazette* 31/1/1958, p. 167.

³ Came into operation on 1 January, 1961; See *Gazette* 16/12/1960, p. 3973.

⁴ Came into operation on 1 December, 1962; See *Gazette* 30/11/62, p. 3833.

⁵ Came into operation on 9 November, 1962; See *Gazette* 9/11/62, p. 3679.

⁶ Came into operation on 1 March, 1966, See *Gazette* 25/2/66, p. 550.

⁷ Came into operation on 8 March, 1968 (except sections 23 and 24); See *Gazette* 8/3/68, p. 1996. Sections 23 and 24 came into operation on 15 July, 1968; See *Gazette* 15/7/68, p. 1996.

⁸ Came into operation on 1 February, 1970; See *Gazette* 31/12/69, p. 4363.

⁹ Came into operation on 1 July, 1972; See *Gazette* 30/6/72, p. 2097.

¹⁰ Sections 1-3, 37 and Third Schedule came into operation on 5 January 1976; See *Gazette* 19/12/75, pp. 4563-64. Balance came into operation on 1/6/76; See *Gazette* 7/5/76, p. 1381.

¹¹ Came into operation on 3 September, 1976; See *Gazette* 3/9/76, p. 3271.

¹² Section 20(1) came into operation on 1 October, 1977; See *Gazette* 30/9/77, p. 3519. The remaining provisions came into operation on 1 January, 1978; See *Gazette* 9/12/77, p. 4499.

¹³ Came into operation on 1 January, 1978; See *Gazette* 9/12/77, p. 4499.

¹⁴ Came into operation on 1 September 1982; See section 2.

¹⁵ Sections 1, 2, 4, 5, 6, 8, 9, 10, 11, 12, 18 and 19 came into operation on 1 November 1982; See *Gazette* 1/11/82, p. 4377. Balance proclaimed 1 July, 1983; See *Gazette* 17/6/83, p. 1865.

Long title
Amended by
No. 73 of
1976, s. 3.

AN ACT to consolidate and amend the law relating to the protection, guidance and maintenance of children in need of care and protection, for the control and treatment of children offending against the law, and for other purposes connected therewith.

[Assented to 10 January, 1948.]

BE it enacted—

Short title.

1. This Act may be cited as the *Child Welfare Act 1947*.

Division.
Amended by
No. 27 of
1967, s. 3; No.
27 of 1972, s.
3; No. 73 of
1976, s. 4; No.
10 of 1977, s.
3.

2. This Act is divided into the following Parts:—

PART I.—PRELIMINARY, ss. 1-4.

PART II.—ADMINISTRATIVE PROVISIONS, ss. 5-12.

PART III.—CENTRES AND FACILITIES, ss. 13-18.

[Sections 67 to 69 repealed]

PART IV.—WARDS, CHILDREN UNDER DEPARTMENTAL CONTROL, AND CHILDREN'S COURTS, ss. 19-66D.

PART V.—CHILDREN'S PANELS, ss. 70-78.

[Part VI. repealed by No. 27 of 1967, s. 3.]

PART VII.—RESTRICTIONS ON EMPLOYMENT OF CHILDREN, ss. 106-109.

PART VIII.—LYING-IN HOMES, THE CARE, CHARGE OR CUSTODY OF CHILDREN, AND THE ADOPTION OF CHILDREN, ss. 110-120.

PART IX.—PROCEDURE, PENALTIES, AND GENERAL PROVISIONS, ss. 121-149.

Repeal.

3. The Act specified in the First Schedule to this Act is repealed.

4. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

“child” means any boy or girl under the age of eighteen years; and, in the absence of positive evidence as to age, means any boy or girl under the apparent age of eighteen years but also includes any boy or girl dealt with under this Act by virtue of the provisions of subsection (2) of section twenty of this Act;

Interpretation.
Amended by
No. 16 of
1952, s. 2; No.
45 of 1955, s.
2; No. 15 of
1959, s. 2; No.
79 of 1965, s.
3; No. 27 of
1967, s. 4; No.
85 of 1969, s.
3; No. 27 of
1972, s. 4; No.
73 of 1976, s.
5; No. 57 of
1981, s. 4; No.
57 of 1982, s.
3.

“child in need of care and protection” means a child who—

- (a) has no sufficient means of subsistence apparent to the court and whose near relatives are, in the opinion of the court, in indigent circumstances or are otherwise unable or unwilling to support the child, or are dead, or unknown, or can not be found, or are out of the jurisdiction, or in the custody of the law;
- (b) has been placed in a subsidized centre or subsidized facility and whose near relatives have not contributed regularly towards the maintenance of the child;
- (c) associates or dwells with any person who has been convicted of vagrancy, or is known to the police as of bad repute, or who has been or is reputed to be a thief or habitually under the influence of alcohol or drugs;
- (d) is under the guardianship or in the custody of a person whom the court considers is unfit to have that guardianship or custody;

Child Welfare Act 1947

- (e) is not being maintained properly or at all by a near relative, or is deserted;
- (f) is found in a place where any drug or prohibited plant is used and is in the opinion of the court in need of care and protection by reason thereof;
- (g) being under the age of fourteen years is employed or engaged in any circus, travelling show, acrobatic entertainment, or exhibition by which his life, health, welfare, or safety is likely to be lost, prejudiced, or endangered;
- (h) is unlawfully engaged in street trading;
- (i) is ill-treated, or suffers injuries apparently resulting from ill-treatment;
- (j) lives under conditions which indicate that the child is lapsing or likely to lapse into a career of vice or crime; or
- (k) is living under such conditions, or is found in such circumstances, or behaves in such a manner, as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy;

“community service order” means an order made under section 39A (1) of this Act;

“court” means a children’s court established under this Act;

“Department” means the Department for Community Welfare established under section 4 of the Community Welfare Act 1972;

“Director” means the Director of the Department for Community Welfare appointed under section 7 of the Community Welfare Act 1972;

“drug” means prohibited drug as defined by section 3 of the Misuse of Drugs Act 1981;

“foster parent” means any person with whom a ward or a child placed under the control of the Department is placed out under this Act, or under any enactment by this Act repealed, and includes the assignee of such person;

“governing authority” means the manager or committee of management of any subsidized centre of subsidized facility;

“lying-in home” means a place for the accommodation of females during their confinement and lying-in, and includes any home maintained for such purpose by the Government;

“maintenance” means financial support, but may include provision for clothing, training and education;

“maintenance order” means an order made by a court for payment of money by any near relative in respect of the maintenance of a child;

“near relative” means, except as regards an illegitimate child, father, mother, step-father, stepmother, brother, sister, or any grand-parent of the child; and as regards an illegitimate child, the mother and the father of such child, and the husband of the mother of such child, if born before their marriage;

“overseer”, in relation to a community service order, means an overseer appointed under and in accordance with the regulations for the purposes of the provisions of this Act relating to community service orders;

“parent” means father, mother, stepfather or stepmother and in the case of an adopted child includes his adoptors but in relation to an illegitimate child means “mother” only;

“place out” means to place a child in the charge of some person for the purpose of being cared for, reared or supervised by that person, or to reside in the house of that person;

“police officer” includes any constable or officer of police;

“prohibited plant” means prohibited plant as defined by section 3 of the Misuse of Drugs Act 1981;

“prescribed offence”, in relation to the power of a court to make a community service order, means—

- (a) an offence against a section of The Criminal Code specified in the first column of the Sixth Schedule but limited, in the case of an offence against section 390B (b) of that Code, to that offence when committed in the circumstances specified in the second column;
- (b) an offence of which an element is assault or injury to the person or an intent or attempt to commit an assault or to injure the person; or
- (c) an offence prescribed by regulation for the purposes of this definition;

“prescribed requirement”, in relation to a community service order, means a requirement imposed by this Act on a child in respect of whom the community service order is made;

- “public place” means any place whatsoever to which the public for the time being have or are permitted to have access whether on payment or otherwise;
- “relevant officer”, in relation to a community service order, means the officer for the time being assigned under section 39A (6) of this Act to be the relevant officer in respect of that community service order;
- “special magistrate” means a person appointed as a special magistrate pursuant to section 19 of this Act;
- “street” includes any highway or public place, whether a thoroughfare or not;
- “street trading” means the selling, offering or exposing for sale, or the delivering for gain or reward of any article, which is wholly or in part carried out in or from a public place; but does not include the occasional selling of any article if the net proceeds of the sale are wholly applied for the benefit of a church or school or other charitable or cultural purpose;
- “subsidized centre” or “subsidized facility” means a centre or facility, not being a Departmental centre or Departmental facility, maintained wholly or in part by contributions from the Consolidated Revenue Fund, and declared to be such, pursuant to section 14 of this Act;
- “the regulations”, in relation to a community service order, means the regulations made for the purposes of the provisions of this Act relating to community service orders;
- “the supervising court”, in relation to a community service order, means the court that is, pursuant to section 39A (3) of this Act, the supervising court in respect of that community service order;
- “work”, in relation to a community service order, includes any form of work, service, or activity.

- (2) A child who—
- (a) is declared to be a child in need of care and protection;
 - (b) is to be treated as a child in need of care and protection pursuant to section 32 of this Act;
 - (c) was, immediately prior to the coming into operation of the Child Welfare Act Amendment Act (No. 2) 1976, a ward and in relation to whom the period of care or custody has not expired; or
 - (d) is committed to the care of the Department by the Minister under this Act, or to the custody of the Director, for a period which is not expired, .

is for the purposes of this Act referred to as a “ward” and shall be under the guardianship of the Director.

(3) Where a child is placed under the control of the Department under this Act he does not thereby come under the guardianship of the Director, but in all other respects he may be treated as though he was a ward and may be placed in any centre or facility, required to carry out the lawful directions of the Director or his officers, and required not to leave the State without the consent of the Director.

(4) A person shall be taken to stand *in loco parentis* to a child if that person, whether male or female, is a person—

- (a) responsible for providing for the day to day needs of the child as required having regard to the age of the child, and whether or not financial support is provided from any other source; or
- (b) with whom the child habitually resides, notwithstanding that the child may at any relevant time be in the custody of the law or living away from that person for the time being for educational or other reasons,

and the fact that a person stands *in loco parentis* to a child shall not be taken to derogate from the rights which the Director might otherwise exercise in relation to that child.

PART II.—ADMINISTRATIVE PROVISIONS.

Heading.
Substituted by
No. 27 of
1972, s. 5.

5. The administration of this Act shall be vested in a responsible Minister of the Crown and, subject to the Minister, shall be carried out by the Department.

Administration.
Substituted by
No. 27 of
1972, s. 6.

6. (1) It shall be the duty of the Director, under the direction of the Minister, to carry into operation the provisions of this Act so far as the execution thereof is not expressly committed to any other person.

Director.
Amended by
No. 45 of
1955, s. 2; No.
85 of 1969, s.
4; No. 27 of
1972, s. 7, No.
57 of 1982, s.
4.

(1a) Where this Act confers or imposes any power, function, or duty on the Director, that power, function, or duty may be exercised or performed by the person appointed under section 8 of the Community Welfare Act 1972 to be the deputy of the Director.

(2) The Minister may appoint any person who is an officer of the Department to exercise or perform, during any absence, illness, or incapacity of the Director or the person appointed under section 8 of the Community Welfare Act 1972 to be the deputy of the Director, all the powers, functions, and duties conferred or imposed on the Director by this Act, or such of those powers, functions, and duties as may be specified in his appointment under this subsection and, during any such absence, illness, or incapacity, a person appointed under this subsection has, and may exercise or perform, such powers, functions, and duties as that person is appointed under this subsection to exercise or perform.

(3) The Minister may at any time revoke an appointment made under subsection (2) of this section.

(4) Where, under this Act, the exercise of a power or the performance of a function or duty by the Director is dependent upon the opinion, belief, or state of mind of the Director in relation to a matter and that power, function, or duty may be exercised or performed by another person pursuant to subsection (1a) or (2) of this section, that power, function, or duty may be exercised or performed by that other person upon the opinion, belief, or state of mind of that other person in relation to that matter.

Inspectors and other officers.
Amended by No. 45 of 1955, s. 3; No. 27 of 1972, s. 8.

7. (1) The Governor may, from time to time, appoint inspectors and other officers with such powers and functions as he deems necessary to carry out the purposes of this Act.

(2) All inspectors and other officers of the former Child Welfare Department holding office or being employed immediately prior to the coming into operation of the Child Welfare Act Amendment Act (No. 2) 1972, shall be deemed to have been appointed and engaged under the Community Welfare Act 1972, but shall otherwise be subject to this Act.

(3) A person appointed or engaged under the Community Welfare Act 1972, shall, for the purpose of carrying into operation the provisions of this Act, have such powers, duties and functions under this Act as may be imposed or conferred upon him by the Minister.

Visitors.
Amended by No. 73 of 1976, s. 6.

8. The Minister may, from time to time, appoint so many fit and proper persons as he thinks necessary to be visitors of Departmental centres and Department facilities.

[Section 9 repealed by No. 29 of 1968, s. 2.]

9A. (1) The Minister may from time to time, by writing under his hand either generally or in relation to a specified person, case, or circumstance, delegate to the Director, to the person appointed under section 8 of the Community Welfare Act 1972 to be the deputy of the Director, to a person appointed under section 6 (2) of this Act, or to each of them, as he thinks fit, all or any of—

Delegation.
Inserted by No.
45 of 1958,
s. 2.
Substituted by
No. 15 of
1959, s. 3.
Amended by
No. 27 of
1972, s. 9; No.
73 of 1976, s.
7; No. 57 of
1982, s. 5.

- (a) the powers exercisable by him under section 10 (2) (b), section 29 (1), section 34D (2), sections 47, 47A, 47B, 47C, 47D, 54, 55, 65, 66, 66A, 66B, 110, 122, and 138B of this Act; and
- (b) the powers exercisable by him in respect of a child under section 49 of this Act in so far as they are to be exercised in accordance with the consent of each parent or guardian of the child whose whereabouts are known or can be ascertained by reasonable inquiry and, where the child has attained the age of 14 years, of the child.

(2) Subject to section 9B of this Act and to any general or special directions given or conditions attached by the Minister, any person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation and, where, under this Act, the exercise of a power by the Minister is dependent upon the opinion, belief, or state of mind of the Minister in relation to a matter and that power is delegated under this section, that power may be exercised by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

(3) Every delegation under this section shall be revocable at will, and no delegation prevents the exercise of any power by the Minister.

(4) Where the Minister by whom a delegation was made under this section has not vacated his office but another Minister is for the time being

discharging the duties of that office, the delegation has effect as if that other Minister were the Minister by whom the delegation was made.

Review of decision of delegate.
 Inserted by No. 57 of 1982, s. 6.

9B. (1) Where a person makes a decision in relation to a child pursuant to a power conferred on the Minister under a provision specified in subsection (6) of this section and delegated to that person under section 9A of this Act—

- (a) the child, if he has attained the age of 14 years;
- (b) a parent or, where the Director is not the guardian, the guardian, of the child;
- (c) any other person standing *in loco parentis* to the child; or
- (d) any other person who satisfies the Minister that his paramount interest in the matter is the welfare of the child,

may request the Minister to review the decision and the Minister shall, on receiving such request, or in any case may of his own motion, review the decision and thereupon confirm, vary, or reverse the decision.

(2) A person making a decision in respect of which a right to request a review is conferred by subsection (1) of this section shall give to each person on whom a right to request a review is conferred by paragraph (a), (b), or (c) of that subsection whose whereabouts are known to, or can be ascertained by reasonable inquiry by, the delegate notice in writing of the right to request a review so conferred.

(3) The notice required by subsection (2) of this section to be given to a person may be given—

- (a) by delivering it to him personally;
- (b) by leaving it for him at his usual or last known place of abode, or, if he is a principal of a business, at his usual or last known place of business; or

- (c) by posting the notice (under pre-paid post) as a letter addressed to him at a place referred to in paragraph (b) of this subsection.

(4) Nothing in this section prejudices any right of appeal that a person may have, but where the right of appeal is exercisable in respect of a decision made pursuant to a power conferred on the Minister under a provision specified in subsection (6) of this section and delegated under section 9A of this Act it shall not be exercised until any right to request a review of the decision under this section has been exhausted.

(5) Where upon a review of the decision under this section the Minister varies or reverses a decision made pursuant to a power delegated under section 9A of this Act the validity of anything done for the purposes of or pursuant to the decision is not affected, but the Minister may direct that such measures be taken in relation to anything so done as in the circumstances he thinks fit and effect shall be given to any such direction.

(6) The provisions in respect of which subsection (1) of this section applies are section 34D (2) and sections 47, 47A, 47B, 47C, 47D, 49, 66A and 66B of this Act.

10. (1) Subject to the regulations and the direction of the Minister, the Director shall—

- (a) be the guardian and have the care, management and control of the persons and property of all wards;
- (b) have the supervision and control of all children placed under the control of the Department; and
- (c) have the supervision of all children to whom a licence granted under section one hundred and eleven or section one hundred and twelve of this Act applies.

General powers of Director.
Amended by No. 45 of 1955, s. 2; No. 15 of 1959, s. 4; No. 22 of 1962, s. 3; No. 29 of 1968, s. 3; No. 73 of 1976, s. 8.

(2) Any ward and any child placed under the control of the Department may from time to time be dealt with by the Director in any one or more of the following ways—

- (a) by placing the child in any suitable centre or other facility;
- (b) with the approval of the Minister or a person to whom the power to give approval on behalf of the Minister has been delegated pursuant to section nine A of this Act, by transferring the child from one centre or facility to another centre or facility or from one kind of training or employment to any other which in the opinion of the Director is likely to prove more beneficial to the child;
- (c) by placing out that child or placing the child in employment with some suitable person; or
- (d) by placing that child in the care, charge or custody of a suitable person willing to take the child.

[Subsection (3) repealed by No. 73 of 1976, s. 8.]

General
function of the
Director.
Inserted by No.
73 of 1976, s.
8.

10A. The Director may take such action or cause such action to be taken, not inconsistent with the provisions of this Act, as may be reasonably or probably necessary for promoting the welfare of a child, whether that child is a ward or placed under the control of the Department or not, and the Director and any officer of the Department authorized by the Director in that behalf has all such powers as may be reasonably necessary to enable such action to be taken.

Records to be
kept.
Amended by
No. 45 of
1955, s. 2; No.
73 of 1976, s.
9.

11. The Director shall keep records of all moneys received and paid, and so far as known of the names, ages, dates of reception, near relatives, nationality, sex, religion and dates of departure of all wards and children placed under the control of the Department, and of all dispositions of and dealings with such children.

12. The Director shall in every year report to the Minister on the working of this Act, and set out a summary of the receipts and expenditure of the Department during the period covered by the report and any other particulars which the Minister may direct from time to time to be included in such report. All such reports shall be laid before Parliament.

Annual report.
Amended by
No. 45 of
1955, s. 2; No.
73 of 1976, s.
10.

PART III.—CENTRES AND FACILITIES.

Heading. Sub-
stituted by No.
73 of 1976, s.
11.

13. (1) The Governor may by order declare any building, place, educational establishment, training facility or other thing to be a Departmental centre or Departmental facility for the purposes of this Act and effect shall be given to any such declaration.

Departmental
centres and
facilities.
Amended by
No. 73 of
1976, s. 12.

(2) The Governor may by order discontinue and close any Departmental centre or facility and direct the transfer of any child thereby affected to some other centre or facility.

(3) Any order under this section may be altered or revoked by the Governor.

14. (1) The Governor may by order declare any building, place, educational establishment, training facility, or other thing to be a subsidized centre or subsidized facility or a voluntary centre or voluntary facility for the purposes of this Act and effect shall be given to any such declaration.

Subsidized and
voluntary
centres and
facilities.
Substituted by
No. 73 of
1976, s. 13.

(2) The Governor may by order declare that any subsidized centre or facility or any voluntary centre or facility shall cease to be such for the purposes of this Act, and thereupon any ward or child placed under the control of the Department thereby affected may be transferred to some other centre or facility or otherwise dealt with in accordance with the provisions of this Act.

(3) Any order made under this section may direct that any such centre or facility shall cease to be used in the manner therein specified on the expiry of the period therein specified and effect shall be given to any such direction.

(4) Any order under this section may be altered or revoked by the Governor.

Existing centres and facilities.
Substituted by No. 73 of 1976, s. 14.

15. Subject to the provisions of subsection (2) of section fourteen of this Act the centres and facilities specified in the Second Schedule to this Act are declared to be subsidized centres or facilities.

Manager to be approved.
Substituted by No. 73 of 1976, s. 15.

16. No centre or facility shall be eligible to be or to continue to be a subsidized centre or facility or a voluntary centre or facility for the purposes of this Act unless the person holding office as manager in chief control of that centre or facility is a person approved in that office by the Governor.

Maintenance by religious denominations.
Substituted by No. 73 of 1976, s. 16.

17. Where a subsidized centre or facility or a voluntary centre or facility is or is to be established or maintained for the children of persons of any particular religious denomination exclusively, the Governor may have regard to that limitation.

Special magistrates and members of court may visit centres etc.
Amended by No. 73 of 1976, s. 17.

18. A special magistrate or any member of a children's court authorized in that behalf by the Governor shall have the right at any time to enter, visit, and inspect any centre or facility declared to be such pursuant to the provisions of this Act.

Visits by officers of the Department.
Inserted by No. 73 of 1976, s. 18.

18A. The Director, or any officer of the Department authorized in that behalf by the Minister, shall have the right at any time to enter, visit and inspect any subsidized centre or facility or any voluntary centre or facility.

PART IV.—WARDS, CHILDREN UNDER DEPARTMENTAL CONTROL, AND CHILDREN'S COURTS.

Heading.
Amended by
No. 73 of
1976, s. 19.

Constitution and Powers of Court.

19. (1) (a) The Governor may by Order in Council establish special courts to be called children's courts and may appoint a special magistrate or special magistrates for any court or courts, and may by Order in Council from time to time determine the area in and for which each court shall exercise jurisdiction.

Children's
courts.
Amended by
No. 69 of
1957, ss. 2, 3
and 4; No. 22
of 1962, s. 4;
No. 29 of
1968, s. 4; No.
73 of 1976, s.
20; No. 77 of
1979, s. 2.

(b) Without affecting the validity of anything done prior thereto the Governor may by Order in Council—

- (i) revoke or annul any establishment of a Children's Court; and
- (ii) amend, vary or revoke any appointment or determination made under this section whether made before or after the coming into operation of the Child Welfare Act Amendment Act 1957 or deemed by that Act to have been made.

(c) Appointments as special magistrates may be made of—

- (i) magistrates or persons who may from time to time, temporarily or otherwise, be assigned to or occupying the office or performing the duties of a magistrate assigned to one or more magisterial districts;
- (ii) magistrates or persons who may, from time to time, be occupying, temporarily or otherwise, any office or performing the duties of any office to which appointments are made by the Governor; and
- (iii) any other magistrates or persons.

(d) The areas in and for which children's courts shall exercise jurisdiction may be determined by reference to magisterial districts or parts of magisterial districts or the areas or parts of areas which may from time to time be comprised in

magisterial districts or to any other districts or areas, and one or more children's courts may exercise jurisdiction in any particular area or district.

(e) Notwithstanding the provisions of this subsection, a children's court may exercise any of the powers conferred on it by section twenty of this Act in respect of an offence alleged to have been committed outside the area in and for which that children's court exercises jurisdiction under this Act, if the offence is one in respect of which that children's court could exercise any power conferred on it by section twenty of this Act had such offence been committed within the area in and for which that children's court exercises jurisdiction under this Act and—

- (i) the person charged with the offence pleads guilty to that offence; or
- (ii) the parties to the proposed proceedings agree that those powers shall be exercisable by that children's court.

[Former subsections (1a) and (1b) repealed by No. 29 of 1968, s. 4.]

(1a) Subject to subsection (1b) of this section, a special magistrate shall, before proceeding to discharge the duties of his office, take before a Judge or any person authorized in that behalf by the Governor an oath or affirmation in accordance with the form set out in the Fifth Schedule to this Act.

(1b) It shall not be necessary for a special magistrate who—

- (a) is a stipendiary magistrate; and
- (b) has taken the oaths or the oath or affirmation, as the case may be, required by the Stipendiary Magistrates Act 1957, before or after the amendment of that Act by the Stipendiary Magistrates Act Amendment Act 1979,

to comply with the requirements of subsection (1a) of this section before proceeding to discharge the duties of his office.

(2) (a) The Governor may also appoint such persons, male or female, as he may think fit, to be members of any particular children's court, and may determine the respective seniorities of members heretofore or hereafter appointed, and may appoint any person to be a clerk of any court.

(b) Of the persons appointed as members of any particular children's court for which a special magistrate is appointed, one, but not more than one at any particular time, shall have the right to sit and adjudicate with the special magistrate from time to time, and if more than one person has been so appointed, the exercise from time to time of the right shall be according to agreement of those persons, but, failing agreement, according to seniority.

(3) Except as provided by sections 20 B and 20 C of this Act, a court shall be constituted of a special magistrate, sitting alone or with one member, or of at least two members.

(4) If for any reason it is not convenient for a special magistrate of any court to attend any particular sitting of the court, a special magistrate of any other court may attend and act in his place.

(5) When the persons sitting as a children's court are divided in opinion as to the decision to be given on any question, the question shall be decided according to the opinion of the majority, if there is a majority, but if the court is equally divided in opinion, the opinion of the special magistrate, if present, shall prevail, but if a special magistrate is not present, the case shall be re-heard and determined in the presence of a special magistrate.

(6) Subject to this Act, all the provisions of the Justices Act 1902-1942,¹ shall apply to the proceedings, orders, and convictions of children's courts, and for the purposes of this Act the special magistrate of a court shall except as regards sections 20B and 20C, have the powers of a stipendiary

¹ Now Justices Act 1902-1982.

magistrate throughout the State, and every member of the court shall have the powers of a justice of the peace in and for the area of the court, and every such court shall be deemed to be a court of summary jurisdiction.

(7) For every children's court there shall be a seal; and plaints, summonses, orders and notices and other processes issued out of that court shall be sealed or stamped with the seal.

Jurisdiction as regards children.
Substituted by No. 29 of 1968, s. 5.
Amended by No. 39 of 1970, s. 2; No. 52 of 1971, s. 2; No. 27 of 1972, s. 10; No. 73 of 1976, s. 21; No. 10 of 1977, s. 4; No. 20 of 1982, s. 14; No. 57 of 1982, s. 7.

20. (1) Subject to the provisions of Part V of this Act and to the succeeding provisions of this section, a court has exclusive jurisdiction—

- (a) to hear and determine a complaint of an offence alleged to have been committed by a child;
- (b) to hear and determine all complaints and applications made—
 - (i) under this Act; and
 - (ii) under sections 16, 17, 17 A, 17 B, 18 and 20 of the Education Act 1928; and
- (c) to make recommendations in respect of a child brought before it.

[Former subsection (1a) re-numbered (2) by No. 73 of 1976, s. 21.]

[Subsection (1b) repealed by No. 73 of 1976, s. 21.]

(2) Notwithstanding that a person has attained the age of 18 years, the jurisdiction of the court extends, and the provisions of this Act apply, to—

- (a) a person before the court on a complaint of an offence alleged to have been committed by that person when a child—for all the purposes of any proceedings in respect of that offence; and
- (b) a person in respect of whom a community service order made under this Act remains in force pursuant to section 39F of this

Act—for all the purposes of discharging the community service order or otherwise disposing of the matter in respect of which the community service order was made.

(3) Where it is provided by any other Act that a minimum penalty shall be imposed in relation to any offence, notwithstanding that provision a children's court is not bound to impose such a penalty.

(4) Subject to subsection (4a) of this section a court may—

- (a) instead of hearing and determining a complaint of an indictable offence brought against a child who is over the age of fourteen years, exercise such powers and jurisdiction, only, as are conferred upon a court of petty sessions in respect of the examination and committal for trial of persons charged with indictable offences; or
- (b) if hearing a complaint of an indictable offence brought against a child who is over the age of fourteen years and either—
 - (i) accepting a plea of guilty entered by the child in respect of the offence; or
 - (ii) determining the complaint and finding the child guilty of the offence,

thereupon commit the child for sentence to the Supreme Court or The District Court of Western Australia, as the case may be.

(4a) When hearing a complaint referred to in subsection (4) (b) of this section a children's court shall not accept a plea of guilty entered by a child unless—

- (a) the child is represented at the hearing by counsel or solicitor;
or
- (b) the court is satisfied that the child received legal advice before entering the plea.

(5) Where a child is committed to the Supreme Court or The District Court of Western Australia for sentence pursuant to paragraph (b) of subsection (4) of this section, an indictment for the offence in respect of which he was so committed, or for any other indictable offence, may be presented to that court to which he has been so committed, and thereupon, subject to subsections (5a) and (6) of this section, the child shall be dealt with in all respects and the indictment and proceedings upon it are subject to the same procedure as if the child were a person committed by a court of petty sessions for sentence for an indictable offence in respect of which he had not already been summarily convicted.

(5a) For the purposes of subsection (5) of this section the passage “pleaded, or otherwise duly admitted, before the justice that he was guilty” in the second paragraph of section 618 of The Criminal Code shall, in any case to which subsection (4) (b) (ii) of this section applies, be deemed to be replaced by the words “was duly found guilty”.

(6) The Supreme Court or The District Court of Western Australia has, in all cases where a child is before that Court, all the powers of a children’s court in all respects as if the child had been before such a court and, in passing sentence upon a child who is before that court pursuant to subsection (4) of this section, in respect of an indictable offence, may impose any penalty or disqualification or make any order or direction that—

- (a) may be imposed or made with respect to a person over the age of eighteen years who has been convicted on indictment of that indictable offence; or
- (b) may be imposed or made by a children’s court under this Act.

(7) Where it is provided by any other Act that a person, instead of appearing before justices on a complaint of a simple offence, may elect to suffer a prescribed monetary penalty in respect of that offence, then, notwithstanding anything in this Act, a child may so elect.

(8) Where a complaint of wilful murder, murder, manslaughter or treason or of attempting any of those crimes is brought against a child, a court shall exercise such powers and jurisdiction, only, as are conferred upon a court of petty sessions in respect of the examination and committal for trial of persons charged with indictable offences.

Formerly sub-section (2) renumbered by No. 10 of 1977, s. 4.

[Section 20A inserted by No. 74 of 1957, s. 4.
Repealed by No. 29 of 1968, s. 6.]

20B. (1) Notwithstanding any provision of The Criminal Code but subject to the succeeding provisions of this section, a court constituted of, or comprising, a special magistrate who is a stipendiary magistrate may hear and determine a complaint of committing or attempting to commit any of the indictable offences set out in the Third Schedule to this Act brought against a person who was, at the time of the alleged offence, of or over the age of eighteen years, if the person so elects.

Offences against or in respect of children may be dealt with summarily.

Inserted by No. 74 of 1957, s. 4.

Amended by No. 45 of 1958, s. 3; No. 22 of 1962, s. 5; No. 113 of 1965, s. 8; No. 29 of 1968, s. 7; No. 27 of 1972, s. 11; No. 36 of 1976, s. 3.

(2) A court shall not exercise the jurisdiction conferred by this section, unless the complaint is of an offence committed against, or in respect of, a child under the age of sixteen years.

(3) A person summarily convicted pursuant to this section is liable to imprisonment with hard labour for eighteen months.

[Subsection (3a) repealed by No. 29 of 1968, s. 7.]

(4) Subject to subsection (3) of this section relating to penalty, and subject to any provision of this Act relating to the exclusion of persons from the courtroom or place of hearing, or the restriction or prohibition on publication or disclosure of certain matters, where a person is charged before a court under this section the court is required to exercise such powers and jurisdiction only, as are conferred upon a court of petty sessions in respect of a complaint for the offence alleged.

(5) Where under the provisions of Chapter LXIII of the Code a person charged upon an indictment with an offence may be convicted of an offence other than that with which he is charged, and may be punished, he may be so convicted and punished notwithstanding anything contained in this section.

(6) The provisions of Chapter LXIII of the Code relating to convictions of persons on indictment of offences other than those with which they are charged apply to convictions of offenders on complaints preferred against them of offences upon their trial in order to their summary conviction by a children's court.

Summary proceedings for assaults on children.

Inserted by No. 29 of 1968, s. 8.

Amended by No. 27 of 1972, s. 12.

20C. (1) Subject to the succeeding provisions of this section, a court constituted of, or comprising, a special magistrate who is a stipendiary magistrate has exclusive jurisdiction to exercise the powers conferred upon a court of petty sessions by Chapter XXXI of The Criminal Code, in respect of a complaint of assaulting a child under the age of sixteen years brought against a person who was, at the time of the alleged offence, of or over the age of eighteen years.

(2) Section three hundred and twenty of The Criminal Code does not apply to a complaint heard pursuant to this section, but, if the court finds that the assault that is the subject of the complaint was accompanied by an attempt to commit a crime and—

- (a) the crime is any of those mentioned in the Third Schedule to this Act, the court is required to remand the defendant to appear before another children's court constituted as provided by this section of a different person or different persons, for the rehearing of the complaint amended in accordance with that finding;
- (b) the crime is not any of those mentioned in the Third Schedule to this Act, the court is required to exercise such powers and jurisdiction, only, as are conferred upon a

court of petty sessions in respect of the examination and committal for the trial of persons charged with indictable offences.

21. On and after the establishment of a children's court the jurisdiction of every court of petty sessions in respect of the matters as to which the children's court has jurisdiction shall cease to be exercised within the area proclaimed.

Jurisdiction of other courts to cease.
Amended by No. 79 of 1965, s. 7.

22. A children's court shall be held in such place (whether in a building or otherwise) within the area in and for which it exercises jurisdiction as it determines from time to time.

Venues for children's courts.
Substituted by No. 77 of 1979, s. 3.

23. (1) At any hearing or trial relating to a charge against, or any application concerning, a child or where the interests of a child may be prejudicially affected, the court may order that any persons not directly interested in the case shall be excluded from the court-room or place of hearing.

Exclusion of persons from hearing.
Amended by No. 79 of 1965, s. 8; No. 42 of 1967, s. 2; No. 73 of 1976, s. 22; No. 77 of 1979, s. 4.

(1a) Where the court has made an order pursuant to subsection (1) of this section, it shall after the conclusion of the hearing, make available to any person who satisfies the court that he has suffered loss by reason of an offence committed by the child, the name, age, and address of the child and the particulars of the offence with which such child was charged.

[Subsections (2) (3) and (4) repealed by No. 77 of 1979, s. 4.]

24. Where an application is made in respect of a child or the offence charged against a child does not amount to an indictable offence, or where the alleged offence consists of the breach or non-observance of some by-law, rule, or regulation promulgated by virtue of a statute, no summons shall be issued or served upon such child unless the offence is

No summons to be issued in certain cases.
Amended by No. 73 of 1976, s. 23.

punishable by a fine in excess of one hundred dollars or a notice has been first posted to or served upon such child at its usual place of residence, and such child has failed to appear in response to such notice.

Court to have regard to future welfare of children.

Substituted by No. 79 of 1965, s. 9.

Amended by No. 73 of 1976, s. 24.

25. (1) The court, in dealing with a child, shall have regard to the future welfare of the child.

(2) Where a child is brought before a children's court or is to be dealt with as though before such a court, the court may, by order served upon the person therein named, require the parents of the child or any guardian of the child (not being the Director), or any one or more of such persons, to attend during all stages of the proceedings, whether or not from time to time adjourned, unless excused by the court.

(3) A court may, if the court considers it expedient and just so to do, proceed with the hearing and determination of any proceedings notwithstanding the absence of any parent or guardian.

(4) A person who fails to comply with the requirements of an order served upon him pursuant to this section, and who does not show cause why he should be excused, is guilty of an offence.

Penalty: One hundred dollars.

Court may refrain from imposing punishment or fine.

Amended by No. 27 of 1967, s. 6; No. 73 of 1976, s. 25.

26. (1) Notwithstanding the provisions of any Act, by-law, rule, or regulation, the court in awarding punishment or penalty upon any child may have regard to the antecedents, character, age, health, or mental condition of the child, and may take into account the nature of the offence or any special circumstances of the case.

(2) The court may, notwithstanding the nature of the evidence adduced, refrain from imposing any punishment, penalty or fine, or without proceeding to conviction dismiss the complaint, but may in either case make an order for restitution or as to the payment of any costs or charges incurred at or in relation to the proceedings.

(3) Notwithstanding the exercise of any discretion conferred by this section, the court may order the child concerned to be subject to the supervision of the Department, on such conditions, if any, as the court may order, until such child attains the age of eighteen years or during such shorter period as the court may think sufficient.

27. (1) Subject to the provisions of this section, upon the application of—

- (a) the Department;
- (b) the parent or guardian of any child against whom an order in those proceedings may be made under this Act;
- (c) a child to which the proceedings relate; or
- (d) the complainant,

to a children's court having jurisdiction, any original proceedings in which a complaint was dismissed pursuant to section twenty-six of this Act or in which an order (not being an order made following conviction on indictment) was made against a child under this Act may be re-heard upon cause being shown.

(2) The court re-hearing any proceedings under this section—

- (a) is not required to be the court before which the original proceedings were heard;
- (b) shall be constituted of a special magistrate sitting alone;
- (c) has power to set aside or vary any finding or order made in the original proceedings;
- (d) has power to make any finding or order which could have been made in the original proceedings; and
- (e) may make such recommendation to the Minister thereon as may in the opinion of the court meet the circumstances.

Court may re-hear case.
Substituted by
No. 73 of
1976, s. 26.

(3) Where an application is made for the re-hearing of any proceedings under this section and the court considers that cause has been shown, a child against whom an order was made at the original hearing may be admitted to bail.

(4) Except where the court considers that it is expedient and just so to do, no new evidence shall be admitted at the re-hearing of any proceedings pursuant to this section.

(5) Where any proceedings are re-heard pursuant to this section the proceedings as so re-heard shall not be taken to have been original proceedings for the purposes of any further application but nothing in this section derogates from any right that may be available to any person by way of appeal under the Justices Act 1902.

Admission to bail or remanded for observation.
Amended by No. 45 of 1955, s. 2; No. 27 of 1967, s. 8; No. 73 of 1976, s. 27.

28. (1) The powers conferred upon justices in regard to admission to bail may be exercised in the case of children by the Director or by the clerk of the children's court, or by the officer in charge for the time being of any Departmental centre or Departmental facility, or by any police officer.

(2) Where it appears to the court that a child charged with an offence or in respect of whom an application is made—

- (a) is suffering from mental or nervous disorder; or
- (b) should be remanded for observation, assessment and recommendation as to his future treatment,

then, notwithstanding the provisions of any other Act, the court may, after giving the parents or guardian of the child an opportunity of being heard, if present, remand the child, and order that he be placed in some suitable place, for a period not exceeding one month, for observation, assessment and the making of a report on his condition or a recommendation as to his future treatment, as the case may require.

Children in Need of Care and Protection and Uncontrolled Children.

Heading.
Substituted by
No. 57 of
1982, s. 8.

29. (1) Any officer of the Department authorized by the Minister and any police officer may, without warrant, apprehend any child appearing or suspected to be in need of care and protection or to be an uncontrolled child.

Power to apprehend child in need of care and protection.

Amended by
No. 27 of
1967, s. 9; No.
29 of 1968, s.
10; No. 85 of
1969, s. 5; No.
73 of 1976, s.
29; No. 57 of
1982, s. 9.

(2) When any such child is apprehended, pending the hearing of the application, charge or information, or during any adjournment of the hearing or during any period of remand the child shall be—

- (a) taken to his place of residence and there left, upon the recognisance of a near relative for his appearance;
- (b) placed with some respectable person and such arrangement or agreement may be made as may be necessary or proper for the care and maintenance of that child; or
- (c) taken to and placed in any Departmental centre or Departmental facility of an appropriate kind, or such other suitable place as is approved by the Director.

(3) Where any child is apprehended in any of the circumstances described in subsection (1) of this section or subsection (1) of section thirty-eight of this Act, he shall, as soon as is practicable, be brought before the court to be dealt with according to law.

(3a) Where a child under the age of six years is admitted to a hospital and there are reasonable grounds to suspect that the child is a child in need of care and protection, the medical officer in charge of that hospital, or his deputy, may order that the child be detained in the hospital for a period not exceeding forty-eight hours for the purposes of observation, assessment or treatment, but shall thereupon give notice to the Department in the prescribed manner.

(3b) Where a child is detained in a hospital pursuant to subsection (3a) of this section, on the expiration of the period of detention that child shall—

- (a) be discharged from the hospital; or
- (b) remain in the hospital with the consent of a parent or guardian; or
- (c) be apprehended and dealt with in accordance with the provisions of this section or of section forty-seven B of this Act,

as the case may require.

(4) Nothing in this section shall be construed as limiting the application of section twenty-eight of this Act.

Powers of court with respect to children in need of care and protection. Substituted by No. 16 of 1952, s. 3. Amended by No. 79 of 1965, s. 10; No. 73 of 1976, s. 30; No. 57 of 1982, s. 10.

30. (1) The court upon the hearing of an application to declare a child in need of care and protection may on being satisfied that the application should be granted, declare the child to be in need of care and protection and may order the child until he attains the age of eighteen years, or during such shorter period as the court may think sufficient to be—

- (a) committed to the care of the Department; or
- (b) placed under the control of the Department.

[Paragraph (c) deleted by No. 57 of 1982, s. 10.]

(2) All proceedings under this section shall be disposed of in chambers unless the court otherwise determines, and any such proceedings may be ordered to be heard *in camera*.

(3) In relation to any application for a declaration that a child is in need of care and protection, or on any complaint that a child is a habitual truant,—

- (a) the court shall admit in evidence any statement, whether oral or otherwise, voluntarily expressed or necessarily implied and whether made in the presence of a party to those proceedings or not; and

- (b) the child, the parents and any guardian of the child, and any person who is alleged to have contributed by action or neglect towards the need of the child for care and protection, shall be deemed to be parties to the proceedings.

(4) Where in any proceedings under this section an allegation that a child is in need of care and protection, or is a habitual truant, is found to be proved the child shall not thereby be taken to be guilty or convicted of an offence.

[Section 30A inserted by No. 16 of 1952, s. 4.
Repealed by No. 73 of 1976, s. 31.]

31. Whenever a child is committed to the care of, or placed under the control of, the Department, the order of the court shall be sufficient authority to any police officer or officer of the Department to take the child to such place as the Director may direct, or in default of any such direction to such Departmental centre or Departmental facility of an appropriate kind as may be nearest or most convenient.

Order for detention.
Amended by No. 45 of 1955, s. 2; No. 73 of 1976, s. 32; No. 57 of 1982, s. 11.

31A. (1) Any person who has, either by wilful misconduct or habitual neglect, or by any wrongful or immoral act or omission encouraged or contributed to the commission of any offence by any child or of any act by a child under the age of fourteen years which act, if it were committed by a child over fourteen years of age, would be an offence, or caused or suffered any child to become, or to continue to be, a child in need of care and protection, or contributed to any child becoming, or continuing to be, a child in need of care and protection, shall be guilty of an offence.

Punishment for misconduct or neglect causing a child to be in need of care and protection.
Formerly s. 137.
Renumbered and amended by No. 73 of 1976, s. 33.

Penalty: Five hundred dollars or imprisonment with hard labour for six months.

[Subsection (2) repealed by No. 73 of 1976, s. 33.]

(3) The court before whom any person is convicted of an offence under this section may (if such person is a parent or guardian of the child and the child has committed an offence) in lieu of or in addition to any other punishment, order the person convicted—

- (a) to pay any fine which may have been imposed on the child for the offence committed by such child;
- (b) to find good and sufficient security to the satisfaction of the court that the child will be of good behaviour for a period not exceeding twelve months.

(4) If the court orders such security as aforesaid, it may suspend any sentence of imprisonment imposed on the convicted person until there has been a breach in the conditions of the security, and on any such breach occurring the suspension shall be removed, and the sentence shall become operative and may be enforced, and in that case the period of imprisonment imposed by the sentence shall be calculated as from the date of the offender being actually received into prison.

(5) For the purposes of this section any person who in fact has the custody, care, or control of any child shall be deemed to be a guardian of such child.

[Heading inserted by No. 73 of 1976, s. 34. Deleted by No. 57 of 1982, s. 12.]

How uncontrolled child may be dealt with.
Amended by No. 79 of 1965, s. 11; No. 27 of 1967, s. 10; No. 73 of 1976, s. 35.

32. (1) Subject to the provisions of this section, a near relative of a child over whom he is unable to exercise proper control may bring the child before the court on an application for an order under this section; and the court, if satisfied that the application is well founded, may deal with the child as though it were a child in need of care and protection.

(2) No order of committal of an uncontrolled child on the application of his near relative shall be made unless such relative proves that he has not by his own omissions lost control of the child.

(3) No application under subsection (1) of this section shall be heard unless the court is satisfied that the applicant gave reasonable notice in writing to the Department of his intention to bring the child before the court pursuant to the provisions of this section.

(4) An officer of the Department or a police officer may bring a child before the court on the ground that it is uncontrolled, and the court, if satisfied that the application is well founded, may deal with the child in like manner and to the same extent as if the child had been brought before the court on the application of a near relative.

Offending Children.

[Former section 33 repealed by No. 73 of 1976, s. 36.]

Heading.
Inserted by No.
73 of 1976,
s. 37.

33. (1) When any child is apprehended, or is charged, following the alleged commission of an offence the child shall, as soon as is practicable, be brought before the court, or where the circumstances are appropriate before a children's panel, to be dealt with according to law.

Offending
Children.
New Section
33 inserted by
No. 73 of
1976, s. 38.

(2) Unless the proceedings against the child are initiated by way of summons or the child is released on bail, pending the hearing of any proceedings against a child or during any adjournment of a hearing or a period of remand, committal or referral arising from those proceedings the child shall be—

- (a) taken to his place of residence and there left, upon the recognisance of a near relative, or the recognisance of some other responsible person, for his appearance;
- (b) placed with some respectable person, and such arrangement or agreement made as may be necessary or proper for the care and maintenance of that child; or

- (c) taken to and placed in any Departmental centre or Departmental facility of an appropriate kind, or such other suitable place as is approved by the Director.

(3) Nothing in this section shall be construed as limiting the application of section 28 of this Act.

(4) It shall be the duty of every police officer and officer of the Department to ensure, so far as is practicable, that a child arrested for an offence is not held in custody but is taken to his place of residence and there released if any person is willing to enter into a recognisance for the appearance of that child in court, unless—

- (a) the offence is that of treason, wilful murder, murder, manslaughter, or rape, or of attempting any such crime; or
- (b) the detention of the child is necessary in order to prevent persistence by the child in, or repetition by the child of, conduct of the kind constituting the offence, or to prevent the commission of other offences against this or any other Act; or
- (c) proceedings by way of summons would not be effective, are not possible, or reasonable having regard to the welfare of the child, other persons, or property.

(5) Where no person is willing to enter into a recognisance for the appearance in court of a child arrested for an offence, the child may be held in custody.

34. (1) If any child is found guilty of any offence punishable by imprisonment, the court, in lieu of sentencing such child to imprisonment, may—

- (a) place that child under the control of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient; or

How convicted children may be dealt with.
Amended by No. 15 of 1959, s. 7; No. 29 of 1968, s. 11; No. 73 of 1976, s. 39; No. 57 of 1982, s. 13.

- (b) order the parent to give security for the good behaviour of such child until the child attains the age of eighteen years, or during such shorter period as the court may think sufficient, and upon being satisfied that such security has been given, may dismiss the charge; or
- (c) on being satisfied that such punishment as the court may approve has been, or on the undertaking of a near relative will be, inflicted on the child dismiss the case or adjourn it until the punishment is carried out, as the case requires; or
- (d) release the child on probation on such conditions, if any, as the court may order, and in such case the child shall be subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient; or
- (e) discharge the child upon his entering into his own recognisance, with or without sureties, in such amount as the court thinks fit, that he will keep the peace and be of good behaviour for a term not exceeding one year; or
- (f) impose on the child a fine not exceeding five hundred dollars.

(2) No order for security shall be made against a parent under this section unless such parent has been summoned to attend before the court and has had an opportunity of being heard.

(3) No order for the payment of a fine shall be imposed on a child unless the court is satisfied after enquiring into the means of that child that the child has the ability to pay either on demand or by instalments related to such means, and a default

order shall not be made against a child for non-payment of a fine where that child is below the school leaving age or is receiving full time education unless—

- (a) it is a community service order;
- or
- (b) it is an order made under section 36 (3) or (4), or section 39G (3) (b) (ii) of this Act.

Restriction on power of court to imprison children.

Inserted by No. 45 of 1955, s. 5.

Substituted by No. 79 of 1965, s. 12.

Amended by No. 85 of 1969, s. 6; No. 73 of 1976, s. 40.

34A. (1) The court shall not impose a sentence of imprisonment—

- (a) on a child under the age of sixteen years;
- [Paragraph (b) deleted by No. 73 of 1976, s. 40.]
- OR
- (c) exceeding three months, in respect of any one offence, on a child aged sixteen years or more.

(1a) Where the court imposes sentences of imprisonment on a child aged sixteen years or more, it shall not, if it orders one or more of those sentences to be served cumulatively with any other of the sentences imposed by it on that occasion, order that the child serve a total of more than three months.

(2) In sentencing a child to imprisonment the court may direct that the imprisonment be served in a penal institution established by the Department for the imprisonment of children.

How child convicted of offence not punishable with imprisonment may be dealt with.

Inserted by No. 15 of 1959, s. 8.

Amended by No. 85 of 1969, s. 7; No. 73 of 1976, s. 41; No. 57 of 1982, s. 14.

34B. (1) If any child is found guilty of an offence, which is not punishable by imprisonment, the court in lieu of imposing a fine may—

- (a) order the parent of the child to give security for the good behaviour of the child until he attains the age of eighteen years, or during such shorter period as the court may think sufficient, and upon being satisfied that the security has been given, may dismiss the charge; or

- (b) on being satisfied that such punishment as the court may approve has been, or on the undertaking of a near relative will be, inflicted on the child dismiss the case or adjourn it until the punishment is carried out, as the case requires; or
- (c) release the child on probation on such conditions, if any, as the court may order, and in that case the child is subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient; or
- (d) discharge the child upon his entering into his own recognisance, with or without sureties, in such amount as the court thinks fit, that he will keep the peace and be of good behaviour for a term not exceeding one year.

(2) No order for the payment of a fine shall be imposed on a child unless the court is satisfied after enquiring into the means of that child that the child has the ability to pay either on demand or by instalments related to such means, and a default order shall not be made against a child for non-payment of a fine where that child is below the school leaving age or is receiving full time education unless—

- (a) it is a community service order;
- or
- (b) it is an order made under section 36 (3) or (4), or section 39G (3) (b) (ii) of this Act.

34C. Notwithstanding the provisions of any other Act and in addition to any powers exercisable pursuant to this Act or the Misuse of Drugs Act 1981, the court, in dealing with any offence by a child relating to the use, obtaining possession, or self administration of drugs may have regard to the

Drug offences.
Inserted by No.
73 of 1976,
s. 42.
Amended by
No. 57 of
1981, s. 5.

antecedents, character, age and mental condition of the child and taking into account the treatment and future rehabilitation of that child, may—

- (a) remand the case for investigation, or for the parents or the Department to present proposals, and on being satisfied dismiss the case if—
 - (i) the involvement of the child with drugs is of a minor nature, and in the opinion of the court the home circumstances provide adequately for the child; or
 - (ii) acceptable proposals are made by the parents, the Department or any other appropriate authority, but in either case the court may order that the child be subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient; or
- (b) release the child on probation on such conditions, if any, as the court may order, and in such case the child shall be subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient; or
- (c) place the child under the control of the Department.

Minister may extend period of probation.
 Inserted by No. 22 of 1962, s. 6 as s. 34C.
 Amended by No. 79 of 1965, s. 13.
 Renumbered and amended by No. 73 of 1976, s. 43.

34D. (1) Where a child is found guilty of an offence and is released on probation pursuant to the provisions of this Part of this Act during any period other than a period that ceases when he attains the age of eighteen years, the Minister may, upon the recommendation of the Director in writing, order that the period of release on probation of the child be extended until the child attains the age of eighteen years or for any shorter period as the Minister in his absolute discretion thinks fit, and subject to the provisions of section 38 of this Act such child shall continue to be released on probation accordingly.

(2) Where a child is found guilty of an offence and is released on probation pursuant to the provisions of this Part of this Act for any period, the Minister may, upon the recommendation of the Director in writing, order that the child be discharged from probation or order that the period of his release on probation be abridged by such period as the Minister, in his absolute discretion thinks fit and, in that event, the child shall be discharged from probation or continue to be released on probation for the abridged period, as the case may require.

34E. (1) Where a child is found guilty of an offence with respect to which a fine may be imposed on the child or payment of damages, costs or restitution may be ordered, the court, on being satisfied that any parent of the child has conduced to the commission of the offence by neglecting to exercise due care or control of the child may order that the fine or damages costs or restitution be paid—

- (a) by the child; or
- (b) by the parent; or
- (c) by both the child and the parent, in such proportions as the court may determine.

In an order for payment of any sum, the court may direct that such sum be paid by periodical payments.

(2) In any case where a child is charged with an offence, the court may order the parent of the child to give security for the good behaviour of the child and such order may be made by the court in addition to any order made in respect of the child.

(3) An order under this section may be made against a parent who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without the parent having first been given an opportunity of being heard nor shall any such order be made requiring a parent to pay an amount greater than three hundred dollars.

Power to order parent to pay fine, etc., in lieu of child.

Inserted by No. 36 of 1956, s. 2 as s. 137A.

Amended by No. 113 of 1965, s. 8.

Renumbered and amended by No. 73 of 1976, s. 44.

Amended by No. 77 of 1979, s. 5.

(4) Any sum ordered to be paid under this section, or payable on the forfeiture of any security as aforesaid, by a parent, may be recovered in the same manner as if the order had been made on the conviction of the parent of the offence with which the child was charged.

(5) For the purposes of this section the term "parent" includes the natural parent, adoptive parent, legal guardian, or any person having control of the child for such period other than one which the court considers to be limited or temporary, but does not include the Director or any officer of the Department, licensed foster parents, school teachers, or members of the staff of any Departmental or other centre or facility.

Child not to be imprisoned for non-payment of fine, etc.
Amended by No. 27 of 1967, s. 12; No. 85 of 1969, s. 8; No. 39 of 1970, s. 3; No. 73 of 1976, s. 45.

35. (1) No child shall be liable to imprisonment for failure to pay any penalty, compensation, or sum of money or costs adjudged to be paid by a conviction or order of any court of summary jurisdiction, but a child shall be liable to be sent to and detained in a Departmental centre or appropriate Departmental facility for such period as he might have been imprisoned but for the provisions of this section, and the provisions of the Justices Act 1902-1942,¹ shall apply, the necessary changes and adaptations being made in respect of such child as if detention in a Departmental Centre or appropriate Departmental facility were substituted therein for imprisonment.

(2) The provisions of subsection (1) of this section do not apply to a person where he is convicted, or the order is made, after he attains the age of eighteen years.

(3) Where a person—

- (a) became, after he attained the age of seventeen years but before he attained the age of eighteen years, liable to pay a penalty,

¹ Now Justices Act 1902-1982.

compensation, or sum of money or costs adjudged to be paid by a conviction or order of a court of summary jurisdiction; and

- (b) has since attained the age of eighteen years and has failed to pay the penalty, compensation, or sum of money or costs adjudged by the conviction or order of the court, the court may, notwithstanding that the person has attained the age of eighteen years, require the person to appear before that court or some other more convenient court of summary jurisdiction specified by that court and, in default of his appearance, issue a warrant ordering the person to be apprehended and be brought before such a court to show cause why a warrant of commitment for the imprisonment of the person should not be issued.

(4) The court before which a person appears or is brought pursuant to subsection (3) of this section shall hear and determine the matter and may—

- (a) issue a warrant of commitment of the person to gaol for such period as it thinks fit, but not exceeding the period that would be applicable according to the scale specified in section one hundred and sixty seven of the Justices Act 1902; or
- (b) decline to issue such a warrant, in which event the person shall cease to be liable to be imprisoned in respect of his failure to pay the penalty, compensation, or sum of money or costs.

(5) The provisions of the Justices Act 1902, insofar as those provisions are not inconsistent with subsection (4) of this section, shall apply, with such modifications and adaptation as are necessary, to the imprisonment of a person pursuant to that subsection, as if the person were committed to imprisonment under a warrant of commitment issued under section one hundred and fifty seven or one hundred and fifty eight of that Act.

(6) The Director or some officer of the Department may be present at, and if present is entitled to be heard on any matter concerning, any proceedings brought before a court pursuant to subsection (4) of this section.

(7) Where for the purposes of this section a court other than the court originally dealing with the matter is concerned with the enforcement of any conviction or order that other court shall be deemed to have the like jurisdiction as the court originally dealing with the matter.

(8) Where under this section a child would be liable to be sent to and detained in a Departmental centre or an appropriate Departmental facility pursuant to a warrant of commitment for default but is at the material time serving a sentence of imprisonment the period of detention required by that warrant may be served concurrently with the period of imprisonment and the warrant shall be given effect to accordingly.

No execution or detention in default of payment of fine.
Amended by
No. 27 of 1967, s. 13;
No. 73 of 1976, s. 46;
No. 57 of 1982, s. 15.

36. (1) Notwithstanding anything contained in sections one hundred and fifty-five, one hundred and fifty-nine, and one hundred and sixty-seven, of the Justices Act 1902-1942,¹ or in section thirty-five of this Act, it shall not be obligatory upon the justices sitting as a children's court or upon a special magistrate to issue any warrant of execution or to impose any alternative of detention in default of payment of a fine by any child.

(2) No warrant of execution or warrant of commitment shall be issued against any child until fourteen days have lapsed since—

(a) the relevant conviction or order; and

¹ Now Justices Act 1902-1982.

- (b) the release of the child from prison, or from any Departmental centre or facility in which he has been detained, whether for the same or any other offence,

unless that child is at the material time serving a sentence of imprisonment or is detained in a Departmental centre or facility on other grounds.

(3) Where a child—

- (a) who has attained the age of 12 years; and
- (b) in respect of whom a community service order may not, by reason of the child having at any time been found guilty of a prescribed offence, be made,

defaults in the payment of a fine imposed by a court under section 34 (1) of this Act, or under the provisions of any other Act, and no order has been made for detention in default of the payment of the fine, the court may issue a summons requiring the child to appear before the court and, in default of the child so appearing, issue a warrant ordering the child to be apprehended and be brought before the court and, upon the child so appearing or being so brought before the court, the court shall, unless sufficient cause to the contrary is shown, make an order for the detention of the child in respect of the default and issue a warrant of commitment accordingly or make an order for the detention of the child to take effect if, after such further time as may be fixed by the order, the child is still in default.

(4) Where a child, in respect of whom a community service order may, subject to the consent of the child, be made, defaults in the payment of a fine imposed by a court under section 34 (1) of this Act, or under the provisions of any other Act, the court may, whether or not any order has been made for detention in default of the payment of the fine, issue a summons requiring the child to appear before the court and, in default of the child so appearing, issue a

warrant ordering the child to be apprehended and be brought before the court and, upon the child so appearing or being so brought before the court, the court may invite the child to consent to the making of a community service order by the court in respect of the fine and, where the child declines to so consent and an order has not been made for detention in default of the payment of the fine, the court shall, unless sufficient cause to the contrary is shown, make an order for the detention of the child in respect of the default and issue a warrant of commitment accordingly or make an order for the detention of the child to take effect if, after such further time as may be fixed by the order, the child is still in default.

(5) Where a child appears or is brought before a court pursuant to subsection (4) of this section and the court makes a community service order under section 39A (1) (b) of this Act for the performance of unpaid work as an alternative to payment of a fine imposed—

- (a) notwithstanding any order that has been made for detention in default of payment of the fine, no warrant of commitment for the default shall be issued except in accordance with section 39G (3) of this Act; and
- (b) the discharge of the community service order—
 - (i) by performance of the work; or
 - (ii) by a court pursuant to section 39J of this Act,
 shall be taken to be satisfaction of the fine.

Detention of a child pending trial.

Amended by No. 79 of 1965, s. 14; No. 73 of 1976, s. 47.

37. Any child may be detained in a Departmental centre or Departmental facility during the period for which he has been remanded by a court or any justice or justices, or during the period of his detention on committal for trial in the Supreme Court or The District Court of Western Australia.

38. (1) If the conditions upon which any child is released by a court pursuant to the provisions of this Part of this Act are not observed by the child or responsible person or persons, or if the Director shall not be satisfied with the conduct of the child or the responsible person or persons aforesaid whilst the child is released whether by order of the court or pursuant to the order of the Minister made under section thirty-four D of this Act the probation officer having the control of the child may, without any authority other than that of this section, cause the child to be apprehended and disposed of, in the manner provided for the disposition of an apprehended child, under section thirty-three of this Act.

Child released on probation may be arrested without warrant in certain cases. Amended by No. 45 of 1955, s. 2; No. 22 of 1962, s. 7; No. 79 of 1965, s. 15; No. 85 of 1969, s. 9; No. 73 of 1976, s. 48.

(2) Where a child has been apprehended pursuant to subsection (1) of this section, a responsible officer with the approval of the Director may cause the child to be brought before the court, and the court may exercise such of the powers conferred by this Act as are appropriate and the circumstances require.

39. (1) Notwithstanding any other provision of this Act, where a child has been placed under the control of the Department the court may place that child, if over the age of seventeen years, under the control of the Department for a period not exceeding one year.

Child over seventeen years may be committed or placed on probation. Substituted by No. 73 of 1976, s. 49.

(2) Where a child is convicted of an offence but will attain the age of eighteen years within the period of one year thereafter, the court may release the child on probation for a period not exceeding twelve months and effect shall be given to that order notwithstanding any other provision of this Act or the fact that the child during that period attains the age of eighteen years, and the provisions of section thirty-eight of this Act shall apply thereto.

Community
service orders.
Inserted by No.
57 of 1982,
s. 16.

39A. (1) Subject to sections 39C and 39D of this Act—

- (a) where a child is before a court and may be dealt with under section 34 (1), or section 34B (1), of this Act the court may, without proceeding to conviction, make an order requiring the child to perform unpaid work, in accordance with this section and sections 39B to 39P of this Act and the regulations, for such number of hours as may, subject to section 39D of this Act, be specified in the order;
- (b) where a child appears or is brought before a court pursuant to section 36 (4) of this Act, the court may make an order requiring the child to perform unpaid work, in accordance with this section and sections 39B to 39P of this Act and the regulations, for such number of hours as may, subject to section 39D of this Act, be specified in the order.

(2) Subsection (1) of this section applies to—

- (a) a child who is before a court and may be dealt with under section 34 (1), or section 34B (1), of this Act;
- or
- (b) a child who appears or is brought before a court pursuant to section 36 (4) of this Act by reason of a default in the payment of a fine,

notwithstanding that the offence for which the child is before the court was committed, or the default occurred, as the case may be, before the day of the coming into operation of section 16 of the Child Welfare Amendment Act 1982.

(3) A community service order shall appoint a court being—

- (a) the court nearest to the place where the child in respect of whom the community service order is made intends to reside; or

- (b) the court that the court making the community service order deems most convenient in the circumstances,

to be the supervising court in respect of the community service order, and the court so appointed, or such other court as is appointed pursuant to section 39B of this Act, shall for the purposes of this Act be the supervising court in respect of that community service order.

(4) A community service order shall require the child in respect of whom it is made to present himself in person at a place specified in the community service order, to an officer of the Department so specified, at or within such time (if any) as is so specified.

(5) The court by which a community service order is made shall cause the community service order to be evidenced in writing and, as soon as practicable after the community service order is made, shall—

- (a) cause a copy of the community service order to be given to the child in respect of whom it is made;
- (b) cause a copy of the community service order to be sent to the Department; and
- (c) where the court is not itself the supervising court, cause a copy of the community service order to be sent to the clerk of the supervising court, together with such documents and information relating to the child in respect of whom, and the offence in respect of which, the community service order is made as the court making the community service order considers likely to be of assistance to the supervising court.

(6) The Department shall assign an officer of the Department to be the relevant officer in respect of a community service order and may from time to time so assign another officer in place of the officer previously assigned.

(7) Where a court makes a community service order under subsection (1) (a) of this section in respect of a child found guilty of an offence—

- (a) subject to paragraph (b) of this subsection, for the purpose of the making, under this or any other Act, of any order that may be, or is required to be, made by a court upon convicting a person of such an offence (but not for any other purpose), the making of the community service order is deemed to be a conviction of the offence in respect of which the community service order is made;
- (b) a court shall not sentence the child to imprisonment or impose a fine on the child or deal with him under section 34 (1) or section 34B (1) of this Act, for the offence in respect of which the community service order was made except pursuant to section 39G (3) or section 39J (2) of this Act.

(8) Where a child discharges a community service order made under subsection (1) (a) of this section by performing work, in accordance with section 39E of this Act, for the number of hours specified in the community service order, the relevant officer shall give to the supervising court notice in writing, a copy of which is sent to the child, that the community service order has been so discharged and where the supervising court—

- (a) receives notice given pursuant to this subsection that the community service order has been discharged; or
- (b) itself discharges the community service order pursuant to section 39J (1) (a) of this Act,

the supervising court shall, without proceeding to conviction, and, in the circumstances referred to in paragraph (a) of this subsection, without requiring the attendance of any party to the proceedings, dismiss the complaint of the offence in respect of

which the community service order was made, but the dismissal of the complaint shall not be taken to affect any other order made, or disqualification imposed, by the court that made the community service order.

39B. (1) Where a court, or the clerk of a court, that is the supervising court in respect of a community service order is satisfied that a child has changed or proposes to change his place of residence and that, as a result of that change, some other court is or will be the nearest court to the new place of residence of the child or the most convenient in the circumstances of the case, the supervising court or the clerk of the supervising court may, from a date to be endorsed on the community service order, appoint that other court as the supervising court.

Substitution of new supervising court. Inserted by No. 57 of 1982, s. 16.

(2) Where under subsection (1) of this section a court is appointed as the supervising court in respect of a community service order the clerk by whom the appointment is made shall endorse the community service order to that effect and send to the new supervising court a copy of the endorsed community service order, together with such documents and information relating to the child in respect of whom, and the offence in respect of which, the community service order is made, as the clerk considers likely to be of assistance to that court.

39C. (1) A court shall not make a community service order in respect of a child who has at any time been found guilty of a prescribed offence, and shall not in any case make a community service order requiring the performance of work by a child unless—

Circumstances in which a community service order may be made. Inserted by No. 57 of 1982, s. 16.

- (a) the child consents to the making of the community service order;

- (b) at all times during which the work is to be performed, the child will have attained the age of 12 years but will not have attained the age—
 - (i) in the case of a child against whom no previous conviction is proved—of 18 years; or
 - (ii) in any other case—of 17 years;
- (c) the court has been notified by the Department that arrangements exist for children who reside in the area in which the child intends to reside to perform work under a community service order; and
- (d) the court is satisfied, after considering a report from the Department about the child and the circumstances of the child and, if the court thinks necessary, hearing an officer of the Department, that—
 - (i) the child is a suitable child to perform work under a community service order; and
 - (ii) work of a suitable nature can be provided for the child under the arrangements mentioned in paragraph (c) of this subsection if a community service order is made.

(2) For the purposes of subsection (1) of this section the court may, in order to obtain—

- (a) any notification or report from the Department; or
- (b) the attendance before the court of any officer of the Department,

adjourn the hearing of the proceedings and, where it does so, shall release the child on bail, with or without sureties, to appear at the adjourned hearing.

(3) Before making a community service order the court shall explain, or cause to be explained, to the child in respect of whom it is proposed to make the community service order, in language likely to be readily understood by the child—

- (a) the purpose and effect of the community service order;
- (b) the consequences that may follow if the child fails to comply with the community service order or with any of the prescribed requirements; and
- (c) that the community service order may be reviewed on the application of the child or of the relevant officer.

(4) Where a court has made a community service order in respect of a child, the child and any parent, guardian, or other person *in loco parentis* who was present when the community service order was made shall, upon request, sign a written acknowledgement endorsed on a copy of the community service order to the effect that the community service order was made with the consent of the child and the purpose and effect of the community service order are understood, but the fact that in a particular case such an acknowledgement may not have been signed shall not be taken to postpone or otherwise alter the effect of the community service order.

39D. A court shall not make a community service order requiring a child to perform work where, after the making of that community service order, the aggregate number of hours of work required to be performed by the child under that community service order, or under that and any other community service order, would be—

- (a) less than the number prescribed for the purposes of this paragraph, or if no number is so prescribed, 10; or
- (b) more than the number prescribed for the purposes of this paragraph, or if no number is so prescribed, 70.

Hours of service under community service orders. Inserted by No. 57 of 1982, s.16.

Obligations of
offender.
Inserted by No.
57 of 1982,
s. 16.

39E. (1) A child in respect of whom a community service order is in force shall—

- (a) perform such work as the relevant officer directs at such times as the relevant officer directs for the number of hours specified in the community service order;
- (b) perform that work in a satisfactory manner;
- (c) while performing that work comply with any reasonable direction of an overseer; and
- (d) inform the relevant officer of any change in his address.

(2) Where a child in respect of whom a community service order is in force fails to comply with the community service order or with any prescribed requirement, the relevant officer shall make a complaint of the failure under section 39G (1) of this Act unless the relevant officer is satisfied that, having regard to the circumstances and gravity of the failure, it would be inappropriate to make such a complaint.

(3) In giving directions to a child under subsection (1) of this section the relevant officer and any overseer shall, so far as practicable, avoid—

- (a) any conflict with the religious beliefs of the child; or
- (b) any interference with the times, if any, at which the child normally works or attends a school or other educational establishment.

(4) A child in respect of whom a community service order is in force shall perform the number of hours of work specified in the community service order during the period of 3 months commencing from the date of the community service order or such extension of that period as the court may allow under section 39G or 39H of this Act, but that period shall not be extended under section 39G or 39H of this Act so as to permit work to be performed under the community service order by the child at a time when he has attained the maximum age set out in section 39C (1) (b) of this Act.

39F. (1) A community service order made under section 39A (1) (a) of this Act in respect of a child remains in force until—

Duration of community service order. Inserted by No. 57 of 1982, s.16.

- (a) the community service order is discharged by the child performing work, in accordance with section 39E of this Act, for the number of hours specified in the community service order;
- (b) the community service order is discharged, pursuant to section 39J (1) (a) of this Act, by a court; or
- (c) the child is dealt with, under section 39G (3) (a) or section 39J (2) of this Act, for the offence in respect of which the community service order was made.

(2) A community service order made under section 39A (1) (b) of this Act in respect of a child remains in force until—

- (a) the community service order is discharged by the child performing work, in accordance with section 39E of this Act, for the number of hours specified in the community service order;
- (b) the community service order is discharged, pursuant to section 39J (1) (a) of this Act, by a court;
- (c) the fine in respect of which the community service order was made is otherwise satisfied; or
- (d) the child serves the period of detention specified in a warrant of commitment issued pursuant to an order for detention in default of payment of the fine, or such period as reduced in accordance with section 39J (3) (b) of this Act or section 167 (4) of the Justices Act 1902.

Breach of re-
quirements of,
or relating to,
community
service order.
Inserted by No.
57 of 1982,
s. 16.

39G. (1) If at any time while a community service order is in force in respect of a child it appears on complaint in writing to a court that the child has failed to comply with the community service order or with any prescribed requirement, the court may issue a summons requiring the child to appear, at the time specified in the summons, at the court by which the community service order was made or at the supervising court, or may, if the complaint is in writing and on oath, issue a warrant for the arrest of the child directing that the child be brought before one of those courts as soon as practicable after his arrest.

(2) The court before which the child is required to appear or is directed to be brought pursuant to subsection (1) of this section has jurisdiction to exercise the powers conferred on it by this section notwithstanding any provision of any other Act.

(3) If the court before which a child appears or is brought pursuant to subsection (1) of this section finds that the child has failed to comply with any requirement of the community service order or with any prescribed requirement, that court may, subject to subsection (4) of this section, with or without extending, in relation to the community service order, the period of 3 months specified in section 39E (4) of this Act, or that period as previously extended under this Act, increase the number of hours for which the child is required to perform work under the community service order or may—

- (a) where the community service order was made under section 39A (1) (a) of this Act—deal with the child for the offence in respect of which the community service order was made in any manner in which the court by which the community service order was made could have dealt with him at the time it found him guilty of that offence;

(b) where the community service order was made under section 39A (1) (b) of this Act upon default in the payment of a fine—

(i) if any order has been made for detention in default of payment of the fine—issue a warrant of commitment for the default; or

(ii) if an order has not been made for detention in default of payment of the fine—make an order for the detention of the child in respect of the default and issue a warrant of commitment accordingly.

(4) A court shall not increase the number of hours for which a child is required to perform work under a community service order in circumstances in which a court would be prevented by section 39C (1) of this Act from making a community service order nor so as to require the performance of work where, or to an extent that, section 39D (b) would prevent the making of such a requirement in a community service order.

(5) A complaint under this section that a child has failed to comply with a requirement of a community service order, or with a prescribed requirement, may aver that the child is the child in respect of whom the relevant community service order was made, and in any proceedings under this section upon a complaint containing such an averment the child may be asked by the court before which he appears or is brought whether he was found guilty of the offence in respect of which the relevant community service order was made or, as the case may be, whether the fine in respect of which the community service order was made was imposed on him and whether he defaulted in the payment of the fine, and if he admits that he was so found guilty, or that the fine was imposed on him and he defaulted in the payment of the fine, as the case may be, no further or other proof of the fact or facts so admitted is required.

Extension of
time for
performing
work.
Inserted by No.
57 of 1982, S.
16.

39H. Subject to section 39E (4) of this Act, where a community service order is in force in respect of a child and, on the application of the child or the relevant officer, it appears to the supervising court that it would be in the interests of justice to do so having regard to circumstances that have arisen since the community service order was made, the court may extend, in relation to the community service order, the period of 3 months specified in that section.

Discharge and
amendment of
community
service orders
and substi-
tution of other
penalties or or-
ders.
Inserted by No.
57 of 1982,
s. 16.

39J. (1) Where a community service order is in force in respect of a child and, on the application of the child or the relevant officer, it appears to the supervising court that it would be in the interests of justice to do so having regard to circumstances that have arisen or become known since the community service order was made, the court may—

- (a) discharge the community service order; or
- (b) reduce the number of hours for which the child is required to perform work under the community service order.

(2) Where a community service order made under section 39A (1) (a) of this Act in respect of a child is in force and, on the application of the relevant officer, it appears to the supervising court that it would be in the interests of justice to do so having regard to circumstances that have arisen or become known since the community service order was made, the court may deal with the child for the offence in respect of which the community service order was made in any manner in which the court by which the community service order was made could have dealt with the child at the time it found him guilty of that offence.

(3) Where a child satisfactorily performs work under a community service order made under section 39A (1) (b) of this Act for a number of hours less than that specified in the community service order—

- (a) the amount required to be paid in full satisfaction of the fine shall be reduced by a sum that bears the same ratio to that

amount as the number of whole hours of work so performed bears to the number of hours of work specified in the community service order; and

- (b) any term of detention that, before the community service order was made, was ordered to be served in default of payment of the fine shall be reduced by a period that bears the same ratio to that term as the number of whole hours of work so performed bears to the number of hours of work specified in the community service order.

(4) A supervising court has jurisdiction to exercise the powers conferred by this section notwithstanding any provision of any other Act.

39K. (1) Where an application is made to a court by the relevant officer under section 39H or section 39J (1) or (2) of this Act, the court shall issue a summons requiring the child concerned to appear before the court on the hearing of the application and, if the child does not appear in answer to the summons, may issue a warrant for the arrest of the child.

Notice of applications, etc.
Inserted by No. 57 of 1982, s. 16.

(2) Where an application is made to a court by a child under section 39H or section 39J (1) of this Act, the court shall cause notice of the application and of the time and place fixed for the hearing to be served on the relevant officer.

39L. (1) Where, pursuant to section 39G, 39H or 39J of this Act, a court—

- (a) discharges a community service order;

Notification of discharge, amendment of orders, etc.
Inserted by No. 57 of 1982, s. 16.

- (b) varies the number of hours for which a child is required to perform work under a community service order;
or
- (c) extends the period of 3 months specified in section 39E (4) of this Act,

the court shall cause notice in writing of the discharge, variation or extension to be given to—

- (d) the child;
- (e) a parent, guardian, or other person standing in *loco parentis* to the child, if the whereabouts of such a person are known to, or can be ascertained by reasonable inquiry by, the clerk of the court;
- (f) the relevant officer; and
- (g) if that court is not the supervising court, the supervising court.

(2) A reference in subsection (1) of this section or in section 39A, 39D, 39E, 39F, 39G, or 39J of this Act to the number of hours of work specified in, or required to be performed under, a community service order shall, where that number has been varied pursuant to section 39G or 39J of this Act, be construed as a reference to that number as so varied.

Order and subsequent conduct to be taken into account in sentencing.
Inserted by No. 57 of 1982, s. 16.

39M. Where a child in respect of whom a community service order has been made under section 39A (1) (a) of this Act is subsequently dealt with by a court for the offence in respect of which the community service order was made the court, in dealing with the child, shall take into account—

- (a) that the community service order was made;
- (b) anything done under the community service order,

and may take into account, either as an aggravating or a mitigating factor, the behaviour of the child since the community service order was made.

39N. Where a child in respect of whom a community service order is in force is lawfully engaged in remunerative employment he shall, in respect of—

Compensation.
Inserted by No.
57 of 1982, s.
16.

- (a) work performed by him under the community service order; and
- (b) travelling done by him in order to perform work under the community service order,

be deemed to be a worker employed by the Crown for the purposes of the Workers' Compensation and Assistance Act 1981 and where, for the purposes of calculating the compensation payable under that Act, reference must be made to weekly earnings, the weekly earnings shall be deemed to be equal to the weekly earnings of the child in his lawful employment at the relevant time.

39P. Without limiting the generality of section 149 of this Act regulations made for the purposes of the provisions of this Act relating to community service orders may—

Regulations
under this Part.
Inserted by No.
57 of 1982, s.
16.

- (a) prescribe offences for the purposes of the definition of "prescribed offence" in section 4 of this Act;
- (b) provide for the appointment of overseers to oversee children in the performance of work under community service orders;
- (c) regulate the conduct of overseers, and of children in respect of whom a community service order is made, and provide for the health and safety of overseers, and of such children;
- (d) prescribe for the purposes of paragraphs (a) and (b), respectively, of section 39D of this Act, minimum and maximum numbers of hours in lieu of those set out in those paragraphs;
- (e) prescribe the maximum number of hours of work that a child may be required to perform under a community service order on any one day;

- (f) provide for travelling and transport arrangements to be made for children performing work under community service orders;
- (g) prescribe the effect of injury and sickness in relation to community service orders;
- (h) prescribe periods to be taken into account in computing the number of hours of work performed by a child under a community service order.

[Former section 40 repealed by No. 79 of 1965, s. 17.]

Rehabilitated
offenders.
Inserted by No.
73 of 1976,
s.50.
Amended by
No. 57 of
1982, s. 17.

40. (1) The provisions of this section do not apply to, or in relation to persons convicted of, wilful murder, murder, manslaughter or treason or of attempting any of those crimes.

(2) Where a child is convicted of an offence and—

- (a) a probation order is made with respect to that child in relation to the offence and the child has not been subsequently dealt with for that offence under any law relating, whether in the State or elsewhere, to probation orders in respect of child offenders; or
- (b) a period of two years has expired since—
 - (i) the date of conviction; or
 - (ii) the discharge of any sentence or order imposed in relation to the conviction,
 whichever is the later,

that conviction shall, subject to the provisions of this section, be deemed not to be a conviction for any purpose including the purposes of any enactment

imposing or authorizing or requiring the imposition of any disqualification or disability on a convicted person, except in relation to—

- (c) the making of the order, or any other order arising out of the conviction, or any other record thereof; or
- (d) any subsequent proceedings that may be taken against the offender under this Act or on indictment in relation to that offence or for a subsequent offence.

(3) The provisions of this section do not affect—

- (a) the right of any person to appeal against his conviction or to rely thereon in bar of any subsequent proceedings for the same offence;
- (b) the revesting or restoration of any property in consequence of the conviction;
- (c) the right of a court to disqualify a person from holding or obtaining a driver's licence issued under the Road Traffic Act 1974; or
- (d) the operation of section 39C (1) of this Act.

General Provisions.

40A. (1) Where, in any proceeding under this Part of this Act, or under section seventeen B or eighteen of the Education Act 1928, a child is committed to the care of the Department or is placed under the control of the Department, the court shall by an order under this section require any of the parents of the child who is able to pay for, or contribute towards, the past or future maintenance of the child to pay to the Department—

- (a) such amount for the past maintenance of the child; and
- (b) such amount, or such amounts over such period, for the future maintenance of the child,

as to the court may appear sufficient.

Heading.
 Inserted by No.
 73 of 1976,
 s.51.
 Orders for
 maintenance
 of wards.
 Inserted by No.
 79 of 1965,
 s. 18.
 Amended by
 No. 85 of
 1969, s. 10;
 No. 106 of
 1975, s. 5; No.
 73 of 1976,
 s. 52.

(2) An order may be made under this section notwithstanding that no complaint has been made against, or summons served on, the parent and, if that parent is not present before the court, the court shall—

- (a) if satisfied that the parent had due and sufficient notice of the proceedings, make the order in the absence of the parent; or
- (b) grant liberty to apply for maintenance and on the hearing of that application, whether or not before the same magistrate, make the order.

(3) Where an order is made under this section for the payment of maintenance, the court shall cause a certified copy of the order to be sent to the Family Court of Western Australia created by the Family Court Act 1975 for registration in the manner provided by the regulations in force under that Act or by the rules in force of that family court; and the order shall, when so registered, be deemed, for all purposes, to be an order of that family court.

[Subsection (4) repealed by No. 106 of 1975, s. 5.]

[Section 41 repealed by No. 79 of 1965, s. 19.]

[Section 42 repealed by No. 43 of 1962, s. 3.]

Form of order.
Amended by
No. 79 of
1965, s. 20;
No. 73 of
1976, s. 53.

43. (1) Every order of the court committing a child to the care of the Department or placing a child under the control of the Department, shall be in writing setting forth the age and religion, so far as known, of such child, and the cause for which the order was made.

(2) In the absence of evidence as to the age of any child, the court may on view determine the age of such child, and shall insert in the order the age so determined.

44. The statement in any order that the child therein named is of a certain age and religion shall, for the purposes of this Act, be taken to be true unless within six months from the date of the order the Director shall be satisfied to the contrary, and shall indorse on the order the correct age or religion.

Statement of age and religion to be *prima facie* evidence.
Amended by No. 45 of 1955, s. 2.

44A. (1) The Director shall, in the absence of positive evidence as to the name of a child, give the child a name, and for the purposes of this Act the name so given shall be regarded as the correct name of the child.

Director to give child a name.
Inserted by No. 16 of 1952, s. 5.
Amended by No. 45 of 1955, s. 2; No. 73 of 1976, s. 54.

(2) If at any time thereafter the Director is satisfied by positive evidence that the child should be known by some other name the records of the court and the Department shall be amended accordingly and thereafter the child shall be known by that other name.

45. A certificate indorsed upon or annexed to any order and signed by the person in charge of any Departmental or other centre or facility, stating that the child named in such order was duly received, and was at the signing thereof detained therein, or had been otherwise dealt with under this Act, shall in all proceedings whatsoever be *prima facie* evidence of the facts stated in such certificate, and of the identity of the child therein named.

Certificate of person in charge of Departmental centre, etc., indorsed on order to be *prima facie* evidence.
Amended by No. 73 of 1976, s. 55.

46. A ward or child placed under the control of the Department who runs away from any Departmental or other centre of facility, from a foster parent or from any situation in which he has been placed at the requirement of the Director may be apprehended, without warrant, by a police officer or by an officer of the Department and be conveyed to such place as the Director may direct.

Absconders may be apprehended without warrant.
Substituted by No. 79 of 1965, s. 21.
Amended by No. 73 of 1976, s. 56.

Minister may
release child.
Substituted by
No. 73 of
1976, s. 57.

47. (1) Where any child has been committed to the care of the Department or placed under the control of the Department the Minister may order the release of that child, and effect shall be given to any such order upon production of the order to the Director or other person in charge of the centre or facility in which the child is detained.

(2) A parent of a child committed to the care of the Department or placed under the control of the Department, or a near relative or guardian of the child, may apply to the Minister for an order for the release of the child pursuant to this section and where the Minister declines to make the order may apply to a children's court for the release of the child.

(3) The court may grant an application made under this section unconditionally or subject to such conditions as in the circumstances of the case the court considers are in the best interests of the child, or may refuse the application.

Authority for
Minister to
commit child
to the care of
the Depart-
ment.
Inserted by No.
45 of 1958, s.
4.
Amended by
No. 73 of
1976, s. 58.

47A. (1) Where it appears to the Minister that a person has placed a child in the care of another person or of a body but that maintenance for the child is not being paid to that other person or body by the person responsible for payment of the maintenance, the Minister may, by written order signed by him, commit the child to the care of the Department.

(2) Unless modified or cancelled on appeal brought under this section, an order made under subsection (1) of this section has effect according to its tenor.

(3) Before the Minister makes an order under subsection (1) of this section in respect of a child, the person responsible for placing the child in the care of such person or body and the person responsible for payment of the maintenance and the parents of the child shall, if the whereabouts of such persons and parents are known or can be ascertained by reasonable inquiry, be notified by the Department that the Minister proposes to make the order, unless

they show or any one or more of them shows, within such time as is specified in the notification, good cause why he should not do so.

(4) The Minister shall consider such representations, if any, as such persons or parents make as to why he should not make the order.

(5) A parent of a child in respect of whom an order made under subsection (1) of this section is in force or the person responsible as aforesaid for placing the child in the care of such firstmentioned person or body may make application to a children's court for cancellation of the order and the release of the child from the care of the Department and the court may grant the application unconditionally or subject to such conditions as in the circumstances of the case the court considers just.

47B. (1) Where it appears to the Minister that a child is left without parent or guardian, or the whereabouts of any parent, near relative or guardian of the child are not readily ascertainable, if the child is not a child in need of care and protection within the meaning of this Act, the Minister may by written order signed by him commit the child to the care of the Department.

Minister may
commit to care
of the Depart-
ment a child
left without
parent, etc.
inserted by No.
22 of 1962, s.
8
Amended by
No. 73 of
1976, s. 59.

(2) A parent of a child in respect of whom an order made under subsection (1) of this section is in force, or a near relative or any guardian of the child, may apply to a children's court for cancellation of that order and the release of the child from the care of the Department.

(3) The court may grant an application made under this section unconditionally or subject to such conditions as in the circumstances of the case the court considers are in the best interests of the child, or may refuse the application.

Parents may apply for committal of child.

Inserted by No. 27 of 1967, s. 14.

Amended by No. 73 of 1976, s. 60.

47C. (1) The parents, or the surviving parent, of a child, or where the child is maintained or taken care of only by one of the parents, that parent may apply to the Minister for an order committing the child to the care of the Department or placing the child under the control of the Department, for a period, or until the child attains the age, specified in the application; and the Minister may, if he is satisfied that it is in the best interests of the child that the application be granted and upon the parents or parent giving a written undertaking to provide such maintenance for the child as the Minister may require, commit the child to the care of the Department or place the child under the control of the Department for the period, or until the child attains the age, specified in the application.

(2) The amount of maintenance from time to time due to the Minister, by virtue of an undertaking given pursuant to subsection (1) of this section, is deemed to be an advance under, and for the purposes of, the Welfare and Assistance Act 1961.

(3) A parent of the child who has not applied to the Minister for an order under this section may apply to the children's court for cancellation of any order made by the Minister under this section and the release of the child, and the court may grant the application unconditionally or subject to such conditions as in the circumstances of the case the court considers to be in the best interests of the child or may refuse the application.

Adoptive children.

Inserted by No. 73 of 1976, s. 61.

47D. (1) Where it appears to the Minister that a child has been given up for adoption by one of the parents, adoptive parents or guardians of the child and that—

- (a) such parent, adoptive parent or guardian has consented to the adoption of the child pursuant to the Adoption of Children Act 1896, the time for the revocation of such consent pursuant to section four D of that Act having expired; and

- (b) the consent of another parent or guardian of the child must be given or dispensed with before an order of adoption can be made,

the Minister may by order under his hand commit the child to the care of the Department.

(2) Where an order is made by the Minister pursuant to this section, a parent, adoptive parent or guardian of the child who has not consented to the adoption of the child or whose consent has not been dispensed with may apply to a children's court within three months of the making of that order for cancellation of the order and the release of the child.

(3) The court may grant an application made under this section unconditionally or subject to such conditions as in the circumstances of the case the court considers are in the best interests of the child, or may refuse the application.

[Section 48 repealed by No. 73 of 1976, s. 62.]

49. (1) The Minister may, from time to time, order that the period for which a child was committed to the care of the Department or was placed under the control of the Department, whether by his or any other order, be extended; but an order made under this section ceases to have effect after the ward attains the age of twenty-one years.

Minister may extend committal.
Substituted by No. 79 of 1965, s. 23.
Amended by No. 73 of 1976, s. 63.

(2) Where the period for which a child was committed to the care of the Department or was placed under the control of the Department is extended pursuant to subsection (1) of this section, any provision for the maintenance of the child, whether made pursuant to an order of a court or otherwise, shall be deemed to have been extended in like manner.

(3) Where an order for the payment of maintenance for a child has been registered with the Family Court of Western Australia under this Act and the Minister makes an order under this section,

the Department shall cause a copy of the order of the Minister to be sent to the family court for registration in the manner provided by the regulations of that court; and the order shall, when so registered, be deemed, for all purposes, to be an order of that court.

[Former section 50 repealed by No. 73 of 1976, s. 64.]

Power to sign documents.
Inserted by No. 73 of 1976, s. 65.

50. (1) In any case where the consent of a parent or guardian of a child is required or is customarily sought the Director may, by writing under his hand, give that consent in relation to—

- (a) any ward; or
- (b) any child placed under the control of the Department, where the parent or guardian of that child is unwilling or is unable so to do.

(2) Without limiting the generality of the power conferred by subsection (1) of this section, the Director may sign—

- (a) indentures or agreements relating to apprenticeship or training, including applications to join the armed forces; and
- (b) consents to surgical operations or anaesthesia.

[Section 51 repealed by No. 73 of 1976 s. 66.]

Wards to attend school regularly.
Amended by No. 27 of 1967, s. 16; No. 73 of 1976, s. 67.

52. (1) Every ward shall be sent regularly to school in accordance with the Education Act 1928.

[Subsection (2) repealed by No. 73 of 1976, s. 67.]

(3) Any parent or foster-parent committing or permitting any breach of this section shall be guilty of an offence against this Act, unless for good cause shown he shall be specially exempted by the Minister.

[Section 53 repealed by No. 73 of 1976, s. 68.]

54. (1) The Director may in any indenture or agreement provide that all, or such portion as may be specified, of any wages to become due to the child shall be deposited in a savings bank in the name of such child, and every such payment shall be deemed to be a payment to that child.

Wages may be paid into a savings bank. Amended by No. 45 of 1955, s. 2; No. 74 of 1957, s. 5; No. 73 of 1976, s. 69.

(2) No money deposited pursuant to this section shall be withdrawn without the consent of the Minister until the child is released from the care or control of the Department.

(3) All accounts under this section shall be audited at prescribed periods by the Auditor General.

55. (1) All or any part of the money deposited pursuant to subsection (1) of section fifty-four of this Act, and any interest thereon, may, with the consent of the Minister, be expended for the benefit of the child when and in such manner as the Director may from time to time deem advisable.

Moneys banked may be expended for the child's benefit. Amended by No. 45 of 1955, s. 2; No. 73 of 1976, s. 70.

(2) All moneys so deposited, and not expended as aforesaid, shall be payable to the child upon his release from the care or control of the Department.

(3) On the death of any such child any debt due to the Department in respect of such child shall be a first charge on moneys so deposited, and shall be payable to the Department on demand.

56. The wages or earnings due by any person to any child, whether a child committed to the care of the Department or placed under the control of the Department or not and whether payable to such child or not, may be sued for and recovered by and in the name of the Director for the benefit of such child.

Director may recover wages. Amended by No. 45 of 1955, s. 2; No. 73 of 1976, s. 71.

[Sections 57, 58 and 59 repealed by No. 27 of 1967, s. 17.]

Change of residence to be notified by foster-parent.
Amended by No. 45 of 1955, s. 2; No. 73 of 1976, s. 72.

60. No foster-parent shall change his place of residence without in every case giving to the Director notice in writing forthwith.

Notice to be given in certain cases.
Substituted by No. 73 of 1976, s. 73.

61. Where a ward or child under the control of the Department is placed out, and that child runs away, becomes ill, meets with an accident, or dies the foster-parent of the child shall immediately notify the Director and take such further necessary action as the Director may require.

[Section 62 repealed by No. 73 of 1976, s. 74.]

[Section 63 repealed by No. 73 of 1976, s. 75.]

Placed out children to be visited.
Amended by No. 45 of 1955, s. 2; No. 73 of 1976, s. 76.

64. (1) The Director shall cause all wards and children placed under the control of the Department who have been placed out to be visited once at least in every six months by an officer of the Department, or person appointed for that purpose by the Director, to ascertain whether the treatment, education, and care of such children are satisfactory.

(2) At the request of any officer of the Department or any authorized person, every foster-parent shall produce personally the child placed out to or with him or show cause to the satisfaction of that officer or authorized person for the failure to produce the child personally.

[Subsection (3) repealed by No. 73 of 1976, s. 76.]

Minister may pay for maintenance of child.
Amended by No. 73 of 1976, s. 77.

65. The Minister may pay to the governing authority of any subsidized centre or subsidized facility for the maintenance therein of any child, such sum and for such periods as he may determine.

Payments for maintenance of children to foster-parent.
Amended by No. 73 of 1976, s. 78.

66. The Minister may pay to the foster-parent of any child, for the care and maintenance of such child, such sum as he may determine.

Reciprocity between States as to care of wards and children under the control of the Department.

Inserted by No. 27 of 1967, s. 18.

Amended by No. 73 of 1976, s. 79.

66A. (1) The Minister may, by arrangement or agreement made from time to time with the responsible Minister or some other authorized person of another State of, or a Territory of, the Commonwealth, or of another country, commit to the care of the Department or place under the control of the Department a child brought to, or resorting to, this State.

(2) Where the Minister is satisfied that another State of, or a Territory of, the Commonwealth, or another country, has enacted a provision substantially similar to that of subsection (1) of this section, he may, by arrangement or agreement made from time to time with the responsible Minister or some other authorized person there, procure the committal or transfer of control, to the care of that Minister, other person or a department of state there, of a ward or child placed under the control of the Department taken to, or resorting to, that State or Territory or other country.

Restriction on removal of children out of the State.

Inserted by No. 27 of 1967, s. 19.

Amended by No. 73 of 1976, s. 80.

66B. (1) A person in whose care a child is placed under the provisions of this Act shall not, except with the consent of the Minister, remove the child, or suffer him to remove or be removed, out of the State.

(2) Where a child is placed out under the provisions of this Act with or in the care of any person, that child shall not leave the State without the consent of the Minister.

Director may assist children of absent parents.

Inserted by No. 27 of 1967, s. 20.

Amended by No. 73 of 1976, s. 81.

66C. Notwithstanding, but without limiting, any other provision of this Act, where a child is left without a parent, guardian or some person in *loco parentis* present within the State or is left by a parent or guardian who is in a remote part of the State without a person in *loco parentis* present where the child then is, the Director may, at the requirement of, and without affecting the status of, the child, extend to him such benefits as he might have extended if the child were a ward.

Recovery of
certain
moneys.
Inserted by No.
73 of 1976, s.
82.

66D. (1) Where in relation to any child, not being a ward or a child placed under the control of the Department, a children's court is satisfied that moneys have been or are likely to be lawfully expended under this Act by the Department the court may, on an application made on behalf of the Department, by an order require any parent or guardian of that child to pay to the Department such amount in re-imbursement or anticipation of that expenditure as the court thinks just.

(2) An order shall not be made under this section against a person who is not then present before the court unless the court is satisfied that he received due and sufficient notice of the intention to move the court in that regard.

(3) Where an order is made under this section the court shall cause a certified copy of the order to be sent to the Family Court of Western Australia at the place nearest to that at which the order was made, for registration in the manner provided by the regulations of that court, and the order shall, when so registered, be deemed for all purposes to be an order of that court.

[Former Part V—sections 67-91 repealed by No. 79 of 1965, s. 25.]

Heading.
Inserted by No.
73 of 1976, s.
83.

PART V.—CHILDREN'S PANELS.

The children's
panel.
Inserted by No.
73 of 1976, s.
84 (as
amended by
No. 10 of
1977, s. 7.)

70. (1) For the purpose of dealing with certain first offenders, in the public interest and in the interest of the child, by means of a procedure other than that of the children's court there shall be established a body of persons, to be called the Children's (Suspended Proceedings) Panel from which shall be constituted, at such times and in such places as is necessary, children's panels.

(2) Subject to the provisions of subsection (3) of this section, no child shall be dealt with by a children's panel—

- (a) unless the child has attained the age of seven years and it appears to the panel that the child—
 - (i) at the time of the commission of the alleged offence had not attained the age of sixteen years; and
 - (ii) at the time of being dealt with by the panel has not attained the age of sixteen years and six months;
- (b) if that child has on any previous occasion been found to have committed an offence by a children's panel or a children's court;
- (c) unless the offence alleged is an offence to which this Part of this Act Applies;
- (d) until the panel has caused to be explained to the child—
 - (i) the nature of the allegation, and of the offence, and the penalty that may be imposed; and
 - (ii) that the child may elect to have the matter dealt with by a children's court;
- (e) unless the panel is satisfied that the child is in no doubt as to the nature of the allegation and of the offence but admits the offence and wishes to have the matter determined by the panel rather than the children's court;
- (f) if the child elects, or a parent of or person standing in *loco parentis* to the child requests, that the matter shall be dealt with by a children's court; or
- (g) if, in relation to the kind or amount of any restitution that may be ordered, the parties affected are not agreed.

(3) Notwithstanding the provisions of the Justices Act 1902, where a child who has attained the age of seven years but who appears to that court not to have

attained at the time of the commission of the alleged offence the age of sixteen years is found by a children's court to have committed an offence to which this Part of this Act applies the court may instead of determining the matter refer the child to a children's panel.

(4) A panel, in dealing with a child, shall have regard to the future welfare of the child.

(5) A person shall not publish in any newspaper or other printed medium, or broadcast or televisive, any report of the proceedings of a children's panel or any information likely to identify any child as a person dealt with by a children's panel.

(6) At any proceedings before a children's panel no person, other than a person directly interested in the matter, shall be present without the express permission of the panel.

Constitution of
the panel.
Inserted by
No. 73 of
1976, s. 85.

71. (1) The Governor may appoint persons who are—

- (a) nominated by the Director and authorized by him to represent the Department, being officers of the Department; or
- (b) nominated by the Commissioner of Police and authorized by him to represent the police, being police officers or retired police officers,

to hold office during his pleasure as members of the Children's (Suspended Proceedings) Panel and the appointment of any such person to that office shall be notified in the *Gazette*.

(2) A member of the Children's (Suspended Proceedings) Panel shall hold office until notice of the termination of that appointment by the Governor is published in the *Gazette*.

(3) The chairman of the Children's (Suspended Proceedings) Panel shall—

- (a) be selected by the Director from the officers of the Department appointed under subsection (1) of this section;
- (b) constitute panels to deal with matters at the places and times that are necessary and practicable;
- (c) report to the Director on any matter referred to him by the Director or on any matter that a member of a panel considers necessary; and
- (d) keep such records as the Director may require.

(4) For the purposes of dealing with any matter, a children's panel shall be constituted from amongst the membership of the Children's (Suspended Proceedings) Panel, shall comprise two persons, one of whom is authorized to represent the Department and the other of whom is authorized to represent the police, and shall sit in such places and at such times as the chairman may determine.

(5) Where the members of a children's panel cannot agree on a matter it shall be referred to a children's court for determination.

(6) The powers of a person sitting as a member of a children's panel derives solely from this Part of this Act, notwithstanding that such a person may be a justice of the peace or is otherwise authorized to exercise any power under any other Act.

(7) The remuneration and allowances to be paid to a person appointed as a member shall be determined by the Minister after consultation with the chairman of the Public Service Board.

(8) For every children's panel there shall be a seal; and summonses, orders and notices and other processes issued out of that panel shall be sealed or stamped with the seal.

Offences to which this Part applies. Inserted by No. 73 of 1976, s. 86.

72. (1) The provisions of this Part of this Act apply to all offences other than—

- (a) the offences, or the offences in the circumstances therein specified, referred to in the Fourth Schedule to this Act, or the offence of counselling or procuring the commission of any such offence; and
- (b) such other offences as may be prescribed.

(2) Where—

- (a) a complaint relates to more than one offence and any of those offences is an offence to which the provisions of this Part of this Act do not apply; or
- (b) a number of offences arising out of the same or closely related facts are dealt with by way of separate complaints, and any of those offences is an offence to which the provisions of this Part of this Act do not apply,

the matter shall not be dealt with by a children's panel.

(3) A children's panel shall not hear any application or complaint made under the Education Act 1928.

Panel procedure. Inserted by No. 73 of 1976, s. 87.

73. (1) A children's panel is not bound by the provisions of the Evidence Act 1906, or any rule of evidence at common law or otherwise, and where an offence is admitted the panel may inform itself of the relevant circumstances in such manner and may adopt such procedures, subject to this Act, as the panel determines to be appropriate.

(2) Where any complaint is made against a child and—

- (a) the child is eligible to have the matter dealt with by a children's panel; and

- (b) subject to the provisions of subsection (2) of section seventy-two of this Act, the offence is an offence to which this Part of this Act applies,

the complaint shall be forwarded to the Children's (Suspended Proceedings) Panel or a children's panel in the prescribed manner and the complaint shall as soon as is practicable thereafter be heard by a children's panel.

(3) Subject to the provisions of this Part of this Act, where a complaint to which subsection (2) of this section applies is lodged with a court, the court on ascertaining the nature of the complaint shall refer the matter to the Children's (Suspended Proceedings) Panel and shall not proceed to determine it.

(4) The chairman of the Children's (Suspended Proceedings) Panel at any time, and a children's panel on inquiry or during the course of any hearing, may refer any matter to a court—

- (a) if it appears that the interest and welfare of the child so require;
- (b) where the gravity of the allegations so requires;
- (c) where the child or any other person may be required to make restitution or to pay damages or compensation;
- (d) if the child, or a parent of or person standing in *loco parentis* to the child, fails after due notice to appear before the panel; or
- (e) if it appears that the powers conferred by this Part of this Act are not adequate in the circumstances.

(5) Where a child is arrested for an offence to which this Part of this Act applies and that child is eligible to have the matter dealt with by a children's panel, the child shall be released as soon as is practicable.

(6) Where a child is arrested for an offence to which this Part of this Act applies that child shall not be held in custody by reason only of the need to ascertain whether or not he is eligible to have any matter dealt with by a children's panel but the powers conferred upon justices in regard to admission to bail may be exercised from time to time until the matter is ascertained.

(7) A notice requiring a person to appear before a panel may be posted to or served upon a person at his usual place of residence.

Powers of the panel.
Inserted by No. 73 of 1976, s. 88.

74. (1) Where a children's panel is of the opinion having regard to the antecedents, character, age, health, or mental condition of the child, the nature of the offence, or any special circumstances of the case, that no punishment or penalty should be imposed on a child for an offence the panel may—

- (a) dismiss the complaint; or
- (b) determine, and explain or cause to be explained to the offender in language likely to be understood by him, that no action will be taken by the panel to award any punishment or penalty in regard to that offence for a period of not more than six months but that if during that period he fails to comply with any of the requirements of an order as to supervision or commits a further offence he will, in addition to being liable to be dealt with for that further offence, be liable to be sentenced by a children's court for the offence for which he is then before the panel.

(2) Where a children's panel determines in accordance with paragraph (b) of subsection (1) of this section that no action will be taken in relation to an offence for a specified period and the child in question complies with the requirements of any order as to supervision that may be made and commits no further offence during that period, the finding shall be recorded for the purposes of this Act but that finding shall not be taken to be a conviction recorded

in relation to the offence for which the child was brought before the panel and the child shall, by force of this section, be discharged from any further obligation in respect of that offence.

(3) Where a children's panel determines in accordance with paragraph (b) of subsection (1) of this section that no action will be taken in relation to an offence for a specified period and within that period the child in question fails to comply with the requirements of any order as to supervision that may be made, or is alleged to have committed a further offence, the panel may refer the matter to a children's court and the children's court may deal with the matter and impose sentence.

(4) A children's panel has power to refer any matter in relation to a child to a children's court if in the opinion of the panel that is the appropriate course, notwithstanding any other provision of this Act.

75. Subject to the provisions of section 76, the admission of an allegation of an offence made to a children's panel by a child after the notice of the allegation, and of the offence, and the penalty that may be imposed has been explained to him shall be recorded and for the purposes of any subsequent proceedings before the panel or in any court in respect of that offence constitutes a plea of guilty.

Effect of admissions.
Inserted by No. 73 of 1976, s. 89.

76. Where it is alleged that an admission recorded by a children's panel was improperly obtained or was incorrectly recorded, or where a child, the parent of the child or the person standing in *loco parentis* to the child, is aggrieved by a determination of or order made by a children's panel an appeal lies on application to a children's court constituted by a special magistrate who may make such order in the matter as he thinks just.

Appeal from the decision of a panel.
Inserted by No. 73 of 1976, s. 90.

Civil liability.
Inserted by No.
73 of 1976,
s. 91.

77. The provisions of this Part of this Act shall be construed so as not to prejudice or affect any civil liability incurred in respect of an act or omission that constitutes an offence.

Departmental
services.
Inserted by No.
73 of 1976,
s. 92.

78. (1) For the purposes of this Part of this Act, the Department may make available any service that may be conducive to the welfare of a child brought before a children's panel, notwithstanding that the child is not committed to the care of the Department or placed under the control of the Department.

(2) Where a complaint or application has been made against or concerning a child under this or any other Act the Department, with the written consent of a parent of the child or a person standing in *loco parentis* to the child, may supervise the child or cause the child to be supervised for a period of not more than six months.

[Former Part V—Sections 67-91 repealed by No. 79 of 1965, s. 25.]

[Part VI—Sections 92-105 repealed by No. 27 of 1967, s. 21.]

Heading.
Amended by
No. 73 of
1976, s. 93.

PART VII.—RESTRICTIONS ON EMPLOYMENT OF CHILDREN.

Street trading.
Substituted by
No. 73 of
1976, s. 94.

106. (1) Any female child under school leaving age, and any male child who has not attained the age of twelve years, who engages in street trading shall be guilty of an offence against this Act.

(2) Any male child over the age of twelve years but under school leaving age who engages in street trading after the hour of eleven in the evening or before the hour of six in the morning, or during such

time as the school which that child should attend is in session, shall be guilty of an offence against this Act unless—

- (a) he has attained the age of fourteen years; and
- (b) the trading is engaged in on a casual or part-time basis during the annual or term vacation period of his school; and
- (c) the provisions of subsection (3) of this section have not been applied to him.

(3) Where the Director is of the opinion that the moral, physical or mental welfare of a child is likely to be in jeopardy he may, by notice in writing given to that child, expressly prohibit the child from street trading or limit the participation of that child in street trading.

(4) Any child who contravenes the provisions of a notice given to him pursuant to subsection (3) of this section shall be guilty of an offence against this Act.

107. (1) Any person who causes, procures or employs a child to engage unlawfully in street trading, or who having the custody or guardianship of a child allows that child to engage unlawfully in street trading, shall be guilty of an offence against this Act.

Penalty for employing children in street trading.
Substituted by No. 73 of 1976, s. 95.

(2) It shall be a defence for a person having the custody or guardianship of a child and charged with allowing that child to engage in street trading contrary to a notice given pursuant to subsection (3) of section one hundred and six of this Act, to show that he was not aware of the imposition of the prohibition or limitation referred to in that notice and had not been informed of that notice by the Director.

[Section 108 repealed by No. 73 of 1976, s. 96.]

Power for Director or authorized officer to enter places of amusement.
Amended by No. 45 of 1955, s. 2; No. 113 of 1965, s. 8.

109. The Director or any officer authorized in this behalf by the Director may at all reasonable hours of the day or night enter any theatre, place of amusement, shop, factory, warehouse, or other place in which children are employed, or are reasonably supposed by him to be employed, and may make all such investigations and inquiries relative to such children as he shall consider advisable.

No person shall resist or obstruct such Director or officer in the exercise of any power under this section, and any person to whom such Director or officer shall put any question pursuant to this section shall forthwith answer such questions truthfully to the best of his knowledge, information, and belief.

Penalty: Twenty dollars.

Heading.
Amended by No. 10 of 1977, s. 5.

PART VIII.—LYING-IN HOMES, THE CARE, CHARGE OR CUSTODY OF CHILDREN, AND THE ADOPTION OF CHILDREN.

Power to assist women in lying-in homes.
Amended by No. 73 of 1976, s. 97.

110. The Minister may, under special circumstances contribute towards the support of any woman in a lying-in home for a period not exceeding twelve months after her confinement, or partly before and partly after her confinement, on such terms and conditions as he may determine, and may maintain Government homes for the same purpose.

Foster-parents to be licensed.
Amended by No. 39 of 1970, s. 4; No. 73 of 1976, s. 98.

111. No person other than a near relative shall have the care, charge or custody of any child under the age of six years other than on a casual or day time basis, without being licensed by the Department or approved by the Director in writing for that purpose.

Department may license foster-parents.
Amended by No. 73 of 1976, s. 99.

112. (1) The Department may grant annual licences to fit and proper persons to have the care, charge or custody of children under the age of six years, other than on a casual or day time basis, and may by any such licence fix the number of children authorized to be kept by the person therein named.

(2) The Department may, in its discretion, revoke any licences granted under this section.

(3) If it appears to the Director that any person is incapable of providing the children in his charge with proper food or attention, or is guilty of neglecting to do so, or that the place in respect of which he is licensed is unfit for the purpose for which it is used, or that he has not complied with the regulations, or that for any other reason it is not desirable that the licence granted to such person shall continue, the Director may cancel that licence and remove the children, and recover the cost of and incidental to the removal from the licensee by action in any court of competent jurisdiction.

(4) Where the licence of a person is cancelled pursuant to subsection (3) of this section, the person may appeal in the prescribed manner to the Minister against the cancellation and the Minister may reverse or confirm the cancellation, and may restore the licence and make such other order (including an order for the return of the children) as may be just.

113. (1) Every person other than a near relative of the child, who, not being licensed to do so by the Department, shall take the care, charge, or custody of any child under the age of six years to maintain such child, other than on a casual or day time basis, apart from his parent, shall be guilty of an offence against this Act, and shall, on conviction, be liable to a penalty not exceeding fifty dollars, or in case of a second or subsequent offence to a penalty not exceeding one hundred dollars or to imprisonment with or without hard labour for not exceeding three months.

Penalty on unlicensed foster-parents. Amended by No. 45 of 1955, s. 2; No. 113 of 1965, s. 8; No. 39 of 1970, s. 5; No. 73 of 1976, s. 100.

(2) No information shall be laid for any offence under this section except by the Director or an officer of the Department or other person authorized by the Director.

114. A person who is licensed to have the care, charge or custody of any children under this Act and who has in his care, charge or custody children in excess of the number for which he is so licensed shall be guilty of an offence against this Act.

Exceeding licensed numbers. Substituted by No. 73 of 1976, s. 101.

Lying-in homes
to be open for
inspection.

Amended by
No. 45 of
1955, s. 2;
No. 73 of
1976, s. 102.

115. (1) Every lying-in home, and the home or place of residence of every person licensed to have the care, charge or custody of children, shall, at all times, be open to inspection by the Director or any officer of the Department.

(2) Every person who resists or obstructs any such inspector shall be guilty of an offence against this Act.

[Section 116 repealed by No. 73 of 1976, s. 103.]

Register to be
kept by foster-
parents.

Amended by
No. 73 of
1976, s. 104.

117. (1) Every person licensed under this Act to have the care, charge or custody of children shall keep, so far as such particulars are capable of being ascertained, a register setting out in respect of each child received the following particulars—

- (a) The name, age, religion, and place of birth of the child.
- (b) The names, addresses, and description of the parents.
- (c) The name, address, and description of any persons other than the parents from or to whom the child was received or delivered over.
- (d) The dates of receipt and delivery over.
- (e) Particulars of any accident to or illness of the child, and the name of the medical practitioner (if any) by whom attended.

(2) The register required to be kept by subsection (1) of this section shall be regularly maintained and shall be at all times available for inspection by the Department or an authorized officer.

(3) A person so licensed shall maintain and make available for inspection such further or other particulars and records as the Director requires and shall submit to the Director from time to time such returns and information as the Director requires.

[Section 118 repealed by No. 73 of 1976 s. 105.]

118A. (1) A person shall not keep or use, or by word or deed hold himself out as keeping or using, a building or place as a day care centre except pursuant to a licence or permit granted by the Director for that purpose.

Day care centres.
Inserted by No. 27 of 1967, s. 24.
Amended by No. 73 of 1976, s. 106.

Penalty: For a first offence one hundred dollars; and for every subsequent offence, imprisonment with hard labour for three months.

(2) Subject to the regulations the Director may, on payment of the prescribed fee, grant a licence for the keeping and use of a building or place therein specified as a day care centre, for a period of one year; and may, on payment of the prescribed fee, renew any such licence for a further period of one year.

(3) The Director may grant a permit for the keeping and use of a building or place as a day care centre for any period, not exceeding six months, during which inquiries are being made respecting an application for a licence and may at any time revoke any such permit.

[Subsection (4) repealed by No. 73 of 1976, s. 106.]

(5) In this section, the expression, "day care centre", means a creche, public nursery or other public facility for the casual or day to day care of children under the age of six years; but nothing in this section relates to the conducting of a pre-school centre pursuant to a permit issued under the Pre-School (Education and Child Care) Act 1973¹, notwithstanding that it is conducted within, or in conjunction with, a day care centre.

¹ Repealed by Act No. 27 of 1977.

No advertisement for taking charge of child to be published unless approved by Director.

Amended by No. 45 of 1955, s. 2; No. 113 of 1965, s. 8; No. 73 of 1976, s. 107.

119. [*Subsection (1) repealed by No. 73 of 1976, s. 107.*]

(2) No person shall, without the permission in writing of the Director, publish or cause to be published any advertisement containing any direct or indirect invitation to take care of, or offering directly or indirectly to take care of, any child under the age of six years, whether a particular child or not.

Penalty: Sixty dollars.

[*Subsections (3) and (4) repealed by No. 73 of 1976, s. 107.*]

Person taking entire charge of a child to give notice to Director.

Amended by No. 45 of 1955, s. 2; No. 113 of 1965, s. 8; No. 73 of 1976, s. 108.

120. (1) If any person other than a near relative of any child under six years of age or other than a person obtaining an order of adoption under the Adoption of Children Act 1896 assumes the entire charge of such a child such person shall, within seven days of his so doing, give notice of the fact to the Director, and shall in such notice state his name and place of residence and his occupation, together with the name, age, religion, and place of birth of such child.

Penalty: Fifty dollars.

[*Subsections (2) and (3) deleted by No. 73 of 1976, s. 108.*]

PART IX—PROCEDURE, PENALTIES, AND GENERAL PROVISIONS.

Officer of Department may take part in all trials against children.

Amended by No. 45 of 1955, s. 2; No. 45 of 1958, s. 8; No. 22 of 1962, s. 11; No. 85 of 1969, s. 11; No. 73 of 1976, s. 109.

121. At the hearing in a children's court or before a court of petty sessions of any complaint against or any application concerning any child, or ward, the Director or some officer of the Department may be present and, if present, is entitled to examine and cross-examine witnesses and to be heard touching the remand, acquittal, punishment or disposal of the child or ward.

122. (1) All cases under this Act heard on complaint or application by or on behalf of the Department may be conducted by any person appointed by the Minister in that behalf.

Officer of Department may conduct cases where complaint made.

Amended by No. 22 of 1962, s. 12.

(2) The production of an appointment, in writing, signed by the Minister, shall be *prima facie* evidence that the person therein named has been duly appointed and authorized to lay such complaint or make such application and to conduct the case.

123. (1) If an order is made under this Act in respect of a child in the absence of his parent or guardian, to whom reasonable notice of the complaint or application had not been given, such order may for good cause shown be set aside by the court by which it was made upon the application of such parent or guardian within three months after the making of the order.

Order may be set aside.

Amended by No. 22 of 1962, s. 13; No. 73 of 1976, s. 110.

(2) Where a complaint or application is being made against or concerning a child the court may cause a copy or notice of the complaint or application to be served upon a parent or a person standing in *loco parentis* to the child if that is practicable prior to the hearing of the complaint or application.

[Former section 124 repealed by No. 73 of 1976, s. 111.]

124. (1) Where a children's court makes any finding, order, or other decision—

Order to re-view certain decision of children's courts.

Inserted by No. 57 of 1982, s. 18.

(a) upon the hearing of an application to declare a child in need of care and protection under section 30 of this Act;

(b) upon the hearing of an application for an order under section 32 of this Act;

- (c) upon the hearing of an application under section 47 of this Act for the release of a child; or
- (d) upon the hearing of an application for cancellation of an order made under section 47A, 47B, 47C, or 47D of this Act in respect of a child by the Minister and for the release of the child,

an application may be made by—

- (e) the Department;
- (f) the parent or guardian of the child in relation to whom the application was made;
- (g) the child in relation to whom the application was made; or
- (h) the person by whom the application was made,

to a judge of the Supreme Court, sitting in court or in chambers, for an order to review the finding, order, or decision, and the provisions of the Justices Act 1902 apply as if the finding, order, or decision were a decision within the meaning of section 197 of that Act and the applicant for the order to review were the appellant within the meaning of that section.

(2) Where the children's court makes a finding, order, or other decision and under subsection (1) of this section the Department or a police officer has applied or is entitled to apply for an order to review the finding, order, or other decision, the child concerned may, if he is not already in custody, be apprehended by any such police officer or by an officer of the Department authorized by the Minister, and may, until the time for making application for an order to review has expired or, where such an application has been made, until the application has been finally disposed of, be—

- (a) taken to his place of residence and there left, upon the recognisance of a near relative for his appearance;

- (b) placed with some respectable person and such arrangement or agreement may be made as may be necessary or proper for the care and maintenance of that child; or
- (c) taken to and placed in any Departmental centre or Departmental facility of an appropriate kind, or such other suitable place as is approved by the Director,

but any of the persons referred to in paragraphs (f), (g), and (h) of subsection (1) of this section may, on not less than 48 hours' notice to the Department, apply to a judge of the Supreme Court for an order relating to the placement of the child pending the hearing or during any adjournment of the hearing and the judge may make such order as in the circumstances seems appropriate having regard primarily to the welfare of the child.

125. A person who,—

- (a) without the authority of the Director, takes or removes a ward or child placed under the control of the Department from any situation in which he has been placed at the requirement of the Director;
- (b) directly or indirectly, counsels or induces a ward or child placed under the control of the Department to abscond or escape from any situation in which he has been placed at the requirement of the Director;
- (c) knowingly, aids or abets a ward or child placed under the control of the Department in absconding or escaping from, harbours a ward or child placed under the control of the Department, who has been taken or removed or has absconded or escaped from, or prevents the return of any such person to, any situation in which he has been placed at the requirement of the Director; or
- (d) having a ward or child placed under the control of the Department placed in his care, fails or refuses to hand over such

Offence of interfering with wards or children placed under control of the Department.
Substituted by No. 27 of 1967, s. 25.
Amended by No. 73 of 1976, s. 112.

person to an officer of the Department or a police officer, authorized to receive the child, on demand,

commits an offence.

Penalty: Two hundred dollars or imprisonment with hard labour for three months.

Disclosure of convictions and other particulars restricted.

Substituted by No. 77 of 1979, s. 6.

Amended by No. 57 of 1981, s. 6; No. 57 of 1982, s. 19.

126. (1) When in a children's court a child—

- (a) is convicted of an offence; or
- (b) is ordered to be committed to the care of the Department or placed under the control of the Department,

or when a complaint against a child is dismissed by a children's court or a children's panel under this Act, a person, other than the child, shall not disclose the name, age or address of the child or the fact of that conviction, order or dismissal except—

- (c) to a court of law;
- (d) to a person acting in the performance of his duties pursuant to any Act; or
- (e) to a person who as part of his duties is concerned with the custody or welfare of the child.

(1a) A person shall not, without the express authority of the court, publish in any newspaper or other printed medium or broadcast or televise any report of the proceedings of a children's court on the hearing of a charge against, or any application concerning, a child, but this subsection does not apply to a disclosure referred to in subsection (2) of this section and shall not be read as enabling the court to authorize a disclosure prohibited by subsection (1) of this section.

(2) When a child since attaining the age of sixteen years—

- (a) has been convicted of any offence under The Criminal Code, the Police Act 1892, the Misuse of Drugs Act 1981 or section 49, 60,

61, 62, 63, 77, 89 or 90 of the Road Traffic Act 1974, or of any offence of which assault, the illegal consumption of liquor, drunkenness or illegal betting is an element; and

- (b) is subsequently convicted of the same or another of those offences,

the provisions of subsection (1) of this section shall not, in relation to that subsequent conviction, apply to the disclosure of the name, age or address of the child or to the disclosure of the fact of that subsequent conviction or of any order referred to in that subsection and consequent on that subsequent conviction.

(3) When a child is dealt with on a criminal charge in the Supreme Court or The District Court of Western Australia, a judge thereof may, after due consideration of the public interest and the interests of the child, order that no person shall publish in any newspaper or other printed medium or broadcast or televise any report of the proceedings of that court on the hearing of—

- (a) that charge; or
(b) any application relating to that charge.

126A. (1) Where a conviction is deemed not to have been made pursuant to section forty of this Act then in any proceedings, other than proceedings for that or a subsequent offence in the children's court or on indictment, no evidence of that conviction shall be admissible.

Disclosure of convictions of rehabilitated persons.
Inserted by No. 73 of 1976, s. 114.

(2) Except for the purposes of this Act or of any court of law, a person, other than the child, shall not disclose the fact of a conviction which by virtue of section forty of this Act is deemed not to have been a conviction.

Offence of communicating with children in Departmental centres, etc.
Amended by No. 45 of 1955, s. 2; No. 73 of 1976, s. 115.

127. Any person who—

- (a) without the authority or permission of the Director, or of the governing authority of the Departmental centre or Departmental facility, in which a child is detained, as the case may be, holds or attempts to hold any communication with that child; or
- (b) enters any Departmental centre or Departmental facility or any premises belonging thereto or used in connection therewith, and does not depart therefrom when required so to do by the officer or other person for the time being in charge thereof; or
- (c) after being forbidden by the Director or governing authority, as the case may be, so to do, holds or attempts to hold any communication directly or indirectly with any ward,

shall be guilty of an offence against this Act.

Penalty for permitting escape.
Amended by No. 113 of 1965, s. 8; No. 73 of 1976, s. 116.

128. Any officer or servant of the Department or of the governing authority of a Departmental centre or Departmental facility, who negligently or knowingly permits any child to escape from that centre or facility shall be guilty of an offence and liable, on conviction, to a penalty not exceeding one hundred dollars, or may, at the discretion of the court, be imprisoned with or without hard labour for not exceeding three months.

Managers of Departmental centres, etc; and persons with whom a female child is placed out to be deemed to be guardians for the purposes of The Criminal Code.
Amended by No. 73 of 1976, s. 117.

129. When a female child is detained or resides in a Departmental or other centre or facility, or has been placed out with any person, then the manager or person having the chief control of that centre or facility (being a male) or such person as aforesaid (if a male) or the husband of such person (if a female) shall be deemed to be the guardian of such child within the meaning of the provisions of The Criminal Code relating to sexual offences by guardians.

130. (1) Every person who, being a parent of a child,—

(a) deserts the child; or

(b) wilfully leaves the child without, or wilfully neglects to provide the child with, adequate means of support,

commits an offence.

Penalty: Five hundred dollars or imprisonment with, or without, hard labour for twelve months.

(2) Subsection (1) of this section does not apply to a person who is obliged under a provision of an order of any court to make a payment or payments of maintenance for the benefit of the child.

(3) Upon complaint on oath by the Director, or any other officer of the Department, that he has reasonable grounds for believing that any person has committed or is about to commit an offence under subsection (1) of this section, any justice, if satisfied that there are reasonable grounds for believing that such offence has been or is about to be committed, may issue a warrant for the apprehension of the person complained against, and such person may thereupon be apprehended by any police officer accordingly.

(4) Upon the hearing of a complaint under subsection (1) of this section, the court may determine the matter in a summary way, and if satisfied that the child has been or is about to be unlawfully deserted by the person complained against, or is actually without adequate means of support, and that such person is a parent of such child, liable and able to contribute towards his maintenance, may, whether committing the child to the care of the Department or not, order such person, either immediately or at some adjournment to pay or contribute towards the past and future maintenance of such child, in the manner provided by section forty A of this Act.

Offence of deserting children.

Substituted by No. 79 of 1965, s. 27.

Amended by No. 73 of 1976, s. 118.

Formerly section 131.

Repealed and re-enacted as s. 130(3) by No. 73 of 1976, s. 119.

Formerly section 136.

Repealed and re-enacted as s. 130(4) by No. 73 of 1976, s. 124.

(5) Where an order is made under subsection (4) of this section and it appears to the court that a person has legal custody of the child for the time being the court may by a further order transfer to that person the benefit of and the right to enforce the order made under subsection (4) of this section.

Parents who
leave the
State.
Inserted by No.
73 of 1976,
s. 126.

130A. (1) Where it appears upon complaint to a children's court that the parent of a child or a person who stands *in loco parentis* to a child is about to leave the State but that the child will remain in the State and no provision has been made for the maintenance of the child during the absence of that person from the State, the court may order that person before he leaves the State to appear before the court or a specified justice of the peace and to enter into before the court or that justice and file in the registry of the court a written undertaking under his hand to provide maintenance for the child while the child remains in the State.

(2) An order made under subsection (1) of this section may require that one or more persons of good financial standing shall join in the undertaking as surety for its performance, and a person who so signs an undertaking as surety shall be deemed, in the event of any default, to stand in the place of the person for whom he stands surety and shall be liable, subject to subsection (3) of this section, to the extent of the undertaking to such and the like summary or other proceedings as that person would be if he were present in the State.

(3) A person who stands as surety under this section but who is not a near relative of the child to which the undertaking relates shall not be required to provide in the aggregate more than five hundred dollars, or such lesser sum as the court may have determined to be appropriate, towards the maintenance of that child.

(4) The person giving the undertaking required by this section, and any surety, may be released from the undertaking by the court if it appears to the court—

- (a) that such parent or person standing in *loco parentis* has returned to the State with the intention of residing permanently in the State; or
- (b) that the child has left the State and is likely to reside permanently elsewhere.

(5) Where a complaint is made pursuant to subsection (1) of this section against a person and is served upon or otherwise brought to the notice of that person but has not been determined, or where an order for the entering into and filing of an undertaking with or without surety has not been complied with, a person against whom the complaint is laid or the order made who leaves the State commits an offence.

Penalty: Four hundred dollars or imprisonment with, or without hard labour for six months, or both such fine and such imprisonment.

[Section 131 repealed and re-enacted as section 130 (3) by No. 73 of 1976, s. 119.]

[Section 131A inserted by No. 45 of 1958, s. 9. Repealed by No. 79 of 1965, s. 29.]

[Section 132 repealed by No. 73 of 1976, s. 120.]

[Section 133 repealed by No. 73 of 1976, s. 121.]

[Section 134 repealed by No. 73 of 1976, s. 122.]

[Section 135 repealed by No. 73 of 1976, s. 123.]

[Section 136 repealed and re-enacted as section 130 (4) by No. 73 of 1976, s. 124.]

[Section 137 repealed and re-enacted as section 31A by No. 73 of 1976, s. 33.]

[Section 137A repealed and re-enacted as section 34E by No. 73 of 1976, s. 44.]

[Section 138 repealed by No. 73 of 1976, s. 127.]

Tattooing.
Inserted by
No. 73 of
1976, s. 128.

138A. Except where the Director, with the consent of the parents or guardians of the child given by reason of long standing cultural or religious belief, otherwise authorizes, a person over the age of eighteen years who for gain or reward tattoos, or otherwise makes a permanent mark or design resembling a tattoo on the skin of, any child or causes any such tattoo, mark or design to be made commits an offence.

Penalty: Four hundred dollars or imprisonment for six months, or both such fine and such imprisonment.

Immediate
care.
Inserted by
No. 73 of
1976, s. 129
(as amended
by No. 10 of
1977, s. 8.)

138B. (1) Where any police officer, or an officer of the Department authorized by the Minister, finds a child—

- (a) which he has reason to believe is away from the usual place of residence of that child and is not under the immediate supervision of a parent or responsible person; and
- (b) which is in his opinion in physical or moral danger, misbehaving, or truanting from school,

he may apprehend the child without warrant and forthwith take the child to its usual place of residence or school.

(2) An officer apprehending a child pursuant to subsection (1) of this section shall make inquiries as to whether or not it may be necessary to make application to a children's court to declare the child to be in need of care and protection.

(3) Where on inquiry no responsible person can be found to take care of the child for the time being the officer may cause the child to be detained at some

convenient place until such time as the child can be returned to the care of a parent or responsible person.

(4) The officer apprehending a child under this section may make application to a children's court for an order, and the court may make an order, requiring a parent of or person standing in *loco parentis* to the child to pay to the appropriate authority the cost of apprehending and detaining the child, or not more than twenty dollars whichever is the less.

(5) An order for payment made under subsection (4) of this section may be enforced by warrant in like manner to a fine, but it does not for any purpose constitute a conviction for an offence.

[Section 139 repealed by No. 29 of 1968, s. 13.]

[Section 140 repealed by No. 73 of 1976, s. 130.]

141. (1) Any—

- (a) police officer;
- (b) officer of the Department, or officer employed by the Minister in a Departmental centre or Departmental facility; or
- (c) other person specifically authorized by a court or by an officer of the Department,

who has for the time being charge of a child detained under this Act, whether on remand or otherwise, has while engaged in any duty to which this Act relates all such powers, authorities, protection, and privileges for the purpose of the execution of his duty as any police officer has by common law or statute and the child shall be deemed to be in legal custody.

(2) Without prejudice to the generality of subsection (1) of this section, a child detained under this Act shall be deemed to be in legal custody whilst—

- (a) attending at or travelling between, a court and the place to which he is remanded;

Persons having custody.
Substituted by No. 73 of 1976, s. 131.

- (b) attending or travelling, to or from a medical or dental practitioner or a hospital;
- (c) attending, or travelling directly to or from, school;
- (d) attending, or travelling directly to or from, any activity organized or supervised by officers of the Department employed at a Departmental centre or Departmental facility to which the child has been remanded; or
- (e) absent from the place to which he has been remanded at a time and for a purpose approved by the Director.

General penalty.

Amended by No. 113 of 1965, s. 8; No. 29 of 1968, s. 14; No. 73 of 1976, s. 132.

142. (1) Any person who in any particular makes default in compliance with the provisions of this Act shall be guilty of an offence against this Act.

(2) Any person guilty of an offence against this Act shall except as otherwise expressly provided, be liable, on conviction, to a fine not exceeding two hundred dollars or imprisonment for three months.

Application of Justices Act 1902.

Amended by No. 73 of 1976, s. 133.

143. Every proceeding under this Act for omission, defaults, acts, or offences to which any penalty is attached, and all applications for orders where no other method of proceeding is by this Act provided, shall be had and taken, and may be heard and determined in a summary way under the provisions of the Justices Act 1902.

Forms of proceedings.

144. Every complaint, conviction, order or warrant under this Act shall be deemed valid and sufficient if the same shall be in any of the prescribed forms which may be applicable, with such modifications as the circumstances may require; or in which the offence, or act, or default is set forth in the words of this Act; and no conviction, order, or warrant shall be held void by reason of any defect therein.

145. In every action for anything done in obedience to any order it shall be sufficient for the defendant to justify under such order only, without setting forth the previous proceedings, and the production of the order or a duplicate or certified copy thereof shall be sufficient evidence to prove the fact of making such order.

Order to be a defence to actions.

[Section 146 repealed by No. 73 of 1976, s. 134.]

146A. (1) Where a justice is satisfied by information on oath that there is reasonable ground for suspecting that a child in need of care and protection is residing on any premises or in any place he may grant an order authorizing the Director or other officer of the Department or any member of the police force named therein to enter at all reasonable times the premises or place named in the order, by force if necessary, and to inspect the premises or place and there investigate and inquire into the information and apprehend any such child.

Officers of Department may enter and inspect premises where they suspect a child in need of care and protection resides therein.

Inserted by No. 16 of 1952, s. 9.

Amended by No. 45 of 1955, s. 2; No. 29 of 1968, s. 15; No. 73 of 1976, s. 135; No. 10 of 1977, s. 6.

(2) The person named in the order seeking to exercise his powers under it shall, if so required, produce the order.

(3) A person who refuses to permit the person named in the order to enter or inspect the premises or place in respect of which the order is issued or hinders or obstructs him in the execution of his duty under this Act, is guilty of an offence.

146B. A person, not being an officer of the Department who takes the name, designation, or description of any officer of the Department or pretends or asserts that he is an officer of the Department, is guilty of an offence.

Personation of officers of the Department.

Inserted by No. 16 of 1952, s. 9.

146C. (1) A person who occupies or has occupied the office of Minister, Director, or officer of the Department, or who otherwise carries out or has carried out any duty or function under this Act, is not personally liable for anything done or omitted in

Exemption from personal liability.

Inserted by No. 45 of 1958, s. 10.

Amended by No. 29 of 1968, s. 16.

good faith in, or in connection with, the exercise or purported exercise of any power conferred or which purports to be conferred, or the carrying out of any duty imposed or which purports to be imposed, by this Act.

(2) For the purposes of subsection (1) of this section, anything done or omitted to be done by a person therein mentioned, in good faith and for reasonable or probable cause in promoting the welfare of a child, is deemed to have been done pursuant to a duty imposed by this Act.

[Section 147 repealed by No. 73 of 1954, s. 8.]

Appropriation
of penalties.

148. All moneys received for penalties imposed for offences against this Act shall be paid to the Treasurer, on behalf of Her Majesty, for the public uses of the State.

Regulations.
Amended by
No. 29 of
1968, s. 17;
No. 85 of
1969, s. 12;
No. 73 of
1976, s. 136.

149. (1) The Governor may, from time to time, make, repeal, alter, and vary all such regulations as may appear necessary or advisable for regulating—

- (a) the duties, powers, authorities, and privileges of inspectors, visitors, and all other persons employed in the administration of this Act;
- (b) the management, control, and supervision of Departmental and other centres and facilities and lying-in houses;
- (c) the custody, maintenance, education, employment, apprenticing, and placing out of wards and children placed under the control of the Department;
- (d) the visitation of children at Departmental and other centres and facilities or apprenticed, or placed out;

- (e) the punishment that may be imposed upon, and the wages and rewards that may be earned by, wards and children placed under the control of the Department;
- (f) the grant or refusal of licences pursuant to section one hundred and twelve or one hundred and eighteen A of this Act, including all matters relating to the welfare of children received and kept pursuant to any such licence, the conduct, staffing and inspection of the premises so used, the control of advertising and the maintenance of records;
- (g) the management and control of property vested in the Department;
- (h) the accounts and records to be maintained and the reports to be furnished by Departmental and other centres and facilities, whether subsidized or otherwise;
- (i) the procedure to be followed in relation to matters, and the offences that may be dealt with, by a children's panel;
- (j) the form and contents of agreements, appointments, apprenticeship articles, authorities, complaints, licences, notices, orders, summonses, and all other instruments and documents, and the mode of executing, serving, or delivering the same;
- (k) the fees to be paid;
- (l) the imposing of penalties;
- (m) the time and manner in which any act, deed, matter, or thing required by this Act to be done, and as to which the time or procedure is not provided, is to be done or performed;
- (n) all other matters and things arising under and consistent with this Act not herein expressly provided for, and otherwise for fully and effectually carrying out and giving force and effect to the objects, purposes, powers, and authorities of this Act.

(2) Regulations may be made pursuant to this section—

- (a) so as to require a matter or thing affected by the regulations to be in accordance with a specified standard or a specified requirement or as approved by, or to the satisfaction of, a specified person or body, or class of person or body; and so as to delegate to, or confer upon a specified person or body, or class of person or body, a discretionary authority; and
 - (b) so as to provide that, in specified cases, in specified class of case or specified classes of cases, persons or things or a class or classes of persons or things may, whether on specified conditions or unconditionally, be exempted from the provisions of the regulations or any of them, either wholly or to such extent as may be specified.
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FIRST SCHEDULE.

s.3.

The Child Welfare Act 1907-1941.

SECOND SCHEDULE.

SUBSIDISED CENTRES OR FACILITIES.

S. 15.
Substituted by
No. 73 of
1976, s. 137
(as amended
by No. 10 of
1977, s. 9.)

CATHOLIC

Catherine McAuley Centre
St. Vincent's
St. Joseph's
"Salvado"
Castledare
Christian Community Inc.
Clontarf
Good Shepherd Teen Centre
Pallotine Centre Rossmoyne
Catherine House Inc.
Balgo Mission
Beagle Bay Mission
Benedictine Mission Kalumburu
La Grange Mission
Lombardina Mission
Nazareth House Geraldton
Pallotine Mission Tardun
St. Francis Xavier's Native Mission
St. Joseph's Hostel Derby

ANGLICAN

Parkerville Children's Homes (Inc.)
Swanleigh

BAPTIST

Katukutu Hostel
Marribank Mission

CHRISTIAN BRETHERN ASSEMBLIES

Kurrawang Aboriginal Christian Centre Inc.

CHURCHES OF CHRIST

"Bamburra" Hostel
Churches of Christ Ingada Village—Carnarvon
Churches of Christ Aborigines Mission—Norseman
Churches of Christ Roelands Village
"Fairhaven" Training Hostel Esperance

METHODIST

Homes for Children
 " Mofflyn"
 " Allendale"
 " Werribee"
 " Bourkedale"
 " Cooinda"
 " Meribah"
 " Warminda"
Mogumber Training Centre
Applecross Cottage
Ardross Hostel
Greenmount Hostel (Innaminka)
Mt. Yokine Hostel
Nollamara Cottage

PRESBYTERIAN

Sister Kate's Children's Homes (Inc.)
Collins House

SALVATION ARMY

Hollywood Children's Village
"Cottesloe House"

UNDENOMINATIONAL

Fairbridge
Ngal-a Mothercraft Home & Training Centre (Inc.)
Wanslea Hostel
Yaandina Babies & Childrens Centre Inc.

THIRD SCHEDULE.

Item.	Sections of The Criminal Code.	Offence.	S. 20B. Inserted by No. 29 of 1968, s. 18. Amended by No. 27 of 1972, s. 13.
1	181, 182	Having or attempting to have unlawful carnal knowledge of a person against the order of nature.	
2	183	Unlawfully and indecently dealing with a child under the age of fourteen years or inciting such a child to so deal with a person.	
3	185	Having or attempting to have unlawful carnal knowledge of a girl under the age of thirteen years.	
4	187	Having or attempting to have unlawful carnal knowledge of a girl under the age of sixteen years.	
5	189	Unlawfully and indecently dealing with a girl who is— (i) under the age of sixteen years; or (ii) to the knowledge of the accused person an idiot or imbecile; or (iii) under the age of seventeen years, and of whom the accused person is a guardian, employer, teacher or schoolmaster, or inciting such a girl to so deal with a person.	
6	189	Unlawfully and indecently dealing with a girl under the age of thirteen years or inciting such a girl to so deal with a person.	
7	190	Being a guardian, employer, teacher or schoolmaster of a girl under the age of seventeen years, unlawfully and carnally knows, or attempts to have unlawful and carnal knowledge of, the girl.	
8	328	Unlawfully and indecently assaulting a girl.	

S. 72.
 Inserted by No.
 73 of 1976,
 s. 138.
 Amended by
 No. 57 of
 1981, s. 7.

FOURTH SCHEDULE.

PART I.—OFFENCES UNDER THE CRIMINAL CODE.

Division A.

The offences specified in this Division of this Part of this Schedule shall not be dealt with by a children's panel.

Section of The Criminal Code	Offence
37	Treason.
38	Concealment of treason.
39	Treasonable crimes.
41	Inciting to mutiny.
42	Assisting escape of prisoners of war.
47	Unlawful oaths to commit capital offences.
78	Piracy— if the crime is committed with respect to a ship, and if at or immediately before or immediately after the time of committing the crime the offender— (a) assaults any person on board of or belonging to the ship, with intent to kill him or to kill any other person; or (b) wounds any such person; or (c) unlawfully does any act by which the life of any such person is endangered.
79	Attempted piracy with personal violence.
80	Aiding pirates.
125	Perjury— if the offender commits the crime in order to procure the conviction of another person for a crime punishable with death, or with imprisonment with hard labour for life.
134	Conspiracy to bring false accusation— if the offence is such that a person convicted of it is liable to be sentenced to death or to imprisonment with hard labour for life.
144	Forcibly rescuing capital offenders.
153	Counterfeiting gold and silver coin— if the crime is committed with respect to current coin.

Section of The Criminal Code	Offence.
154	Preparation for coining gold and silver coin— if the crime is committed with respect to current coin.
155	Clipping.
159	Offences after previous convictions committed with respect to current coin.
185	Defilement of girls under the age of 13 years.
186	Householder permitting defilement of young girls on his premises— if the girl is under the age of 13 years.
197	Incest by man.
282	Wilful murder. Murder.
283	Attempt to murder.
284	Accessory after the fact to murder.
287	Manslaughter.
288	Aiding suicide.
290	Killing unborn child.
292	Disabling in order to commit an indictable offence.
293	Stupefying in order to commit indictable offence.
294	Acts intended to cause grievous bodily harm or prevent arrest.
295	Preventing escape from wreck.
296	Intentionally endangering the safety of persons travelling by railway.
296A	Endangering safety of persons travelling by aircraft.
298	Causing Explosion likely to endanger life.
326	Rape.
327	Attempt to rape.
343	Child stealing.
390B	Unauthorized use of aircraft— where the offender at or immediately before or immediately after the time he so takes or exercises such control of the aircraft— (i) uses or threatens to use actual violence to any person or persons in order to so take or exercise control of the aircraft

Section of The
Criminal Code

Offence.

- or to prevent or overcome resistance to such control being taken or exercised;
or
- (ii) is armed with any dangerous or offensive weapon or instrument; or
- (iii) is in company with one or more other person or persons,
or if the offender so takes or exercises such control by any fraudulent representation, trick, or device.
- 393 Robbery—
if the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds or uses any other personal violence to any person.
- 394 Attempted robbery accompanied by wounding or in company—
if the offender is armed with any kind of loaded arms, and at or immediately before or immediately after the time of the assault he wounds any person by discharging the loaded arms.
- 398 Attempts at extortion by threats—
if the accusation or threat of accusation is—
- (a) an offence for which the punishment of death or imprisonment for life may be inflicted; or
- (b) any of the offences defined in Chapter 22 of The Criminal Code, or any attempt to commit any of such offences; or
- (c) any assault with intent to have carnal knowledge of any person against the order of nature, or an unlawful or indecent assault upon a male person;
or
- (d) any attempt to commit the crime of rape, or assault with intent to commit the crime of rape, or an unlawful or indecent assault upon a woman or girl;
or
- (e) a solicitation or threat offered or made to any person as an inducement to commit or permit the commission of any of the offences aforesaid.

Section of The Criminal Code	Offence.
401	Housebreaking: Burglary— if the offence is committed in the night.
444	Arson.
449	Casting away ships.
451	Obstructing and injuring railways.
451A	Endangering safety of aircraft with intent.
453	Malicious injuries— (i) destroying or damaging an inhabited house, or a vessel with explosives. (ii) destroying or damaging sea bank or sea wall, navigation works, or bridges.
454	Causing explosion likely to do serious injury to property.
473	Forgery—public seals.
511	Personation of owner of shares.

Division B.

The offences specified in this Division of this Part of this Schedule shall not be dealt with by a children's panel where, as a result of the alleged offence, a person has been killed or has suffered bodily harm or unlawful wounding as defined in The Criminal Code.

Section of The Criminal Code	Offence.
268	Unlawful killing.
271	Death by acts done at child birth.
272	Causing death by threats.
273	Acceleration of death.
275	Injuries causing death in consequence of subsequent treatment.
277	Unlawful homicide.
278	Wilful murder.
279	Murder.
280	Manslaughter.
281	Killing on provocation.
282	Punishment for wilful murder and murder.
283	Attempted murder.
287	Manslaughter.
288	Aiding suicide.
290	Killing an unborn child.
294	Acts intended to cause grievous bodily harm or prevent arrest.

Child Welfare Act 1947

Section of The Criminal Code	Offence.
297	Grievous bodily harm.
299	Attempting to cause explosion likely to endanger life.
300	Maliciously administering poison with intent to harm.
301	Unlawful wounding.
305	Setting mantraps.
306	Negligent acts causing harm.
317	Assaults occasioning bodily harm.

PART II—OFFENCES IN WHICH THE POSSESSION
OF DRUGS OR PROHIBITED PLANTS FOR THE
PURPOSE OF SALE IS AN ELEMENT.

<i>Item</i>	<i>Section of Misuse of Drugs Act 1981</i>	<i>Offence</i>
1.	6 (1) (a)	Having in possession drug with intent to sell or supply it to another.
2.	6 (1) (c)	Selling or supplying, or offering to sell or supply, drug to another.
3.	7 (1) (a)	Having in possession or cultivating prohibited plant with intent to sell or supply it, or drug obtainable therefrom, to another.
4.	7 (1) (b)	Selling or supplying, or offering to sell or supply, prohibited plant to another.
5.	33 (1)	Attempting, or inciting another, to commit, or becoming an accessory after the fact to, an offence referred to in item 1, 2, 3 or 4 of this Schedule.
6.	33 (2)	Conspiring with another to commit an offence referred to in item 1, 2, 3 or 4 of this Schedule.

PART III—ROAD TRAFFIC ACT 1974.

Section of The Road Traffic Act 1974	Offence.
59	Dangerous driving causing death or injury.

FIFTH SCHEDULE (Section 19(1a)).

Inserted by 77
of 1979, s. 7.

OATH OR AFFIRMATION OF OFFICE TO BE TAKEN
BY SPECIAL MAGISTRATES.

1. *OATH.*

I, _____, do swear that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second, Her Heirs and Successors, according to law in the office of special magistrate and I will do right to all manner of people after the laws and usages of this State, without fear or favour, affection or ill will. So help me God.

2. *AFFIRMATION.*

I, _____, do solemnly and sincerely promise and declare that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second, Her Heirs and Successors, according to law in the office of special magistrate and I will do right to all manner of people after the laws and usages of this State, without fear or favour, affection or ill will.

Added by No.
57 of 1982, s.
20.

SIXTH SCHEDULE. (s. 4)

OFFENCES REFERRED TO IN PARAGRAPH (a)
OF THE DEFINITION OF "PRESCRIBED OFFENCE".

<i>Section of Criminal Code by which offence created</i>	<i>General description of offence</i>
278	Wilful murder
279	Murder
280	Manslaughter
283	Attempted murder
292	Disabling in order to commit an indictable offence
293	Stupefying in order to commit an indictable offence
294	Acts intended to cause grievous bodily harm or prevent arrest
296	Intentionally endangering safety of persons travelling by railway
296A	Intentionally endangering safety of persons travelling by aircraft
298	Causing explosion likely to endanger life
300	Maliciously administering poison with intent to harm
301	Wounding and similar acts
326	Rape
327	Attempt to commit rape
390B (b)	Unauthorized use of aircraft when threats are used, when offender is armed, or in company
393	Robbery
394	Attempted robbery
396	Demanding property with menaces with intent to steal