

No. 17, 1939.

shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the matter or charge is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

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

(4) If the parent without reasonable excuse refuses to attend the court may direct a warrant to issue to bring him before the court at the hearing; but the parent may be admitted to bail on entering into a recognizance, with or without sureties, to attend the court at the hearing of the matter or charge.

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

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

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

(7) During the period of any adjournment of the hearing of the matter or charge the child or young person may be detained at any shelter, or permitted to go home with a parent or with any other person who is willing to undertake the care of the child or young person during such period, or may be admitted to bail with or without sureties.

(8) If a court before which any child or young person is brought, is not in a position to decide whether any and, if so, what order should be made under this Part, it may make such interim order as it thinks fit for
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his detention or continued detention in a shelter or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of him. No. 17, 1939.
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An interim order made under this subsection for detention or continued detention in a shelter shall not remain in force for more than fourteen days and in the case of committal to the care of a fit person for more than twenty-eight days, but if, at the expiration of the period for which any interim order remains in force the court deems it expedient to do so, it may make a further interim order.

82. If a court finds that a child or young person is a neglected or uncontrollable child or young person it may— Power of
court at
hearing.
cf. Act No.
21, 1923,
s. 58.

- (a) admonish and discharge the child or young person; or
- (b) release the child or young person on probation upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or
- (c) commit the child or young person to the care of some person who is willing to undertake such care upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or
- (d) commit the child or young person to the care of the Minister to be dealt with as a ward admitted to State control; or
- (e) commit the child or young person to an institution, either generally or for some specified term (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) not exceeding three years.

83.

No. 17, 1939.

Powers of
court.Summary
offences.cf. Act. No.
21, 1923,
s. 59.

83. (1) Where a child or young person is charged before a court with a summary offence, the court may, if the child or young person admits the offence, or if the court finds the charge is proved—

- (a) release the child or young person on probation upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or
- (b) commit the child or young person to the care of some person who is willing to undertake such care upon such terms and conditions as may be prescribed or as the court, in any special case, may think fit and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or
- (c) commit the child or young person to an institution either generally or for some specified term (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) not exceeding three years; or
- (d) commit the child or young person to the care of the Minister to be dealt with as a ward admitted to state control; or
- (e) deal with the child or young person according to law.

Indictable
offences.

(2) Where a child or young person is charged before a court with an indictable offence (other than homicide, rape or other offence punishable by death), and the charge is heard and determined in a summary manner, the court may if the child or young person admits the offence, or the court finds that the charge is proved—

- (a) release the child or young person on probation upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit, and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or

(b)

- (b) commit the child or young person to the care of some person who is willing to undertake such care upon such terms and conditions as may be prescribed or as the court may, in any special case, think fit and for such period of time (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) as the court may think fit; or
- (c) commit the child or young person to the care of the Minister to be dealt with as a ward admitted to state control; or
- (d) commit the child or young person to an institution either generally or for some specified term (whether expiring before or after the date upon which the child or young person attains the age of eighteen years) not exceeding three years; or
- (e) in addition to or in substitution for any committal under paragraph (d) of this subsection, require the child or young person to enter into a recognizance with or without a surety or sureties to be of good behaviour and to comply with any conditions the court may specify, for a term which shall not be less than twelve months or more than three years, and in default of entering into such recognizance may direct that the child or young person shall be detained or further detained in a shelter or an institution for a period not exceeding three months unless such recognizance is sooner entered into:

Provided that committal to a shelter shall not exceed thirty days:

Provided, further, that in no case shall the total term of such detention and further detention together exceed three years.

(3) Where a child or young person is brought before a court and charged with an offence (other than homicide, rape or other offence punishable by death), the court, if the child or young person admits the offence, or if it finds that the charge is proved but that, having regard to all the circumstances and to the welfare of the child or young person, it is inexpedient to make any order
under

No. 17, 1939.

under subsection one or subsection two of this section, without proceeding to a finding of guilt, may make an order—

- (a) dismissing the charge; or
- (b) admonishing and discharging the child or young person; or
- (c) discharging the child or young person conditionally on his entering into a recognizance with or without sureties to be of good behaviour and to comply with any conditions the court may specify and to appear for a finding of guilt and to be further dealt with in accordance with the provisions of this section if called on at any time during such period not exceeding three years as may be specified in the order.

(4) Where a child or young person is dealt with under paragraph (e) of section eighty-two or paragraph (c) of subsection one or paragraph (d) of subsection two of this section, the court may suspend the order of committal upon the child or young person entering into a recognizance with or without sureties to be of good behaviour and to comply with such terms and conditions as the court may specify.

When such recognizance is entered into the child or young person shall thereupon be discharged from custody.

(5) Where a child or young person is dealt with under paragraph (e) of subsection one of this section and is ordered to be detained for any specified term or for a specified term in default of payment of any penalty, damages, compensation or costs, such child or young person shall be committed to a shelter or to an institution or to prison. But no such child or young person shall be committed to a prison unless the court certifies that he is of so unruly a character that he cannot be detained in a shelter or an institution or that he is of so depraved a character that he is not a fit person to be so detained:

Provided that committal to a shelter shall not exceed thirty days.

(6) Where a child or young person has been discharged under paragraph (c) of subsection three or under subsection four of this section, the court, at any time by notice

notice given in such manner as the court shall direct to the parent of such child or young person, and to the surety or to the child or young person himself, may direct that such child or young person appear before the court, at a time and place named in the notice; and if such child or young person does not so appear, the court may issue a warrant for his apprehension.

84. (1) Any child or young person committed to an institution under the provisions of section eighty-two or section eighty-three of this Act by a court other than the Metropolitan Children's Court at Sydney, shall be conveyed to the shelter for boys or girls (as the case may be) at Sydney, or at such other centre as may be prescribed, and there submitted to a medical examination and mental survey.

Transfer to Sydney of children and young persons for mental survey.

(2) Any officer authorised by the Minister in that behalf may bring the child or young person before the Metropolitan Children's Court or before a children's court at such other centre as may be prescribed, together with the order of committal, and the report disclosing the medical, physical and mental condition of the child or young person, and make application to have the order of committal reviewed.

(3) In such cases the court to which such application is made shall admit as evidence the depositions of witnesses at the court by which the child or young person was committed and shall consider all the circumstances, the report disclosing the medical, physical and mental condition of the child or young person and such fresh evidence as may be available, and may—

(a) confirm the order of committal; or

(b) revoke the order of committal and make any other order which might have been made under section eighty-two or section eighty-three of this Act.

85. (1) Where a child or young person is in a summary manner found guilty by a court of an offence in respect of which a penalty, compensation, damages or costs are imposed, and there is reason to believe that his parent or guardian has contributed to the commission of the offence by wilful default or by habitually neglecting

Court may order parent to pay penalty, damages or costs.
cf. Act No. 21, 1923, s. 60.

No 17, 1939.

neglecting to exercise due care of the child or young person a justice may, on information, issue a summons against such parent or guardian charging him with contributing to the commission of the offence.

(2) If the court is satisfied that the parent or guardian has contributed to the commission by the child or young person of the offence by wilful default or by habitually neglecting to exercise due care of him, the court may order that the penalty, damages, or costs shall be paid by the parent or guardian instead of by the child or young person and may also order the parent or guardian to give security for the good behaviour of the child or young person.

(3) Any sums so imposed and ordered to be paid may be recovered from the parent or guardian in the same manner as sums ordered by justices to be paid may be recovered under the Justices Act, 1902.

(4) The court, on due proof that the conditions of any such recognizance have not been complied with, may forfeit such recognizance, which shall thereupon be dealt with as a forfeited recognizance in the manner provided by the Fines and Forfeited Recognizances Recovery Act, 1902.

(5) The parent or guardian may appeal from any order made in pursuance of subsection two of this section under the provisions of Part V of the Justices Act, 1902.

Power with respect to child or young person charged with certain indictable offences.

cf. Act No. 21, 1923, s. 61.

86. (1) Where a child or young person is charged before a court with homicide, rape or other offence punishable by death, the court may commit the child or young person to take his trial according to law.

(2) Where a child or young person is charged before a court with any other indictable offence and is not dealt with under section eighty-three of this Act, the court may commit the child or young person to take his trial according to law.

In any such case the court shall forthwith transmit to the Attorney-General and to the Minister of Public Instruction a statement of the reasons for its decision.

(3) If a child or young person be committed for trial and not admitted to bail he shall be detained in a shelter unless the court certifies that he is of so unruly

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No. 17, 1939.

a character that he cannot be detained in a shelter, or that the charge is of such a serious nature, or that he is so depraved a character that he is not a fit person to be detained in a shelter.

87. (1) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of an indictable offence, the judge may exercise any of the powers of a children's court enumerated in section eighty-three of this Act, or may sentence him according to law, and in the latter case may direct that the child or young person be detained in an institution for the period specified in the sentence.

Child or young person convicted of indictable offence may be sent to institution.

(2) (a) Any court by or before which a child or young person is found guilty, on indictment or otherwise, of an offence (other than homicide, rape or other offence punishable by death) may, if it thinks fit, remit the case to a children's court consisting of a special magistrate exercising jurisdiction for the place where the offender was committed for trial, or, if he was not committed for trial, to a children's court consisting of a special magistrate exercising jurisdiction either for the same place as the remitting court, or for the place where the offender resides or to the Metropolitan Children's Court accordingly and that court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by that court.

cf. 23
Geo. V,
ch. 12, s. 36.

(b) No appeal shall lie against an order of remission made under paragraph (a) of this subsection, but nothing in this subsection shall affect any right of appeal against the verdict or finding on which an order is founded, and a person dissatisfied with the order of the children's court to which the case has been remitted may appeal therefrom to Quarter Sessions as if he had been tried and found guilty by the children's court.

(c) Any court by which an order remitting a case to a children's court is made under this subsection may give such directions as appear to be necessary with respect to the custody of the offender or for his release on bail until he can be brought before the children's court and shall cause to be transmitted to the clerk of the children's court a certificate setting out the nature of the offence

No. 17, 1939.

offence and stating that the offender has been found guilty thereof and that the case has been remitted for the purpose of being dealt with under this subsection.

Form of
committal.
Act No. 21,
1923, s. 66.

88. A judge or a court in directing that a child or young person be committed to or detained in an institution shall do so in general terms, but may recommend to the Minister that the child or young person be sent to an institution of a particular class.

Court to hear
evidence on
behalf of
child.

Ibid. s. 62.

cf. 23 Geo.
V, ch. 12,
s. 35 (2).

Act No. 61,
1927, s. 31
(N.Z.).

89. (1) Where a child or young person is charged before a court with any offence, or is brought before a court as a neglected or uncontrollable child or young person the court, if satisfied that a prima facie case has been made out, shall give the child or young person or his parent an opportunity to call evidence, and shall hear any evidence that may be tendered by or on behalf of the child or young person.

(2) The court, if satisfied that the child or young person has committed the offence, or is a neglected or uncontrollable child or young person, shall, before making any order, give consideration to reports, if tendered, setting out the details and results of investigation into the antecedents, home environment, companions, education, school attendance, habits, recreation, character, reputation, disposition, medical history and physical or mental characteristics and defects, if any, of the child or young person.

Probation:
Who shall
have
custody and
control.
cf. Act No.
21, 1923,
s. 63.

90. (1) Where a child or young person has been dealt with under paragraph (c) of section eighty-two or paragraph (b) of subsection one or paragraph (b) of subsection two of section eighty-three of this Act, the following provisions shall apply:—

- (a) the child or young person shall not be committed to the care of a person of a religious faith to which the father or other person having the right to direct in what religion the child or young person shall be educated objects or in which it would not be the duty of the Minister to direct the child or young person to be educated;
- (b) the child or young person shall be in the custody and under the control of the person to whose care he has been committed for the period stated in the order of committal;

(c)

No. 17, 1933.

- (c) the child or young person and the premises wherein he resides or whereto he has been committed shall be subject to inspection by officers or other persons appointed by the Minister in that behalf;
- (d) a copy of the order containing the particulars prescribed shall be forwarded to the Director by the court making the order.

(2) Where a child or young person has been dealt with under paragraph (b) of section eighty-two or paragraph (a) of subsection one or paragraph (a) of subsection two of section eighty-three of this Act the following provisions shall apply—

- (a) the child or young person and the premises wherein he resides shall be subject to inspection by officers or other persons appointed by the Minister in that behalf;
- (b) a copy of the order containing the particulars prescribed shall be forwarded to the Director by the court making the order.

91. (1) If a child or young person who has been released upon probation, or committed to the care of any person, breaks or is reasonably suspected of having broken the terms or conditions of his release, he may be apprehended by a police constable or by any officer authorised by the Minister in that behalf and brought before a court.

Breach of terms of probation. cf. Act No. 21, 1923, s. 64.

(2) If it be proved that such breach has occurred, the court may, notwithstanding the fact that the person charged has then attained the age of eighteen years, deal with him in the manner provided in section eighty-two or section eighty-three of this Act.

(3) A period of probation or of committal to the care of any person may be varied or terminated at any time by the judge or court imposing the same.

Power to terminate probation.

(4) The judge or court by whose order a child or young person has been released on probation to a person specified in the order of release may upon the application of any officer authorised by the Minister in that behalf vary such order by substituting some other person for the person so specified.

Power to vary order of release on probation.

92.

No. 17, 1939.

Placement
in shelter.cf. Act No.
23, 1923,
s. 67.

92. (1) A child or young person on being committed to an institution shall be placed in a shelter pending the Minister's decision as to his destination:

Provided that no child or young person shall remain in a shelter for more than one month, except by permission of the Minister.

(2) Where an order is made committing a child or young person to an institution the order shall be sufficient warrant for any member of the police force or any officer or employee of the Child Welfare Department to convey such child or young person to a shelter, or to transfer him from one shelter to another or to detain him in a shelter pending the Minister's decision as to his destination.

Name of
institution to
to be endorsed
on order.
Ibid. s. 68.

93. The Minister as soon as practicable shall endorse on the order of committal the name of the institution and the place where the child or young person is to be detained.

PART XV.

TRANSFER OF PERSONS FROM A PRISON TO AN INSTITUTION.

Transfers
from
prisons to
institutions.

94. (1) The Minister of Justice may, with the consent of the Minister of Public Instruction, by order in writing direct the transfer of any prisoner who is under the age of twenty-one years and undergoing sentence of imprisonment for any term with or without hard labour, from any prison or place of detention, to an institution.

The Minister of Public Instruction shall, as soon as practicable, endorse on such order the name of the institution and the place where the person so transferred is to be detained.

Power to
detain in
institutions.

(2) Any person so transferred shall be detained in an institution for the residue of the period mentioned in his sentence, and shall be subject to the discipline and routine of such institution.

Any such order shall be the authority for the detention in an institution of the person to whom it relates until the expiration of the residue of the period mentioned in his sentence.

(3)

No. 17, 1939.

Penalty for
misconduct.

(3) If any such person is charged with any of the offences referred to in subsection one of section fifty-seven of this Act he may be taken by the superintendent of the institution before a magistrate sitting as and constituting a children's court, who shall hear and determine the charge, and, if the charge is proved, may direct that the person charged be returned to the prison from which he was transferred, there to serve the unexpired portion of his sentence, and may, where such person is a child or young person, order that he be detained in prison for a further term, or, where such person is of or above the age of eighteen years, impose a sentence of imprisonment for a further term. Such further term shall not exceed three months with hard labour, to commence at and from the termination of the original sentence.

(4) Where the Minister of Public Instruction is satisfied that any person transferred to an institution in accordance with the provisions of this Part is not profiting from the discipline and instruction therein, or that for any other reason he is not a suitable person for detention therein, such Minister may, with the consent of the Minister of Justice, order the retransfer of such person to prison, there to serve the unexpired portion of his original sentence, and thereupon such person shall cease to be subject to the provisions of this Act.

(5) Nothing in this section shall affect the operation of sections four hundred and sixty-one to four hundred and sixty-four inclusive of the Crimes Act, 1900.

PART XVI.

AFFILIATION PROCEEDINGS.

95. Where any single woman is with child by any man who has made no adequate provision for the payment of preliminary expenses, or the expenses of the future maintenance of the child, she, or with her consent any officer authorised by the Minister in that behalf or any reputable person on her behalf, may make complaint in writing on oath to a magistrate or court that she is with

Single woman with child may take proceedings against father.

cf. 35 and 36 Vic., ch. 65, s. 3.

Act No. 21, 1923, s. 69.