

PART VI

Court may receive reports as evidence in certain cases.

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

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

PART VII**PART VII**

**APPEALS FROM AND RECONSIDERATION OF PENALTY
BY JUVENILE COURTS**

Powers of Supreme Court on appeal.

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

Reconsideration of penalty by juvenile court.

66. (1) Subject to this section, where a finding is made by a juvenile court that an allegation, complaint, information or charge against a child is proved, and an order or adjudication is made against the child in consequence of that finding, that court or the Adelaide Juvenile Court may, upon an application made under subsection (2) of this section, reconsider and confirm, discharge, or vary the order or adjudication; but any variation of the order or adjudication shall be within the limits within which the court would have had power to act if it were making the original order or adjudication.

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

(a) the person against whom the order or adjudication was made;

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

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

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

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

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

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

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

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

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

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order of the Adelaide Juvenile Court confirming or varying an original order or adjudication following an application heard and determined pursuant to this subsection.

(10) Where the original order or adjudication was made by a juvenile court constituted of justices, or a special justice, an application for reconsideration of the order or adjudication shall be heard by a juvenile court constituted of a Judge or special magistrate.

(11) Where the original order or adjudication was made by a juvenile court constituted of a Judge or special magistrate, an application for reconsideration of the order or adjudication shall be heard by a juvenile court constituted of a Judge.

PART VIII

PART VIII

GENERAL PROVISIONS

Determination
of questions of
age, etc.

67. (1) In determining the age of any person for the purpose of deciding whether he is a child within the meaning of this Act or otherwise for the purposes of the provisions of this Act, a person who desires to institute proceedings under this Act, a juvenile aid panel, or any court shall act upon the best information or evidence reasonably available and if there is no satisfactory information or evidence upon which to act, upon his or its own estimate of the age of the person in respect of whom proceedings are contemplated, or have been brought.

(2) No proceedings, decision or action of a juvenile aid panel, and no proceedings, decision, order or adjudication of any court shall be invalid by reason only of the fact that the panel or court has acted in the mistaken belief, or on the mistaken assumption that the person in respect of whom the proceedings are taken is, or is not, a child, or, in the case of proceedings under this Act, that that person, had, or had not, attained a certain age at a particular time.

(3) A juvenile court constituted of a Judge, or any other court to which proceedings by way of appeal against an order or adjudication, or for the review or reconsideration of an order or adjudication have been brought—

(a) where an order or adjudication has been made in proceedings that should have been commenced under this Act, but were not so commenced, may, by order, vary or revoke the order or adjudication or substitute for it such other order or adjudication as may be just in the circumstances;

or

(b) where the order or adjudication was made under this Act in a mistaken belief, or on a mistaken assumption as to the age of the person in respect of whom the order or adjudication was made, may by order vary or revoke the order or adjudication or substitute for it such other order or adjudication as may be just in the circumstances.

(4) An application for an order under subsection (3) of this section may be made by or on behalf of the person against whom the order or adjudication was made, or by the Director-General.

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

Power to exclude persons from court.

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

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

Age of criminal responsibility.

70. (1) A juvenile court constituted of a Judge or special magistrate may recommend to the Minister that a child who has attained the age of seventeen years and who has committed repeated serious offences be held in custody in a prison while he remains under the care and control of the Minister.

Transfer of child to prison.

(2) The Minister shall, before forwarding any such recommendation to the Governor, obtain a report from the Director-General as to whether it is expedient in the interests of the child or the public interest to implement the recommendation and to any other matters upon which the Minister may desire information or advice.

(3) The Governor may, upon receipt of the recommendation of the Minister, order that the child be held in the custody of the Comptroller of Prisons.

(4) The Comptroller may detain a child in respect of whom an order has been made under subsection (3) of this section in any prison that he thinks appropriate.

(5) A child so detained shall, subject to the provisions of the Prisons Act, 1936-1969, be eligible for remission of portion of the period for which he is to be so detained, and may be released upon parole, in all respects as if he had been sentenced to imprisonment for the period for which he was placed under the control of the Minister commencing on the day on which the order was made placing him under the care and control of the Minister.

(6) A child shall not cease to be under the care and control of the Minister by reason of the fact that he is transferred to, or released from, a prison under this section.

Mandate for detention.

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

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

Mandate.

72. Every mandate by a court remanding a child to a home, or placing a child under the care and control of the Minister, shall contain a statement of the age and religion, so far as they are known, of the child, and where applicable the cause for which, and the home in which, the child is to be placed under such care and control.

Procedure when order for payment of money not complied with.

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

(2) Where an order has been made against a child under subsection (1) of this section, the child may at any time before execution of a warrant or mandate issued to enforce the order apply to a juvenile court for an extension of the time fixed for payment of the fine or monetary penalty or to satisfy the order for payment of money.

(3) Where a justice is satisfied that—

(a) a warrant or mandate has been issued—

(i) placing any such person under the care and control of the Minister;

or

(ii) committing any such person to detention in a home,

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

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

and

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

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

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

(5) Where a warrant or mandate placing any such person under the care and control of the Minister for any period by reason of default in compliance with an order or judgment of a court has been executed, and that person attains the age of eighteen years before the expiration of that period, notwithstanding anything contained in any Act, that person shall be under the care and control of the Minister for the remainder of the period, and the warrant or mandate shall be sufficient authority for that purpose, notwithstanding that the person has attained the age of eighteen years.

(6) Where—

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

and

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

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

(7) This section shall apply *mutatis mutandis* to a warrant or mandate issued before the commencement of this Act in respect of a child for default in payment of a fine or monetary penalty imposed by the court or for failure to comply with an order of the court for payment of money.

Parent or guardian of child may be punished in certain cases.

74. (1) If, on the hearing of any proceedings by a juvenile court, any child is found guilty of any offence, is found to be a neglected or an uncontrolled child, a child in need of care and control or an habitual truant and the court is of the opinion that the circumstances upon which the finding is based arise wholly or partly in consequence of some fault of or lack of proper care or control on the part of the parent or guardian of the child, the court may, on the hearing or any adjournment thereof, and without any complaint made for that purpose, in its discretion, punish the parent or guardian by a fine not exceeding one hundred dollars, or by imprisonment for any term not exceeding six months.

(2) Notwithstanding anything contained in section 62c of the Justices Act, 1921-1969, the court may, under this section, punish a parent or guardian who, having been served with a notice under this section, has failed to attend the hearing, but otherwise the court shall not punish the parent or guardian under this section without giving the parent or guardian an opportunity of being heard.

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

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

75. At the hearing of any complaint or information against, or any application in respect of, a child, the Director-General or some other officer of the department authorized in writing by the Director-General, may be present and examine and cross-examine witnesses, and be heard in relation to any order or adjudication in respect of the child.

Right of officer of the department to appear at trials of children.

76. (1) Unless otherwise ordered by the court before which the proceedings are held, the result of any proceedings in a juvenile court or the result of any proceedings in the Supreme Court on an appeal or committal from a juvenile court may, subject to this section, be published or reported in a newspaper or by radio or television, and, for that purpose, the court shall, at the request of a person desiring so to publish or report the result of any such proceedings, make that result available to him.

Restriction on reports on proceedings of juvenile courts.

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

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

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

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

Forms.

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

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

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

Issue of
warrant by
justice.

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

Regulations.

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

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

and

(h) prescribing all such other matters and things as are contemplated by this Act, or necessary or expedient for the purposes of this Act.

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

Summary
proceedings
for offence.

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THE SCHEDULE

FIRST PART

The following Acts are repealed:—

- the Juvenile Courts Act, 1965-1966;
- the Juvenile Courts Act Amendment Act, 1969.

SECOND PART

The following provisions of the Offenders Probation Act, 1913-1969, are amended as follows:—

Section 4. (a) by striking out paragraph (b) of subsection (3) and the word “and” immediately preceding that paragraph;

(b) by striking out from subsection (4) the passage “or, if he is under the age of sixteen years, his parent or guardian”.

Section 9. by striking out subsection (5).

Section 11. by striking out the whole of section 11.

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

J. M. NAPIER, Lieutenant-Governor

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