

is not released, he is brought, as soon as practicable, before a justice.

(2) Where a person is required to be brought before a court or a justice under subsection (1) of this section and he is not within twenty-four hours of his apprehension brought before such a court or a justice or it does not appear practicable within that time to bring him before such a court or a justice a police officer, not below the rank of sergeant, or the police officer in charge of the police station to which he is brought shall inquire into the case, and may release him on such a recognizance as is referred to in subsection (4) of this section.

(3) Where a person is brought before a justice under subsection (1) of this section that justice shall inquire into the case and may release him on such a recognizance as is referred to in subsection (4).

(4) The recognizance referred to in subsection (2) and subsection (3) of this section is a recognizance entered into by the person apprehended or his parent or guardian (with or without sureties) for such an amount as will, in the opinion of the justice or police officer before whom the recognizance is taken, secure the attendance of the person on the hearing of the charge on which he was apprehended.

(5) No person shall be released under this section if the justice or police officer inquiring into the case considers that, having regard to the nature of the charge and the other circumstances of the case, the securing of the safe custody of that person is of first importance or that it is in his interests to be removed from bad associations.

(6) A recognizance entered into under this section before a police officer has the like force and effect as if it had been entered into before a justice.

(7) Where a person who has apparently not attained the age of seventeen years has been apprehended, with or without a warrant, and has not been released, he may be placed in custody in such institution as the Director may appoint for the purposes of this subsection or in the charge of some person who is willing to receive him and shall so be placed in custody, unless the justice before whom he is brought, or if he has not been brought before a justice, a police officer, not below the rank of sergeant, or the police officer in charge of the police station to which he is brought, certifies that it is impracticable so to do or that, having regard to the serious nature of the charge or the other circumstances of the case, the securing of the custody of the person apprehended is a matter of first importance.

(8) Where a person is delivered into custody under subsection (7) of this section the person in charge of the institution or the person into whose charge he is delivered (as the case may be) shall detain him, or cause him to be detained, in that institution or in that charge until he can be brought before a court.

(9) Where a certificate is given under subsection (7) of this section the person by whom it is given, shall produce it, or cause it to be produced, to the court before whom the person to which it relates is brought.

(10) Nothing in this section authorizes the detention of a person beyond the time at which it first becomes practicable to bring him before a court.

(11) This section has effect in addition to, and not in derogation of, any other enactment authorizing or requiring a person who has been apprehended or is in custody to be released.

20—(1) Where a children's court, or any other court of summary jurisdiction, finds a child guilty of an offence it shall not, unless it imposes a sentence of imprisonment on the child for that offence or unless having regard to the nature of the offence and to the age and character of the child it considers it desirable in a particular case so to do, cause a conviction to be entered against that child, but, notwithstanding that a conviction is not entered, may impose such penalty upon or make such other order in respect of that child as it could have done if it had convicted him of that offence.

Restrictions on conviction of children. *Ibid.*, s. 46 (3).

(2) A reference in any enactment to a person convicted or to a conviction shall, in the case of a child, be construed as including a reference to a person found guilty of an offence or a finding of guilt, as the case may be.

21—(1) A children's court, or any other court of summary jurisdiction, shall not order a child who has not attained the age of sixteen years to be imprisoned for any offence or to be committed to prison in default of payment of a fine, damages, or costs, or order a child who has attained that age to be imprisoned for more than twelve months for any offence.

Restrictions on punishment of children. *Ibid.*, ss. 46, 51, & 52.

(2) A children's court shall not order a child who has not attained the age of fourteen years to pay a penalty of more than ten pounds for any offence.

(3) So much of any enactment as requires a minimum pecuniary penalty or a minimum term of imprisonment to be imposed on the conviction of any person for an offence does not apply in respect of a child found guilty of that offence.

(4) Where a child is found guilty of an offence that, if committed by an adult, would be punishable by imprisonment without the option of a fine, the court may, without prejudice to any other powers it may have, impose on that child—

(a) if he has not attained the age of fourteen years, a penalty not exceeding ten pounds; or

(b) if he has attained that age, a penalty not exceeding fifty pounds and not exceeding such sum that if the penalty had been imposed on an adult by a court of summary jurisdiction would subject him, under the *Justices Act 1959*, in default of the payment of the penalty to a greater term of imprisonment than that to which he would be liable if he had been convicted of the offence of which the child was found guilty.

(5) Nothing in this section prejudices the power of a court to order the payment of a sum by way of damages or costs.

Placing of children on probation.

22—(1) A court shall not make an order under paragraph II of subsection (1) of section three of the *Probation of Offenders Act 1934* in respect of a child who has not attained the age of fifteen years.

(2) A recognizance entered into under the *Probation of Offenders Act 1934* by a child may bind him to appear before a children's court, notwithstanding that he may attain the age of seventeen years before the time at which he may be required to appear before that court in pursuance of the recognizance, and where the court before which any person is so bound to appear is a children's court, the attainment by that person of the age of seventeen years does not deprive a children's court of jurisdiction to enforce his attendance and deal with him in respect of any failure to observe the conditions of his recognizance or of jurisdiction to vary or discharge the recognizance.

Additional powers of courts of summary jurisdiction in respect of children found guilty of offences.
Ibid., ss. 46, 51, 52, & 55.

23—(1) A children's court, or any other court of summary jurisdiction, by which a child is found guilty of an offence has, in addition to any other powers exercisable by it, power—

- (a) to make an order discharging the child conditionally on his entering into a recognizance for a nominal sum, with sureties, approved by the court, in such sum as the court thinks proper, to be of good behaviour for such period not exceeding twelve months as may be specified in the order, and for the purpose of being further dealt with, to appear before a children's court or some other court of summary jurisdiction when called upon at any time during that period;
- (b) to make a supervision order in respect of the child; or
- (c) to make an order declaring the child to be a ward of the State.

(2) Subject to subsection (3) of this section, where a child has been discharged on entering into a recognizance under paragraph (a) of subsection (1) of this section, a children's court or some other court of summary jurisdiction may, at any time during the period to which the recognizance relates, by summons served on the sureties, require the child to be brought before that court, or such other children's court or other court of summary jurisdiction as may be specified in the summons, at a time and place so specified.

(3) Where a child has been discharged conditionally under subsection (1) of this section by a children's court, he may not be required under this section, to appear or to be brought before a court of summary jurisdiction that is not a children's court.

(4) If a child fails to appear before a court in accordance with a summons served under this section the court may declare the recognizance forfeited and issue a warrant for the apprehension of the child.

(5) Where a child is brought before a court under this section the court may impose such penalty or make such other order as could have been imposed or made by the court by which he was found guilty of the offence for which he was discharged conditionally.

24—(1) Where a child has been found guilty of an offence by a children's court, or any other court of summary jurisdiction, the court may remand him for further information to be obtained with respect to him or for him to be kept under observation in order that the court that finally deals with him should be better informed as to the manner in which he should be dealt with, and where a child is so remanded he shall be committed to custody in the charge of the Director.

Remand for
observation.

(2) Where a court of summary jurisdiction that is not a children's court remands a child under subsection (1) of this section it shall make an order transferring the further proceedings in the case to a children's court held at such a place as it may consider convenient.

(3) On the application of the Director, a special magistrate or a police magistrate may extend the period for which a child is remanded under this section.

(4) Where a child is remanded under this section, any children's court having jurisdiction may, on the application of the Director—

(a) order the further proceedings in the case to be transferred to a children's court held at such place as the court determines, if it considers that, without prejudice to the interests of the child, those proceedings may conveniently be heard by a children's court held at that place; or

(b) impose such sentence or make such other order as it could have done if it had found the child guilty of the offence in respect of which he was remanded.

(5) Nothing in this section authorizes a child to be remanded for any period beyond the expiration of three months from the date on which he was found guilty of the offence in respect of which he was remanded.

(6) Where a child is remanded under this section, it is not necessary for any court which subsequently deals with him to hear evidence as to the commission of the offence of which he was found guilty by the court by which he was remanded, except in so far as it may consider that that evidence will assist the court in determining the manner in which he shall be dealt with.

(7) For the purposes of subsection (4) of this section a children's court has jurisdiction in respect of a child who is remanded under this section, if it is a children's court held at a place at which the children's court is held to which the further proceedings in the case have been transferred under this section, or, if those proceedings have not been so transferred, the children's court by which he was originally remanded or another children's court held at the same place as that at which that court was held.

25—(1) A parent or guardian of a child who, by wilful default or by neglecting to exercise proper care and guardianship of the child, has contributed to the commission of an offence of which that child has been found guilty, is himself guilty of an offence.

Proceedings
against
parents. &c.
Ibid., ss. 47,
48, & 57 (v).

(2) On the conviction of a person for an offence under subsection (1) of this section, the court has, in addition to any other powers exercisable by it, power—

- (a) to impose on him a penalty not exceeding fifty pounds or the amount of any pecuniary penalty that could have been imposed on him if he had been convicted of the offence of which the child has been found guilty (whichever of those sums is the less) ;
- (b) to order him to pay any damages or costs that the court by which the child was found guilty of that offence could have ordered the child to pay; and
- (c) to order him to enter into recognizances, with or without sureties, for the good behaviour of the child for such period, not exceeding twelve months, as the court may determine.

(3) Where on the finding of a child guilty of an offence a court orders him to pay any sum by way of damages or costs and a person is convicted under this section in respect of that offence the court by which that person is convicted may, in addition to or in lieu of exercising any other power, vary that order so as to require that the whole or any part of so much of those damages or costs as have not been recovered or paid shall, instead of being paid by the child, be paid by the person so convicted, and thereupon that order has effect as so varied.

(4) Where the whole or any part of a penalty imposed on a child for an offence is awarded or ordered to be paid to any person (in this section referred to as "the complainant") and a person is convicted of an offence under this section in respect of that offence the court by which that person is convicted may, in addition to or in lieu of exercising any other power, order him to pay to the complainant the whole or any portion of the sum to which the complainant is then entitled under the award or order, and thereupon that award or order ceases to have effect in so far as it relates to the sum so ordered to be paid.

(5) Where a child has been found guilty of an offence by a children's court, or any other court of summary jurisdiction, the Director or an authorized officer may, before the court has imposed any sentence on the child or made any other order on that finding, lay a complaint before any justice of the court charging any person with the commission of an offence under subsection (1) of this section in respect of the offence of which the child has been found guilty.

(6) Where a complaint is laid under subsection (5) of this section before a justice and the court consists of two or more justices, no summons or warrant shall be issued on that complaint (other than a warrant issued for the apprehension of a person to whom a summons has been issued) except with the approval of the court.

(7) Nothing in subsection (5) of this section affects the exercise of any other right of the Director, an authorized

officer, or any other person to lay a complaint charging any person with the commission of an offence under subsection (1) of this section.

(8) Where a summons or warrant has been issued on a complaint charging any person with the commission of an offence under subsection (1) of this section in respect of an offence of which a child has been found guilty, a court in making any decision in respect of the child may have regard to the fact that that summons or warrant has been issued.

(9) A complaint charging any person with the commission of an offence under subsection (1) of this section in respect of an offence of which a child has been found guilty shall be made not later than one month after the child has been found guilty of the offence.

(10) For the purposes of subsection (9) of this section a child shall be deemed to have been found guilty of an offence upon the ordinary date on which the period allowed for making an appeal against that finding or any sentence imposed or other order made on that finding expires, or if such an appeal is made, the date on which the appeal is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

26—(1) A children's court may order any penalty, or a part thereof, imposed on a child to be paid to the complainant in or towards the payment of his costs. Costs in proceedings in children's courts.

(2) Nothing in subsection (1) of this section prejudices the exercise of any other power of a court to award the whole or any part of a fine imposed by it to any person. *Ibid.*, ss. 121 & 122.

(3) The fees paid by a complainant or other person bringing proceedings in a children's court shall, in so far as they are in excess of any costs awarded to him or any penalty, or part thereof ordered to be paid to him, be remitted or repaid to him, unless the court otherwise orders.

27—(1) Where a child who has not attained the age of fourteen years is charged before a children's court with an indictable offence, other than murder, attempt to murder, manslaughter, or wounding with intent to do grievous bodily harm, the court shall hear and determine the charge as if it were a charge for an offence punishable on summary conviction before justices. Indictable offences by children. *Ibid.*, ss. 51 & 52.

(2) Where a child who has attained the age of fourteen years is charged before a children's court with an indictable offence, other than murder, attempt to murder, manslaughter, rape, wounding with intent to do grievous bodily harm, or robbery with violence, the court shall ask him if he is willing to be tried by the court, instead of by a jury, and if he, or his parent or guardian, does not object to his being tried by the court, the court shall hear and determine the charge as if it were a charge for an offence punishable on summary conviction before justices.

(3) Where an objection is made under subsection (2) of this section, the magistrate or justices constituting the court shall proceed as justices examining into the charge.

(4) Where a charge is heard and determined by a children's court under this section, the complaint shall be deemed to be good and sufficient if it was good and sufficient for the purposes of Part V of the *Justices Act 1959*.

(5) Where, under this section, a charge for an indictable offence is heard as if it were a charge for an offence punishable on summary conviction before justices, the accused may be found guilty of any other offence of which he might have been convicted if he had been tried on indictment for that offence and, with the consent of the prosecutor, may plead that he is guilty of such an offence.

(6) Where, on a charge heard and determined by a children's court under this section, a child is found guilty of an offence the court, without prejudice to the exercise of any other powers it may have, may, subject to section twenty-one, order him to be imprisoned or impose on him a penalty not exceeding fifty pounds.

(7) Where a child is charged before a court of summary jurisdiction, other than a children's court, with an indictable offence that, by virtue of any enactment, may, if the accused does not object or if he does not elect to be tried on the charge by jury, be heard and determined as an offence punishable on summary conviction before justices, that charge shall not be so heard and determined if, at the time at which the child is entitled so to object or so to elect, a parent or guardian of his objects to its being so heard and determined or elects that the child should be tried on the charge by a jury.

28—(1) Where a child is convicted on indictment, the court may, in addition to or in lieu of exercising any other powers exercisable by it—

- (a) make a supervision order in respect of the child;
- or
- (b) make an order declaring the child to be a ward of the State,

and, for the purposes of the *Criminal Code*, the making of any such order shall be deemed to be a sentence.

(2) Where a child is convicted on indictment and judgment is not arrested, the court, instead of proceeding as provided in section three hundred and eighty-six of the *Criminal Code*, may commit the child to custody in the charge of the Director to appear and receive judgment at some future sittings of the court specified by the court on so committing him to custody.

29—(1) A court, on remanding or committing for trial a child who is not released on bail, shall, instead of committing him to a gaol or other place of custody, commit him to custody in the charge of the Director, to be thus detained for the period for which he is remanded or until he is delivered in due course of law.

(2) Subsection (1) of this section does not apply where the court by whom the child is remanded or committed for trial considers that, having regard to the seriousness of the offence and the other circumstances of the case, the securing of the safe custody of the child is a matter of first importance.

Additional powers of Supreme Court in respect of convicted children.

Ibid., s. 57.

Remand and committal of children in custody.

Ibid., s. 53.

(3) Where a child who, having been remanded or committed for trial is in legal custody, otherwise than in the charge of the Director, the Minister may by an order in writing delivered to the gaoler order that child to be removed from the gaol or other place in which he is detained to the institution specified in the order, and the gaoler shall remove that child, or cause him to be removed, from that gaol or other place to the institution specified in the order and deliver him, or cause him to be delivered, into the charge of the person in charge of that institution and the order is sufficient authority for detention of the child in the institution.

(4) The provisions of any enactment with respect to the release or deliverance from gaol of a person who, on being remanded or committed for trial, has been committed thereto apply in respect of a child detained under this section as if he were detained in gaol and as if the Director or the person in charge of the institution referred to in subsection (3) of this section (as the case may be), were the gaoler thereof.

(5) In this section "gaoler" means, when used in relation to a gaol or other place, the gaoler of that gaol or the police officer or other person in charge of that place.

30—(1) Where a child is sentenced to imprisonment he may, at any time during which he is subject to the sentence, be detained in such place and under such conditions as the Minister may direct. Imprisonment of children. *Ibid.*, ss. 64 and 65.

(2) While a person is being detained in a place under subsection (1) of this section or is being conveyed to or from such a place, he shall be deemed to be in legal custody.

(3) A person who is being detained in a place under subsection (1) of this section may be released by the Governor on licence.

(4) A licence under this section shall be in such form as the Governor may determine, and upon such conditions as the Governor may determine.

(5) The Governor may revoke a licence granted under this section, and, if on the revocation of a licence, the person to whom it relates does not return to the place from which he was released, he may be apprehended and taken to that place.

Division III—Neglected children and uncontrolled children.

31—(1) For the purposes of this Act a neglected child means a child— Definition of neglected child. *Ibid.*, s. 3.

- (a) who, having no parent or guardian or a parent or guardian unfit to exercise care and guardianship or not exercising proper care and guardianship, is in need of care or protection, in order to secure that he is properly cared for or that he is prevented from falling into bad associations or from being exposed to moral danger;
- (b) who is beyond the control of the parents or guardians with whom he is living;
- (c) who associates or lives with a person who is, or is reputed to be, an habitual thief, or a drunkard,

- or a prostitute, or with a person who has no apparent lawful means of support;
- (d) who is found wandering without any settled place of abode or without visible means of subsistence, or is found begging or receiving alms (whether or not there is any pretence of singing, performing, or offering anything for sale) or is found loitering for the purpose of so begging or receiving alms;
 - (e) who is found in a brothel or a place reputed to be used as a brothel, or in a place where opium, or any preparation thereof, is smoked;
 - (f) who, being a female, solicits, importunes, or accosts any person for immoral purposes;
 - (g) who, not having attained the age of sixteen years, is an habitual truant from school and in respect of whom there have been at least two convictions for offences under section nine of the *Education Act 1932*; or
 - (h) who dwells with, or in the same house as, a person suffering from a venereal disease or from tuberculosis in conditions that are dangerous to his health.

(2) Without prejudice to the generality of the provisions of paragraph (a) of subsection (1) of this section, proper care and guardianship shall be deemed not to be exercised in respect of a child if he is not provided with necessary food, lodging, clothing, medical aid, or nursing, or if he is neglected, ill-treated, or exposed by his parent or guardian.

32—(1) Where a justice is satisfied, on the oath of the Director, a child welfare officer, a police officer, or some person of good repute that there are reasonable grounds for believing that any person is a neglected child he may—

- (a) issue a summons to any person who appears to have the charge or custody of that person requiring him to bring that person before a children's court at such place and at such time as may be specified in the summons; or
- (b) issue a warrant authorizing a child welfare officer or a police officer to bring the person believed to be a neglected child before a children's court.

(2) Where a summons has been issued under subsection (1) of this section a justice may, before or after the time for appearance specified therein, issue a warrant authorizing a child welfare officer or a police officer to bring the person believed to be a neglected child before a children's court.

(3) Where a justice is satisfied, on the oath of the Director, a child welfare officer, a police officer or some person of good repute, that there are reasonable grounds for believing that there is in any place a person who is a neglected child he may

Bringing of neglected children before children's court.

Ibid., ss. 38, 39, 40, & 41.

issue a warrant authorizing a police officer to search that place and bring before a children's court any person therein who appears to him to be a neglected child.

(4) In the exercise of the powers conferred on him by a warrant issued under subsection (3) of this section, a police officer may be accompanied by the person on whose oath the warrant was issued, unless the justice issuing the warrant otherwise directs.

33 A person who has the care or custody of a child may bring that child before a children's court if he considers that the child is beyond his control.

Bringing of uncontrolled children before children's court by parents, &c.

Ibid., s. 43 (1).

34—(1) Where a children's court considers that a child brought before it is a neglected child or that a child brought before it under section thirty-three is beyond the control of the person by whom he is brought before the court, the court, subject to this section, may, if it thinks it in the interests of the child so to do—

Powers of children's court in respect of neglected and uncontrolled children.

Ibid., s. 45.

(a) make an order declaring the child to be a ward of the State; or

(b) make a supervision order in respect of the child.

(2) Where a child is found by a children's court to be a neglected child the court, unless it makes an order declaring the child to be a ward of the State, may, whether or not it makes a supervision order in respect of the child, order a parent or guardian of the child to enter into recognizances, with or without sureties, to provide proper care and control for the child and to comply with such conditions as the court considers reasonable in the circumstances.

(3) If a recognizance entered into under this section is forfeited, a children's court may, on the application of the Director, if it considers it necessary or desirable in the circumstances so to do, vary any supervision order in force in respect of the child, or make such other order as could have been made at the time at which the recognizance was ordered to be entered into.

(4) Where a child is brought before a children's court under section thirty-three, the court may decline to make an order declaring the child to be a ward of the State unless security is given to the satisfaction of the court for the making of such payments by the person by whom the child was brought before the court as, in the opinion of the court, he is able to afford towards the care and maintenance of the child.

(5) Where the father and mother of a child who is brought before a children's court under section thirty-three are living apart, and either of those persons, not being the person by whom the child was brought before the court, satisfies the court that he or she is able and willing to control the child and that the control that he or she is able and willing to exercise will not be prejudicial to the welfare of the child, the court may, whether or not it makes a supervision order in respect of the child, make an order committing the custody of the child to that person.