

No. 40 of 1991.

Juvenile Courts Act 1991.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 40 of 1991.

Juvenile Courts Act 1991.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Juvenile Courts Act 1991,

Being an Act, as authorized by Section 172 (*Establishment of other courts*) of the *Constitution*, to provide for a system of Juvenile Courts, their jurisdiction, powers, duties, practice and procedure; to amend and repeal certain provisions of the *Child Welfare Act 1961* and the *Village Courts Act 1989*, and for related purposes.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

For the purposes of Section 29 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this law relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**Court**” means—

- (a) a Juvenile Court; or
- (b) a court of summary jurisdiction or the National Court, exercising the jurisdiction of a Juvenile Court under this Act;

“**custody**” means the custody of a juvenile in a juvenile institution;

“**Director**” means the Director of the Juvenile Courts Service;

“**Director of Child Welfare**” means the person appointed as such under the *Child Welfare Act 1961*;

“**imprisonment**” means the imprisonment of a juvenile in the juvenile section of a corrective institution;

“infant” means a person aged less than seven years;

“institution” means—

- (a) a juvenile section of a corrective institution; or
- (b) a juvenile institution; or
- (c) a remand centre,
approved under Section 47;

“juvenile” means a person aged not less than seven years and less than 18 years;

“Juvenile Court” means a Juvenile Court established under Section 5;

“Juvenile Court Officer” means a Juvenile Court Officer appointed to the Juvenile Court Service under Section 9;

“juvenile institution” means a juvenile institution approved under Section 47;

“Juvenile Court Magistrate” means a Magistrate appointed as such under Section 6;

“magistrate” means—

- (a) a Juvenile Court Magistrate; or
- (b) a Magistrate of a court of summary jurisdiction exercising jurisdiction in accordance with Section 17;

“parent” in relation to a juvenile, means a parent of that juvenile, and includes a guardian of the juvenile;

“pre-sentencing report” means a report prepared under Section 29;

“probation officer” means a probation officer appointed under the *Probation Act 1979*;

“remand centre” means an institution approved as a remand centre under Section 47;

“responsible person” means a person other than a parent of a juvenile, who agrees to accept control or care of the juvenile, and includes a guardian of the juvenile;

“review” means a review of a sentence under Part VIII;

“review report” means a report prepared under Section 36;

“Service” means the Juvenile Courts Service established by Section 8;

“Superintendent” means the person in charge of a juvenile institution or remand centre;

“this Act” includes the Regulations;

“ward” means a juvenile—

- (a) committed under this Act to the care of the Director; or
- (b) made a ward of the Director in accordance with an order of a Court.

3. DETERMINATION OF AGE.

(1) Where a person apparently under the age of 18 years is arrested or detained and there is doubt or dispute as to the age of the person, the age shall, subject to Subsection (2) and in the absence of evidence to the contrary be as determined by a Juvenile Court Officer.

(2) Where in any proceedings under this Act, there is doubt or dispute as to the age of the defendant, the age shall, in the absence of evidence to the contrary, be as determined by the Court.

(3) In making a determination of age under this section, regard shall be had to—

- (a) the development, maturity and conduct of the juvenile; and
- (b) any other information that may be available.

4. INTERESTS OF JUVENILE PARAMOUNT.

In the proceedings and actions under this Act, the interests of a juvenile shall be the paramount consideration.

PART II. – JUVENILE COURTS.

5. ESTABLISHMENT OF JUVENILE COURTS.

The Minister may, by notice in the National Gazette, establish a Juvenile Court in and for an area specified in the notice.

6. APPOINTMENT OF JUVENILE COURT MAGISTRATES.

The Chief Magistrate may appoint as Juvenile Court Magistrates, such Magistrates as in his opinion have the necessary qualification, training and experience to be so appointed.

7. SITTINGS OF JUVENILE COURTS.

A Juvenile Court may sit at any place in the area for which it is established and may, subject to Section 26, be adjourned from time to time and from place to place.

PART III. – JUVENILE COURTS SERVICE.

8. ESTABLISHMENT OF JUVENILE COURTS SERVICE.

The Juvenile Courts Service is hereby established.

9. MEMBERS OF THE SERVICE.

For the purposes of the Service, there shall be—

- (a) a Director; and
- (b) such number of Juvenile Court Officers as are required,

who shall be officers or employees of the Public Service and shall be officers of the court.

10. FUNCTIONS, ETC., OF THE DIRECTOR.

The Director—

- (a) is responsible for the operation of the Service; and
- (b) has and may exercise any powers, or perform any duties or functions, of a Juvenile Court Officer; and
- (c) has such other functions, powers, duties and responsibilities as are prescribed by or under this Act or any other law; and
- (d) shall, as soon as practicable after 31 March in each year, submit to the Minister a report on the operation of the Service during the year ending on the preceding 31 December, and on any other matter connected with the Service as he thinks fit or as required by the Minister.

11. DELEGATION OF DIRECTOR'S FUNCTIONS, ETC.

The Director may, by instrument, delegate to a Juvenile Court Officer all or any of his powers, functions, duties and responsibilities under this Act, except this power of delegation.

12. FUNCTIONS OF JUVENILE COURT OFFICERS.

A Juvenile Court Officer shall—

- (a) establish and maintain an adequate system of confidential records; and
- (b) prepare and submit such reports and records as a Court or the Director may require; and
- (c) perform such other functions as—
 - (i) are specified in the Act; or
 - (ii) the Director may reasonably require; or
 - (iii) may be prescribed.

13. POWERS OF JUVENILE COURT OFFICERS.

(1) Juvenile Court Officer may—

- (a) enter any police station, lock-up or any other place of detention, for the purpose of interviewing a juvenile or a ward; and
- (b) be present at the interrogation of a juvenile or a ward; and
- (c) advise a juvenile or a ward of his legal rights and of his right to refuse to answer questions; and
- (d) question an arresting officer in respect of a juvenile or a ward who is arrested or who is charged with, or in connection with, an offence; and
- (e) attend in any Court and be heard in connection with any charge against a juvenile or a ward to whom he is assigned; and
- (f) make submissions in respect of a sentence to be imposed on a juvenile or a ward; and
- (g) counsel or advise a juvenile or a ward.

(2) A Juvenile Court Officer may commence, appear in or continue any proceedings or action on behalf of any other Juvenile Court Officer.

(3) A person who hinders or obstructs a Juvenile Court Officer in the exercise of his powers under this Act is guilty of an offence.

Penalty: A fine not exceeding K300.00 or imprisonment for a term not exceeding three months, or both.

14. PROTECTION OF MEMBER OF THE SERVICE.

A member of the Service is not liable to any action, claim or proceedings for any act done by him, in good faith in the exercise of his powers, functions, duties or responsibilities under this Act.

PART IV. – JURISDICTION.

15. GENERAL JURISDICTION.

A Juvenile Court has jurisdiction in the area for which it is established under Section 5, in respect of a juvenile—

- (a) to hear and determine summarily all offences otherwise triable in a District Court or Local Court; and
- (b) where the juvenile is charged with an indictable offence other than homicide, rape or other offence punishable by death or imprisonment for life, to hear and determine the charge summarily in accordance with the provisions of this Act.

16. LIMITATION ON JURISDICTION.

(1) Subject to Section 45, a Juvenile Court has no jurisdiction in respect of proceedings against a person aged 18 years or upwards.

(2) Where in any proceedings under this Act, a Court determines that at the time a person is alleged to have committed an offence, that person—

- (a) has attained the age of 18 years, the Court shall transfer the proceedings to a District Court or a Local Court, as the case requires; or
- (b) is an infant, the Court shall discharge him.

17. EXERCISE OF JURISDICTION BY COURTS OF SUMMARY JURISDICTION.

(1) Where—

- (a) no Juvenile Court has been established in an area; or
- (b) a Juvenile Court Magistrate has not been appointed or is absent from duty; or
- (c) it is impracticable for a juvenile to be brought before a Juvenile Court,

a court of summary jurisdiction may, subject to Subsection (2), exercise in and for that area the jurisdiction conferred by this Act on a Juvenile Court.

(2) A court of summary jurisdiction exercising jurisdiction under Subsection (1)—

- (a) shall, so far as is practicable, sit and conduct proceedings in accordance with this Act; and
- (b) may only impose orders of probation in accordance with Section 30(2)(c)(iii),

or, where it considers that the nature or circumstances of the offence are of sufficient gravity, it may—

- (c) order that the case be heard by a properly constituted Juvenile Court; or

- (d) hear and determine the case in accordance with this Act and order that the case be sent to a Juvenile Court for an order of sentence under Section 30(2).

18. EXERCISE OF JURISDICTION BY NATIONAL COURT.

(1) Where a juvenile is charged with homicide, rape or other offence punishable by death or imprisonment for life—

- (a) the committal proceedings shall be dealt with by a Juvenile Court; and
- (b) subject to Subsection (2), the trial shall be heard and determined by the National Court.

(2) For the purposes of Subsection (1)(b)—

- (a) the provisions of this Act with respect to procedure shall have effect; and
- (b) the National Court may exercise the sentencing powers conferred by this Act on a Juvenile Court.

PART V. – PROCEDURE FOR ARREST AND DETENTION OF JUVENILES.

19. INTERPRETATION OF THIS PART.

(1) In this Part, “**officer in charge**” means the member of the Police Force in charge of the police station at the time of the detention or arrest, as the case may be, under this Part.

(2) Where notification etc., of a parent or responsible person is required under this Part, and such a parent or person cannot, with reasonable diligence, be found, it is sufficient to notify a Juvenile Court Officer only.

20. DETENTION OF INFANT.

(1) Where an infant is detained by a member of the Police Force, or in accordance with Subsection (2), the officer in charge of the police station to which the infant is brought shall immediately—

- (a) notify a parent or a responsible person, and a Juvenile Court Officer, of the whereabouts and the reasons of the detention of the infant; and
- (b) allow access to the infant by all or any of the persons referred to in Paragraph (a),

and shall, as soon as practicable—

- (c) release the infant into the care of a parent or responsible person or Juvenile Court Officer; or
- (d) where compliance with Paragraph (c) is not practicable—place the infant in a remand centre or in such other place as is approved by the Director for that purpose.

(2) Where an infant is detained by a person other than a member of the Police Force, the person shall immediately notify a Police Officer, who shall proceed in accordance with Subsection (1).

(3) Where an infant has been placed in a remand centre under Subsection (1)(d), the infant shall, as soon as practicable, be brought before a Magistrate, who shall order the release of the infant to a Juvenile Court Officer, a parent or a responsible person.

21. ARREST OF JUVENILE.

(1) In this Section—

“**bail authority**” means an authority empowered to grant bail in accordance with the *Bail Act 1977*.

(2) Where a juvenile is arrested by a member of the Police Force, or in accordance with Subsection (3), the officer in charge of the police station shall—

- (a) immediately notify a parent or a responsible person, and a Juvenile Court Officer, and shall allow access by all or any of them to the juvenile; and
- (b) place the juvenile in a remand centre or in such other place as is approved by the Director for that purpose; and
- (c) notify a Juvenile Court Officer of the arrest, the reasons for the arrest and the place of detention.

(3) Where a juvenile is arrested by a person other than a member of the Police Force, the person shall immediately notify the police, who shall proceed in accordance with Subsection (2).

(4) Where a juvenile has been charged and placed on remand under Subsection (2), the Juvenile Court Officer notified shall—

- (a) where the parent or responsible person has not yet been notified—notify a parent of the juvenile or a responsible person; and
- (b) where the juvenile is on probation—notify a probation officer,

of the arrest of the juvenile.

(5) Where a juvenile is granted bail, the bail authority may require, as a condition of bail, that the juvenile be placed in the care of a parent or responsible person who agrees to accept him.

22. CIVIL REMEDY FOR WRONGFUL DETENTION OR ARREST.

(1) A person who detains an infant or arrests a juvenile under this Part and who—

- (a) exercises a power conferred by this Part in breach of this Part; or
- (b) performs a duty imposed by this Part in breach of this Part; or
- (c) fails or refuses to perform a duty imposed by this Part,

may be liable in damages to the person aggrieved by the breach, failure or refusal.

(2) An action under Subsection (1) may be brought—

- (a) in the National Court; or
- (b) in a District Court, which has jurisdiction within the limits prescribed by Section 21 of the *District Courts Act 1963*.

(3) In an action under Subsection (1), a court may award exemplary damages.

(4) The provisions of this Section are in addition to and not in derogation of the provisions of the *Constitution* or any other law dealing with the enforcement of any constitutional right, power, duty, restriction or prohibition.

(5) For the purpose of any action under Subsection (1), where the detention or arrest would otherwise be within the scope of a person's employment, the mere non-compliance by an employee with a provision of this Part does not, of itself, take any

act of the employee, committed during the course of the detention or arrest, outside the scope of his employment.

(6) A member of the Police Force against whom proceedings are brought under Section 22(1) shall be indemnified in the same manner and to the same extent as a policeman is indemnified under Section 29 of the *Arrest Act 1977*, and a reference to Section 26(1) in that Section shall be read as if it were a reference to Section 22(1) of this Act.

PART VI. – PRACTICE AND PROCEDURE.

23. JUVENILE COURT SITTINGS TO BE CLOSED.

(1) At a sitting, a Court shall–

- (a) conduct proceedings in camera; and
- (b) reduce to a minimum contacts between–
 - (i) a juvenile and the public; and
 - (ii) a juvenile and an offender appearing before any other court.

(2) In any proceedings before a Court, no persons shall be present other than the following:–

- (a) the Director;
- (b) Juvenile Court Officers;
- (c) probation officers;
- (d) officers or members of the Court;
- (e) persons immediately concerned with the proceedings;
- (f) any legal representative of any party to the proceedings;
- (g) parents or responsible persons in relation to any party to the proceedings;
- (h) members of the Police Force;
- (i) any person who has supplied a pre-sentencing report in relation to a party to the proceedings;
- (j) witnesses;
- (k) any other person by leave of the Court.

24. PRESENCE OF JUVENILE COURT OFFICER AT SITTINGS.

A Court–

- (a) shall permit a Juvenile Court Officer to be present at any stage during its sitting; and
- (b) unless it is impracticable to secure the presence of a Juvenile Court Officer, may not pass sentence under Section 30.

25. CONDUCT OF PROCEEDING GENERALLY.

(1) In all hearings under this Act, a Court–

- (a) shall allow proceedings to be conducted so as to receive all matters, facts and opinions into evidence and shall not be bound by strict rules of evidence; and

(b) where it considers it necessary or desirable, may adjourn the proceedings and discuss any relevant matter with the juvenile or any other person immediately concerned with the matter.

(2) Where a matter, fact or opinion has been received into evidence in accordance with Subsection (1)(b), the weight to be given to such matter, fact or opinion, as the case may be, shall be as determined by the magistrate.

(3) Where a discussion takes place in accordance with Subsection (1)(b), the magistrate shall take notes of the matters discussed and read the notes to the parties when the hearing resumes.

(4) Nothing in this Section prevents a juvenile from being represented by a lawyer.

26. ADJOURNMENT OF PROCEEDINGS.

No adjournment of proceedings may exceed 14 days, unless otherwise agreed between the prosecutor and—

- (a) the juvenile; or
- (b) the person advising or representing the juvenile.

27. PROCEDURE IN TAKING PLEA OF JUVENILE.

(1) Where a juvenile appears before a Court charged with an offence, the Court shall follow the procedure set out in this section.

(2) The magistrate shall read the charge and where necessary question the prosecutor in order to obtain sufficient information to enable him to determine whether an offence is disclosed.

(3) Where the magistrate considers that an offence has been disclosed, he shall—

- (a) put the charge; and
- (b) read and explain particulars or substance of the charge,

to the juvenile, if necessary by means of an interpreter, in simple language and in a manner and terms in keeping with the age and level of understanding of the juvenile, and shall ask the juvenile whether he admits or denies the charge.

(4) Where the juvenile denies the charge, the Court may—

- (a) proceed to hear the charge; or
- (b) adjourn to a date for trial.

(5) Where the juvenile admits the charge—

- (a) the prosecutor shall give a statement of the facts to the magistrate; and
- (b) the magistrate shall put the individual allegations as questions to the juvenile; and

(c) the juvenile shall answer whether any or all of the allegations are true or not true; and

(d) the magistrate shall record the answer to each allegation put to the juvenile in accordance with Paragraph (b).

(6) Where—

(a) the juvenile does not dispute any of the allegations put to him in accordance with Subsection (5)(b); and

(b) an offence is disclosed,

a plea of guilty shall be recorded.

(7) Where the juvenile does not accept any one or more of the allegations, the magistrate shall—

(a) decide whether or not the answers on the remaining undisputed facts are sufficient to establish a plea of guilty; and

(b) where he so decides, ask the prosecutor whether—

(i) he is prepared to accept the version of facts offered by the juvenile as a plea of guilty; or

(ii) he wishes to proceed to trial to prove all the particulars alleged in the statement of facts.

(8) Where the prosecutor is prepared to accept the version of facts offered by the juvenile under Subsection (7)(b)(i) and the version discloses an offence, a plea of guilty shall be recorded.

(9) Where—

(a) the prosecutor is not prepared to accept the version of facts offered by the juvenile under Subsection (7)(b)(i); and

(b) the Court considers that the difference in the version of the facts offered by the juvenile and the prosecutor is substantial and material to the determination of guilt or innocence or the severity of sentence,

the magistrate shall change the plea to not guilty and proceed to hear the charge or adjourn to a date for trial.

(10) Where at any stage after a plea of guilty has been entered under this section, and before sentence has been passed—

(a) the juvenile alleges a defence or claims he is not guilty; or

(b) it appears to the Court that a defence has been raised,

the plea shall be changed to not guilty and the matter adjourned to a date of trial.

28. RESTRICTION OF PUBLICATION OF PROCEEDINGS.

(1) A person shall not publish a report of proceedings, or the result of proceedings, before a Court under this Act unless, subject to Subsection (2)—

- (a) the Court expressly authorizes the publication; or
- (b) where the publication is of a technical nature intended for circulation amongst the members of the legal, medical, teaching, psychological or social welfare professions, authorization is given by the Director.

(2) Nothing under Subsection (1) authorizes the publication of—

- (a) the name of the juvenile involved in the proceedings; or
- (b) the name of the school the juvenile is attending; or
- (c) the name of an employer, village or place of residence of the juvenile; or
- (d) any other particulars which are likely to lead to the identification of the juvenile, his school, employer, village or place of residence.

(3) A person who publishes a report of proceedings, or the result or proceedings, before a Court under this Act, except in accordance with this section, is guilty of an offence.

Penalty: In the case of:

- (a) an individual person—a fine not exceeding K500.00 or imprisonment for a term not exceeding two months, or both; and
- (b) a corporation—a fine not exceeding K10,000.00.

PART VII. – SENTENCES OF THE COURT.**29. PRE-SENTENCE REPORTS.**

(1) Where a Court is satisfied that an offence has been proven, or where the juvenile admits the facts constituting the offence, the Court shall, before imposing sentence, order the Juvenile Court Officer to prepare a pre-sentence report in respect of the juvenile.

(2) A pre-sentence report shall contain–

- (a) all information relevant to the exercise of the powers of the Court under Section 30, including–
 - (i) a report of any interview with the juvenile; and
 - (ii) where practicable, a report of any interview with a parent of the juvenile or a responsible person with whom the juvenile is living; and
 - (iii) reports of interviews with any person which are relevant to the proceedings; and
 - (iv) any social background information which the person making the report may consider relevant; and
- (b) a recommendation as to the most appropriate sentence to be imposed on the juvenile in accordance with Section 30; and
- (c) where the recommendation under Paragraph (b) is that the juvenile be sentenced to a juvenile institution, a copy of the Superintendent's advice that he is capable of accepting the juvenile in accordance with Section 49(2).

(3) A copy of a pre-sentence report shall not be made available to any person, except to–

- (a) the juvenile and his parents; and
- (b) the lawyers representing parties in the case; and
- (c) the persons specified in Subsection (4); and
- (d) any other person with the consent of the Court.

(4) The Juvenile Court Officer shall give a copy of a pre-sentence report as follows:–

- (a) where the juvenile is sentenced to imprisonment in a corrective institution–to the officer in charge of the corrective institution;
- (b) where the juvenile is sentenced to custody in a juvenile institution–to the Superintendent of the juvenile institution;
- (c) where the juvenile is sentenced to probation–to the probation officer;
- (d) in any case, to the Director.

30. POWERS OF COURT TO MAKE ORDERS.

(1) Where the Court is satisfied that an offence has been proven, or where the juvenile admits the facts constituting the offence, the Court shall, after considering the pre-sentence report and any other relevant matters before it, make any one or more of the orders specified under Subsection (2).

(2) Subject to this section, the Court may, in addition to any other powers under this Act or any other law—

- (a) where it considers that the appearance of the juvenile before it has served the purposes of this Act—order the discharge of the juvenile without conviction; or
- (b) enter a conviction but impose no further order and discharge the juvenile; or
- (c) enter a conviction and order any one or more of the following:—
 - (i) having regard to the ability of the juvenile to pay, order him to pay a fine of an amount not exceeding K200.00;
 - (ii) having regard to the ability of the juvenile to pay, order him to pay damages of an amount not exceeding K200.00 to a person named in the order;
 - (iii) subject to Section 32, order that the juvenile be placed on probation in accordance with the *Probation Act 1979* for a period of not less than six months but not more than three years;
 - (iv) order that the juvenile be made a ward of the Director of Child Welfare;
 - (v) after taking into account the factors specified in Section 31, order that the juvenile be made a ward and committed to the care of the Director, with a directive that the ward be committed to custody in a juvenile institution selected by the Director;
 - (vi) after taking into account the factors specified in Section 31, and subject to Subsection (5), sentence the juvenile to a term of imprisonment in the juvenile section of a corrective institution.

(3) The total of time periods specified in any combination of orders under Subsection (2), with the exception of an order of wardship under Subsection (2)(c)(iv), shall not exceed three years.

(4) A sentence of custody in a juvenile institution under Subsection (2)(c)(v)—

- (a) shall not be made unless the Magistrate is satisfied that the Superintendent of the institution is capable of accepting the juvenile; and
- (b) shall not be for any definite period, but shall be subject to a review in accordance with Part VIII at intervals not exceeding six months or such lesser period as the Court orders; and

(c) in any case shall determine when the juvenile attains the age of 18 years, at which time he shall be released.

(5) A term of imprisonment under Subsection (2)(c)(vi)–

(a) shall not be made unless the magistrate is satisfied that the corrective institution has the appropriate facilities for the imprisonment of the juvenile according to Section 48; and

(b) shall not include hard labour or exceed 18 months cumulatively; and

(c) shall be subject to a custody review in accordance with Part VIII at intervals not exceeding six months or such lesser period as the Court orders.

(6) Where a Court orders a term of imprisonment under this section, the Court may–

(a) in addition, make some other order under Subsection (2); and

(b) order the suspension of the term of imprisonment and place the juvenile on probation with the condition that the other order is complied with.

(7) Where the other order referred to in Subsection (6) is not carried out, the term of imprisonment originally imposed shall take effect.

(8) Where an order is made under Subsection (2)(c)(iii), (iv) or (v), the Court may order that the juvenile is detained in a remand centre until the Director, the Director of Child Welfare or a probation officer, as the case may be, is able to accept responsibility for the juvenile as ordered.

31. FACTORS TO BE TAKEN INTO ACCOUNT IN COMMITMENT TO IMPRISONMENT OR CUSTODY.

In reaching a decision as to whether a juvenile should be committed to imprisonment or custody, the Court shall take into account the following factors:–

(a) the seriousness of the offence and the circumstances in which it was committed;

(b) the age, maturity, education, health, character and attitude of the juvenile;

(c) the juvenile's parental and family background as well as the social and community environment in which he lives and to which he is likely to return;

(d) the juvenile's previous history in respect of offences and his responses to previous orders in relation to those offences;

(e) the community services and facilities that are available to assist the juvenile and his willingness to use those services or facilities;

(f) any proposals that the juvenile or his parents may put forward for the future improvement of the juvenile;

- (g) any views of a Juvenile Court Officer in relation to the juvenile;
- (h) any views of any person who is involved in the education or custody of the juvenile;
- (i) any other factor that the Court may consider relevant.

32. CONDITIONS RELATING TO PROBATION.

(1) In addition to any conditions that shall or may be imposed in a probation order under the *Probation Act 1979*, a probation order made under this Act shall—

- (a) require the juvenile to notify the probation officer of any changes in his employment circumstances or place of education; and
- (b) direct the juvenile to remain under the care of a parent or responsible person during the period of probation; and
- (c) where—
 - (i) a responsible person volunteers to care for the juvenile; and
 - (ii) the parents or guardians agree; and
 - (iii) the Court orders it,

direct the juvenile to reside with that responsible person.

(2) In addition to the conditions specified in Subsection (1), a Court may impose all or any of the following conditions:—

- (a) that the juvenile attends a specified school or place of learning during a specified period of time;
- (b) that the juvenile takes up such employment approved by his probation officer as may be available to him for a specified period of time;
- (c) that the juvenile is restrained from being in the vicinity of certain places, or in the company of certain persons, at all or certain times, as the Court may specify;
- (d) that the juvenile is restrained from being in the vicinity of certain places, or in the company of certain persons, at all or certain times, as the Court may specify;
- (e) that the juvenile performs an appropriate community service, not to exceed a total period of 50 hours;
- (f) where, as a result of the commission of an offence by a juvenile, another person suffers—
 - (i) loss of, or damage to, property; or
 - (ii) loss of income or support; or
 - (iii) personal injury,

and that person consents—that the juvenile make restitution to that person—

- (iv) in kind or in value; or
- (v) by performing such services or doing such thing as the Court may determine to be an appropriate restitution;
- (g) where the Court finds that the offence of which the juvenile is convicted is as a result of or in relation to the use of a motor vehicle—that the juvenile is prohibited from owning or using a motor vehicle for a period not exceeding three years;
- (h) where the Court finds that the offence of which the juvenile is convicted is as a result of the use of alcohol or of a dangerous drug within the meaning of the *Dangerous Drugs Act 1952* that—
 - (i) the juvenile shall not use alcohol or dangerous drugs, unless legitimately prescribed by a medical practitioner, for a period not exceeding three years; and
 - (ii) where necessary, the juvenile shall undergo treatment for the purpose of overcoming problems associated with the use of alcohol or dangerous drugs;
- (i) such other conditions as the Court considers necessary in the circumstances of the case for ensuring compliance by the juvenile with the conditions of the order and for his good conduct.

33. FAILURE TO COMPLY WITH ORDER.

(1) A juvenile who wilfully fails to comply with an order of a Court imposed on him under Section 30, other than an order for probation, is guilty of an offence

(2) In determining a penalty for an offence under Subsection (1), a Court may make any order in accordance with Section 30.

(3) A prosecution under Subsection (1) may only be brought in a Juvenile Court.

PART VIII. – REVIEW AND VARIATION OF ORDERS.

34. APPLICATION FOR REVIEW OF ORDER.

(1) An application for review of an order made in respect of a juvenile under Section 30 or a variation of an order under Section 37, other than an order for probation, may be made to a Court by–

- (a) the Director, a Juvenile Court Officer or a probation officer; or
- (b) the juvenile; or
- (c) a parent or responsible person,

on the grounds that–

- (d) there has been a change in the circumstances of the juvenile or those in whose care and custody he has been placed; or
- (e) it would be otherwise in the best interests of the juvenile.

(2) Except by leave of the Court, a review under Subsection (1) shall not be made within a period of–

- (a) six months from the date of the original order; or
- (b) where the order has been varied, six months from the date of the last variation of the order.

(3) Where the order made under Section 30 or varied under Section 37 is or includes an order of custody or imprisonment, the Director shall apply for review of the order–

- (a) every six months from the date of the original order; or
- (b) where the order has been varied–six months from the date of the last variation of the order; or
- (c) at such lesser intervals as the Court orders at the time of making or varying the order.

35. REVIEW BY NATIONAL COURT.

Where the review relates to a sentence imposed by the National Court, the application for review shall be made to the National Court, which has and may exercise all the powers of a Juvenile Court under this Part.

36. REVIEW REPORT.

(1) Where application for review has been made, a Juvenile Court Officer shall prepare a review report on the juvenile, which shall contain–

- (a) views and comments of all persons who have been concerned with the custody and welfare of the juvenile since the imposition of sentence on him; and

(b) the recommendations of the Juvenile Court Officer.

(2) A Court shall not proceed to conduct a review until the review report is produced to it.

37. POWERS OF COURT ON REVIEW.

On the hearing of an application under this Part, a Court, having regard to the review report and all other information before it in relation to the juvenile, may—

- (a) confirm the order; or
- (b) suspend or vary any conditions of the order; or
- (c) impose any additional conditions; or
- (d) vary an order of imprisonment to one of custody or probation; or
- (e) vary an order of custody to one of imprisonment or probation; or
- (f) discharge the order.

38. CONDITIONS OF CUSTODY IN JUVENILE INSTITUTIONS.

Notwithstanding the other provisions of this Part, where—

- (a) a juvenile is in a juvenile institution by order or variation of an order of a Court; and
- (b) in the opinion of the Director the behaviour of the juvenile is unsatisfactory,

the Director may at any time apply to the Court to vary the order of custody to one of imprisonment.

PART IX. – APPEALS.

39. APPEALS.

(1) In this Part, unless the contrary intention appears–

“person aggrieved” means–

- (a) the juvenile; or
- (b) the Director; or
- (c) a parent of a juvenile; or
- (d) a responsible person;

“appeal court” means–

- (a) a Principal Magistrate; or
- (b) the National Court; or
- (c) the Supreme Court,

hearing an appeal in accordance with this Part.

(2) Subject to this Part, a person aggrieved by a conviction, sentence, order or adjudication of a Court (other than that of the National Court exercising jurisdiction under this Act) may appeal to–

- (a) the National Court; or
- (b) a Principal Magistrate,

on the grounds that–

- (c) the Court acted in contravention of this Act or of any other law applying to it; or
- (d) the Court was not properly constituted; or
- (e) the Court exceeded its jurisdiction or its powers; or
- (f) the sentence imposed by the Court was excessive or inappropriate,

and there has been a substantial miscarriage of justice.

(3) A person aggrieved by a conviction, sentence, order or adjudication of the National Court exercising jurisdiction in accordance with this Act in relation to a juvenile may appeal to the Supreme Court.

40. HEARING OF APPEALS.

(1) An appeal court hearing an appeal shall–

- (a) consider the records relevant to the decision of the Court; and
- (b) receive such evidence (if any) and make such enquiries as it considers necessary.

(2) A party to any proceeding appealed against may appear at the hearing of the appeal—

- (a) personally; or
- (b) by a representative.

41. DECISION ON APPEAL.

On the hearing of an appeal, the appeal court may—

- (a) subject to Subsection (2), confirm or quash the decision of the Court; or
- (b) order that the matter be dealt with again by the Court and, if it thinks fit, include with the order a direction as to how any defect in the earlier proceedings might be overcome.

42. RECORD OF DECISION.

An appeal court hearing an appeal shall—

- (a) record its decision on the appeal and its reasons for that decision; and
- (b) forward a copy to—
 - (i) the Court against whose decision the appeal was made; and
 - (ii) the Director.

43. CUSTODY DURING APPEAL.

Where a decision involving imprisonment or custody of a juvenile is under appeal, the Director may apply to—

- (a) the National Court; or
- (b) a Principal Magistrate,

for an order that the juvenile be held in a place or institution specified by the Director pending the appeal.

PART X. – WARDS.

44. DIRECTOR AS GUARDIAN OF WARDS.

(1) Notwithstanding any other law relating to the guardianship or custody of children, the Director–

- (a) is the guardian of every juvenile who becomes a ward under this Act to the exclusion of the parent or other guardian; and
- (b) shall continue to be the guardian until the juvenile ceases to be a ward; and
- (c) is responsible for the care and management of every ward and of the property of every ward.

(2) When a ward attains the age of 18 years, wardship ceases unless it is extended in accordance with Section 45.

(3) Wardship ceases in all cases when the ward attains the age of 21 years.

45. CONTINUATION OF WARDSHIP AFTER AGE 18 YEARS.

(1) Notwithstanding Section 16, and subject to Subsection (2), where a ward has attained the age of 18 years, a Juvenile Court may, on application by–

- (a) the ward; or
- (b) the Director or a parent of the ward, with the consent of the ward,

order the continuation of a wardship ordered under Section 30.

(2) A continuation of wardship under Subsection (1) shall cease–

- (a) when the ward attains the age of 21 years; or
- (b) at the request of the ward or the Director,

whichever first occurs.

46. WARDS ABSCONDING OR ILLEGALLY REMOVED FROM PROPER CUSTODY.

(1) A Juvenile Court Magistrate may issue a warrant for the apprehension of a ward who has absconded or been illegally removed from custody.

(2) A ward who absconds from custody is guilty of a continuing offence.

(3) A Court finding a ward guilty of an offence against Subsection (2) may, subject to Subsection (6) and this Act, order the ward to be–

- (a) committed to the care of a person who is willing to undertake the care on such terms and conditions as the Court thinks proper until the ward attains the age of 18 years, or during such shorter period as the Court thinks proper; or

- (b) sent to an institution specified in the order and detained or otherwise dealt with there in accordance with this Act until the ward attains the age of 18 years or during such lesser period as the Court thinks proper; or
- (c) released on probation on such conditions (if any) as the Court thinks proper; or
- (d) sentenced to a term of imprisonment not exceeding six months; or
- (e) detained or otherwise dealt with by the Director in accordance with this Act; or
- (f) returned to custody

(4) The Director shall ensure that a ward who has been apprehended on a warrant issued under Subsection (1) is, as soon as is practicable—

- (a) if the ward has absconded from custody—brought before a Court; or
- (b) if the ward has been illegally removed from custody—placed in an institution or the dwelling of an officer of the Police Force.

(5) A ward who—

- (a) has been temporarily released from his proper custody; and
- (b) fails to return to that custody in accordance with the conditions of his temporary release,

is deemed to have absconded from his proper custody.

(6) An order made or having effect as if it was made under this Section ceases to be in force when the period specified in the order expires or the wardship ceases, whichever occurs sooner.

(7) A person who illegally removes a ward from his proper custody is guilty of an offence.

Penalty: A fine not exceeding K400.00 or imprisonment for a term not exceeding six months, or both.

PART XI. – INSTITUTIONS.

47. APPROVAL OF INSTITUTIONS.

The Minister may, by notice in the National Gazette, approve any premises or a part of any premises as one of the following institutions for the purposes of this Act:–

- (a) a juvenile section of a corrective institution;
- (b) a juvenile institution;
- (c) a remand centre.

48. JUVENILE SECTION OF A CORRECTIVE INSTITUTION.

(1) Subject to this Act, the juvenile section of a corrective institution shall be used for the reception and imprisonment of a juvenile sentenced to a term of imprisonment.

(2) A juvenile section of a corrective institution shall–

- (a) be separate and detached from all other sections within the corrective institution; and
- (b) be used exclusively for juveniles; and
- (c) provide proper and appropriate accommodation, supervision and suitable facilities for recreation and rehabilitation.

(3) A juvenile detained in the juvenile section of a corrective institution shall not be transferred to the juvenile section of another corrective institution without prior consultation with the Director.

49. JUVENILE INSTITUTIONS.

(1) Subject to this Act, a juvenile institution shall be used for the reception and custody of a juvenile sentenced to a period of custody.

(2) A juvenile shall not be placed in a juvenile institution until the Superintendent of the institution has advised the Director that he is capable of accepting the juvenile.

50. REMAND CENTRES.

A remand centre shall be used for the reception and custody of–

- (a) an infant in accordance with Section 20(1)(d); or
 - (b) a juvenile–
 - (i) in accordance with Section 21(2)(b); or
 - (ii) while awaiting placement in a place of imprisonment or custody;
- or

- (iii) when remanded in custody while awaiting appearance in a Court for any reason; or
- (iv) while awaiting the assumption of responsibility in accordance with Section 30(8).

51. DUTIES OF ALL INSTITUTIONS.

(1) An institution shall arrange for—

- (a) the maintenance and care of a juvenile committed to it; and
- (b) the provision of medical treatment as required for a juvenile committed to it.

(2) Consent for the medical treatment of a juvenile in an institution shall be given by the Director or by the officer-in-charge or Superintendent, as the case may be, of the institution.

52. ADDITIONAL DUTIES OF CERTAIN INSTITUTIONS.

A—

- (a) juvenile section of a corrective institution; and
- (b) juvenile institution,

shall, so far as is practicable, provide—

- (c) rehabilitation, educational and training programmes; and
- (d) religious instruction, including attendance at a weekly church service or religious instruction for at least one hour in each week,

for a juvenile.

53. DUTIES OF SUPERINTENDENT.

The Superintendent of a juvenile institution or remand centre shall—

- (a) control the institution; and
- (b) subject to the general direction of the Director, formulate rules for the good conduct and management of the institution and of juveniles placed there; and
- (c) advise the Director of the minimum period required for the carrying out of training programmes in respect of juveniles; and
- (d) report to the Director every six months on the progress of each juvenile detained in the institution; and
- (e) provide to the Director such other reports as the Director may reasonably require in relation to the institution and the juveniles detained in it.

54. WELFARE OF JUVENILES IN CUSTODY.

(1) The Superintendent of a juvenile institution shall stand *in loco parentis* to a juvenile in custody.

(2) The Director shall be responsible for the welfare of all juveniles held in custody in any institution approved under this Part.

(3) A juvenile institution or remand centre approved under this Part, and its staff, shall not be liable to any action, claim or proceedings for any act done in good faith in the exercise of their powers, functions, duties or responsibilities under this Act.

55. RESTRICTIONS ON ENTRY TO CERTAIN INSTITUTIONS.

(1) No person other than staff shall enter or remain in a juvenile institution or remand centre except—

- (a) the Minister; and
- (b) the Director, or a person authorized by him in writing; and
- (c) a juvenile committed to the institution; and
- (d) a Juvenile Court Officer or Juvenile Probation Officer; and
- (e) a registered medical practitioner; and
- (f) a minister of religion; and
- (g) a person whose presence is required for the preservation of life or property; and
- (h) a person to whom permission has been granted by the Superintendent of the institution.

(2) A person other than a person referred to in Subsection (1) who enters or remains in a juvenile institution, remand centre or assessment centre is guilty of an offence.

Penalty: A fine not exceeding K300.00 or imprisonment for a term not exceeding three months, or both.

PART XII. – RECORDS.**56. RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING.**

(1) Notwithstanding any law relating to the identification of persons suspected, charged, or convicted of offences, where a juvenile is–

- (a) suspected of having committed; or
- (b) charged with; or
- (c) convicted of,

an offence, other than an indictable offence, the juvenile shall not be fingerprinted or photographed.

(2) Subject to Subsection (3), where a juvenile is–

- (a) suspected of having committed; or
- (b) charged with; or
- (c) convicted of,

an indictable offence whether triable summarily or on indictment, the juvenile may be fingerprinted or photographed.

(3) Where proceedings for an indictable offence, whether triable summarily or on indictment, against a juvenile are dismissed, any fingerprints or photographs of the juvenile taken under Subsection (2) shall be surrendered to the Court and destroyed.

57. COURT RECORDS.

(1) A Juvenile Court shall maintain and keep separate records for each juvenile dealt with by the Court under this Act and any other law.

(2) The records maintained under Subsection (1) shall not be published, or made available or disclosed to any person, except–

- (a) to a Juvenile Court; or
- (b) to the Director; or
- (c) to a person approved by the Chief Magistrate after consultation with the Director for the purpose of research and study; or
- (d) for the purposes of an appeal under Part IX.

(3) A person who contravenes Subsection (2) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year, or both.

58. TRANSFER OF COURT RECORDS.

The records of a juvenile maintained under Section 57 may be transferred–

- (a) to a Court to which proceedings in relation to the juvenile have been transferred; and
- (b) to the Court nearest to the institution in or to which the juvenile is transferred under Section 38 to serve his sentence.

59. RECORDS OF CERTAIN INSTITUTIONS.

(1) The Superintendent of an institution, other than the juvenile section of a corrective institution, shall keep a record in respect of each juvenile in custody in the institution.

(2) A record under this section—

- (a) shall contain such particulars as are prescribed; and
- (b) shall not be published, disclosed or made available to any person except with the written consent of the Director given after consultation with the Superintendent.

(3) A person who publishes, discloses or makes available to any person a report in contravention of Subsection (2)(b) is guilty of an offence.

Penalty: A fine not exceeding K1,000.00 or imprisonment for a term not exceeding one year, or both.

PART XIII. – MISCELLANEOUS.

60. UNAUTHORIZED COMMUNICATION WITH JUVENILES IN INSTITUTIONS.

(1) Subject to this Act, a person who, without the authority or permission of the Director or the Superintendent of the institution, holds or attempts to hold any communication with a juvenile placed in an institution, is guilty of an offence.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding one month, or both.

(2) A person who holds, or attempts to hold, any communication, direct or indirect, with a juvenile placed in an institution under this Act, after having been forbidden by the Director or the Superintendent of the institution to do so, is guilty of an offence.

Penalty: A fine not exceeding K200.00 or imprisonment for a term not exceeding two months, or both.

61. JUVENILES IN CERTAIN INSTITUTIONS DEEMED TO BE WORKERS.

For the purposes of the *Workers' Compensation Act 1978*, a juvenile in custody in a juvenile institution or remand centre is deemed to be a worker within the meaning of that Act.

62. EMERGENCY POWERS.

(1) Where in the opinion of the Superintendent of a juvenile institution or remand centre a situation of emergency exists or is likely to arise, the Superintendent may remove any juvenile or juveniles in the institution to a corrective institution for the duration of the emergency or until alternative arrangements can be made.

(2) Any juvenile removed to a corrective institution under Subsection (1) shall be received at the corrective institution under—

- (a) the original warrant of commitment; or
- (b) the letter of authorization,

by which the juvenile was sentenced to the institution.

(3) Where a Superintendent has acted under this section, he shall within 24 hours inform the Director of his action.

63. TRAVELLING WHILE IN CUSTODY.

Where—

- (a) a juvenile who is in custody is travelling or is being transferred from one place to another; and

- (b) during the course of the travel or transfer it is necessary to break the journey,

the juvenile shall, during the break in the journey, be placed in a police lock-up, corrective institution or other place of secure care.

64. REGULATIONS.

The Head of State, acting on advice, may make Regulations not inconsistent with this Act, prescribing all matters which by this Act are required to be prescribed or are necessary or convenient to be prescribed including Regulations prescribing penalties of fines not exceeding K100.00 or terms of imprisonment not exceeding one month or both, for infringements of the Regulations.

PART XIV. – REPEAL, SAVING AND TRANSITIONAL.

65. INTERPRETATION.

In this Part, “**repealed provisions**” means the provisions of the *Child Welfare Act 1961* repealed under Section 66.

66. REPEAL AND AMENDMENT.

(1) Section 32 of the *Child Welfare Act 1961* is amended by repealing—

- (a) Subsection (1)(a) and (b); and
- (b) Subsection (2), (3), (4), (5) and (6).

(2) The *Village Courts Act 1989* is amended—

- (a) in Section 69, by repealing the figures “17” (wherever occurring), and replacing them with the figures “18”; and
- (b) in Sections 69 and 70, by repealing the words “Children’s Court” and “Children’s Courts” (wherever occurring) and replacing them with the words “Juvenile Court” and “Juvenile Courts” respectively; and
- (c) in Section 70, by repealing the reference to “*Child Welfare Act*“ 1961 (wherever occurring) and replacing them with the words ”*Juvenile Courts Act*“ 1991.

67. ACTIONS ETC., NOT TO ABATE.

Where, immediately before the commencement of this Act, any action or proceeding was pending or existing under the repealed provisions, the action or proceeding, as the case may be, does not, on the commencement of this Act, abate or discontinue but it may be prosecuted, continued or enforced under the repealed provisions as if this Act had not come into operation.

68. ORDERS, ETC., TO CONTINUE, ETC.

Any order made under the repealed provisions and in force immediately before the commencement of this Act shall continue in force after that commencement until its expiry or termination according to its terms or otherwise according to law, and where, after that commencement, any variation to such order is sought, the procedure relating to such variation shall be as contained in this Act with such modifications as may be necessary, as if the original order had been under this Act