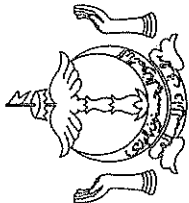


CHILDREN AND YOUNG PERSONS ORDER, 2006

**ONCE THIS IS ENFORCED, IT WILL
AUTOMATICALLY REPLACE THE
CHILDREN ORDER 2000**



NEGARA BRUNEI DARUSSALAM

TAMBAHAN KEPADA

WARTA KERAJAAN

BAHAGIAN II

Disiarkan dengan Kebenaran

SUPPLEMENT TO

GOVERNMENT GAZETTE

PART II

Published by Authority

Dicetak oleh PENGIRAN HAJI ZAINAL ABIDIN BIN PENGIRAN SERI WIJAYA
PENGIRAN HAJI AHMAD, Pemangku Pengarah, Percetakan,
di Jabatan Percetakan Kerajaan, Bandar Seri Begawan BB3510, Negara Brunei Darussalam.
Harga B\$5.00

Bahagian/Part II] HARI RABU/WEDNESDAY 8th. FEBRUARY, 2006 [Bil./No. 6

CONTENT

Notification Number	Subject	Page
S 9	Constitution of Brunei Darussalam ~ Children and Young Persons Order, 2006	227

The following Notification is published for general information by Command of
His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam.

(6) Where any direction made under sub-paragraph (1) is in force in respect of a detainee or any leave is granted under sub-paragraph (4) to a detainee, the superintendent of the reformative training centre shall release him at such times and for such periods as are necessary to give effect to the direction or grant of leave.

(7) If any detainee in respect of whom a direction has been made under sub-paragraph (1) or to whom leave has been granted under sub-paragraph (4) remains at large without lawful excuse or fails to return to his place of detention after such direction or leave has been revoked, he shall be deemed to be unlawfully at large and to have escaped from lawful custody.

(8) Every person released under this paragraph shall continue to be in the legal custody of the superintendent of the reformative training centre from which he is released during every period for which he is so released.

(9) In this paragraph, "detainee" means any person who is detained in a reformative training centre in pursuance of a sentence passed under section 14A."

5. The Visiting Justices in exercising their functions under this Schedule shall act in accordance with any general or special directions of the Minister, and shall consider any report made to them by the superintendent of a reformative training centre on the advisability of releasing a person.

6. In this Schedule —

"Minister" means the Minister of Home Affairs;

"Visiting Justices" means The Board of Visiting Justices appointed under subsection (1) of section 60 of the Prisons Act [Chapter 51], and includes any committee thereof as the Minister may direct."

Made this 8th. day of Muharam, 1426 Hijrah corresponding to the 7th. day of February, 2006 at Our Istana Nurul Iman, Bandar Seri Begawan, Brunei Darussalam.

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM

No. S 9

CONSTITUTION OF BRUNEI DARUSSALAM
[Order under Article 83(3)]

CHILDREN AND YOUNG PERSONS ORDER, 2006

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Citation, long title and commencement.
2. Interpretation.

PART II

PROTECTOR, REGISTRAR AND REGISTER

3. Protectors.
4. Registrar.
5. Register.
6. Contents of register.
7. Access to register.
8. Offences in respect of register.

PART III

JUVENILE COURTS

9. Constitution of Juvenile Court.
10. Jurisdiction of Juvenile Court.
11. Place of sitting and persons who may be present.
12. General consideration.

PART IV

ACTION TEAMS ON CHILD PROTECTION

13. Establishment of Action Teams on Child Protection.
14. Membership of Action Teams on Child Protection.
15. Proceedings of Action Teams on Child Protection.
16. Co-ordination.

PART V

TEMPORARY CUSTODY, MEDICAL EXAMINATION AND TREATMENT

17. Taking a child or young person into temporary custody.
18. Child or young person in need of medical examination or treatment.
19. Medical examination and treatment.
20. Authorisation of medical treatment.
21. No liability incurred for giving authorisation.
22. Control etc. of hospitalised children and young persons.
23. Duty of medical officer.
24. Steps to be taken after medical examination or treatment.
25. Duty of member of the family.
26. Duty of child care provider.

PART VI

OFFENCES IN RELATION TO HEALTH AND WELFARE OF
CHILDREN AND YOUNG PERSONS

27. Jurisdiction of the High Court.
28. Ill-treatment etc. of children and young persons.

3. If before the expiration of 4 years from the date of his sentence the Visiting Justices are satisfied that a person who is under supervision after his release from a reformative training centre under paragraph 1 has failed to comply with any requirement for the time being specified in the notice given to him under paragraph 2, they may by order recall him to a reformative training centre, and thereupon he shall be liable to be detained in the reformative training centre until the expiration of 3 years from the date of his sentence, or until the expiration of 6 months from the date of his being taken into custody under the order, whichever is the later and, if at large, shall be deemed to be unlawfully at large:

Provided that —

(a) any such order shall, at the expiration of 4 years from the date of the sentence, cease to have effect unless the person to whom it relates is then in custody thereunder; and

(b) the Visiting Justices may at any time release a person who is detained in a reformative training centre under this paragraph, and paragraphs 1 and 2 shall apply in the case of a person so released as they apply in the case of a person released under paragraph 1.

4. If any person while under supervision, or after his recall to a reformative training centre, is sentenced to corrective training or reformative training his original sentence of reformative training shall cease to have effect; and if he is so sentenced to imprisonment, any period for which he is imprisoned under that sentence shall count as part of the period for which he is liable to detention in a reformative training centre under his original sentence.

5. (1) Notwithstanding paragraph 1, the Minister may on the recommendation of the Visiting Justices, direct that a detainee shall be released daily engage in such employment (including self-employment) as the Minister may specify.

(2) Any direction made under sub-paragraph (1) shall have effect for a period to be fixed by the Minister and may be subject to such conditions as he may impose.

(3) The Minister may at any time revoke any direction made under sub-paragraph (1).

(4) The Minister may, subject to such conditions as he thinks fit, grant leave to a detainee in respect of whom a direction has been made under sub-paragraph (1) to spend his leave at such place as he may specify.

(5) The Minister may at any time revoke any leave granted to a detainee under sub-paragraph (4).

imprisonment or both shall be imposed upon the person so convicted, that court may instead of sentencing him to a fine, or to a sentence of imprisonment of any kind, deal with him as provided by the Children and Young Persons Order, 2006."

4. Section 384 is repealed and substituted by the following new section —

"Rules as to rates etc.

384. His Majesty the Sultan and Yang Di-Pertuan in Council may make rules for the following matters —

- (a) the rates or scales of payment of the expenses and compensation to be ordered as aforesaid;
- (b) the form of the certificates hereinafter mentioned and the details to be inserted therein;
- (c) the treatment, training and detention of persons sentenced to reformatory training."

5. The Code is amended by adding the following new Schedule —

"THIRD SCHEDULE

[section 14A(7)]

RELEASE OF PERSONS SENTENCED TO REFORMATORY TRAINING

1. A person sentenced to reformatory training shall be detained in a reformatory training centre for such period, not extending beyond 3 years after the date of his sentence, as the Visiting Justices may determine, and shall then be released:

Provided that no person shall be released from a reformatory training centre before the expiration of 18 months from the date of his sentence except by direction of the Minister.

2. A person shall, after his release from a reformatory training centre and until the expiration of 4 years from the date of his sentence, be under the supervision of such person as may be specified in a notice to be given to him by the Visiting Justices on his release, and shall, while under that supervision, comply with such requirements as may be so specified:

Provided that the Visiting Justices may at any time modify or cancel any of the requirements or order that the person who is under supervision shall cease to be under supervision.

29. Begging or any illegal activities.

30. Leaving child or young person without reasonable supervision.

PART VII

NOTIFICATION ON TAKING CHILD OR YOUNG PERSON INTO CARE, CUSTODY OR CONTROL

31. Non-application of this Part.
32. Notification of taking into care, custody or control.
33. Subsequent obligations.
34. Power of protector to require production of child or young person.

PART VIII

TRAFFICKING IN CHILDREN AND YOUNG PERSONS

35. Unlawful transfer of possession, custody or control of child or young person.
36. Importation of child or young person by false pretences etc.
37. Power to examine children and young persons and person in charge.
38. Power of protector to require security.
39. Inspection.

PART IX

PROCEDURE IN JUVENILE COURTS

40. Children and young persons not to associate with adult offenders.
41. Bail of children and young persons.
42. Attendance at court of guardian of child or young person charged with offence etc.
43. Removal of disqualification or disability on conviction.
44. Restrictions on punishment of children and young persons.

45. Punishment of certain grave crimes.
 46. Power to order guardian to pay fine etc. instead of child or young person.
 47. Power of other courts to remit juvenile offenders to Juvenile Court.
 48. Words "conviction" and "sentence" not to be used.
 49. Procedure in Juvenile Court.
 50. Presumption as to age.
 51. Powers of Juvenile Courts on proof of offence.
 52. Power to convene family conference to deal with child or young person guilty of offence.
 53. Additional orders which may be made by Juvenile Court in relation to child or young person found guilty of offence.
 54. Maximum age limit for detention in place of detention, approved home or approved school.
 55. Appeals.
- Children and Young Persons in Need of Protection
56. Production before Court.
 57. Powers of Juvenile Court.
- Children and Young Persons beyond Parental Control
58. Power of guardian to bring child or young person before Juvenile Court.
 59. Additional orders of Juvenile Court.
 60. Failure to comply with requirements of supervision order.
- PART X
REMAND HOMES
61. Custody of children and young persons not released on bail.
 62. Remand of or committal to custody in remand home.

period or periods, not exceeding 3 weeks in the case of any single period, as the Court thinks necessary to enable the report or representations to be made.

(6) A copy of any report or representation made to the Court by the Director of Prisons for the purposes of subsection (5) shall be given by the Court to the offender or his legal representative.

(7) A person sentenced to reformatory training shall be detained subject to his release in accordance with the Third Schedule and while so detained shall be treated in such manner as may be prescribed by rules made under section 384."

2. Section 238 is repealed and substituted by the following new section —

"No sentence of death against person under 18 years.

238. (1) Sentence of death shall not pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age 18 years but instead of that the court shall sentence him to be detained during His Majesty the Sultan and Yang Di-Pertuan's pleasure, and, if so sentenced, he shall be liable to be detained in such place and under such conditions as the His Majesty the Sultan and Yang Di-Pertuan directs, and while so detained shall be deemed to be in legal custody.

(2) Subject to the powers His Majesty the Sultan and Yang Di-Pertuan under this Code and any other written law, if a person is ordered to be detained under subsection (1), the Board of Visiting Justices for the prison or the board of visitors for any other place —

(a) shall review that person's case at least once a year, and

(b) may recommend to His Majesty the Sultan and Yang Di-Pertuan on the early release or further detention of that person, and His Majesty the Sultan and Yang Di-Pertuan may thereupon order him to be released or further detained, as the case may be."

3. Section 262 is repealed and substituted by the following new section —

"Youthful offenders may be dealt with as provided by Children and Young Persons Order, 2006.

262. When any youthful offender is convicted before any criminal court of an offence punishable by fine, imprisonment or both, and whether or not the law under which that conviction was made provides that fine,

crime that he should undergo a period of training in a reformative training centre, that Court may, in lieu of any other sentence, pass a sentence of reformative training.

(2) Where a person is convicted by the Court of a Magistrate of an offence punishable with imprisonment and that person —

(a) is, on the day of his conviction, above the age of 18 and under the age of 21; or

(b) is, on the day of his conviction, above the age of 14 and under the age of 18 and has, prior to his conviction, been dealt with by a court in connection with another offence and had, in respect of that other offence, been ordered to be sent to an approved school established under section 61 of the Children and Young Persons Order, 2006,

and the Court of a Magistrate is satisfied of the matters mentioned in subsection (1), the Court may commit him in custody for sentence to the High Court.

(3) Where a person is so committed for sentence, the High Court shall inquire into the circumstances of the case and may —

(a) if satisfied of the matters mentioned in subsection (1), sentence him to reformative training; or

(b) in any other case, deal with him in any manner in which the Court of a Magistrate might have dealt with him.

(4) Where a person has been ordered by a Juvenile Court under the Children and Young Persons Order, 2006 to be brought before a High Court, the High Court shall inquire into the circumstances of the case and may —

(a) if satisfied that it is expedient with a view to his reformation that he should undergo a period of training in a reformative training centre, sentence him to reformative training; or

(b) in any other case, deal with him in any manner in which the Juvenile Court might have dealt with him.

(5) Before a sentence of reformative training is passed under this section, and before a person is committed for sentence under subsection (2), the Court shall consider any report or representations made by or on behalf of the Director of Prisons on the offender's physical and mental condition and his suitability for the sentence; and if the Court has not received such a report or representations it shall remand the offender in custody for such a

PART XI

PLACES OF DETENTION

63. Provision of places of detention.

PART XII

APPROVED SCHOOLS AND APPROVED HOMES

64. Appointment as approved schools and approved homes.

65. Manager may make regulations with approval of Minister.

66. Manager shall send monthly report to Director.

67. Minister may cancel certificate.

68. Manager or his executor or administrator may cancel certificate.

69. Duties of managers.

70. Effect of cancellation of certificate.

71. Discharge or transfer of juveniles.

72. Minister may establish approved schools and approved homes.

73. Control and management of approved schools and approved homes established under section 69.

74. Director may make regulations for approved schools and approved homes.

75. Board of visitors.

PART XIII

PROVISIONS APPLICABLE TO PERSONS BEING DETAINED IN APPROVED SCHOOLS, APPROVED HOMES, REMAND HOMES AND PLACES OF DETENTION

76. Duties and powers of manager of approved school etc. in respect of persons detained therein.

77. Minister may discharge or transfer any person.

78. Serious illness of child or young person detained.

79. Return from hospital.
80. Duty to inform manager.
81. Special custody in hospital.
82. Power of Director or protector to give consent to medical treatment.
83. Review of cases of persons ordered to be detained in approved schools or approved homes.
84. Escape from approved schools or approved homes.
85. Offence of assisting or inducing persons to escape and for harbouring or concealing escaped persons.
86. Prohibition against conveying certain articles to detained persons.
87. Evidence of orders of Minister.
88. Presumptions.

PART XIV

EXPENSES AND CONTRIBUTIONS

89. Contributions by guardians.
90. Contribution order.

PART XV

MISCELLANEOUS

91. Powers of Juvenile Court conferred on other courts.
92. Power to search premises.
93. Obstructing protector or police officer in performing his functions.
94. Removing or helping child or young person to escape from custody.
95. Protection of identity of child or young person.
96. Power to arrest without warrant.

"Jurisdiction of Juvenile Courts.

15A. A Juvenile Court shall have the jurisdiction and powers conferred on it by the Children and Young Persons Order, 2006."

Amendment of Chapter 7.

105. The Criminal Procedure Code is amended to the extent specified in the Schedule.

Repeal of S 64/00.

106. The Children Order, 2000 is repealed.

General penalty.

107. Any person guilty of an offence under this Order for which no punishment is expressly provided shall be punished with imprisonment not exceeding 3 years, a fine not exceeding \$5,000 or both.

SCHEDULE

(section 105)

AMENDMENTS TO CRIMINAL PROCEDURE CODE

1. The Code is amended by inserting the following new section immediately after section 14 —

"Reformative training.

14A. (1) Where a person is convicted by the Intermediate Court or the High Court of an offence punishable with imprisonment and that person —

(a) is, on the day of his conviction, above the age of 18 and under the age of 21 years; or

(b) is, on the day of his conviction, above the age of 14 and under the age of 18 years, prior to his conviction, been dealt with by a court in connection with another offence and had, in respect of that other offence, been ordered to be sent to an approved school established under section 61 of the Children and Young Persons Order, 2006,

and the Court is satisfied, having regard to his character and previous conduct and to the circumstances of the offence of which he is convicted, that it is expedient with a view to his reformation and the prevention of

(g) require the inspection of approved schools, approved homes, remand homes, places of detention and places of safety and of returns to be furnished by the manager of such places;

(h) regulate the management of approved schools, approved homes, remand homes, places of detention and places of safety;

(i) prescribe the particulars, photographs or other means of identification to be furnished in relation to a child or young person in need of protection;

(j) prescribe the form of orders, warrants, summonses and bonds;

(k) prescribe the records required to be kept in respect of a child or young person in need of protection and the manner in which they shall be kept;

(l) require the furnishing of information as to changes of address of every child or young person in need of protection and of the person having custody of the child or young person, and the transfer of records and registers in such cases;

(m) regulate the procedure and practice of the Action Team on Child Protection.

Rules of Court.

103. The Chief Justice may make Rules of Court for regulating the procedure and practice in Juvenile Courts.

Amendment of Chapter 6.

104. The Subordinate Courts Act is amended —

(a) in the long title, by inserting "and Juvenile Courts" immediately after "Magistrates" in the first line;

(b) in section 3, by inserting "and Juvenile Courts" immediately after "Magistrates" in the first line;

(c) in Part IV, deleting the sub-heading "Criminal jurisdiction of Courts of Magistrates";

(d) by inserting the following new section immediately before section 16 —

288

97. Place of safety.

98. Power of court to determine and declare age of child or young person.

99. Protection of informants.

100. Protection of Permanent Secretary and others.

101. Certificate of Registrar to be evidence.

102. Regulations.

103. Rules of Court.

104. Amendment of Chapter 6.

105. Amendment of Chapter 7.

106. Repeal of S 64/00.

107. General penalty.

SCHEDULE

233

CONSTITUTION OF BRUNEI DARUSSALAM
(Order under Article 83(3))

CHILDREN AND YOUNG PERSONS ORDER, 2006

In exercise of the power conferred Clause (3) of Article 83 of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order —

PART I

PRELIMINARY

Citation, long title and commencement.

1. (1) This Order may be cited as the Children and Young Persons Order, 2006.

(2) The long title of this Order is "An Order to provide for the care and protection of children and matters incidental thereto or connected therewith".

(3) This Order shall commence on such date or dates as the Minister may, with the approval of His Majesty and Yang Di-Pertuan, appoint by notification in the *Gazette*; and the Minister may appoint different dates for different provisions of this Order or for different purposes of the same provision.

Interpretation.

2. (1) In this Order unless the context otherwise requires —

"Action Team on Child Protection" means a team established in accordance with section 13;

"approved home" means an institution appointed or established under Part XII as an approved home;

"approved institution" means any place declared as such under section 17 of the Offenders (Probation and Community Service) Order 2006;

"approved school" means an institution appointed or established under Part XII as an approved school;

"child" means a person who has not attained the age of 14 years;

in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his functions, powers and duties under this Order.

Certificate of Registrar to be evidence.

101. A certificate purporting to be under the hand of the Registrar as to any entry in the Register, or as to any matter or thing which he is authorised to do or to make under this Order or any regulation made under this Order, shall be *prima facie* evidence of the entry having been done or made, of the contents such entry and of the matter or thing having been done or made.

Regulations.

102. The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such regulations as appear to him to be necessary or expedient for giving effect to and carrying out to the provisions of this Order and for the due administration thereof, including the prescription of any thing required to be prescribed under this Order, and in particular, but without prejudice to the generality of the foregoing provisions, such regulations may —

(a) provide for the care, maintenance and education of children and young persons —

(i) placed in the custody or under the care or control; or

(ii) taken into the care, custody or control, of any person under the provisions of this Order, and the duties of such person;

(b) provide for the control, care, detention, temporary absence, maintenance and education of children and young persons in places of safety;

(c) regulate the management, visitation and inspection of places of safety;

(d) require the manager of a place of safety to submit to the Permanent Secretary returns, reports and information in respect of children and young persons placed therein;

(e) regulate the procedure of admission to or discharge from a place of safety;

(f) prescribe the constitution, functions and procedures of a governing board, a board of visitors and an advisory board;

(3) Any person appearing as a witness in any proceedings in any court or tribunal or before a person authorised by law to hear evidence —

(a) shall not be compelled to disclose the identity of, or any information likely to lead to the disclosure of the identity of, any person who has made a notification that a child or young person is in need of protection; and

(b) shall not be compelled to produce, and shall not produce, any report or document which identifies, or is likely to identify, any person who has made a notification that a child or young person is in need of protection.

(4) Subsection (3) does not apply where a notification that a child or young person is in need of protection is tendered in evidence, or evidence in respect of such notification is given, by the person who made such notification.

(5) The provisions of this section apply to a medical officer who has made a notification under subsection (1) of section 23 in the same manner as they apply to a person who has made a notification that a child or young person is in need of protection.

(6) If in any proceedings before a court for an offence under this Order, the court, after full inquiry into the case, is satisfied that an informer willfully made a statement which he knew or believed to be false or did not believe to be true, or if in any proceedings the court is of the opinion that justice cannot be fully done between the parties thereto without the disclosure of the name of an informer, the court may require full disclosure concerning the informer.

Protection of Permanent Secretary and others.

100. No action or prosecution shall be brought, instituted or maintained in any court against —

(a) the Permanent Secretary;

(b) any protector;

(c) any community development officer and supervisor of a welfare home;

(d) any police officer;

(e) any medical social officer; or

(f) any medical officer empowered to take a child or young person into temporary custody under subsection (4) of section 23,

"Community Development Officer" means a staff in the Department of Community Development;

"court" means a court of competent jurisdiction;

"development" includes physical, intellectual, emotional, social and behavioural development;

"Director" means the Director of Community Development;

"guardian" of a child or young person means the parent of that child or young person or any person appointed by deed or will or by the order of a court to be the guardian of that child or young person, or any person who has adopted that child or young person; and includes any person who has the lawful custody of that child or young person;

"hospital" means any hospital or clinic of the government or any private hospital or clinic;

"juvenile" means a person who has attained the age of 7 years of age but who has not attained the age of 18 years;

"manager" includes a warden and superintendent and any other person having the management or control of any approved school, approved home, remand home, place of detention or place of safety;

"medical officer" means a person registered under the Medical Practitioners and Dentists Act (Chapter 112);

"medical social officer" means a member of the Medical Social Work Unit;

"Minister" means the Minister of Culture, Youth and Sports;

"Permanent Secretary" means the Permanent Secretary of the Ministry of Culture, Youth and Sports;

"place of detention" means any place provided or appointed as a place of detention under subsection (1) of section 63;

"place of safety" means any place declared as such under subsection (1) of section 100, or any other place as the protector considers suitable if the occupier of such place is temporarily willing to receive a child or young person;

"premises" includes any dwelling house, building, shop, room, conveyance or any place whether open or enclosed;

"protector" means the Director and such other persons as the Minister may by notification in the *Gazette*, declare to be vested with all or any of the duties of a protector under this Order, and any public officer appointed under section 3;

"register" means the Register kept and maintained under section 5;

"Registrar" means the Registrar appointed under section 4;

"remand home" means any place provided or appointed as a remand home under subsection (1) of section 61;

"school" means any government or non-government educational institution;

"senior police officer" means a police officer not below the rank of probationary assistant superintendent;

"staff" means any officer or any other person working in the Department of Community Development;

"supervisor" means the officer in charge of a welfare home;

"visitor" means a person appointed to be a member of a board of visitors under subsection (1) of section 75;

"welfare home" means any welfare home gazetted by the Minister;

"young person" means a person who has attained the age of 14 years of age but who has not attained the age of 18 years.

(2) For the purposes of this Order, a child or young person is in need of protection if —

(a) the child or young person has been or there is substantial risk that he will be physically or emotionally injured or sexually abused by his guardian;

(b) the child or young person has been or there is substantial risk that he will be physically or emotionally injured or sexually abused and his guardian, knowing of such injury, abuse or risk, has not protected or is unlikely to protect him from such injury or abuse;

(c) the guardian of the child or young person is unfit, or has neglected or is unable, to exercise proper supervision and control over him and he is falling into bad association, is exposed to moral danger or is beyond control;

(4) For the purposes of this section —

(a) "material" includes any picture or representation;

(b) "publish" includes broadcast by radio or television.

Power to arrest without warrant.

96. (1) Any police officer may arrest without a warrant any person whom he reasonably believes to have committed or to be committing an offence against this Order.

(2) Any person arrested under subsection (1) shall, after such arrest, be dealt with as provided for by the Criminal Procedure Code (Chapter 7).

Place of safety.

97. (1) The Minister may, by notification in the *Gazette* declare any place, to be a place of safety for the purposes of this Order.

(2) The Minister may at any time direct the closing of any place of safety.

(3) The Permanent Secretary may order the transfer of children and young persons from one place of safety to another as and when the need arises.

Power of court to determine and declare age of child or young person.

98. If in any proceeding under this Order a person is alleged to be a child or young person, the court, after making such inquiry as it thinks fit as to the age of that person, may determine and declare his age, and for the purpose of this Order the age so declared by the court shall be deemed to be the true age of that person, unless and until the contrary is proved.

Protection of informants.

99. (1) No person who makes any notification that a child or young person is in need of protection shall incur any liability for defamation or otherwise in respect of the making of such notification.

(2) The making of any notification that a child or young person is in need of protection shall not, in any proceedings before any court or in any other respect, be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct.

Removing or helping child or young person to escape from custody.

94. (1) If a child or young person is placed in a place of safety or in the custody of any person under this Order, any person who —

(a) removes the child or young person from such place of safety or such custody without lawful authority;

(b) knowingly assists or induces, directly or indirectly, a child or young person to escape from such place of safety or such custody; or

(c) knowing harbours, conceals, or prevents from returning to such place of safety or such custody, a child or young person who has so escaped, or knowingly assists in so doing,

is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000 or both.

(2) If any child or young person who is placed in a place of safety or in the custody of any person under this Order is removed without lawful authority, or escapes, from such place of safety or such custody, he may be retaken by any protector or police officer and returned to such place of safety or such custody.

Protection of identity of child or young person.

95. (1) No person shall publish or cause to be published any material which —

(a) reveals the name, address, or school; or

(b) includes any particulars which may lead to the identification,

of any child or young person concerned in any proceedings in any Court either, as being the person by or against, or in respect of whom the proceedings are taken, or as being a witness therein except in so far as may be permitted by the Court.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 2 years, a fine not exceeding \$5,000 or both.

(3) Subsections (1) and (2) shall not apply if such person —

(a) is a protector; or

(b) was requested, directed or authorised by a protector to publish or cause to be published such material.

(d) the guardian of the child or young person has neglected or is unwilling to provide for him adequate care, food, clothing and shelter;

(e) the child or young person has no guardian, or has been abandoned by his guardian and after reasonable inquiries the guardian cannot be found and no other suitable person is willing and able to care for him;

(f) the child or young person needs to be examined, investigated or treated for the purpose of restoring or preserving his health and his guardian neglects or refuses to have him so examined, investigated or treated;

(g) the child or young person behaves in a manner that is or is likely to be harmful to himself or to any other person and his guardian is unable or unwilling to take necessary measures to remedy the situation or the remedial measures taken by the guardian have failed;

(h) there is such conflict between the child or young person and his guardian, or between his guardians, that family relationships are seriously disrupted, thereby causing him emotional injury;

(i) the child or young person is a person in respect of whom any of the offences mentioned in the Penal Code [Chapter 22] or any offence of the nature described in this Order has been or is believed to have been committed and his guardian is the person who committed or is believed to have committed such offence or has not protected or is unlikely to protect him from such offence;

(j) the child or young person is —

(i) a member of the same household as a child or young person referred to in paragraph (i); or

(ii) a member of the same household of the person who has been convicted of any of the offences referred to in paragraph (i), and appears to be in danger of the commission upon or in respect of him of a similar offence and his guardian is the person who committed or is believed to have committed such offence or is unable or unwilling to protect him from such offence;

(k) the child or young person is found begging.

[3] For the purposes of this Order —

(a) a child or young person is physically injured if there is substantial and observable injury to any part of his body as a result of the non-accidental application of force or an agent to the child's or young person's body that is evidenced by, amongst other things, a laceration, contusion, abrasion, scar, fracture or other bone injury, dislocation or sprain, haemorrhaging, the rupture of a viscous, a burn or scald, the loss or alteration of consciousness or physiological functioning or the loss of the hair or any teeth;

(b) a child or young person is emotionally injured if there is substantial and observable impairment of his mental or emotional functioning that is evidenced by, amongst other things, a mental or behavioural disorder, including anxiety, depression, withdrawal, aggression or delayed development;

(c) a child or young person is sexually abused if he has taken part, whether as a participant or an observer, in any activity which is sexual in nature for the purposes of any pornographic, obscene or indecent material, photograph, recording, film, videotape or performance or for the purpose of sexual exploitation by any person for that person's or another person's sexual gratification.

(4) In the interpretation and application of this Order, when any question arises with respect to the welfare of any child or young person in any particular circumstances, the best interests of that child or young person shall always be the paramount consideration.

PART II

PROTECTORS, REGISTRAR AND REGISTER

Protectors.

3. The Minister shall, by notification published in the *Gazette*, appoint any public officer to exercise the powers and perform the duties of a protector under this Order, subject to such conditions as may be specified in that notification.

Registrar.

4. The Minister shall appoint a supervisor to be the Registrar of Children and Young Persons In Need of Protection.

222

(b) if a warrant has been issued under subsections (2) and (3) —

(i) produce the warrant or a copy thereof; and

(ii) use only such force as is reasonably necessary to effect entry.

(6) A protector or police officer may, during or after any such search as is referred to in subsection (1), arrest or cause to be arrested any person reasonably suspected of having committed an offence against this Order, and may seize and detain any articles, books, documents or accounts which he may have reason to believe relate to any offence against this Order.

(7) In carrying out any search under this section, a protector or police officer shall have the power to ask questions and to give any such order or direction as may be necessary to the occupants of the premises for the purpose of carrying out such search.

(8) The occupant of any premises being searched under this section shall obey any order or direction given by him touching any matter or any person connected with such search.

(9) No person shall by force, restraint, threats, inducement or other means cause any child or young person who is in need of protection to conceal himself on or to leave any premises being searched or about to be searched by a protector or police officer under this section, with the intent that such protector or police officer may thereby be evaded or obstructed.

Obstructing protector or police officer in performing his functions.

93. Any person who —

(a) assaults, obstructs, hinders or delays any protector or police officer in effecting any entry which he is entitled to effect under this Order or in the execution of any duty imposed or power conferred by this Order;

(b) refuses to answer to the best of his knowledge and belief any question which he is legally bound to answer and which is asked of him by any protector or police officer or any other person authorised under this Order;

(c) contravenes or fails to comply with any order, direction, summons or warrant lawfully issued or any condition lawfully imposed by any protector, police officer or court under this Order,

is guilty of an offence and liable on conviction to imprisonment for a term not exceeding 3 years, a fine not exceeding \$5,000 or both.

223

PART XV

MISCELLANEOUS

Powers of Juvenile Court conferred on other courts.

91. Except as otherwise provided, nothing in this Order shall affect any powers of a Court of a Magistrate, an Intermediate Court or the High Court, and all the powers which may be exercised under this Order by a Juvenile Court may, in like manner, be exercised by a Court of a Magistrate, an Intermediate Court or the High Court.

Power to search premises.

92. (1) Subject to subsection (2), any protector or police officer may enter and search any premises for the purpose of ascertaining whether there is therein any child or young person who is in need of protection or whether any offence under this Order is being, or has been, committed.

(2) A protector or police officer shall not enter any premises by the use of force unless he has first obtained a warrant issued by a Magistrate.

(3) A magistrate may issue a warrant to a protector or police officer to enter by the use of force if necessary any premises for the purposes mentioned in subsection (1) if that magistrate is satisfied by information on oath that there are reasonable grounds for suspecting that —

(a) there is in such premises a child or young person who is in need of protection; or

(b) any offence under this Order is being, or has been, committed,

and that the entry can only be effected by the use of force.

(4) Notwithstanding subsection (2), if a protector or police officer has reasonable grounds for believing that the object of the search mentioned in subsection (1) is likely to be frustrated by reason of the delay in obtaining a warrant under subsections (2) and (3), he may without the warrant, enter any premises by the use of such force as may be necessary for the purposes mentioned in subsection (1).

(5) Any protector or police officer who enters any premises under this section shall —

(a) if so required, produce evidence of his identity; and

282

Register.

5. The Registrar shall cause to be kept and maintained, in such form as he thinks fit, a register to be known as the Register of Children and Young Persons in Need of Protection.

Contents of register.

6. The register shall contain details of every case or suspected case of a child or young person in need of protection and such other matters in relation to that case or suspected case as the Permanent Secretary may determine.

Access to register.

7. (1) Details entered in the register shall be furnished to any court, when so requested by the court, and to —

(a) the Permanent Secretary;

(b) any protector;

(c) any police officer; and

(d) any member of the Action Team on Child Protection,

when any of these persons requires such details for the purpose of any proceedings under this Order or for the purpose of taking action in respect of, or providing assistance to, a child or young person in need of protection.

(2) Details contained in the register may be furnished to —

(a) persons engaged in *bona fide* research, authorised by the Permanent Secretary for that purpose; and

(b) persons or classes of persons authorised by the Permanent Secretary on the grounds that their access to the register will promote the protection of any child or young person.

(3) Details furnished under this section shall not include any information which discloses or is likely to lead to the disclosure of the identity of any person who has made a notification that a child or young person is in need of protection.

283

Offences in respect of register.

8. Any person who furnishes to any other person any details contained in the register, other than pursuant to section 7, is guilty of an offence.

PART III

JUVENILE COURTS

Constitution of Juvenile Court.

9. (1) A Juvenile Court shall be presided over by a magistrate.
- (2) The magistrate, when determining the method of dealing with a child or young person in respect of whom a written report is obtained by the Juvenile Court regarding his background, family history, school record or such other matters, shall sit with 2 advisers selected from a panel of advisers nominated by the Chief Justice, except that where it appears that the Court cannot without adjournment be fully constituted and that an adjournment would be inexpedient in the interests of justice, he may sit with one adviser or he may sit alone.

- (3) Except as modified or extended by this Order, the provisions of the Criminal Procedure Code (Chapter 7) shall apply to a Juvenile Court as if that Court were a Court of a Magistrate.

Jurisdiction of Juvenile Court.

10. (1) Subject to the provisions of this section, no child or young person shall be charged with or tried in a summary way for any offence except by a Juvenile Court.
- (2) Where a child or young person is charged with any offence triable only by the High Court, he shall be tried by the High Court unless —
- (a) the Public Prosecutor applies to a Juvenile Court for it to try such offence; and
- (b) the legal representative of that child or young person agrees to the offence being tried by a Juvenile Court.
- (3) Where a charge is made jointly against a child or young person and a person who has attained the age of 18 years, the charge shall be heard by a court of appropriate jurisdiction other than a Juvenile Court.

requiring him to contribute such weekly or monthly sum as the Court, having regard to the means of the guardian or that person, thinks fit.

- (2) An order made under subsection (1) may be made against the guardian or person having the custody of the child or young person, who, having been required to attend, has failed to do so.

(3) Subject to subsection (2), no such order shall be made without giving the guardian or person having the custody of the child or young person an opportunity to be heard.

- (4) A contribution order shall remain in force —

(a) in the case of a child or young person committed to the care of a fit person, so long as the order for his committal is in force,

(b) in the case of a child or young person ordered to be sent to an approved school, approved home, place of detention or place of safety, until he ceases to be under the care of the person in charge for the time being of such approved school, approved home, place of detention or place of safety.

(5) No contribution shall be payable under a contribution order in respect of any period during which a person ordered to be sent to an approved school, approved home, place of detention or place of safety is released on licence from an approved school or approved home or placed under the supervision of a community development officer.

- (6) A contribution order made under this section —

(a) may be varied, revoked or suspended by the Juvenile Court; and

(b) shall not be so varied as to increase any contribution payable thereunder without giving the person liable to make the contribution an opportunity to be heard.

(7) If any person willfully neglects to comply with a contribution order, the Juvenile Court may, for every breach of the order, direct the amount due to be levied in the manner provided by law for levying fines imposed by a Court of a Magistrate, or may sentence that person to imprisonment for a term not exceeding one month for each month's contribution remaining unpaid.

Evidence of orders of Minister.

87. A copy under the hand of the Director shall be evidence of any order, authority or direction given by the Minister under the provisions of this Order.

Presumptions.

88. The production of the warrant or other document, in pursuance of which a child or young person is directed to be detained in an approved school, a approved home, remand home or place of detention or committed to the care or custody of a person or directed to be sent to a hospital, with a statement endorsed thereon or annexed thereto purporting to be signed by the manager or by the person to whose care or custody the child or young person is committed, as the case may be, to the effect that he was duly —

(a) received into and was at the date of signing thereof detained still in such place; or

(b) taken into his care or custody and was at the date of signing thereof still in his care or custody, or has been otherwise dealt with according to law;

shall in all proceedings relating to that child or young person be *prima facie* evidence of the lawful detention or disposal of such child or young person.

PART XIV

EXPENSES AND CONTRIBUTIONS

Contributions by guardians.

89. Where an order has been made by a Juvenile Court under this Order committing a child or young person to the care of a fit person or sending him to a place of detention, place of safety, approved school or approved home, it shall be the duty of the guardian or other person having the custody of the child or young person to make contributions in respect of his maintenance.

Contribution order.

90. [1] When an order has been made by a Juvenile Court committing a child or young person to the care of a fit person or sending him to an approved school, approved home, place of detention or place of safety, it may, at the same time or subsequently, make an order (in this section referred to as a contribution order) on the guardian or person having the custody of the child or young person

(4) Where, in the course of any proceedings before any court of appropriate jurisdiction other than a Juvenile Court, it appears that the person to whom the proceedings relate is a child or young person, the court may, notwithstanding subsection (1), proceed with the hearing and determination of the proceedings.

(5) A Juvenile Court shall have jurisdiction to try all offences which, but for subsections (1) and (2), would be triable only by a Court of a magistrate, the Intermediate Court or the High Court.

(6) A person who has attained the age of 18 years on the date of commencement of the hearing of the charge shall not be tried by a Juvenile Court.

(7) Where in the course of any trial before a Juvenile Court the child or young person to whom the trial relates attains the age of 18 years, nothing in subsection (6) shall prevent the Juvenile Court, if it thinks fit, from proceeding with the trial and dealing with the child or young person in accordance with the provisions of this Order.

(8) In this section, "legal representative", in relation to a child or young person who is charged with an offence, includes any person assisting him in his defence to the charge.

Place of sitting and persons who may be present.

11. (1) A Juvenile Court shall sit as often as may be necessary for the purpose of exercising any jurisdiction conferred on it by this Order or by any other written law.

(2) No person shall be present at a sitting of a Juvenile Court except —

(a) members and officers of the Court;

(b) parties to the case before the Court, their counsel and witnesses and other persons directly concerned in that case;

(c) *bona fide* representatives of the media ; and

(d) such other persons as the Court may authorise to be present.

General consideration.

12. (1) Every court in dealing with a child or young person who is brought before it, either as being in need of care or protection, or as an offender or otherwise, shall have regard to his welfare and shall, in a proper case, take steps

to remove him from undesirable surroundings, and for securing that proper provision is made for his education and training.

(2) A court shall not order a child who has attained the age of 10 years to be sent to an approved school, a remand home or place of detention unless for any reason, including the want of a suitable person of his own religious persuasion who is willing to take care of him, the court is satisfied that he cannot suitably be dealt with otherwise.

PART IV

ACTION TEAMS ON CHILD PROTECTION

Establishment of Action Teams on Child Protection.

13. There shall be established groups of persons and each group shall be known as an Action Team on Child Protection, for the purposes of co-ordinating locally-based services to families, children and young persons in cases where children or young persons are or are suspected of being in need of protection.

Membership of Action Teams on Child Protection.

14. Each Action Team on Child Protection shall consist of not less than 7 members as may be appointed by the Minister.

Proceedings of Action Teams on Child Protection.

15. Each Action Team on Child Protection shall have the authority to utilise such other persons as it may reasonably require to enable it to adequately perform its functions and duties or as the circumstances may require, including any person qualified to advise on relevant indigenous, ethnic, cultural or religious factors.

Co-ordination.

16. Each Action Team on Child Protection shall be co-ordinated by the Department of Community Development.

(a) he may be apprehended without warrant by a police officer or a community development officer and brought back by him to the approved school or approved home; and

(b) the period of his detention in the approved school or approved home shall be extended by the period for which he was at large.

(3) Notwithstanding anything stated in this section, no person shall be detained in any approved school or approved home after he attains the age of 19 years and 6 months.

Offence of assisting or inducing persons to escape and for harbouring or concealing escaped persons.

85. Any person who —

(a) knowingly assists, directly or indirectly, any person legally detained under this Order in any approved school, approved home or place of detention or committed to the care or custody of any person or detained in a hospital to escape therefrom;

(b) induces any such person so to escape; or

(c) knowing that any such person ordered to be detained or committed has escaped, harbours or conceals or assists in harbouring or concealing that person, or causes or induces him not to return,

is guilty of an offence and liable on conviction to a fine not exceeding \$1,000, or to imprisonment for a term not exceeding one year or both.

Prohibition against conveying certain articles to detained persons.

86. Any person who without lawful authority —

(a) conveys, supplies or causes to be conveyed or supplied to any person being detained in an approved school, a approved home, remand home or place of detention; or

(b) hides or places in any such place for the use of any person being detained therein,

any letter, document or any other thing is guilty of an offence and liable on conviction to a fine not exceeding \$1,000, or to imprisonment for a term not exceeding one year or both.