

VICTORIA.



ANNO VICESIMO SECUNDO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 8477.

An Act to re-enact with Amendments the Law relating
to Children's Courts.

[20th November, 1973.]

BE it enacted by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is
to say) :—

1. This Act may be cited as the *Children's Court Act 1973*
and shall come into operation on a day to be fixed by proclamation
of the Governor in Council published in the *Government Gazette*
and is divided into Parts as follows :—

Short title,
Commencement
and Division.

Part I.—Courts and Magistrates ss. 4–7.

Part II.—Officers ss. 8–13.

Part III.—Jurisdiction and Powers ss. 14–20.

Part IV.—Proceedings ss. 21–24.

Part V.—Orders of Court ss. 25–31.

Part VI.—Adjournments, Probation Orders, Supervision
Orders, Recognizances ss. 32–42.

Part VII.—Miscellaneous ss. 43–56.

2. (1) The *Children's Court Act 1958* is hereby repealed.

Repeal of
No. 6218.

(2) Except

(2) Except as in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created by or under the repealed Act or existing or continuing under such Act immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Act had not been so repealed ;
- (b) in particular and without affecting the generality of the foregoing paragraph, such repeal shall not disturb the continuity of status operation or effect of any regulation order application determination direction appointment condition charge recognizance register conviction sentence committal summons warrant liability or right made effected issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under such Act before the commencement of this Act.

Interpretation.

3. (1) In this Act unless inconsistent with the context or subject-matter :—

" Age."

" Age " means, in the absence of positive evidence as to age, the apparent age.

" Child."

" Child " means a boy or girl who is or was under the age of seventeen years at the time of the commission of the alleged offence in question but does not include any person who is of or over the age of eighteen years at the time of being brought before the court.

" Child or young person in need of care and protection."

" Child or young person in need of care and protection " has the same meaning as in the *Social Welfare Act 1970*.

" Department."

" Department " means the Department of Social Welfare.

" Director of Probation."

" Director of Probation " means the Director of Probation and Parole appointed under Part VII. of the *Social Welfare Act 1970*.

" Magistrate."

" Magistrate " means children's court magistrate under this Act.

" Parent."

" Parent " includes father mother step-father step-mother and guardian of the person of a child and any person against whom an order under the *Maintenance Act 1965* has been made as the putative father of an illegitimate child and includes mother or step-mother notwithstanding that a father or step-father of the child is alive, also the putative father of an illegitimate child which he has recognized as his though no such order has been made against him.

" Prescribed "

- " Prescribed " means prescribed by this Act or the regulations. " Prescribed."
- " Probation officer " means probation officer under this Act and includes the Director of Probation and every stipendiary or honorary probation officer. " Probation officer."
- " Reception centre " means children's reception centre under the *Social Welfare Act 1970*. " Reception centre."
- " Regulations " means regulations under this Act. " Regulations."
- " Ward " or " ward of the Department " means ward of the Social Welfare Department within the meaning of the *Social Welfare Act 1970*. " Ward."
- " Youth training centre " and " remand centre " respectively mean youth training centre and remand centre under the *Social Welfare Act 1970*. " Youth training centre."

(2) Any provision of this Act relating expressly or by necessary implication to the children's court by which any order was made (including an order for the adjournment of proceedings pursuant to section 26 or section 27, a supervision order, an order for release on probation or discharge on recognizance) shall be taken as relating to a children's court sitting at the place where the order was made, notwithstanding that the persons constituting the court are not the same as made the order.

(3) Any reference in any other Act or in any Order in Council rule regulation by-law summons warrant bond recognizance or other instrument or document to any provision of the *Children's Court Act 1958* shall be read and construed as a reference to the corresponding provision of this Act.

PART I.—COURTS AND MAGISTRATES.

4. (1) A children's court shall be held at every place within the State of Victoria where a Magistrates' Court is appointed to be held unless the Governor in Council by notice in the *Government Gazette* otherwise orders and the Governor in Council may in like manner revoke any such order.

Establishment of courts.
No. 6218 s. 4.

(2) Where an order is made under sub-section (1) the Governor in Council by the same or any other notice in the *Government Gazette* may direct that the books and any other records of a children's court and of the clerk thereof be by the clerk delivered to the clerk of some other children's court named in the notice and all proceedings pending in the first-mentioned court at the time of the making of the order shall be heard and determined in such other court and such other court shall have jurisdiction to make all such orders and to do all such things in respect of such pending proceedings or of any proceedings had or determined in the first-mentioned court as the first-mentioned court would have had and in respect thereof the clerk of such other court shall have all the rights and be charged with all the duties of the clerk of the first-mentioned court.

Custody of books &c. where children's court not held at place appointed for Magistrates' Court.

(3) The

Sittings.
No. 6218 s. 3.

(3) The Governor in Council may by notice in the *Government Gazette* appoint the days and the hours of the day when children's courts shall be held, but in the absence of any such notice, the children's court shall be held on the same day as that appointed for the holding of the Magistrates' Court of the place.

(4) The Governor in Council may by the like notice vary or revoke any appointment made under sub-section (3).

Court may sit
in divisions.

(5) A children's court appointed to be held at any time and place may be divided into divisions so that two or more divisions of the court, each of which shall be constituted as and shall have the jurisdiction and powers of and shall for all purposes be deemed to be a children's court, may sit at the same time in the place so appointed or, with the consent of the parties, at any other time or place.

Appointment of
children's court
magistrates.
No. 6218 s. 5.

5. (1) The Governor in Council may appoint any person to be a children's court magistrate.

(2) Subject to sub-section (3) a person who is of or over the age of 65 years shall not be capable of acting as a children's court magistrate.

Transitory
provision.

(3) Every person who, immediately before the commencement of this Act, was a special children's court magistrate within the meaning of the *Children's Court Act 1958* shall upon the said commencement and without any further or other authority than this section become and be a children's court magistrate for the purposes of this Act in all respects as if he were appointed to be a children's court magistrate under sub-section (1) and shall be entitled, subject to sub-section (4), to continue in office as a children's court magistrate until he attains the age of 72 years.

(4) The Governor in Council may at any time revoke the appointment of a children's court magistrate appointed under sub-section (1) or holding office in pursuance of the provisions of sub-section (3) and upon any such revocation the magistrate shall cease to act as such.

Constitution
of children's
courts.
No. 6218 s. 6.

6. (1) Every children's court shall consist—

(a) where a children's court magistrate or children's court magistrates is or are present at the time for holding the children's court—of not more than three children's court magistrates ; and

(b) where no children's court magistrate is present at the time for holding the children's court—of any two or three justices or a stipendiary magistrate sitting alone or with one or two justices.

(2) The opinion of the majority of the persons constituting a children's court shall be the decision of the court on any matter and if they are equally divided in opinion then, in case of an information, if the person charged has not been convicted or the

the information dismissed, the matter shall be reheard but on any question of penalty or punishment or other matter subsequent to the finding of the court that the offence or the matter of the application has been proved the chairman shall have a second or casting vote and his decision shall be the decision of the court.

(3) Any person who, after the commencement of this Act, is appointed to be a stipendiary magistrate shall, without any further or other authority than this section but subject always to sub-section (1), be a children's court magistrate in every place in which he acts as a stipendiary magistrate and which is appointed under the *Magistrates' Courts Act 1971* as a place for the holding of a Magistrates' Court.

Stipendiary magistrates to be children's court magistrates.

(4) (a) The Governor in Council may appoint any stipendiary magistrate to be a stipendiary children's court magistrate for the purposes of this Act for any children's court or children's courts to which he is assigned by the Attorney-General from time to time by instrument in writing, whether exclusively or in addition to any other specified duties.

Appointment of stipendiary children's court magistrates.

(b) The Governor in Council may at any time revoke the appointment of a stipendiary children's court magistrate.

(5) (a) Any person who, immediately before the commencement of this Act, was a stipendiary special children's court magistrate for the purposes of the *Children's Court Act 1958* shall upon the said commencement and without any further or other authority than this section become and be a stipendiary children's court magistrate for the purposes of this Act in all respects as if he were appointed to be a stipendiary children's court magistrate under sub-section (4) and assigned by the Attorney-General to the children's court or children's courts for which he was appointed.

Transitory provision.

(b) The Governor in Council may at any time remove a person who is a stipendiary children's court magistrate by virtue of the provisions of paragraph (a).

(6) Any person who, immediately before the commencement of this Act, was a stipendiary special children's court magistrate for the purposes of the *Children's Court Act 1958* and who was immediately prior to his appointment as such magistrate an officer of the public service shall—

(a) be eligible on the recommendation of the Public Service Board to be re-appointed at the termination of his appointment as a stipendiary special children's court magistrate to some office in the public service with a classification and emolument corresponding with or higher than that which he held in the public service immediately prior to his appointment as a stipendiary special children's court magistrate as if his service as a stipendiary special children's court magistrate had been

service

service with the public service and be classified accordingly ; and

- (b) for the purposes of section 40, section 40A and section 63 of the *Public Service Act* 1958 be deemed to continue to be an officer in the public service for the period of his service as a stipendiary special children's court magistrate and shall be subject to the provisions of section 72 of the *Public Service Act* 1958, so far as those provisions are applicable to him, in all respects as if he continued to be an officer in the public service ; and
- (c) if he was immediately prior to his appointment as such magistrate an officer within the meaning of the *Superannuation Act* 1958 or any corresponding previous enactment he shall, notwithstanding his appointment as such magistrate, be deemed to continue subject to the *Superannuation Act* 1958 to be an officer within the meaning of that Act.

- (7) Where a children's court consists of two or more persons—
- (a) if one of such persons is a stipendiary children's court magistrate or a stipendiary magistrate he shall be chairman ; or
- (b) in any other case, the person elected by the magistrates and justices present or the magistrates or justices present to preside shall be chairman.

Place of sitting.
No. 6218 s. 7.

7. (1) Every children's court shall hold its sittings—

- (a) in some room of the building in which the Magistrates' Court of the place usually sits but the children's court shall not be held in the same room as that in which the Magistrates' Court is at the time sitting for the transaction of its business or in which any matter is being heard by a justice or justices ; or
- (b) in some other building or room.

(2) Where a children's court is held or proposed to be held in the same room as that in which the Magistrates' Court holds its sittings the Magistrates' Court shall take precedence over the children's court but may waive that privilege at its pleasure so as to enable the children's court to sit either immediately before the sitting of the Magistrates' Court or at any time during which its sitting is suspended by adjournment.

PART II.—OFFICERS.

Probation Officers.

8. (1) The Director of Probation is charged with the general supervision of probation work under this Act throughout Victoria and shall have such powers and duties as are prescribed by or under this Act.

Appointment of
stipendiary
probation
officers
No. 6218 s. 9.

(2) Subject to the *Public Service Act* 1958 there may be appointed such stipendiary probation officers for children's courts as the Governor in Council thinks necessary, who shall as such be probation officers for every children's court and shall have such powers and duties as are prescribed by or under this Act.

9. The Governor in Council may appoint to be honorary probation officers for the purposes of this Act fit and proper persons who are willing to exercise and perform the powers and duties assigned in that behalf by or under this Act and may at any time revoke any such appointment.

Appointment of
honorary
probation
officers.
No. 6218 s. 10.

10. The Director of Probation and every probation officer shall, in relation to a probation order, be subject to direction by the court by which the probation order was made but shall otherwise be under the control of the Director-General of Social Welfare and every stipendiary or honorary probation officer shall be under the immediate direction of the Director of Probation.

Probation
officers to
comply with
directions of
court.
No. 6218 s. 11.

11. (1) It shall be the duty of every probation officer when required by a children's court or by the Director of Probation—

Probation
officers to
make certain
investigations,
&c.
No. 6218 s. 12.

- (a) to endeavour to ascertain the address of every child in respect of whom a charge or application is to be heard by a children's court and the address of his parents ;
- (b) to make inquiries and to furnish the court with a report and information as to the child's antecedents, home environment (including parental control), companions, education, school attendance, employment, habits, recreations, character, disposition, medical history and physical or mental defects and any other relevant matters ;
- (c) to render to the court such assistance as it requires ;
- (d) to visit and supervise any child as directed by the court and in consultation and co-operation with the parents of the child ; and
- (e) to perform such other duties as are prescribed by or under this Act or the *Social Welfare Act* 1970.

(2) For

(2) For the purposes of this section a children's court may address any requisition to the Director of Probation who shall nominate a probation officer to do all the acts and things required by this Act or by the court in relation to the requisition and it shall be the duty of that probation officer to do all such acts and things accordingly.

(3) The clerk of any children's court and all members of the police force shall in the manner prescribed supply the Director of Probation or other probation officer nominated by him with such information relating to charges and applications before a children's court as are necessary for the purposes of this Act.

(4) A probation officer shall carry out any inquiries required under this section in such manner as to cause as little prejudice as possible to the reputations of the child concerned and of his parents and no written report on any such matters shall in any case be tendered to or received by a children's court until the court is satisfied that the child is guilty of the offence charged or that the matters alleged in respect of the application are true.

Right of parents to be present in court.

12. (1) Where a child is charged before a children's court with an offence, whether indictable or summary, or is brought before a children's court as a child or young person in need of care and protection or as uncontrolled or in respect of a breach of probation or recognizance the parents of the child or either of them or any person for the time being having the custody and care of the child is entitled, to the same extent as the child, to be present in court during the proceedings and to be heard in court on the child's behalf.

Probation officer may represent child in certain cases.
No. 6218 s. 13.

(2) When a child is not represented by a barrister or solicitor, a probation officer may by direction or by leave of the court and with the consent of the parent of the child (if present) appear in a children's court to represent the interests of the child and be heard in court on the child's behalf.

Officer in Charge of Children's Courts.

Appointment of officer in charge of children's courts.
No. 6218 s. 14.

13. Subject to the *Public Service Act* 1958 there may be appointed an officer in charge of children's courts, whose duty it shall be to supervise generally the work of clerks and officers of children's courts throughout Victoria and who shall have such other powers and duties as are prescribed by or under this Act.

PART III.—JURISDICTION AND POWERS.

Jurisdiction of children's courts.
No. 6218 s. 15.

14. (1) Notwithstanding anything to the contrary in any Act every children's court shall have jurisdiction—

(a) subject to section 15 to hear and summarily determine all charges against children for indictable offences other than homicide;

(b) to

- (b) to hear and inquire into all charges against children for indictable offences which the court is not authorized to determine summarily and to direct defendants to be tried or to discharge them ;
- (c) to hear and summarily determine all charges against children for offences punishable on summary conviction ; and
- (d) to hear and determine all applications (otherwise than under section 35 or section 100 of the *Social Welfare Act 1970*) for the admission of a child or young person to the care of the Department on the ground that the child or young person is in need of care and protection or is uncontrolled.

(2) Where an information charging a child with an indictable offence is heard and determined summarily by a children's court and, if the offender were tried before the Supreme Court or the County Court, that court would have power to find him not guilty of that offence but guilty of an alternative offence, the children's court may find the child not guilty of the offence charged but guilty of any alternative offence of which the Supreme Court or the County Court could find him guilty.

(3) The children's court shall, in addition, have any other jurisdiction conferred upon it by this or any other Act or law.

15. (1) Where a child is charged before a children's court with an indictable offence other than homicide the court shall, as soon as the child is charged and before any evidence is given in support of the charge cause the child and the child's parent, if present, to be informed that the parent, where the child is under the age of fifteen years, or the child himself, where he is of or above the age of fifteen years, may object to the child being summarily dealt with and may elect that he be tried by a jury.

Procedure in
indictable cases.
No. 6218 s. 16.

(2) Where the parent of a child under the age of fifteen years is not present when the child is charged with an indictable offence before a children's court the court may, if it thinks fit, adjourn the hearing of the charge with a view of securing the parent's attendance at the hearing of the charge but nevertheless the court shall have jurisdiction to deal with the case summarily in the absence of the parent.

(3) If before any evidence is given in support of the charge the parent or (as the case may be) the child objects to the charge being dealt with summarily by the children's court and elects that he be tried by a jury or if for any special reason the court at any stage considers the case to be unsuitable for summary determination, the court shall hear and inquire into the charge as if it had no jurisdiction finally to determine the charge, and may direct the child to be tried according to law or discharge him.

(4) Where

(4) Where the court proceeds to hear and inquire into the charge as if it had no jurisdiction finally to determine the charge the court may, if it appears to the court that the matter may properly be disposed of summarily and the parent or (as the case may be) the child does not object, proceed to hear and determine the matter summarily.

Jurisdiction of other courts superseded.
No. 6218 s. 17.

16. (1) The jurisdiction of every other court and of every justice in respect of the matters as to which a children's court has jurisdiction shall cease to be exercised by every other court or justice but no conviction order or proceeding made or given by or had before a court or justice in contravention of this section shall be invalidated or affected by reason only of that contravention.

Procedure where child summoned before Magistrates' Court.

(2) Where a person is summoned to appear before a Magistrates' Court to answer to an information for an offence and it appears to the court, either before or during the hearing of the information, that the defendant is a child within the meaning of this Act the court shall abstain from adjudicating or from further adjudicating in the case, and shall adjourn the hearing or further hearing of the case to the next or most convenient children's court nearest to the place where the offence is alleged to have been committed, and in the meantime it may suffer the defendant to go at large or admit him to bail, with or without surety or sureties, to appear at the children's court at the time and place to which the hearing or further hearing of the case has been adjourned.

Children's courts to have powers of Magistrates' Courts.
No. 6218 s. 18.

17. (1) Every children's court in respect of the jurisdiction conferred on it by this or any other Act shall have and may exercise all the powers and authorities for the time being possessed by Magistrates' Courts.

Provisions as to Magistrates' Courts to apply to children's courts.

(2) So far as is consistent with the jurisdiction conferred upon it by this or any other Act and subject to this Act every provision of every Act for the time being relating to or incidental to—

- (a) the jurisdiction of Magistrates' Courts and to the procedure and practice in Magistrates' Courts on the hearing of charges for indictable offences and offences punishable on summary conviction and on applications; and
- (b) stipendiary magistrates and clerks of Magistrates' Courts, summonses and warrants, powers of justices, and enforcement of convictions and orders—

shall apply to children's courts and to the corresponding proceedings therein (including protection applications and applications to deem a child uncontrolled), and to the children's court magistrates, stipendiary magistrates, and justices constituting children's courts as fully and effectually as if those provisions were repeated in this

Act

Act with the necessary adaptations and in particular with the the adaptations that every reference in those provisions to a "Magistrates' Court" shall be read and construed as if it were a reference to a "children's court" and every reference to a "clerk of the Magistrates' Court" shall be read and construed as if it were a reference to a "clerk of the children's court".

(3) Where in the opinion of the Attorney-General such a course is warranted by the special circumstances of the case he may by order in writing direct that any charge or any number of charges against a child or any application in respect of a child be heard by a children's court specified in the order being either the children's court nearest to where the cause or subject-matter of the charge or application or one of the charges arose or the children's court nearest to the child's home or the place where the child then is and the court so specified shall have jurisdiction to hear and determine and subject to this Act shall hear and determine the charge or charges or application accordingly and no objection to the jurisdiction of the court shall be entertained.

Power to Attorney-General to direct hearing in a specified children's court.

(4) The provisions of section 5 of the *Crown Proceedings Act* 1958 with respect to the forfeiture of recognizances to Her Majesty and the recovery of moneys due thereunder shall, with the substitutions referred to in sub-section (2) and with the modification that in relation to a child or young person within the meaning of the *Social Welfare Act* 1970 any reference in those provisions to imprisonment shall be read and construed as a reference to detention in a children's reception centre or a youth training centre (as the case requires), extend and apply with respect to recognizances entered under or for the purposes of this Act.

Application of Crown Proceedings Act to proceedings in children's courts.

(5) Without affecting the generality of sub-section (2) a summons returnable for hearing in a children's court may be issued or extended by a clerk of a Magistrates' Court.

18. (1) (a) On the hearing of any charge or application a children's court shall order any persons not authorized in writing under section 54 to be present in court or who in its opinion are not directly interested in the case, not being the counsel or solicitor for the prosecution or for the defendant or for the child in respect of whom the application is brought or the clerk of any such solicitor, to leave the court room or place of hearing and the precincts thereof.

Exclusion of public from court.
No. 6218 s. 20.

(b) In case of disobedience the court may direct any member of the police force to remove such persons and on its own view may impose on every such person so disobeying its order a penalty of not more than \$10 and in default of payment forthwith, or without imposing any penalty, may order that he be imprisoned for a term of not more than three days.

(c) An

(c) An order to leave the court room or place of hearing shall not be made under this section with regard to the probation officer who is concerned with the case or with regard to a parent or person for the time being having the custody and care of any defendant or of any witness under the age of eighteen years if desired by the witness or defendant to remain with him or her whilst necessarily present in court or (where the accommodation at the court house or place of hearing will in the opinion of the court allow of his attendance) with regard to any person who is the holder for the time being of a written authority granted by a stipendiary magistrate as provided in Part VII. of this Act.

(2) Any person apparently of or over the age of seventeen years who during the hearing of a charge or application wilfully misbehaves himself in a children's court or wilfully interrupts or obstructs the proceedings before the court or is guilty of any wilful prevarication in giving evidence to the court shall be deemed guilty of contempt of court and the court may during the sitting of the court by oral order direct such person to be removed from the court and to be taken into custody and at any time before the rising of the court may impose on every such person a penalty of not more than \$100 and in default of payment forthwith, or without imposing any penalty, may order that he be imprisoned for a term of not more than one month.

(3) Any child under the age of seventeen years who if he was of or over the age of seventeen years would be guilty of contempt of court under the provisions of sub-section (2) shall be deemed guilty of contempt of court and the court may, during the sitting of the court by oral order direct the child to be removed from the court and to be taken into custody and at any time before the rising of the court, impose on every such child a penalty of not more than \$5 and in default of payment forthwith or without imposing any penalty, may order that the child be detained, if he is under the age of fifteen years in a reception centre and if he is of or over the age of fifteen years in a youth training centre, for a period of not more than 48 hours.

(4) Where any person or child is guilty of misconduct as aforesaid the court may if it thinks fit accept an apology for the misconduct and may cancel or remit any penalty or punishment for the misconduct either wholly or in part.

19. Before hearing any evidence relating to the antecedents, home environment or history of any child—

(a) upon an application under the *Social Welfare Act 1970* in respect of the child ; or

(b) in

(b) in relation to a charge against a child for an offence after the court is satisfied of the child's guilt—

a children's court may if it considers that it is in the interest of the child so to do, direct that the child leave the court temporarily, but no child shall be excluded from the court during the hearing of any evidence relating to the commission of the offence which is the subject of a charge before the court unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable, in which case the court may order him to be removed and may direct the matter to proceed in his absence and with the consent of his parents (if any) present in court, may direct that any person the court considers competent to do so may represent the interests of the child during his absence.

20. (1) On the summary hearing of a charge for an offence, whether indictable or summary, the court shall not be satisfied of the child's guilt except upon proof beyond reasonable doubt by relevant and admissible evidence.

Proof of offences.
No. 6218 s. 22.

(2) Except as provided by sub-section (1) at the hearing of any charge against a child or any application in respect of a child, the court shall proceed without regard to legal forms and ceremonies and shall direct itself by the best information it can procure or that is laid before it.

Court not bound by legal forms &c.
No. 6218 s. 22.

PART IV.—PROCEEDINGS.

21. (1) Where a child is apprehended upon a charge for an offence or as a child or young person in need of care and protection or in respect of a breach of probation or of a supervision order or upon a warrant of apprehension issued by a children's court or by a justice in respect of a matter in which a children's court has jurisdiction the child shall if practicable be taken before a children's court within 24 hours or if no convenient children's court sits within that time, before some justice or magistrate to be dealt with according to this Act.

Procedure after apprehension of child.
No. 6218 s. 23.

(2) The justice or magistrate before whom a child is taken pursuant to sub-section (1) shall adjourn the hearing of the charge application or other proceedings to the next sitting of a children's court which appears to the justice or magistrate to be the appropriate court in the circumstances and the child, if not admitted to bail or released to his parent or some other person as provided by this Act, shall be placed in a manner provided by section 22.

(3) The children's court before which a child appears pursuant to this section may, subject to this Act, hear and determine the charge application or other proceeding or adjourn the hearing or further hearing thereof to another sitting of that children's court or

to any other children's court and the child if not admitted to bail or released to his parents or some other person as provided by this Act, or allowed to go at large, shall be placed in a manner provided by section 22.

(4) Where a justice or magistrate or children's court adjourns the hearing or further hearing of a charge application or other proceeding pursuant to the foregoing provisions of this section and the child is disposed of in manner provided by paragraph (a) or (b) of sub-section (4) of section 22 the period of the adjournment shall not exceed 21 days at any one time but if disposed of in the manner provided by paragraph (c) of the said sub-section (4) shall not exceed eight clear days.

(5) Notwithstanding the provisions of sub-section (1) where a child of tender years is apprehended as a child in need of care and protection the child need not be taken before a court justice or magistrate until ordered to be so taken and it shall be sufficient compliance with the provisions of sub-section (1) if application is made to a children's court under the *Social Welfare Act 1970* in respect of the child within 24 hours or the matter of such an application is brought before a justice or magistrate within that time.

Placement
pending trial.
No. 6218 s. 25.

22. (1) Where a child is apprehended upon a charge for an offence or as a child or young person in need of care and protection or in respect of a breach of probation or of a supervision order or upon a warrant of apprehension issued by a children's court or issued by a justice in respect of a matter in which a children's court has jurisdiction and appears before a justice or magistrate or a children's court and the hearing of the charge application or other proceeding is adjourned, or when a child is directed by a children's court to stand trial for an indictable offence or during any such adjournment of trial, the child may be released on entering into a recognizance with or without a surety and in such amount or amounts, as the case may be, as the justice or magistrate or children's court thinks fit, conditioned for the appearance of the child before the court to which the charge application or other proceeding is adjourned or before which he is directed to stand trial or to which the trial is adjourned or may be released on his parent or some other person entering into a recognizance as provided in sub-section (2).

(2) Where in the opinion of the justice or magistrate or children's court the child has not the capacity or understanding to enter into a recognizance, the child may be released on his parent or some other person entering as principal into a recognizance in such amount as the justice or magistrate or court thinks fit, conditioned for the production of the child at the court to which the charge application or other proceeding is adjourned or in which he is directed to stand trial.

(3) A justice

(3) A justice or magistrate, or a children's court shall not take a recognizance from a parent or other person whether as principal or surety unless he or the court, as the case may be, is satisfied that it is in the interests of the child to be so released and has also made inquiry as to the means of the parent or other person and has required him to make an affidavit or declaration of justification.

(4) If the child is not released as provided in the foregoing provisions of this section or allowed to go at large as provided by sub-section (3) of section 21, he shall be placed in one of the following ways :—

- (a) When practicable expedient and convenient the child may be placed—
 - (i) if under the age of fifteen years—in a reception centre ; and
 - (ii) if of or over the age of fifteen years—in a remand centre ;
- (b) When not so practicable expedient or convenient having regard to distance or to the condition or state of health or the welfare of the child, he may be placed with some respectable person or persons and such arrangements or agreements may be made with the said person or persons by a probation officer or a member of the police force as are necessary or proper for the care and maintenance of the child by them, or the probation officer or member of the police force, if married, may place the child in his own dwelling under the care and supervision of himself and his wife and may provide for his care and maintenance at a reasonable charge ;
- (c) When none of the methods referred to in paragraph (a) and paragraph (b) of detaining the child is practicable or where the charge pending against the child is of so serious a nature that his safe custody is a matter of paramount importance or where special circumstances exist, the child be placed in a prison or the lock-up of a police station but shall be kept apart from other prisoners :

Provided that a stipendiary or children's court magistrate may, if he considers it expedient in the special circumstances of the case so to do and subject to such conditions, if any, as he thinks fit, order that a child who has been placed in a reception centre remand centre prison or lock-up or with some person under paragraph (b) pending the hearing of a charge application or other proceeding by a children's court or during any adjournment of the hearing thereof by a children's court shall be released from that custody before the expiration of the period of the adjournment.

(5) When

(5) When a child has been brought before a children's court or justice or magistrate it or he may make an order in accordance with the provisions of this section which order shall be a sufficient authority for the detention of the child.

(6) If a child placed under this section escapes from the custody of the person or persons with whom he is placed or from a place of detention he may be apprehended as an absconder and placed in a prison or lock-up until the charge or application or other proceeding is dealt with by the children's court or (in the case where the child was in custody or detention during or pending trial) by the court by which he is being tried or is to be tried.

(7) Where a child is apprehended and taken before a justice or magistrate or a children's court and is released on entering into a recognizance with or without a surety conditioned for his appearance before a children's court or is released on his parent or some other person entering into a recognizance as principal for his production before a children's court and the child fails to appear or is not produced at the court, the children's court before which the child was required to appear, may without in any way derogating from the provisions of the *Crown Proceedings Act 1958* with respect to forfeited recognizances issue a warrant for the apprehension of the child and the child on apprehension shall be taken as soon as practicable before the court which issued the warrant and in the meantime may be disposed of as provided by this Act.

(8) When a children's court for any reason adjourns the hearing of a charge or application or other proceeding against or in respect of a child and the child fails to attend the court at the adjourned hearing or where a child has been released by a stipendiary or children's court magistrate under the proviso to sub-section (4) of this section conditionally on his appearing before a children's court at a place and time specified and the child fails to appear, the court before which the child was required to appear may issue a warrant for the apprehension of the child, and the child on apprehension shall be taken as soon as practicable before the court which issued the warrant and in the meantime may be disposed of as provided by this Act.

(9) In any of the above-mentioned cases no warrant shall be necessary to authorize the detention of any such child in any manner authorized by this section but if the right to the custody of any such child is called in question by *habeas corpus* or otherwise it shall be sufficient to give in evidence the said order of the children's court or justice or magistrate and the authority granted by the provisions of this Act to the persons referred to in this section.

(10) Where a child is disposed of in accordance with sub-section (4), the justice or magistrate or children's court may order that

the child be released from a reception centre remand centre prison or lock-up on entering into a recognizance with or without a surety in a prescribed sum or sums, as the case may be, conditioned for the appearance of a child or on his parent or some other person entering as principal into a recognizance in a prescribed sum for the production of the child at the court to which the charge application or other proceeding is adjourned or to which he is directed to stand trial or may order that the child be not so released.

23. (1) Where a child is apprehended upon a charge for an offence or as a child or young person in need of care and protection or where a child is summoned or given notice to appear before a children's court upon such a charge or in respect of an application under the *Social Welfare Act 1970* the member of the police force or person by whom he is so apprehended or upon whose information he is so summoned or by whom he is so given notice or by whom the application is made shall cause the parent of the child, if he can be found and is not already party to the proceedings, to be advised to attend at the hearing.

Parent to be notified of charge or application.
No. 6218 a. 24.

(2) Where a child is charged before a children's court with an offence or when an application is made to a children's court with respect to a child under the *Social Welfare Act 1970*—

- (a) the parent of the child shall be entitled to be heard on the child's behalf either personally or by a barrister and solicitor and may cross-examine witnesses for the prosecution or for the applicant and examine and re-examine witnesses for the child ;
- (b) if the parent of the child is not present the children's court may hear the charge or application in his absence or may order a summons to be issued for the attendance of the parent before the court and may adjourn the hearing of the case in the meantime ; and
- (c) if the parent neglects or refuses to attend accordingly without reasonable excuse after being duly served with a summons under paragraph (b) the court may order a warrant to be issued to apprehend him and bring him before the court at the hearing of the case and on his arrest he shall be taken before a justice who may admit him to bail in manner provided by the *Justices Act 1958* conditioned for his appearance at the children's court to which the case is adjourned and if the parent is not admitted to bail he shall be held in prison until the adjourned hearing.

24. (1) When

Child may be brought before court on fresh charge without writ of *habeas corpus*.

No. 6218 s. 26.

24. (1) When a child is detained in a reception centre or remand centre or youth training centre or as a ward of the Department under or awaiting sentence or awaiting trial or on remand or for any other lawful cause and the child is charged with an offence or is otherwise lawfully required to be brought before a children's court or any other court he may upon an order made by a children's court magistrate or by a stipendiary magistrate or by the proper officer or clerk of the court before which he is to be brought or by the officer in charge of children's courts be brought before the children's court or other court (as the case requires) without a writ of *habeas corpus*.

(2) Every child brought before a court upon an order under sub-section (1) shall be deemed to be in the legal custody of the member of the police force or other officer having the temporary custody of the child and acting under the order and he shall in due course return the child into the custody from which the child was brought or into such other custody as is authorized by law.

PART V.—ORDERS OF COURT.

Orders in Respect of Children.

Pre-sentence reports to be considered.

No. 6218 s. 27.

25. (1) Where a child is charged before a children's court with an offence or is brought before a children's court as a child or young person in need of care and protection or as uncontrolled the court, if satisfied that the child has committed the offence or is a child or young person in need of care and protection or is uncontrolled, shall before making an order give consideration to any report tendered which sets out an account of the results of investigation into the antecedents, home environment (including parental control), companions, education, school attendance, employment, habits, recreation, character, reputation, disposition, medical history and physical or mental defects (if any) of the child and any other relevant matters.

(2) Upon application by or on behalf of a child for a copy of any such report the court may, unless it considers it adverse to the interests of the child so to do, order that a copy of the report be made available to the child or his counsel or solicitor.

(3) The court may adjourn the hearing of any case for the purpose of having such an investigation made and a report submitted and the child during the adjournment may be permitted to go at large or placed as provided by section 22.

(4) Where the court is so satisfied the court, in making an order in any case shall firstly have regard to the welfare of the child but shall also, where dealing with the child for an offence, have regard to the nature and circumstances of the offence and to the child's

character

character history and previous convictions (if any) and shall make such recommendations as it considers necessary for the treatment or guidance of the child.

26. (1) Where a child has been charged before a children's court with an indictable offence which the court has heard and determined in accordance with this Act or with an offence punishable summarily and the charge has been proved to the satisfaction of the court, the court may—

Powers of dealing with offender.
No. 6218 s. 28.

- (a) without convicting him, dismiss the information ; or
- (b) without convicting him, adjourn the proceedings for a specified period not exceeding two years and not extending beyond his eighteenth birthday on condition that he will during that period be of good behaviour and comply with such other conditions, if any, as the court thinks proper to impose ; or
- (c) without convicting him, release him on probation for a specified term not exceeding three years and not extending beyond his eighteenth birthday ; or
- (d) whether convicting him or not order him to pay a penalty not exceeding \$100 ; or
- (e) whether convicting him or not, discharge him conditionally on his entering into a recognizance in a nominal sum, whether with or without a surety or sureties, to be of good behaviour and to observe such other conditions, if any, as the court thinks proper to impose and to appear for punishment, if called upon, within a specified period not exceeding two years and before his eighteenth birthday ; or
- (f) upon convicting him for an offence for which apart from this section a sentence of imprisonment may be imposed otherwise than in default of payment of a fine—
 - (i) if he is under the age of fifteen years at the date of conviction—admit him to the care of the Department ; or
 - (ii) if he is of or over the age of fifteen years at the date of conviction—sentence him to be detained in a youth training centre for a specified period not exceeding two years, or if convicted by a children's court on any occasion of two or more such offences,

without

without affecting the jurisdiction of the court to sentence him to a separate period of detention for each such offence, order in respect of all such offences, or in respect of any two or more of them, that the child be detained in a youth training centre for a period to be known as an "aggregate period" which shall be specified but shall not exceed three years ;

- (g) where the court is satisfied by the evidence before it that the child answers to any of the descriptions set out in section 31 of the *Social Welfare Act 1970*, without convicting him, order that he be admitted to the care of the Department as a child or young person in need of care and protection in all respects as if he were brought before the court under section 32 of that Act or may make a supervision order in respect of the child such order to remain in force for a specified period not exceeding three years and not extending beyond his eighteenth birthday.

(2) (a) Where a court sentences a child to a separate period of detention for each such offence, the court may direct that the separate periods of detention or any part thereof be served concurrently and in the absence of any such direction the periods of detention shall be served cumulatively but in no case shall the aggregate of the periods of detention to be served cumulatively exceed three years.

(b) Where sentences of detention referred to in paragraph (a) are cumulative upon any uncompleted sentence or sentences and the aggregate of all such sentences exceeds three years the later sentences shall be deemed to be sentences that the child be further detained after the expiration of the sentence or sentences he is then serving for the period determined by deducting from three years the period of the unexpired portions of the prior sentences at the date of the passing of the later sentences.

(3) (a) Where the court deals with the child in any manner provided in sub-section (1) it may, in addition, order the child to pay such damages compensation and costs or any one or more of them as the court thinks reasonable.

(b) An order made pursuant to this sub-section shall not be a bar to any other proceedings by or on behalf of the person who suffered the damage or loss.

(4) In this section any reference to a fine for an offence according to law shall be taken to refer to a fine of an amount within the maximum limits which apart from this section may be imposed in respect of that offence.

27. Where

27. Where a child has been adjudged by a children's court to be a child or young person in need of care and protection or to be an uncontrolled child the court may—

Power to make orders with respect to child in need of care and protection &c.
No. 6218 s. 29.

- (a) make an order that he be admitted to the care of the Department as provided by the *Social Welfare Act 1970* ; or
- (b) release the child on probation for a specified term not exceeding three years and not extending beyond his eighteenth birthday ; or
- (c) make a supervision order in respect of the child, such order to remain in force for a specified period not exceeding three years and not extending beyond his eighteenth birthday ; or
- (d) adjourn the proceedings for a specified period not exceeding two years and not extending beyond his eighteenth birthday on condition that he will during that period be of good behaviour and comply with such other conditions, if any, as the court thinks proper to impose.

28. When a child who is a ward of the Department is charged before a children's court with an offence or is brought before the court as a child or young person in need of care and protection or as an uncontrolled child the court, if it finds the child guilty of the offence or to be a child or young person in need of care and protection or to be an uncontrolled child (as the case may be), may instead of dealing with the child in any other way order that the child be returned to the care of the Department.

Wards of department charged with offences.
No. 6218 s. 30.

Orders in Respect of Parents.

29. Where a child is found guilty by a children's court of an offence in respect of which a fine damages compensation or costs or any one or more of them is or are ordered to be paid and the court has reason to believe that the child's parent has contributed to the commission of the offence by wilful default or by habitually neglecting to exercise due care of the child, the court may direct a member of the police force to lay an information against the parent forthwith charging him with so contributing to the commission of the offence.

Parent contributing to child's offence.
No. 6218 s. 31.

30. (1) If the parent against whom an information is laid under section 29 is present and having been warned that he may ask for an adjournment of the hearing of the information to enable him to answer the charge consents to the immediate hearing of the information the court may hear the information there and then and on being satisfied beyond reasonable doubt by relevant and admissible evidence that the charge is proved may convict the parent thereof.

Procedure on information against parent
No. 6218 ss. 31-32.

(2) If

(2) If the parent against whom an information is laid under section 29 is not present the court may direct a member of the police force to obtain a summons on the information against the parent and upon the day appointed by the summons for the hearing of the information and on proof of the service of the information and summons on the parent the court, on being satisfied beyond reasonable doubt by relevant and admissible evidence that the charge is proved, may convict the parent thereof.

(3) Where it is shown that a parent's want of pecuniary means is the cause of the default or neglect the charge shall be held not proved.

Power to order parent to pay penalty &c. instead of child.

No. 6218 s. 33.

31. (1) Where the court convicts the parent of the charge under section 29 it may in and by its conviction order the parent to pay or contribute towards the fine damages compensation or costs or any one or more of them that his child has been ordered to pay and may in addition order the parent to enter into his own recognizance forthwith with or without surety for the good behaviour of the child for any period not less than three or more than twelve months and may order that in default of a recognizance being entered into accordingly the parent be imprisoned for a term of not more than three months.

(2) An order of a children's court for the payment of any such sums by a parent may be enforced in the manner in which an order of a Magistrates' Court for the payment of a fine on conviction may be enforced under the *Justices Act 1958* where no special mode of enforcement is provided by the Act creating the offence for which the fine is imposed.

(3) Where the parent is ordered under sub-section (1) to pay any moneys the court shall not enforce payment of the moneys ordered to be paid by the child found guilty in the first instance.

PART VI.—ADJOURNMENTS, PROBATION ORDERS, SUPERVISION ORDERS, RECOGNIZANCES.

Adjournments.

Procedure on breach of condition for release.

32. (1) Where under section 26 or section 27 of this Act or section 34 or section 104 of the *Social Welfare Act 1970*, a children's court has adjourned proceedings for a specified period on condition that the child will during that period be of good behaviour and comply with any condition imposed by the court and, at or before the expiration of the period of adjournment, it appears to the children's court which so adjourned the proceedings that the child has failed to be of good behaviour or has not complied with any condition imposed by the court, the court may by notice signed by the clerk of the court command the child to appear before the court at a time named therein for the further hearing of the proceedings.

(2) Such

(2) Such notice shall be given to the parent of the child and also to the child himself if he is of or over the age of fifteen years but if the child is of or over the age of fifteen years and is not living with a parent, it shall be sufficient if notice is given to the child only.

(3) After notice has been given in accordance with sub-section (2) if the child does not appear before the court for the further hearing of the proceedings or if service cannot be effected, the court may issue a warrant for the apprehension of the child and the child on apprehension shall be taken as soon as practicable before the court which issued the warrant and in the meantime may be placed as provided by this Act.

(4) If in respect of any child who appears pursuant to this section before the children's court which adjourned the proceedings, the court is satisfied that the child has failed to be of good behaviour or has not complied with any condition imposed by the court, the court may, notwithstanding that the period of the adjournment has expired, deal with the child as if the court had just been satisfied of his guilt of the offence with which he was charged or in respect of which he was released or adjudged him to be a child or young person in need of care and protection or an uncontrolled child (as the case may be).

(5) Where under section 26 or section 27 of this Act or section 34 or section 104 of the *Social Welfare Act 1970* a children's court has adjourned proceedings for a specified period on condition that the child will during that period be of good behaviour and comply with any condition imposed by the court and—

(a) the child appears on a charge application or other proceeding before that court at or before the expiration of the period of the adjournment ; and

(b) the court is satisfied that the child has failed to be of good behaviour or has not complied with any condition imposed by the court—

the court may deal with the child under sub-section (4) without giving the notice referred to in sub-section (1).

(6) Notwithstanding the foregoing provisions of this section, the court shall not have jurisdiction to deal with a person who is of or over the age of eighteen years at the time of appearing before the court under the provisions of this section but shall remit the matter to a Magistrates' Court pursuant to the provisions of section 51.

(7) The court may, by order, terminate the period of an adjournment at any time before its expiration and any period of adjournment which has not already been terminated shall *ipso facto* without any further action by a court be terminated upon the expiration of the period.

(8) The

(8) The power to adjourn proceedings under section 26 or section 27 of this Act or section 34 or section 104 of the *Social Welfare Act* 1970 and the provisions of this section shall be in addition to and shall not affect any other power a children's court may possess to adjourn the hearing or further hearing of a charge application or other proceeding.

Probation Orders.

Interpretation.

33. The expression "Director of Probation" in sections 34 to 39 includes any person appointed to or acting in the position of Director of Probation and except in sub-sections (5) and (6) of section 39 also includes any stipendiary probation officer appointed in writing by the Director of Probation for the purpose of sections 34 to 39.

Conditions of probation may include residence with a fit and proper person.
No. 6218 s. 34.

34. Where a child is released on probation he shall be under the supervision of a probation officer assigned by the Director of Probation and shall be subject to such conditions as are specified in the order releasing him and those conditions may, without limiting the generality of the foregoing, include a condition that during the whole or any part of the period of probation, the child will reside with and obey the lawful instructions of some fit and proper person specified in the order who is willing to undertake the care of the child.

Requirements as to order.

35. (1) Where a child is released on probation, a probation order in the form prescribed or to the like effect shall be signed by the judge or magistrate constituting the court or if the court is constituted by more than one magistrate, by any one of them, and the court shall deliver or cause to be delivered to the child a copy of the probation order.

(2) The clerk of the court shall forthwith send a copy of the probation order to the Director of Probation who shall by endorsement thereon assign a probation officer to be the probation officer in the case and shall send copies of the probation order to the probation officer so assigned and also to the parent of the child or if the child has no parent, to the child himself.

(3) The Director of Probation may from time to time by endorsement on the probation order assign another probation officer in lieu of the probation officer previously assigned and shall send a copy of the probation order to the newly assigned probation officer and shall also give notice of the assignment to the parent of the child or if the child has no parent, to the child himself.

(4) Where a child is released on probation, the parent of the child shall permit the probation officer under whose supervision the child is placed to visit the child at his place of residence and to carry out his duties in respect of the child and the Director of

Probation

Probation shall cause a copy of this sub-section to be given to the child's parent together with a statement of the name and address of the probation officer under whose supervision the child will be.

36. (1) Where a child is released on probation, the court making the order shall appoint the children's court which it considers most convenient to be the supervising court in respect of the order and the children's court so appointed or such other children's court as is substituted for that court pursuant to the provisions of sub-section (3) shall be the supervising court in respect of the order.

Supervising court to be appointed for child released on probation.

(2) The probation order shall specify the children's court so appointed and, except where the court making the order is the supervising court, the court making the order shall cause to be sent to the clerk of the supervising court the probation order and such documents and information as the court thinks likely to be of assistance to the supervising court.

(3) Where a supervising court is satisfied that some other children's court is or will be the most convenient children's court, it may substitute such other children's court as the supervising court in lieu of the court previously appointed, and the magistrate or one of the magistrates constituting the court shall so endorse the probation order and shall cause it to be sent to the clerk of the new supervising court together with such documents and information as the supervising court thinks likely to be of assistance to the new supervising court.

(4) The clerk of the children's court which has substituted a new supervising court shall forthwith give notice to the Director of Probation of the appointment of a new supervising court and the Director of Probation shall give notice of the appointment of such new supervising court to the probation officer assigned to the case and to the parent of the child or, if the child has no parent, to the child himself.

37. (1) Where a child has been released on probation the supervising court may at any time amend the probation order by cancelling or varying any of the conditions specified therein or adding any condition or substituting a condition for one already specified but may not extend the period of probation, and the magistrate or one of the magistrates constituting the court shall endorse the probation order accordingly.

Amendment of probation order.

(2) An application for an amendment of a probation order may be made to the supervising court by the Director of Probation, by the probation officer assigned to the case with the consent in writing of the Director of Probation, or by the child or his parent or other person on his behalf, but notice of an intended application shall be given in writing not less than fourteen days before the hearing, shall set out the amendment sought and shall state the place and time when the application will be made.

(3) (a) Where

(3) (a) Where the application is made by the Director of Probation or the probation officer assigned to the case, notice in writing shall be given to the parent of the child and also to the child himself if he is of or over the age of fifteen years.

(b) If the child is of or over the age of fifteen years and is not living with a parent it shall be sufficient if notice is given to the child only and the child consents to the application.

(c) Where the application is made by the child or parent or other person on his behalf, notice shall be given to the Director of Probation.

(4) Where a children's court amends a probation order, the clerk of the children's court shall give notice in writing of the amendment to the Director of Probation who shall thereupon give notice in writing to the probation officer assigned to the case, to the informant, and to the child and to the parent of the child.

Probation order to apply although child attains age of seventeen years. No. 6218 s. 36.

38. (1) A child released on probation shall, unless his period of probation is terminated as hereafter in this section provided, remain subject during the period of his probation to the order releasing him and to the conditions specified in that order or the order as amended from time to time and to the provisions of this Act and the regulations applicable thereto notwithstanding that before the expiration of the period of probation he attains the age of seventeen years.

Termination of probation order.

(2) A period of probation may be terminated at any time by the supervising court by notice in writing sent by post to the Director of Probation and, if the supervising court is not the court that made the order, to the clerk of that court, and shall *ipso facto* be terminated without any further action by the court upon the expiration of the probation period.

Procedure on breach of probation order. No. 6218 s. 37.

39. (1) Where a child has been released on probation under this Act and at any time during the probation period it appears to the supervising court or to the Director of Probation that the child has failed to observe any condition specified in the order releasing him or any amended condition the supervising court or the Director of Probation may, by notice in writing signed by the clerk of the court or the Director of Probation, (as the case may be), direct the child to appear before the supervising court at a time and date named therein.

(2) (a) Notice under sub-section (1) shall be given to the parent of the child and also to the child himself if he is of or over the age of fifteen years.

(b) If the child is of or over the age of fifteen years and is not living with a parent, it shall be sufficient if notice is given to the child only.

(3) After

(3) After notice has been given in accordance with sub-section (2) if the child does not appear before the court or if service as aforesaid cannot be effected, the court may issue a warrant to apprehend the child and the child on apprehension shall be taken as soon as practicable before the court which issued the warrant and in the meantime may be placed as provided by this Act.

(4) (a) Notwithstanding anything to the contrary in this Act, where a child has been released on probation under this Act and at any time during the probation period it appears to the Director of Probation or to the probation officer assigned to supervise the child that the child has failed to observe any condition specified in the order releasing him or any amended condition, the Director of Probation or, with the consent of the Director of Probation in writing, the probation officer assigned to supervise the child may apply to a justice for the issue of a warrant to apprehend the child.

(b) On information made before the justice on oath the justice may issue his warrant and the child on apprehension shall be taken as soon as practicable before the supervising court and in the meantime may be placed as provided by this Act.

(5) Notwithstanding anything to the contrary in the foregoing provisions of this section the Director of Probation may at any time during the probation period and without warrant, apprehend or cause to be apprehended any child who has been released on probation under this Act and who appears to the Director of Probation to have broken any condition specified in the order releasing him or any amended condition.

(6) Where the Director of Probation apprehends or causes to be apprehended any child under the provisions of sub-section (5), the child shall as soon as practicable be taken before the supervising court and in the meantime may be placed as provided by this Act.

(7) In any such case the Director of Probation shall prepare a notice to be called a "Notice of Apprehension" and, where the child is taken forthwith before a children's court, shall lodge the notice with the court and in any other case shall, after the child appears before a justice or a stipendiary or children's court magistrate, forward such notice to the supervising court.

40. (1) Where a child who has been released on probation under this Act appears pursuant to section 39 before the supervising court and the court is satisfied that the child has failed to observe any condition specified in the order releasing him or any amended condition, the court may, notwithstanding that the period of probation has expired, deal with the child in the same manner as if the court had just been satisfied of his guilt of the offence in respect of which he was released on probation or had just been satisfied that the child was in need of care and protection or was

Power to
court to deal
with breach of
probation.
No. 6218 s. 37.

uncontrolled (as the case may be) or may, without prejudice to the continuation in force of the probation order, order that the child pay a fine not exceeding \$20.

(2) Where a child who has been released on probation under this Act appears on a charge application or other proceeding before the supervising court before the expiration of the period of the probation order and the court is satisfied that the child has failed to observe any condition specified in the order releasing him or any amended condition, the court may deal with the child as if the court or the Director of Probation had by notice directed the child to appear pursuant to section 39.

(3) Notwithstanding the foregoing provisions of this section, the court shall not have jurisdiction to deal with a person who is of or over the age of eighteen years at the time of appearing before the court under the provisions of this section but shall remit the matter to a Magistrates' Court pursuant to the provisions of section 51.

Supervision Orders.

Power to court
to make
supervision
order.

41. (1) Where a children's court makes a supervision order in respect of a child, it may impose any condition it thinks fit in the interests of the welfare of the child, including conditions to be observed by the parents or persons with whom the child is living, and the child shall be supervised by a probation officer assigned by the Director of Probation.

(2) Except where the contrary intention appears, sections 33 to 40 of this Act relating to probation orders shall with such modifications as are necessary apply to supervision orders.

(3) (a) Where a children's court makes a supervision order in respect of a child, the parent or person with whom the child is living shall permit the probation officer assigned to supervise the child, to visit the child at his place of residence, and to carry out his duties in respect of the child.

(b) The probation officer may give to the child or the parents or persons with whom the child is living any reasonable direction in the interests of the welfare of the child and the Director of Probation shall cause a notice in writing setting forth the provisions of this section to be given to the child's parents or persons with whom the child is living.

(4) Where during the continuance of a supervision order it appears to the supervising court or to the Director of Probation that there has been a failure neglect or refusal to comply with any condition imposed by the court at the time of making the supervision order or with any condition varied or added pursuant to this Act or with any direction given by the probation officer assigned to supervise the child, or that the child is living in conditions which are

unsatisfactory,

unsatisfactory, the supervising court or the Director of Probation may by notice in writing signed by the clerk of the court or the Director of Probation, as the case may be, direct the child to appear before the supervising court and the parents or other persons with whom the child is living to produce the child before the supervising court at the time and place named in the notice.

(5) (a) Notice under sub-section (4) shall be given to the parents or other persons with whom the child is living and also to the child if he is of or over the age of fifteen years.

(b) If the child is of or over the age of fifteen years and is not living with his parents or other responsible persons, it shall be sufficient if notice is given only to such child.

(6) After notice has been given under this section or if service cannot be effected and the child does not appear before the court at the time and place named, the court may issue a warrant to apprehend the child and the child on apprehension shall be taken as soon as possible before the supervising court and in the meantime may be placed as provided by this Act.

(7) (a) Notwithstanding anything contained in sub-section (4), where it appears to the supervising court that there has been a failure neglect or refusal to comply with a condition imposed by the court or direction given by the probation officer or that the child is living in conditions which are unsatisfactory and the court considers that there are special circumstances which justify the apprehension of the child, the court may order that the child be removed from his parents or other persons with whom the child is living and brought before the court.

(b) For the purposes of an order under paragraph (a) the court may issue a warrant to apprehend the child and the child upon apprehension shall be taken as soon as possible before the supervising court and in the meantime shall be placed as provided by this Act.

(8) If in respect of a child brought before a court pursuant to this section the court is satisfied that there has been a failure neglect or refusal to comply with a condition imposed by the court at the time of making the supervision order, or with any condition varied or added pursuant to this Act or with any direction given by the probation officer assigned to supervise the child, or that the child is living in conditions which are unsatisfactory, the court may cancel the supervision order and deal with the child in any manner in which it might have done at the time of the hearing of the application in the first instance.

No. 6218 s. 38.

(9) A supervision order may be terminated at any time by the supervising court and shall *ipso facto* be terminated without any further action by a court upon the expiration of the period for which supervision was ordered.

Recognizance

Recognizance to Be of Good Behaviour.

Procedure upon
breach of
recognizance to
be of good
behaviour.
No. 6218
ss. 37-39.

42. (1) Where a child has been discharged under the provisions of this Act upon his entering into a recognizance to be of good behaviour and to observe any other conditions imposed by the court and to appear for punishment if called upon and it appears to the children's court which discharged him that he has failed to be of good behaviour or to observe any such condition the children's court may direct the child to be served with a notice to appear before the court.

(2) The clerk of the children's court shall cause notice in writing under his hand to be served on the child commanding him to appear before the court at a time and place mentioned in the notice to be dealt with in respect of the offence of which he was convicted and also upon the surety (if any) requiring him to produce the child before the court as required.

(3) After the child and the surety (if any) have been served with notice under sub-section (2) if the child does not appear or if service cannot be effected, the court may declare the recognizance of the child and of the surety (if any) to be forfeited and may issue a warrant for the apprehension of the child and the child when apprehended shall be taken as soon as practicable before the court which issued the warrant and in the meantime may be placed as provided by this Act.

(4) If a child who has been discharged on entering into a recognizance to be of good behaviour and to observe any other conditions imposed by the court and to appear for punishment if called upon is brought or appears before the court which discharged him during the period limited by his recognizance (and whether the court has directed notice to issue or not), and the court is satisfied that the child has failed to be of good behaviour or to observe any condition imposed by the court, the court may deal with the child in the same manner as if the court had just been satisfied of his guilt of the offence in respect of which he was discharged on entering into the recognizance.

(5) The provisions of this section shall be read and construed as in aid of and not in derogation of the provisions of any other Act.

(6) Notwithstanding the foregoing provisions of this section the court shall not have jurisdiction to deal with a child who has been charged with an offence and who is of or over the age of eighteen years at the time of appearing before the court under the provisions of this section but shall remit the matter to a Magistrates' Court pursuant to the provisions of section 51.

PART VII.—MISCELLANEOUS.

43. (1) The clerk of each children's court shall in the form and with the particulars set out in the Schedule, keep a register independently of that used in the Magistrates' Court of the minutes or memoranda of all convictions orders and proceedings of the children's court and such register shall be distinguished by the name of the place at which the court is held.

Clerk to keep separate register for children's court.
No. 6218 s. 40.

(2) The register and also any document purporting to be an extract from the register certified by the clerk of the children's court keeping the register to be a true extract shall be *prima facie* evidence of the matters entered therein.

(3) The minutes or memoranda of every day's sitting of the children's court shall be signed by one or more of the children's court magistrates or justices constituting the court by and before whom the convictions orders or proceedings referred to in the minutes or memoranda were made or had.

(4) Every children's court register shall be open for inspection, without fee or reward, by any stipendiary magistrate or children's court magistrate or by any person authorized in that behalf by the Attorney-General or by a stipendiary magistrate or children's court magistrate or so far as relates to the proceedings in any particular case by any party to the proceedings or his counsel or solicitor or by the parent of the child in respect of whom the entry is made.

(5) No person shall furnish information relating to proceedings in a children's court to any person who is not entitled under sub-section (4) to inspect the register.

Penalty : \$2,000.

44. (1) Where a children's court orders a child to pay moneys by way of fine damages or compensation, it may also order the child to pay the moneys either immediately or by instalments or within such period as the court thinks fit and that in default of payment at the time or in the manner so ordered that the child be detained in a reception centre if he is under the age of fifteen years or detained in a youth training centre if he is of or over the age of fifteen years for such term not exceeding three months as in the opinion of the court will satisfy the justice of the case.

Recovery of moneys ordered to be paid by children.
No. 6218 s. 41.

(2) (a) Where a child is detained under the provisions of sub-section (1) for failure to pay two or more fines or sums of money ordered to be paid by way of damages or compensation or any portion of those fines or sums of money, the periods of detention to be served in default of payment shall be cumulative upon each other and, in the case of a child who is serving any other period of detention in a youth training centre, shall be cumulative upon such other period.

(b) Where

(b) Where sentences of detention referred to in paragraph (a) are cumulative upon any uncompleted sentence or sentences and the aggregate of all such sentences exceeds three years the later sentences shall be deemed to be sentences that the child be further detained after the expiration of the sentence or sentences he is then serving for the period determined by deducting from three years the period of the unexpired portions of the prior sentences at the date of the passing of the later sentences.

(3) Where a child is detained in a reception centre or youth training centre for non-payment of any sum of money, he may pay or there may be paid on his behalf to the superintendent of the reception centre or youth training centre in which he is detained—

(a) the amount stated in the warrant or order on which the child is detained for non-payment of any sum of money ; or

(b) any lesser amount—

and in either case the superintendent shall receive such payment.

(4) In the case mentioned in paragraph (a) of sub-section (3), the superintendent shall thereupon discharge the child if he is in custody for no other matter.

(5) In the case mentioned in paragraph (b) of sub-section (3), the period of detention stated in the warrant or order on which the child is detained for non-payment of any sum of money shall be reduced by the number of days bearing the same proportion to that period as the amount paid bears to the amount stated in the warrant or order to be paid and on the expiration of the term so reduced the child so detained shall, if in custody for no other matter, be discharged.

Enforcement
of orders to
pay monsys.
No. 6218 s. 41.

45. Subject to the provisions of section 17 an order of a children's court for the payment of any moneys by a child shall not be enforced otherwise than pursuant to section 44.

Service may be
effected by
registered
post.

46. Where under this Act or the regulations it is provided that notice shall be given or served on any child parent or other person, unless the contrary intention appears, the giving or serving of such notice may be effected by registered post at the last known address of the child parent or other person as aforesaid so as to reach that address in the ordinary course of post not less than five days before the time named in the notice for the appearance of the child before the court or the hearing of any proceeding in the court as the case may be or in any manner in which service of a summons may be effected under the *Justices Act 1958*.

47. (1) (a) Where

47. (1) (a) Where a person who has been charged before a children's court with an offence or with respect to whom an application has been made to a children's court on the ground that such person has committed an offence is called as a witness in any legal proceeding within the meaning of section 3 of the *Evidence Act 1958* no question in regard to any such charge or any conviction or order thereon or to any such application or to any appearance of that person before a children's court in relation thereto or consequent thereon shall be asked of him after the expiration of three years from the date of the charge application or appearance (whichever last happens) unless the question is relevant to the facts in issue in the proceedings or to matters necessary to be known in order to determine whether or not such facts existed or unless the court or magistrate considers that the interests of justice require that such a question be asked.

Restrictions as to evidence of previous appearance in children's court.
No. 6218 s. 42.

(b) No question shall be asked of any person called as a witness in any legal proceeding within the meaning of section 3 of the *Evidence Act 1958* (other than a proceeding in a children's court) about any application made to a children's court on any other ground than that such person has committed an offence.

(2) Where a person has been charged before a children's court with an offence or where in respect of a person an application has been made to a children's court on the ground that such person has committed an offence the fact of the charge or of any conviction or order thereon or of any such application or of any appearance of that person before a children's court in relation thereto or consequent thereon having been made shall not be given in evidence against him in any legal proceeding within the meaning of section 3 of the *Evidence Act 1958* (other than a proceeding in a children's court) after the expiration of three years from the date of the charge application or appearance (whichever last happens) unless that fact is relevant to the facts in issue in the proceeding or to matters necessary to be known in order to determine whether or not those facts existed :

Provided that where such person is charged with an offence (whether indictable or punishable on summary conviction) any convictions orders or proceedings of or in relation to that person previous to the date of the commission of the offence with which he is then charged entered in the register of any children's court may after verdict or upon conviction (as the case may be) be given in evidence.

48. No person shall publish or cause to be published in any newspaper or broadcast by means of wireless telegraphy or television a report of any proceedings in a children's court, or in any other court on appeal from any children's court containing the locality or any particulars calculated to lead to the identification of the particular children's court or the name address or school or any

Restrictions on reports of proceedings in children's courts.
No. 6218 s. 43.

particulars

particulars calculated to lead to the identification of any child or other person concerned in those proceedings either as being the person against or in respect of whom the proceedings are taken or as being a witness therein, nor shall any person publish or cause to be published in a newspaper or by television or otherwise any picture as being or including a picture of a child or other person concerned in any such proceedings.

Penalty : \$2,000.

Establishment
of children's
court clinic.
No. 6218 s. 44.

49. The Governor in Council may establish and maintain a children's court clinic under the charge of a legally qualified medical practitioner—

(a) for the purpose of making physical psychiatric and psychological examinations of children proved before children's courts to have committed offences or to be children or young persons in need of care and protection or uncontrolled and of submitting special reports for the information of the court ; and

(b) for such other purposes as are prescribed.

Application
of other Acts
&c.
No. 6218 s. 46.

50. Where under any Act other than this Act a court is authorized upon a conviction for an offence to make any order with respect to any property or thing the subject of or in any way connected with the offence or to impose any disqualification or like disability on the person convicted, then when a charge for any such offence is heard before a children's court and the court finds the offence proved it shall be authorized to make such an order or to impose such a disqualification or disability notwithstanding that no conviction is recorded against the child charged with the offence.

Remission of
cases where
children's
court has no
jurisdiction.
No. 6218 s. 47.

51. (1) Where a person has been summoned to appear before a children's court or has been apprehended and brought before a children's court upon a charge for an offence and it appears to the court either before or during the hearing of the charge that the person is not a child, the children's court shall abstain from hearing the case and may remit the case to the Magistrates' Court which seems the most convenient court in the circumstances for hearing the matter, and in the meantime it may commit him to prison or suffer him to go at large or admit him to bail with or without surety to be brought or to appear before the Magistrates' Court at the time and place to which the hearing of the case is remitted.

(2) Where under sub-section (6) of section 32, sub-section (3) of section 40, or sub-section (6) of section 42 a matter is remitted to a Magistrates' Court for hearing the Magistrates' Court may deal with the person as if the court had just been satisfied of his guilt of the offence with which he was charged or in respect of which he was released on probation or recognizance to be of good behaviour,

52. (1) Any

52. (1) Any person against or in respect of whom a conviction or order is made by a children's court, whether upon a charge for an offence or upon an application under the *Social Welfare Act* 1970 to have a child adjudged a child or young person in need of care and protection or uncontrolled (but not including a direction for trial), may pursuant to Part V. of the *Justices Act* 1958 appeal therefrom and the provisions of Division 2 of the said Part shall extend and apply to the matter of the appeal.

(2) Where the appellant is a child under the age of fifteen years the appeal may be made by the child's parent or in the absence of the parent by the Director of Probation on his behalf and in his name or, if the child is of or over the age of fifteen years, by the child himself, and the provisions of Part V. of the *Justices Act* 1958 shall with the necessary modifications apply accordingly.

(3) Where under the provisions of Part V., the child is required to enter into a recognizance with or without a surety but it appears to the court magistrate or justice that the child has not the capacity or understanding to enter into a recognizance, a parent or any other person may enter into a recognizance as principal in such amount as the court, magistrate or justice (as the case may be) determines, conditioned that he produce the child at the County Court and surrender the child and if permission is given for the child to leave the County Court to produce the child at the time appointed and again surrender the child and to abide the judgment of the court on appeal and to pay such costs as may be awarded by the court and the provisions of the said Part V. shall with the necessary modifications apply accordingly.

(4) Where in consequence of a protection application a child is adjudged to be a child in need of care and protection and admitted to the care of the Department, the children's court which determined the application may, at the time of making the order admitting the child to the care of the Department or subsequently, if it considers that the welfare of the child requires such an order, order that the child shall not be released from the care of the Department pending the appeal or shall only be released to a specified person.

(5) The County Court shall have jurisdiction to hear and determine an appeal from a decision of a children's court adjudging a person to be a child or young person in need of care and protection notwithstanding that since the date of the order the person has, on account of age, ceased to be a child within the meaning of this Act.

(6) Without affecting the generality of section 142 of the *Justices Act* 1958, where an appeal is made from a decision of a children's court whereby a child is ordered to be detained in a youth training centre in respect of two or more offences for an aggregate period which is specified, the County Court may, if it finds the child guilty of the offences or any two or more of them,

order

order that the child be detained in a youth training centre in respect of such offences for a period not exceeding the aggregate period or may sentence the child to be detained in a youth training centre for a separate period of detention in respect of each such offence but so that the separate periods do not in the aggregate exceed the aggregate period ordered to be served by the children's court.

Exclusion of public from appeals.
No. 6218 s. 49.

53. (1) On the hearing of an appeal from a conviction or order of a children's court the judge may order to leave the court room and its precincts any persons who in his opinion are not directly interested in the case, not being—

- (a) the counsel or solicitor for the prosecution or for the defendant or for the child in respect of whom the order was made ;
- (b) the clerk of a solicitor referred to in paragraph (a) ;
- (c) the probation officer concerned in the case ;
- (d) the parent or person for the time being having the custody and care of a defendant or witness under the age of eighteen years if desired by the defendant or witness to remain with him or her whilst necessarily present in court ; or
- (e) (where the accommodation at the court house or place of hearing will in the opinion of the judge allow of his attendance) a person who holds an authority under section 54.

Penalty for disobedience.

(2) Where any person disobeys an order under sub-section (1) the court may order his removal by a member of the police force and every person who disobeys such an order shall be guilty of contempt of court punishable by imprisonment not exceeding one month or by a fine not exceeding \$100.

Authority to attend children's courts.
No. 6218 s. 50.

54. (1) For the purposes of this Act a stipendiary magistrate or stipendiary children's court magistrate may from time to time grant to any person who in the opinion of the magistrate has a special interest in the administration of children's courts an authority in writing (subject to such limitations in time and circumstances, if any, as the magistrate thinks fit) to be present in any children's court or any County Court (so far as the accommodation at the court house or place of hearing will in the opinion of the court or judge allow) during the hearing of charges and applications therein or (as the case may be) during the hearing of appeals from convictions or orders of any children's court, and a stipendiary magistrate or stipendiary children's court magistrate may at any time revoke any such authority.

(2) An authority in writing granted by the Attorney-General before the coming into operation of the *Children's Court (Admission*

to Hearings) Act 1965 shall continue to have the same force and effect as it had before the coming into operation of that Act and may at any time be revoked as if it had been granted under sub-section (1).

55. Where a child upon his trial has pleaded guilty to or has been found guilty of an indictable offence the judge of the Supreme Court or County Court (as the case may be) may, without prejudice to his other powers in that regard, deal with the child in any way in which he might be dealt with by a children's court.

Supreme Court or County Court may exercise powers of children's court.
No. 6218 s. 51.

56. The Governor in Council may make regulations for or with respect to—

- (a) prescribing forms to be used under this Act ;
- (b) the powers and duties of probation officers under this Act ;
- (c) prescribing all matters authorized or required to be prescribed for carrying out or giving effect to the provisions of this Act.

Power to Governor in Council to make regulations.
No. 6218 s. 52.

SCHEDULE.

Section 43.

VICTORIA.

Register of Conviction, Orders and other proceedings in the Children's Court at the day of 19 .

No.	Informant or Applicant.	Accused or Defendant, with Age or Apparent Age.	How before the Court.	Information, Charge, or Application.	Minute of Adjudication.	Remarks.