

No. S 9

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

CHILDREN AND YOUNG PERSONS ORDER, 2006

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

CHILDREN AND YOUNG PERSONS ORDER, 2006

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

PART I

PRELIMINARY

Citation, long title and commencement.

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

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

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

Interpretation.

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

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

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

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

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

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

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

"court" means a court of competent jurisdiction;

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

"Director" means the Director of Community Development;

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

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

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

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

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

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

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

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

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

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

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

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

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

"Registrar" means the Registrar appointed under section 4;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) the child or young person is —

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

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

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

(3) For the purposes of this Order –

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

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

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

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

PART II

PROTECTORS, REGISTRAR AND REGISTER

Protectors.

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

Registrar.

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

Register.

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

Contents of register,

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

Access to register.

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

- (a) the Permanent Secretary;
- (b) any protector;
- (c) any police officer; and
- (d) any member of the Action Team on Child Protection,

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

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

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

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

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

Offences in respect of register.

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

PART III

JUVENILE COURTS

Constitution of Juvenile Court.

9. (1) A Juvenile Court shall be presided over by a magistrate.

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

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

Jurisdiction of Juvenile Court.

10. (1) Subject to the provisions of this section, no child or young person shall be charged with or tried in a summary way for any offence except by a Juvenile Court.

(2) Where a child or young person is charged with any offence triable only by the High Court, he shall be tried by the High Court unless –

(a) the Public Prosecutor applies to a Juvenile Court for it to try such offence; and

(b) the legal representative of that child or young person agrees to the offence being tried by a Juvenile Court.

(3) Where a charge is made jointly against a child or young person and a person who has attained the age of 18 years, the charge shall be heard by a court of appropriate jurisdiction other than a Juvenile Court.

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

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

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

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

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

Place of sitting and persons who may be present.

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

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

(a) members and officers of the Court;

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

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

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

General consideration.

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

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

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

PART IV

ACTION TEAMS ON CHILD PROTECTION

Establishment of Action Teams on Child Protection.

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

Membership of Action Teams on Child Protection.

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

Proceedings of Action Teams on Child Protection.

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

Co-ordination.

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

PART V

TEMPORARY CUSTODY, MEDICAL EXAMINATION AND TREATMENT

Taking a child or young person into temporary custody.

17. (1) Any protector or police officer who is satisfied on reasonable grounds that a child or young person is in need of protection may take him into temporary custody, unless such protector or police officer is satisfied that the taking of proceedings in relation to such child or young person is undesirable in his best interests or that proceedings are about to be taken by some other person.

(2) Subject to section 18, every child or young person taken into temporary custody under subsection (1) shall be brought before a Juvenile Court within the twenty-four hours exclusive of the time necessary for the journey from the place the child was taken into custody to the Juvenile Court.

(3) If it is not possible to bring a child before a Juvenile Court within the time specified in subsection (2), the child shall be brought before a Magistrate who may direct that the child be placed in —

(a) a place of safety; or

(b) the care of a fit and proper person,

until such time as the child can be brought before a Juvenile Court.

(4) If a child or young person is placed in a place of safety under subsection (3), the person in charge of that place of safety shall have the like control of that child or young person as his guardian and shall be responsible for his maintenance, and he shall continue in the care of such person notwithstanding that he is claimed by his guardian or by any other person.

(5) Any person who takes a child or young person into temporary custody under this section shall forthwith —

(a) cause the guardian of the child or young person to be notified of such taking; and

(b) if such person is a police officer, notify a protector of such taking.

Child or young person in need of medical examination or treatment.

18. (1) If a protector or police officer who takes a child or young person into temporary custody under subsection (1) of section 17 is of the opinion that he is in

need of medical examination or treatment, such protector or police officer may, instead of taking him to a place of safety, take him to a medical officer.

(2) If at the time of being taken into temporary custody under subsection (1) of section 17 a child or young person is a patient in a hospital, the protector or police officer may leave him in the hospital.

(3) If a protector or police officer does not take a child or young person into temporary custody under subsection (1) of section 17 but is of the opinion that he is in need of medical examination or treatment, he may in writing direct the person who appears to have the care of that child or young person to forthwith take him to a medical officer.

(4) If the person referred to in subsection (3) fails to comply within 48 hours with a direction made under that subsection, a protector or police officer may take the child or young person into temporary custody for the purpose of taking him to a medical officer.

Medical examination and treatment.

19. (1) A medical officer before whom a child or young person is taken under subsection (1) or (4) of section 18 –

(a) shall conduct or cause to be conducted an examination of that child or young person;

(b) may, in examining the child or young person and if so authorised by a protector or police officer, administer or cause to be administered such procedures and tests as may be necessary to diagnose his condition; and

(c) may provide or cause to be provided such treatment as he considers necessary as a result of such diagnosis.

(2) If the medical officer is of the opinion that the hospitalisation of a child or young person is necessary for the purposes of medical care or treatment, a protector or police officer may authorise his hospitalisation.

Authorisation of medical treatment.

20. (1) If a medical officer is of the opinion that a child or young person referred to in section 17 requires treatment for a minor illness, injury or condition, a protector or police officer may authorise such treatment.

(2) If a medical officer is of the opinion that a child or young person referred to in section 17 is suffering from a serious illness, injury or condition or requires surgery or psychiatric treatment, a protector or police officer shall

immediately notify or attempt to notify and consult his guardian or any person having the authority to consent to such treatment and may, with the written consent of such guardian or other person, authorise such medical, surgical or psychiatric treatment as may be considered necessary by the medical officer.

(3) If the written consent referred to in subsection (2) cannot be obtained or if there is an immediate risk to the health of the child or young person, a protector may authorise such treatment as may be considered necessary by the medical officer.

No liability incurred for giving authorisation.

21. (1) If a child or young person is examined or treated pursuant to section 19 or 20, the protector or police officer who authorised such examination or treatment, the medical officer who examined or treated him and all persons acting in aid of such medical officer, shall not incur any liability at law by reason only that the child or young person is examined or treated pursuant to these sections.

(2) Nothing contained in subsection (1) shall relieve a medical officer from liability in respect of the examination or treatment of a child or young person if he would have been subject to such liability had the examination or treatment been carried out or administered with the written consent of the guardian of the child or young person or other person having authority to consent to it.

Control etc. of hospitalised children and young persons.

22. If a child or young person who is taken into temporary custody under subsection (1) of section 17 or subsection (4) of section 18 is hospitalised, the Permanent Secretary shall have the same control over, and the same responsibility for the maintenance of, that child or young person as the person in charge of a place of safety would have had if that child or young person had been placed in that place of safety.

Duty of medical officer.

23. (1) If a medical officer is of the opinion that a child or young person who he has examined or treated has been physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, he shall immediately notify a protector or a police officer.

(2) Any medical officer who fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

(3) For the purposes of subsection (1), the referral of a child or young person examined by a private medical officer to a Government medical officer on

any of the grounds mentioned in subsection (1) shall be sufficient to satisfy the duty of notification imposed by subsection (1).

(4) A medical officer may take the child or young person referred to in subsection (1) into temporary custody until such time as the temporary custody of that child or young person is assumed by a protector or police officer.

(5) A conviction under subsection (2) shall be deemed to be infamous conduct for the purposes of subsection (1) of section 20 of the Medical Practitioners and Dentists Act (Chapter 112).

Steps to be taken after medical examination or treatment.

24. (1) A child or young person taken into custody under subsection (1) of section 17 who subsequently undergoes a medical examination or treatment shall, upon the completion of such examination or treatment or, if he is hospitalised, upon his discharge from the hospital, be placed in a place of safety until such time as he can be brought before a Juvenile Court.

(2) A child or young person taken into custody under subsection (4) of section 18 who subsequently undergoes a medical examination or treatment shall, upon the completion of such examination or treatment or, if he is hospitalised, upon his discharge from the hospital, be returned to the person from whose care he was taken.

Duty of member of the family.

25. (1) If any member of the family of a child believes on reasonable grounds that the child is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused, he shall immediately inform a Protector.

(2) Any member of the family who fails to comply with subsection (1) commits an offence and shall on conviction be released on a bond on conditions to be determined by the Court.

(3) Any member of the family who fails to comply with any of the conditions of the bond provided for in subsection (2) commits an offence and shall on conviction be liable to a fine not exceeding \$5,000, imprisonment for a term not exceeding 2 years, or both.

Duty of child care provider.

26. (1) If a child care provider believes on reasonable grounds that a child is physically or emotionally injured as a result of being ill-treated, neglected,

abandoned or exposed, or is sexually abused, he shall immediately inform a Protector.

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

PART VI

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

Jurisdiction of the High Court.

27. Offences under this Part are triable only by the High Court.

Ill-treatment etc. of children and young persons.

28. (1) Any person who, being a person having the care of a child or young person —

(a) abuses, assaults, neglects, abandons or exposes him in a manner likely to cause him physical or emotional injury or who causes or permits him to be abused, assaulted, neglected, abandoned or exposed; or

(b) sexually abuses the child or young person or causes him to be so abused,

is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 10 years with or without whipping not exceeding 10 strokes, or both.

(2) The court may, *in lieu* of or in addition to any penalty specified in subsection (1), order the person convicted of an offence under that subsection to execute a bond, with or without sureties, as the court may determine, to be of good behaviour for such period as the court thinks fit, and may include in such bond a condition requiring him to undergo such counselling and psychotherapy as may be specified therein.

(3) If a person who is ordered to execute a bond of good behaviour under subsection (2) fails to comply with any condition thereof, he shall —

(a) if the bond is *in lieu* of a penalty under subsection (1), be liable to the penalty provided for in that subsection; or

(b) if the bond is in addition to a penalty under subsection (1), be guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 10 years with or without whipping not exceeding 10 strokes, or both.

(4) For the purpose of subsection (1), a guardian or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause him physical or emotional injury if, being able to provide from his own resources, he fails to provide him with adequate food, clothing, medical or dental treatment, lodging or care.

(5) A person may be convicted of an offence against subsection (1) notwithstanding –

(a) that suffering or injury or the likelihood of suffering or injury to the health of the child or young person was avoided by the action of another person; or

(b) that the child or young person has died.

Begging or any illegal activities.

29. Any person who causes or procures any child or young person or, being a person having his care, allows him to be at any premises or place for the purposes of –

(a) begging or receiving alms, or of inducing the giving of alms; or

(b) any illegal activity or any other activity detrimental to his health or welfare,

is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years with or without whipping not exceeding 8 strokes, or both.

Leaving child or young person without reasonable supervision.

30. Any person who, being a guardian or a person having the care of a child or young person, leaves him without making reasonable provision for his supervision and care, for an unreasonable period or under unreasonable circumstances is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years with or without whipping not exceeding 10 strokes, or both.

PART VII

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

Non-application of this Part.

31. This Part does not apply to —

(a) the taking of a child or young person into the care, custody or control of a grandparent, a brother or sister of the whole or half-blood or either of his parents;

(b) the taking of a child or young person into the care, custody or control of his guardian;

(c) the taking of a child or young person into the care, custody or control of any person in pursuance of an order of a court or in pursuance of an order under the Women and Girls Protection Act (Chapter 120);

(d) the taking in of a child or young person as an inmate of a place of safety, school or hospital, or a home or institution maintained by the Government;

(e) the taking in of a child or young person as a boarder at a school registered under any written law relating to education;

(f) the taking of a child or young person who is regularly attending a school registered under any written law relating to education into the custody of a friend or relative of his guardian, with the consent of his guardian.

Notification of taking into care, custody or control.

32. (1) Where a person takes a child or young person into his care, custody or control under this Part —

(a) that person; and

(b) the person in whose care, custody or control he was at the time of such taking, shall, not later than one week thereafter, notify the protector of such taking.

(2) On receiving a notification under subsection (1), the protector may make such inquiry as he thinks fit as to the reasons for the taking and as to the suitability for that purpose of the person who had taken the child or young person

into his care, custody or control and if, after such inquiry, the protector considers it in his best interests, he shall either –

(a) order him to be returned to the care, custody or control of his guardian or of the person in whose care, custody or control he was at the time of such taking; or

(b) approve such taking of the child or young person.

(3) For the purpose of this section, a "person" includes an institution or a centre –

(a) not maintained by the Government; or

(b) not approved by the Minister.

(4) A protector, on receiving any notification under subsection (1) shall record the particulars thereof in a register to be kept by him for that purpose.

(5) Any person who fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years with or without whipping not exceeding 5 strokes, or both.

Subsequent obligations.

33. (1) Where the taking of a child or young person has been notified to and approved by a protector under section 32, the person who has taken him shall, if at any subsequent time –

(a) he intends to return him to the care, custody or control of the guardian or any other person from whom he was taken; or

(b) without his knowledge or consent, the child or young person has left his care, custody or control,

report in person to a protector and shall, whenever practicable, bring or cause to be brought before such protector such child or young person and the guardian or other person from whom he was taken.

(2) On receiving a report under subsection (1), the protector shall –

(a) if the child or young person and the guardian or other person from whom he was taken are present at the time such report is received, return him to his guardian or such other person, as the case may be; or

(b) if the guardian or other person from whom he was taken is not present at the time such report is received –

- (i) take the child or young person into temporary custody until he can be returned to his guardian or such other person; and
- (ii) forthwith inform his guardian or such other person in writing of his last known place of residence.

(3) Any person who fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years with or without whipping not exceeding 5 strokes, or both.

Power of protector to require production of child or young person.

34. (1) Whenever a protector has reason to believe that there is a child or young person in respect of whose taking no notification has been made under section 32, he may in writing require the person who has or who he believes has his care, custody or control to appear before him at a time and place specified and to produce the child or young person.

(2) If the person on whom a requirement has been made under subsection (1) fails to produce the child or young person at the time and place specified therein, the protector may issue a warrant authorising the person named therein to search for such child or young person and to produce him before the protector.

(3) Any child or young person named or described in such warrant may be removed by the protector to a place of safety and there temporarily detained until the protector has completed his inquiries under this Part or may, for the like period, be temporarily committed to the care, custody or control of a relative or other fit person on such terms as the protector may require.

(4) The protector may make such inquiries as he thinks fit as to the circumstances and reasons for the taking of the child or young person referred to in subsection (1) and as to the suitability of the person who has taken the child or young person into his care, custody or control.

(5) If, after the inquiries mentioned in subsection (4), the protector considers it in the best interests of the child or young person, he may either –

- (a) order that he be returned to the care, custody or control of his guardian or any other person from whom he was taken; or

(b) permit him to be taken on such conditions as the protector may require.

(6) If the taking of a child or young person by any person has been permitted under paragraph (b) of subsection (5) subject to any conditions and if default is made in complying with any such conditions, the protector may by warrant under his hand order that the child or young person be committed to a place of safety or to the care, custody or control of a relative or other fit person on such conditions as the protector may require until he attains the age of 18 years or for any shorter period.

PART VIII

TRAFFICKING IN CHILDREN AND YOUNG PERSONS

Unlawful transfer of possession, custody or control of child or young person.

35. (1) Every person who takes any part in any transaction the object or one of the objects of which is to transfer or confer, wholly, partly, temporarily or permanently, the possession, custody or control of a child or young person for any valuable consideration is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 5 years with or without whipping not exceeding 10 strokes, or both.

(2) Every person who without lawful authority or excuse harbours or has in his possession, custody or control of any child or young person with respect to whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration by any other person within or outside Brunei Darussalam is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 5 years with or without whipping not exceeding 10 strokes, or both.

(3) For the purposes of subsection (2), if any person harbours or has in his possession, custody or control of any child or young person without lawful authority or excuse, such child or young person shall, until the contrary is proved, be presumed to be a child or young person with respect to whom the temporary or permanent, possession, custody or control has been transferred or conferred for valuable consideration.

(4) It shall be a defence in any prosecution under this section to prove that the transfer took place in contemplation of or pursuant to a *bona fide* marriage or adoption and that at least one of the natural parents of the child or young person or his guardian was a consenting party to the marriage or to the adoption, and has expressly consented to it.

Importation of child or young person by false pretences etc.

36. Any person who by or under any false pretence or representation or fraudulent or deceitful means, made or used either within or outside Brunei Darussalam, brings or assists in bringing any child or young person into or outside Brunei Darussalam is guilty of an offence and liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 5 years with or without whipping not exceeding 10 strokes, or both.

Power to examine children and young persons and person in charge.

37. A protector or any person authorised in that behalf in writing by him may require any child or young person who has entered Brunei Darussalam or been brought into Brunei Darussalam and any person who may appear to have his custody or control to appear before the protector at any reasonable time and at any convenient place, and the protector may thereupon examine such child or young person as to his reasons for entering or being in Brunei Darussalam and may examine such other person with respect to such child or young person.

Power of protector to require security.

38. If a protector has reasonable cause to believe that any child or young person —

(a) has been brought into Brunei Darussalam after having been transferred for either valuable consideration, or by fraud, misrepresentation or any false pretence;

(b) has been transferred to the care, custody or control of any person for valuable consideration, either within or outside Brunei Darussalam; or

(c) is being detained against his will by any person other than his guardian,

he may either —

(i) require any person in whose care or custody or under whose control the child or young person appears to be to furnish him with copies of such child or young person's and that person's own photographs, and to furnish security to the satisfaction of the protector that such child or young person will not leave the District in which he then is without the previous written consent of the protector, and will not be transferred to the care, custody or control of any other person without the previous written consent of the protector,

and that he will be produced before the protector whenever he so requires; or

- (ii) if default be made in complying with any requirement made under sub-paragraph (i), order that the child or young person be taken out of the care, custody or control of the person having such care, custody or control of and committed to a place of safety or, on such security and on such conditions as the protector may require, to the custody of a relative or other fit person until the child or young person attains the age of 18 years or for any shorter period.

Inspection.

39. (1) A protector or any Community Development officer authorised in that behalf in writing by the protector may at any time visit and inspect the place where any child or young person in respect of whom security has been furnished under section 38 lives or is believed to live or to be.

(2) A protector or any Community Development officer authorised under subsection (1), may inquire into the condition and circumstances of the child or young person referred to in that subsection and, for the purposes of such inquiry, the protector or such officer may require any person to answer any questions he may ask.

PART IX

PROCEDURE IN JUVENILE COURTS

Children and young persons not to associate with adult offenders.

40. No child or young person while detained in a police station or while being conveyed to or from any court, or while waiting before or after attending in any criminal court, shall be permitted to associate with an adult (not being a relative) who is charged with an offence other than an offence with which that child or young person is jointly charged.

Bail of children and young persons.

41. (1) Where a person apparently below the age of 18 years is arrested with or without warrant, he shall be brought before a Juvenile Court.

(2) Where the person cannot be brought immediately before a Juvenile Court, the officer making the arrest shall, without unnecessary delay, take or send him before a magistrate who shall inquire into the case and unless —

(a) the charge is triable only by the High Court;

(b) it is necessary in the interest of that person to remove him from association with any undesirable person; or

(c) the magistrate has reason to believe that the release of that person would defeat the ends of justice,

the magistrate shall release that person on a bond, with or without sureties, for such amount as will, in his opinion secure the attendance of that person upon the hearing of the charge, being entered into by his guardian or any other responsible person.

Attendance at court of guardian of child or young person charged with offence etc.

42. (1) Subject to subsection (2), where a child or young person is charged with any offence or is brought before a court under the provisions of this Order or of any other written law —

(a) his guardian shall, unless the court otherwise orders, attend before the court during all stages of the proceedings; and

(b) the court may compel the attendance of the guardian as if he were required as a witness in the proceedings.

(2) Where a court considers it necessary to do so in the interests of a child or young person, it may require his guardian to withdraw from the court.

Removal of disqualification or disability on conviction.

43. A conviction or finding of guilt of a child or young person shall be disregarded for the purposes of any written law under which any disqualification or disability is imposed upon convicted persons.

Restrictions on punishment of children and young persons.

44. (1) A child shall not be sentenced or ordered to be imprisoned for any offence or be committed to prison in default of payment of a fine or costs.

(2) A young person shall not be ordered to be imprisoned for any offence, or be committed to prison in default of payment of a fine, damages or costs, unless the court is satisfied that he is of so unruly a character that he cannot be detained in a place of detention or an approved school.

(3) Notwithstanding the provisions of any other written law, no child or young person shall be sentenced by any court other than the High Court to corporal punishment.

Punishment of certain grave crimes.

45. (1) Where a child or young person is convicted of murder, or of culpable homicide not amounting to murder, attempted murder or of voluntarily causing grievous hurt, and the court considers that none of the other methods by which the case may legally be dealt with is suitable, it may sentence him to be detained during His Majesty the Sultan and Yang Di-Pertuan's pleasure.

(2) Where a sentence has been passed under subsection (1), the child or young person shall during that period, notwithstanding any other provision of this Order, be liable to be detained in such place and on such conditions as His Majesty the Sultan and Yang Di-Pertuan may direct, and whilst so detained shall be deemed to be in legal custody.

(3) Any person so detained may, at any time, be released by His Majesty the Sultan and Yang Di-Pertuan on licence which may be in such form and contain such conditions as His Majesty the Sultan and Yang Di-Pertuan may direct and may at any time be revoked or varied by His Majesty the Sultan and Yang Di-Pertuan.

(4) Where a licence has been revoked, the person to whom the licence relates shall return to such place as His Majesty the Sultan and Yang Di-Pertuan may direct, and if he fails to do so he may be apprehended without warrant and taken to that place but without prejudice to the power to release him on licence again.

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

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

(b) may recommend to His Majesty the Sultan and Yang Di-Pertuan on the early release or further detention of that person,

and His Majesty the Sultan and Yang Di-Pertuan may thereupon order him to be released or further detained, as the case may be.

Power to order guardian to pay fine etc. instead of child or young person.

46. (1) Where a child or young person is charged before a Juvenile Court with any offence for the commission of which a fine may be imposed, and damages or costs or both may be awarded, and the Court is of the opinion that the case would be best met by the imposition of all or any of those penalties, whether with or without any other punishment, the Court may in such case and shall, if the offender is a child, order that the fine imposed and damages or costs awarded be paid by his guardian, unless the Court is satisfied that the guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

(2) Where a child or young person is charged with any offence, a Juvenile Court may order his guardian to give security for his good behaviour.

(3) Where a Juvenile Court thinks that a charge against a child or young person is proved, the Court may make an order against the guardian under this section for the payment of damages or costs or requiring him to give security for the good behaviour of the child or young person, without proceeding to record a finding of guilt against the child or young person.

(4) An order under this section may be made against a guardian who, having been required to attend, has failed to do so, but, subject to subsection (1), no such order shall be made without giving the guardian an opportunity to be heard.

(5) Any sum imposed and ordered to be paid by a guardian under this section, or on forfeiture of any security, may be recovered from him in the manner provided by the Criminal Procedure Code (Chapter 7) in like manner as if the order had been made on the conviction of the guardian of the offence with which the child or young person was charged.

Power of other courts to remit juvenile offenders to Juvenile Court.

47. (1) Any court by or before which a child or young person is found guilty of an offence may, if it thinks fit, remit the case to a Juvenile Court.

(2) Where any such case is so remitted, the offender shall be brought before a Juvenile Court accordingly, and the Juvenile Court may deal with him in any way in which it might have dealt with him if he had been tried and found guilty by the Juvenile Court.

(3) No appeal shall lie against an order of remission made under subsection (1), but nothing in this subsection shall affect any right of appeal against the verdict or finding on which such an order is founded.

(4) A person aggrieved by the order of the Juvenile Court to which the case is remitted may appeal therefrom to the High Court as if he had been tried and found guilty by the Juvenile Court.

(5) A court by which an order remitting a case to a Juvenile Court is made under this section –

(a) may give such directions as appear to be necessary with respect to the custody of the offender or for his release on bail until he can be brought before a Juvenile Court; and

(b) shall cause to be transmitted to the Juvenile Court to which the case has been remitted a certificate setting out the nature of the offence and stating that the case has been remitted for the purpose of being dealt with under this section.

Words "conviction" and "sentence" not to be used.

48. (1) The words "conviction" and "sentence" shall not be used in relation to children and young persons dealt with by a Juvenile Court.

(2) Any reference in any written law to a person convicted, a conviction or a sentence shall, in the case of a child or young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding, as the case may be.

Procedure in Juvenile Court.

49. (1) Where a child or young person is brought before a Juvenile Court for any offence, it shall be the duty of the Court as soon as possible to explain to him in simple language suitable to his age and understanding the substance of the alleged offence.

(2) After explaining the substance of the alleged offence, the Juvenile Court shall ask the child or young person whether he admits the facts constituting the offence.

(3) If the child or young person does not admit the facts constituting the offence, the Juvenile Court shall then hear the evidence of the witnesses in support thereof.

(4) At the close of the evidence in chief of each witness, the witness may be cross-examined by or on behalf of the child or young person.

(5) The Juvenile Court shall, except in any case where the child or young person is legally represented, allow his guardian or, in his absence, any relative or other responsible person to assist him in conducting his defence.

(6) If in any case where the child or young person is not legally represented or assisted in his defence as provided for in subsection (5), the child or young person, instead of asking questions by way of cross-examination, makes assertions, the Juvenile Court shall then put to the witness such questions as it thinks necessary on behalf of the child or young person and may, for this purpose, question the child or young person in order to clarify any point arising out of those questions.

(7) If it appears to the Juvenile Court that a *prima facie* case is made out, the Court shall explain to the child or young person the substance of the evidence against him and, in particular, any points therein which specially tell against him or require explanation and the child or young person shall be allowed to give evidence upon oath or to make a statement if he so desires and the evidence of any witness for the defence shall be heard.

(8) If the child or young person admits the offence or if the Juvenile Court is satisfied that it is proved, he and his guardian, if present, shall then be asked if they desire to say anything in extenuation or mitigation of the penalty or otherwise.

(9) Before deciding how to deal with the child or young person, the Juvenile Court may obtain such information as to his family background, religion, general conduct, home surroundings, school record, medical history and state of development as may enable it to deal with the case in his best interests, and may put to him any such question arising out of any such information.

(10) The information referred to in subsection (9) may include any written report of a probation officer, a community development officer, a medical officer or any other person whom the Juvenile Court thinks fit to provide a report, and may be received and considered by the Court without being read aloud.

(11) For the purpose of subsection (9), the Juvenile Court may —

{a} require either of or both the child or young person and his guardian to furnish such information or render such assistance to the Juvenile Court as it thinks necessary;

{b} require either of or both the child or young person and his guardian to undergo such medical, psychological or other assessment as the Juvenile Court thinks necessary; and

(c) release the child or young person on bail or remand him in a place of detention in order to facilitate the carrying out of any requirement of the Juvenile Court under paragraph (a) or (b).

(12) Where the Juvenile Court has received and considered a written report of a probation officer, a community development officer, a medical officer, a medical social officer or any other person whom the Court thinks fit to provide a report —

(a) the child or young person shall be told the substance of any part of the report bearing on his character or conduct which the Court considers to be material to the manner in which he should be dealt with;

(b) the guardian, if present, shall be told the substance of any part of the report which the Court considers to be material to the manner in which the child or young person should be dealt with and which has reference to his character or conduct, or to the character, conduct, home surroundings, or health of the child or young person; and

(c) if the child or young person or his guardian, having been told the substance of any part of any such report, desires to produce evidence with reference thereto, the Court, if it thinks the evidence material, shall adjourn the proceedings for the production of further evidence and shall, if necessary, require the attendance at the adjourned hearing of the person who made the report.

(13) Where the Juvenile Court considers to do so it necessary in the interests of the child or young person, it may require his guardian to withdraw from the Court.

Presumption as to age.

50. (1) Where, in a charge for an offence triable under this Order, it is alleged that the person by whom the offence was committed was below or had attained any specified age, and he appears to the court to have been at the date of the commission of the alleged offence below or to have attained that age, as the case may be, he shall for the purposes of this Order, be presumed at that date to have been below or to have attained that age, as the case may be, and any order made therein shall not be invalidated by any subsequent proof that the age has been incorrectly stated.

(2) Where the court or a police officer dealing with any person by whom an offence is alleged to have been committed is in doubt as to the exact age of that person, the certificate of a medical officer who has assessed that person stating to the effect that, in his opinion, that person has or has not attained a specified age, may be given in evidence.

Powers of Juvenile Courts on proof of offence.

51. (1) Subject to this section, where a Juvenile Court is satisfied that an offence has been proved, or where the child or young person (referred to in this section as the offender) admits the facts constituting the offence, the Court shall, in addition to any other powers exercisable by virtue of this Order or any by other written law, have power —

(a) to discharge the offender;

(b) to discharge the offender upon his entering into a bond to be of good behaviour and to comply with such order as may be imposed;

(c) to commit the offender to the care of a relative or other fit person for a period to be specified by the Court;

(d) to order his guardian to execute a bond to exercise proper care and guardianship and to abide by such order as the Court may make in relation to the welfare, maintenance and rehabilitation of the offender;

(e) subject to any other written law, to make a probation order requiring the offender to be under the supervision of a probation officer or a volunteer probation officer for a period of not less than 6 months and not more than 3 years;

(f) subject to any other written law, to make an order, in accordance with the prescribed requirements, requiring the offender to perform community service, not exceeding 240 hours in aggregate, of such nature and at such time and place and subject to such conditions as may be specified by the Court;

(g) to order the offender to be detained in a place of detention for a period not exceeding 6 months;

(h) to order the offender to be detained in a place of detention or an approved institution over such number of weekends, not exceeding 52, as the Court thinks fit;

(i) to order the offender to be sent to an approved school for a period of not less than 2 years and not more than 3 years;

(j) to order the offender to pay a fine, damages or costs;

(h) to order the offender to be brought before the Intermediate Court to be dealt with under section 14A of the Criminal Procedure Code (Chapter 7) if the offender —

- (i) has attained the age of 18 years; or
- (ii) having attained the age of 14 years but being below the age of 18 years, has previously been dealt with by a court in connection with another offence and had, in respect of that other offence, been ordered under paragraph (i) to be sent to an approved school,

and the Juvenile Court is satisfied that it is expedient with a view to his reformation that he should undergo a period of training in a reformatory training centre.

(2) For the purposes of subsection (1), the Juvenile Court shall have power –

(a) to make an order referred to in paragraph (b), (c), (d), (e), (f), (g), (h), (i) or (j) of subsection (1), either singly or in combination in such manner as it thinks just and expedient in the circumstances with –

- (i) any 2 or more of the orders referred to in paragraphs (b), (c), (d), (e), (f) and (j);
- (ii) any order under paragraphs (g) with any one or more of the orders referred to in paragraphs (d), (e) and (j);
- (iii) any order under paragraphs (h) with any one or more of the orders referred to in paragraphs (c), (d), (e), (f) and (j); or
- (iv) any order under paragraphs (i) with any one or more of the orders referred to in paragraphs (d) and (j); and

(b) without prejudice to sub-paragraph (ii) and (iii) of paragraph (a), to make an order under paragraph (h) to run consecutively to an order under paragraph (g).

(3) Where the Juvenile Court makes an order under paragraph (g) of subsection (1) for the detention of an offender in a place of detention in combination with a probation order under paragraph (e) of that subsection, the period of detention shall not exceed 3 months.

(4) Where the Juvenile Court makes an order under paragraph (h) of subsection (1) for the detention of an offender over a weekend, the period of detention shall commence at 3 pm. on Saturday and end at 5 pm. on the Sunday immediately following.

(5) If an offender, without reasonable excuse, contravenes any order made by the Juvenile Court under subsection (1) in this subsection referred to as the

original order or any condition thereof, the Juvenile Court may make such order as is necessary for the offender to be produced before it and thereafter deal with the offender by –

(a) making any order that the Court is empowered to make under subsection (1);

(b) varying the original order or any condition thereof; or

(c) directing the offender to comply with the original order or any condition thereof to the extent that the original order or condition has not been complied with.

(6) Where an offender, while being detained in a place of detention or an approved school pursuant to an order under paragraph (g) or (i) of subsection (1), is found guilty of another offence by the Juvenile Court, the Court may, instead of making a fresh order against the offender under those paragraphs, extend the period of detention being served by the offender.

(7) Where a Juvenile Court is satisfied, on the representations of the manager of a place of detention, approved school or approved home, that a person ordered to be detained in that place of detention, approved school or approved home is of so unruly a character that he cannot safely be so detained, the Court may –

(a) order him to be transferred to and detained in an approved school or in another approved school, as the case may be, which the Court considers more suitable for him and to be detained there for the whole or any part of the unexpired period for which he had been ordered to be detained; or

(b) order him to be brought before the Intermediate Court to be dealt with under section 14A of the Criminal Procedure Code (Chapter 7) if he –

(i) has attained the age of 18 years; or

(ii) having attained the age of 14 years but not having attained the age of 18 years, has previously been dealt with by a court in connection with another offence and had, in respect of that other offence, been ordered under paragraph (i) subsection (1) to be sent to an approved school,

and the Juvenile Court is satisfied that it is expedient with a view to his reformation that he should undergo a period of training in a reformatory training centre referred to in section 14A of the Criminal Procedure Code (Chapter 7).

Power to convene family conference to deal with child or young person guilty of offence.

52. (1) Without prejudice to section 51, the Juvenile Court may, for the purpose of dealing with a child or young person who has been found guilty of committing an offence (in this section referred to as the offender), convene a family conference in accordance with the prescribed requirements and a family conference so convened may deal with the offender in any one or more of the following ways by –

(a) reprimanding the offender;

(b) administering a formal caution to the offender in the prescribed manner against further committing any offence;

(c) requiring the offender to pay compensation to the victim of the offence in such manner and of such amount as may be determined by the family conference;

(d) requiring the offender, in accordance with the prescribed requirements, to perform community service, not exceeding 240 hours in the aggregate, of such nature and at such time and place and subject to such conditions as may be specified by the family conference;

(e) requiring the offender to apologise to the victim of the offence in such manner as may be specified by the family conference; or

(f) requiring the offender to do such other Order as the family conference thinks appropriate in the circumstances.

(2) In exercising its powers under this section, the family conference shall –

(a) comply with the prescribed procedure; and

(b) have regard to any orders made by the Juvenile Court under section 48 for dealing with a person who has been found guilty by that Court of a comparable offence.

(3) If the offender fails –

(a) to attend at the time and place appointed for a family conference;
or

(b) to comply with any requirement of the family conference,

the family conference shall report the matter to the Juvenile Court and the Court shall thereupon make such order as is necessary for the offender to be produced

before the Court and thereafter deal with him as it thinks fit in accordance with section 51.

(4) A person who attends a family conference (not being the offender, the guardian of the offender or any other member of the offender's family) shall not divulge any personal information obtained at the conference relating to any of those persons.

(5) Any person who contravenes subsection (4) is guilty of an offence and liable on conviction to a fine not exceeding \$1,000.

Additional orders which may be made by Juvenile Court in relation to child or young person found guilty of offence.

53. (1) Where a child or young person has been dealt with in connection with an offence by a court or by a family conference, the Juvenile Court may, on its own motion or on the application of the Director or a protector, make an additional order requiring either or both the child or young person and his guardian to undergo such counseling, psychotherapy or other programme or to partake in such other activity as it thinks necessary for the purpose of –

(a) resolving any relationship problems between the child or young person and his guardian;

(b) rehabilitating or assisting in the rehabilitation of the child or young person;

(c) enabling the guardian of the child or young person to manage him;
or

(d) enhancing, promoting or protecting the physical, social and emotional well-being and safety of the child or young person.

(2) In making an order under subsection (1), the Juvenile Court may require the guardian of the child or young person to enter into a bond to comply with such order.

(3) Any guardian who fails to comply with any order or requirement made by the Juvenile Court under subsection (1) or (2) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

Maximum age limit for detention in place of detention, approved home or approved school.

54. Subject to subsection (3) of section 84 –

(a) no person shall be detained in a place of detention after he has attained the age of 18 years; and

fb) no person shall be detained in an approved school or an approved home after he has attained the age of 19 years.

Appeals.

55. Any child or young person or his guardian who is dissatisfied with any judgment or order of a Juvenile Court may appeal to the High Court against that judgment or order in accordance with the provisions of the law in force regulating appeals to the High Court from the Court of a Magistrate.

Children and Young Persons in Need of Protection

Production before Court.

56. (1) Subject to subsections (2) and (3), every child or young person who is taken into custody under subsection (1) of section 17 shall, within 24 hours of being so taken into custody, be brought before a Juvenile Court.

(2) Notwithstanding subsection (1), a child or young person who is taken into custody under subsection (1) of section 17 and who is being medically examined or treated under Part V shall be brought before a Court within 24 hours of the completion of such examination or treatment or, if he is hospitalised, upon his discharge from the hospital.

(3) Notwithstanding subsections (1) and (2), where it is not possible to bring a child and young person who is taken into custody under subsection (1) of section 17 before a Juvenile Court within the time prescribed in subsections (1) and (2), he shall be brought before a magistrate who may direct that he be placed in a place of safety or, notwithstanding subsection (2) of section 17, be committed to the care of a fit person until such time as he can be brought before a Juvenile Court.

Powers of Juvenile Court.

57. (1) If a Juvenile Court is satisfied that any child or young person brought before it under section 56 is a child or young person in need of protection, it may –

fa) order his guardian to enter into a bond to exercise proper care and guardianship for a period specified by the Court, but that period shall not extend beyond the date on which the child or young person attains the age of 18 years;

(b) make an order placing the child or young person in the custody of a fit person for a period specified by the Court but that period shall not extend beyond the date on which the child or young person attains the age of 18 years;

(c) without making any other order or in addition to an order under paragraph (a) or *(b)*, make an order placing the child or young person under the supervision of a protector, or some other person appointed for the purpose by the Court, for a period specified by the Court, but that period shall not extend beyond the date on which the child or young person attains the age of 18 years;

(d) make an order placing the child or young person in a place of safety for a period of 3 years from the date of the order or until he attains the age of 18 years, whichever is the longer; or

(e) make an order placing the child or young person in the custody of a foster-parent considered suitable by the Permanent Secretary and pending such time, placing the child or young person in a place of safety.

(2) A Juvenile Court, in making any order under subsection (1), impose such conditions or give such directions as it may consider appropriate for the purpose of ensuring the safety and well-being of the child or young person, and every person upon whom such conditions are imposed or to whom such directions are given shall comply with such conditions or directions.

(3) No order under subsection (1) shall be made without giving the guardian of the child or young person an opportunity to attend and to be heard.

(4) Notwithstanding subsection (3), an order under subsection (1) may be made if the guardian of the child or young person, having been required to attend, has failed to do so or cannot be found within a reasonable time.

(5) Before making an order under subsection (1), the Juvenile Court may obtain such information as to his family background, religion, general conduct, home surroundings, school record and medical history as may enable it to deal with the case in the best interests of the child or young person and may, for the purpose of obtaining such information or for any special medical examination or observation, adjourn the case for a period or periods not exceeding 2 months at a time and may make in respect of the child or young person, as an interim order having effect only during the period of any adjournment, any order which it could have made under subsection (1).

(6) In determining what order to make under subsection (1), the Juvenile Court shall treat the best interests of the child or young person as the paramount consideration.

(7) If an order is made placing a child or young person in a place of safety or in the custody of a fit person or in the charge of a foster-parent, the manager in charge of that place of safety, such fit person or such foster-parent shall have the like control of the child or young person as his parent and shall be responsible for his maintenance notwithstanding that he is claimed by his guardian or any other person.

(8) If the Juvenile Court is not satisfied that the child or young person brought before it under section 53 is in need of protection, the Court may order that the child or young person be returned to the care and custody of his guardian.

Children and Young Persons beyond Parental Control

Power of guardian to bring child or young person before Juvenile Court.

58. (1) Where the guardian of a child or young person proves to a Juvenile Court that he is unable to control him, the Court, if satisfied —

(a) that it is expedient so to deal with the child or young person;
and

(b) that the guardian understands the results which will follow from,
and consents to, the making of the order,

may order him —

- (i) to be placed under the supervision of a community development officer or of some other person appointed for the purpose by the Court, for a period not exceeding 3 years;
or
- (ii) to be sent to an approved home for a period of not less than 2 years and not more than 3 years.

(2) The provisions of subsections (5) and (6) of section 57 shall apply, with the necessary modifications, in respect of an order made by the Juvenile Court under subsection (1) as they apply in respect of an order made by the Juvenile Court under subsection (1) section 54.

(3) The Juvenile Court may, on the application of the Director, a protector or the guardian of any child or young person in respect of whom an order under subsection (1) has been made, vary or discharge the order if it is satisfied that it is in the best interests of the child or young person to do so.

Additional orders of Juvenile Court.

59. (1) Where a child or young person has been dealt with under section 57 or 58, the Juvenile Court may, on its own motion or on the application of the Director or a protector, make an additional order requiring either or both the child or young person and his guardian to undergo such counseling, psychotherapy or other assessment and treatment or to partake in such other activity as it thinks necessary for the purpose of –

(a) resolving any relationship problems between the child or young person and his guardian;

(b) rehabilitating or assisting in the rehabilitation of the child or young person;

(c) enabling the guardian of the child or young person to manage him;
or

(d) enhancing, promoting or protecting the physical, social and emotional well-being and safety of the child or young person.

(2) In making an order under subsection (1), the Juvenile Court may require the guardian of the child or young person to enter into a bond to comply with such order.

(3) Any guardian who fails to comply with any order or requirement of the Juvenile Court under subsection (1) or (2) is guilty of an offence and liable on conviction to a fine not exceeding \$2,000.

Failure to comply with requirements of supervision order.

60. If it appears on information to the Juvenile Court that a child or young person against whom an order made under section 58 has failed to comply with any of the requirements of that order, it may make a fresh order against the child or young person under that section.

PART X

REMAND HOMES

Custody of children and young persons not released on bail.

61. (1) The Minister may provide or appoint such remand homes as may be required for the purposes of this Order.

(2) Whenever any person apparently below the age of 18 years has been arrested and is not released on bail, any police officer shall, notwithstanding the provisions of any other written law, cause that person to be remanded in a remand home until he can be brought before a court unless the officer certifies —

(a) that it is impracticable to do so;

(b) that he is of so unruly a character that he cannot safely be so remanded; or

(c) that by reason of his state of health or of his mental or bodily condition it is inadvisable to so remand him.

(3) The certificate shall be produced to the court before which that person is brought.

Remand of or committal to custody in remand home.

62. (1) A court remanding a child or young person who is not released on bail shall, notwithstanding the provisions of any other written law, instead of remanding him in custody in a prison, remand him in custody in a remand home named in the order of remand for the period for which he is remanded or until he is delivered therefrom in due course of law.

(2) A court committing for trial a child or young person who is not released on bail shall, notwithstanding the provisions of any other written law, instead of committing him to prison, commit him to a remand home, to be remanded there for the period for which he is committed or until he is delivered therefrom in due course of law.

(3) Notwithstanding subsection (1), any person who is subject to the jurisdiction of the Juvenile Court who has attained the age of 18 years but has not attained the age of 19 years may be remanded at a remand home.

(4) Notwithstanding subsections (1) and (2), in the case of a young person it shall not be obligatory for the court to remand him in or commit him to a remand home under either of those subsections if the court considers that it is impracticable to do so, or that he is of so unruly a character that he cannot safely be so remanded or committed, and in that case the court may remand him to custody in, or may commit him to, a prison.

(5) An order of remand or committal under this section may be varied or, in the case of a young person who proves to be of so unruly a character that he cannot safely be remanded in a remand home, revoked by any court and if it is revoked he may be remanded in custody in, or committed to, a prison.

(6) The order in pursuance of which a child or young person is committed to custody in a remand home shall be delivered with the child or young person to the manager of the remand home and shall be sufficient authority for his remand in that place in accordance with the tenor thereof.

(7) A child or young person while so remanded, and while being conveyed to and from the remand home, shall be deemed to be in lawful custody, and if he escapes may be apprehended without warrant and brought back to the remand home in which he was remanded.

PART XI

PLACES OF DETENTION

Provision of places of detention.

63. (1) The Minister may provide or appoint such places of detention as may be required for the purposes of this Order.

(2) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention shall be delivered with the child or young person to the person in charge of the place of detention and shall be sufficient authority for his detention in that place in accordance with the tenor thereof.

(3) A child or young person while so detained and while being conveyed to and from the place of detention shall be deemed to be in lawful custody, and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

(4) When any person is, under the provisions of this Order, committed by an order or judgment of a court to a place of detention, the order shall not be invalidated by any subsequent proof that the person is not a child or young person; but in that case it shall be lawful for the court before which such proof is brought to order the production of the person before it for inquiry and, if it thinks fit, to revoke the order of committal; and the order shall thereupon be cancelled.

PART XII

APPROVED SCHOOLS AND APPROVED HOMES

Appointment as approved schools and approved homes.

64. (1) The manager of any institution intended for the reception, care and rehabilitation of persons sent there under this Order may apply to the Minister to appoint that institution as an approved school or approved home.

(2) The Minister may, after directing the Director to make such inquiries as he thinks fit, so appoint the institution and issue a certificate of appointment and approval to the manager thereof, and such certificate shall be published in the *Gazette*.

(3) Any institution appointed under subsection (2) shall, while that certificate remains in force, be an appointed approved school or approved home, as the case may be, for the purposes of this Order.

Manager may make regulations with approval of Minister.

65. The manager of an appointed approved school or approved home may, with the approval of the Minister, make regulations for the regulation and management of the institution under his charge.

Manager shall send monthly report to Director.

66. The manager of an appointed approved school or approved home shall send a monthly report to the Director containing such particulars as may be required by the regulations for the approved school or approved home.

Minister may cancel certificate.

67. (1) A report on the condition of an approved school or approved home shall be made to the Minister by the Director, if the Director is dissatisfied with the condition of that approved school or approved home.

(2) The Minister may, upon consideration of this report, cancel his certificate and, upon notice in writing of such cancellation having been given to the manager, the approved school or approved home shall cease to be an approved school or approved home, as the case may be, from such time as is specified in the notice, and such cancellation shall be notified in the *Gazette*.

Manager or his executor or administrator may cancel certificate.

68. (1) The manager of an appointed approved school or approved home may, upon giving 6 months' written notice, and the executors and administrators of a deceased manager may, upon giving one month's written notice of his or their intention to do so, apply for the cancellation of the certificate issued to the approved school or approved home.

(2) Where a notice has been given under subsection (1) and has not been withdrawn, the certificate shall be deemed on the expiration of the notice to be cancelled, and such cancellation shall be published in the *Gazette*.

Duties of managers.

69. The manager of an approved school or approved home shall carry out all duties necessary for the reception, care and rehabilitation of any child or young person sent there under this Order for the period for which the child or young person is liable to be detained or until the certificate is cancelled.

Effect of cancellation of certificate.

70. Whenever the certificate of an approved school or approved home has been cancelled under section 67 or 68, no child or young person shall be received into that approved school or approved home under any provision of this Order after notice in writing of such cancellation has been given to the manager.

Discharge or transfer of juveniles.

71. (1) When the certificate of an approved school or approved home has been cancelled, the Minister may order that the persons resident therein either be discharged or be transferred to some other approved school or approved home.

(2) The total period for which any person is detained in an approved school or approved home shall not be increased a transfer under subsection (1).

Minister may establish approved schools and approved homes.

72. (1) The Minister may, by order published in the *Gazette*, establish such approved schools and approved homes as may be necessary for the purposes of this Order.

(2) Every such order shall specify the premises in which the approved school or approved home to which it refers is to be established and shall state whether the same is to be used for male or female persons, or both.

Control and management of approved schools and approved homes established under section 72.

73. (1) Approved schools and approved homes established by the Minister under section 72 shall be under the control and management of –

(a) the Director; or

(b) a governing board consisting of such persons as may be appointed by the Minister.

(2) In controlling and managing any approved school or approved home established under section 72, the Director or a governing board appointed under paragraph (b) of subsection (1) shall have the powers, functions and duties conferred or imposed on the manager of an approved school or an approved home by this Order.

Director may make regulations for approved schools and approved homes.

74. The Director may, with the approval of the Minister, make regulations for the management of approved schools or approved homes established under the provisions of this Order and for the maintenance of order and discipline of the staff and the persons detained therein.

Board of visitors.

75. (1) The Minister may, by notification in the Gazette, appoint such persons as he may think fit to be members of a board of visitors in respect of any approved school, approved home, remand home, place of detention or place of safety for such period as may be specified in the notification.

(2) A board of visitors shall exercise and perform such powers and duties as the Minister may direct.

(3) Every person appointed under subsection (1) may enter at all reasonable times any approved school, approved home, remand home, place of detention or place of safety and make such inquiries or examination therein as appear to him necessary and shall also make such reports as may be required by the Minister.

(4) Any manager who refuses admittance to any such visitor or to the Director or any officer deputed by the Director for the purpose or offers any hindrance or obstruction to those persons after their identity is reasonably established is guilty of an offence and liable on conviction to a fine not exceeding \$1,000.

PART XIII

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

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

76. (1) Without prejudice to section 69, the manager of an approved school, approved home, remand home or place of detention shall have the following duties in respect of persons who are detained therein under this Order —

[a) to prevent the escape of such persons from lawful custody;

[b) to prevent, detect and report on, the commission or attempted commission by such persons of any unlawful activity;

(c) to ensure good order and discipline on the part of such persons;

(d) to attend to the well-being of such persons; and

(e) to carry out in respect of such persons such other duties as may be prescribed.

(2) For the purpose of discharging his duties under subsection (1), the manager —

[a) give to any person being detained any order that the manager believes on reasonable grounds to be necessary —

(i) for the security or good order in the approved school, approved home, remand home or place of detention;

(ii) for the welfare or safe custody of that person or any other person being detained; or

(iii) for ensuring that that person or any other person being detained does not commit any offence or any breach of discipline;

[b) require any person being detained to provide any information or answer any question that may be relevant to any duty being performed by the manager;

[c) search any person being detained and any article in the possession of such person;

[d) use such force as is reasonable and necessary —

(i] to compel a person being detained to obey any order or requirement given or made by him under this section; and

(ii] to restrain any such person who is attempting or preparing to commit or is committing any offence or any breach of discipline; and

[e) exercise such other powers as may be conferred on him by this Order.

(3) In this section, the reference to the manager includes any person assisting the manager of in his duties.

Minister may discharge or transfer any person.

77. (1) The Minister may at any time, notwithstanding any order made by the court, order any person to be discharged from an approved school, approved home or other place of detention or to be transferred from one such place to another.

(2) The total period for which any person is detained in an approved school, approved home or place of detention shall not be increased by a transfer under subsection (1).

Serious illness of child or young person detained.

78. (1) In the case of the serious illness of any child or young person detained under this Order in a approved school, approved home or remand home in which there are no suitable facilities, the manager may, on the certificate of a medical officer, make an order for his admittance to a hospital.

(2) So long as any child or young person who has been admitted to a hospital under subsection (1) remains there, the person having the management or control thereof shall, at the end of every month, transmit to the manager a certificate signed by him that it is in his opinion necessary that he should remain in the hospital.

Return from hospital.

79. (1) So soon as, in the opinion of the person having the management and control of the hospital, it is no longer necessary that a child or young person who has been admitted to the hospital under subsection (1) of section 78 should remain therein, he shall transmit to the manager of the approved school, approved home, remand home or place of detention a certificate to that effect.

(2) Upon the transmission of the certificate, the manager shall immediately cause the child or young person to be brought back to the approved school, approved home, remand home or place of detention if he is then still liable to be detained therein.

Duty to inform manager.

80. Where a child or young person detained in an approved school or approved home is admitted to a hospital under subsection (1) of section 78, it shall be the duty of the person having management or control of the hospital to inform the

manager of the approved school or approved home if he has reason to believe that the child or young person may escape.

Special custody in hospital.

81. (1) Where in any case, due to the gravity of the offence for which any child or young person is in custody or for any other reason, the manager of the place where he is detained considers it to be desirable to take special measures for his security while under treatment in an approved hospital, it shall be lawful for the manager to give him into the charge of at least one fit person who shall be with him at all times.

(2) The person referred to in subsection (1) shall have the authority to do all things necessary to prevent the child or young person from escaping, and shall be responsible for his safe custody until such time as he is handed over to the manager on his discharge from the hospital or until such earlier time as his period of detention expires.

Power of Director or protector to give consent to medical treatment.

82. Where a child or young person who has been given to the charge of a fit person or who is being detained in an approved school, approved home, approved institution, remand home, place of detention, place of safety or any other place being used for the reception and care of children or young persons is in need of any medical treatment [including any surgical procedure) and –

(a) the consent of his guardian to such medical treatment cannot be obtained despite all reasonable efforts; and

(b) any delay in carrying out the medical treatment would cause him unnecessary suffering or endanger his health,

the Director or a protector may give consent to the carrying out of such medical treatment and any consent so given shall, for all intents and purposes, be sufficient consent and authorisation for the carrying out of the medical treatment.

Review of cases of persons ordered to be detained in approved schools or approved homes.

83. (1) The manager of an approved school or approved home shall review all cases of children or young persons committed to the approved school or approved home under section 51 or 58 after they have been detained for a year and may, after such review, recommend to the Director that any child or young person be released on licence.

(2) The Director, on the advice of the advisory board mentioned in subsection (4) and notwithstanding any order made by any court, shall have power to order the release on licence of any person who has been detained in an approved school or approved home for one year, at any time before the completion of his full period of detention and on such conditions as may be imposed by the Director in the order, including a condition that he shall be under the supervision of such person as may be specified in the order.

(3) The Director may at any time modify or cancel any of the conditions.

(4) The Minister shall appoint one or more advisory boards which shall advise and make recommendations to the Director on such cases as may be referred to it by the Minister.

(5) Members of an advisory board shall hold office for such period as may be stated in the appointment, which shall be published in the Gazette.

(6) If a person released from an approved school or approved home on licence by order of the Director fails to comply with any condition of his licence, the Director may order the return of that person to the approved school or approved home, to be detained there for the unexpired portion of his original period of detention or for such shorter period as the Director thinks fit.

(7) Where a person has returned to the approved school or approved home under subsection (6), the Director may, on the advice of an advisory board, order the further release on licence of that person if he has been detained for at least 6 months after his return.

(8) If any person while under licence or after his return under subsection (6) is sentenced to imprisonment, any period for which he is imprisoned under that sentence shall count as part of the period for which he is liable to detention in an approved school or approved home under the original detention order.

Escape from approved schools or approved homes.

84. (1) Every person detained under this Order in an approved school or an approved home shall serve the full period of his detention as ordered by the court and shall be deemed to be in lawful custody until he is lawfully discharged therefrom.

(2) If any person who is detained under this Order in an approved school or approved home escapes from there before the expiry of his period of detention —

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

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

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

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

85. Any person who —

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

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

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

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

Prohibition against conveying certain articles to detained persons.

86. Any person who without lawful authority —

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

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

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

Evidence of orders of Minister.

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

Presumptions.

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

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

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

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

PART XIV

EXPENSES AND CONTRIBUTIONS

Contributions by guardians.

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

Contribution order.

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

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

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

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

(4) A contribution order shall remain in force –

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

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

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

(6) A contribution order made under this section –

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

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

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

PART XV

MISCELLANEOUS

Powers of Juvenile Court conferred on other courts.

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

Power to search premises.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Obstructing protector or police officer in performing his functions.

93. Any person who –

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

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

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

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

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

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

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

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

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

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

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

Protection of identity of child or young person.

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

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

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

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

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

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

(a) is a protector; or

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

- (4) For the purposes of this section –
- (a) "material" includes any picture or representation;
 - (b) "publish' includes broadcast by radio or television.

Power to arrest without warrant.

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

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

Place of safety.

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

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

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

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

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

Protection of informants.

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

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

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

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

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

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

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

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

Protection of Permanent Secretary and others.

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

(a) the Permanent Secretary;

(b) any protector;

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

(d) any police officer;

(e) any medical social officer; or

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

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

Certificate of Registrar to be evidence.

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

Regulations,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rules of Court.

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

Amendment of Chapter 6.

104. The Subordinate Courts Act is amended —

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

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

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

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

"Jurisdiction of Juvenile Courts.

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

Amendment of Chapter 7.

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

Repeal of § 64100.

106. The Children Order, 2000 is repealed.

General penalty.

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

SCHEDULE

(section 105)

AMENDMENTS TO CRIMINAL PROCEDURE CODE

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

"Reformative training.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"No sentence of death against person under 18 years.

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

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

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

(b) may recommend to His Majesty the Sultan and Yang Di-Pertuan on the early release or further detention of that person,

and His Majesty the Sultan and Yang Di-Pertuan may thereupon order him to be released or further detained, as the case may be."

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

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

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

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

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

"Rules as to rates etc.

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

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

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

"THIRD SCHEDULE

(section 14A(7))

**RELEASE OF PERSONS SENTENCED
TO REFORMATORY TRAINING**

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

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

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

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

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

Provided that —

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

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

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

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

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

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

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

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

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

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

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

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

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

6. In this Schedule –

"Minister" means the Minister of Home Affairs;

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

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

HIS MAJESTY
THE SULTAN AND YANG DI-PERTUAN
BRUNEI DARUSSALAM