

- (b) by deleting paragraph (b) of subsection (1);
- (c) by deleting the word "six", in line seven, and substituting the word "three";
- (d) by deleting the word "fourteen", in line eleven, and substituting the word "sixteen"; and
- (e) by deleting all the passage commencing with the word "more", in line fifteen, and ending with the word "more", in line nineteen, and substituting the words "more than three months".

Section 34B
amended.

41. Section 34B of the principal Act is amended—

- (a) by inserting after the section designation "34B." the subsection designation "(1)";
- (b) by deleting paragraph (b) and re-enacting it with amendments as follows—
 - (b) on being satisfied that such punishment as the court may approve has been, or on the undertaking of a near relative will be, inflicted on the child dismiss the case or adjourn it until the punishment is carried out, as the case requires; or ; and
- (c) by adding a new subsection as follows—
 - (2) No order for the payment of a fine shall be imposed on a child unless the court is satisfied after enquiring into the means of that child that the child has the ability to pay either on demand or by instalments related to such means, and in no case shall any default order be made against a child for non-payment of a fine where that child is below the school leaving age or is receiving full time education.

42. The principal Act is amended by inserting after section 34B a new section, to stand as section 34C, as follows—

New section 34C added.

34C. Notwithstanding the provisions of any other Act and in addition to any powers exercisable pursuant to this Act or the Police Act, 1892, the court, in dealing with any offence by a child relating to the use, obtaining possession, or self administration of drugs may have regard to the antecedents, character, age and mental condition of the child and taking into account the treatment and future rehabilitation of that child, may—

Drug offences.

- (a) remand the case for investigation, or for the parents or the Department to present proposals, and on being satisfied dismiss the case if—
 - (i) the involvement of the child with drugs is of a minor nature, and in the opinion of the court the home circumstances provide adequately for the child; or
 - (ii) acceptable proposals are made by the parents, the Department or any other appropriate authority, but in either case the court may order that the child be subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient; or
- (b) release the child on probation on such conditions, if any, as the court may order, and in such case the child shall be subject to the supervision of the Department until he attains the age of eighteen years, or during such shorter period as the court may think sufficient; or
- (c) place the child under the control of the Department.

Present
section 34C
amended
and
re-numbered
34D.

43. Section 34C of the principal Act is amended—

- (a) by re-numbering the section to stand as section 34D;
- (b) by deleting the passage “is released on probation under sections thirty, thirty-two, thirty-four or thirty-fourB of this Act”, in lines one to three, and substituting the words “is found guilty of an offence and is released on probation pursuant to the provisions of this Part of this Act”; and
- (c) by deleting the passage “, under the sections mentioned in subsection (1) of this section, released on probation” in lines one and two of subsection (2), and substituting the words “found guilty of an offence and is released on probation pursuant to the provisions of this Part of this Act”.

Section 34E
added
(presently
stands as
s. 137A).

44. The principal Act is amended by repealing section 137A and re-enacting it to stand as section 34E amended—

- (a) as to subsection (1), by deleting the words “or guardian”, in line four, line ten and lines eleven and twelve of that subsection;
- (b) as to subsection (2), by deleting the words “or guardian”, in line two;
- (c) as to subsection (3), by deleting the words “or guardian”, in line two, line five, and line seven;
- (d) as to subsection (4), by deleting the words “or guardian”, in line three and line five; and
- (e) as to subsection (5),—
 - (i) by deleting the passage “officers of the Child Welfare Department, licensed foster mothers”, in lines six and seven, and substituting the passage “the Director or any officer of the Department”; and

- (ii) by deleting the words "staffs of children's institutions", in lines eight and nine, and substituting the words "the staff of any Departmental or other centre or facility".

45. Section 35 of the principal Act is amended— Section 35
amended.

(a) as to subsection (1)—

- (i) by inserting after the word "but", in line five, the words "a child"; and
- (ii) by deleting the words "an institution", in lines five and six, and again in lines ten and eleven, and substituting in each case the words "a Departmental Centre or appropriate Departmental facility";

(b) as to subsection (3)—

- (i) by deleting the words "the court", in line fifteen, and substituting the words "that court or some other more convenient court of summary jurisdiction specified by that court"; and
- (ii) by deleting the words "the court", in line seventeen, and substituting the words "such a court";

and

(c) by adding two new subsections, as follows—

(7) Where for the purposes of this section a court other than the court originally dealing with the matter is concerned with the enforcement of any conviction or order that other court shall be deemed to have the like jurisdiction as the court originally dealing with the matter.

(8) Where under this section a child would be liable to be sent to and detained in a Departmental Centre or an appropriate Departmental facility pursuant to a warrant of commitment for default but is at the material time serving a sentence of imprisonment the period of detention required by that warrant may be served concurrently with the period of imprisonment and the warrant shall be given effect to accordingly.

Section 36
amended.

46. Section 36 of the principal Act is amended—

- (a) by inserting after the section designation "36." the subsection designation "(1)"; and
- (b) by adding a new subsection as follows—

(2) No warrant of execution or warrant of commitment shall be issued against any child until fourteen days have lapsed since—

- (a) the relevant conviction or order; and
- (b) the release of the child from prison, or from any Departmental Centre or facility in which he has been detained, whether for the same or any other offence,

unless that child is at the material time serving a sentence of imprisonment or is detained in a Departmental Centre or facility on other grounds.

Section 37
amended.

47. Section 37 of the principal Act is amended—

- (a) by deleting the words "an institution", in line one, and substituting the words "a Departmental Centre or Departmental facility"; and

- (b) by adding after the words "Supreme Court", in line five, the words "or The District Court of Western Australia".

48. Section 38 of the principal Act is amended— Section 38 amended.

- (a) by deleting the words "of probation" in line one;
- (b) by deleting the passage "under sections thirty, thirty-two, thirty-four or thirty-four B", in lines two and three, and substituting the words "by a court pursuant to the provisions of this Part";
- (c) by deleting the words "on probation", in lines seven and eight;
- (d) by deleting the reference "thirty-four C" in line ten and substituting the reference "thirty-four D";
- (e) by deleting the reference "twenty-nine", in the last line of subsection (1), and substituting the reference "thirty-three"; and
- (f) by deleting subsection (2) and re-enacting it with amendments as follows—

(2) Where a child has been apprehended pursuant to subsection (1) of this section, a responsible officer with the approval of the Director may cause the child to be brought before the court, and the court may exercise such of the powers conferred by this Act as are appropriate and the circumstances require.

49. Section 39 of the principal Act is repealed and re-enacted with amendments as follows— Section 39 repealed and re-enacted.

39. (1) Notwithstanding any other provision of this Act, where a child has been placed under the control of the Department the court may Child over seventeen years may be committed or placed on probation.

place that child, if over the age of seventeen years, under the control of the Department for a period not exceeding one year.

(2) Where a child is convicted of an offence but will attain the age of eighteen years within the period of one year thereafter, the court may release the child on probation for a period not exceeding twelve months and effect shall be given to that order notwithstanding any other provision of this Act or the fact that the child during that period attains the age of eighteen years, and the provisions of section thirty-eight of this Act shall apply thereto.

New
section 40
added.

50. The principal Act is amended by inserting a new section, to stand as section 40, as follows—

Rehabilitated
offenders.

40. (1) The provisions of this section do not apply to, or in relation to persons convicted of, wilful murder, murder, manslaughter or treason or of attempting any of those crimes.

(2) Where a child is convicted of an offence and—

(a) a probation order is made with respect to that child in relation to the offence and the child has not been subsequently dealt with for that offence under any law relating, whether in the State or elsewhere, to probation orders in respect of child offenders; or

(b) a period of two years has expired since—

(i) the date of the conviction; or

(ii) the discharge of any sentence or order imposed in relation to the conviction,

whichever is the later,

that conviction shall, subject to the provisions of this section, be deemed not to be a conviction

for any purpose including the purposes of any enactment imposing or authorising or requiring the imposition of any disqualification or disability on a convicted person, except in relation to—

- (a) the making of the order, or any other order arising out of the conviction, or any other record thereof; or
- (b) any subsequent proceedings that may be taken against the offender under this Act or on indictment in relation to that offence or for a subsequent offence.

(3) The provisions of this section do not affect—

- (a) the right of any person to appeal against his conviction or to rely thereon in bar of any subsequent proceedings for the same offence;
- (b) the re-vesting or restoration of any property in consequence of the conviction; or
- (c) the right of a court to disqualify a person from holding or obtaining a driver's licence issued under the Road Traffic Act, 1974.

51. The principal Act is amended by inserting, immediately before section 40A, a new heading as follows—

New heading added.

General Provisions.

52. Section 40A of the principal Act is amended—

Section 40A amended.

- (a) by deleting the passage "section thirty, thirty A, thirty-two, thirty-three or thirty-four", in lines one, two and three, and substituting the words "this Part";

- (b) by inserting after the word "Department", in line five, the words "or is placed under the control of the Department";
- (c) by deleting the passage "may, without any complaint being made against, or a summons being served on, them or any of them," in lines six and seven, and substituting the word "shall";
- (d) by deleting subsection (2) and substituting a new subsection as follows—
 - (2) An order may be made under this section notwithstanding that no complaint has been made against, or summons served on, the parent and, if that parent is not present before the court, the court shall—
 - (a) if satisfied that the parent had due and sufficient notice of the proceedings, make the order in the absence of the parent; or
 - (b) grant liberty to apply for maintenance and on the hearing of that application, whether or not before the same magistrate, make the order.

Section 43
amended.

53. Section 43 of the principal Act is amended—

- (a) by inserting after the word "Department", in line two, the words "or placing a child under the control of the Department";
- (b) by deleting the words "the prescribed form", in lines two and three, and substituting the word "writing"; and
- (c) by deleting the words "child was committed", in line five and substituting the words "order was made".