

24. A juvenile court before whom a child is brought may, if it has reason to suspect that the mental condition of a child is such as to affect the criminal responsibility of the child, cause the child to be examined by a properly qualified person, and may accept as evidence the written or oral report (whether on oath or otherwise) of such person as to the child's mental condition.

Examination as to mental condition of child. cf. 1780, 1926, s. 107.

PART IV.

SPECIAL PROVISIONS RELATING TO THE HEARING AND DETERMINATION OF CHARGES, ETC.

25. Subject to this Act, the provisions of the Justices Act, 1921-1965, shall apply to and in relation to the hearing of any information, complaint or charge or other proceedings before a juvenile court and a juvenile court shall, in relation to such hearing, have all the powers of a court of summary jurisdiction.

Application of Justices Act.

26. Where a child charged with an offence is not represented by counsel or solicitor, the court—

Duty of court to explain charge, etc.

- (a) shall satisfy itself that the child understands the charge and shall, if necessary, explain to him in simple language the nature of the allegations against him, including their legal implications, such as the intention to commit the offence, but no particular form of words shall be necessary; and

cf. 13, 1941, s. 17.

- (b) may ask the child questions to elicit his version of the facts and may cross-examine any witnesses,

but no order or adjudication of a court shall be regarded as invalid or defective on the ground only of failure to comply with this section.

27. (1) Where a child is charged before a juvenile court with any indictable offence or offences (other than homicide), the child at any stage of the proceedings, and whether any statement has been taken from any witness or not, may plead guilty to the charge or any of the charges laid against him.

Power of juvenile court to take plea of guilty to an indictable offence by child. cf. 57, 1956, s. 13 (1).

(2) The court shall, at the commencement of the proceedings, inform the child and his parent or guardian (if present) of the child's right so to plead, and may, if it thinks fit, make a statement explaining the procedure under this section.

(3) Where a child pleads guilty pursuant to this section, the procedure of the court shall, subject to this Act, be the same as the procedure of a court of summary jurisdiction, and the provisions of the Justices Act, 1921-1965, shall, so far as they are applicable and not inconsistent with this Act, apply to and in relation to the hearing and determination of the charge.

(4) If, after the child has so pleaded guilty, the court, after consideration of any facts stated by the prosecutor or given in evidence, is of the opinion that the time for taking the plea should be postponed, it may order that the plea of guilty be withdrawn; and thereupon all further proceedings in respect of the offence shall, subject to this Act, be conducted in accordance with this Act and the Justices Act, 1921-1965, as if the child had not so pleaded guilty.

(5) If any such further proceedings are taken, the child shall not, by reason of his plea of guilty be entitled to plead *autrefois convict*.

Procedure where child charged with indictable offence does not plead guilty.
cf. 1470, 1921 s. 161.

28. (1) Where a child appears before a juvenile court constituted of a special magistrate on an information charging the child with an indictable offence (other than homicide) to which the child does not plead guilty, the court may, subject to this Act, hear and determine the matter before the court in a summary way or proceed to hold the preliminary examination and the provisions of Part V of the Justices Act, 1921-1965, shall, so far as they are applicable, apply to and in relation to the preliminary examination.

(2) Before exercising his discretion under subsection (1) of this section, the special magistrate constituting the court shall—

- (a) explain to the child and his parent or guardian (if present) the relative implications of the matter being dealt with in a summary way and of committing the child for trial before the Supreme Court and give them an opportunity of making representations for the consideration of the magistrate; and
- (b) have regard to the nature of the charge, the age of the child, the circumstances of the case and the representations made by or on behalf of the child or his parent or guardian or by the prosecutor or an officer of the department.

(3) The matter shall be heard and determined in a summary way unless the special magistrate is satisfied, having regard to all the facts and circumstances known to the court, that it is desirable, in the interests of the administration of justice, to commit the child for trial to the Supreme Court.

(4) Where a child appears before a juvenile court constituted of justices on an information charging the child with an indictable offence (other than homicide) to which the child does not plead guilty, the justices shall desist from further proceeding with the hearing and shall, by memorandum, refer the proceedings for hearing before a juvenile court constituted of a special magistrate upon a date and at a time which shall be specified in the memorandum and notified to the parties.

(5) The court so referring the proceedings shall have the same powers as it would have if it were referring the proceedings under section 14 of this Act.

29. (1) Where any proceedings against a child in a juvenile court are heard and determined in a summary way, the procedure and powers of the court shall, subject to this Act, be the same as the procedure and powers of a court of summary jurisdiction under the Justices Act, 1921-1965, and the provisions of that Act shall apply to and in relation to the hearing and determination of the proceedings accordingly.

Procedure and powers of juvenile court on summary trial.
cf. 1479, 1921, s. 161.

(2) Where an information charging a child with an indictable offence is heard and determined in a summary way by a juvenile court and, if that offence were tried before the Supreme Court, that court would have power to record an alternative verdict to the offence charged, the juvenile court may record an alternative verdict to the offence with which the child is charged.

30. Where—

(a) a child charged on information with an indictable offence before a juvenile court does not plead guilty of that offence; and

(b) the court does not decide to hear and determine the proceedings in a summary way,

the court shall hold the preliminary examination and the provisions of Part V of the Justices Act, 1921-1965, shall, so far as they are applicable, apply to and in relation to the preliminary examination.

Procedure on committal for trial.

31. (1) Subject to this section, a juvenile court constituted of a special magistrate which has found a child guilty of an indictable offence (other than homicide) following a plea of guilty or a summary hearing and determination may sentence the child in accordance with the powers of the court under this Act, or may commit the child to the Supreme Court for sentence in which case the provisions of Part V of the Justices Act, 1921-1965, shall, subject to this section, apply with necessary adaptations, so far as the same are applicable.

Power of juvenile court to sentence child for indictable offence or commit to Supreme Court for sentence.

(2) Before exercising his discretion under subsection (1) of this section, the special magistrate constituting the court shall—

- (a) explain to the child and his parent or guardian (if present) the nature of the discretion vested in the court and the relative implications of the child being sentenced in accordance with the powers of the juvenile court under this Act and of committing the child to the Supreme Court for sentence and give them an opportunity of making representations for the consideration of the magistrate ; and
- (b) have regard to the nature of the charge, the age of the child, the circumstances of the case and the representations made by or on behalf of the child or his parent or guardian or by the prosecutor or an officer of the department.

(3) The juvenile court shall sentence the child in accordance with the powers of the court under this Act unless the special magistrate is satisfied, having regard to all the facts and circumstances known to the court, that it is desirable, in the interests of the administration of justice, to commit him to the Supreme Court for sentence.

(4) Where a child who has pleaded guilty before a juvenile court to an indictable offence is committed to the Supreme Court for sentence—

- (a) the juvenile court shall make written notes of the facts stated by the prosecutor and of any statement made by the defendant in contradiction or explanation of the facts stated by the prosecutor, and shall forward those notes to the Attorney-General together with the statements (if any) of witnesses tendered by the prosecutor to the court ; and
- (b) the Attorney-General shall cause the notes and the statements of witnesses to be delivered to the proper officer of the Supreme Court at the place where the child is to appear for sentence, before or at the opening of that court on the first sitting thereof, or at such other time as the Judge who is to preside in such court may order.

(5) Where a child who has been found guilty of an indictable offence following a summary hearing and determination is committed to the Supreme Court for sentence—

- (a) the juvenile court shall forthwith forward the record of the case, or cause the same to be delivered, to the Attorney-General together with the information,

evidence, a statement of the finding by the court and other relevant documents (if any) ; and

- (b) the Attorney-General shall cause the record, information, evidence, statement and other relevant documents (if any) to be delivered to the proper officer of the Supreme Court at the place where the child is to appear for sentence, before or at the opening of that court on the first sitting thereof, or at such other time as the Judge who is to preside in such court may order.

(6) Upon the appearance of the child for sentence before the Supreme Court, that court may pass sentence or otherwise deal with him as if he had been committed for trial to that court and had pleaded guilty or been found guilty (as the case may be) in that court, and all the same consequences shall ensue as if he had been so committed and had so pleaded guilty or been found guilty ; but if, for any reason, it appears to the Judge of that court that the plea of guilty, if any, should be withdrawn, he may advise the child, and allow him, to withdraw such plea and, if the same be thereupon withdrawn, the child shall be deemed to have been committed for trial, and may forthwith, or after adjournment, and notwithstanding that no information has been filed in that court, be arraigned, and the case shall proceed in the usual course.

32. Where a child is committed by a juvenile court to the Supreme Court for trial or sentence, the juvenile court may release the child on bail or remand him to an institution or to any other suitable place (not being a prison) to be there detained until he is released or delivered in due course of law.

**Remand on
committal.**

33. (1) When a child has pleaded guilty before a juvenile court or the court has found that the offence with which a child is charged or other matter alleged against a child is proved, the court may order that the child be examined by a physician, psychiatrist or psychologist directed by the court to conduct such examination.

**Examination
of child
offenders.
cf. 13, 1941,
s. 13.**

(2) The court may consider and act upon any report on the child prepared under subsection (1) of this section and any other report on the child's character, conduct, upbringing, physical condition and past history, if such report is prepared by a person to whom such matters are personally known or who has personally investigated those matters ; but, subject to subsection (3) of this section, before passing any sentence on the child—

- (a) so much of the contents of any such report as is detrimental to the child shall be made known to the

child or his parent, guardian, counsel or solicitor if the child, parent, guardian, counsel or solicitor so requests ;

(b) the child or his parent, guardian, counsel or solicitor shall, if he so requests, be given an opportunity of cross-examining the person who prepared the report on the matters dealt with therein ; and

(c) the court shall, if so required by the child, or his parent, guardian, counsel or solicitor, procure the attendance of such person before the court for cross-examination.

(3) Notwithstanding anything contained in subsection (2) of this section, the court, if it is of the opinion that the report contains material which, if disclosed to the child, may be prejudicial to the welfare of the child, may in its discretion order that the whole or any part of any such report shall not be made known to the child.

(4) Pending the examination of the child or the procuring of any report upon him, the court or a justice may, from time to time, adjourn the case.

(5) For the purposes of enabling a child to be examined as provided in this section, the court may order that the child be taken to an appropriate institution or other suitable place (not being an institution as defined in the Mental Health Act, 1935-1965, or a prison) and that the child submit himself to such examination.

Power of
juvenile courts
in relation to
penalty.
cf. 1780, 1926.
s. 113.

34. (1) Where a juvenile court has found the offence alleged in an information, complaint or charge against a child proved and the court has power to sentence the child for that offence, the court may—

(a) apply the provisions of the Offenders Probation Act, 1913-1963 ; or

(b) order the payment by the child of a fine not exceeding fifty pounds or, if a lesser maximum penalty is prescribed for the offence, a fine not exceeding that maximum.

(2) Without recording a conviction against a child, the court may exercise its powers under subsection (1) of this section or may impose such other penalty upon, or make such other order or adjudication in respect of, the child as it could have done if it had convicted him of the offence.

(3) The court shall, before dealing with a child under this section, have regard to all the facts and circumstances relating to the child and the offence or the matter alleged against him that are known to the court and the court may exercise its discretion on the question of penalty as provided in this section without being bound by the minimum penalty (if any) prescribed in any Act for the offence alleged against the child.

35. (1) If a child is found guilty and convicted by a juvenile court constituted of a special magistrate of an offence punishable by imprisonment, the court shall not sentence the child to imprisonment but may, subject to section 36 of this Act, by order, commit the child to a reformatory institution.

Power to commit child to institution.
cf. 1780, 1926 s. 113.

(2) If a child is found guilty and convicted by a juvenile court, whether constituted of a special magistrate or of justices, of any offence, whether punishable by imprisonment or not, the court may, subject to section 36 of this Act, by order in writing, place the child under the control of the Minister.

Power to place child under control of Minister.
cf. 1780, 1926 s. 113.

36. (1) Subject to subsection (2) of this section, where a child is committed to a reformatory institution or placed under the control of the Minister, the order committing him to a reformatory institution or placing him under the control of the Minister, shall, if it does not in fact so provide, be deemed to provide, as the case may be, that the child shall be detained in such reformatory institution or that the child shall remain under the control of the Minister, subject to the provisions of the Social Welfare Act, until he attains the age of eighteen years.

Period of commitment to institution or control by the Minister.
cf. 1780, 1926 s. 113, 114.

(2) If any child at the time of being committed to a reformatory institution or placed under the control of the Minister is upwards of sixteen years of age, such child may be ordered by the court to be committed to a reformatory institution or placed under the control of the Minister, as the case may be—

(a) until he attains the age of eighteen years; or

(b) for any period not less than one year nor more than two years, provided that such period does not expire before the child attains the age of eighteen years.

37. A juvenile court constituted of justices, which finds a charge brought against a child for an offence punishable by imprisonment proved, shall not sentence the child to imprisonment nor make an order that the child be committed to a reformatory institution; but, if the court is of the opinion

Juvenile court constituted of justices not to commit child to prison or institution.

that the child ought to be committed to a reformatory institution the court shall, by memorandum, refer the case to the Adelaide Juvenile Court as provided by section 18 of this Act or to some other convenient juvenile court constituted of a special magistrate in which case the provisions of section 18 of this Act shall apply and have effect as if that other juvenile court were the Adelaide Juvenile Court.

Power of juvenile court to disqualify child from holding or obtaining a driver's licence.

38. (1) In addition to the powers of a court of summary jurisdiction contained in the Road Traffic Act, 1961-1964, or any other Act, to make an order disqualifying a person from holding or obtaining a licence to drive a motor vehicle, a juvenile court may, in addition to any other order it may make upon a charge for any offence being proved against a child, make an order disqualifying the child from holding or obtaining a licence to drive a motor vehicle—

- (a) as from a day or time specified in the order ; and
- (b) either for a period specified in the order or until further order,

if the court is satisfied, having regard to all the facts and circumstances before the court, that the child is not a fit and proper person to hold or obtain such a licence.

(2) The powers of the court under subsection (1) of this section may be exercised upon the charge being proved and with or without a conviction being recorded.

(3) An order made under this section shall have the same force and effect as if it were an order made by the court under section 168 of the Road Traffic Act, 1961-1964.

(4) The provisions of this section shall not be construed as derogating from the application or meaning of subsection (2) of section 34 of this Act.

Child suffering from venereal disease or incapable of controlling sexual instincts.

39. (1) The powers of a court as defined in sections 77 and 77a of the Criminal Law Consolidation Act, 1935-1965, may be exercised by a juvenile court constituted of a special magistrate upon a charge against a child for any of the offences to which those sections apply being proved before such court and with or without a conviction being recorded.

(2) The provisions of this section shall not be construed as derogating from the application or meaning of subsection (2) of section 34 of this Act.

Power of juvenile court to order compensation or restitution.
cf. 1121, 1913, s. 4; 27, 1952, s. 6; 55, 1953, s. 43; 50, 1961, s. 44.

40. (1) In addition to or in lieu of exercising any other powers of a juvenile court, any juvenile court may, subject to this section, on the application of the prosecutor, order a child against whom any charge for an offence before that court has been proved or the parent or guardian of such child or any two

or more of such persons to pay compensation or make restitution in respect of any damage or loss occasioned by the offence to any person who has suffered such damage or loss.

(2) The amount which the court may order any child or person to pay under this section shall not exceed the sum of two hundred pounds.

(3) Before making an order under this section, the court may require proof of the amount of loss or damage occasioned by the offence.

(4) If the court, after hearing evidence, is of the opinion that the evidence is not sufficient to enable it to determine the amount of the damage or loss, it may decline to make an order.

(5) Subject to subsection (2) of this section, an order under this section may direct the child, parent or guardian to pay such sum as the court thinks reasonable either as one payment or by instalments, and when making the order, the court shall have regard to the means of the child, parent or guardian against whom the order is made and, in the case of the parent or guardian, the extent, if any, to which the parent or guardian has, by his conduct or neglect or otherwise, concurred to the commission of the offence.

(6) Any order under this section may be enforced against the person against whom it is made in the same manner as if it were an order for the payment of money made by justices upon summary conviction of that person.

(7) An order under this section may be made against a child, parent or guardian present at the hearing in question, or against any parent or guardian who, having been required to attend the court during the hearing pursuant to an order served on him under section 19 of this Act, has failed to do so ; but, save as aforesaid, no such order shall be made without giving the child, parent or guardian an opportunity of being heard.

(8) An order under this section shall not be a bar to any other proceedings by or on behalf of the person who suffered the damage or loss, but such person shall not be entitled to recover, in respect of such damage or loss, a greater amount than the amount of the damage or loss suffered by him.

(9) The powers of a juvenile court under this section may be exercised upon the relevant charge being proved and with or without a conviction being recorded against the child.

(10) The provisions of subsection (9) of this section shall not be construed as derogating from the application or meaning of subsection (2) of section 34 of this Act.

Powers of
Supreme Court.

41. (1) Where a child is committed to the Supreme Court for trial and found guilty of an offence (other than homicide), the Judge of the Supreme Court may, in his discretion—

- (a) make any order in relation to the child or his parent or guardian which may be made by a juvenile court constituted of a special magistrate ; or
- (b) remand the child to appear before a juvenile court constituted of a special magistrate to be dealt with as provided by this section.

(2) Where a Judge remands a child to appear before a juvenile court under this section—

- (a) he may give such directions as he thinks necessary for the custody of the child or for his release on bail and shall cause to be transmitted to the juvenile court a certified copy of the proceedings in the case and a certificate certifying—
 - (i) the nature of the offence ;
 - (ii) that the child has been found guilty of that offence ;
 - (iii) that the child has been remanded in custody or on bail to be dealt with in pursuance of this section ; and
 - (iv) any other matters which the Judge thinks ought to be brought to the notice of the juvenile court ; and
- (b) the juvenile court may sentence the child or otherwise deal with him as if the child had been tried and found guilty of the offence by that court.

Punishment of
children for
homicide.

42. Where a child has been charged with homicide (other than homicide amounting to murder) and been found guilty by the Supreme Court, that court may exercise its discretion on the question of penalty within the limits provided for the offence under the Criminal Law Consolidation Act, 1935-1965, or the court may make any order that could be made by a

juvenile court constituted of a magistrate against a child who has been convicted by such court of an offence punishable by imprisonment.

43. (1) On conviction of a child for murder the Supreme Court shall, by order, sentence him to be detained during the Governor's pleasure, and if so sentenced, he shall be detained in such place and under such conditions as the Governor may direct.

Punishment of children for murder.
cf. 13, 1941 s. 24.

(2) A person detained pursuant to the directions of the Governor under this section shall, while so detained, be deemed to be in lawful custody.

(3) Any person so detained may, at any time, be discharged by the Governor on licence which may be in such form and may contain such conditions as the Governor directs, and may, at any time, be revoked or varied by the Governor.

(4) Where a licence has been revoked, the person to whom the licence related shall return to such place as the Governor directs, and, if he fails to do so, may be apprehended without warrant and taken to that place and there detained.

PART V.

PROVISIONS RELATING MAINLY TO NEGLECTED AND UNCONTROLLED CHILDREN.

44. (1) Subject to the provisions of sections 46 and 47 of this Act, where a juvenile court finds that a complaint charging a child with being a neglected child or an uncontrolled child is proved, the court may, by order in writing—

Powers of juvenile court in relation to neglected and uncontrolled children.
cf. 1780, 1926, ss. 102, 103 106.

(a) commit the child to an institution ; or

(b) place the child under the control of the Minister.

(2) Subject to subsection (3) of this section, where a child is committed to an institution or placed under the control of the Minister, the order committing him to an institution or placing