

(3) The conditions upon which a child is released from a training centre under this section shall be binding upon the child for the unexpired period of his detention order.

(4) Where the Minister considers that a child has failed to observe any condition imposed upon him by the Training Centre Review Board under this section, the Minister may apply to the Board for an order that the child be returned to a training centre.

(5) The Minister shall cause a copy of an application under subsection (4) of this section to be served upon the child and a guardian of the child, and the application must be endorsed with a notice of the place, date and time for the hearing of the application.

(6) Where a child cannot be found, or fails to attend before the Board on an application under this section, a member of the Board may issue a warrant for the apprehension of the child by a member of the police force or an officer of the Department authorized for the purpose.

(7) Where a child has been apprehended pursuant to subsection (6) of this section, he shall be brought before the Board as soon as is reasonably practicable, and may be detained by the Director-General in any place (other than a prison) approved by the Minister until he is so brought before the Board.

(8) If the Board finds the allegation proved it may order that the child be returned to detention under the original order.

65. (1) Where a child has been released from a training centre pursuant to section 64 of this Act, the Children's Court may, on the application of the child, a guardian of the child, or the Director-General made upon a recommendation of the Training Centre Review Board, order that the child be discharged absolutely from his detention order.

**Absolute
release from
detention
by Court.**

(2) An application under this section shall not be made if a previous application in respect of the child has been determined by the Court within the last preceding period of three months.

DIVISION VII—GENERAL PROVISIONS

DIVISION VII

66. It shall be conclusively presumed that no child under the age of ten years can commit an offence.

**Age of
criminal
responsibility.**

67. (1) Subject to subsection (2) of this section, a child shall not be charged jointly with a person who is not a child.

**Prohibition
of joint
charges.**

(2) Subsection (1) of this section shall not apply in relation to a charge against a child that is, pursuant to this Part, to be heard and determined by an adult court.

PART IV

DIVISION VII

Reports.

68. (1) Subject to subsection (3) of this section, no report relating to the social background or personal circumstances of a child shall be tendered to a court before the court has found an offence proved against the child.

(2) Where a child is found not guilty by a court, any report relating to the social background of the child prepared for the purposes of the proceedings shall be destroyed.

(3) This section does not prevent the court from receiving during the course of a hearing any psychiatric or medical evidence relating to the child, in so far as that evidence is relevant to the guilt or innocence of the child.

(4) The court in determining sentence shall not take into account any matter given in evidence, or appearing in any report presented, to the court, if the matter is disputed by the child, any guardian of the child or the prosecutor, unless the court has decided that the matter has been proved beyond reasonable doubt.

Attendance at court of guardian of child charged with offence.

69. (1) Where a child is before a court in any proceedings under this Part, the court may order that any guardian shall attend at the court before which the case is heard or determined during all the stages of the proceedings, unless sooner excused by the court.

(2) When the court makes an order under subsection (1) of this section, it may adjourn the hearing of the case, and shall cause the order to be served upon the guardian named therein.

(3) Any person who, having been served with an order under this section, fails to attend the court in compliance therewith shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

Counsellors, etc., may make submissions to court.

70. In any proceedings under this Part, a court may, upon the application of a person who has been counselling, advising or aiding the child the subject of the proceedings, or upon the application of any guardian of the child, hear any submissions that person or guardian wishes to make in respect of the child.

Assessment panel report must be obtained for referral to youth project centres.

71. A child shall not be required by a court to attend a youth project centre unless the court has first obtained and considered a report on the child from an assessment panel.

Duties of assessment panels under this Part.

72. Where an assessment panel is required to furnish a report in any proceedings under this Part, the assessment panel—

(a) shall investigate and report on the personal circumstances and social background of the child;

and

(b) may make such recommendations as to the treatment, correction, or rehabilitation of the child as it thinks appropriate.

Power of Court to order compensation or restitution.

73. (1) A Judge or special magistrate of the Court or an adult court may, subject to this section, on the application of the prosecutor made at the hearing, order a child against whom any charge for an offence before the court has been proved to pay compensation, or make restitution, in respect of any damage or loss occasioned by the offence to any person who has suffered that damage or loss.

(2) The court shall not make an order under this section unless it is of the opinion that the making of such an order would contribute to the rehabilitation of the child.

(3) The amount that the court may order any child to pay under this section shall not exceed two thousand dollars.

(4) Before making an order under this section, the court shall satisfy itself as to the amount of the loss or damage occasioned by the offence.

(5) If the court 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.

(6) Subject to subsection (3) of this section, an order under this section may direct the child to pay, within the period of six months after the order is made, such sum as the court thinks reasonable, either as one payment or by instalments, and in determining the amount of the order, the court shall have regard to the means of the child and his own ability to pay the amount ordered.

(7) Where the court has made an order for the payment of any money under this section, the child shall pay that money to the clerk of the court for transmission to the person in whose favour the order was made.

(8) Any amount in arrears under an order made pursuant to this section may be recovered by the person in whose favour the order was made, as a debt in a court of competent jurisdiction.

(9) 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, in total a greater amount than the amount of the damage or loss suffered by him.

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

(11) The court may not make any order against a child for compensation or restitution except pursuant to this section or the Criminal Injuries Compensation Act, 1978-1979.

74. Where a child is proceeded against or dealt with under this Part for an alleged offence, any person who intends to commence proceedings for loss or damage arising out of the commission of that alleged offence may at any time, upon application in writing to the Commissioner of Police, be furnished with the name and address of that child.

Name and address of child to be given in certain circumstances.

75. The Offenders Probation Act, 1913-1971, does not apply to, or in relation to, a child (except where a child is, pursuant to section 56 of this Act, dealt with as an adult by an adult court).

Application of Offenders Probation Act.

PART V**PART V****APPEALS AND RECONSIDERATION OF SENTENCE**

Appeals from orders, etc., under Part III of this Act, and other Acts.

76. (1) An appeal shall lie to the Supreme Court from any final order, declaration or adjudication made by the Children's Court—

(a) under Part III of this Act;

or

(b) under any other Act.

(2) An appeal under this section—

(a) must be made in accordance with the rules of court under this Act; and

(b) shall be heard by a single Judge of the Supreme Court.

Appeals from order, etc., under Part IV.

77. An appeal to the Supreme Court from any final conviction, order or adjudication of the Children's Court made in proceedings under Part IV of this Act shall be heard—

(a) in respect of a group I or group II offence, by the Full Court of the Supreme Court;

and

(b) in any other case, by a single Judge of the Supreme Court.

Single Judge may refer appeal to Full Court.

78. Nothing in this Division derogates from the power of a Judge of the Supreme Court to refer an appeal to be heard by the Full Court of the Supreme Court.

Powers of Supreme Court on appeal.

79. The Supreme Court when hearing an appeal from the Children's Court may exercise the same powers and make any order or adjudication in relation to a child that could lawfully have been made by the Children's Court acting under the powers conferred on it by this Act.

Reconsideration of sentence by Children's Court.

80. (1) Subject to this section, where a finding is made by the Children's Court that a charge against a child is proved, and an order is made against or in relation to the child in consequence of that finding, the Court may, upon an application made under subsection (2) of this section, reconsider the order and may—

(a) confirm the order;

or

(b) discharge the order and substitute therefor any other order the Court could have made in relation to the offence.

(2) Subject to this section, an application for reconsideration of an order may be made, in accordance with the rules of court under this Act—

(a) by the child, within one month after the date of the order;

or

(b) by the Minister, on behalf of the child, at any time after the date of the order.

(3) Where an application has been made under this section for reconsideration of a sentence of detention, the Court may, upon application by or on behalf of the child, release the child from detention upon bail upon such conditions as the Court thinks fit.

(4) The Court shall notify the applicant and all other parties concerned with the application of the place, date and time for the hearing of the application.

(5) Subject to subsection (7) of this section, where an appeal to the Supreme Court is instituted in respect of the original order, no application under this section may thereafter be made by the child.

(6) Subject to subsection (7) of this section, where an application for reconsideration is made under subsection (1) of this section, no appeal shall lie to the Supreme Court against the order in respect of which reconsideration is sought.

(7) Where an application under this section, or a notice of appeal to the Supreme Court, is withdrawn, all other parties concerned shall be notified accordingly, and thereupon an appeal shall lie to the Supreme Court, or an application may be made under this section, as the case may require, in all respects as if the date of that withdrawal were the date upon which the original order was made.

(8) An appeal shall lie to the Supreme Court from any order made by the Children's Court under this section.

PART VI

PART VI

THE CHILDREN'S COURT ADVISORY COMMITTEE

81. (1) There shall be a committee entitled the "Children's Court Advisory Committee".

Establishment
of the
Children's
Court
Advisory
Committee.

(2) The Advisory Committee shall consist of three members appointed by the Governor, of whom—

(a) one (the Chairman) shall be a Judge of the Supreme Court or a person holding judicial office under the Local and District Criminal Courts Act, 1926-1976;

(b) one shall be a person who, in the opinion of the Attorney-General, has wide knowledge or experience in the field of law enforcement, and who is nominated by the Attorney-General;

and

(c) one shall be a person who, in the opinion of the Minister, has a wide knowledge of and experience in the field of community welfare, and who is nominated by the Minister.

(2) A member of the Advisory Committee shall hold office for such term, and upon such conditions, as the Governor determines and specifies in the instrument of his appointment.

(3) Upon the expiration of the term of office of a member of the Advisory Committee, he shall be eligible for re-appointment.

82. A member of the Advisory Committee shall be entitled to receive such allowances and expenses as the Governor may from time to time determine.

Allowances and
expenses.

PART VI

Removal
from and
vacancies
of office.

83. (1) The Governor may remove a member of the Advisory Committee from office on the grounds of—

- (a) mental or physical incapacity;
- (b) dishonourable conduct;
- or
- (c) neglect of duty.

(2) The office of a member of the Advisory Committee shall become vacant if—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by notice in writing given to the Attorney-General;
- or
- (d) he is removed from office by the Governor pursuant to subsection (1) of this section.

(3) Upon the office of a member of the Advisory Committee becoming vacant, a person shall be appointed to that office in accordance with this Act.

(4) Where the office of a member of the Advisory Committee becomes vacant before the expiration of the term of office for which he was appointed, the person appointed in his place shall be so appointed only for the balance of that term.

Functions
of the
Advisory
Committee.

84. (1) The functions of the Advisory Committee are to—

- (a) monitor and evaluate the administration and operation of this Act;
- (b) cause such data and statistics in relation to proceedings before the Children's Court to be collected as it thinks fit, or as the Attorney-General may direct;
- (c) perform any other functions prescribed by this Act;
- and
- (d) perform such other functions as the Governor may, by proclamation, assign to the Advisory Committee.

(2) The Advisory Committee shall have full power to perform any act necessary or expedient for the performance of the functions for which the Advisory Committee is established.

Reports.

85. (1) The Advisory Committee shall, not later than the thirty-first day of October in each year, report to the Attorney-General on the administration and operation of this Act during the previous financial year.

(2) The Advisory Committee shall investigate and report to the Attorney-General on any matter pertaining to this Act that has been referred to the Advisory Committee by the Attorney-General for investigation and report.

(3) The Attorney-General shall cause a copy of every report submitted to him under subsection (1) of this section to be laid before each House of Parliament as soon as practicable after his receipt thereof.

PART VII

PART VII

MISCELLANEOUS

86. (1) The Children's Court, an adult court or a children's aid panel shall, in determining the age of a person for the purpose of any proceedings under this Act, act on the best evidence or information that is reasonably available but, in the absence of any such evidence or information, the court or panel may itself estimate the age of the person. Determination of a person's age.

(2) Where, in any proceedings before a court, it becomes apparent to the court that the person the subject of those proceedings should, by reason of his age, be dealt with in some other court, the court may remand that person to appear in the appropriate court.

(3) Nothing done by a court or a children's aid panel in respect of any person shall be invalid by reason of the fact that the court or panel acted upon a mistaken belief that the person was of a certain age.

87. (1) If it appears to the member, or members, of the Children's Court exercising the jurisdiction of the Court in any proceedings that those proceedings could be more conveniently, economically or fairly heard and determined by some other member, or members, of the Court, he may forthwith refer the matter to the Senior Judge who shall give such directions as to the hearing and determination of the proceedings as he thinks fit. Change of venue.

(2) The parties to the proceedings shall be notified of any change made to the place, date or time for the hearing of the proceedings pursuant to this section.

88. (1) In any proceedings before the Children's Court, or before an adult court pursuant to this Act, a copy of every report received by the court shall be furnished to the child the subject of the proceedings, to any guardian who is a party to the proceedings or is present in court and, where the proceedings are under Part IV of this Act, to the prosecutor, and any of those persons, or counsel for any of those persons, shall be permitted by the court to cross-examine the person, or any of the persons, by whom the report was made, or who carried out any investigation on which the report was based. Certain reports must be made available to child.

(2) Notwithstanding subsection (1) of this section, if the court is of the opinion that a report contains material that, if disclosed, may be prejudicial to the welfare of the child, the court may order that the whole, or any part, of the report shall not be furnished in accordance with subsection (1) of this section.

89. In any proceedings under this Act before the Children's Court or an adult court, any officer of the Department may appear before the court for the purposes of— Right of audience of officers of the Department.

(a) conducting any proceedings under Part III of this Act;

or

(b) in any proceedings under Part IV of this Act, tendering any report or making submissions in relation to the sentencing of a child.

PART VII

Legal representation of children.

90. Where, in any proceedings before the Children's Court, or before an adult court pursuant to this Act, the court is of the opinion that the child the subject of the proceedings needs legal representation and that such representation has not been arranged by or on behalf of the child, the court may, by order, make such provision for the legal representation of the child as it thinks fit.

Court must explain proceedings to a child, etc.

91. (1) In any proceedings before the Children's Court, or before an adult court pursuant to this Act, the court shall satisfy itself that the child the subject of the proceedings understands the nature of those proceedings.

(2) Where a child by, or in respect of whom, proceedings have been brought before the Children's Court, or before an adult court pursuant to this Act, is not represented by counsel or solicitor, the court—

(a) shall explain to the child in simple language the nature of the allegations against, or concerning, him and the legal implications of those allegations;

and

(b) shall, where the child has been charged with an offence, explain to him in simple language the elements of the offence that must be established by the prosecution.

(3) No order or adjudication of a court is defective on the ground of failure to comply with this section where the court has substantially complied with the provisions of this section.

(4) Where a child has been charged with an offence, he shall be furnished, as soon as reasonably practicable after being so charged, with a written statement in the prescribed form of his rights in respect of legal representation, and of the manner in which he may obtain legal advice, representation or assistance.

Persons who may be in court.

92. (1) Subject to subsection (2) of this section, no person shall be present at any sitting of the Children's Court, or at any sitting of an adult court dealing with a child under this Act, except for the following persons:—

(a) members and officers of the court;

(b) officers of the Department;

(c) parties to the case before the court, and the legal practitioners representing those parties;

(d) the prosecutor;

(e) witnesses whilst giving evidence and whilst permitted by the court to remain in court;

(f) any guardian of the child;

(g) any member of the Children's Court Advisory Committee;

(h) such other persons as the court specially authorizes to be present.

(2) Any person who is a *bona fide* representative of the news media may be present at a sitting of a court when the court is dealing with a child under Part IV of this Act.

(3) Nothing in this section abrogates the power of a court to exclude any person from a sitting of the court.

Restriction on reports of proceedings in respect of children.

93. (1) Subject to this section, a person shall not publish, whether by radio, television or newspaper or otherwise, a report of any proceedings before the Children's Court, or before an adult court pursuant to this Act.

(2) Unless otherwise ordered by the court, the result of any proceedings under Part IV of this Act may be published in accordance with this section and, for that purpose, the court shall, at the request of a person desiring so to publish the result of any proceedings, make that result available to him.

(3) Where, in any proceedings under Part IV of this Act, the child is convicted of an offence, a brief summary of the circumstances of the offence may be published together with any publication of the result of the proceedings, unless the court orders otherwise.

(4) Unless permitted by virtue of an order under subsection (5) of this section, a person shall not, in publishing the result of any proceedings referred to in subsection (2) of this section, or any summary under subsection (3) of this section, reveal the name, address or school, or include any particulars or publish any picture or film calculated to lead to the identification, of any child who is concerned in those proceedings, whether as a person against whom or in respect of whom those proceedings were taken, or as a witness in those proceedings.

(5) The court may, by order, dispense with the requirements of subsection (4) of this section to such extent and subject to such conditions as may be specified in the order.

(6) A person who acts in contravention of this section, or fails to comply with any order of a court under this section, shall be guilty of an offence and liable to a penalty not exceeding five thousand dollars.

94. Any officer of the Department authorized by the Director-General for the purpose may have the lawful custody of a child against whom or in relation to whom any proceedings under this Act have been, or are about to be, brought, while that child is being conveyed to or from a court, or while the child is within the precincts of the court, and may, at any time, search the child and remove any object that he considers may be injurious to any person or property.

Detention and search by officers of the Department.

95. A person who hinders an officer of the Department in the exercise of his powers under this Act shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

Hindering an officer of the Department.

96. (1) The Minister may, from time to time, by instrument in writing, delegate to the Director-General such of his powers, duties, responsibilities and functions under this Act as the Minister thinks fit.

Delegation etc.

(2) The Director-General may delegate to any officer of the Department any of the powers, duties, responsibilities and functions vested in, or delegated to, the Director-General under this Act.

(3) A delegation under this section shall be revocable at will, and shall not prevent the exercise or performance of any power, duty, responsibility or function by the Minister or Director-General.

(4) In any proceedings under this Act, a certificate purporting to be signed by the Minister or the Director-General and stating that the person named therein is an officer of the Department and is authorized by the Minister, or the Director-General, as the case may be, to conduct any proceedings under this Act on his behalf, shall be sufficient proof of the facts so stated.

PART VII

**Issue of
warrant.**

97. No person shall issue an order for the removal of a child from any place, or a warrant for the apprehension of a child, unless that person is satisfied that the allegations made in respect of the child by the person seeking the order or warrant have been substantiated on oath.

**Detention for
contempt or
enforcement of
order for
payment of
money.**

98. (1) In any proceedings against a child before any court for—

(a) contempt of court;

or

(b) enforcement of any order for the payment of money,

the court is not empowered to sentence that child to imprisonment but may, by order, sentence the child to detention in a place (other than a prison) approved by the Minister.

(2) A child against whom an order for the payment of money has been made may, at any time prior to the execution of any mandate for his detention in relation to that order, apply to the Children's Court in the prescribed manner for further time in which to satisfy the order.

Mandates.

99. (1) Where a court makes an order that a child be detained in a training centre or other place the court shall issue a mandate for the taking of the child to that training centre or place, and for his detention for the duration of that order.

(2) A mandate issued by a court pursuant to subsection (1) of this section shall be a sufficient warrant for the taking and detention of the child in accordance with its terms.

**Transfer of
children in
detention to
other training
centre or
prison.**

100. (1) Where a child has been detained in, or remanded to, a training centre or any other place pursuant to an order of a court, the Director-General may in such circumstances as he thinks fit, with the approval of the Training Centre Review Board, direct that the child be removed and placed in some other training centre or, where the child has been remanded to, or is being detained in, a place other than a training centre, that he be removed and placed in a training centre or any other place (other than a prison) approved by the Minister.

(2) Where, upon application made to a Judge of the Children's Court by the Director-General, the Court is satisfied that a child who—

(a) is of or above the age of sixteen years;

and

(b) has been remanded to, or is being detained in, a training centre or any other place pursuant to an order of a court,

cannot be properly controlled in that training centre or other place, has within the period of fourteen days preceding the date of the application been found guilty of assaulting any person employed, or detained, in that training centre or other place, or has persistently incited others in the training centre or other place to cause a disturbance, the Court may, by order, direct that the child be held in custody in a prison for the remainder of the period of his detention.

(3) Where an application has been made under subsection (2) of this section and the Court is satisfied that the child is likely to be a danger to others, the Court may order that he be held in custody in a prison until the court has determined the application.

(4) The Court may, on the application of the Director-General, the child or a guardian of the child, revoke an order made under subsection (2) of this section.

(5) Where a child is held in custody in a prison pursuant to an order under this section, the Prisons Act, 1936-1976, shall apply to and in relation to that child.

101. Notwithstanding any Act or law to the contrary, a power or function vested in, or assigned to, the Attorney-General by or under this Act—

(a) shall not, by executive act, be vested in, or assigned to, any other Minister;

and

(b) shall not be delegated to any other Minister.

Attorney-General's powers and functions may not be delegated, etc., to any other Minister.

102. Proceedings in respect of offences against this Act shall be disposed of summarily.

Summary proceedings for offences against Act.

103. (1) The Senior Judge of the Children's Court may make rules in respect of the practice and procedure of the Court.

Rules of Court.

(2) The rules may provide that provisions of any rules or regulations made under any Act shall apply with such modifications as may be specified in the rules.

104. (1) The Governor may make such regulations as he considers may be necessary or expedient for the purpose of giving effect to the objects and provisions of this Act.

Regulations.

(2) Without limiting the generality of subsection (1) of this section, the Governor may make regulations—

(a) prescribing the practice and procedure of screening panels;

(b) prescribing the practice and procedure of children's aid panels;

(c) prescribing the practice and procedure of the Training Centre Review Board;

(d) prescribing the forms to be used under this Act;

(e) prescribing the procedures to be observed in relation to the detention of a child prior to being dealt with by a court, or while a child is being conveyed to or from any court, or while a child is in attendance at any court;

and

(f) prescribing penalties, not exceeding one hundred dollars in each case, for breaches of the regulations.

SCHEDULE		
First Column Act Amended	Second Column How Amended	Third Column New Citation
Criminal Injuries Compensation Act, 1978	<p>Section 7 (4)— Strike out the word "means".</p> <p>Strike out paragraph (a) and insert paragraph as follows:—</p> <p style="padding-left: 40px;">(a) subject to paragraphs (b) and (ba) of this subsection, means the court before which the offender was brought to trial;</p> <p>Insert in paragraph (b) after the passage "justices of the peace," the word "means".</p> <p>Insert after paragraph (b) the following paragraph:—</p> <p style="padding-left: 40px;">(ba) where the offender was brought to trial before a special justice or two justices of the peace of the Children's Court, means the Children's Court constituted of a Judge or a special magistrate;.</p> <p>Strike out paragraph (c) and insert paragraph as follows:—</p> <p style="padding-left: 40px;">(c) where the offender has been dealt with by a children's aid panel, means the Children's Court constituted of a Judge or special magistrate;.</p> <p>Strike out from subparagraph (i) of paragraph (d) the passage "a juvenile court" and insert "means the Children's Court constituted of a Judge or special magistrate".</p> <p>Insert in subparagraph (ii) of paragraph (d) after the passage "in any other case," the word "means".</p>	Criminal Injuries Compensation Act, 1978-1979
Education Act, 1972-1976	<p>Repeal section 79 and insert new section as follows:—</p> <p>Truants. 79. (1) A child of compulsory school age who habitually or frequently absents himself, without lawful excuse, from school when the school is open for instruction shall be guilty of an offence of truancy and liable to be dealt with under the Children's Protection and Young Offenders Act, 1979.</p> <p>(2) In this section—"lawful excuse" means any cause prescribed as a lawful excuse by regulation.</p>	Education Act, 1972-1979
Guardianship of Infants Act, 1940-1975	<p>Section 3— Strike out the definition of "the court" and insert definition as follows:—</p> <p style="padding-left: 40px;">"the court" means the Children's Court of South Australia constituted of a Judge.</p> <p>Repeal section 22.</p>	Guardianship of Infants Act, 1940-1979

First Column Act Amended	Second Column How Amended	Third Column New Citation
Justices Act, 1921-1977	<p>Section 57a— Strike out subsection (10) and insert subsection as follows:—</p> <p>(10) This section shall not apply in relation to a defendant who is a child within the meaning of the Children's Protection and Young Offenders Act, 1979, except where the defendant—</p> <p>(a) is of or above the age of sixteen years; and</p> <p>(b) is charged with an offence under the Road Traffic Act, 1961-1979.</p>	Justices Act, 1921-1979

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor

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