

(5) Subject to sub-section (4), a child who has entered into a bond under this section must be allowed to go at large.

Dismissal where bond observed

145. If, at the further hearing of a proceeding adjourned under section 144, the Court is satisfied that the child has observed the conditions of the bond, the Court must dismiss the charge.

Child required to appear

146. (1) A child to whom an adjournment under section 144 has been granted may be required to appear before the Court —

- (a) by order of the Court; or
- (b) by notice issued by the registrar.

(2) An order or notice under sub-section (1) must be served not less than 14 days before the day on which the child is required to appear.

Failure to appear

147. (1) If —

- (a) the Court, when granting an adjournment under section 144, specifies that the child is required to appear at the time to which the further hearing is adjourned and the child fails to do so; or
- (b) a child fails to appear as required by order or notice under section 146; or
- (c) reasonable efforts have been made to serve an order or notice under section 146, but have been unsuccessful—

a warrant to arrest may be issued by the Court, directing that the child be arrested and brought before the Court as soon as possible.

(2) If a child is brought before the Court under sub-section (1), the Court may remand the child in custody or on bail to be brought or to appear before the Court at a specified time and venue.

(3) If a child is remanded on bail under sub-section (2) and fails to appear in accordance with the conditions of bail, the Court may issue a further warrant to arrest.

Breach of bond

148. (1) If —

- (a) a child has been released on a bond under section 144; and
- (b) it appears to the Court that the child has failed to be of good behaviour or to observe any condition of the bond —

the Court may direct that the child and, if the child is under the age of 15 years, his or her parent be served with a notice to appear before the Court at a specified time.

(2) If a notice is served on a child under sub-section (1) and the child fails to appear before the Court at the time specified, the Court may, if satisfied that the notice has come to the attention of the child—

- (a) direct that a warrant to arrest the child be issued; or
- (b) proceed under sub-section (5) in the absence of the child.

(3) A child alleged to have failed to be of good behaviour or to observe any condition of a bond must (whether a notice under sub-section (1) has been issued or not) appear or be brought before the Court—

- (a) constituted by the magistrate who sentenced the child, if he or she still holds the office of magistrate; or
- (b) constituted by any other magistrate—
 - (i) if the first-mentioned magistrate does not still hold the office of magistrate; or
 - (ii) with the child's consent.

(4) If a child does not consent to the Court constituted by any other magistrate dealing with the breach, the proceeding must be adjourned for hearing before the Court constituted by the magistrate who sentenced the child, if he or she still holds the office of magistrate.

(5) If—

- (a) a child has been released on a bond under section 144; and
- (b) the Court is satisfied that the child has failed to be of good behaviour or to observe any condition of the bond—

the Court may—

- (c) declare the bond to be forfeited and impose no penalty; or
- (d) proceed with the further hearing and determination of the charge and deal with the child in any manner in which the child could have been dealt with before the adjournment was granted.

Time for application

149. If breach of a bond is constituted by any act the subject of a charge before a court, a proceeding for the breach must be commenced not later than 3 months after a finding of guilt in respect of the charge.

Subdivision 5—Fines

Fines

150. If the Court finds a child guilty of an offence, whether indictable or summary, the Court may, with or without conviction, impose a fine—

- (a) in respect of each offence, not exceeding 5 penalty units or the maximum fine which may be imposed on an adult for the same offence, whichever is the lower amount; and

- (b) in respect of more than one offence, not exceeding an aggregate of 10 penalty units.

Financial circumstances of child to be considered

151. If the Court determines to impose a fine on a child in respect of an offence, the Court must take into consideration, among other things, the financial circumstances of the child when determining the amount of the fine.

Instalment orders

152. (1) In sections 152 to 157—

“Fine” means the sum of money payable by a child under an order of the Court made in respect of an offence and includes costs but does not include a sum of money payable by way of restitution or compensation.

“Instalment order” means an order made under sub-section (2) that a fine be paid by 2 or more instalments and, if such an order has been varied, means the order as so varied.

- (2) If the Court determines to impose a fine on a child, the Court—
- (a) must, if the child so requests, order that the fine be paid by instalments; or
 - (b) in any other case, may order that the fine be paid by instalments, if the Court deems it appropriate to do so.

Time to pay

153. If the Court does not make an instalment order in respect of a fine, the Court, at the time of imposing the fine, may order that the child be allowed time for the payment of the fine.

Application for time to pay, for instalment order or for variation of instalment order

154. A child who has been ordered by the Court to pay a fine may apply at any time in the prescribed manner to the appropriate registrar for —

- (a) an order that the child be allowed time for the payment of the fine; or
- (b) an order that the fine be paid by instalments; or
- (c) an order for the variation of an instalment order.

Default in payment of fine or instalment

155. (1) If for a period of more than one month a child defaults in the payment of a fine or of any instalment under an instalment order, the Court may —

- (a) adjourn the hearing or further hearing of the matter for up to 6 months on any terms that the Court thinks fit; or

- (b) if the default is in the payment of an instalment under an instalment order, order that the instalment order be varied as specified in the order of the Court; or
- (c) order that the fine then unpaid be levied by a warrant to seize property; or
- (d) release the child on a youth supervision order or youth attendance order for a period not exceeding 3 months; or
- (e) order that the child be detained in a youth residential centre or a youth training centre on weekend detention for a time fixed in accordance with section 156, unless the Court is satisfied that the child did not have the capacity to pay the fine or the instalment.

(2) The Court must not make an order under sub-section (1) unless the child has been served by post with a notice to appear before the Court in respect of the default in payment.

(3) If—

- (a) a child does not attend before the Court after service of a notice under sub-section (2); and
- (b) the Court is satisfied that the notice has come to the attention of the child—

the Court may adjourn the proceeding and order that a warrant to arrest the child be issued.

Weekend detention

156. (1) For the purposes of section 155 (1) (e) “**weekend detention**” means detention in a youth residential centre or a youth training centre—

- (a) from 7 p.m. Friday until 7 p.m. Sunday; or
- (b) if the Court is satisfied that it is inappropriate by reason of employment or special circumstances that the order be served in accordance with paragraph (a), for 48 hours from 7 p.m. on a week day.

(2) The term for which a child in default of payment of a fine or an instalment under an instalment order may be detained under section 155 (1) (e) is—

- (a) if the amount of the fine then unpaid does not exceed an amount equal to 4 penalty units—not more than 3 weekends (or their equivalent under paragraph (b) of the definition of “weekend detention” in sub-section (1)); or
- (b) if the amount of the fine then unpaid exceeds an amount equal to 4 penalty units—not more than 6 weekends (or their equivalent under paragraph (b) of the definition of “weekend detention” in sub-section (1)).

Reduction of detention or order by payment of portion of fine

157. (1) Section 71 of the *Magistrates' Court Act 1989* applies as if—

- (a) a reference to a warrant to imprison were a reference to a warrant to detain in a youth residential centre or a youth training centre; and
- (b) a reference to the Court were a reference to the Children's Court; and
- (c) a reference to imprisoned were a reference to detained; and
- (d) a reference to prison or police gaol were a reference to youth residential centre or youth training centre; and
- (e) a reference to the principal registrar were a reference to the principal registrar of the Children's Court.

(2) If—

- (a) a youth supervision order or youth attendance order has been made under section 155 (1) (d); and
- (b) before the expiry of the term of the order, it appears to the Court that part of the fine has been paid—

the total term of the order must be reduced by the number of days bearing as nearly as possible the same proportion to the total number of days in the term as the amount paid bears to the whole amount of the fine.

Subdivision 6—Probation Orders

Court may order probation

158. (1) If the Court finds a child guilty of an offence, whether indictable or summary, the Court may, with or without conviction, place the child on probation for a specified term—

- (a) not exceeding 12 months; or
- (b) if the offence is punishable by imprisonment for a term of more than 14 years, not exceeding 18 months—

and not extending beyond the child's eighteenth birthday.

(2) The Court may only make an order under sub-section (1) if the child has consented to the order being made.

Conditions of probation orders

159. (1) If a child is released on probation, the probation order is subject to the following conditions:

- (a) The child must report to the Director-General within 2 working days after the order is made;
- (b) The child must, during the period of the probation order, report to the assigned probation officer as required by the probation officer;

- (c) The child must not re-offend during the period of the probation order;
- (d) The child must not leave the State without the written permission of the Director-General;
- (e) The child must notify the assigned probation officer of any change of residence, school or employment within 48 hours after the change;
- (f) The child must obey the reasonable and lawful instructions of the assigned probation officer.

(2) Subject to sub-sections (3) and (4), the Court may order the child to observe any special condition for the whole or any part of the period of probation.

(3) A special condition ordered under sub-section (2) must relate to the offence and the Court must, in its statement of reasons for the sentence, give its reason for ordering the special condition.

(4) A special condition which may be ordered under sub-section (2) may be—

- (a) that the child attend school, if the child is under school-leaving age; or
- (b) that the child abstain from alcohol; or
- (c) that the child abstain from the use of illegal drugs; or
- (d) that the child reside at a specified address; or
- (e) that the child not leave his or her place of residence between specified hours on specified days; or
- (f) that the child undergo medical, psychiatric, psychological or drug counselling or treatment; or
- (g) any other condition that the Court considers necessary or desirable.

(5) A probation order may at any time during the period of the order be varied or revoked by the Court in accordance with section 195.

Breach of probation

160. (1) If—

- (a) a child has been placed on probation under section 158; and
- (b) at any time during the probation period it appears to the Court or to the Director-General that the child has failed to observe any condition, or amended condition, of the probation order—

the Court or the Director-General may cause the child and, if the child is under the age of 15 years, his or her parent to be served, by post or otherwise, with a notice to appear before the Court at a specified time.

- (2) If—
- (a) a notice is served on a child under sub-section (1) and the child fails to appear before the Court at the time specified and the Court is satisfied that the notice has come to the attention of the child; or
 - (b) service of a notice under sub-section (1) cannot be effected—
- the Court may direct that a warrant to arrest the child be issued.

- (3) If—
- (a) a child has been placed on probation; and
 - (b) the child is brought or appears before the Court (whether a notice under sub-section (1) has been issued or not); and
 - (c) the Court is satisfied that the child has failed to observe any condition, or amended condition, of the probation order—
- the Court may—
- (d) confirm the probation order; or
 - (e) vary, add or substitute any special condition of the probation order but must not extend the period of the order; or
 - (f) revoke the probation order and impose any other sentencing order that the Court thinks just.

- (4) In considering what order to make under sub-section (3), the Court may take into account—

- (a) a report on the child prepared by the Director-General; and
- (b) the fact of the making of the probation order; and
- (c) the extent to which and the manner in which the child has complied with the probation order.

Director-General or probation officer may apply for warrant to arrest

161. Despite anything to the contrary in this Act, if—

- (a) a child has been placed on probation; and
- (b) at any time during the probation period it appears to the Director-General or to the probation officer assigned to supervise the child that the child has failed to observe any condition, or amended condition, of the probation order—

the Director-General or, with the written consent of the Director-General, the assigned probation officer may apply to the Court for the issue of a warrant to arrest the child and the Court may direct that a warrant to arrest be issued.

Time for application

162. If a breach of a probation order is constituted by—

- (a) any act the subject of a charge before a Court, any proceeding for the breach must be commenced not later than 3 months after a finding of guilt in respect of the charge; or

- (b) any other act, any proceeding for the breach must be commenced not later than 14 working days after the alleged breach and before the expiry of the probation order.

Subdivision 7—Youth Supervision Orders

Court may impose youth supervision order

163. (1) If the Court finds a child guilty of an offence, whether indictable or summary, the Court may, with or without conviction, release the child on a youth supervision order for a specified term—

- (a) not exceeding 12 months; or
 (b) if the offence is punishable by imprisonment for a term of more than 14 years, not exceeding 18 months—

and not extending beyond the child's eighteenth birthday.

(2) The Court may make an order under sub-section (1) only if—

- (a) the venue at which the Court is then sitting is in a prescribed region of the State; and
 (b) the child has consented to the order being made.

Youth supervision orders

164. (1) If a child is released on a youth supervision order, the order is subject to the following conditions:

- (a) The child must report to the Director-General within 2 working days after the order is made;
 (b) The child must, during the period of the youth supervision order, report to the Director-General as required by the Director-General;
 (c) The child must not re-offend during the period of the youth supervision order;
 (d) The child must not leave the State without the written permission of the Director-General;
 (e) The child must notify the Director-General of any change of residence, school or employment within 48 hours after the change;
 (f) The child must attend a youth supervision unit or any other place specified in the youth supervision order;
 (g) The child must participate in a community service program or any other program, if so directed by the Director-General.

(2) Subject to sub-section (3), the Court may order the child to observe any special condition for the whole or any part of the period of a youth supervision order.

(3) Sub-sections (3) and (4) of section 159 apply to a special condition ordered under sub-section (2) of this section in the same

manner as they apply to a special condition ordered under sub-section (2) of that section.

(4) A youth supervision order may at any time during the period of the order be varied or revoked by the Court in accordance with section 195.

(5) A direction given by the Director-General under sub-section (1) (g)—

(a) may require a child to engage in community service activities—

(i) at or in relation to a community service organisation; or

(ii) at the home of any old, infirm or disabled person; or

(iii) on any Crown land or land occupied by the Crown or owned, leased or occupied by any person or body under any Act for a public purpose; and

(b) must not require a child to engage in any community service activities so as to take the place of some other person who would usually be engaged in those activities for hire or reward if that other person is absent from those activities because of an industrial dispute involving that other person's employer or is otherwise available and willing to perform the work required in those activities.

(6) If a direction under sub-section (1) (g) requires a child to engage in community service activities—

(a) the child is, for the purposes of the *Accident Compensation Act 1985* or any other Act or law, to be taken to be a worker employed by the Crown; and

(b) for the purposes of the *Accident Compensation Act 1985* the weekly earnings of the child are to be taken to be an amount equivalent to the weekly earnings of the child in any full-time employment in which the child is engaged at that time or, if the child is not then engaged in full-time employment, an amount which the Minister administering the *Accident Compensation Act 1985* considers reasonable in the circumstances of the case; and

(c) the child is not entitled to receive any remuneration in respect of any work performed in those community service activities.

Breach of youth supervision order

165. (1) If—

(a) a child has been released on a youth supervision order under section 163; and

(b) at any time during the period of the order it appears to the Court or the Director-General that the child has failed to observe any condition, or amended condition, of the order—
the Court or the Director-General may cause the child and, if the child is under the age of 15 years, his or her parent to be served, by post or otherwise, with a notice to appear before the Court at a specified time.

(2) A supervisor must, at the request of the Director-General, provide to the Director-General—

- (a) a certificate of attendance in the prescribed form in respect of the child; and
- (b) a report on the child and on the extent to and the manner in which the child has complied with the youth supervision order—

to enable the Director-General to determine whether a notice under sub-section (1) should be served.

(3) For the purposes of sub-section (2) “supervisor” means a person appointed by the Director-General to be the person responsible for a youth supervision program.

(4) If a notice is served on a child under sub-section (1) and the child fails to appear before the Court at the time specified, the Court may, if satisfied that the notice has come to the attention of the child, direct that a warrant to arrest the child be issued.

(5) A child alleged to have failed to observe any condition, or amended condition, of a youth supervision order must appear or be brought before the Court—

- (a) constituted by the magistrate who sentenced the child, if he or she still holds the office of magistrate; or
- (b) constituted by any other magistrate—
 - (i) if the first-mentioned magistrate does not still hold the office of magistrate; or
 - (ii) with the child’s consent.

(6) If a child does not consent to the Court constituted by any other magistrate dealing with the breach, the proceeding must be adjourned for hearing before the Court constituted by the magistrate who sentenced the child, if he or she still holds the office of magistrate.

Penalties for breach

166. If—

- (a) a child has been released on a youth supervision order; and
- (b) the child is brought or appears before the Court; and
- (c) the Court is satisfied that the child has failed to observe any condition, or amended condition, of the order—

the Court may make an order—

- (d) varying the youth supervision order; or

- (e) directing the child to comply with the youth supervision order; or
- (f) revoking the youth supervision order and imposing any other sentencing order that the Court thinks just.

Matters to be taken into account

167. (1) In considering what order to make under section 166, the Court may take into account—

- (a) a report on the child prepared by the Director-General under sub-section (2); and
- (b) the fact of the making of the youth supervision order; and
- (c) the extent to and the manner in which the child has complied with the youth supervision order.

(2) If a child is brought or appears before the Court under section 166, the Director-General must prepare a report on the child including—

- (a) the nature and circumstances of the breach of the youth supervision order; and
- (b) the extent to which and the manner in which the child has complied with the order; and
- (c) the recommendation of the Director-General with respect to an appropriate sentencing order for the child; and
- (d) any other relevant matter.

(3) Any statement made in a report under sub-section (2) must be relevant to—

- (a) the breach of the youth supervision order; and
- (b) the sentencing order (if any) recommended in the report.

(4) A report under sub-section (2) must be provided, after the Court is satisfied that a child has failed to observe any condition, or amended condition, of the order and before the Court makes an order under section 166, to—

- (a) the Court; and
- (b) the child who is the subject of the report; and
- (c) the legal practitioners representing the child; and
- (d) any other person whom the Court has ordered is to receive a copy of the report.

Time for application

168. If a breach of a youth supervision order is constituted by—

- (a) any act the subject of a charge before a court, any proceeding for the breach must be commenced not later than 3 months after a finding of guilt in respect of the charge; or

- (b) any other act, any proceeding for the breach must be commenced not later than 14 working days after the alleged breach and before the expiry of the youth supervision order.

Subdivision 8—Youth Attendance Orders

Definitions

169. In this Subdivision—

- “**Manager**” means the person in charge of a youth supervision unit.
- “**Project**” means employment or other activities or any combination of employment or other activities considered suitable for a youth attendance project by the Director-General.
- “**Relevant manager or responsible officer**”, in relation to a child, means the manager or responsible officer specified by the Court under section 173 as responsible for ensuring that the conditions of the child’s youth attendance order are complied with.
- “**Responsible officer**” means an officer appointed by the Director-General to be the officer responsible for a youth attendance project in a region of the State.
- “**Week**” means the period of 7 days commencing on a Monday.
- “**Working day**” does not include a Saturday, Sunday or public holiday.
- “**Youth attendance project**” means a project appointed as a youth attendance project under section 180 (1).

Youth attendance order

170. (1) If—

- (a) the Court convicts a child of an offence for which the Court considers that the child would otherwise be sentenced to detention in a youth training centre as a result of the gravity or habitual nature of the child’s unlawful behaviour; and
- (b) on the day of sentencing, the child is of or above the age of 15 years but under 18 years—

the Court may make a youth attendance order in respect of the child.

(2) The power to make a youth attendance order is subject to the restrictions set out in section 171.

Restrictions on power to make youth attendance order

171. The Court does not have power to make a youth attendance order under section 170 (1) unless—

- (a) the offence is punishable by imprisonment; and

- (b) it has made inquiries of the manager or responsible officer responsible for a youth attendance project, and is satisfied that—
 - (i) the child is a suitable person to participate in the youth attendance project; and
 - (ii) a place in the youth attendance project will be available to the child at the time when the child is required to first report; and
- (c) the child has consented to the order being made.

Sentencing court to impose requirements

172. The Court, when making a youth attendance order, must impose on the child the following requirements:

- (a) That the child does not commit another offence during the period that the order is in force;
- (b) That the child attend at a youth attendance project for the number of weeks specified by the Court (not being more than 52 weeks);
- (c) That, unless the child is in custody at the time of the making of the order, the child report to the relevant manager or responsible officer within 2 working days after the order is made.

Court to nominate a manager or responsible officer

173. (1) The Court, when making a youth attendance order, must specify a manager or responsible officer who shall be responsible for ensuring that the requirements of the order are complied with.

(2) The Court may specify a manager or responsible officer either by name or by reference to an office and, if the specification is by reference to an office, the holder for the time being of the office is the manager or responsible officer.

Concurrent orders

174. (1) If a child is convicted on the same day, or in the same proceeding, of more than one offence—

- (a) the aggregate term of attendance at a youth attendance project which may be required in respect of all of the offences must not exceed 52 weeks; and
- (b) the Court may order that the period of attendance in respect of any of the offences be concurrent with the period of attendance in respect of any other of the offences; and
- (c) if the Court makes a youth attendance order in relation to an offence and directs that the child be detained in a youth training centre in respect of another offence, the aggregate term of attendance and detention in respect of all of the offences must not exceed 3 years.

(2) Despite anything to the contrary in any Act, every term of attendance at a youth attendance project imposed on a child by the Court shall, unless otherwise directed by the Court at the time of making the youth attendance order, be, as from the date of its commencement, served concurrently with any uncompleted term or terms of attendance at a youth attendance project imposed on that child, whether previously to or at the time the relevant order was made.

(3) If the Court imposes a term of attendance at a youth attendance project on a child who has not completed another term of attendance at a youth attendance project, it may direct that the term being imposed be served in part concurrently with the other term or wholly cumulatively on it.

Copy of order to be given

175. (1) A youth attendance order must be in the prescribed form.

(2) The Court, when it makes a youth attendance order, must cause a copy of the order to be given or sent by post to—

- (a) the child; and
- (b) the relevant manager or responsible officer.

Additional requirements of order

176. In addition to the requirements imposed on a child by the Court under section 172, a child is required—

- (a) to comply with the provisions of a notice under section 177 and with the requirements for attendance in paragraphs (a) and (b) of section 177 (1); and
- (b) to attend at any alternative day and time fixed under section 177 (5) or to attend for such extension of the term of the youth attendance order as is fixed under section 177 (6); and
- (c) to carry out the reasonable and lawful directions of the relevant manager or responsible officer or any person acting under the authority of either of those persons under sections 182 and 183 (1).

Reporting

177. (1) Subject to sub-sections (5) and (6), a person in respect of whom a youth attendance order is made must in every week during the term of the order—

- (a) attend for a maximum of 3 attendances; and
- (b) attend under paragraph (a) for a maximum of 10 hours of which no more than 4 hours may be spent in community service activities under section 183.

(2) Subject to sub-section (1), the relevant manager or responsible officer must from time to time specify in a notice in the prescribed form sent by registered post to, or served personally on, the person—

- (a) the periods of time; and
- (b) the starting and finishing times of each such period; and
- (c) the number of times; and
- (d) the total number of hours—

in each week during which the person is required to attend the youth attendance project.

(3) Subject to sub-section (1), the relevant manager or responsible officer may from time to time vary the details referred to in paragraph (a), (b), (c) or (d) of sub-section (2) by notice sent by registered post to, or served personally on, the person.

(4) In specifying the dates and times of attendance for a person in a notice under this section the relevant manager or responsible officer must specify dates and times which, as far as practicable, avoid interference—

- (a) with the attendance of the person at his or her place of employment, education, training or religious observance; or
- (b) with the person's religious beliefs.

(5) The relevant manager or responsible officer may excuse a person from reporting at a youth attendance project on any occasion—

- (a) on account of illness certified by a legally qualified medical practitioner; or
- (b) on account of any other good cause—

and if the relevant manager or responsible officer so excuses a person, the relevant manager or responsible officer may fix an alternative day and time and must specify the day and time in a notice sent by registered post to, or served personally on, the person.

(6) If it is not reasonably practicable for a person to make up time for which the person has been excused under sub-section (5) during the term of the youth attendance order, the relevant manager or responsible officer may extend the term of the youth attendance order so that the lost time can be made up and must inform the person of the extension by a notice sent by registered post to, or served personally on, the person.

Suspension of youth attendance order

178. (1) If—

- (a) at the time the Court makes a youth attendance order, the child in respect of whom the order is made is in custody in a remand centre, youth residential centre, youth training centre or prison ; or