

ACT 653
JUVENILE JUSTICE ACT, 2003

ARRANGEMENT OF SECTIONS

Rights of Juvenile, Arrest and Caution

1. Juvenile.
2. Welfare principle.
3. Rights of the juvenile.
4. Arrest of a juvenile.
5. Arrest by police.
6. Arrest by private person without warrant.
7. Warrant of arrest issued by presiding judicial officer.
8. Notification of substance of warrant.
9. Effect of arrest.
10. Search of arrested juvenile.
11. Information of arrest.
12. Caution by police.
13. Interview of juvenile.
14. Recognisance.
15. Detention of juvenile at police station.

Juvenile Court

16. Juvenile court sitting.
17. Exclusive jurisdiction and transfer.
18. Remission of juvenile to juvenile court for sentence.
19. Presumption and determination of age.
20. Charge sheet and plea.
21. Appearance of juvenile in Court and bail.
22. Assistance to juvenile.
23. Remand of juvenile.
24. Social enquiry report.
25. Diversion.
26. Purpose of diversion.
27. Minimum standard of diversion.
28. Parent to give security.
29. Methods of dealing with juvenile offender.
30. Power to order parent to pay fine instead of juvenile.
31. Probation.
32. Prohibition on of certain forms of punishment.

- 33. Expeditious hearing.
- 34. Committal to fit persons.
- 35. Duration of probation and supervision orders over juveniles.
- 36. Approval of children's homes.
- 37. Application to expunge record.
- 38. General provisions as to court orders relating to juveniles.

Junior Correctional Centres and Senior Correctional Centres

- 39. Establishment of Junior and Senior Correctional Centres.
 - 40. Establishment of remand homes.
 - 41. Supervision of centres and remand homes.
 - 42. Visits and inspections.
 - 43. Power to order detention in centre and right of appeal.
 - 44. Contents of detention order.
 - 45. Conveyance to centre.
 - 46. Duration of detention.
 - 47. Extension of period of detention.
 - 48. Power of Minister to transfer juvenile or young offender.
 - 49. Power to transfer from prison to centre.
 - 50. Transfer of incorrigibles to prison.
 - 51. Power to release on licence.
 - 52. Supervision after expiration of term of detention.
 - 53. Power of Minister to discharge young offender.
 - 54. Harboursing or concealing a young offender.
 - 55. Penalty for escape or absence from centre or remand home.
 - 56. Power to require production of offender.
 - 57. Penalty for instigating offence.
 - 58. Contributions by parents of juvenile.
 - 59. Regulations.
 - 60. Interpretation.
 - 61. Amendment and repeals.
- Schedule Forms

ACT 653
JUVENILE JUSTICE ACT, 20031(1)

AN ACT to provide a juvenile justice system, to protect the rights of juveniles, ensure an appropriate and individual response to juvenile offenders, to provide for young offenders and for connected purposes.

Rights of Juvenile, Arrest and Caution

1. Juvenile

(1) For purposes of the Act, a juvenile is a person under eighteen years who is in conflict with the law.

(2) A juvenile shall be dealt with in a manner which is different from an adult, except under exceptional circumstances under section 17.

2. Welfare principle

The best interest of a juvenile is

- (a) paramount in a matter concerned with the juvenile, and
- (b) the primary consideration by a juvenile court, institution or any other body in a matter concerned with a juvenile.

3. Rights of the juvenile

(1) A juvenile has the right to privacy during arrest, the investigation of an offence, at the trial of the offence and at any other stage of the cause or matter.

(2) A person shall not in the course of arrest, investigation or trial of an offence connected with a juvenile, or at any other stage of the cause or matter, release an information for publication that may lead to the identification of the juvenile.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months or to both the fine and the imprisonment.

4. Arrest of a juvenile

(1) An arrest of a juvenile shall be made by touching the body of the juvenile unless the juvenile submits to custody by word or action.

(2) Where the circumstances require, the person effecting the arrest may forcibly confine the juvenile but the use of force shall be reasonable in the circumstances.

(3) Despite subsection (2), an arrest shall be made with due regard to the dignity and wellbeing of the juvenile and minimum force shall be used by the person effecting the arrest.

5. Arrest by police

(1) A police officer may arrest a juvenile with or without a warrant.

(2) A police officer may arrest a juvenile without a warrant where the juvenile

- (a) commits an offence in the presence of the officer;
- (b) obstructs a police officer in the execution of police duties;
- (c) has escaped or attempts to escape from lawful custody;
- (d) is in possession of an implement adapted or intended to be used for the unlawful entry of a building without reasonable explanation for the possession.

(3) A police officer may arrest without warrant a juvenile on reasonable grounds of suspicion that the

juvenile

- (a) has committed an offence;
- (b) is about to commit an offence where,
 - (i) there is no other way of preventing the commission of the offences, or
 - (ii) the surroundings indicate that an offence could be committed; and
- (c) is wilfully obstructing the police officer in the execution of police duties.

6. Arrest by private person without warrant

(1) Subject to section 4, a private person may without warrant arrest a juvenile who in the presence of that person commits

- (a) an offence involved with the use of force or violence;
- (b) an offence whereby bodily harm is caused to a person;
- (c) an offence in the nature of stealing or fraud;
- (d) an offence concerned with damage to public property; or
- (e) an offence concerned with property owned by or in the lawful care or custody of that private person.

(2) A private person may arrest a juvenile without warrant where that person has reasonable suspicion that the juvenile has committed an offence under subsection (1).

(3) A private person who has effected an arrest shall immediately hand over the juvenile to the police.

7. Warrant of arrest issued by presiding judicial officer

(1) A Magistrate in a juvenile court may issue a warrant for the arrest of a juvenile on the written application of the Attorney-General, public prosecutor or a police officer.

(2) The Magistrate may, from information taken on oath, cause the arrest of a juvenile if there is reasonable suspicion that the juvenile in respect of whom the warrant is applied has committed the alleged offence from information taken on oath.

(3) The warrant of arrest shall

- (a) set out the offence alleged to have been committed,
- (b) state that the offence was committed within the area of jurisdiction of the presiding officer, and
- (c) direct the arrest by the police of the person named in the warrant.

8. Notification of substance of warrant

(1) A police officer or the person effecting an arrest shall inform the juvenile of the reason for the arrest.

(2) Where the arrest is made under warrant, the police officer or person acting under the authority of the warrant shall notify the juvenile of the content of the warrant and exhibit a copy of the warrant to the juvenile.

9. Effect of arrest

The effect of an arrest is that the juvenile is in lawful custody until lawfully discharged or released from custody.

10. Search of arrested juvenile

(1) A juvenile may be searched by an arresting police officer or by the police officer to whom the juvenile has been handed over by a person effecting an arrest.

(2) Articles other than clothing may be taken by the arresting police officer or by the police officer to whom the juvenile has been handed over and shall be kept in safe custody.

(3) The search shall be made with decency and a juvenile shall be searched by a police officer of the same sex but where the officer is unavailable, the search shall be conducted by another adult of the same sex authorised by the arresting officer.

(4) The right to search does not include the right to examine the private part of the juvenile except where the circumstances of the offence warrant an examination when the examination shall be by a medical officer.

(5) Where a juvenile is released on recognisance or admitted to bail, the juvenile or any suspected premises shall not be searched unless there is reasonable ground for the police to believe that the juvenile is in possession of

- (a) stolen articles,
- (b) instruments of violence,
- (c) tools connected with the kind of offence the juvenile is alleged to have committed and charged with, or
- (d) any other articles which may provide evidence against the juvenile with regard to the offence the juvenile is alleged to have committed.

11. Information of arrest

(1) At least one parent, a guardian or a close relative of a juvenile shall be informed of the arrest of the juvenile by the police as soon as possible after the arrest and the juvenile shall have right of access to legal advice.

(2) Where the police are unable to inform a parent, guardian or a close relative of the juvenile of the arrest of the juvenile, the police shall inform the probation officer responsible for the district.

(3) It is the duty of the probation officer with responsibility for the district to trace the parents, guardian or close relative of the juvenile.

12. Caution by police

(1) A police officer may give an informal caution instead of arresting a juvenile if it is in the best interest of the juvenile to do so.

(2) An informal caution is a verbal warning of which no record is required to be kept.

(3) A senior police officer may give a formal caution to a juvenile with or without conditions on the recommendation of a probation officer, public prosecutor or magistrate.

- (4) The formal caution shall be given in private in the presence of a parent, guardian or close relative.
- (5) In the absence of a parent, guardian or close relative, the formal caution shall be given in the presence of a probation officer.
- (6) A formal caution without conditions shall be as in the Form 1A set out in the Schedule.
- (7) A formal caution with conditions shall be as in the Form 1B set out in the Schedule.
- (8) The police shall cause a record to be kept of formal cautions in a register for that purpose at the police station.
- (9) The register of formal cautions shall be made available to the Department of Social Welfare.
- (10) The record of a formal caution shall be expunged after a period of five years from the date on which the caution was entered.

13. Interview of juvenile

- (1) A juvenile shall not be questioned or interviewed by the police in relation to an alleged offence unless a parent, guardian, lawyer or close relative of the juvenile is present at the interview.
- (2) If a parent, guardian, lawyer or close relative cannot be contacted by the police to be present at the interview, a probation officer shall be present.
- (3) Despite subsection (1), where the police consider that it is not in the best interest of the juvenile to have a parent, guardian, lawyer or close relative of the juvenile present, the police shall arrange for a probation officer to be present at the interview.

14. Recognisance

- (1) A juvenile under arrest shall be released by the police on self recognisance or a recognisance entered into by a parent, guardian, close relative or any other responsible person, unless the offence of which the juvenile stands accused is a serious offence or if it is necessary to remove the child from certain associations.
- (2) If a juvenile is not released on recognisance, the police shall seek an order from a juvenile court to place the juvenile in a remand home or a place of safety designated by the social welfare department of a District Assembly.
- (3) The order shall be made by the juvenile court within forty-eight hours after the arrest of the juvenile.

15. Detention of juvenile at police station

- (1) The police shall make arrangements to detain the juvenile in a part of a police station specially designated for juveniles or in a part of a police station which is separate from the area where persons other than juveniles are detained.
- (2) Subsection (1) applies where the juvenile is not released on recognisance under section 14 or within forty-eight hours after the juvenile has been arrested.
- (3) A juvenile shall not be allowed to associate with a person other than a relative, a lawyer or a public officer whilst detained at a police station or being transported to a remand home or a place of safety.

(4) A juvenile shall be under the care of an adult of the same sex when detained in a police station or whilst being transported to a remand home or place of safety.

(5) Male juveniles shall be held separately from female juveniles.

(6) A juvenile in detention at a police station has the right to

- (a) adequate food,
- (b) medical treatment if required,
- (c) reasonable visits from parents, guardian, lawyer or close relatives, and
- (d) any other conditions reasonably required for the welfare of the juvenile.

Juvenile Court

16. Juvenile court sitting

(1) A juvenile court shall sit either in a different building or room from that in which sittings of other Courts are held or on different days from those on which sittings of other Courts are held.

(2) A person shall not be present at any sitting of a juvenile court, except

- (a) members and officers of the Court,
- (b) parties to the case before the Court, their lawyers and witnesses, and any other persons directly concerned in the case, and
- (c) any other persons that the Court may specially authorise to be present.

(3) The proceedings in a juvenile court shall be informal and a police officer in the Court shall not be in uniform.

(4) A restraint shall not be used on a juvenile unless there are exceptional circumstances which warrant the restraint not foreseen for the safety of any person.

17. Exclusive jurisdiction and transfer

(1) A court of summary jurisdiction other than a juvenile court shall not hear a charge against or dispose of a matter which affects a person who appears to the Court to be a juvenile, if the Court is satisfied that

- (a) the charge or matter is one in which jurisdiction has been conferred on juvenile courts, and
- (b) a juvenile court has been constituted for the place, district or area concerned,

and where the Court is satisfied, the Court shall make an order transferring the charge or matter to the juvenile court.

(2) Despite subsection (1), where for a reason a juvenile court is not constituted for a place, district or area concerned, a Court of summary jurisdiction may deal with an application for bail concerning a juvenile if it is in the best interest of the juvenile to do so.

(3) A charge made jointly against a juvenile and a person who has attained the age of eighteen years shall be heard by a Court of summary jurisdiction other than a juvenile court.

(4) A charge against a juvenile for an offence which if committed by an adult would be punishable by

death shall be heard by a Court of summary jurisdiction other than a juvenile court.

18. Remission of juvenile to juvenile court for sentence

(1) Where a juvenile appears before a Court of summary jurisdiction other than a juvenile court on a charge made jointly against the juvenile and a person who has attained the age of eighteen years and the juvenile is convicted by the Court, the Court shall not sentence the juvenile offender but shall remit the case to the juvenile court for sentence.

(2) Where a juvenile is tried for an offence punishable by death by a Court of summary jurisdiction and is convicted by the Court, the Court of summary jurisdiction shall remit the juvenile to a juvenile court for sentence.

(3) The juvenile court may deal with the juvenile offender in the manner in which it would have dealt with the juvenile if that court had been the Court which convicted the juvenile offender.

(4) A court by which an order remitting a case to a juvenile court is made under this section

(a) may give the directions that appear to be necessary with respect to the custody of the juvenile offender or for the release of the offender on bail until the juvenile offender can be brought before the juvenile court; and

(b) shall cause to be transmitted to the registrar of the juvenile court a certificate that sets out the nature of the offence and states that the juvenile offender has been found guilty and that the case has been remitted for the purpose of being dealt with under this section.

(5) For the purposes of Part VIII of the Criminal Procedure Code, 1960 (Act 30) on Appeals from District Courts, any decision taken by the juvenile court under this section shall form part of the decision of the Court of summary jurisdiction by whom the juvenile was convicted and shall be subject to appeal.

19. Presumption and determination of age

(1) Where a person, whether charged with an offence or not, is brought before a Court otherwise than for the purpose of giving evidence and it appears to the Court that the person is a juvenile, the Court shall make inquiry as to the age of that person.

(2) In the absence of a birth certificate or a baptismal certificate, a certificate signed by a medical officer as to the age of a person below eighteen years of age is evidence of that age before a Court without proof of signature unless the Court directs otherwise.

(3) An order of a Court shall not be invalidated by a subsequent proof that the age of the child has not been correctly stated to the Court and the age presumed or declared by the Court to be the age of the juvenile shall be deemed to be the true age for the purpose of a proceeding under this Act.

(4) Where it appears to the Court that the person brought before it has attained the age of eighteen years, that person shall for the purposes of this Act be deemed not to be a juvenile and shall be subject to the Procedure Act.

20. Charge sheet and plea

(1) The allegations in a charge sheet shall be translated in a language that an accused juvenile can understand.

(2) The juvenile shall be called on to indicate to the Court whether or not the juvenile admits the offence in the charge sheet.

(3) The juvenile, the lawyer of the juvenile, parent, guardian, close relative or probation officer may examine the charge sheet at any stage of the proceedings.

(4) The charge may be withdrawn by the police at any stage of the proceedings and the juvenile may be discharged or acquitted.

21. Appearance of juvenile in Court and bail

(1) When a juvenile appears before a juvenile court charged with an offence, the Court shall enquire into the case and, unless there is a serious danger to the juvenile or the community, release the juvenile on bail.

(2) A juvenile granted bail shall be released from custody after giving security or accepting specified conditions.

(3) Bail may be granted on the juvenile's own undertaking or with sureties from the parents, guardian, or close relative of the juvenile or a responsible person.

(4) The amount of the bail shall be fixed with due regard to the circumstances of the case and shall not be excessive or harsh.

(5) A juvenile court may refuse to grant bail if it is satisfied that the juvenile

- (a) may not appear to stand trial,
- (b) may interfere with a witness, the evidence or hamper police investigations, or
- (c) may commit a further offence when on bail.

(6) If bail is not granted, the juvenile court shall record the reasons for the refusal and inform the applicant that there is a right to apply for bail in the High Court.

22. Assistance to juvenile

The juvenile court shall, at the commencement of proceedings in Court, inform the juvenile in a language that the juvenile understands of the following:

- (a) the right to remain silent,
- (b) the right to have a parent, guardian, close relative or probation officer present at the proceedings,
- (c) the right to legal representation, and
- (d) the right to legal aid.

23. Remand of juvenile

(1) Where a juvenile is not released on bail, the juvenile court may make an order

- (a) committing the juvenile to the care of the juvenile's parents, guardian, close relative or any fit person who is willing to take care of the juvenile, or
- (b) remanding the juvenile to a remand home situated within a reasonable distance from the Court.

(2) The order for remand shall be delivered with the juvenile to the person who is to have care of the juvenile and shall be sufficient authority for the detention of the juvenile by the person.

(3) A juvenile under a remand order shall be deemed to be in legal custody while on remand and while being conveyed to or from the remand home and if the juvenile escapes may be apprehended without warrant.

(4) The maximum period of a remand warrant shall be seven days and a remand warrant shall not be renewed without the appearance of the juvenile at the hearing.

(5) The total period of remand of a juvenile shall not exceed three months except in the case of an offence punishable by death where the period of remand shall not exceed six months.

(6) A juvenile shall not be placed on remand in an adult prison.

(7) A female juvenile shall not be remanded in the same remand home at the same time as a male juvenile.

(8) A female juvenile on remand shall be supervised only by a female.

(9) The police or probation officers shall be responsible for transporting a juvenile between the juvenile court and the remand home.

24. Social enquiry report

(1) Where a juvenile is charged with an offence, the juvenile court shall order a social enquiry report to be submitted to the Court which shall be taken into account in the making of an order.

(2) The social enquiry report shall be prepared by a probation officer who shall visit the home of the juvenile.

(3) The social enquiry report shall include particulars on the background of the juvenile, the present circumstances of the juvenile, the conditions under which the offence was committed and recommendations for sentence.

(4) The social enquiry report may include a recommendation that the matter before the juvenile court be referred to a child panel established under the Children's Act, 1998 (Act 560) but the referral shall only be in respect of a minor offence.

(5) The court shall ensure that the contents of the report are made known to the juvenile and a copy shall be made available to the juvenile or the legal representative of the juvenile.

(6) The court may request an oral report from the probation officer in addition to the social enquiry report.

(7) If the Court does not follow the recommendations given in the report, written reasons shall be given as to why the recommendations have not been complied with.

25. Diversion

(1) After the consideration of the social enquiry report, the juvenile court shall decide whether the juvenile charged with an offence should be diverted from the criminal justice system with or without conditions.

(2) Diversion shall not be permitted for a serious offence.

26. Purpose of diversion

(1) The purpose of diversion is to

- (a) encourage the juvenile to be accountable for harm caused;
- (b) promote an individual response to the harm caused which is appropriate and proportionate to the circumstances of harm caused;
- (c) promote the reintegration of the juvenile into the family and community;
- (d) provide an opportunity to the person or community affected by the harm caused, to express their views on the impact of the harm;
- (e) encourage restitution of a specified object or symbolic restitution;
- (f) promote reconciliation between the juvenile and the person or community affected by the harm caused; and
- (g) prevent stigmatisation of the juvenile which may occur through contact with the criminal justice system.

(2) A juvenile shall not be discriminated against in the selection of a diversion programme and juveniles shall have equal access to diversion options.

(3) Inhuman or degrading treatment shall not form part of the diversion programme.

27. Minimum standard of diversion

A diversion programme shall

- (a) promote the dignity and wellbeing of the juvenile and the development of self-esteem and ability to contribute to society,
- (b) not be exploitative, harmful or hazardous to the physical and mental health of the juvenile,
- (c) be appropriate according to the age and maturity of the juvenile,
- (d) not interfere with the schooling of a juvenile, and
- (e) give useful skills to the juvenile where possible.

28. Parent to give security

(1) Where a juvenile is charged with an offence, the juvenile court may order the parent, guardian or close relative of the juvenile to give security to the Court for the good behaviour of the juvenile.

(2) Where the Court thinks that a charge against a juvenile is proved, the Court may instead make an order against the parent, guardian or close relative for the payment of damages or costs or require that person to give security for good behaviour, without proceeding to convict the juvenile.

(3) An order under subsection (2) may be made against a parent, guardian or close relative who has been asked to attend court but has failed to do so, but shall not be made without giving the parent, guardian or close relative an opportunity to be heard.

(4) The sums of money imposed and ordered to be paid by a parent, guardian or close relative

- (a) under this section, or
- (b) on forfeiture of security given by that person,

may be recovered by distress or imprisonment as if the order was made on the conviction of the parent, guardian or close relative of the offence with which the juvenile was charged.

(5) The conferment of the power under this section shall not be exercised by the Court in a discriminatory manner.

(6) A parent, guardian or close relative may appeal to the High Court against an order under this section.

29. Methods of dealing with juvenile offender

(1) A juvenile court that deals with a juvenile offender may

- (a) discharge the offender conditionally or unconditionally;
- (b) discharge the offender after the juvenile has given an undertaking;
- (c) release the offender on probation as provided for in section 31 in addition to or by exercising any of the powers specified in paragraphs (d), (g) and (h) of this subsection;
- (d) commit the offender to the care of a relative or other fit person;
- (e) send the offender to a correctional centre established under this Act;
- (f) subject to section 30, order the offender to pay a fine, damages, or costs;
- (g) order the parent, guardian or close relative of the offender to pay a fine, damages, or costs;
- (h) order the parent, guardian or close relative of the offender to give security for the good behaviour of the offender; or
- (i) deal with the case in any other lawful manner the Court considers just.

(2) The ability of the juvenile offender, parent, guardian or close relative to pay the fine, damages or costs shall be taken into consideration by the Court before the order is made.

30. Power to order parent to pay fine instead of juvenile

(1) A juvenile court when dealing with a juvenile offender on whom a fine, damages or costs may be imposed, may order that the fine, damages or costs awarded be paid by the parent, guardian or close relative of the juvenile instead of by the juvenile, unless the Court is satisfied that any of them cannot be found or that they have not contributed to the commission of the offence by neglecting to exercise due care for the juvenile.

(2) The ability of the parent, guardian or close relative to pay a fine, damages or costs shall be taken into consideration by the Court before the order is made and shall not be used as a basis for discrimination against the juvenile.

(3) The power conferred under subsection (1) may be exercised with or without any other punishment.

31. Probation

(1) A juvenile court may grant or amend a probation order made by it or any other court if it considers it in the best interest of the juvenile to do so.

(2) Circumstances such as the nature of the offence, the character, antecedents and home surroundings provided in the social inquiry report shall be considered by the Court when granting or amending a probation order.

(3) The court shall explain to the juvenile offender in a language that the offender understands, the

effect of the order.

(4) If a juvenile breaches the conditions of the probation order or commits an offence during the period of the probation order, the juvenile is liable to be sentenced for the original offence.

(5) A probation order is valid for not less than six months or more than eighteen months.

(6) A juvenile offender under probation shall be under the supervision of a probation officer appointed for or assigned to the district where the juvenile offender resides.

32. Prohibition of certain forms of punishment

(1) A juvenile offender shall not be sentenced to imprisonment by a juvenile court or a Court of summary jurisdiction.

(2) A death sentence shall not be pronounced or recorded against a juvenile offender.

33. Expeditious hearing

The case of a juvenile charged with an offence before a juvenile court shall be dealt with expeditiously and if the case is not completed within six months of the juvenile's first appearance in Court, the juvenile shall be discharged and is not liable for further proceedings in respect of the same offence.

34. Committal to fit persons

(1) Where a juvenile is charged before a juvenile court with an offence in respect of which the Court has jurisdiction and the Court thinks that the charge is proved, the Court in addition to the powers conferred by this Act may commit the juvenile to the care of a fit person, whether a relative or not, who is willing to take care of the juvenile.

(2) When an order is made under subsection (1) a probation order may also be made under section 31 of this Act.

(3) A juvenile committed to the care of a fit person shall give an undertaking to be under the care of the fit person.

(4) Where the parent or guardian of a juvenile proves to a Court that the parent or guardian is unable to control the juvenile, the Court may

(a) make an order committing the juvenile to the care of a person, whether a relative or not, who is willing to take care of the juvenile; or

(b) without making any other order, or in addition to making an order under paragraph (a), make an order placing the offender for a specified period, not exceeding three years or until the offender attains the age of eighteen years, whichever is the sooner, under the supervision of a probation officer or of any other person appointed for the purpose by the Court, but these orders may be made only with the consent of the parent or guardian.

(5) The court to which a plea is made under subsection (3) may, until the Court comes to a decision on the application, commit the juvenile to a remand home.

(6) Where, in the case of a juvenile who has been committed to the care of a fit person, the Department of Social Welfare is of the opinion that the juvenile should be sent to a correctional centre, the Department may apply to the Court which made the order of committal, which may order that the juvenile be sent to the correctional centre.

35. Duration of probation and supervision orders over juveniles

(1) Where, in exercise of the jurisdiction conferred on a juvenile court by section 29 or section 34 the Court commits the care of a juvenile to a fit person, a probation order made by the Court in respect of the juvenile may be extended for as long as the fit person order remains in force.

(2) The court shall not exercise its power to make or vary a supervision order under section 34 (3) (b) to extend the period during which a juvenile is subject to supervision beyond three years unless the juvenile is for the additional period subject to a fit person order made under section 34 (3) (a).

36. Approval of children's homes

A juvenile court shall not under section 29 or 34 designate the manager of a children's home as a fit person to whom the care of a juvenile is to be committed unless the home is one which the Minister responsible for Social Welfare has approved by notice published in the *Gazette*.

37. Application to expunge record

(1) A juvenile offender, probation officer or close relative of a juvenile may apply to a juvenile court for the record of conviction and order imposed on a juvenile to be expunged.

(2) The application shall be made to the juvenile court which imposed the sentence.

(3) The juvenile court shall expunge the record of conviction and sentence imposed on a juvenile after

(a) a period of five years where

(i) a non-residential order has been made by the Court,

(ii) the order has been completed by the juvenile offender, and

(iii) the juvenile offender has not been convicted of an offence during the five year period;

(b) a period of ten years where

(i) a residential order committing the juvenile offender to a junior correctional centre or senior correctional centre has been made by the Court,

(ii) the order has been completed by the juvenile offender, and

(iii) the juvenile offender has not been convicted of an offence during the ten year period,

but the conviction and expungement shall not be permitted for a serious offence where the conviction and sentence was in respect of murder, rape, defilement, indecent assault involving unlawful harm, robbery with aggravated circumstances, drug offences and offences related to firearms.

38. General provisions as to court orders relating to juveniles

(1) A juvenile who is the subject of an order made under section 29 or 34 who violates the order, may be apprehended without warrant and returned to the correctional centre, custody, care or supervision of a relative or fit person.

(2) Where a juvenile has run away from the care of a fit person and that person is not willing to take the juvenile back, the Court may make an order which is in the best interest of the juvenile after the submission of a social enquiry report under section 24.

(3) An order under section 29, 31 or 34

- (a) may at any time be varied or revoked by the Court which made the order; and
 - (b) may be made to remain in force until the juvenile in respect of whom the order is made attains the age of eighteen years, or if the Court making the order is of opinion that it is in the best interest of the juvenile that the order should remain in force for a shorter period, for the period that is specified.
- (4) A juvenile, parent, guardian or close relative may appeal to the High Court against an order made against the juvenile under section 29.
- (5) The Minister may, by legislative instrument, make Regulations
- (a) to give effect to section 29 and 34,
 - (b) for the payment of expenses of juveniles under these sections, and
 - (c) stipulating who shall make or contribute towards the payments.

Junior Correctional Centres and Senior Correctional Centres

39. Establishment of Junior and Senior Correctional Centres

- (1) The Minister responsible for Social Welfare may establish junior correctional centres where juveniles may be detained.
- (2) The Minister responsible for the Interior may establish senior correctional centres where young offenders and juvenile offenders as determined by the Court may be detained.
- (3) A junior centre formerly called an industrial school is a place where a juvenile may be detained.
- (4) A senior centre formerly called a borstal institution is a place where young offenders and juvenile offenders as determined by the Court may be detained.

40. Establishment of remand homes

The Minister responsible for Social Welfare may establish remand homes where juveniles and young persons may temporarily be kept in custody in accordance with the order of a Court.

41. Supervision of centres and remand homes

- (1) Junior centres and remand homes shall be under the control, maintenance and supervision of the Minister responsible for Social Welfare.
- (2) Senior centres and remand homes shall be under the control, maintenance and supervision of the Minister responsible for the Interior.

42. Visits and inspections

- (1) The Minister responsible for Social Welfare or Interior as appropriate shall provide facilities for periodic visits and inspections of centres by the persons and committees authorised by the Minister.
- (2) The Commission on Human Rights and Administrative Justice may visit and inspect a centre.

43. Power to order detention in centre and right of appeal

- (1) Where a juvenile or young person is convicted of an offence for which the juvenile court has

power to impose a sentence of detention or imprisonment for one month or more without the option of a fine and it appears to the Court that it is in the best interest of the juvenile or young offender, the Court may make an order for the detention of the juvenile or young offender at a centre.

(2) A juvenile or young offender ordered to be detained under subsection (1) may appeal against the order and the relevant provisions of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) shall apply.

(3) Where a Court makes a detention order under subsection (1), it may direct that the juvenile or young offender be placed in the custody of a parent, guardian or any other fit person or be placed in a remand home and be detained there until the juvenile or young offender can be conveyed to the centre.

(4) A person detained under subsection (3) shall be deemed to be in lawful custody and the detention order or a further detention order shall be the authority for the detention.

44. Contents of detention order

(1) The juvenile court shall state the reasons for the imposition of a detention order on the juvenile or young offender on the detention order.

(2) A detention order shall specify the age or ascertained age of the juvenile or young offender and shall provide the religious persuasion of the young offender.

(3) The age specified under subsection (1) shall, until the contrary is proved, be presumed to be the true age of the juvenile or young offender and a detention order shall not be invalidated by a subsequent proof that the age of the juvenile or young offender has not been correctly specified in the order.

(4) A detention order shall also specify

(a) the centre to which the juvenile or young offender is being sent, and

(b) the person responsible for conveying the juvenile or young offender to the centre.

(5) If for a reason the juvenile or young offender cannot be received into the centre specified in the order, another centre may be specified by an endorsement or further endorsement on the order by the Court.

45. Conveyance to centre

(1) A detention order and an endorsement shall be delivered to the person responsible for conveying the juvenile or young offender to the centre concerned and shall be delivered by the person responsible for conveying the juvenile or young offender to the person in charge of the centre.

(2) A court when making a detention order shall forward the social enquiry report and the additional information on the juvenile or young offender to the person in charge of the centre but in any event not later than seven days.

46. Duration of detention

(1) Where a juvenile or young offender is ordered to be sent to a centre, the detention order shall be the authority for the detention and the period shall not exceed

(a) three months for a juvenile offender under the age of sixteen years,

(b) six months for a juvenile offender of or above sixteen years but under eighteen years,

(c) twenty-four months for a young offender of or above the age of eighteen years, or

- (d) three years for a serious offence.
- (2) A juvenile offender under the age of eighteen years shall be detained in a junior correctional centre.
- (3) A young offender above the age of eighteen years shall be detained in a senior correctional centre.
- (4) A juvenile offender under the age of fifteen years who has been convicted of a serious offence shall be detained in a senior correctional centre.
- (5) Before a detention order is made, the Court shall satisfy itself that a suitable place is available for the juvenile offender or young offender at a centre.
- (6) Where a juvenile or young offender is remanded in custody prior to the order of detention, the period spent on remand shall be taken into consideration when making the detention order.
- (7) A juvenile or young offender shall not be detained in an adult prison.
- (8) The following offences are considered to be serious offences:
 - (a) murder;
 - (b) rape;
 - (c) defilement;
 - (d) indecent assault involving unlawful harm;
 - (e) robbery with aggravated circumstances;
 - (f) drug offences; and
 - (g) offences related to firearms.

47. Extension of period of detention

- (1) If the Minister responsible for Social Welfare or Interior is satisfied that it is in the best interest of a juvenile or young offender to be detained for a further period, the Minister concerned may make a recommendation to the juvenile court or High Court.
- (2) The court shall cause to be prepared a social enquiry report under section 24 which shall recommend a further extension to the Court.
- (3) The warrant to detain a juvenile or young offender at a centre for a further term shall not exceed one year and the juvenile or young offender shall not be detained beyond the date on which the juvenile or young offender will attain the age of twenty-one years.

48. Power of Minister to transfer juvenile or young offender

- (1) Despite anything in sections 39 to 61, the Minister responsible for Social Welfare or Interior may at any time cause a juvenile or young offender to be transferred from one centre to another.
- (2) Except as otherwise provided in sections 39 to 61, a juvenile or young offender who is transferred under subsection (1) shall be detained in the centre of transfer for the unexpired period of the term of the original detention.

49. Power to transfer from prison to centre

- (1) Despite sections 32 and 46, the Minister responsible for Social Welfare or Interior may transfer an

offender

- (a) who is a juvenile, from prison to a junior centre, or
- (b) who is a young person, from prison to a senior correctional centre,

if the Minister considers it in the best interest of the offender to do so.

(2) The juvenile or young offender shall serve the whole or any part of the unexpired period of the sentence imposed by the Court at the centre of transfer; and while detained or placed on licence from the centre, the provisions of sections 39 to 61 shall apply to the juvenile or young offender as if the juvenile or young offender had been originally ordered to be placed there.

50. Transfer of incorrigibles to prison

Despite anything in sections 39 to 61, where a young offender detained at a senior centre is reported to the Minister responsible for the Interior to be incorrigible or to be a bad influence on the other inmates of the centre, the Minister may commute the unexpired period of the term of the detention to a term of imprisonment with or without hard labour but the term of imprisonment shall not exceed the residue of the unexpired term for which the young offender could have been detained under section 46.2(2)

51. Power to release on licence

(1) The Minister responsible for Social Welfare or Interior may permit a juvenile or young offender by licence to be discharged from a centre on condition that the juvenile or young offender is placed under the supervision or authority of a district probation officer where the juvenile or young offender is to reside after being discharged from the centre.

(2) The licence shall be issued by either of the Ministers if the Minister is satisfied that there is reasonable probability that the juvenile or young offender will abstain from crime and lead a useful and industrious life.

(3) A licence shall not be issued by the Minister for Social Welfare or Interior within six months from the commencement of a term of detention of the juvenile or young offender.

(4) Either of the Ministers may delegate the duties in subsection (1) in writing to any other person.

(5) A licence under this section shall continue in force until the expiration of the term for which the juvenile or young offender might have been detained unless the licence is revoked or forfeited.

(6) A licence under this section may be revoked at any time by the person who issued it under the direction of either Minister.

(7) When a licence is revoked, the juvenile or young offender under licence shall return to the centre of discharge and on failure to return may be arrested without warrant and taken to the centre concerned.

(8) If a licensee escapes from the supervision of a probation officer responsible for the licensee, or commits an offence or acts in breach of a condition contained in the licence, the juvenile or young offender shall be considered to have forfeited the licence.

(9) A juvenile court may issue a warrant for the arrest of a licensee on information on oath that the licence has been forfeited and the Court if satisfied, may order the licensee to be sent back to the centre from which the licensee was discharged on licence and may commit the juvenile or young offender to a remand home until it is convenient for the juvenile or young offender to be moved to the centre concerned.

(10) The time during which a juvenile or young offender is absent from a centre under licence shall be treated as part of the time of the detention at the centre.

(11) Where a juvenile or young offender fails to return to a centre after forfeiture or revocation of a licence, the time which elapses after the failure to return shall be excluded in computing the time of detention at the centre.

52. Supervision after expiration of term of detention

(1) A person in charge of a centre shall prepare a written report on every juvenile or young offender ordered to be detained in a centre on the expiration of detention including an extended or increased term under section 47 or 55.

(2) The written report shall be addressed to the Minister responsible for Social Welfare or Interior.

(3) A juvenile or young offender shall remain under the supervision of the person in charge of the centre for one year after the expiration of the detention including an extended or increased term.

(4) The Minister responsible for Social Welfare or Interior may grant an offender under supervision a licence under section 51 for the unexpired period of supervision and may revoke the licence or recall the person to the centre subject to subsection (6).

(5) A recalled offender may be detained in the centre for a period not exceeding three months, but may at any time after the recall be placed on licence.

(6) An offender ordered to be detained who is on licence shall not be recalled to a centre unless the person who granted the licence is of the opinion that the recall is necessary for the protection of the licensee and as soon as may be practicable, but not later than three months after the date of recall, the detained offender shall again be placed on licence and supervision provided for in subsection (3).

(7) Despite anything in this section, the Minister responsible for Social Welfare or Interior may at any time direct that a juvenile or young offender under supervision shall cease to be under supervision.

53. Power of Minister to discharge young offender

The Minister responsible for Social Welfare or Interior may at any time and for a reason considered appropriate, direct that a juvenile or young offender be discharged from a centre on the conditions that the Minister considers appropriate.

54. Harboursing or concealing a young offender

A person who harbours or conceals an offender who has been ordered, to be sent to a centre or a remand home to be detained is liable on summary conviction, to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding three months or to both the fine and the imprisonment.

55. Penalty for escape or absence from centre or remand home

An offender who has been ordered to be detained in a centre or a remand home who

- (a) escapes from the centre or remand home or from any hospital or other place where the offender is receiving medical attention,
- (b) escapes from the custody of the person in whose charge the offender has been placed pending or in the course of being conveyed or transferred in accordance with any of the provisions of sections 39 to 61,

- (c) being absent from a centre on temporary leave of absence or on licence, escapes from the person in whose charge the offender has been placed, or fails to return to the centre on the expiration of the leave or on the revocation of the licence, or
- (d) being absent from a centre under supervision fails to return to the centre when recalled,

may be arrested without warrant and brought before a juvenile court which may increase the detention in a centre to a period not exceeding three months for a juvenile and a period not exceeding six months for a young offender despite a limitation as to the term for which an offender may be detained in a centre.

56. Power to require production of offender

(1) Where a juvenile court is satisfied by information on oath that

- (a) a person authorised to convey a juvenile or young offender to a centre or remand home does not know the whereabouts of the juvenile or young offender to be taken into custody but is aware that another person is able to produce the juvenile or young offender, or
- (b) there is reasonable ground to believe that any of the offences specified in section 55 have been committed and that someone is able to produce the juvenile or young offender,

it shall issue a summons requiring the person named to attend at the Court on a date specified in the summons and produce the juvenile or young offender.

(2) A person who is summoned under subsection (1) and who, without reasonable excuse, fails to attend the Court as required in the summons to produce the juvenile or young offender is, in addition to any other liability under this Act, liable on summary conviction to a fine not exceeding fifty penalty units or to a term of imprisonment not exceeding three months or to both the fine and the imprisonment.

57. Penalty for instigating offence

A person who knowingly prevents an offender from returning to a centre when the offender is required to do so is liable on summary conviction to a fine not exceeding one hundred penalty units or to a term of imprisonment not exceeding three months or to both the fine and the imprisonment.

58. Contributions by parents of juveniles

(1) Where a juvenile court makes an order for the detention of an offender in a centre, the Court may further order that the parent, guardian or any other person responsible for the offender shall pay to the Department of Social Welfare a contribution towards the cost of maintaining the offender in the centre during the period of detention that the Court thinks reasonable after due enquiry and having regard to the means of the parent, guardian or other person.

(2) An order under subsection (1) shall have effect from the date of the making of the detention order or from any other date that the Court may direct and shall provide for the payment of the contribution at the time and in the manner that the Court may direct including a period when the offender may be on licence or under supervision.

(3) Where an order is not made, the Minister responsible for Social Welfare or Interior may apply to the Court which made an order of detention for an order for the payment of contributions if it appears to the Minister at any time during the period of the detention that the parent, guardian or other person responsible for the offender is able to contribute towards the cost of maintenance of the offender in the centre.

(4) The Minister responsible for Social Welfare or Interior or a person against whom an order to contribute is made under this section may apply at any time to the Court which made the order for a variation of the order.

(5) An order shall not be made under this section against a person unless that person has been given an opportunity to be heard by the Court and an order shall not be made in the absence of that person unless the Court is satisfied that that person has received notice of the intention to make the order but failed to attend court.

(6) A payment which a person is ordered to make under this section may be recovered from that person by distress and sale in accordance with any of the provisions of the Procedure Act relating to the recovery of fines, costs or compensation.

59. Regulations

The Minister responsible for Social Welfare or Interior as appropriate may, by legislative instrument, make Regulations

- (a) on diversion;
- (b) on probation;
- (c) for the administration, control and management of centres and remand homes with regard to the employment, duties, service and discipline of the officers and other persons employed there;
- (d) for the discipline, treatment, education, training and employment of persons detained in centres and for the discipline and treatment of persons detained in remand homes;
- (e) prescribing the procedure for release on licence under this Part and the conditions which may attach to the licences and for the supervision of licensees under this Part;
- (f) for the prevention of contagious and infectious diseases in detention centres and remand homes and for the medical inspection and treatment of persons detained there;
- (g) to regulate visits to, and communications with, persons detained in centres and remand homes;
- (h) to prescribe the procedure to deal with minor offences committed in centres and remand homes and with breaches or contraventions of regulations made under this Part, including the punishment for offences, breaches or contraventions and the persons by whom the punishments may be awarded;
- (i) to prescribe the form of orders, licences and other documents to be used in connection with the provisions of this Part; and
- (j) generally for the purposes of this Part.

60. Interpretation

(1) In this Act, unless the context otherwise requires,

“**child**” means a person below the age of eighteen years;

“**close relative**” means a person related to a juvenile biologically, by law or according to custom;

“**Court**” means a juvenile Court;

“District Assembly” includes Municipal and Metropolitan Assembly;

“diversion” means the referral of cases of children alleged to have committed offences away from the criminal justice system with or without conditions;

“firearm” includes any gun, rifle, machine-gun, cap-gun, flint-lock gun or pistol, revolver, cannon or other firearms and any air-gun, air rifle or air pistol whether whole or in attached pieces;

“fit person” means a person of full age who is of high moral character and integrity and sound mind capable of looking after a child and who has been registered by a probation officer or Social Welfare officer as being able to provide a caring home for a child;

“home” means children’s home;

“junior centres” means correctional centres established under section 39;

“juvenile” means a person who is under the age of eighteen years who is in conflict with the law;

“juvenile offender” means a juvenile who has been convicted of an offence for which the Court may impose a sentence of imprisonment for one month or upward without the option of a fine;

“minor offence” means a criminal matter such as petty theft, petty assault and threatening offences;

“offender” means juvenile offender or young offender;

“place of safety” means the home of a relative or a probation officer or some other person who in the opinion of a probation officer or a police officer is a fit person to take care of a juvenile until the juvenile can be brought before court or a home approved by the Minister responsible for Social Welfare or a remand home or in the absence of these a police station;

“police officer” includes any member of the police service;

“probation officer” includes a social welfare officer;

“Procedure Act” means the Criminal and other Offences (Procedure) Act, 460 (Act 30);

“recognisance” means a communication of an obligation or bond to a juvenile before the juvenile is charged with an offence that the juvenile is to perform some action such as appear in Court on a specified date and at a specified time, keep the peace or be of good behaviour;

“senior centres” means senior correctional centres established under section 39;

“serious offence” includes offences such as robbery, rape, defilement and murder;

“young offender” means a young person who has been convicted of an offence for which the Court has power to impose a sentence of imprisonment for one month or upwards with the option of a fine;

“young person” means a person who is eighteen years or above eighteen years but is under twenty-one.

(2) A reference in any existing enactment to the Criminal Procedure Code, 1960 (Act 30) in relation to a juvenile or young offender shall on the coming into force of this Act be read and construed as a reference to the Juvenile Justice Act.

61. Amendment and repeals

The Criminal and Other Offences (Procedure) Act, 1960 (Act 30) is amended as follows:

- (a) by the repeal of sections 295, 300 (4), 314 and paragraph (f) of section 367;
- (b) by the repeal of Part IX sections 340-351 and Part IX sections 370-393; and
- (c) in section 414 by the deletion of the definition of
 - (i) “borstal institution”;
 - (ii) “industrial school”;
 - (iii) “juvenile”;
 - (iv) “remand home”;
 - (v) “young offender”; and
 - (vi) “young person”.

Schedule

FORM 1A
POLICE CAUTION WITHOUT CONDITIONS

[Section 12 (6)]

Referral of caution details to Commissioner of Police C.I.D.

| | |
|---------------------------------|-------|
| Police Officer: | Date: |
| Tel. No.: | |
| Station: | Area: |
| Police Station Caution Ref. No: | |

To: (Police Commissioner)

| <i>Details of the accused</i> | |
|-------------------------------|---------------------------------------------------------------|
| Name: | |
| Residential/Postal Address: | |
| Telephone No: | |
| Sex: | Male <input type="checkbox"/> Female <input type="checkbox"/> |
| Age: | |
| Identity No.: | |
| Offence: | |

I, the undersigned do acknowledge that (*name of child*) was formally

cautioned in the manner described and the consequences of his/her behaviour were explained to him/her.

Signed on this day of, 20

.....
Signature of Police Officer *Full Name of Police Officer*

Rank of Police Officer *Service No. of Police Officer*

**FORM 1B
 POLICE CAUTION WITH CONDITIONS**

[Section 12 (7)]

| | | |
|------------------------------|-----------------------------------|--------------------------------------------|
| Enquiries: | Date: | Rank & Full Name of Investigating Officer: |
| Tel. No.: | | |
| Case No.: | Police Station and area: | Tel. No. of Investigating Officer: |
| Probation Officer Full Name: | Probation Officer Service Office: | Probation Officer Case No.: |
| Probation Officer Tel. No.: | | Police Station Caution Ref. No.: |

To:..... (*Accused Name*)

Contact Particulars:

| | | |
|--------------------------------------------------------------------|------|---------------|
| Address: | | |
| Sex: Male <input type="checkbox"/> Female <input type="checkbox"/> | Age: | Identity No.: |
| Offence: | | |

As you have admitted committing the above offence and are taking responsibility for your actions, you are being given a chance. You are hereby reprimanded. You are warned not to commit the offence again. A copy of the formal caution will be sent to the Regional Police Commander. A record of your offence will be kept there for two years. If you commit another offence, this caution may influence the way you are dealt with.

Cautioning details:

People present: Parent
 Guardian

Close relative

Probation Officer

Other

Details:.....

The following are the conditions of your caution:

- Verbal apology to parents/victim.
- Written apology to family/victim.
- Return
- Give the following item in place of stolen/damaged item
.....
- Fix or repair
- Assist to fix or repair
- Attend school regularly – no truancy.
- Police officer to monitor.
- Perform hours (specify 10-30 hours) of community service
at
- Other
(tick as appropriate)

The above will be completed by (*accused*) no longer than 2 months from date of caution (*parent, guardian, close relative*) will be responsible for monitoring your progress and will give feedback to (*police officer*) at (*telephone number*) or at the police station at (*address*) by the

Should you fail to comply with the above conditions, your case will be referred back to the probation officer to decide what further action to take in terms of the Juvenile Justice Act.

Signed on this day of, 20

.....

Signature of Police Officer

.....

Full Name of Police Officer

.....

Rank of Police Officer

.....

Service No. of Police Officer

Endnotes

1 (Popup - Footnote)

1. This Act was assented to on 28th October, 2005 and notified in the *Gazette* on 31st October, 2003.

2 (Popup - Footnote)

2. The operation of the section as regards the powers of the Minister is subject to [clause \(3\)](#) of [article 125](#) of [the Constitution](#).