



BERMUDA

YOUNG OFFENDERS ACT 1950

1950 : 76

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[preamble and words of enactment omitted]

PART I INTRODUCTORY

Division of Act into Parts

1 *[Omitted]*

Interpretation and determination of age

2 (1) In this Act—

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

“Director” means the Director of Child and Family Services;

“Family Court” has the meaning given in section 8;

“guardian”, in relation to a child, includes any person who, in the opinion of the court having cognizance of any proceedings in which the child is concerned, has for the time being the charge of or control over the child ;

“impose imprisonment” means pass a sentence of imprisonment or commit to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or to be left undone;

“juvenile offender” means a child under the age of sixteen years;

“the Minister” means the Minister responsible for corrections;

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“Parole Board” means the Board established under section 3 of the Parole Board Act 2001;

“probation officer” means a person appointed to be a probation officer under section 70E of the Criminal Code [*title 8 item 31*];

“senior training school” has the meaning given in section 51;

“the Board” means the body established in pursuance of the Treatment of Offenders Board Act 1979 [*title 10 item 31*];

“young person” means a person who has attained the age of sixteen years but is under the age of eighteen years.

(2) Any question that arises under this Act relation to the age of a person shall be determined as provided in section 78.

[Section 2 amended by 1998:38 effective by 1 January 2000; subsection (1) “Parole Board” inserted by 2001:2 effective 1 October 2001; subsection (1) “young person” amended by 2001:20 s.7(1) & Sch effective 1 November 2001; subsection (1) “probation officer” amended by 2001:29 s.11(1) & Sch effective 29 October 2001; subsection (1) “the Minister” amended by BR 5 / 2011 para. 5 effective 25 February 2011; Section 2 subsection (1) definitions “child” and “guardian” amended, and “juvenile offender” inserted by 2019 : 36 s. 50 effective 1 November 2019]

Saving of Royal Prerogative

3 Nothing in this Act shall affect Her Majesty’s Royal Prerogative of mercy or any power vested in the Governor, acting as the representative of Her Majesty, to exercise such Royal Prerogative on behalf of Her Majesty or to grant a pardon, either free or subject to conditions, or any remission of the sentence of any court or any respite of the execution of any such sentence.

Age of criminal responsibility

4 (1) It shall be conclusively presumed that no child under the age of eight years can be guilty of an offence.

(2) A child under the age of fourteen years shall be deemed not to be criminally responsible for any act or omission unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission.

(3) It shall be conclusively presumed that a male child under the age of fourteen years cannot have carnal knowledge.

Detention during Her Majesty’s pleasure

5 Where a juvenile offender or young person is convicted of murder, the court may sentence the offender to be detained in a secure facility during Her Majesty’s pleasure and he shall be detained in that facility under such conditions as the Governor may direct.

[Section 5 deleted by 1999 : 51 s.4 & Sch effective 23 December 1999; Section 5 inserted by 2001 : 29 s.11(2) effective 29 October 2001; Section 5 amended by 2014 : 14 s. 5 effective 19 September 2014; Section 5 amended by 2019 : 36 s. 51 effective 1 November 2019]

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Restriction on imprisonment

6 (1) No court shall impose imprisonment on a juvenile offender.

(2) No court shall impose imprisonment on a child (though not a juvenile offender) unless the court is of the opinion that no other way of dealing with him is appropriate; and for the purpose of determining whether any other way of dealing with any such child is appropriate the court shall obtain information relevant to the circumstances of the offence of which he has been convicted and such information as can with reasonable expedition be made available to the court relevant to his character, environment and antecedents and to his mental and physical condition, and the court shall take into account any information so obtained and any other information before the court which is relevant to the matters aforesaid.

(3) Where a court of summary jurisdiction imposes imprisonment on a child (though not a juvenile offender) the court shall state the reason for its opinion that no other way of dealing with him is appropriate and shall record the reason in the judgment of the court and in the record book required to be kept under section 83 of the Criminal Jurisdiction and Procedure Act 2015 .

[Section 6 subsection (3) amended by 2015 : 38 s. 91 effective 6 November 2015; Section 6 amended by 2019 : 36 s. 52 effective 1 November 2019]

PART II

CHILD OFFENDERS

Interpretation of Part II

7 In this Part—

“approved hostel”, in relation to a requirement in a probation order as to the residence of a probationer, means a hostel approved by the Minister;

“order for conditional discharge” has the meaning given in section 17;

“probationer” means a person in respect of whom a probation order has been made;

“probation order” has the meaning given in section 18;

“probation period” has the meaning given in section 18;

“punishable with imprisonment”, in relation to an offence committed by a juvenile offender, means an offence which (in the case of an offender other than a juvenile offender) is punishable only with imprisonment otherwise than in default of payment of a sum of money or for failing to do or abstain from doing anything required to be done or to be left undone.

[Section 7 definition “punishable with imprisonment” amended by 2019 : 36 s. 53 effective 1 November 2019]

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Vesting of jurisdiction in Special Courts under Magistrates Act 1948 (Family Court)

8 The jurisdiction conferred upon a Family Court by or under this Part shall be exercised by a Special Court established under the Magistrates Act 1948 [*title 8 item 15*]; and a Special Court when sitting to exercise such jurisdiction shall be known as a "Family Court".

[Section 8 amended by 1998:38 effective 1 January 2000]

Jurisdiction of Family Court and of Supreme Court in charges against children

9 (1) A Family Court shall have and exercise jurisdiction in accordance with this Act, to hear and determine in a summary manner a charge of any offence preferred against a child except—

- (a) a charge of murder; or
- (b) a charge of attempted murder; or
- (c) a charge of manslaughter; or
- (d) in the case of a girl, a charge of infanticide;

and no charge of any offence preferred against a child, except a charge of murder or a charge of attempted murder or a charge of manslaughter or a charge of infanticide, shall be heard or determined by any court other than a Family Court.

(2) Notwithstanding anything in subsection (1), where a child is indicted on a charge of attempted murder there may be joined in that indictment charges for any indictable offences—

- (a) which are founded on the same act or omission which constitutes the charge of attempted murder; or
- (b) which are founded on separate acts or omissions which, together with the act or omission which constitutes the charge of attempted murder, constitutes a series of acts done or omitted to be done in the prosecution of a single purpose;

and if the Director of Public Prosecutions at any stage of criminal proceedings taken against the child certifies that any such charges are suitable for trial before the Supreme Court a Family Court shall not, without the subsequent leave of the Director of Public Prosecutions, have jurisdiction to try such charges.

(3) Nothing in the foregoing provisions of this section shall be construed so as to abrogate or abridge in the case of a child, any statutory provision whereby a person indicted before the Supreme Court on a charge of murder, or of attempted murder, or of manslaughter or of infanticide, may be convicted of some other offence.

(4) Where a child indicted before the Supreme Court on a charge of any such offence as is mentioned in subsection (1)(a), (b), (c) or (d) is convicted of any other offence (whether in the circumstances mentioned in subsection (2) or in the circumstances

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mentioned in subsection (3)) then the Supreme Court may deal with the child as provided in section 16.

[Section 9 amended by 1998:38 effective 1 January 2000; subsection (2) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999; and subsection (1) by 1999:51 s.4 & Sch effective 23 December 1999]

Application of Criminal Jurisdiction and Procedure Act 2015

10 Subject to this Act, a Family Court in the exercise of its jurisdiction under this Act shall have the like powers and discharge the like duties as are conferred or imposed by the Criminal Jurisdiction and Procedure Act 2015, upon other courts of summary jurisdiction in the exercise of their jurisdiction.

[Section 10 amended by 1998:38 effective 1 January 2000; section heading and section amended by 2015 : 38 s. 91 effective 6 November 2015]

Restriction on ex parte proceedings in Family Court

11 A Family Court shall not hear or determine ex parte a charge of any offence punishable with imprisonment.

[Section 11 amended by 1998:38 effective 1 January 2000]

Magistrate may act alone in certain proceedings

12 Where any proceedings are necessary or expedient in order to deal with a failure on the part of a person other than a child to comply with an order of a Family Court, a magistrate may, if he thinks fit, take such proceedings acting alone:

Provided that, without prejudice to the powers conferred on a magistrate by section 23 and section 24, nothing in this section shall apply in relation to a probation order or to an order for conditional discharge.

[Section 12 amended by 1998:38 effective 1 January 2000]

Sittings of Family Court

13 (1) Family Court shall sit as often as may be necessary for the purpose of exercising the jurisdiction conferred upon them by or under this Part.

(2) A Family Court shall sit either in a different building or room from that in which sittings of courts other than Special Courts are held or on different days from those on which sittings of such other courts are held; and no person shall be present at any sitting of a Family Court except—

- (a) members and officers of the court;
- (b) parties to the case before the court, their counsel and witnesses and other persons directly concerned in the case;
- (c) bona fide representatives of newspapers or news agencies; and
- (d) such other persons as the court may specially authorize to be present.

[Section 13 amended by 1998:38 effective 1 January 2000]

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Restriction on newspaper reports

14 Subject as hereinafter provided, no newspaper report of any proceedings in a Family Court shall reveal the name, address or school, or include any particulars likely to lead to the identification any child concerned in the proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness therein, nor shall any picture be published in any newspaper being or including a picture of any child so concerned in any such proceedings as aforesaid:

Provided that the court or the Governor acting in his discretion may in any case, if satisfied that it is in the interests of justice to do so, by order dispense with the requirements of this section to such extent as may be specified in the order.

[Section 14 amended by 1998:38 effective 1 January 2000]

Preliminary proceedings

15 *[Repealed by 2015 : 38 s. 92]*

[Section 15 repealed by 2015 : 38 s. 92 effective 6 November 2015]

Powers on conviction

16 Subject to section 5 and sections 17 to 41, where a juvenile offender is convicted of offence by a Family Court or (as the case may be) before the Supreme Court, the court may deal with the juvenile offender as hereinafter provided and in no other way—

- (a) the court may make an order for the absolute discharge of the juvenile offender;
- (b) the court may make an order for the conditional discharge of the juvenile offender;
- (c) if the offence is punishable with imprisonment, the court may make a probation order in respect of the juvenile offender;
- (d) where, in the case of a person other than a juvenile offender, a court might under the Criminal Code [*title 8 item 31*] order the payment of damages for injury or compensation for loss, the court may order the juvenile offender to pay such damages or compensation; and section 70I of the Criminal Code shall have effect in relation to such an order:

Provided that the damages and compensation together shall not exceed \$240;

- (e) where, in the case of a person other than a juvenile offender, a court might order the payment of costs, the court may order the juvenile offender to pay costs;
- (f) if the offence is punishable with imprisonment, the court may by order commit the juvenile offender to the care of the Director, or to the care of a fit person (whether a relative of the juvenile offender or not) who is willing to undertake the care of the juvenile offender;
- (g) the court may sentence the juvenile offender to pay a fine, not exceeding \$168 or not exceeding such amount as would be imposable for the offence

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in the case of an offender other than a juvenile offender, whichever is the lesser amount;

(h) *[Deleted by 1999:51]*

(i) *[Deleted by 1982:47]*

(j) where the juvenile offender is convicted before the Supreme Court of attempted murder, or of manslaughter or (in the case of a girl) of infanticide, and the court is of the opinion that none of the other methods in which the case may legally be dealt with is suitable, the court may sentence the juvenile offender to be detained for such period as may be specified in the sentence; and thereupon the juvenile offender shall be liable to be detained in such place and under such conditions as the Governor acting in his discretion may direct.

[Section 16 amended by 1998:38 effective 1 January 2000; para (h) deleted 1999:51 s.4 & Sch effective 23 December 1999; para (d) amended by 2001:29 s.11(1) & Sch effective 29 October 2001; Section 16 amended by 2019 : 36 s. 54 effective 1 November 2019]

Remand of offender for assessment

16B (1) Where a child is convicted of a serious personal injury offence under the Criminal Code Act 1907, the court may remand the child for a period not exceeding 60 days to the custody of the Director of Child and Family Services before a sentence is imposed in order to cause an assessment to be completed, having regard to the following—

- (a) the age and character of the child;
- (b) the nature of the offence; and
- (c) the circumstances surrounding its commission.

(2) The Director of Child and Family Services, in consultation with the offender risk management team established under section 329FA of the Criminal Code Act 1907, shall cause an assessment to be conducted by a qualified professional to determine if the child constitutes a threat to the life, safety or physical or mental well-being of any other person on the basis of evidence establishing—

- (a) in the case of a sex offender, that—
 - (i) the child, by his conduct in any sexual matter, including that involved in the commission of the offence for which he has been convicted, has shown a failure to control his sexual impulses; and
 - (ii) there is a likelihood of his causing injury, pain or other evil to other persons through failure in the future to control such impulses; or
- (b) in any other case, that—
 - (i) the child has demonstrated a pattern of repetitive behaviour, of which the offence for which he has been convicted forms a part, showing a failure to restrain his behaviour and a likelihood of his causing death or injury to other persons or inflicting severe psychological damage on

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other persons, through failure in the future to restrain his behaviour;
or

- (ii) the child has demonstrated behaviour of such a brutal nature as to compel the conclusion that his behaviour in the future is unlikely to be inhibited by normal standards of behavioural restraint.

(3) The person charged with the conduct of an assessment under subsection (2) shall report his findings and recommendations for sentence to the court.

[Section 16B inserted by 2019 : 36 s. 55 effective 1 November 2019]

16A *[Repealed by 1982:47]*

Absolute and conditional discharge

17 (1) This section shall have effect in relation to the discharge of a juvenile offender by a court, as mentioned in section 16(a) and (b).

(2) Where a court by which a juvenile offender is convicted of an offence is of opinion, having regard to the circumstances, including the nature of the offence and the character of the juvenile offender, that it is not expedient to inflict punishment and that a probation order is not appropriate—

- (a) the court may make an order discharging the juvenile offender absolutely;
or
- (b) the court, if it thinks fit, may make an order discharging the juvenile offender subject to the condition that he commits no offence, being an offence punishable with imprisonment, during such period, not exceeding twelve months from the date of the order, as may be specified in the order.

(3) An order discharging a juvenile offender subject to such conditions as aforesaid is hereinafter in this Part referred to as “an order for conditional discharge” and the period specified in any order as “the period of conditional discharge”.

(4) Before making an order for conditional discharge the court shall explain to the juvenile offender in simple language that if he commits during the period of conditional discharge an offence punishable with imprisonment he will be liable to be sentenced for the original offence.

(5) Section 24 relates to the ways of dealing with a person—

- (a) in respect of whom (while a juvenile offender) an order for conditional discharge has been made by a court; and
- (b) who is convicted by or before a court in Bermuda of an offence punishable with imprisonment committed during the period of conditional discharge.

(6) Where under section 24 a person is sentenced for the offence in respect of which an order for conditional discharge has been made, the order for conditional discharge shall cease to have effect.

[Section 17 amended by 2019 : 36 s. 56 effective 1 November 2019]

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Probation orders

18 (1) This section shall have effect in relation to a probation order made by a court in respect of a juvenile offender, as mentioned in section 16(c).

(2) Where a court by which a juvenile offender is convicted of an offence punishable with imprisonment is of opinion that having regard to the circumstances, including the nature of the offence and the character of the juvenile offender, it is expedient to do so, the court may make a probation order in respect of the juvenile offender, that is to say, an order requiring the juvenile offender to be under the supervision of a probation officer for such period (hereinafter in this Part referred to as "the probation period") as may be specified in the order, being a period of not less than one year and not more than three years.

(3) A probation order may, in addition to requiring the juvenile offender in respect of whom the order is made to be under the supervision of a probation officer, require the juvenile offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the juvenile offender or for preventing a repetition by him of the same offence or the commission by him of other offences:

Provided that (without prejudice to the power of the court to make an order under section 16(d)) the payment of sums by way of damages for injury or compensation for loss shall not be included among the requirements of a probation order.

(4) Before making a probation order the court shall explain to the juvenile offender in simple language the effect of the proposed order, including any additional requirements proposed to be inserted therein under subsection (3) or under section 19, and shall in like manner explain to the juvenile offender that if he fails to comply with the requirements of the order or commits during the probation period an offence punishable with imprisonment he will be liable to be sentenced for the original offence; and if the juvenile offender is not less than fourteen years of age the court shall not make the order unless the juvenile offender expresses his willingness to comply with the requirements thereof.

(5) The court by which a probation order is made shall forthwith give copies of the order to a probation officer assigned to the court and the probation officer assigned to the court shall give a copy to the juvenile offender and a copy to the probation officer responsible for the supervision of the juvenile offender and, if (as mentioned in section 19) the juvenile offender is required by the order to reside in an approved hostel, a copy to the person in charge of the hostel.

[Section 18 amended by 2019 : 36 s. 56 effective 1 November 2019]

Probation order; requirements as to residence

19 Without prejudice to the generality of section 18(3), a probation order made by a court under this Act may include requirements relating to the residence the probationer:

Provided that—

- (a) before any such requirements are included in a probation order the court shall consider the home surroundings of the probationer; and

- (b) where a probation order requires the probationer to reside in an approved hostel, the name of the approved hostel and the period for which the probationer is required to reside shall be specified in the order, and that period shall not extend beyond three years from the date of the order or beyond the date on which the probationer attains the age of seventeen years, whichever is the earlier date.

Duties of probation officers

20 (1) Without prejudice to any special directions that may be given by the court, it shall be the duty of a probation officer to enquire into the circumstances or home surroundings of any juvenile offender charged before a court with a view to assisting the court in determining the most suitable way of dealing with the case.

(2) Where a probation order has been made by a court under this Act it shall be the duty of the probation officer under whose supervision the probationer has been placed—

- (a) subject to any directions that may be given by the court, to supervise the probationer, having regard to the requirements of the order;
- (b) to advise, assist and befriend the probationer, and, where necessary, to find him suitable employment; and
- (c) to assist the court generally in determining how best to exercise its power in relation to the probationer.

[Section 20 amended by 2019 : 36 s. 56 effective 1 November 2019]

Probation orders; discharge and amendment

21 (1) This section shall have effect in relation to the discharge, amendment and review of a probation order made by a court under this Act.

(2) The court may at any time, upon application made by the probation officer or by the probationer, by order discharge the probation order.

(3) Subject to this section, the court may at any time, upon application made by the probation officer or by the probationer, by order amend the probation order by cancelling any of the requirements thereof or by inserting therein (either in addition to or in substitution for any such requirement) any requirement which could be included in the probation order if it were then being made by the court in accordance with the foregoing provisions of this part:

Provided that—

- (a) the court shall not amend the probation order so as to reduce the probation period to a period of less than one year, or so as to extend the probation period beyond the end of three years, from the date of the original order;
- (b) the court shall not amend the probation order so that the probationer is thereby required to reside in an approved hostel for any period exceeding the period provided in section 19.

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(4) Where the court proposes to amend a probation order under this section, otherwise than on the application of the probationer, it shall summon the probationer to appear before the court; and if the probationer is not less than fourteen years of age, the court shall not amend his probation order unless the probationer expresses his willingness to comply with the requirements of the order if amended as proposed:

Provided that this subsection shall not apply to an order cancelling a requirement of the probation order or reducing the period of any such requirement.

(5) Where the probation order, whether as originally made or as amended under this section, required the probationer to reside in an approved hostel for a period extending beyond six months from the date of the order as originally made or of the amending order, the probation officer shall, as soon as may be after the expiration of six months after that date, report to the court on the case, and on the receipt of any such report the court shall review the probation order for the purpose of considering whether to cancel the requirement as to residence or reduce the period thereof, and may, if it thinks fit, amend the order accordingly without the necessity for any application in that behalf.

(6) Where under section 23 or section 24 a probationer is sentenced for the offence in respect of which the probation order was made, the probation order shall cease to have effect.

(7) In this section "the probation officer", in relation to a probationer, means the probation officer who for the time being is supervising the probationer.

Continuance when probationer ceases to be a child

22 Subject to section 23 and section 24, where a probation order has been made by a Family Court in respect of a person (then being a child) and the person ceases to be a child, the probation order (unless under section 21 it has been discharged or has otherwise ceased to have effect) shall nevertheless continue in force and a Family Court shall not be deprived of jurisdiction in relation to the order.

[Section 22 amended by 1998:38 effective 1 January 2000]

Probation order; breach of requirement

23 (1) Where a probation order has been made by a court under this Act and at any time during the probation period it appears on information to a magistrate that the probationer has failed to comply with any of the requirements of the order, the magistrate may issue a summons requiring the probationer to appear at the time and place specified therein or may, if the information is on oath, issue a warrant for the arrest of the probationer; and any summons or warrant issued under this section shall direct the probationer to appear or be brought before a Family Court:

Provided that where a warrant is issued for the arrest of the probationer section 38 shall have effect.

(2) Where a probationer appears or is brought before a Family Court under subsection (1) and it is proved to the satisfaction of the court that the probationer has failed to comply with any of the requirements of the probation order, then—

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- (a) without prejudice to the continuance of the probation order, the court may impose on the probationer a fine not exceeding \$168; or
- (b) the court may deal with the probationer in accordance with the following provisions of this section.

(3) Where the probation order was made by a Family Court, the following provisions shall have effect—

- (a) if the probationer is still a juvenile offender, the Family Court may deal with him, for the offence in respect of which the probation order was made, in any way in which the court could deal with him if it had just convicted him of that offence;
- (b) if the probationer has ceased to be a juvenile offender—
 - (i) if the offence in respect of which the probation order was made is an offence which (in the case of persons other than children) is triable summarily, the Family Court may deal with the probationer, for that offence, in any way in which a court of summary jurisdiction could deal with him if it had just convicted him of that offence;
 - (ii) if the offence in respect of which the probation order was made is an offence which (in the case of persons other than children) is triable on indictment the Family Court may deal with the probationer for that offence in any way in which the Supreme Court could deal with him if he had just been convicted before it of that offence:

Provided that, notwithstanding that the offence is punishable with a term exceeding one year, the Family Court shall not sentence the probationer for a term exceeding one year.

(4) Where the probation order was made by the Supreme Court, the Family Court may commit the probationer to custody or release him on bail (with or without sureties) until he can be brought or appear before the Supreme Court; and if the Family Court so deals with the probationer—

- (a) the Chairman of the Family Court shall send to the Registrar of the Supreme Court a certificate signed by him certifying that the probationer has failed to comply with such of the requirements of the probation order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible before the Supreme Court as evidence of the failure; and
- (b) where the probationer is brought or appears before the Supreme Court and it is proved to the satisfaction of the Supreme Court that he has failed to comply with any of the requirements of the probation order, the Supreme Court may deal with him, for the offence in respect of which the probation order was made, in any way (according to whether the probationer is still a juvenile offender or has ceased to be a juvenile offender) in which that

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court could deal with him if he had just been convicted before it of that offence.

- (5) Section 24 relates to the ways of dealing with a person—
- (a) in respect of whom (while a juvenile offender) a probation order has been made by a court under this Act; and
 - (b) who is convicted by or before a court in Bermuda of an offence punishable with imprisonment committed during the probation period;

and nothing in this section shall have effect in relation thereto.

[Section 23 amended by 1998:38 effective 1 January 2000; and subsection (3)(b) proviso by 1999:51 s.4 & Sch effective 23 December 1999; Section 23 amended by 2019 : 36 s. 56 effective 1 November 2019]

Conditional discharge or probation order; commission of further offence

24 (1) Where an order for conditional discharge or a probation order (hereinafter in this section, as respects an order of either such kind, referred to as “the order”) has been made by a court under this Act in respect of a person, then being a juvenile offender, and it appears to a magistrate (where the order was made by a Family Court) or to a judge (where the order was made by the Supreme Court) that the person in whose case the order was made has, as a result of criminal proceedings instituted not later than twelve months after the date of the expiration of the order, been convicted by or before a court in Bermuda of an offence punishable with imprisonment committed during the period of conditional discharge or during the period of probation (hereinafter in this section referred “a further offence”) and has been dealt with for that offence, the magistrate or (as the case may be) a judge may issue a summons requiring that person (hereinafter in this section referred to as “the person subject to the order”) to appear at the place and time specified therein or may issue a warrant for his arrest:

Provided that a magistrate shall not issue such a summons except on information and shall not issue such a warrant except on information on oath.

(2) A summons or warrant issued under this section shall direct the person subject to the order to appear or be brought before the court by which the order was made:

Provided that where a warrant is issued for the arrest of the person subject to the order section 38 shall have effect.

(3) Where the order was made by a Family Court and the person subject to the order accordingly appears or is brought before a Family Court and it is proved to the satisfaction of the court that he has been convicted and dealt with for a further offence—

- (a) if the person subject to the order is still a juvenile offender, the Family Court may deal with him, for the offence in respect of which the order was made, in any way in which the court could deal with him if it had just convicted him of that offence;
- (b) if the person subject to the order has ceased to be a juvenile offender, then—

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- (i) if the offence in respect of which the order was made is an offence which (in the case of persons other than children) is triable summarily, the Family Court may deal with him, for that offence, in any way in which a court of summary jurisdiction could deal with him if it had just convicted him of that offence;
- (ii) if the offence in respect of which the order was made is an offence which (in the case of persons other than children) is triable on indictment, the Family Court may deal with the person subject to the order for that offence in any way in which the Supreme Court could deal with him if he had just been convicted before it of that offence:

Provided that, notwithstanding that the offence is punishable with a term exceeding one year, the Family Court shall not sentence the person subject to the order for a term exceeding one year.

(4) Where the order was made by the Supreme Court and the person subject to the order accordingly appears or is brought before the Supreme Court, and it is proved to the satisfaction of the Supreme Court that he has been convicted and dealt with for a further offence, then the Supreme Court may deal with him, for the offence in respect of which the order was made, in any way (according to whether he is still a juvenile offender or has ceased to be a juvenile offender) in which that court could deal with him if he had just been convicted before it of that offence.

(5) Notwithstanding anything in the foregoing provisions of this section, where the order was made by a Family Court and the person subject to the order has been convicted of a further offence by the Supreme Court, the Supreme Court may thereupon deal with him in accordance with the following provisions—

- (a) if the person subject to the order is still a juvenile offender, the Supreme Court may deal with him, for the offence in respect of which the order was made, in any way in which a Family Court could deal with him if it had just convicted him of that offence;
- (b) if the person subject to the order has ceased to be a juvenile offender, then—
 - (i) if the offence in respect of which the order was made is an offence which (in the case of persons other than children) is triable summarily, the Supreme Court may deal with him in any way in which a court of summary jurisdiction could deal with him if it had just convicted him of that offence;
 - (ii) if the offence in respect of which the order was made is an offence which (in the case of persons other than children) is triable on indictment, the Supreme Court may deal with him in any way in which it could deal with him if he had just been convicted before it of that offence.

[Section 24 amended by 1998:38 effective 1 January 2000; and subsection (3)(b) proviso by 1999:51 s.4 & Sch effective 23 December 1999; Section 24 amended by 2019 : 36 s. 56 effective 1 November 2019]

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Security for good behaviour

25 When a juvenile offender is convicted by or before a court of an offence—

- (a) the court may order the parent or guardian of the juvenile offender to give security for his good behaviour;
- (b) the court may allow any person who consents to do so to give security for the good behaviour of the juvenile offender.

[Section 25 amended by 2019 : 36 s. 56 effective 1 November 2019]

Court may order parent to pay

26 (1) Where a juvenile offender is convicted of an offence by a court and the court decides to impose a fine, or to order the payment of damages or compensation or costs, the court may in any case, and shall if the juvenile offender is under the age of fourteen years, order that the fine, damages, compensation or costs be paid by the parent or guardian of the juvenile offender instead of by the juvenile offender or, if the juvenile offender is over the age of fourteen years, the court may order that any part of the fine, damages, compensation or costs be so paid by the parent or guardian of the juvenile offender:

Provided that the foregoing provisions of this subsection shall not have effect—

- (a) where the court is satisfied that the parent or guardian cannot be found;
or
- (b) as respects the payment of a fine, where the parent or guardian shows to the satisfaction of the court that he has not conducted to the commission of the offence by neglecting to exercise due care of the juvenile offender.

(2) An order may be made by a court under this section against a parent or guardian, who, having been required to attend the court, has failed to do so; but, subject as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Any sums ordered to be paid by a parent or guardian by way of a fine, damages, compensation or costs under this section may be recovered from the parent or guardian as if the order has been made on the conviction of the parent or guardian of the offence of which the juvenile offender was convicted.

[Section 26 amended by 2019 : 36 s. 56 effective 1 November 2019]

27 *[Section 27 deleted by 1998:38 effective 1 January 2000]*

28 *[Section 28 deleted by 1999:51 s.4 & Sch effective 23 December 1999]*

29 to 34 *[Sections 29 through 34 deleted by 1982:47 effective 3 May 1983]*

Sentences of detention

35 (1) A person detained under section 5, or under section 16(j) shall, while so detained, be deemed to be in lawful custody.

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(2) The Governor, after giving due consideration to any recommendations which may be made by the Board, may at any time release on licence a person so detained as aforesaid subject to such conditions as may be specified in the licence; and the Governor may at any time vary any such conditions.

(3) The Governor may at any time by order recall to such place as may be specified in the order a person released on licence under this section, but without prejudice to the power of the Governor again to release him on licence; and where any person is so recalled his licence shall cease to have effect and he shall, if at large, be deemed to be unlawfully at large.

(4) Notwithstanding anything in subsections (2) and (3), where a person is sentenced to be detained under section 16(j) he shall not, after the expiration of the period specified in the sentence, be detained in any place, nor, if released on licence, shall he be subject to any conditions specified in the licence, or be ordered by the Governor to be recalled to any place.

(5) In the exercise of his powers under this section the Governor shall act after consultation with the Advisory Committee on the Prerogative of Mercy established under section 23 of the Constitution [*title 2 item 1*].

Prohibition of combined sentences

36 Where a person is sentenced for any offence to be detained under section 5, or under section 16(j), he shall not, for that offence, be sentenced to any other punishment.

Relation of sentences of detention to corrective training and imprisonment

37 Where a person who is sentenced under section 5 to be detained in the care of the Director or during Her Majesty's pleasure, or under section 16(j) to be detained for a period specified in the sentence, or who is being so detained as aforesaid, in respect of a conviction of an offence has been sentenced in respect of a conviction of another offence to the care of the Director or to undergo corrective training or to be imprisoned, then while that person is so detained as aforesaid that latter sentence shall, to the extent that it requires him to be detained in the care of an approved society or in a senior training school or to be imprisoned, cease to have effect.

[Section 37 amended by 1998:38 effective 1 January 2000]

Arrests under warrant

38 Where—

- (a) a person who is a probationer is arrested under the authority of a warrant issued under section 23(1) and he cannot be brought forthwith before a Family Court; or
- (b) a person subject to an order for conditional discharge is arrested under the authority of a warrant issued under section 24(1) and he cannot be brought forthwith before the court by which the order was made,

the warrant shall have effect as if it directed the person to be brought before a magistrate; and the magistrate before whom the person is brought shall commit him to custody or

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release him on bail (with or without sureties) until he can be brought or appear before the appropriate court.

[Section 38 amended by 1998:38 effective 1 January 2000]

Arrest without warrant

39 Where any person, whether a police officer or not, arrests a juvenile offender without a warrant he shall cause the juvenile offender to be delivered with as little delay as possible to a police officer of a rank not lower than the rank of inspector or to a police officer in charge of a police station; and the police officer to whom the juvenile offender is so delivered shall enquire into the case and, unless the offence for which the juvenile offender has been arrested appears to the police officer to be of too serious a nature to justify such a course, the officer shall release the juvenile offender on a recognizance being entered into by the juvenile offender or by some other person, with or without sureties, to secure the appearance of the juvenile offender before a magistrate at a time and place specified in the recognizance.

[Section 39 amended by 2019 : 36 s. 56 effective 1 November 2019]

Parent may attend court

40 (1) Where a juvenile offender charged with any offence is brought before a court or is for any other reason brought before a court, the parent or guardian of the juvenile offender may attend at the court by or before which the case is heard or determined during all stages of the proceedings and shall, if he can be found, be required so to attend at court unless the court is satisfied that it would be unreasonable to require his attendance.

(2) Where a juvenile offender is arrested, the police officer in charge of the police station to which he is brought or some other police officer shall cause the parent or guardian of the juvenile offender, if he can be found, to be warned to attend at the court before which the juvenile offender is to appear.

(3) The parent or guardian whose attendance is to be required under this section shall be the parent or guardian having the actual possession and control of the juvenile offender:

Provided that if that person is not the father of the juvenile offender, the attendance of the father of the juvenile offender may also be required.

(4) For the purposes of enforcing the attendance of a parent or guardian under this section, a court shall have the like powers as it has in relation to enforcing the attendance of a witness.

[Section 40 amended by 2019 : 36 s. 56 effective 1 November 2019]

Detention of juvenile offender pending determination of charge

41 Where at any stage of any criminal proceedings taken against a juvenile offender he is committed to custody pending the determination of the charge preferred against him, he shall not be detained in a prison but where practicable he shall be detained in a residential home operated under the Children Act 1998 [title 27 item 6] and where it is not practicable to detain him in such place he shall be detained in a police station:

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Provided that where it appears to a magistrate or other authority by whom the juvenile offender is committed to custody—

- (a) that the juvenile offender is a male and is not under fifteen years of age; and
- (b) that the juvenile offender is charged with a serious offence involving violence to the person; and
- (c) that it is inexpedient in the circumstances that the juvenile offender should be detained in a residential home operated under the Children Act 1998 [title 27 item 26] or in a police station,

then the court or other authority may order the juvenile offender to be detained in a senior training school or in a prison.

[Section 41 amended by 1998:38 effective 1 January 2000; Section 41 amended by 2019 : 36 s. 56 effective 1 November 2019]

PART III

YOUNG PERSONS CONVICTED OF OFFENCES

Interpretation of Part III

42 In this Part—

“punishable with imprisonment”, in relation to an offence, means punishable with imprisonment otherwise than only in default of payment of a sum of money or for failing to do or abstain from doing anything required to be done or to be left undone;

“term of imprisonment” includes two or more consecutive terms of imprisonment.

Corrective training

43 (1) Where a young person is convicted of an offence punishable with imprisonment, the court may sentence him to undergo corrective training.

(2) *[deleted]*

(3) Where the court sentences a young person to undergo corrective training the court shall not sentence him, for that offence, to any other punishment.

[Section 43(2) deleted and (3) amended by 1999:51 s.4 & Sch effective 23 December 1999]

Removal to senior training school

44 Subject to the law for the time being in force relating to appeals in criminal matters, where a young person is sentenced to undergo corrective training, he shall be removed forthwith to a senior training school and shall be received and detained therein and shall be dealt with as provided in Part IV.

[Section 44 proviso deleted by 1999:51 s.4 & Sch effective 23 December 1999]

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Relation between sentences of corrective training and sentences of imprisonment;
two or more offences

45 (1) Where during the course of a particular criminal session of the Supreme Court a young person is convicted before the Supreme Court of two or more offences punishable with imprisonment, and the Supreme Court in respect of one or more of the offences sentences the young person to undergo corrective training, and in respect of any other one or more of the offences sentences the young person to imprisonment—

- (a) if the term of imprisonment (apart from any remission) which the young person is required to serve by reason of the sentence or sentences of imprisonment amounts to three years or more, the sentence or sentences of corrective training shall not be carried into effect;
- (b) if the said term of imprisonment amounts to less than three years, the sentence or sentences of imprisonment shall not be carried into effect.

(2) Subject to section 46, where a young person has been convicted by a court of summary jurisdiction of two or more offences punishable with imprisonment, if in respect of one or more such offences he is sentenced to a term of imprisonment and in respect of another such offence he is sentenced to undergo corrective training, then the sentence or sentences of imprisonment shall cease to have effect or, as the case may be, shall not be carried into effect.

(3) Subsection (2) shall only apply if, at the time of the second or subsequent conviction, the young person is serving a sentence of imprisonment or, as the case may be, undergoing corrective training.

Sentences of corrective training where convicted while serving term of imprisonment

46 Where a young person who is serving a term of imprisonment is convicted of an offence punishable with imprisonment, then, in relation to a sentence of corrective training, the following provisions shall have effect, that is to say—

- (a) if at the date of the conviction the remainder of the term of imprisonment (apart from any remission) amounts to one year or more the court shall not sentence him to undergo corrective training;
- (b) if at the date of the conviction the remainder of the term of imprisonment (apart from any remission) amounts to less than one year and the court sentences the young person to undergo corrective training, then the sentence or sentences of imprisonment shall cease to have effect.

Conviction while undergoing corrective training

47 (1) Where a young person who is undergoing corrective training is convicted before the Supreme Court of an offence punishable with imprisonment, or, having been convicted by a court of summary jurisdiction of such an offence, is committed to the Supreme Court for sentence under section 43 of the Criminal Jurisdiction and Procedure Act 2015—

- (a) if he is sentenced for that offence to undergo corrective training, his original sentence of corrective training shall cease to have effect;

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- (b) if he is sentenced for that offence to imprisonment for a term of two years or more, his sentence of corrective training shall cease to have effect;
- (c) if he is sentenced for that offence to imprisonment for a term of less than two years, then—
 - (i) if the term of imprisonment to which he is sentenced is equal to or more than the remainder of the maximum period for which he is liable to undergo corrective training, then the sentence of corrective training shall cease to have effect;
 - (ii) if the term of imprisonment to which he is sentenced is less than the remainder of such maximum period, the sentence of imprisonment shall not be carried into effect.

(2) Where a young person who is undergoing corrective training is convicted before the Supreme Court, during the course of a particular criminal session of the Supreme Court, of two or more offences punishable with imprisonment and the Supreme Court in respect of one or more of the offences sentences the young person to undergo corrective training, and in respect of any other one or more of the offences sentences the young person to imprisonment—

- (a) if the term of imprisonment (apart from any remission) which the young person is required to serve by reason of the sentence or sentences of imprisonment amounts to two years or more, the sentence or sentences of corrective training then imposed shall not be carried into effect and the original sentence of corrective training shall cease to have effect;
- (b) if such term of imprisonment amounts to less than two years the sentence or sentences of imprisonment shall not be carried into effect and the sentence or sentences of corrective training then imposed shall have effect in lieu of the original sentence of corrective training.

[Section 47 amended by 2015 : 38 s. 91 effective 6 November 2015]

Conviction while under supervision

48 Where a young person who (as provided in section 62) is under supervision upon his release from a senior training school is convicted of an offence punishable with imprisonment—

- (a) if the young person is sentenced to undergo corrective training, his original sentence of corrective training shall cease to have effect;
- (b) if the young person is sentenced to imprisonment, any period for which he is imprisoned under the sentence shall count as part of the period for which he is liable to detention in a senior training school under the original sentence.

Remand in custody to senior training school

49 Where the Supreme Court or a magistrate remands a young person in custody, or commits a young person in custody for trial or sentence, the Supreme Court or (as the case

may be) the magistrate may order that the young person be detained in a senior training school.

PART IV
SENIOR TRAINING SCHOOLS

Interpretation of Part IV

50 (1) In this Part—

“inmate”, in relation to a senior training school, means a person undergoing corrective training or otherwise required to be detained in the senior training school;

“maximum period of corrective training” has the meaning given in section 61 ;

“senior training school officer” includes any person for the time being employed in a senior training school for purposes connected with its administration;

“senior training school rules” means rules made by the Governor acting after consultation with the Minister under section 55

(2) *[Omitted][Spent]*

Senior training schools to be provided

51 (1) For the purposes of this Act there shall be provided and maintained—

(a) *[repealed by 1982:47]*

(b) two senior training schools, that is to say, buildings or premises in which persons not under fifteen years of age may be detained in lawful custody and may be given such training and instruction as will conduce to their reformation and the prevention of crime, and of which one senior training school is provided exclusively for the detention of male persons and one senior training school is provided exclusively for the detention of female persons.

(2) The Governor may from time to time by notice in the Gazette declare any building or premises to be a senior training school.

(3) Where it appears to the Governor that the use of any building or premises as a senior training school should be discontinued, the Governor by notice in the Gazette may order that after a date to be specified in the notice such building or premises shall cease to be a senior training school.

(4) In the exercise of his powers under this section the Governor shall act after consultation with the Minister.

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Department of Corrections to administer senior training schools

52 Subject to the general directions and control of the Minister, a senior training school shall be administered by the Department of Corrections established under section 4(1) of the Prisons Act 1979 [*title 10 item 32*].

[Section 52 Heading & section amended by 2002:17 s.4 effective 14 December 2002]

53 *[Section 53 repealed by 1982:47]*

Reception and detention in senior training schools

54 Any person—

- (a) who, being a young person, has been sentenced to undergo corrective training; or
- (b) *[repealed 1982:47]*
- (c) who, having been sentenced by any court to serve a term of imprisonment is, in lieu of serving that term of imprisonment, required to undergo corrective training in a senior training school in pursuance of a direction given under section 60; or
- (d) who, being a young person, has been sentenced by the Supreme Court to be detained during Her Majesty's pleasure and has been directed by the Governor to undergo corrective training; or
- (e) *[repealed 1982:47]*
- (f) who, being a juvenile offender, has been sentenced by the Supreme Court to be detained during Her Majesty's pleasure or for a period, and has been directed by the Governor to undergo corrective training in a senior training school; or
- (g) who, being a juvenile offender, has been ordered to be detained in a senior training school under section 41 ; or
- (h) who, being a young person, has upon his committal for trial by a magistrate, or (in the case of perjury) by the Supreme Court, been ordered to be detained in custody in a senior training school under section 49; or
- (i) who, being a young person, has upon the adjournment or postponement of his trial, been ordered to be detained in custody in a senior training school under section 49; or
- (j) who, having been removed from a senior training school to a hospital for the treatment of a mental disorder under section 44 of the Mental Health Act 1968 [*title 11 item 36*], is returned to a senior training school under section 46 of that Act; or
- (k) who, being a person released from a senior training school under section 62, is recalled to a senior training school by order of the Governor; or

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- (l) who, being a person released from detention under section 35, is recalled to a senior training school by order of the Governor,

shall, on the production of the appropriate warrant or other document, be received in a senior training school and may, subject to this or any other Act, be detained in custody therein.

[Section 54 amended by 1998:32 effective 13 July 1998; Section 54 amended by 2019 : 36 s. 56 effective 1 November 2019]

Senior training school rules

55 (1) The Governor acting after consultation with the Minister may make rules for the regulation and management of a senior training school and for the classification, treatment, employment, payment, discipline and control of inmates of such school; and rules made as aforesaid are hereinafter in this Act referred to as "senior training school rules".

(2) Senior training school rules may provide for the division of the inmates of a senior training school into groups or houses.

(3) Senior training school rules shall, in the interests of good conduct and training, provide for the establishment of such system or systems of privileges to be enjoyed by inmates of senior training schools undergoing corrective training as may be appropriate for different classes of such inmates; and any such system shall, as respects such inmates of a senior training school, include arrangements under which such inmates may, if of good conduct, progressively advance, as respects the privileges enjoyed by them, by way of grades during their detention in senior training school.

(4) *[repealed by 1982:47]*

(5) The negative resolution procedure shall apply to rules made under this section.

Functions of Treatment of Offenders Board

56 (1) The Board, subject to the Treatment of Offenders Board Act 1979 *[title 10 item 31]* 1950, shall, as respects a senior training school and persons detained therein, have the powers and discharge the duties conferred or imposed upon them by or under this Act.

(2) Without prejudice to anything in the succeeding provisions of this Act, senior training school rules shall prescribe the functions of the Board, and shall among other things require the Board to pay visits to the senior training schools and to hear and deal with complaints which may be made by persons detained therein; and such rules shall also require the Board to report to the Governor and to the Minister any matter which they think it expedient to report; and any member of the Board may at any time enter a senior training school and shall have free access to every part thereof and to every person detained therein.

(3) Senior training school rules shall require the Parole Board to consider periodically the character, conduct and prospects of each person detained in a senior training school who is undergoing corrective training, and to consider his release under supervision, or, as the case may be, on licence.

[Section 56 subsection (3) amended by 2001:2 s.13 & Sch 2 effective 1 October 2001]

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57 *[Section 57 repealed by 1982:47 effective 3 May 1983]*

58 *[Section 58 repealed by 1982:47 effective 3 May 1983]*

Incorrigibility; transfer to prison

59 (1) *[repealed by 1982:47]*

(2) If a person detained in a senior training school is reported to the Governor by the Board to be incorrigible, or to be exercising a bad influence on the other inmates of the school, the Governor, acting after consultation with the Minister and after giving due consideration to any recommendations which may be made by the Commissioner of Prisons, may commute the remainder of his maximum period of corrective training to such term of imprisonment as the Governor may determine, being a term not exceeding the remainder of his maximum period of corrective training; and for the purposes of the law for the time being in force relating to the regulation of prisons, that person shall be treated as if he had been sentenced to imprisonment for that term.

Transfer from prison in suitable cases

60 (1) If the Governor, after giving due consideration to any recommendation which may be made by the Board or by the Commissioner of Prisons, is satisfied that a person who is undergoing a sentence of imprisonment and who is under eighteen years of age or who has been transferred from a senior training school to prison under section 59(2), might, with advantage be detained and undergo corrective training in a senior training school, the Governor acting after consultation with the Minister may direct that he be transferred or returned as the case may be to a senior training school, and Part III and this Part shall thereupon apply to him as if he had on the date of the transfer been sentenced to undergo corrective training:

Provided that—

- (i) in the case of a person originally sentenced to imprisonment, if on that date the remainder of his term of imprisonment (apart from any remission) is less than three years, those provisions shall apply to him as if he had been sentenced to undergo corrective training three years before the expiration of the term of imprisonment; or
- (ii) in the case of a person transferred to prison under section 59(2), the aggregate of the terms served by him in a senior training school and in prison shall not exceed three years.

(2) Notwithstanding anything in subsection (1) or in section 62 a person transferred to a senior training school in pursuance of subsection (1) shall not be liable to be recalled to or be detained in a senior training school after the date upon which the remainder of his term of imprisonment (apart from any remission) which he was serving at the time of his transfer would otherwise have expired.

[Section 60 subsection (1) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]

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Period of corrective training

61 (1) Subject to section 59(2), a person sentenced to undergo corrective training shall, unless sooner released under section 62, be detained in a senior training school for a period not extending beyond 3 years after the date of his sentence; and such period, in relation to a person sentenced to undergo corrective training, is in this Part referred to as his "maximum period of corrective training".

(2) A person, upon the expiration of his maximum period of corrective training, shall, subject to section 62, be released.

Release; supervision and recall to senior training school

62 (1) The Parole Board, after giving due consideration to any recommendations which may be made—

(a) *[repealed by 1982:47]*

(b) in the case of a person detained in a senior training school, by the Board or by the Commissioner of Prisons,

may release an inmate of a senior training school who is undergoing corrective training at any time after the expiration of nine months from the date of sentence.

(2) A person shall, after his release from a senior training school and until the expiration of one year from the date of the expiration of his maximum period of corrective training, be under the supervision of such person or body of persons as may be specified in a notice to be given to him by the Parole Board on his release, and shall, while under that supervision, comply with such requirements as the Parole Board may direct to be so specified to him:

Provided that the Parole Board may at any time vary or cancel any of such requirements or may order that a person who is under supervision as aforesaid shall cease to be under supervision.

(3) If before the expiration of one year from the date of the expiration of his maximum period of corrective training the Parole Board is satisfied that a person who is under supervision after his release from a senior training school under subsection (1) has failed to comply with any requirement for the time being specified in the notice given to him under subsection (2), the Parole Board may by order recall him to a senior training school; and thereupon he shall, subject to this Part, be liable to be detained in a senior training school and to undergo corrective training therein until the expiration of his maximum term of corrective training, or until the expiration of six months from the date of his being taken into custody under the order, whichever is the later and, if at large, shall be deemed to be unlawfully at large:

Provided that—

(a) any such order shall, at the expiration of one year from the date of the expiration of his maximum term of corrective training, cease to have effect in respect of a person released from a senior training school unless that person is then in custody or is being detained thereunder; and

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- (b) the Parole Board may at any time release a person who is detained in a senior training school under this subsection; and the foregoing provisions of this section shall have effect in the case of a person so released as they have effect in the case of a person released under subsection (1).

(4) In the exercise of its powers under this section the Parole Board shall act after consultation with the Advisory Committee on the Prerogative of Mercy established under section 23 of the Constitution [*title 2 item 1*].

[Section 62 subsections (1) to (4) amended by 2001:2 s.13 & Sch 2 effective 1 October 2001]

Commutation of death sentence to sentence of corrective training

63 Where Her Majesty, or the Governor acting on Her Majesty's behalf, pardons any person who has been sentenced to death on condition that he undergoes corrective training, that person shall be deemed to have been sentenced, by the court before which he was convicted, to undergo corrective training:

Provided that in any such case—

- (a) the maximum period of corrective training shall be such period, not exceeding the period which expires on the day when the person directed to undergo corrective training attains the age of twenty-four years, as the Governor may specify as a condition of the pardon; and
- (b) section 35 shall apply with respect to the release on licence of any such person in the place of any provisions of this Act which have effect with respect to the release under supervision of inmates of a senior training school.

Inmate taken outside for judicial or other purposes

64 (1) The Commissioner of Prisons—

- (a) if he is satisfied that the attendance of an inmate of the school is desirable at any place in Bermuda in the interests of justice or for the purposes of any public enquiry, may direct the inmate to be taken to that place;
- (b) if he is satisfied that an inmate of the school requires medical, dental or surgical treatment of any description, may direct the inmate to be taken to a hospital or other suitable place for the purpose of the treatment;

and where an inmate of a senior training school is directed under this subsection to be taken to any place he shall, unless the Commissioner of Prisons otherwise directs, be kept in custody while being so taken, while at that place and while being taken back to the senior training school in which he is required in accordance with law to be detained.

(2) The Commissioner of Prisons may, subject to any general or special directions given by the Minister, arrange for inmates of the school to work or to engage in recreation outside the school in which they are ordinarily detained; and where any inmates do so work or engage in recreation they shall be kept in custody at all times while outside the school.

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(3) Senior training school rules may make provision for the temporary absence from a senior training school of inmates of the school granted leave of absence; and any such rules shall make provision for declaring that any inmate who fails to return to the senior training school in accordance with the leave of absence granted to him shall be deemed to be unlawfully at large.

(4) Nothing in the foregoing provisions of this section shall derogate from or abridge any power of the Supreme Court, or a judge, to order, in pursuance of section 6 of the Evidence Act 1905 [*title 8 item 10*], that an inmate of a senior training school is to be brought before the Supreme Court.

Commissioner may release temporarily on compassionate grounds

64A (1) Where the Commissioner of Prisons is satisfied that it is desirable to permit an inmate of a senior training school to be absent from the school on compassionate or other personal grounds, the Commissioner of Prisons may authorize the temporary release of such inmate from the school for such period and subject to such conditions as he may specify.

(2) The Commissioner of Prisons shall not authorize the temporary release of an inmate of a senior training school for a period in excess of 48 hours without the prior approval of the Minister.

(3) Where it appears to the Commissioner of Prisons necessary to do so, he may on authorizing the temporary release of an inmate of a senior training school under this section direct that such inmate shall be kept in the custody of some person designated by the Commissioner of Prisons during his absence from the school.

(4) Any inmate of a senior training school who is released under this section shall comply with any condition specified under subsection (1) and shall return to the school at the expiration of the period for which he was released and an inmate who fails to comply with any such condition or to return to such school in accordance with this subsection shall be deemed to be unlawfully at large.

Persons unlawfully at large

65 (1) Any person who, having been sentenced to undergo corrective training, or otherwise having been ordered to be committed to and detained in a senior training school, is unlawfully at large, may be arrested by a police officer without warrant and taken to the place in which he is required in accordance with law to be detained,

(2) Where any person sentenced to undergo corrective training is unlawfully at large at any time during his maximum period of corrective training, then, unless the Governor otherwise directs, no account shall be taken, in calculating the period for which he is liable to be detained in a senior training school, of any time during which, being unlawfully at large, he is absent from a senior training school:

Provided that where a person unlawfully at large as aforesaid is not arrested and again detained until after he has attained the age of twenty-four years, he may, if the Governor so orders, be committed to a prison and be detained therein for such term not

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longer than the remainder of his maximum period of corrective training as the Governor may direct.

Lawful custody

66 Any person who has been sentenced to undergo corrective training or who has otherwise been ordered to be committed to and detained in a senior training school shall be deemed to be in lawful custody while he is confined in, or being taken to or from any senior training school and while he is working, or is for any other reason, outside the senior training school in the custody or under the control of some other person.

Punishment of offences against senior training school rules

67 (1) Senior training school rules shall set out the acts and omissions by inmates of senior training schools which constitute offences against discipline, the procedure for dealing therewith, and subject as hereinafter in this Act provided, the punishments therefor.

(2) Senior training school rules shall make provision for ensuring that an inmate charged with an offence against the rules shall be given a proper opportunity of presenting his case.

(3) Subject to any provision of senior training school rules with respect to the fitness of an inmate to undergo such a punishment—

(a) *[repealed by 1982:47]*

(b) the Commissioner of Prisons may in respect of an offence against discipline committed by an inmate of a senior training school impose one or more of the following punishments—

(i) removal of an inmate from his house;

(ii) deprivation or postponement of privileges;

(iii) reduction in grade or delay in promotion to a higher grade;

(iv) confinement to a room for a period not exceeding fourteen days or, where the inmate is found guilty of mutiny or incitement to mutiny, or of personal violence to a senior training school officer, for a period not exceeding twenty-eight days;

(v) restricted diet (as prescribed by senior training school rules) for a period not exceeding fourteen days;

(vi) stoppage of earnings for a period not exceeding twenty-eight days.

(4) Senior training school rules shall provide for rendering reports of punishments imposed under this section to the Governor and to the Minister not less frequently than once in each fortnight.

(5) The Governor acting after consultation with the Minister may remit or mitigate any punishment imposed under this section.

[Section 67(3) and (4) amended by 1999:51 s.4 & Sch effective 23 December 1999]

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Corporal punishment for offences against senior training school rules

68 [Deleted]

[Section 68 deleted by 1999:51 s.4 & Sch effective 23 December 1999]

Photographing and finger-printing of convicted inmates

69 (1) Any inmate of a senior training school detained therein by reason of his conviction of an offence may be photographed and measured, and may be required to have his finger-prints taken, either by a senior training school officer or by a police officer acting under the direction of the senior training school officer for the time being in charge of the school.

(2) Any person acting in pursuance of subsection (1) may use reasonable force for the purpose.

(3) Any photographs, measurements and finger prints taken in pursuance of subsection (1) or (2) shall be transmitted to the Commissioner of Police, who shall cause them to be indexed in a register in such manner as he may from time to time direct.

(4) For the purposes of this section the expression "fingerprints" includes palm-prints and foot-prints.

Aiding escape from senior training school

70 Any person who—

- (a) aids any inmate of a senior training school (whether or not within a senior training school) in escaping or attempting to escape from lawful custody; or
- (b) conveys, or causes to be conveyed, any instrument or article into a senior training school or into any other place in which an inmate thereof is for the time being in lawful custody, with intent to facilitate the escape of such inmate therefrom,

commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 3 years;

Punishment on summary conviction : imprisonment for 6 months or a fine of \$1,680 or both such imprisonment and fine.

Conveying prohibited articles into senior training school

71 Any person who—

- (a) conveys or introduces, or attempts to convey or introduce, or causes to be conveyed or introduced, any article, commodity or thing into a senior training school in contravention of senior training school rules; or
- (b) conveys or attempts to convey, or causes to be conveyed any article, commodity or thing to an inmate of a senior training school (whether or not

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within a senior training school) in contravention of senior training school rules; or

- (c) enters or attempts to enter into communication with an inmate of a senior training school (whether or not within a senior training school) in contravention of senior training school rules,

commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 12 months;

Punishment on summary conviction: imprisonment for 6 months or a fine of \$840 or both such imprisonment and fine.

Interpretation of sections 70 and 71

72 For the purposes of sections 70 and 71 a person shall be deemed to convey or introduce an article into a senior training school if he conveys it to an inmate of the senior training school outside the senior training school, or deposits it outside the senior training school, with intent that it shall come into possession of an inmate thereof.

Senior training school officer wilfully allowing escape

73 Any person who, being a senior training school officer, wilfully allows any inmate of a senior training school (whether or not within a senior training school) to escape from lawful custody commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 3 years.

Entering senior training school without lawful excuse

74 Any person who without lawful excuse, the proof of which shall be upon him, enters or is found in a senior training school, or upon any wall or other structure surrounding a senior training school, commits an offence against this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$1,680 or both such imprisonment and fine.

Rules for discipline of senior training school officers

75 (1) Without prejudice to anything in the foregoing provisions of this Act relating to the making of senior training school rules—

- (a) the Governor may make rules with respect to the duties obligations and discipline of senior training school officers; and, without prejudice to the generality of the foregoing provision, rules made under this paragraph shall set out offences by senior training school officers against discipline, the procedure for dealing therewith, and the punishments therefor; and

(b) *[repealed by 1982:47]*

(2) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to rules made under this section.

Operation of rules

76 Senior training school rules and rules under section 75 shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be provided in the rules.

PART V
SUPPLEMENTAL

Committal to Supreme Court for sentence

77 Where under this Act a person is committed to the Supreme Court for sentence, the procedure shall be as follows—

- (a) if the person is so committed to the Supreme Court by a Family Court acting in pursuance of section 23 or section 24, the Family Court as soon as may be shall transmit to the Registrar, for delivery to the Chief Justice, the record of the proceedings before the Family Court which made the probation order or, as the case may be, the order for conditional discharge, and also a record of the proceedings before the Family Court which committed the person for sentence;
- (b) the Chief Justice on receiving the documents required by paragraph (a) to be transmitted shall by order addressed to the Commissioner of Prisons cause the person so committed to be brought before the Supreme Court at a time to be specified in the order;
- (c) on the person so committed being brought before the Supreme Court, the Supreme Court shall deal with him in accordance with (as the case may be) section 23 or section 24.

[Section 77 amended by 1998:38 effective 1 January 2000]

Determination of age

78 (1) Where in any proceedings taken before a court under this Act the age of a person is material, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming, and the age presumed or declared by the court as the result of such enquiry to be the age of that person shall for the purposes of the proceedings be deemed to be his true age and—

- (a) the court shall not be deprived of jurisdiction to complete the proceedings by any subsequent proof during the course of the proceedings that the age so presumed or declared was not the true age of that person; and
- (b) any conviction, sentence, order or other decision of the court in connection with the proceedings shall not be invalidated by any subsequent proof that the age so presumed or declared was not the true age of that person.

(2) Where a person who appears or is brought before a court under this Act is a child when he first so appears or is brought before the court but during the course of the

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proceedings attains the age of eighteen years, then the proceedings may nevertheless be completed as if that person were still a child.

(3) For the purpose of subsection (2) any proceedings in which a person is committed by a Family Court to the Supreme Court for sentence shall, together with the subsequent proceedings before the Supreme Court, be deemed to be continuous proceedings before one court.

[Section 78 amended by 1998:38 effective 1 January 2000; Section 78 subsection (2) amended by 2019:36 s. 57 effective 1 November 2019]

Direction by Governor for corrective training

79 Where under this Act a person who is a young person has been sentenced by the Supreme Court to be detained during Her Majesty's pleasure, or for a period, the Governor may direct that the person shall undergo corrective training and thereupon that person shall be deemed to have been sentenced by the Court to undergo corrective training and this Act shall apply accordingly:

Provided that in any such case—

- (a) where the young person was sentenced to be detained during Her Majesty's pleasure, the maximum period of corrective training shall be such period, not exceeding the period which expires on the day when the person directed to undergo corrective training attains the age of twenty-four years, as the Governor may specify as a term of the direction;
- (b) where the young person was sentenced to be detained for a period, the maximum period of corrective training shall be that period, unless that period would expire on a day later than the day when the person directed to undergo corrective training attains the age of twenty-four years, in which case the maximum period of corrective training shall be the period which expires on the day on which he attains the age of twenty-four years; and
- (c) section 55 shall apply with respect to the release on licence of any such person in the place of any provisions of this Act which have effect with respect to the release under supervision of inmates of a senior training school.

Transitional

80 *[Omitted]*

[Section 81 deleted by 1999:51 s.4 & Sch effective 23 December 1999]

[Assent Date: 13 December 1950]

[Amended by

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1975 3
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