

NORTHERN TERRITORY OF AUSTRALIA

JUVENILE JUSTICE ACT 1983

No. 77 of 1983  
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INTERPRETATION

# NORTHERN TERRITORY OF AUSTRALIA

No. 77 of 1983

## AN ACT

Relating to the investigation of offences alleged to have been committed by juveniles, the establishment of the Juvenile Court, the procedures to be adopted in and in relation to proceedings against juvenile offenders, the punishment of juvenile offenders, the transfer of juvenile offenders between the Territory and the States, and for other purposes, with the intention that juveniles be dealt with in the criminal law system in a manner consistent with their age and level of maturity (including their being dealt with, where appropriate, by means of admonition and counselling) and to extend to juveniles the same rights and protections before the law as apply to adults in similar circumstances

[Assented to 28 November 1983]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

### PART I - PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the *Juvenile Justice Act 1983*.

#### 2. COMMENCEMENT

(1) Subject to sub-section (2), this Act shall come into operation on the commencement of the *Community Welfare Act*.

(2) Part III shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

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### 3. INTERPRETATION

(1) In this Act, unless the contrary intention appears -

"authorized person" means a person authorized in writing by the Minister to exercise powers and perform functions for the purposes of this Act;

"Committee" means the Juvenile Justice Review Committee established by section 6;

"Court" means the Juvenile Court established by section 14 and, where the context so requires, includes the Supreme Court exercising its jurisdiction under or in pursuance of this Act;

"detainee" means a person lawfully detained in a detention centre;

"detention centre" means a juvenile detention centre approved under section 62;

"juvenile" means -

(a) a child who has not attained the age of 17 years; or

(b) in the absence of proof as to age, a child who apparently has not attained the age of 17 years;

"member" means a member of the Committee.

(2) In this Act, where the context so requires, "magistrate" includes a Judge of the Supreme Court.

## PART II - ADMINISTRATION

### 4. DELEGATION

(1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

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### 5. REPORTS

The Minister shall, as soon as practicable after 31 December in each year, cause a report on the administration of this Act during the year ending on that date to be prepared and a copy of the report to be laid before the Legislative Assembly within 3 sitting days of the Legislative Assembly after its preparation.

### PART III - JUVENILE JUSTICE REVIEW COMMITTEE

### 6. JUVENILE JUSTICE REVIEW COMMITTEE

(1) There is hereby established the Juvenile Justice Review Committee the members of which shall be -

- (a) the Chief Magistrate of the Northern Territory who shall be the Chairman;
- (b) the Attorney-General or his nominee;
- (c) the Minister or his nominee;
- (d) the Commissioner of Police or his nominee;
- (e) the Minister primarily responsible for the administration of the *Education Act* or his nominee; and
- (f) such other members not exceeding 5, as the Minister appoints from amongst persons recommended by organizations approved under sub-section (2).

(2) The Minister may approve such organizations as he thinks fit for the purpose of recommending to him persons who should be appointed as members of the Committee.

(3) An organization referred to in sub-section (2) shall -

- (a) be approved for a period not exceeding 3 years; and
- (b) is eligible for re-approval.

### 7. RESIGNATION OF MEMBERS

A member appointed under section 6(1)(f) may resign his office by writing signed by him and delivered to the Minister.

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### 8. DISMISSAL OF MEMBERS

(1) The Minister may terminate the appointment of a member appointed under section 6(1)(f) for inability, inefficiency, misbehaviour or physical or mental incapacity.

(2) Where a member appointed under section 6(1)(f) is absent, except on leave granted by the Committee, from 3 consecutive meetings of the Committee, the Minister shall terminate the appointment of the member.

(3) The Minister shall terminate the appointment of a member appointed under section 6(1)(f) if he ceases to be a member of the organization he was appointed to represent or the organization ceases to be approved under section 6(2).

### 9. MEETING OF COMMITTEE

(1) The Chairman shall call such meetings of the Committee as are necessary for the exercise of its powers and the performance of its functions, but so that the interval between one meeting and the next does not exceed 3 months.

(2) The Minister may at any time direct the Chairman to convene a meeting of the Committee and the Chairman shall convene a meeting accordingly.

(3) The Chairman shall preside at all meetings of the Committee at which he is present and, in his absence, the members present shall elect one of their number to act as the Chairman.

(4) At a meeting of the Committee -

(a) 6 members constitute a quorum; and

(b) subject to this Act, the Committee shall determine the procedure to be followed at or in connection with the meeting.

(5) The Committee shall keep records of its meetings.

### 10. FUNCTIONS OF COMMITTEE

The functions of the Committee are -

(a) to initiate the collection of data and statistics in relation to juvenile offenders and related matters under this Act;

(b) to initiate studies and research into matters under this Act;

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- (c) to monitor and evaluate the administration and operation of this Act;
- (d) to invite and consider written and oral submissions on matters related to this Act; and
- (e) to do such other things in relation to this Act as the Minister, from time to time, directs.

### 11. POWERS OF COMMITTEE

The Committee has such powers as are necessary to carry out its functions.

### 12. MINISTER TO PROVIDE INFORMATION, &c.

(1) The Minister shall, in his discretion, on application by the Committee, subject to sub-section (2), provide such information and reports as the Committee requires to enable it to carry out its functions.

(2) The information and reports referred to in sub-section (1) do not include individual case files or reports.

### 13. REPORTS OF COMMITTEE

(1) The Committee shall, as soon as practicable after 30 June in each year, and in any event not later than the next following 30 September, furnish to the Minister a report on the activities of the Committee during the year ending on that first-mentioned date.

(2) The Minister shall cause a copy of each report referred to in sub-section (1) to be laid before the Legislative Assembly within 3 sitting days of the Legislative Assembly after its receipt by him.

## PART IV - JUVENILE COURT

### 14. JUVENILE COURT

(1) There is hereby established a court to be known as the Juvenile Court.

(2) Each magistrate is a magistrate of the Court.

### 15. EXERCISE OF JURISDICTION

The jurisdiction of the Court is exercisable by a magistrate sitting alone.

### 16. CLERK OF JUVENILE COURT

A Clerk of the Local Court is a Clerk of the Court.



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17. ASSISTANT CLERKS

(1) Each person appointed as an Assistant Clerk of a Local Court is an Assistant Clerk of the Court.

(2) An Assistant Clerk of the Court may, subject to the directions of the Clerk of the Court in respect of which that person is the Assistant Clerk, exercise any powers or perform any function of the Clerk of that Court under this Act.

18. APPLICATION OF *JUSTICES ACT*

Subject to this Act, the *Justices Act* applies to the proceedings, orders and convictions of the Court as if the Court were the Court of Summary Jurisdiction established by that Act.

19. POWERS OF JUVENILE COURT

Subject to this Act, the Court shall hear and determine -

- (a) all charges, both of a summary or indictable nature, against a juvenile for having committed an offence; and
- (b) all applications in the Territory relating to unlawful activity, or alleged unlawful activity, of juveniles, whether or not that activity took place, or is alleged to have taken place, in the Territory.

20. JURISDICTION OF COURT OF SUMMARY JURISDICTION TO CEASE

(1) Subject to sub-section (2), the jurisdiction of the Court of Summary Jurisdiction under the *Justices Act* ceases to exist in relation to a matter in which the Court has jurisdiction.

(2) Nothing in sub-section (1) derogates from the powers of a Justice of the Peace to -

- (a) take an information or complaint;
- (b) issue a summons;
- (c) grant, issue or endorse a warrant; or
- (d) grant bail.

21. WHERE JUVENILE COURTS MAY BE HELD

(1) Subject to this section, the Court shall sit in such places as the Minister directs and in a building approved or appointed by the Minister for the holding of the Court.

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(2) In making a direction under sub-section (1) the Minister shall ensure as far as practicable that the facilities available to, and the proceedings in, the Court can and will be adequately separated from the facilities of a magistrate's office or the facilities of, and proceedings in, other courts operating at the place or in the building approved by him for the holding of the Court.

(3) Where in a place or building appointed under sub-section (1) for the holding of the Court it is not practicable to ensure the adequate separation referred to in sub-section (2), the Court shall not sit while any other proceeding in or in the vicinity of the office, place or building is being conducted.

### 22. PROCEEDINGS TO BE IN OPEN COURT

(1) Proceedings under this Act against a juvenile shall be held in open court, but the magistrate before whom the proceedings are taken may, if it appears to him that the ends of justice will be best served by him so doing, order that the Court be closed and, subject to sub-section (2), that no persons remain in or enter a room or place in which the Court is being held, or remain within the hearing of the Court, without his permission.

(2) Sub-section (1) does not authorize a magistrate to exclude from the Court during proceedings against a juvenile a legal practitioner representing the juvenile or the prosecution or the Minister or his delegate.

(3) Where a magistrate has made an order under sub-section (1), a person shall not remain in or enter a room or place, or remain within the hearing of the Court, in contravention of the order.

Penalty: \$50 or imprisonment for 10 days.

### 23. RESTRICTION OF PUBLICATION OF PROCEEDINGS

(1) A magistrate may, either by a separate order or in an order under section 22, direct that a report of or information relating to proceedings in, or the result of proceedings against a juvenile before the Court, be not published except by a person in the performance of his duties under this Act.

(2) Subject to sub-section (3), a person who publishes a report or information in contravention of a direction under sub-section (1) is guilty of an offence.

Penalty: \$200 or imprisonment for 3 months.

(3) It is not an offence against sub-section (1) for a member of the Police Force, acting in the course of his duties, to send to the Police Force of a State or another Territory of the Commonwealth, in pursuance of an

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arrangement for the exchange of such information, information relating to the conviction of a juvenile for an offence.

PART V - APPREHENSION AND REMAND

24. INTERPRETATION

(1) In this Part, unless the contrary intention appears -

"authorized officer" means -

- (a) the Commissioner of Police or a Deputy or Assistant Commissioner of Police appointed under the *Police Administration Act*, or a member of the Police Force of or above the rank of Sergeant First Class authorized by any of those officers to act under this Part; or
- (b) a person, not being a member of the Police Force, authorized by the Minister to act under this Part;

"to interview" includes to ask questions of a person.

25. JUVENILES NOT TO BE INTERVIEWED IN CERTAIN CIRCUMSTANCES

(1) Subject to sub-sections (2) and (3), where a member of the Police Force or other person with the power to arrest believes, on reasonable grounds, that a juvenile -

- (a) has committed an offence which, if committed by an adult, is punishable by imprisonment for 12 months or longer; or
- (b) is implicated in the commission of such an offence,

the member or that other person shall not interview the juvenile in respect of an offence or cause the juvenile to do anything in connection with the investigation of an offence -

- (c) unless a person who is not a juvenile or a member of the Police Force but is -
  - (i) a parent or guardian of the juvenile;
  - (ii) a relative or friend of the juvenile acceptable to the juvenile;

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(iii) some other person acceptable to the juvenile who is not, in the opinion of the member of the Police Force or that other person, an accomplice of the juvenile in the alleged offence or likely to lose, destroy or fabricate evidence relating to the offence; or

(iv) a legal practitioner acting for the juvenile,

is present while the member or that other person interviews the juvenile or the juvenile does the act, as the case may be; or

(d) unless -

(i) the member or that other person has taken reasonable steps to secure the presence of a person referred to in paragraph (c);

(ii) it was not practicable for such a person to be present within 2 hours after he was requested to be present; and

(iii) another person who is a person of good repute who has not been concerned in the investigation of the offence and who has no interest in the outcome of the investigation is present during the interview or while the act is done, as the case may be.

(2) Nothing in sub-section (1) shall prevent a member of the Police Force from interviewing a juvenile in respect of an offence, or causing a juvenile to do anything in connection with the investigation of an offence, in the presence of a member of the Police Force who is a parent or guardian of the juvenile.

(3) Nothing in sub-section (1) derogates from the power of a member of the Police Force or any other person with the power to arrest to require, under section 134 of the *Police Administration Act* or under any other Act, a juvenile to furnish to him the name and address of the juvenile.

(4) Nothing in this section affects the operation of sections 8A to 8N inclusive of the *Traffic Act* and, subject to section 53, a juvenile may be dealt with under those sections as if he were an adult.

### 26. GUIDELINES IN RELATION TO ARREST OF JUVENILES

The Commissioner of Police may, by general orders issued under section 75 of the *Police Administration Act*, issue guidelines, not inconsistent with that Act or this

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Act, in relation to the arrest of juveniles and the investigation of offences committed or believed to have been committed by juveniles.

### 27. CERTAIN ARRESTS NOT UNLAWFUL

(1) Where a member of the Police Force who arrested a juvenile in respect of an offence, otherwise than in pursuance of a warrant, did so in accordance with the guidelines referred to in section 26, the arrest is not unlawful by reason only that an authorized officer did not consent to a prosecution or it subsequently appears, or it is found by a court or a jury, that the juvenile did not commit the offence.

(2) The arrest of a juvenile is not unlawful by reason only that the member of the Police Force or other person arresting him did not do so in accordance with this Act or, in the case of an arrest by a member of the Police Force, the guidelines referred to in section 26 if, at the time of the arrest the member or that other person, as the case may be, believed, on reasonable grounds, that the juvenile was not a juvenile.

### 28. LIMITATIONS IN RESPECT OF CRIMINAL PROCEEDINGS AGAINST JUVENILES

(1) A complaint or information against a juvenile for an offence shall not be laid unless an authorized officer has consented to its being so laid.

(2) An averment in a complaint or information that an authorized officer has consented to it being laid and naming the officer who is purported to be the authorized officer is prima facie evidence that the officer named is an authorized officer and that the complaint or information is laid with his consent.

(3) Sub-section (1) does not affect a requirement under any other law to obtain consent to a prosecution.

### 29. PROCEDURE BY SUMMONS

A member of the Police Force shall not charge a juvenile at a police station with an offence unless he believes, on reasonable grounds, that proceedings by summons will not effectively ensure the appearance of the juvenile to stand his trial for the offence or that his release from custody will be accompanied by a substantial risk of -

- (a) a continuation or repetition of the offence or another offence by the juvenile;
- (b) the loss or destruction of evidence relating to the offence; or

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(c) bodily harm to the juvenile.

### 30. PARENTS, &c., TO BE INFORMED OF CHARGE AGAINST JUVENILE

As soon as practicable after a juvenile is arrested or charged at a police station with an offence, the member of the Police Force who charged him shall -

- (a) take all reasonable steps to cause a parent or guardian of the juvenile to be notified of the charge and of the time and place when the juvenile will be brought before the Court, whether the parent or guardian resides in the Territory or not; and
- (b) if the member is not an authorized officer, notify an authorized officer.

### 31. IDENTIFYING MATERIAL

(1) In this section, "identifying material", in relation to a juvenile, means prints of the hands, fingers, feet or toes, recordings of the voice, photographs, samples of the handwriting, or material from the body, of the juvenile.

(2) Subject to section 25, an authorized officer or a member of the Police Force for the time being in charge of a police station may take, or cause to be taken, identifying material of or from a juvenile if -

- (a) the juvenile, being a juvenile who appears to the authorized officer or member to have attained the age of 14 years, is in lawful custody in respect of an offence which, if committed by an adult, is punishable by imprisonment for 12 months or longer; or
- (b) a magistrate has, under sub-section (4), approved the taking of the identifying material.

(3) An authorized officer or a member of the Police Force referred to in sub-section (2) may -

- (a) make application to a magistrate in person; or
- (b) if it is not practicable for him to do so, make application to a magistrate by telephone,

for approval to take identifying material of or from a juvenile who is in lawful custody in respect of an offence or of or from a juvenile against whom proceedings have been instituted by summons in respect of an offence.

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(4) A magistrate to whom an application under sub-section (3) is made may, if he thinks fit, give his approval, in writing, for the taking of such identifying material as he specifies in the approval and shall cause the written approval to be sent to the applicant.

(5) The magistrate may inform the applicant by telephone of approval under sub-section (4) and in that case the applicant may proceed under the approval notwithstanding that he has not yet received it in writing.

### 32. DETENTION OF JUVENILES

(1) Subject to this section, a juvenile who has been charged with an offence and is not admitted to bail shall, as soon as practicable, be taken to a detention centre or other place approved by the Minister for the purpose, and shall be detained there.

(2) Where a juvenile referred to in sub-section (1) requires medical attention, instead of being taken to a detention centre or other place referred to in that sub-section he may be taken to a hospital within the meaning of the *Hospitals and Medical Services Act* or the *Private Hospitals and Nursing Homes Act* and, if the person in charge of the hospital consents, be detained there.

(3) A juvenile taken to a hospital in accordance with sub-section (2) shall, while in that hospital, remain in the custody of the Police Force.

(4) Upon his being discharged from hospital, a juvenile referred to in sub-section (2) shall be taken to a detention centre or other place approved by the Minister for the detention of juveniles, unless he has in the meantime been admitted to bail.

(5) Where it is necessary to take a juvenile from the place at which he is detained to a court, or from a court to that place, he shall, as far as practicable, be kept apart from other persons under detention who are not juveniles.

### 33. ARRESTED JUVENILES TO BE PROMPTLY BROUGHT BEFORE COURT

(1) Where a juvenile has been charged with an offence and has not been released from custody, he shall be brought before the Court as soon as practicable and in any case within 7 days after the arrest.

(2) Where a juvenile referred to in sub-section (1) is not brought before the Court in accordance with that sub-section, he shall immediately be released from custody.

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### PART VI - JURISDICTION, &c., AND PROCEEDINGS

#### 34. EXCLUSION OF EVIDENCE UNLAWFULLY OBTAINED

(1) Where, in proceedings against a juvenile in respect of an offence, upon objection being taken to the admission of evidence on the ground that the evidence was obtained in contravention of, or in consequence of a contravention of or a failure to comply with, this Act or the general orders referred to in section 26 in relation to the juvenile, the Court is satisfied, on the balance of probabilities, that the evidence was so obtained, the Court shall not admit the evidence unless it is also satisfied, on the balance of probabilities, that admission of the evidence would specifically and substantially benefit the public interest without unduly prejudicing the rights and freedom of any person.

(2) The matters that a Court may have regard to in satisfying itself as required by sub-section (1) include -

- (a) the seriousness of the offence in the course of the investigation of which the provision was contravened or was not complied with, the difficulty of detecting the offender, the need to apprehend the offender urgently and the need to preserve evidence of the facts;
- (b) the nature and seriousness of the contravention or failure; and
- (c) the extent to which the evidence that was obtained in contravention of, or in consequence of the contravention of, or the failure to comply with, the Act might have been lawfully obtained.

(3) This section is in addition to, and does not derogate from, any other law or rule under which a Court may refuse to admit evidence.

#### 35. INDICTABLE OFFENCES TO BE TRIABLE SUMMARILY

Subject to sections 36, 37 and 38, where a juvenile is charged before the Court with an offence which, if committed by an adult, is punishable by imprisonment for 12 months or longer, other than an offence punishable by imprisonment for life, the Court shall hear and determine the matter in a summary manner.

#### 36. COMMITTAL FOR TRIAL IN CERTAIN CASES

Where a juvenile is charged before the Court with an offence and -

- (a) the Court is not empowered to hear and determine the matter in a summary manner; or



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- (b) the Court is so empowered but decides not to hear and determine the matter in a summary manner,

the Court shall, subject to this Act, deal with the charge in accordance with the provisions of the *Justices Act* relating to indictable offences.

### 37. JUVENILE MAY ELECT TO BE COMMITTED FOR TRIAL

(1) Where a juvenile is charged before the Court with an indictable offence and the offence is such that, if the juvenile were an adult, the Court would not be empowered to deal with it in a summary manner without the consent of the accused, the Court shall not so deal with it except with the consent of the juvenile.

(2) Before the case for the prosecution is opened, the Court shall inform the juvenile, and a parent or guardian of the juvenile who is present, of the provisions of sub-section (1).

(3) Where the parent or guardian of a juvenile referred to in sub-section (1) is not present, the Court may adjourn the hearing so as to enable the parent or guardian to be present.

(4) The Court may continue a hearing at a time to which it was adjourned under sub-section (3), notwithstanding that a parent or guardian of the juvenile is not present.

### 38. JUVENILE COURT MAY DECLINE JURISDICTION

(1) Where a juvenile is charged before the Court with an indictable offence that the Court is empowered to deal with in a summary manner, the Court may, of its own motion or on application by or on behalf of the informant, if it is of the opinion that the evidence has established a prima facie case against the juvenile in respect of an indictable offence, decline to deal with the charge in a summary manner and, in that case, shall, subject to this Act, deal with the charge in accordance with the provisions of the *Justices Act* relating to indictable offences.

(2) Before declining under sub-section (1) to deal with a charge, the Court shall have regard to such matters as seem to it to be relevant and, in particular -

- (a) the nature of the facts;
- (b) the seriousness of the offence;
- (c) the circumstances in which the offence is alleged to have been committed;

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- (d) the age of the juvenile;
- (e) the apparent maturity of the juvenile;
- (f) the apparent mental capacity of the juvenile;
- (g) the suitability of the penalties available to the Court; and
- (h) the difficulty of any question of law that is likely to arise.

### 39. POWERS OF SUPREME COURT, &c.

(1) Where a juvenile is found guilty before the Supreme Court of an offence, the Supreme Court -

- (a) has, in addition to its powers, the powers of the Juvenile Court;
- (b) may order that the juvenile be detained in a detention centre for a period not exceeding the period of imprisonment for which such an offence, if committed by an adult, is punishable; or
- (c) may remit the case to the Juvenile Court and that Court may deal with the juvenile in any way in which it might have dealt with him if he had been convicted of the offence in that Court.

(2) Without limiting its power under sub-section (1)(b), where a juvenile is found guilty before the Supreme Court of the offence of murder, the Supreme Court may, notwithstanding section 164 of the *Criminal Code*, sentence the juvenile to life imprisonment or such shorter period of imprisonment as it thinks fit.

### 40. LEGAL REPRESENTATION OF JUVENILES

Where, in proceedings before the Court, or the Supreme Court in pursuance of this Act, the Juvenile Court or the Supreme Court, as the case may be, is of the opinion that the juvenile the subject of the proceedings needs legal representation and that such representation has not been arranged by or on behalf of the juvenile, it may, by order, make such provision for the legal representation of the juvenile as it thinks fit.

### 41. COURT MUST EXPLAIN PROCEEDINGS TO JUVENILE, &c.

(1) In proceedings before the Court, or before the Supreme Court in pursuance of this Act, the Court or the Supreme Court, as the case may be, shall satisfy itself that the juvenile the subject of the proceedings understands the nature of the proceedings.

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(2) Where a juvenile who has been charged with an offence before the Court, or before the Supreme Court in pursuance of this Act, is not represented by a legal practitioner, the Court shall explain to him as simply as practicable in a language that he understands, the nature of the allegations against him, the legal implications of those allegations and the elements of the offence that must be established by the prosecution.

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

### 42. ATTENDANCE OF PARENTS, &c.

(1) The parents, guardian or person having the custody of a juvenile against whom proceedings before the Court or the Supreme Court are taken shall attend the Court, and remain in attendance, during the proceedings unless the Court is satisfied that it would be unreasonable to require that attendance.

(2) Where a parent, guardian or person having the custody of a juvenile referred to in sub-section (1) fails without reasonable excuse to attend the Court, or remain in attendance during the proceedings, the Court may direct that a warrant be issued to bring him before the Court at that or a further hearing.

(3) The Court may proceed in the hearing referred to in this section notwithstanding that the parents, guardian or person having the custody of the juvenile against whom proceedings before the Court are taken are absent.

### 43. PERSONS WHO MAY BE IN COURT

(1) The Clerk or Master, as the case may be, of the Court dealing under this Act with a juvenile shall advise the Minister, or the Minister's delegate where known to him, of the time and place of all hearings (including the hearing of submissions relating to sentence) before the Court concerning the juvenile.

(2) The Minister or his delegate, or a legal practitioner representing the Minister or his delegate, may be heard in relation to a matter being dealt with by the Court dealing under this Act with a juvenile.

### 44. POWERS OF COURT IN RESPECT OF REPORTS

(1) A Court dealing under this Act with a juvenile may require the Minister or such other person as it thinks fit to furnish to it a report relating to the juvenile and the Minister or that other person shall comply with the requirement.

Penalty: \$500.

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(2) Notwithstanding anything in this Act, for the purpose of giving effect to a requirement under sub-section (1), the Minister or the person referred to in that sub-section, or an authorized person, may -

- (a) make such inquiries as he is required to make or as he thinks fit; and
- (b) request the juvenile to submit to being interviewed and medically examined by a medical practitioner or interviewed or examined by another specified person.

(3) Without limiting the generality of sub-section (2), a requirement under sub-section (1) to furnish a report may include an order that the juvenile to whom it relates be interviewed and medically examined by a medical practitioner or interviewed or examined by another specified person and, when it so orders, the report shall contain details of the results of that interview or examination.

(4) Where a report required under sub-section (1) to be furnished is furnished in good faith to the Court -

- (a) the report shall not, in relation to information obtained as a result of an interview or examination conducted in pursuance of the order referred to in sub-section (3), be held to constitute a breach of confidence or of professional etiquette or ethics or of a rule of professional conduct; and
- (b) liability for defamation is not incurred by any person as a result of the furnishing of the report.

(5) Sub-section (4) has effect both within and outside the Territory.

### 45. PROVISIONS RELATING TO PLEAS IN COURT

(1) Where a juvenile is charged with an offence, he shall, unless he is to be tried in the Supreme Court pursuant to this Act, plead guilty or not guilty to the charge at the commencement of the hearing in the Court.

(2) Where a juvenile has pleaded guilty to a charge for an offence, the Court may, at any stage of the proceedings, if it is of the opinion that the juvenile may not be guilty of the offence charged, order that the plea of guilty be withdrawn and a plea of not guilty be entered.

(3) Where the Court has exercised its powers under sub-section (2), the juvenile is not entitled to plead *autrefois convict* by reason of his plea of guilty.

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### 46. POWERS OF COURT ON REMAND

(1) Subject to this section, a juvenile may, from time to time, be remanded by the Court at any stage of proceedings under this Part, and upon remand the Court may, by order -

- (a) allow the juvenile to go at large;
- (b) release the juvenile on bail;
- (c) release the juvenile into the custody of any person; or
- (d) remand the juvenile in custody -
  - (i) where the Court has under this Part committed the juvenile to another court for trial - until the juvenile is released or delivered in due course of law; or
  - (ii) in any other case - for a period not exceeding 28 days,  
to be detained -
  - (iii) in the case of a juvenile who has attained the age of 15 years - in a prison or a detention centre; and
  - (iv) in any other case - in a detention centre.

(2) A juvenile shall not under sub-section (1) be remanded in custody unless, in the opinion of the Court -

- (a) the juvenile is likely to abscond; or
- (b) it is necessary for the protection of the juvenile, the general public, or any person or property, that the juvenile be remanded in custody.

(3) The Court may revoke an order made under sub-section (1) and may substitute therefor any other order it is empowered to make under that sub-section.

### 47. EXAMINATION AS TO MENTAL CONDITION OF JUVENILE

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

## *Juvenile Justice*

### 48. SUBMISSIONS TO COURT

(1) Subject to sub-section (3), the Court may, in its discretion, whether before or after the completion of proceedings against a juvenile, seek submissions or reports in relation to the juvenile.

(2) A submission or report under sub-section (1) may be written or oral.

(3) A submission or report under sub-section (1) shall not be sought by the Court before an offence by a juvenile has been proved.

### 49. CERTAIN REPORTS TO BE MADE AVAILABLE

(1) Subject to this section, a copy of every report received by the Court in proceedings before it shall be furnished to the juvenile against whom the proceedings are taken, to a parent or guardian of the juvenile who is present in court and to the prosecutor, and any of those persons, or a legal practitioner representing any of them, shall be permitted by the Court to cross-examine the person by whom the report was made or who carried out an investigation on which the report was based.

(2) The Court may order that a report received by it in a proceeding, or part of such a report, shall not be made available to a juvenile to whom it relates or to any other person who, under sub-section (1), would be entitled to receive a copy of the report, where it is of the opinion that the report contains material that, if disclosed to the juvenile or that person, may be prejudicial to the welfare of the juvenile.

(3) The juvenile to whom a report referred to in sub-section (1) relates, or a parent, guardian or person having the custody of the juvenile, may give evidence or call witnesses to rebut the contents of the report.

(4) A person forwarding to the Court a report referred to in sub-section (1), which is not a report under section 44, shall have the same protection in relation to the report as if the report were a report under section 44.

### 50. DISPUTE AS TO EVIDENCE, &c.

(1) Where matter contained in a report referred to in section 49 is disputed by a juvenile against whom proceedings are taken or a parent or guardian of the juvenile, the Court shall not take that matter into account in its disposition unless it has decided that it is correct beyond reasonable doubt.

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(2) Where matter contained in a report referred to in section 49 is disputed by the prosecution, the Court shall not take that matter into account in its disposition unless it has decided that it is correct on the balance of probabilities.

### 51. DESTRUCTION OF IDENTIFYING MATERIAL

(1) The Court may order that identifying material referred to in section 31, relating to an offence committed by a juvenile, or for the commission of which a juvenile was detained, shall be destroyed by a person specified in the order at a time and place directed by the Court or determined by that person.

(2) Where the Court makes an order under sub-section (1) in respect of identifying material relating to a person, it shall cause a copy of the order to be served on the person and, if the person is a juvenile, where practicable, on the parents, guardian or person having the custody of the juvenile.

### 52. ADEQUATE CARE NOT PROVIDED

(1) Where the Court believes, on reasonable grounds, that a juvenile against whom proceedings for an offence are brought is not receiving adequate care or that his welfare is endangered in any way, it may require the Minister to make an investigation of the circumstances and to take appropriate action to secure the proper care of and attention to the juvenile's welfare.

(2) The Minister, on being so required under sub-section (1), shall, as soon as practicable, furnish to the Court a report of the circumstances of the juvenile and the action, if any, that has been taken.

### 53. DISPOSITION BY COURT

(1) Where the Court finds a charge proven against a juvenile it may, as it thinks fit, but subject to sub-section (2) -

- (a) adjourn the matter for a period not exceeding 6 months and if, during that period, the juvenile does not commit a further offence, may discharge the juvenile without penalty;
- (b) discharge the juvenile without penalty;
- (c) fine the juvenile not more than the maximum penalty that may be imposed under the relevant law in relation to the offence or \$500, whichever is the lesser amount;
- (d) order the juvenile to be of good behaviour for a period not exceeding 2 years, and on such security, as it thinks fit;

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- (e) order that the juvenile perform, at the discretion of the Minister, community service at the rate of one hour of service for each \$5 of the maximum fine that may be imposed under the relevant law in relation to the offence, but not exceeding 100 hours;
- (f) place the juvenile under probation for a maximum of 2 years and subject to one or more of the conditions -
  - (i) that the juvenile reside with the person or at the place specified in the order;
  - (ii) that the juvenile refrain from the activities, or from associating with persons, specified in the order;
  - (iii) that the juvenile be under the supervision of the Minister and that he reports to a person nominated by the Minister at the place and time specified in the order;
  - (iv) where the juvenile is ordered under sub-paragraph (i) to reside with a person or under sub-paragraph (iii) to be under the supervision of the Minister - that the juvenile will obey the lawful directions of that person or the Minister, as the case may be;
  - (v) that the juvenile participate in a project or programme provided or approved by the Minister as specified in the order; or
  - (vi) any other condition the Court thinks fit; or
- (g) in the case of a juvenile -
  - (i) who has attained the age of 15 years - order that the juvenile be detained at a detention centre or imprisoned for a period not exceeding the maximum period that may be imposed under the relevant law in relation to the offence or 6 months, whichever is the lesser; and
  - (ii) who has not attained the age of 15 years - order that the juvenile be detained at a detention centre for a period not exceeding the maximum period that may be imposed under the relevant law in relation to the offence or 3 months, whichever is the lesser.



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(2) Where the Court finds a charge proven against a juvenile and, under sub-section (1)(a), discharges the juvenile without penalty and the juvenile is subsequently found guilty of an offence committed during the period of the adjournment upon the expiration of which he was discharged under that sub-section, the Court which finds him guilty of the further offence may, in addition to imposing a penalty it may impose in respect of that offence, impose on the juvenile any penalty the Court could have imposed on him in respect of the former offence, notwithstanding that the aggregate of both penalties exceeds a limit referred to in sub-section (1).

(3) The Court may suspend all or part of a sentence of detention or imprisonment under this section on such conditions as it thinks fit.

(4) Where the Court makes an order under sub-section (1)(d) or (e), under sub-section (1)(f) places the juvenile under probation subject to conditions or under sub-section (3) suspends all or part of a sentence subject to conditions, and the juvenile breaches the order or a condition to which his probation or suspension of sentence is subject, the Court shall not impose on the juvenile, as a result of his so breaching the order or condition, a penalty greater than the maximum penalty it could have imposed on him in respect of the original offence.

(5) A period of detention or imprisonment under this section may be served continuously or periodically at the discretion of the Court.

(6) Where the Court sentences a juvenile to a period of detention in a detention centre during which period the juvenile will attain the age of 17 years, the Court may order that the juvenile continue his sentence in a detention centre notwithstanding that he has attained that age but so that he is not detained in a detention centre during any period of the sentence after he attains the age of 18 years.

(7) Nothing in this section shall be construed as limiting the power of the Supreme Court to impose on a juvenile a sentence it could otherwise than under this section impose on him.

### 54. PAYMENT OF FINES

(1) Where under this Act a juvenile is ordered to pay a fine, he may apply to the Clerk of the Court for further time to pay than provided in the order, and the Clerk may grant or refuse the application.

(2) Where an application under sub-section (1) is refused, the juvenile may appeal to the Court.

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### 55. RESTITUTION

(1) Where the Court thinks fit, it may, subject to sub-section (3), make an order for restitution by way of monetary compensation or performance of service in respect of compensation for an offence.

(2) The Court shall, on making an order under sub-section (1), have regard to the amount of loss or damage suffered as a result of the offence, and the ability of the offender to make restitution.

(3) Where the Court makes an order under sub-section (1) for monetary compensation, it shall not exceed \$2,000, and may be paid in a lump sum or by instalments as directed by the Court.

(4) Monetary compensation under this section shall be paid to the Clerk of the Court for distribution in accordance with the order.

(5) An amount payable under this section that is in arrears may be recovered, by the person in whose favour the order to pay the amount was made, as a debt due and payable by the juvenile against whom it was made.

(6) An order made under this section does not preclude any other action or proceedings for damages by a person who suffered loss or damages as a result of an offence.

### 56. CLERK MAY DISCLOSE NAME OF OFFENDER

Where a person intends to commence proceedings for loss or damage as a result of an offence by a juvenile the proceedings under this Act in respect of which were closed to the public, he may apply to the Clerk of the Court who shall supply the person with the name and address of the juvenile convicted of the offence.

### 57. REPORT BY CLERK OF COURT

(1) The Clerk of the Court shall, within 7 days after the conclusion of proceedings against a juvenile, furnish to the Minister a report including details of the matter before the Court and copies of orders, if any, made by the Court.

(2) The Clerk of the Court shall, within the first week of every month, furnish to the Minister a return of all appearances of juveniles before the Court during the month immediately preceding.

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PART VII - APPEALS AND RECONSIDERATION OF SENTENCE

58. APPEALS FROM ORDERS, &c., UNDER PART VI OF THIS ACT AND OTHER ACTS

(1) An appeal shall lie to the Supreme Court from a final order, declaration or adjudication made by the Court under -

- (a) this Act; or
- (b) any other Act in force in the Territory.

(2) An appeal under this section -

- (a) shall be made in accordance with the rules of court made under this Act; and
- (b) shall be heard by a single Judge of the Supreme Court.

59. SINGLE JUDGE MAY REFER APPEAL TO FULL COURT

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

60. POWERS OF SUPREME COURT ON APPEAL

The Supreme Court may, when hearing an appeal against a decision of the Court, exercise the same powers and make any order or adjudication in relation to a juvenile that could lawfully have been made by the Court acting under the powers conferred on it by this or any other Act in force in the Territory.

61. RECONSIDERATION OF SENTENCE BY JUVENILE COURT

(1) Subject to this section, where a finding is made by the Court that a charge against a juvenile is proven, and an order is made against or in relation to the juvenile in consequence of that finding, the Court may, upon an application made under sub-section (2), reconsider the order and may -

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

(2) Subject to this section, an application under sub-section (1) may be made, in accordance with the rules of court under this Act by -

- (a) the juvenile - within 28 days after the date of the order; or

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(b) the Minister, on behalf of the juvenile - at any time.

(3) Where an application has been made under this section for reconsideration of a sentence of detention, the Court may before it hears the application, upon application by or on behalf of the juvenile, release the juvenile from detention upon bail.

(4) The Court shall notify an applicant and all other parties concerned with an application under sub-section (2) of the place, date and time for the hearing of the application.

(5) Subject to to sub-section (7), where an appeal to the Supreme Court is instituted in respect of an original order of the Court, no application under this section may thereafter be made by or on behalf of the juvenile to whom the appeal relates.

(6) Subject to sub-section (7), where an application for reconsideration is made under sub-section (2), no appeal shall lie to the Supreme Court against the order in respect of which reconsideration is sought.

(7) Where an application under sub-section (2), or a notice of appeal to the Supreme Court, is withdrawn, all other parties concerned shall be notified accordingly by the Clerk of the Court, and thereupon an appeal shall lie to the Supreme Court, or an application may be made under sub-section (2), as the case requires, in all respects as if the date of that withdrawal were the date upon which the original order was made.

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

### PART VIII - JUVENILE DETENTION CENTRES

#### 62. APPROVAL OF JUVENILE DETENTION CENTRES

The Minister may, for the purposes of this Act, approve an establishment to be a juvenile detention centre.

#### 63. ADMISSION TO DETENTION CENTRE

A person shall not be admitted to a detention centre except in accordance with this Act.

#### 64. FUNCTIONS OF SUPERINTENDENT OF DETENTION CENTRE

(1) The Minister shall appoint a superintendent of each detention centre.

(2) The superintendent of a detention centre shall be responsible, so far as practicable, for the physical, psychological and emotional welfare of juveniles detained in the detention centre.

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(3) For the purposes of sub-section (2), the superintendent of a detention centre shall -

- (a) promote programmes to assist and organize activities of detainees to enhance their well-being;
- (b) encourage the social development and improvement of the welfare of detainees;
- (c) maintain order and ensure the safe custody and protection of all persons who are within the precincts of the detention centre whether as detainees or otherwise;
- (d) be responsible for the maintenance and efficient conduct of the detention centre; and
- (e) supervise the health of detainees, including the provision of medical treatment and, where necessary, authorize the removal of a detainee to a hospital for medical treatment.

### 65. POWERS OF SUPERINTENDENT OF DETENTION CENTRE

(1) The superintendent of a detention centre has such powers as are necessary for the performance of his functions.

(2) Without limiting the generality of sub-section (1), the superintendent of a detention centre may, subject to the order of the Court under which the detainee is detained, permit a detainee to be absent from a detention centre -

- (a) for a period not exceeding 12 hours for the purposes of receiving educational training or participating in arrangements of a social, recreational or vocational nature; or
- (b) in the custody and under the supervision of a member of the staff of the detention centre, for any period for a purpose approved by the superintendent.

(3) The powers and functions of the superintendent of a detention centre, in relation to a person legally detained in the detention centre are not altered or diminished by the fact that the detainee may be outside the precincts or absent from the detention centre.

### 66. DISCIPLINE

The superintendent of a detention centre shall maintain discipline at the detention centre by the use of such force as is reasonably necessary in the circumstances other than -

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- (a) striking, shaking or other form of physical violence;
- (b) enforced dosing with a medicine, drug or other substance;
- (c) compulsion to remain in a constrained or fatiguing position;
- (d) handcuffing or use of similar devices to restrain normal movement; or
- (e) except where the Minister is of the opinion that it is desirable for the protection of other detainees in the detention centre and he approves of the action being taken, but in any case not for a period exceeding 12 hours, isolation from other detainees.

### 67. DELEGATION BY SUPERINTENDENT

(1) The superintendent of a detention centre may, by instrument in writing, delegate to a person employed as a member of the staff of the detention centre any of his powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the superintendent of the detention centre.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the superintendent of the detention centre.

### 68. REPORTS

The superintendent of a detention centre shall, as soon as practicable after 31 December in each year, furnish to the Minister a report on the operation of the detention centre during the year ending on that date.

### 69. REGISTER

The superintendent of a detention centre shall keep a register containing in relation to every juvenile received in the detention centre, so far as those particulars are reasonably ascertainable by the superintendent -

- (a) the name, age, place of birth and religion, if any, of the juvenile;
- (b) the names and addresses of the parents or guardians or persons who, immediately before the detention of the juvenile in the detention centre, had the custody of the juvenile;

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- (c) the names and addresses of persons, other than the persons referred to in paragraph (b), from whom the juvenile was received in the detention centre and their relationship to the juvenile;
- (d) the date on which the juvenile was received in, and the date on which the juvenile left, the detention centre; and
- (e) such other particulars as are prescribed.

### 70. INSPECTION OF DETENTION CENTRE

(1) The Minister or an authorized person may at any reasonable time enter and inspect a detention centre.

(2) The superintendent of a detention centre shall, if so required by the Minister or an authorized person, produce for inspection the register kept under section 69 and shall furnish the Minister or the authorized person with such information in relation to any juvenile in the detention centre as required by the Minister or that person.

(3) A person shall not hinder the Minister or an authorized person in the exercise of a power conferred on him by sub-section (1) or fail to comply with a requirement made of him under sub-section (2).

## PART IX - OFFICIAL VISITORS

### 71. APPOINTMENT OF OFFICIAL VISITORS

(1) The Minister may, subject to the approval of the Chief Magistrate, appoint a magistrate an official visitor for a detention centre.

(2) Subject to this section, an official visitor appointed under sub-section (1) shall hold office for 3 years and is eligible for reappointment.

(3) An official visitor appointed under sub-section (1) may resign his office by notice in writing to the Minister.

(4) Not less than 3 official visitors shall be appointed for each detention centre.

### 72. FUNCTIONS OF OFFICIAL VISITORS

An official visitor appointed under section 71 shall -

- (a) having regard to this Act and the Regulations, inquire into the treatment, behaviour and conditions of detainees in the detention centre in respect of which he is appointed; and

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(b) report, in writing -

(i) if the Minister has directed that the official visitor report in relation to a specified matter to the superintendent of the detention centre - in relation to that matter, to the superintendent; and

(ii) in any other case - to the Minister,

as soon as practicable after each visit to a detention centre.

### 73. FREQUENCY OF VISITS

A detention centre shall be visited by an official visitor appointed under section 71 for that centre at least once every month.

### 74. OFFICIAL VISITORS NOT TO INTERFERE

An official visitor appointed under section 71 shall not, during a visit to the detention centre in respect of which he is so appointed, interfere with or give instructions to an officer regarding the management, discipline or treatment of detainees.

### PART X - INTERSTATE TRANSFER OF JUVENILES SERVING PERIODS OF DETENTION AND ON PROBATION

### 75. INTERPRETATION

(1) In this Part, unless the contrary intention appears -

"corresponding detention centre", in relation to a State, means an establishment in the State in which interstate detainees serve a period of detention imposed upon them, by a court of that State, for an offence against a law of that State;

"corresponding Minister", in relation to a State, means the minister or officer of the State from time to time responsible for juveniles in that State who have had imposed on them, for an offence against a law of that State, a period of detention and, where 2 or more ministers or officers are so responsible, or where that minister or officer is not otherwise ascertainable, means the minister or officer of that State which, in the opinion of the Minister, is so responsible;

"detainee" includes a juvenile the subject of a direction given under section 21 of the *Prisons (Correctional Services) Act*, but does not include an interstate detainee or a juvenile on remand to stand his trial for an offence;



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"interstate detainee", in relation to a State, means a juvenile in that State who has attained the age of 10 years and who has had imposed on him, for an offence against a law of that State, a period of detention;

"State" means a State or another Territory of the Commonwealth;

"Superintendent" in relation to a corresponding detention centre, means the person for the time being in charge of the corresponding detention centre;

(2) Where a justice of a State, in the exercise of his powers, issues in respect of a juvenile an order for a period of detention of the juvenile while not constituting a court, the period of detention imposed by the order shall, for the purposes of this Act, be deemed to have been imposed by a court.

(3) For the purposes of this Act, a period of detention imposed, or originally imposed, on a juvenile by, or by the operation of, an Act or other law of a State shall, except as prescribed by the Regulations under this Act, be deemed to have been imposed, or originally imposed, by a court of the State.

### 76. MINISTER MAY ORDER TRANSFER OF DETAINEE TO STATE

(1) Subject to section 77, the Minister may, where he is of the opinion that, in all the circumstances, it is appropriate that a detainee serve his period of detention in a State, make an order for the transfer of the detainee to the State specified in the order.

(2) Without limiting the generality of sub-section (1), the circumstances to be considered by the Minister for the purpose of deciding whether to make an order under that sub-section in relation to a detainee may include circumstances relating to -

- (a) the place, or intended place, of residence of the parents or guardians;
- (b) the education, including the further education; and
- (c) the medical needs,

of the detainee.

(3) For the purposes of deciding whether to make an order under sub-section (1) in relation to a detainee, the Minister may request -

- (a) the detainee; or
- (b) the parents or guardians of the detainee,

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to supply to the Minister, within the period specified in the request, such information as is specified in the request and the detainee, parents or guardian shall, accordingly, supply to the Minister the information within that period.

(4) A decision to make, or not to make, an order under sub-section (1) is not subject to review by a court or tribunal.

### 77. ORDER OF TRANSFER NOT TO BE MADE UNLESS MINISTER SATISFIED AS TO CERTAIN MATTERS

(1) The Minister shall not make an order under section 76(1) in relation to a detainee unless he is satisfied that -

- (a) subject to sub-section (2), the detainee consents to the order being made;
- (b) there is no appeal pending under Part VII in relation to the detainee and that the period for lodging such an appeal by the detainee has expired; and
- (c) if he made the order -
  - (i) there is in force, in the State to which the detainee would be transferred under the order, a law the provisions of which substantially correspond to the law of the Territory the offence against which by the detainee gave rise to the detainee's period of detention;
  - (ii) the corresponding Minister of the State referred to in sub-paragraph (i) will, in accordance with that order, accept the detainee;
  - (iii) the State, or an authority of the State, referred to in sub-paragraph (i) will not impose on the detainee, in relation to the offence which gave rise to the detainee's period of detention, a penalty in addition to that period of detention; and
  - (iv) there is in force, in the State referred to in sub-paragraph (i), a law the provisions of which mean that the detainee would, in that State, for the purposes of section 80(1), be in the lawful custody of the escort referred to in that section and would, if the detainee were in that State to escape that custody, be subject to proceedings the tenor of which substantially correspond to section 84.

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(2) Where the Minister is satisfied that special circumstances exist that warrant his so doing and that his action is in the best interest of the detainee, he may make an order under section 76(1) notwithstanding that the detainee has not consented to the order being made.

78. RECEIPT OF REQUEST FOR TRANSFER OF DETAINEE TO THE TERRITORY

Subject to section 79, where the Minister receives a written request by the corresponding Minister, or a person authorized in writing by the corresponding Minister to make such a request, asking him to accept the transfer of an interstate detainee to the Territory, the Minister shall either refuse to consent, or consent, to the transfer and shall give to the corresponding Minister, or person authorized in writing, by whom the written request was made, written notice of his refusal or consent.

79. CONSENT NOT TO BE GIVEN UNDER SECTION 78 UNLESS MINISTER SATISFIED AS TO CERTAIN MATTERS

The Minister shall not consent under section 78 to the transfer to the Territory of an interstate detainee unless he is satisfied that -

- (a) there is in force in the Territory a law the provisions of which substantially correspond to the law of the State the offence against which by the interstate detainee gave rise in that State to the interstate detainee's period of detention; and
- (b) if the consent were granted -
  - (i) the interstate detainee would not be subject to an indeterminate period of detention;
  - (ii) the interstate detainee would not be subject to a period of detention in the Territory which is greater than the maximum period of detention which he would have had to serve if the court in the Territory corresponding to the court in the State which imposed the interstate detainee's period of detention, had made an order imposing on a detainee a period of detention in relation to an offence against the Territory law referred to in paragraph (a);
  - (iii) there would not be imposed on the detainee, in relation to the offence which gave rise to the period of detention imposed on the interstate detainee in the State seeking the transfer of the interstate detainee to the Territory, a penalty in addition to that period of detention; and

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- (iv) the detention centre in the Territory to which it is proposed to transfer the interstate detainee has adequate facilities to cater for him.

80. TRANSFER IN CUSTODY OF ESCORT

- (1) An order under section 76(1) -
  - (a) shall direct the superintendent or other person in charge of the detention centre where the detainee who is the subject of the order is then held to deliver the detainee into the custody of an escort and shall be sufficient authority to the superintendent to so deliver the detainee; and
  - (b) authorizes the escort to hold, take and keep custody of the detainee for the purpose of conveying him from the Territory to such corresponding detention centre in a State as is specified in the order and there to deliver him into the custody of the Superintendent of that corresponding detention centre.

(2) A reference in sub-section (1) to an escort is a reference to a member of the Police Force, or a person appointed by the Minister by an instrument in writing to be an escort for the purposes of this Act, or any 2 or more of them.

- (3) Where -
  - (a) in accordance with a consent given under section 78, an order is made for the transfer to the Territory of an interstate detainee held in the State where the order is made; and
  - (b) pursuant to the order, an escort brings the interstate detainee into the Territory,

the escort, while in the Territory, is authorized to hold, take and keep custody of the detainee for the purpose of conveying him to such detention centre in the Territory as is specified in the order and there to deliver him into the custody of the superintendent or other person in charge of the detention centre.

81. TRANSFER OF PERIOD OF DETENTION WITH DETAINEE

Where, pursuant to an order made under section 76(1), a detainee is conveyed to a State specified in the order, then, from the time the detainee arrives in the State the sentence or other order under which the period of detention was imposed upon the detainee by a court of the Territory ceases to have effect in the Territory except in relation to the period of detention served by the detainee in the Territory.

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82. INFORMATION TO BE SENT TO STATE

(1) Where, pursuant to an order under section 76(1), a detainee is conveyed to a State, the Minister shall cause to be sent to the corresponding Minister of the State or to some person for the time being designated by the corresponding Minister for the purpose -

- (a) the order;
- (b) the order, or other authority, for commitment for a period of detention which the detainee was, immediately before he left the Territory, serving or liable to serve;
- (c) a report relating to the detainee, which shall contain such information and be accompanied by such documents available in the Territory as appear likely to be of assistance to a court, authority or officer in the State and shall include details of the period of detention served, entitlements to a review of the period of detention to be served and a copy of any record relating to the detainee's conduct; and
- (d) details, accompanied by relevant orders or other documents, of any subsequent variations to the information provided in accordance with this sub-section, whether arising from a review or otherwise.

(2) A reference in sub-section (1) to an order or other document is a reference to either the original or a copy certified in the prescribed manner.

83. PERIOD OF DETENTION DEEMED TO HAVE BEEN IMPOSED IN THE TERRITORY

Where under a law of a State an order is issued for the transfer to the Territory of an interstate detainee serving a period of detention in the State and the interstate detainee is brought into the Territory pursuant to the order and a consent given under section 78, then from the time the interstate detainee arrives in the Territory -

- (a) a period of detention imposed upon him by a court of the State (including a period of detention deemed by the provision of a law of that State that corresponds to this section to have been imposed by a court of that State) shall be deemed to have been imposed upon him; and
- (b) a direction or order given or made by a court of the State in relation to when that period of detention shall commence shall, so far as practicable, be deemed to have been given or made,

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by a court of the Territory corresponding to the court of that State and, except as otherwise provided in this Act, shall be given effect to in the Territory, and the laws of the Territory shall apply, as if the Territory court so specified had had power to impose the period of detention and give or make the direction or order, if any, and did in fact impose the period of detention and give or make the direction or order.

84. ESCAPE FROM CUSTODY

(1) A detainee who, being a detainee in the custody of an escort pursuant to an order referred to in section 80(1), shall not escape or attempt to escape from that custody while he is within the Territory, the State from which he is being conveyed under the order or any other State.

Penalty: Detention for 3 months.

(2) An interstate detainee, being an interstate detainee in the custody of an escort pursuant to an order referred to in section 80(3), shall not escape or attempt to escape from that custody while he is within the Territory, the State from which he is being conveyed under the order or any other State.

Penalty: Detention for 3 months.

(3) A period of detention imposed on a detainee for an offence against sub-section (1) shall be served after the expiration of the period of detention to which he was subject at the time of his escape or attempt to escape.

85. REVOCATION OF ORDER OF TRANSFER ON ESCAPE FROM CUSTODY

The Court may revoke an order made under section 76(1) if it appears to the Court, on application to it under this section by the holder of a prescribed office or position or by a person who belongs to a prescribed class of persons, that the detainee in respect of whom the order was made had, in the course of his being conveyed pursuant to that order, committed -

- (a) the offence of escaping or attempting to escape; or
- (b) any other offence,

whether or not -

- (c) the offence was an offence against a law of the Territory or of the State to which he was being transferred in accordance with that order; or
- (d) a charge has been laid or a conviction secured in respect of the offence.

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### 86. REPORTS

(1) For the purpose of forming an opinion or exercising a discretion under this Part, the Minister may inform himself as he thinks fit and, in particular, may have regard to reports from a superintendent or other person in charge of a detention centre or the Superintendent of a corresponding detention centre or any other person.

(2) Reports of a superintendent or other person in charge of a detention centre may be sent to a corresponding Minister of a State for the purpose of assisting the corresponding Minister to form an opinion or to exercise a discretion under a law of that State administered by him which relates to the interstate transfer of an interstate detainee.

### 87. PROBATION

(1) Where a juvenile is convicted of an offence but is released by an order under section 53 or the *Criminal Law (Conditional Release of Offenders) Act* subject to conditions, the Minister may, on application being made to him on behalf of the juvenile, on being satisfied that adequate power exists under the law of a State or another Territory of the Commonwealth to ensure that the juvenile will continue to be subject to a similar liability to abide by the conditions subject to which he was released and that the relevant authority in the State or other Territory has agreed to undertake the supervision of the juvenile on similar terms and conditions to which he is subject in the Territory, approve in writing the transfer of the juvenile to that State or other Territory.

(2) The Minister shall send to the relevant Authority a copy of his approval under sub-section (1).

(3) On the Minister being advised in writing by the relevant authority in the State or other Territory to which a juvenile is transferred in pursuance of an approval under this section of the arrival of the juvenile in that State or Territory, section 53 or the *Criminal Law (Conditional Release of Offenders) Act* ceases to apply to or in relation to the juvenile and all recognizances and other conditions under that Act cease to have effect or apply.

### 88. INTERSTATE PROBATION ORDERS

(1) This section applies to and in relation to a person who, as a juvenile -

- (a) has been released on probation or other conditional arrangement by order of a court of a State or another Territory of the Commonwealth; and

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- (b) is, in consequence of the making of the probation or other conditional arrangement, subject to the supervision of a person.

(2) The Minister may enter into an agreement with the person who is responsible in a State or another Territory of the Commonwealth for the supervision of a person to whom this section applies for the supervision in the Territory of that person on probation.

(3) On a person to whom this section applies reporting to the Minister, or a person approved by the Minister for that purpose, on his arrival in the Territory in pursuance of an agreement under sub-section (2), the Minister shall, by notice in writing, advise the person under whose supervision the person was before his arrival in the Territory and the Minister shall, on signing the notice, assume responsibility for the supervision of that person on probation on the same terms and conditions, with the necessary changes, as those applying to him in the State or other Territory from which he was transferred.

(4) The order of a court in a State or other Territory from which a person to whom this section applies was transferred shall be deemed to be an order, with the necessary changes, made under section 53 or the *Criminal Law (Conditional Release of Offenders) Act* and a recognizance or other obligation entered into under that order shall be enforceable as if it was entered into in the Territory under that section.

(5) Where a person to whom this section applies transferred under this section to the supervision of the Minister fails to comply with a condition to which he is subject, he may be dealt with by the Court as if the offence in relation to which he was released on probation by the Court in the State or other Territory was committed in the Territory and he had been convicted accordingly.

### PART XI - MISCELLANEOUS

#### 89. RECORDS OF CONVICTIONS, &c., TO BE DESTROYED

(1) The Commissioner of Police or other person having the custody of them shall, as soon as practicable after the expiration of -

- (a) 3 years after the date on which a conviction was recorded against a juvenile, whether or not it was recorded before or after the commencement of this Act; or
- (b) 5 years after the expiration of any order of the Court associated with that conviction,



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whichever is the later, ensure that all records associated with the investigation which lead to the conviction and which identify the juvenile or from which the juvenile could reasonably be identified, and all records of the fact of the conviction, are destroyed, and no Court shall receive or take into account any evidence or other information relating to such a conviction.

(2) In this section "conviction" means conviction for an offence, other than an offence involving the use of violence, which, at the time that the offence was committed, if committed by an adult, was punishable by imprisonment for a period of 12 months or longer.

### 90. CERTAIN CONVICTIONS NOT TO BE MENTIONED, &c.

Where a juvenile has, whether before or after the commencement of this Act, been found by a court to have committed an offence but no conviction was recorded by the court, no evidence or mention of that offence may be made to, or the offence be taken into account by, a court other than the Juvenile Court.

### 91. OFFENCES

(1) A detainee shall not abscond from lawful detention at a detention centre.

(2) A person found guilty of an offence against subsection (1) shall be liable to 28 days' detention at a detention centre or imprisonment, such period being in addition and subsequent to the period of detention or imprisonment ordered by the Court.

(3) A person authorized in writing by the Minister or orally or in writing by a member of the Police Force may, in respect of the arrest and taking into custody of a detainee who has escaped from a detention centre, exercise the powers conferred on a member of the Police Force and shall, in relation to the exercise of those powers, discharge all of the obligations imposed on such a member by the *Police Administration Act*.

(4) A person shall not -

- (a) remove a detainee from a detention centre except in accordance with this Act or any other law in force in the Territory;
- (b) knowingly harbour or aid a detainee who has absconded from lawful detention;
- (c) aid a detainee to abscond from lawful detention;
- (d) loiter in the vicinity of a detention centre;

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- (e) remain in the vicinity of a detention centre after being requested to leave by the superintendent or member of the staff of that detention centre or by a member of the Police Force;
- (f) unlawfully enter or attempt to enter a detention centre;
- (g) without the permission of the superintendent of the detention centre, convey or deliver or allow to be conveyed or delivered to a detainee liquor or drugs or any money, letter, document, clothing or other article;
- (h) without the permission of the superintendent of the detention centre, convey or deliver or receive liquor or drugs or any money, letter, document, clothing or other article out of a detention centre;
- (j) without the permission of the superintendent of the detention centre, leave liquor or drugs or any money, letter, document, clothing or other article with the intention of it being received or found by a detainee; or
- (k) without the permission of the superintendent of the detention centre, communicate or attempt to communicate with a detainee.

Penalty: \$500 or imprisonment for 3 months.

92. OBSTRUCTION, &c.

A person shall not -

- (a) hinder, obstruct, assault or threaten with violence; or
- (b) aid or abet another person in so doing,

a superintendent or member of the staff of a detention centre, member of the Police Force or an authorized person in the exercise of his powers or performance of his functions or duties under this Act.

Penalty: \$500 or imprisonment for 3 months.

93. PERSONATION

A person who is not a superintendent of a detention centre or an authorized person who falsely represents himself to be such a person is guilty of an offence.

Penalty: \$500 or imprisonment for 3 months.

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94. OFFENCE TO REMOVE JUVENILE

A person who, without lawful excuse, removes a juvenile from the care of a person or an establishment with whom or at which the juvenile has been placed pursuant to this Act, is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

95. SECRECY TO BE OBSERVED

(1) The superintendent of a detention centre or an authorized person shall, if the Minister directs, before entering upon his duties or exercising his powers or functions under this Act, make a declaration in accordance with the prescribed form.

(2) The superintendent of a detention centre or authorized person shall not, directly or indirectly, except in the performance of his duties or in the exercise of his powers or functions under this Act, and while he is, or after he ceases to be, the superintendent or an authorized person, make a record of, or disclose or communicate to any person, any information relating to the affairs of another person acquired by him in the exercise of his powers or in the performance of his functions or duties under this Act.

Penalty: \$500 or imprisonment for 3 months.

(3) A person who is or who has been the superintendent of a detention centre or an authorized person shall not, except for the purposes of this Act, be required to -

- (a) produce in court a document that has come into his possession or is under his control; or
- (b) disclose or communicate to a court any matter or thing that has come under his notice,

in the performance of his functions or duties under this Act.

(4) Notwithstanding sub-section (2), the superintendent of a detention centre or an authorized person may disclose information or records that have come to his notice in the performance of his functions or duties under this Act -

- (a) to the person to whom the information or records relate;
- (b) to a court;
- (c) to a member of the Police Force;

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- (d) in connection with the administration of this Act;
- (e) where the Minister certifies that it is necessary in the public interest that the information should be disclosed - to such person as the Minister directs;
- (f) to a prescribed authority or person;
- (g) to a person who, in the opinion of the Minister, is expressly or impliedly authorized by the person to whom the information relates to obtain it;
- (h) subject to the approval of the Minister, to a person engaged in a bona fide research programme where the person has given a prior undertaking in writing to the Minister to preserve the identity and confidentiality regarding individual persons to whom the information and records relate; or
- (j) that was not relevant to the performance of those functions or duties.

### 96. OFFENCES AND PENALTIES

(1) A person who contravenes or fails to comply with this Act (other than Parts V and IX), the Regulations or an order made under this Act is guilty of an offence.

(2) A person who contravenes or fails to comply with this Act (other than Parts V and IX), the Regulations or an order made under this Act for which a penalty is not, other than by this section, provided is punishable on conviction by a fine of \$2,000 or imprisonment for 6 months.

### 97. RESTRICTION OF LIABILITY OF MINISTER, &c.

(1) A suit or action shall not be commenced against the Minister or an employee of the Public Service of the Territory for or on account of an act, matter or thing done by him or under his direction and purporting to be done for the purpose of carrying out the provisions of this Act -

- (a) if the Minister or employee acted in good faith and with reasonable care; or
- (b) more than 6 months after the time when the alleged cause of action arose.

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(2) If, pending a suit or action against the Minister or an employee of the Public Service of the Territory for or on account of an act, matter or thing done by him or under his direction and purporting to be done for the purpose of carrying out the provisions of this Act -

- (a) application to stay the suit or action is made to the court in which the suit or action is pending or commenced; and
- (b) the court is satisfied that -
  - (i) there is no reasonable ground for alleging want of good faith or reasonable care; or
  - (ii) the suit or action was commenced out of time,

the court may stay the proceedings in the suit or action on such terms as to costs or otherwise as the court thinks fit.

### 98. REGULATIONS

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular for prescribing -

- (a) the construction (including provision for the storage and preparation of food), cleanliness, sanitation, lighting, heating, ventilation and safety of detention centres;
- (b) the maintenance of detention centres in a proper state of repair;
- (c) limiting the number of juveniles who may be received in a detention centre having regard to the available facilities, space and staff of the centre;
- (d) the operation of detention centres;
- (e) the suitability of persons operating detention centres and of the staff employed in such centres, and fixing the numbers of such staff;
- (f) generally ensuring the proper conduct of detention centres and the health and safety of the detainees therein; and
- (g) penalties not exceeding \$1,000 or imprisonment for 6 months for offences against the Regulations.

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### 99. TRANSITIONAL

Where before the commencement of the *Community Welfare Act* a proceeding or other action against or in relation to a juvenile in relation to which, but for this section, this Act would apply had been or was taken under the Acts repealed by section 3 of the *Community Welfare Act* but had not, immediately before the commencement of that Act, been disposed of or completed, those Acts, as in force immediately before the commencement of the *Community Welfare Act*, shall continue to apply to and in relation to that juvenile until the proceeding or action is completed and all orders of a court made in that proceeding or action are discharged or expire, as if the *Community Welfare Act* had never commenced.

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