

Nru. 115

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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Joseph Brincat, M.P., Ministru tal-Gustizzja, Artijiet, Djar u Affarijiet tal-Parlament u moqri għall-Ewwel darba fis-Seduta tal-15 ta' Ottubru, 1979.

A BILL introduced by the Honourable Joseph Brincat, M.P., Minister of Justice, Lands, Housing and Parliamentary Affairs and read the First time at the Sitting of the 15th October, 1979.

ATT biex jipprovdi għall-harsien ta' tfal u żgħażaġh.

AN ACT to make provision for the care of children and young persons.

C. MIFSUD

Skirvan tal-Kamra tad-Deputati

C. MIFSUD

Clerk to the House of Representatives

ABBOZZ TA' LIGI

msejjah

ATT biex jipprovdi għall-harsien ta' tfal u żgħażaġh.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorita' ta' l-istess, hareġ b'ligi dan li ġej:—

Titolu fil-qosor
u bidu fis-sehħ.

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1980 dwar Tfal u Żgħażaġh (Ordnijiet għall-Harsien).

(2) Id-disposizzjonijiet ta' dan l-Att għandhom jibdew iseh-
hu f'dik id-data li l-Ministru jista' jstabbilixxi b'avviż fil-Gazzetta, u
jistgħu jiġu hekk stabbiliti dati differenti dwar disposizzjonijiet differ-
enti u għal għanijiet differenti ta' dan l-Att.

Tifsir.

2. F'dan l-Att —

“Bord” tfisser il-Bord Konsultattiv dwar it-Tfal u ż-Zgħażaġh
imwaqqaf taħt l-artikolu 11 ta' dan l-Att;

“kustodju” tfisser tutur jew kuratur u tinkludi persuna li fil-
fatt tkun qed tagħmilha ta' kustodju;

“Ministru” tfisser il-Ministru responsabbli għall-għajnuna
soċjali;

“tifel jew żaġġżuġh” tfisser persuna li tkun taħt l-età ta' sit-
tax-il sena.

Ordni għal
harsien meta
tifel jinsab hati
ta' reat.

3. (1) Meta xi tifel jew żaġġżuġh jinstab hati ta' reat minn jew
quddiem xi Qorti ta' ġurisdizzjoni kriminali, u fil-fehma ta' l-imsemmi-
ja Qorti —

(a) ebda wieħed mill-metodi l-oħra dwar x'jista' jsir bil-
każ skond il-ligi ma jkun xieraq; u

(b) it-tifel jew iż-żaġġżuġh ikun jinhtieg harsien jew kontroll li
x'aktarx ma jkunx ser jirċievi kemm-il darba l-Qorti ma tagħ-
milx ordni taħt dan l-artikolu dwaru,

dik il-Qorti tista', minflok li tikkundannah għal prigunerija jew tipprovdi dwaru b'xi mod ieħor skond il-ligi, tagħmel ordni li bih jitqiegħed taħt il-harsien tal-Ministru għal żmien ta' mhux inqas minn sena u mhux iżjed minn hames snin:

Iżda ordni magħmul taħt dan is-subartikolu għandu, kemm-il darba ma jkunx waqaf l-effett tiegħu qabel, jieqaf milli jkollu effett fid-data li fiha t-tifel jew iż-żagħżuġ li dwaru jsir l-ordni jilhaq l-età ta' tmintax-il sena.

(2) Ordni magħmul taħt is-subartikolu (1) ta' dan l-artikolu jkun sugġett għal appell bl-istess mod u matul l-istess żmien bħal appell minn sentenza mogħtija mill-Qorti li tagħmel l-ordni.

(3) Jekk, fuq rikors tal-Ministru, fil-fehma tal-Qorti li tkun għamiet ordni taħt is-subartikolu (1) ta' dan l-artikolu dwar tifel jew żagħżuġ ikun xieraq li dak l-ordni għandu jintemm, il-Qorti tista' ttemm dak l-ordni.

(4) L-artikolu 12 ta' l-Att ta' l-1957 dwar il-*Probation* ta' Hattjin għandu japplika *mutatis mutandis* għal kull tifel jew żagħżuġ li jinstab haṭi u li dwaru jkun hareġ ordni biex jitqiegħed taħt il-harsien tal-Ministru.

Att XII ta' l-1957

4. (1) Jekk, wara li jsirulu rappreżentazzjonijiet bil-miktub mid-Direttur tas-Servizzi Soċjali, u wara li jagħti lill-ġenituri u lill-kustodju, jekk ikun hemm, tat-tifel jew taż-żagħżuġ, opportunità li jagħtu l-fehmiet tagħhom, u wara li jisma' lil kull persuna oħra li x'aktarx tista' tghinu, il-Ministru jkun sodisfatt li dak it-tifel jew żagħżuġ ikun jinhtieg harsien, protezzjoni jew kontroll, ikun id-dmir tal-Ministru b'ordni bil-miktub iffirmit minnu li jieħu lil dak it-tifel jew żagħżuġ taħt il-harsien tiegħu.

Ordni għal harsien dwar tifel jew żagħżuġ li jkun jinhtieg harsien, protezzjoni, jew kontroll.

(2) Kopja ta' kull ordni magħmul mill-Ministru taħt is-subartikolu (1) ta' dan l-artikolu għandha tintbagħat minnufih b'ittra reġistrata lill-persuna li tkun qed teżercita s-setgħa ta' missier fuq it-tifel jew iż-żagħżuġ, jew lill-kustodju tiegħu, jekk ikun hemm, li jkun mitlub iġħid lid-Direttur tas-Servizzi Soċjali fi żmien wieħed u għoxrin jum mid-data li fiha jkun irċieva l-imsemmija ittra, jekk joġġezzjonax għall-imsemmi ordni.

(3) Jekk il-persuna li lilha tintbagħat l-ittra reġistrata taħt is-subartikolu (2) ta' dan l-artikolu, toġġezzjona, ukoll verbalment, għall-ordni fiż-żmien preskritt fiha, id-Direttur tas-Servizzi Soċjali għandu, mhux iktar tard minn sebat ijiem mid-data li fiha jsir jaf bl-oġġezzjoni, jibgħat il-każ lill-Qorti tal-Minorenni b'dak il-mod li jiġi preskritt b'regolamenti magħmula taħt l-artikolu 13 ta' dan l-Att.

(4) Meta każ jintbagħat lill-Qorti tal-Minorenni skond is-subartikolu (3) ta' dan l-artikolu, l-imsemmija Qorti għandha, b'dak il-mod u f'dak iż-żmien kif jiġi preskritt b'regolamenti magħmula taħt l-artikolu 13 ta' dan l-Att, tirveddi l-każ kollu u tiddeċiedi jekk it-tifel jew iż-żagħżuġ ikunx jinhtieg harsien, protezzjoni jew kontroll u għandha skond dan tikkonferma jew tirrevoka l-ordni magħmul taħt is-subartikolu (1) ta' dan l-artikolu.

5. Jekk, fuq rappreżentazzjonijiet li jsirulu minn xi persuna, ukoll verbalment, il-Ministru jkun sodisfatt —

Ordni temporanju.

(a) li tifel jew żagħżuġ ikun jinhtieg harsien, protezzjoni jew kontroll, u

(b) li jkun fl-interess ta' l-imsemmi tifel jew żagħżuġh li dan għandu jittiehed taht il-ħarsien tal-Ministru mingħajr il-proċedura stabbilita fi, u mingħajr ma jsir ordni taht, is-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att,

hu jista', b'ordni bil-miktub iffirmit minnu, jiehu lil dak it-tifel jew żagħżuġh taht il-ħarsien tiegħu:

Iżda ordni bħal dak jieqaf milli jkollu effett wara li jgħaddu wiehed u għoxrin jum mid-data li fiha jkun sar.

Ordni ta' trasferiment.

6. (1) Il-Ministru jista', jekk ikun sodisfatt li huwa spedjenti fl-interess ta' l-edukazzjoni jew tal-ġid ta' tifel jew żagħżuġh li hekk jagħmel, b'ordni bil-miktub iffirmit minnu, jittrasferixxi mill-ħabs lil dak it-tifel jew żagħżuġh li jkun il-ħabs b'sentenza ta' prigunerija għal reat, li ma jkunx omiċidju volontarju, u jieħdu taht il-ħarsien tiegħu.

(2) Ordni magħmul taht is-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att jew taht is-subartikolu (1) ta' dan l-artikolu għandu, kemm-il darba ma jkunx waqaf l-effett tiegħu qabel, jieqaf milli jkollu effett fid-data li fiha t-tifel jew iż-żagħżuġh li dwaru jsir l-ordni jilhaq l-età ta' tmintax-il sena.

ħarsien, protezzjoni jew kontroll.

7. Għall-finijiet ta' dan l-Att, tifel jew żagħżuġh jitqies li jkun jinħtieġ ħarsien, protezzjoni jew kontroll jekk —

(a) ma jkunx jista' jiġi kkontrollat mill-ġenituri jew mill-kustodju tiegħu, jew

(b) ma jkunx qed jirċievi dak il-ħarsien, protezzjoni u gwida li ġenituri tajba huma raġonevolment mistennija li jipprovdu u —

(i) it-tifel jew iż-żagħżuġh ikun qed jissieheb ma' kumpannija ħażina jew ikun serjament imqiegħed f'periklu morali; jew

(ii) dak in-nuqqas ta' ħarsien, protezzjoni jew gwida x'aktarx iġib lit-tifel jew liż-żagħżuġh tbatija bla bżonn jew serjament jolqot is-saħħa jew l-iżvilupp xieraq tiegħu.

Setgħat u dmirijiet tal-Ministru dwar tfa' u żgħażaġh taht il-ħarsien tiegħu.

8. Il-Ministru jkollu, dwar kull tifel jew żagħżuġh li jitqiegħed taht il-ħarsien tiegħu b'ordni magħmul taht l-artikolu 3 jew li jittiehed taht il-ħarsien tiegħu b'ordni magħmul taht is-subartikolu (1) ta' l-artikolu 4, taht l-artikolu 5, jew taht is-subartikolu (1) ta' l-artikolu 6 ta' dan l-Att, l-istess setgħat u dmirijiet dwar il-ħarsien u l-kustodja tiegħu kif kien ikollhom il-ġenituri jew il-kustodju ta' dak it-tifel jew żagħżuġh, li kieku ma kienx l-ordni, u l-Ministru jista', bla ħsara għal kull regolamenti magħmula skond l-artikolu 13 ta' dan l-Att, jagħmel restrizzjonijiet dwar il-libertà ta' dak it-tifel jew żagħżuġh sa dak il-limitu li l-Ministru jidhirlu xieraq:

Iżda ebda ħaġa f'dan l-Att ma għandha tiftiehem li tqiegħed lill-Ministru sugġett għas-subartikoli (3) u (5) ta' l-artikolu 36, il-paragrafu (a) ta' l-artikolu 37, il-provisos għas-subartikoli (1) u (2) ta' l-artikolu 40, u l-paragrafu (a) ta' l-artikolu 41 tal-Kodiċi Kriminali:

Kap. 12

Iżda wkoll il-Ministru ma għandux iġieghel li tifel jew żagħżuġh li jkun taht il-ħarsien tiegħu bis-saħħa ta' ordni magħmul taht dan l-Att jitrabba f'xi twemmin reliġjuż barra minn dak li fih kien jitrabba li kieku ma kienx hemm l-ordni.

9. Meta tifel jew żaġżuġh ikun taħt il-ħarsien tal-Ministru skond dan l-Att, ikun id-dmir tal-Ministru li jeżerċita s-setgħat tiegħu dwar il-ħarsien u l-kustodja ta' dak it-tifel jew żaġżuġh sabiex jinġiebu 'l quddiem l-aħjar interessi tiegħu u sabiex jagħtih l-opportunità li jiżviluppa b'mod xieraq il-karattru u l-ħiliet tiegħu:

Dmir ġenerali tal-Ministru.

Iżda jekk fil-fehma tal-Ministru jkun meħtieġ, sabiex jiġi mħares il-pubbliku, li jeżerċita s-setgħat tiegħu dwar tifel jew żaġżuġh partikolari li jkun taħt il-ħarsien tiegħu b'mod li jista' ma jkunx konsistenti mad-dmir ġenerali tiegħu taħt id-disposizzjoni ta' qabel ta' dan l-artikolu, il-Ministru jista', minkejja dak id-dmir, jaġixxi b'dak il-mod.

10. (1) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, il-Ministru jkun qed jaqdi dmiru dwar xi tifel jew żaġżuġh taħt il-ħarsien tiegħu —

Mod kif jiġu provduti akkomodazzjoni u manteniment.

(a) billi jipprovdi akkomodazzjoni u jmantninh f'dar residenzjali, *hostel* jew istituzzjoni oħra bħal din provduta mill-Ministru sabiex tilqa' tfal jew żgħażaġh li jkunu taħt il-ħarsien tiegħu; jew

(b) billi jalloġġah ma' persuna xierqa, sew jekk qarib sew jekk le, jew ma' istituzzjoni privata li tkun lesta biex tiegħu ħsiebu taħt dawk il-kondizzjonijiet dwar ħlas mill-Ministru u xort'oħra kif il-Ministru jista', bla ħsara għal kull regolamenti magħmula taħt dan l-Att, jistabbilixxi bi ftehim ma' dik il-persuna jew mad-dirigenti ta' dik l-istituzzjoni.

(2) Ebda haġa fis-subartikolu (1) ta' dan l-artikolu ma għandha tiftiehem li ma tħallix lill-Ministru milli juża, fil-każ ta' xi tifel jew żaġżuġh taħt il-ħarsien tiegħu, il-faċilitajiet u s-servizzi li jkunu jistgħu jinkisbu minn tfal u żgħażaġh taħt il-ħarsien tal-ġenituri jew tal-kustodju tagħhom, u, għal dak l-għan milli jagħmel arrangamenti għall-akkomodazzjoni u għall-manteniment tagħhom b'xi mod xieraq mhux speċifikat fis-subartikolu (1) ta' dan l-artikolu.

(3) Bla ħsara għad-disposizzjonijiet ta' qabel ta' dan l-artikolu, u għas-setgħat u għad-dmirijiet tiegħu taħt l-artikoli 8 u 9 ta' dan l-Att il-Ministru jista' jħalli li tifel jew żaġżuġh taħt il-ħarsien tiegħu, għal kull żmien li l-Ministru jistabbilixxi jew sakemm il-Ministru jordna xort'oħra, ikun taħt il-ħarsien u l-kontroll ta' xi wieħed mill-ġenituri, ta' kustodju, qarib jew ħabib.

(4) Il-Ministru jista', f'kull żmien u fid-diskrezzjoni tiegħu, jitlaq minn taħt il-ħarsien tiegħu jew minn taħt il-ħarsien tal-persuna jew istituzzjoni fejn ikun ġie alloġġat, skond il-każ, tifel jew żaġżuġh li jkun ittiehed taħt il-ħarsien tiegħu skond is-subartikolu (1) ta' l-artikolu 4, taħt l-artikolu 5 jew taħt is-subartikolu (1) ta' l-artikolu 6 ta' dan l-Att, u jista' hekk jitilqu jew b'mod assolut jew taħt dawk il-kondizzjonijiet li l-Ministru jista' jistabbilixxi.

(5) Il-Ministru jista' wkoll minn żmien għal żmien, kif jidhirlu xieraq, jibdel xi wieħed mill-arrangamenti magħmula taħt dan l-artikolu.

11. (1) Sabiex jingħataw pariri lill-Ministru fil-qadi tal-funzjonijiet tiegħu taħt dan l-Att, għandu jkun hemm bord, li jissejjaħ il-Bord Konsultattiv dwar it-Tfal u ż-Zgħażaġh, li jkun jinkludi omm u persuna li, fil-fehma tal-Ministru, ikollha tagħrif biżżejjed fil-psikoloġija. Wieħed minn dawk il-membri, imsemmi mill-Ministru, jagħmilha ta' *chairman*.

Bord Konsultattiv dwar it-Tfal u ż-Zgħażaġh.

(2) Il-membri tal-Bord jkunu maħtura mill-Ministru għal dak iż-żmien u taħt dawk il-kondizzjonijiet kif il-Ministru jistabbilixxi.

(3) Ikun id-dmir tal-Bord li jaghti pariri lill-Ministru dwar l-aħjar metodi kif kull tifel jew żagħżuġ li jitqiegħed jew jittiehed taħt il-ħarsien tiegħu skond dan l-Att għandu jiġi trattat, li jeżerċita sorveljanza ġenerali dwar dawk it-tfal jew żgħażaġh u, b'mod ġenerali, li jiehu ħsieb li tittejjeb il-qagħda tagħhom.

(4) Il-Ministru għandu jsemmi li membru tad-Dipartiment tas-Servizzi Soċjali biex jagħmilha ta' Segretarju tal-Bord u l-persuna hekk imsemmija għandha, bħala parti mid-dmirijiet tagħha, tkun responsabbli biex iżzomm ir-records tal-Bord.

(5) Bla ħsara għad-disposizzjonijiet ta' dan l-Att u ta' dawk ir-regolamenti li jistgħu jsiru taħt dan l-Att, il-Bord għandu jirregola l-proċedura tiegħu stess.

Reati.

12. (1) Jekk xi tifel jew żagħżuġ li jkun tqiegħed jew ittiehed taħt il-ħarsien tal-Ministru skond dan l-Att jaħrab mill-post fejn hu għandu jgħix jew ikun nieqes minn dak il-post f'hin li fih ma jkollux permess li jkun hekk nieqes, dan jista' jiġi maqbud mingħajr mandat minn xi membru tal-Pulizija u jittiehed lura f'dak il-post.

(2) Kull persuna li xjentement iġġiegħel, tħajjar jew tagħti għajnuna jew b'xi mod ieħor tgħin jew tassisti lil xi tifel jew żagħżuġ biex jaħrab jew biex ikun jew jibqa' nieqes kif imsemmi fis-subartikolu (1) ta' dan l-artikolu tkun hatja ta' reat u tehel meta tinsab hatja priġunerija għal żmien ta' mhux iżjed minn sitt xhur jew multa ta' mhux iżjed minn mitt lira jew dik il-multu u priġunerija flimkien.

Setgħa
għall-egħmil ta'
regolamenti.

13. Il-Ministru jkollu s-setgħa li jagħmel regolamenti li jidhirlu xierqa sabiex jitwettqu aħjar id-disposizzjonijiet u l-għanijiet ta' dan l-Att, u bla ħsara għall-ġeneralità ta' dak li ntqal qabel, dawk ir-regolamenti jistgħu b'mod partikolari jippreskrivu jew jipprovdnu għal —

(a) il-proċedura li għandha tintuża meta każ jintbagħat lill-Qorti tal-Minorenni u l-mod li bih u ż-żmien li fih l-imsemmija Qorti għandha tirrevedi l-każ, taħt is-subartikoli (3) u (4) ta' l-artikolu 4 ta' dan l-Att, rispettivament;

(b) il-proċedura tal-Bord;

(c) il-mod li bih djar, *hostels* u istituzzjonijiet imsemmija fil-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 10 ta' dan l-Att għandhom jitmexxew;

(d) id-dmirijiet, dwar dawk it-tfal, tal-persuni jew ta' l-istituzzjonijiet li magħhom tfal jew żgħażaġh ikunu alloġġati;

(e) żjajjar li jsiru lil tfal u żgħażaġh li jkunu taħt ħarsien; u

(f) ir-revizjoni kull tant żmien minn *Welfare Officers* ta' każijiet ta' tfal jew żgħażaġh li jkunu taħt il-ħarsien.

Ordinijiet ta'
l-Iskola
Approvata
magħmula
qabel il-bidu
fis-seħh ta' dan
l-Att.
Kap. 75

14. Kull ordni magħmul qabel il-bidu fis-seħh ta' dan l-Att taħt l-artikoli 4, 5 u 6 ta' l-Ordinanza ta' l-1921 dwar l-Iskejjel Approvati jew taħt is-subartikolu (4) ta' l-artikolu 36, il-paragrafu (b) ta' l-artikolu 37, il-proviso għall-artikolu 38 tal-Kodiċi Kriminali, u li għadu fis-seħh, għandu, sakemm jibqa' validu skond il-kondizzjonijiet tiegħu jkollu effett safejn hu possibli bħal ordni magħmul taħt l-artikolu 3 ta' dan l-Att.

15. Bla fisara għad-disposizzjonijiet ta' l-artikolu 14 ta' dan l-Att — Thassir.

(a) l-Ordinanza ta' l-1921 dwar l-Iskejjel Approvati,

(b) is-subartikolu (4) ta' l-artikolu 36, il-paragrafu (b) ta' l-artikolu 37, il-proviso għall-artikolu 38 u l-artikolu 39 tal-Kodiċi Kriminali, u

(ċ) l-Ordinanza dwar l-Iskejjel Industrijali u d-Djar ta' Korrez-
zjoni, Kap. 46

huma b'dan imħassra.

Għanijiet u Raġunijiet

L-Għan ewlieni ta' dan l-Abbozz huwa li jipprovdi, skond idejat moderni fil-qasam tal-kura tat-tfal, x'għandu jsir dwar tfal u zghazagh li jkunu jinhtiegu l-ħarsien, protezzjoni jew kontroll.

A BILL
entitled

AN ACT to make provision for the care of children and young persons.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. (1) This Act may be cited as the Children and Young Persons (Care Orders) Act, 1980.

(2) The provision of this Act shall come into force on such date as the Minister may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

Interpretation.

2. In this Act —

“Board” means the Children and Young Persons Advisory Board set up under section 11 of this Act;

“child or young person” means a person who is under the age of sixteen years;

“guardian” means tutor or curator and includes a guardian in fact;

“Minister” means the Minister responsible for social welfare.

Care order on conviction of an offence.

3. (1) Where any child or young person is found guilty of an offence by or before any Court of criminal jurisdiction, and in the opinion of the said Court —

(a) none of the other methods in which the case may be dealt with according to law is suitable; and

(b) the child or young person is in need of care or control which he is unlikely to receive unless the Court makes an order under this section in respect of him,

that Court may in lieu of sentencing him to imprisonment or dealing with him in any other manner available according to law, make an order committing him to the care of the Minister for a period of not less than one year and not more than five years:

Provided that an order made under this subsection shall, unless it has ceased to have effect earlier, cease to have effect on the date on which the child or young person in respect of whom the order is made attains the age of eighteen years.

(2) An order made under subsection (1) of this section shall be subject to appeal in the same manner and within the same time as would apply to a sentence passed by the Court making the order.

(3) If, on an application of the Minister, it appears to the Court which has made an order under subsection (1) of this section in respect of a child or young person that it is appropriate to discharge the order, the Court may so discharge the order.

(4) Section 12 of the Probation of Offenders Act, 1957 shall *mutatis mutandis* apply to any finding of guilty in respect of which an order is made placing the child or young person in the care of the Minister. Act XII of 1957.

4. (1) If, on representations made to him in writing by the Director of Social Services and after giving the parents and the guardian, if any, of the child or young person an opportunity to express their views, and after hearing any other person he may deem likely to assist him, the Minister is satisfied that that child or young person is in need of care, protection or control, it shall be the duty of the Minister by an order in writing under his hand to take such child or young person into his care. Care Order in respect of a child or young person in need of care, protection or control.

(2) A copy of any order made by the Minister under subsection (1) of this section shall forthwith be sent by registered letter to the person exercising paternal authority over the child or young person, or to his guardian, if any, who shall be asked to state to the Director of Social Services within twenty-one days from the date of receipt of the said letter, whether he objects to the said order.

(3) If the person to whom the registered letter is sent under subsection (2) of this section shall, within the time therein prescribed, signify, even verbally, his objection to the order, the Director of Social Services shall, not later than seven days from the date on which he shall have become aware of the objection, refer the case to the Juvenile Court in such manner as shall be prescribed by regulations made under section 13 of this Act.

(4) Where a case is referred to the Juvenile Court under subsection (3) of this section, the said Court shall, in such manner and within such time as shall be prescribed by regulations made under section 13 of this Act, review the whole case and decide whether the child or young person is in need of care, protection or control and shall accordingly confirm or revoke the order made under subsection (1) of this section.

5. If, on representations made to him by any person, even orally, the Minister is satisfied — Interim order.

(a) that a child or young person is in need of care, protection or control, and

(b) that it is in the interest of the said child or young person that he should be taken into the care of the Minister without fol-

lowing the procedure established in, and making an order under subsection (1) of section 4 of this Act,

he may, by an order in writing under his hand, take such child or young person into his care:

Provided that such an order shall cease to have effect after the lapse of twenty-one days from the date on which it is made.

Removal order.

6. (1) The Minister may, if he is satisfied that it is expedient in the interest of the education or welfare of a child or young person so to do, by an order in writing under his hand, remove from prison such child or young person who is in prison under a sentence of imprisonment for an offence, except wilful homicide, and take him into his care.

(2) An order made under subsection (1) of section 4 of this Act or under subsection (1) of this section shall, unless it has ceased to have effect earlier, cease to have effect on the date on which the child or young person in respect of whom the order is made attains the age of eighteen years.

Care, protection or control.

7. For the purposes of this Act, a child or young person shall be deemed to be in need of care, protection or control if —

(a) he is beyond the control of his parents or guardian; or

(b) he is not receiving such care, protection and guidance as a good parent may reasonably be expected to give and—

(i) the child or young person is falling into bad associations or is seriously exposed to moral danger; or

(ii) such lack of care, protection or guidance is likely to cause the child or young person unnecessary suffering or seriously affect his health or proper development.

Powers and duties of Minister with respect to children and young persons in care.

8. The Minister shall, with respect to any child or young person committed to his care by an order made under section 3 or taken into his care by an order made under subsection (1) of section 4, under section 5 or under subsection (1) of section 6 of this Act, have the same powers and duties with regard to his care and custody as the parents or guardian of such child or young person would, but for the order, have, and the Minister may, subject to any regulations made in pursuance of section 13 of this Act, restrict the liberty of such child or young person to such extent as the Minister may consider appropriate:

Provided that nothing in this Act shall be construed as rendering the Minister liable under subsections (3) and (5) of section 36, paragraph (a) of section 37, the provisos to subsections (1) and (2) of section 40, and paragraph (a) of section 41 of the Criminal Code:

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Provided further that the Minister shall not cause a child or young person in his care by virtue of an order made under this Act to be brought up in any religious creed other than that in which he would have been brought up apart from the order.

General duty of Minister.

9. Where a child or young person is in the care of the Minister in pursuance of this Act, it shall be the duty of the Minister to exercise his powers with respect to the care and custody of such child or young person so as to further his best interests and to afford him opportunity for the proper development of his character and abilities:

Provided that if it appears to the Minister that it is necessary, for the purpose of protecting members of the public, to exercise his powers in relation to a particular child or young person in his care in a manner which may not be consistent with his general duty under the foregoing provision of this section, the Minister may, notwithstanding that duty, act in that manner.

10. (1) Subject to the provisions of this Act, the Minister shall discharge his duty with respect to any child or young person in his care —

Mode of
providing
accommodation
and maintenance.

(a) by accommodating and maintaining him in a residential home, hostel or similar institution provided by the Minister for the reception of children or young persons in his care; or

(b) by boarding him out with a fit person, whether a relative or not, or with a private institution willing to undertake the care of him on such terms as to payment by the Minister and otherwise as the Minister may, subject to any regulations made under this Act, determine in agreement with such person or the management of such institution.

(2) Nothing in subsection (1) of this section shall be construed as preventing the Minister from making use, in the case of any child or young person in his care, of the facilities and services available for children or young persons in the care of their parents or guardian and, for that purpose, arranging for his accommodation and maintenance in any suitable manner not specified in subsection (1) of this section.

(3) Without prejudice to the foregoing provisions of this section, and to his powers and duties under sections 8 and 9 of this Act the Minister may allow a child or young person in his care, for any period the Minister may determine or until the Minister shall otherwise direct, to be under the charge and control of a parent, guardian, relative or friend.

(4) The Minister may, at any time and in his discretion, discharge from his care or from the care of the person or institution with whom or with which he has been boarded out, as the case may be, a child or young person taken into his care under subsection (1) of section 4, under section 5 or under subsection (1) of section 6 of this Act, and any such discharge may be granted either absolutely or subject to such conditions as the Minister may determine.

(5) The Minister may also from time to time, as he considers proper, vary any of the arrangements made under this section.

11. (1) For the purpose of advising the Minister in the discharge of his functions under this Act, there shall be a board, to be called the Children and Young Persons Advisory Board, which shall include a mother and a person who, in the opinion of the Minister, has an adequate knowledge of psychology. One of such members, designated by the Minister, shall act as chairman.

Children and
Young Persons
Advisory Board.

(2) The members of the Board shall be appointed by the Minister for such time and on such conditions as the Minister may determine.

(3) It shall be the duty of the Board to advise the Minister on the best methods of dealing with every child or young person committed to or taken into his care in accordance with this Act, to exercise general supervision over such children or young persons and, in general, to promote their welfare.

(4) The Minister shall designate a member of the Department of Social Services to act as Secretary of the Board and the person so designated shall, as part of his duties, be responsible for keeping its records.

(5) Subject to the provisions of this Act and to such regulations as may be made under this Act, the Board shall regulate its own procedure.

Offences.

12. (1) If any child or young person committed to or taken into the care of the Minister under this Act absconds from the premises at which he is required to live or is absent from such premises at a time when he is not permitted to be so absent, he may be apprehended without warrant by any member of the Police and taken back to such premises.

(2) Any person who knowingly compels, incites or assists or in any way aids or abets any such child or young person to abscond or to become or continue to be absent as mentioned in subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine (*multa*) not exceeding one hundred pounds or to both such fine and imprisonment.

Power to make regulations.

13. The Minister shall have power to make regulations as he thinks fit for the better carrying out of the provisions and purposes of this Act, and without prejudice to the generality of the foregoing, such regulations may in particular prescribe or provide for —

(a) the procedure to be adopted in referring a case to the Juvenile Court and the manner and the time within which the said Court shall review the case, under subsections (3) and (4) of section 4 of this Act, respectively;

(b) the procedure of the Board;

(c) the manner in which homes, hostels and institutions referred to in paragraph (a) of subsection (1) of section 10 of this Act shall be administered;

(d) the duties of the persons or institutions with whom or with which children or young persons are boarded out, with respect to such children;

(e) the visiting of children and young persons in care; and

(f) the periodical review by Welfare Officers of the cases of children or young persons in care.

Approved School orders made prior to the commencement of this Act.

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14. Any order made prior to the commencement of this Act under sections 4, 5 and 6 of the Approved Schools Ordinance, 1921, or under subsection (4) of section 36, paragraph (b) of section 37, the proviso to section 38 of the Criminal Code and which is still in force, shall for the duration of its validity in accordance with its own terms have effect to the extent possible as an order made under section 3 of this Act.

15. Saving the provisions of section 14 of this Act —

Repeal.

(a) The Approved Schools Ordinance, 1921,

(b) subsection (4) of section 36, paragraph (b) of section 37, the proviso to section 38 and section 39 of the Criminal Code, and

(c) the Industrial Schools and Houses of Correction Ordinance, Cap. 46

are hereby repealed.

Objects and Reasons

The main Object of this Bill is to make provision for dealing with children and young persons who are in need of care, protection or control according to modern concepts of child care.