

The Tamil Nadu Children Act, 1920

Act 4 of 1920

Keyword(s):

Child, Young Person, Youthful Offender, Guardian, Approved School, Junior Approved School, Senior Approved School



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THE TAMIL NADU CHILDREN ACT, 1920.

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¹[TAMIL NADU] ACT No. IV OF 1920.]²[THE ¹(TAMIL NADU) CHILDREN ACT, 1920.]

(Received the assent of the Governor on the 24th April 1920 and that of the Governor-General on the 29th May 1920 ; the assent of the Governor-General was first published in the Fort St. George Gazette of the 29th June 1920.)

³[An Act to provide for the custody, trial, maintenance, welfare, education and character training of youthful offenders and the care, protection, maintenance, welfare, education and character training of children and young persons who are uncontrollable, or are in moral danger, or destitute, or in need of care and protection.]

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969 which came into force on the 14th January 1969.

² For Statement of Objects and Reasons, see *Fort St. George Gazette*, Part IV, dated the 18th December 1917, pp. 1156—1158. For Report of Select Committee, see *ibid*, dated the 26th August 1919, pp. 1213—1216. For Proceedings in Council, see *ibid*, dated the 26th March 1918, pp. 308—316 and *ibid*, dated the 23rd December 1919, p. 1367 and *ibid*, dated the 8th June 1920, pp. 690—704.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

This Act was extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 3 of, and the Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1957 (Tamil Nadu Act XXII of 1957), repealing the corresponding law in force in that territory.

So much of this Act as was in force on the date of the commencement of the Tamil Nadu (Added Territories) Extension of Laws (No. 2) Act, 1961 (Tamil Nadu Act 39 of 1961) in the State of Madras except in the added territories and related to matters with respect to which the State Legislature had power to make laws for the State was extended to the added territories by section 3 of, and the First Schedule to, the said Tamil Nadu Act 39 of 1961.

³ This was substituted for the long title and preamble by section 2 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

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WHEREAS it is expedient to provide for the custody, Preamble, trial, maintenance, welfare, education and character training of youthful offenders and the care, protection, maintenance, welfare, education and character training of children and young persons who are uncontrollable, or are in moral danger or destitute, or in need of care and protection ;

It is hereby enacted as follows :—]

PART I.

Preliminary.

1. This Act may be called the ¹(Tamil Nadu) Child- Short title.
ren Act, 1920.

²[(2) The ³(State Government) may, by notification from time to time, apply the whole or any portion of this Act to children, young persons or youthful offenders or any class thereof in any local area in the ⁴(State of Tamil Nadu) , from such date as may be specified in the notification and may cancel or modify any such notification.]

⁵[(3) * * * * *]

⁶[2. In areas to which the provisions of this Act relating to youthful offenders have been applied to any class of them, the provisions of the Reformatory Schools Act, 1897, in respect of youthful offenders except section 15 to the extent they apply to such class shall cease to be in force.]

Central
Act VIII
of 1897.

Extent of
application
of the Re-
formatory
Schools Act
in areas to
which the
provisions
of this Act
have been
applied.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969 which came into force on the 14th January 1969.

² This sub-section was substituted for the original sub-section by section 2(1) of the Madras Children (Amendment) Act, 1924 (Madras Act I of 1924).

³ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁴ This expression was substituted for the expression "Presidency of Madras" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

⁵ This sub-section was omitted by section 2 (2) of the Madras Children (Amendment) Act, 1924 (Madras Act I of 1924).

⁶ This section was substituted for the original section by section 3, *ibid*,

Defini-
tions.

3. In this Act, unless there is anything repugnant in the subject or context—

(1) “child” means a person under the age of fourteen years and when used in reference to a child sent to ¹[an approved] school applies to that child during the whole period of detention, notwithstanding that the child attains the age of fourteen years before the expiration of that period ;

(2) “young person” means a person who is fourteen years of age or upwards and under the age of ²[eighteen] years ;

(3) “youthful offender” means any person who has been convicted of an offence punishable with ³[imprisonment] and who at the time of such conviction was under the age of ²[eighteen] years ;

(4) “guardian” in relation to a child, young person, or youthful offender includes any person who in the opinion of the court having cognizance of any case in relation to the child, young person, or youthful offender, or in which the child, young person, or youthful offender is concerned, has for the time being the charge of or control over the child, young person, or youthful offender ;

(5) “⁴[approved] school” means a school established or ⁴[approved] under this Act ;

¹ These words were substituted for the words “a certified” by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This word was substituted for the word “sixteen” by section 4, *ibid.*

³ This word was substituted for the words “transportation or imprisonment” by section 3 of, and the Schedule to, *ibid.*

⁴ This word was substituted for the word “certified” by *ibid.*

(6) “¹[junior approved school].” means ²[an approved school] for the training of children ;

(7) “³[senior approved school]” means ²[an approved school] for the training of youthful offenders ;

(8) “prescribed” means prescribed by rules under this Act.

4. The powers conferred on courts by this Act shall be exercised only by—(a) the High Court, (b) a Court of Session, (c) a District Magistrate, (d) a Sub-divisional Magistrate, (e) salaried Presidency Magistrate⁴, (f) any Juvenile Court constituted under section 36 and (g) any magistrate of the first or second class⁴ specially authorized by the ⁵[State Government] to exercise all or any of such powers ;

and may be exercised by such courts whether the case comes before them originally or on appeal.

¹ These words were substituted for the words “junior certified school” by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words “a certified school” by *ibid.*

³ These words were substituted for the words “senior certified school” by *ibid.*

⁴ According to clauses (a), (b) and (c) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) which came into force on the 1st April 1974, any reference to a magistrate of the first class shall be construed as a reference to a Judicial Magistrate of the first class, any reference to a Magistrate of the second class or of the third class shall be construed as a reference to a Judicial Magistrate of the second class and any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate.

⁵ The words “Provincial Government” were substituted for the words “Local Government” by the Adaptation Order of 1937 and the word “State” was substituted for “Provincial” by the Adaptation Order of 1950.

Procedure
when magis-
trate is not
empowered
to pass an
order under
this Act.

5. (1) When any magistrate not empowered to pass an order under this Act is of opinion that a child or young person brought before him or convicted by him is a proper person to be committed to ¹[an approved school] or to be dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion and submit his proceedings and forward the child or young person to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate or to the magistrate presiding over the nearest juvenile court having jurisdiction in the case.

(2) The magistrate to whom the proceedings are so submitted may make such further enquiry (if any) as he may think fit and may pass such order dealing with the case as he might have passed if the child or young person had originally been brought before or tried by him.

PART II.

²[*Senior approved and junior approved schools.*]

Establish-
ment and
³(approval)
of schools.

6. (1) The ⁴[State Government] may establish and maintain senior ⁵[approved] and junior ⁵[approved] schools for the reception of youthful offenders and children.

¹ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words "Senior certified and junior certified schools" by *ibid.*

³ This word was substituted for the word "certification" by *ibid.*

⁴ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁵ This word was substituted for the word "certified by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

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(2) The ¹[State Government] may ²[approve any senior approved or junior approved school not established under sub-section (1) as being fit] for the reception of youthful offenders or children.

7. (1) For the control and management of every senior ³[approved] or junior ³[approved] school established under section 6, sub-section (1), a superintendent and a committee of visitors shall be appointed by the ¹[State Government] and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act. Management of schools.

(2) Every school ³[approved] under section 6, sub-section (2), shall be under the management of a governing body who shall be deemed to be the managers of the school for the purposes of this Act.

8. (1) The ¹[State Government] may appoint a chief inspector of ³[approved] schools and such number of inspectors and assistant inspectors as it thinks advisable to assist the chief inspector ; and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the ¹[State Government] directs but shall act under the direction of the chief inspector. Inspection of schools.

(2) Every ³[approved] school shall, at least once in every year, be inspected by the chief inspector of ³[approved] schools, or by an inspector or assistant inspector ; provided that where any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall where practicable be conducted by a woman.

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² These words were substituted for the words "certified that any senior certified or junior certified school not established under sub-section (1) is fit" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

³ This word was substituted for the word "certified" by *ibid.*

Power of
Inspectors.

9. ¹[An approved school] shall be liable to inspection at all times and in all its departments by the chief inspector and by the inspector and assistant inspector.

Medical
Inspection.

10. Any registered medical practitioner empowered in this behalf by the ²[State Government] may visit any ³[approved] school at any time with or without notice to its managers in order to report to the chief inspector on the health of the inmates and sanitary condition of the school.

Powers
of State
Government
to withdraw
⁴[approval].

11. The ²[State Government] if dissatisfied with the condition, rules, management, or superintendence of ¹[an approved school], may at any time by notice served on the managers of the school declare that the ⁴[approval] of the school is withdrawn as from a time specified in the notice, and at that time the withdrawal of the ⁴[approval] shall take effect, and the school shall cease to be ¹[an approved school] :

Provided that the ²[State Government] may, if it thinks fit, instead of so withdrawing the ⁴[approval], by notice served on the managers of the school, prohibit the admission of youthful offenders or children to the school for such time as may be specified in the notice or until the notice is revoked.

Resignation
of ⁴[approval]
by managers.

12. The managers of ¹[an approved school] may on giving six months' notice in writing to the ²[State Government] through the chief inspector of their intention so to do, resign the ⁴[approval] of the school, and accordingly at the expiration of six months from the date of the notice (unless before that time the notice is withdrawn) the resignation of the ⁴[approval] shall take effect, and the school shall cease to be [an approved school].

¹ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ This word was substituted for the word "certified" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ This word was substituted for the word "certificate" by *ibid.*

13. A youthful offender or child shall not be received into ²[an approved school] in pursuance of this Act after the date of the receipt by the managers, of the school of a notice of withdrawal of the ¹[approval] or after the date of a notice of resignation of the ¹[approval]; but the obligation hereinafter mentioned of the managers to teach, train, lodge, clothe, and feed any youthful offenders or children detained in the school at the respective dates aforesaid shall, except so far as the ³[State Government] otherwise directs, continue until the withdrawal or resignation of the ¹[approval] takes effect.

Effect of withdrawal or resignation of ¹[approval].

14. When a school ceases to be ²[an approved school], the youthful offenders or children detained therein shall be either discharged or transferred, by order of the ³[State Government], to some ⁴[other approved school] in accordance with the provisions of this Act relating to discharge and transfer.

Disposal of inmates on withdrawal or resignation of ¹[approval].

15. The ³[State Government] may establish auxiliary homes for the reception of any inmates or any classes of inmates of ⁵[approved] schools or may ⁶[approve] any other such home heretofore or hereafter established by any other persons, and ⁷[the approval]

Auxiliary homes.

¹ This word was substituted for the word "certificate" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words "a certified school" by *ibid.*

³ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁴ These words were substituted for the words "other certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁵ This word was substituted for the word "certified" by *ibid.*

⁶ This word was substituted for the word "certify" by *ibid.*

⁷ These words were substituted for the words "the certificate" by *ibid.*

may be withdrawn or resigned in like manner as ¹[an approval] of a school, and every such home shall, for such purposes as are specified by the ²[State Government], be treated as part of the school or schools to which it is attached.

Liabilities
of managers.

16. The managers of ³[an approved school] not established by the ²[State Government] ⁴[shall receive, subject to the availability of accommodation in such school, any child or young person proposed to be sent to them in pursuance of this Act, and when they have once accepted any such child or young person] they shall be deemed to have undertaken to teach, train, lodge, clothe, and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the ⁵[approval] of the school.

Inspection of
⁶[unapproved]
poor schools
and
institutions.

17. (1) The ²[State Government] may cause any institution for the reception of poor children or young persons supported wholly or partly by voluntary contributions, and not liable to be inspected by or under the authority of any Government department, to be visited and inspected from time to time by persons appointed by it for the purpose.

¹ These words were substituted for the words "a certificate" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ These words were substituted for the words "may decline to receive any youthful offender or child proposed to be sent to them in pursuance of this Act, but when they have once accepted any such offender or child" by section 5 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁵ This word was substituted for the word "certificate" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act 1958 (Tamil Nadu Act XXXVII of 1958).

⁶ This word was substituted for the word "uncertified" by *ibid.*

(2) Any person so appointed shall have power to enter the institution at all reasonable hours and to make a complete inspection thereof and of all papers, registers, and accounts relating thereto. Any person who obstructs him in the execution of his duties shall be liable on conviction to a fine not exceeding fifty rupees.

(3) Where any such institution is carried on in accordance with the principles of any particular religious denomination, the ¹[State Government] shall, if so desired by the managers of the institution, appoint, where practicable, a person of that denomination to visit and inspect the institution.

(4) Where any such institution is for the reception of girls only, the inspection shall, where practicable, be conducted by a woman.

PART III.

Youthful offenders.

²[18. (1) Where a person apparently under the age of ³[eighteen] years is arrested on a charge of a non-bailable offence, he shall be informed, as soon as may be, of the grounds for such arrest and, unless he is released on bail under sub-section (2), shall be produced before the nearest Magistrate within a period of twenty-four hours of his arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate.

Detention
and release
on bail of
children
and young
persons.

(2) The officer in charge of a police station before whom such person may be produced shall release him on bail, if sufficient surety is forthcoming,

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

² This section was substituted for the original section by the Adaptation (Amendment) Order of 1950.

³ This word was substituted for the word "sixteen" by section 6 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

unless for reasons to be recorded in writing, the officer believes that such release would defeat the ends of justice or that the release of the child or young person would bring him into association with any reputed criminal.

(3) In no case shall such person be detained in custody beyond the period specified in sub-section (1) without the authority of a Magistrate.]

Custody
in certain
cases
pending
inquiry
or trial.

[19. Notwithstanding anything contained in this Act or in any other law for the time being in force, whenever—

(a) under clause (e) of sub-section (1) of section 29, any person apparently under the age of sixteen years, or

(b) under section 36-H, any girl under the age of sixteen years, or

(c) any child or young person arrested on a charge of an offence under section 7 or section 8 of the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956), is brought before a court, such court shall, pending inquiry or trial, make an order placing such person, girl, child or young person in such custody and in such manner as may be prescribed.]

Remand or
committal to
custody.

20. A court, on remanding or committing for trial a child or young person who is not released on bail, shall order him to be detained in the prescribed manner.

Attendance
at court of
parent of
child or
young
person
charged
with an
offence, etc.

21. (1) Where a child or young person is charged with any offence, or where a child is brought before a court on an application for an order to send him to a junior ²[approved] school, his parent or guardian

¹ This section was inserted by section 7 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This word was substituted for the word "certified" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

may in any case, and shall, if he can be found and resides within a reasonable distance and the person so charged or brought before the court is a child, be required to attend at the court before which the case is heard during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.

(2) Where the child or young person is arrested, the officer in charge of the police station to which he is brought shall cause the parent or guardian of the child or young person, if he can be found, to be warned to attend at the court before which the child or young person will appear.

(3) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual possession and control of the child or young person :

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

(4) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was before the institution of the proceedings removed from the custody or charge of his parent by an order of a court.

22. Notwithstanding anything to the contrary contained in any law no child or young person shall be sentenced to death¹ [or imprisonment] or committed to prison in default of payment of a fine or in default of furnishing security :

Sentences that may not be passed on a child.

¹ These words were substituted for the words "transportation or imprisonment" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

Sentences
that may be
passed on
a child.

Provided that a young person may be sentenced to imprisonment or committed to prison as aforesaid where the court certifies that he is of so unruly or of so depraved a character that he is not a fit person to be sent to a senior ¹[approved] school and that none of the other methods in which the case may legally be dealt with is suitable.

Commitment
of offenders
between
twelve and
²[eighteen]
years of age
to ¹[appro-
ved] schools.

23. (1) Where any person, who in the opinion of the court before which he is charged is ³[twelve years of age or upwards but less than eighteen years of age], is convicted of an offence punishable with ⁴[imprisonment], the court may, in addition to or in lieu of sentencing him according to law to any other punishment, order that he be sent to a ⁵[senior approved school.]

(2) Where a child apparently under the age of twelve years is found to have committed an offence punishable with ⁴[imprisonment], the court, if satisfied on inquiry that it is expedient so to deal with the child, may order him to be sent to a ⁶[junior approved school].

¹ This word was substituted for the word "certified" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This word was substituted for the word "sixteen" by *ibid.*

³ These words were substituted for the words "twelve years of age but less than sixteen years of age" by section 8(i) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ This word was substituted for the words "transportation or imprisonment" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁵ These words were substituted for the words "senior certified school" by *ibid.*

⁶ These words were substituted for the words "junior certified school" by *ibid.*

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(3) Where a child, apparently of the age of twelve or thirteen years, is found to have committed an offence punishable with ¹[imprisonment], and the court is satisfied on inquiry that the child should be sent to ²[an approved school], but, having regard to the special circumstances of the case, should not be sent to a ³[senior approved school], and is also satisfied that the character and antecedents of the child are such that he will not exercise an evil influence over the other children in a ⁴[junior approved school], the court may order the child to be sent to a ⁴[junior approved school] having previously ascertained that the managers are willing to receive the child:

Provided that the ⁵[State Government] may, on application of the managers of the ⁴[junior approved school], by order transfer the child to a ³[senior approved school].

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(4) Where a child or young person has been ordered by a court to give security under section 106 or section 118 of the Code of Criminal Procedure, 1898*, and has failed to do so, the court which passed the order may order such child or young person to be sent to a ⁴[junior approved school] or a ³[senior approved school] respectively.

¹ This word was substituted for the words "transportation or imprisonment" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words "a certified school" by *ibid.*

³ These words were substituted for the words "senior certified school" by *ibid.*

⁴ These words were substituted for the words "junior certified school" by *ibid.*

⁵ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

* See now sections 106 and 117 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

¹[(5)]

Period of
detention.

24. The order in pursuance of which the youthful offender or child is sent to ²[an approved school] shall specify the time for which the youthful offender or child is to be detained in the school, being—

(a) in the case of a youthful offender sent to a ³[senior approved school], not less than two and not more than five years but not in any case extending beyond the time when the youthful offender will, in the opinion of the court, attain the age of ⁴[twenty-one] years ; and

⁵[(b) in the case of a child sent to a junior approved school, such time not being less than two years as to the court may seem proper for the training and education of the child, but not in any case extending beyond the time when the child will, in the opinion of the court, attain the age of eighteen years.]

Power to
discharge
youthful
offender or
⁶[to place
him in]
suitable
custody.

25. ⁷[(1)] A court may, if it shall think fit, instead of directing any youthful offender to be detained in ²[an approved school], order him to be—

(a) discharged after due admonition, or

¹ Sub-section (5) was omitted by section 8(ii) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, *ibid.*

³ These words were substituted for the words "senior certified school" by *ibid.*

⁴ This word was substituted for the word "eighteen" by section 9(i), *ibid.*

⁵ This clause was substituted for original clause (b) by section 9(ii), *ibid.*

⁶ These words were substituted for the words "to commit him to" by section 3 of, and the Schedule to, *ibid.*

⁷ Section 25 was renumbered as sub-section (1) of section 25 by section 2(1) of the Madras Children (Amendment) Act, 1936 (Madras Act 1 of 1937).

(b) ¹[placed in] the custody of his parent or guardian or any adult relative, on such parent, guardian or relative executing a bond, with or without sureties, as the court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months, ²[or

(c) ³[placed in the custody of any suitable person, whether a relative or not, who is willing to undertake the care of the youthful offender, until he attains the age of eighteen years] or for any shorter period ;]

and the court may ⁴[in any case in which it passes an order under clause (a) or clause (b)] pass a further order that the youthful offender be placed ⁵[under the supervision of a probation officer or of some other person, named by the court.]

⁶[(2) Where a court passes an order under this section placing a youthful offender under the supervision of a probation officer or of some other person, such officer or person shall, while the order remains in force, visit, advise and befriend the youthful offender and when necessary endeavour to find him suitable employment.

¹ These words were substituted for the words "committed to" by section 10(i) (a) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This word and clause(c) were inserted by section 2 (1) (i) of the Madras Children (Amendment) Act, 1936 (Madras Act I of 1937).

³ These words were substituted for the words "committed to the custody of any suitable person, whether a relative or not, who is willing to undertake the care of the youthful offender, until he attains the age of sixteen years" by section 10(i) (b) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ These words, letters and brackets were substituted for the words "in either case" by section 2 (1) (ii) of the Madras Children (Amendment) Act, 1936 (Madras Act I of 1937).

⁵ These words were substituted for the words "under the supervision of a person named by the court" by *ibid.*

⁶ Sub-sections (2) and (3) were added by section 2 (2), *ibid.*

(3) [The parent, guardian, relative or other person in whose custody a youthful offender has been placed or the probation officer or other person under whose supervision a youthful offender has been placed, may at any time while the order placing him in such custody or placing him under such supervision remains in force and while the offender is under the age of eighteen years, bring him before the court which passed the order or any other court within the local limits of whose jurisdiction the youthful offender may then be residing, and such court may, if it thinks that it is desirable in the interests of the youthful offender so to do, vary the order or orders previously passed and order him to be sent to ²[an approved school] or pass a fresh order or orders under sub-section (1).]

Power to order parent to pay fine, etc., instead of child or young person.

26. (1) Where a child or young person is convicted of an offence punishable with fine and the court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine be paid by the parent or guardian of the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.

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

¹ These words were substituted for the words "The parent, guardian, relative or other person, to whose custody a youthful offender has been committed, or the probation officer or other person under whose supervision a youthful offender has been placed, may, at any time while the order committing him to such custody or placing him under such supervision remains in force and while the offender is under the age of sixteen years," by section 10(ii) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, *ibid.*

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(3) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898*.

27. (1) When a child or young person is convicted of an offence of so serious a nature that the court is of opinion that no punishment which under the provisions of this Act it is authorized to inflict is sufficient, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the ¹[State Government].

Detention in the case of certain crimes committed by children or young persons.

(2) Notwithstanding the provisions of section 22, the ¹[State Government] may order any such child or young person to be detained in such place and on such conditions as it thinks fit, and while so detained the child or young person shall be deemed to be in legal custody :

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child or young person could have been sentenced for the offence committed.

28. Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Act enabling the court to deal with the case, the case should be dealt with namely, whether,

Methods of dealing with children and young persons charged with offences.

(a) by discharging the offender after due admonition; or

¹ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

*See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

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(b) ¹[by placing the offender in the custody of his parent, guardian, or any adult relative, on such parent, guardian, or relative executing a bond to be responsible for his good behaviour ; or

²[(c) by placing the offender discharged under clause (a) or placed in custody under clause (b) under the supervision of a person named by court ; or]

³[(d) ¹[by placing the offender in the custody] of any suitable person, whether a relative or not, who is willing to undertake the care of the offender ; or]

³[(e)] by sending the offender to a junior ⁴[approved school] or

³[(f)] by sending the offender to a senior ⁴[approved school] ; or

⁵[(g) * * *]

³[(h)] by ordering the offender to pay a fine ; or

³[(i)] by ordering the parent or guardian of the offender to pay a fine ; or

³[(j)] where the offender is a young person, by sentencing him to imprisonment ; or

³[(k)] by dealing with the case in any other manner in which it may legally be dealt with :

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section.

¹ These words were substituted for the words "by committing the offender to the custody" by section 11(i) and (iii) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This clause was substituted for original clause (c) by section 11(ii), *ibid.*

³ Clauses (d) to (j) were relettered as clauses (e) to (k) respectively and clause (d) was inserted by section 3 of the Madras Children (Amendment) Act, 1936 (Madras Act 1 of 1937).

⁴ These words were substituted for the words "certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁵ Clause (g) was omitted by section 11(iv) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

PART IV.

Children and young persons not being youthful offenders.

29. (1) In any area to which the ¹[State Government] shall direct that this section shall apply, any person authorized in this behalf in accordance with rules made by the ²[State Government] may bring before a court any person apparently under the age of ³[sixteen] years who—

(a) is found wandering and not having any home or settled place of abode; or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or

(b) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing ⁴[imprisonment]; or

(c) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or

(d) frequents the company of any reputed thief; ⁵[or]

¹ These words were substituted for the words "certified schools" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ This word was substituted for the word "fourteen" by section 12(i)(a) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ This word was substituted for the words "transportation or imprisonment" by section 3 of, and the Schedule to, *ibid.*

⁵ The word 'or' and clause '(e)' were inserted by section 4(1) of the Madras Children (Amendment) Act, 1936 (Madras Act I of 1937).

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¹[(*dd*) is found in any street or place of public resort begging or receiving alms, whether or not there is any pretence of singing, playing, performing or for the purpose of so begging or receiving alms; or]

²[(*e*) is living in a house used for an immoral purpose or in any other circumstances calculated to cause, encourage or favour the seduction or prostitution of the child ;]

and the court before which a person is brought as coming within one of those descriptions, if satisfied on inquiry of that fact, and that it is expedient so to deal with him, may order him to be sent to a junior ³[approved school].

(2) Where under this Act a court is empowered to order a child to be sent to a junior ⁴[approved school], the court, in lieu of ordering him to be so sent, may make an order ⁵[placing him in suitable custody in the prescribed manner until he attains the age of eighteen years].

⁷[(3) Any police officer or other person authorized by the State Government in this behalf may bring before a court any person apparently of the age of sixteen years so circumstanced that he would come within one or other of the descriptions mentioned

⁴[Power to place child in suitable custody.]

⁵[Power to place young person in suitable custody.]

¹ This clause was inserted by section 12 (i) (b) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² Clause (e) was inserted by section 4 (1) of the Madras Children (Amendment) Act, 1936 (Madras Act 1 of 1937).

³ These words were substituted for the words "certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ These words were substituted for the words "Power to commit child to suitable custody" by *ibid*.

⁵ These words were substituted for the words "for the committal of the child to suitable custody in the prescribed manner until he attains the age of sixteen years" by section 12(ii) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁶ These words were substituted for the words "Power to commit young person to care of relative or fit person in certain cases" by section 3 of, and the Schedule to, *ibid*.

⁷ This sub-section was substituted for original sub-section (3) of section 12 (iii), *ibid*.

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in sub-section (1) and the court if satisfied on inquiry of that fact and that it is expedient so to deal with him, may make an order placing him in suitable custody in the prescribed manner until he attains the age of eighteen years or for any shorter period :

Provided that a girl coming within the description mentioned in clause (e) of sub-section (1) may be placed in such custody until she attains the age of twenty-one years or for any shorter period.]

(4) The court which makes an order ¹[placing a child or young person in] suitable custody under this section may in addition order that the child or young person be placed under the supervision of a person named by the court.

30. Where the parent or guardian of a child ²[or young person] proves to a court that he is unable to control the child ²[or young person]; and that he desires the child ²[or young person] to be sent to ³[an approved school] the court, if satisfied on inquiry that it is expedient so to deal with the child ²[or young person] and that the parent or guardian understands the results which will follow, may ⁴[order the child or young person to be sent to a junior or senior ⁵(approved school), as the case may be.]

Uncontrol-
lable
children.

¹ These words were substituted for the words "committing a child or young person to" by section 12 (IV) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were inserted by section 5 (1) (i) of the Madras Children (Amendment) Act, 1936 (Madras Act I of 1937).

³ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ These words were substituted for the words "order him to be sent to any such school" by section 5. (1) (ii) of Madras Act I of 1937.

⁵ These words were substituted for the words "certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act 1958 (Tamil Nadu Act XXXVII of 1958).

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¹[*Explanation.*—Where any young person is ordered to be sent to ²(an approved school) under this section the provisions of this Act shall, so far as may be, apply to him as if he were a youthful offender.]

PART V.

Maintenance and treatment of persons sent to ³[*approved*] *schools* ⁴[*or placed in suitable custody*].

Contribution
of parent.

31. (1) The court which makes an order for the detention of a youthful offender or child in ²[an approved school] or for ⁵[placing a child or young person in] suitable custody under this Act may make an order on the parent or other person liable to maintain the youthful offender, child or young person to contribute to his maintenance, if able to do so in the prescribed manner.

(2) Any order made under this section may from time to time be varied by the court.

(3) The persons liable to maintain a youthful offender, child or young person shall for the purposes of sub-section (1) include in the case of illegitimacy his putative father :

Provided that where the youthful offender, child or young person is illegitimate and an order for his maintenance has been made under section 488 of

This Explanation was added by section 5 (2) of the Madras Children (Amendment) Act, 1936 (Madras Act I of 1937).

² These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

³ This word was substituted for the word 'certified', by *ibid.*

⁴ These words were substituted for the words "or committed to suitable custody" by section 13 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁵ These words were substituted for the words "the committal of a child or young person to" by section 14, *ibid.*

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the Code of Criminal Procedure, 1898*, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them towards the maintenance of the youthful offender, young person or child.

(4) Any order under this section may be enforced in the same manner as an order under section 488 of

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the Code of Criminal Procedure, 1898*.

32. The managers of a junior ¹[approved] school ^{Boarding out of children.} to which a child under the age of eight years is sent may, with the consent of the chief inspector, board the child out with any suitable person until the child reaches the age of ten years and thereafter for such longer period, with the consent of the chief inspector, as the managers consider to be advisable in the interests of the child, subject to the exercise by the managers of such powers as to supervision, recall, and otherwise as may be prescribed ; and where a child is so boarded out he shall nevertheless be deemed for the purposes of this Act to be a child detained in the school, and the provisions of this Act shall apply accordingly, subject to such necessary adaptations as may be made by the ²[State Government].

¹ This word was substituted for the word " certified " by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

*See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), sections 125 and 126.

Placing out on
licence.

33. (1) Where a youthful offender or child is detained in ¹[an approved school], the managers of the school may at any time with the consent of the chief inspector, or after the expiration of eighteen months of the period of detention without any such consent, by licence permit the youthful offender or child on the conditions prescribed in this behalf to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him:

²[Provided that the chief inspector may exercise the powers conferred on the managers of the school by this sub-section if, in his opinion, there will be delay in obtaining the orders of the managers and such delay will be prejudicial to the interests of the youthful offender or child concerned. A copy of every order made under this proviso shall be communicated forthwith to the ³[State] Government and another copy shall be communicated as soon as may be to the managers of the school.]

(2) Any licence so granted shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(3) The managers of the school may at any time by order in writing revoke any such licence, and order the youthful offender or child to return to the school and shall do so at the desire of the person with whom the youthful offender or child is licensed to live. If the youthful offender or child refuses or fails to return to the school, the managers of the school may, if necessary, arrest or cause to be arrested the youthful offender or child and take him or cause him to be taken back to the school.

¹ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This proviso was added by section 2 of the Madras Children (Amendment) Act, 1939 (Madras Act XIV of 1939).

³ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

(4) When a licence has been revoked or forfeited and the youthful offender or child refuses or fails to return to the school, a court, if satisfied by information on oath that there is reasonable ground for believing that his parent or guardian could produce the youthful offender or child may issue a summons requiring the parent or guardian to attend at the court on such a day as may be specified in the summons, and to produce the child, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, be punishable with a fine not exceeding fifty rupees.

Power to order parent to produce youthful offender or child who refuses to return to a school when licence has been revoked.

(5) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898.*

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Act V
of 1898.

(6) The time during which a youthful offender or child is absent from ¹[an approved school] in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the school: Provided that, where a youthful offender or child has failed to return to the school on the licence being revoked or forfeited the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

34. Whoever—

(a) knowingly assists or induces directly or indirectly a youthful offender or child detained in or placed out on licence from ¹[an approved school] to

Penalty for abetting escape of youthful offender or child.

¹ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

* See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), Secs. 125 and 126.

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escape from the school or from any person with whom he is placed out on licence; or any child or young person to escape from the person ¹[in whose custody he is placed] under the provisions of this Act;

(b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on licence, or to the person ¹[in whose custody he is placed] under this Act, a youthful offender, child or young person who has so escaped, or knowingly assists in so doing

shall be punishable with imprisonment for a term which may extend to two months or with a fine not exceeding two hundred rupees, or with both.

Discharge and
transfer.

35. ²[(1) The State Government may at any time discharge a child placed in suitable custody or a youthful offender or child detained in an approved school, either absolutely or on such conditions as the State Government approves.]

³[(2) The ⁴[State Government] may order—

(a) a youthful offender under the age of ⁵[sixteen] years detained in a ⁶[senior approved school] to be transferred to a ⁷[junior approved school];

¹ These words were substituted for the words "to whose custody he is committed" by section 15 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This sub-section was substituted for the original sub-section (1) by section 16 (i), *ibid.*

³ Sub-sections (2), (3) and (4) were substituted for the original sub-section (2) by section 2 of the Madras Act VI of 1928.

⁴ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁵ This word was substituted for the word "fourteen" by section 16 (ii)(a) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁶ These words were substituted for the words "senior certified school" by section 3 of, and the Schedule to, *ibid.*

⁷ These words were substituted for the words "junior certified school" by *ibid.*

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(b) a youthful offender or child to be transferred from one ¹[senior approved school] to another, or from one ²[junior approved school] to another;

³[(bb) a child placed in suitable custody to be transferred to an approved school;

(bbb) a child detained in an approved school to be transferred to suitable custody;]

(c) a child over the age of twelve years detained in a ²[junior approved school] to be transferred to a ¹[senior approved school],

(i) when such transfer is for the welfare of the child, or

(ii) when the child is found to be exercising an evil influence over any other child or children in the school or is guilty of a serious breach of the rules of the school or of escaping from the school;

(d) a youthful offender over the age of ⁴[sixteen] years detained in a ²[junior approved school] to be transferred to a ¹[senior approved school] when a majority of the other children in the ²[junior approved school] are much below his age, or when there is not sufficient accommodation in the ²[junior approved school];

¹ These words were substituted for the words "senior certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words "junior certified school" by *ibid.*

³ These clauses were inserted by section 16 (ii) (b) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ This word was substituted for the word "fourteen" by section 16 (ii) (c), *ibid.*

(e) a youthful offender over the age of ¹[eighteen] years detained in a ²[senior approved school] to be transferred to a Borstal school established under the ³[Tamil Nadu] Borstal Schools Act, 1925, in the interests of discipline or for other special reasons.]

³[Tamil Nadu] Act V of 1926.

⁴[(2-A) The powers conferred on the ⁵[State] Government by clauses (a), (b), ⁶[(bb), (bbb)], (c) and (d) of sub-section (2) may also be exercised by the chief inspector. A copy of every order passed by the chief inspector under this sub-section shall be communicated forthwith to the ⁵[State] Government with full information regarding the age of the youthful offender or child, the language spoken by him, and such other particulars relating to him as may be prescribed.]

⁷[(3) Upon the transfer of a youthful offender to a Borstal school under clause (e) of sub-section (2) above the provisions of the ³[Tamil Nadu] Borstal Schools Act, 1925, shall apply to such offender as if he had been originally sentenced to detention in a Borstal school under that Act.

³[Tamil Nadu] Act V of 1926.

¹ This word was substituted for the word "sixteen" by section 16 (ii)(d) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These words were substituted for the words "senior certified school" by section 3 of, and the Schedule to, *ibid*.

³ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

⁴ This sub-section was inserted by section 3 of the Madras Children (Amendment) Act, 1939 (Madras Act XIV of 1939).

⁵ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

⁶ These brackets and letters were inserted by section 16 (iii) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁷ Sub-sections (2), (3) and (4) were substituted for the original sub-section (2) by section 2 of Madras Act VI of 1928.

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(4) The total period of detention of the youthful offender or child shall not be increased by any transfer under this section.]

¹[35-A. (1)The ³[State] Government may, generally or specially, notify in the Official Gazette that any² specified ⁴[approved school] situated in the ⁵[State of Tamil Nadu] shall be available for the reception of children, young persons and youthful offenders directed to be sent to ⁶[an approved school], reformatory school, or other school of a like nature by any Court or Magistrate in any other part of ⁷[] India; and thereupon provision may be made for the removal of the children, young persons and youthful offenders concerned accordingly:

Transfers between [approved schools] and schools of like nature in different parts of India.

Provided that no notification shall be published under this sub-section without the consent of the ⁸[] Government of the part of ⁷[] India concerned.

¹ This section was inserted by section 4 of the Madras Children (Amendment) Act, 1939 (Madras Act XIV of 1939).

² These words were substituted for the words "certified schools" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

³ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

⁴ These words were substituted for the words "certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁵ This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

⁶ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958)

⁷ The word "British" was omitted by the Adaptation (Amendment) Order of 1950.

⁸ The word "State", which was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950, was omitted by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957).

(2) The¹[State] Government may direct any child, young person or youthful offender to be transferred from ²[any approved school] in the ³[State of Tamil Nadu] to ²[any approved school], reformatory school, or other school of a like nature in any other part of ⁴[] India:

Provided that no one shall be transferred under this sub-section without the consent of the ⁵[] Government of the part of ⁴[] India concerned.

(3) The ¹[State] Government may consent to the transfer to ⁶[an approved school] under this Act, of a child, young person or youthful offender detained in ²[any approved school], reformatory school, or other school of a like nature in any other part of ⁴[] India and upon such transfer the provisions of this Act shall apply to such child, young person or youthful offender as if he had been originally ordered to be sent to ⁶[an approved school] under this Act].

¹ This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

² These words were substituted for the words "any certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

³ This expression was substituted for the expression "State of Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

⁴ The word "British" was omitted by the Adaptation (Amendment) Order of 1950.

⁵ The word "Stat." which was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950 was omitted by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957).

⁶ These words were substituted for the words "a certified school" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

¹ [35-B. In respect of a youthful offender, child or young person detained as an inmate in an approved school, due for discharge or release, the Chief Inspector, if satisfied that he is incorrigible and that in the interests of the inmate it is expedient to place him, after discharge or release, under the supervision of a probation officer or in an after-care organization, may make an order placing the inmate so discharged or released under the supervision of a probation officer or in an after-care organization established or recognized under the rules made under section 38-A, for a period to be specified in the order.]

Child to be placed under the supervision of a probation officer.

PART VI.

Juvenile Courts.

36. (1) The ²[State Government] may provide for the **Juvenile Courts.** establishment in any district of one or more separate courts for the hearing of charges against children or young persons or of applications for orders or licences relating to a child or young person at which the attendance of the child or young person is required.

¹ This section was inserted by section 17 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(2) Where no such separate court has been established the court before which a child or young person is brought shall ¹[* * * *] whenever practicable, sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.

²[(3) Any court dealing with any case under section 29 shall, whenever practicable, sit either in a different building or room from that in which the ordinary sittings of the court are held or on different dates or at different times from those at which the ordinary sittings are held.

(4) When any juvenile court is, whether on application made to it or otherwise, of opinion that an accused in any trial before that court has committed the offence solely at, and in consequence of, the instigation of an adult, it may direct an investigation to be made by any Police Officer against that adult and such investigation shall be deemed to be an investigation under Chapter XIV of the *Code of Criminal Procedure, 1898.]

Central Act
V of 1898.

¹ The words "unless the child or young person is tried jointly with any other person not being a child or young person" were omitted by section 18 (i) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These sub-sections were added by section 18 (ii), *ibid.*

*See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

PART VI-A.

*Special offence in respect of child or
and young persons.*

36-A. (1) Whoever having the actual charge of or control over, a child or young person wilfully assaults, ill-treats, neglects, abandons or exposes him or causes or procures him to be assaulted, ill-treated, neglected, abandoned, or exposed or neglects, in a manner likely to cause unnecessary mental or physical suffering, to provide adequate food, clothes or medical aid or lodging for the child or young person shall, on conviction, be punishable with imprisonment of either description, for a term which may extend to two years or with fine which may extend to one thousand rupees or with both: Punishment for cruelty to children and young persons.

Provided that where the offence under this section is committed against a woman, being a married young person, the court trying the offence may, for reasons to be recorded in writing, permit the offence to be compounded by the husband or if the husband is the person accused of such offence by some person who had care of her before her marriage.

(2) The infliction of reasonable punishment on a child or young person for a proper reason shall not be deemed to be an offence under this section.

36-B. Whoever employs any child or young person for the purpose of begging or whoever having the custody, charge or care of a child or young person connives at or encourages or allows the employment of such child or young person for the purpose of begging, and whoever uses a child or young person as an exhibit or the purpose of begging shall, on conviction, be punishable with imprisonment of either description Employing children and young persons for begging.

¹ Part VI-A was inserted by section 19 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

for a term which may extend to one year or with fine which may extend to three hundred rupees or with both.

Penalty for giving intoxicating liquor or dangerous drug to child or young person.

36-C. Whoever gives or causes to be given to any child or young person any intoxicating liquor or dangerous drug or employs any child or young person for carrying or transporting liquor or dangerous drug the consumption of which is an offence under any law in force, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for permitting child or young person to enter places where liquor or dangerous drug is sold.

36-D. Whoever takes a child or young person to any place where intoxicating liquor or dangerous drugs are sold and whoever being the proprietor, owner or a person in charge of such place permits a child or young person to enter such place, and whoever causes or procures a child to go to such place, shall, on conviction, be punishable with fine which may extend to two hundred rupees.

Inciting child or young person to bet or borrow.

36-E. Whoever by words either spoken or written or by signs or otherwise incites or attempts to incite a child or young person to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or to borrow money or to enter into any transaction involving the borrowing of money, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Taking on pledge or purchasing articles from child or young person.

36-F. Whoever purchases or takes on pledge any article from a child or young person whether offered by that child or young person on his own behalf or on behalf of any other person, shall, on conviction, be punishable with fine which may extend to five hundred rupees.

36-G. Whoever allows or permits a child over the age of four years or a young person to reside in or frequently go to a brothel shall, on conviction, be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Allowing or permitting child or young person to be in brothel.

36-H. If it appears to a court on the complaint of any person that a girl under the age of sixteen years is with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

Young girls exposed to risk of seduction, etc.,

36-I. (1) Whoever secures a child or young person ostensibly for the purpose of employment or labour and withholds or lives on the earnings of such child or young person, shall, on conviction, be punishable with fine which may extend to one thousand rupees.

Withholding of or living on earnings of child employees.

(2) Whoever exposes a child or young person to the risk of seduction, sodomy, prostitution or other immoral condition, shall, on conviction, be punishable with imprisonment of either description for a term, which may extend to two years or with fine which may extend to one thousand rupees or with both.

36-J. All offences under this Part shall be cognizable.

Offences under this Part cognizable.

PART VII.

Miscellaneous.

Presumption
and determi-
nation of age.

37. (1) Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a child or young person, the court shall make due inquiry as to the age of that person and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person, and, where it appears to the court that the person so brought before it is of the age of¹[eighteen] years or upwards, the person shall for the purposes of this Act be deemed not to be a child or young person.

(2) No court shall in appeal or revision² interfere with any presumption or declaration as to age made under sub-section (1).

Provision as
to religious
persuasion.

38. (1) In determining the²[approved] school to which a youthful offender or child is to be sent under this Act, the court shall endeavour to ascertain the religious persuasion to which the youthful offender or child belongs and shall, if possible, select a school in which facilities are afforded for instruction in his religion.

¹ This word was substituted for the word "sixteen" by section 20 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXX VII of 1958).

² This word was substituted for the word "certified" by section 3 of, and the Schedule to, *ibid*.

(2) Where a child or young person is ¹[placed in suitable custody under this Act, the court in determining the person in whose custody the child or young person shall be placed] shall endeavour in like manner to ascertain the religion of the child or young person and shall, if possible, select a person of the same religion, or a person who gives such undertaking as seems to the court sufficient that the child or young person shall be brought up in accordance with his own religion.

²[38-A. (1) The State Government may, by rules made under this Act, provide for the establishment or recognition of after-care organisations and may vest them with such powers as may be necessary for effectively carrying out their functions under this Act.

(2) Every such organisation shall take care of--

(a) children whose conduct in the approved schools, requires their being placed on probation ;

(b) children whose rehabilitation on discharge from approved schools, requires further attention; and

(c) such other children, as in the opinion of the State Government, require to be kept in suitable custody.

Central
Act V
of 1898.

38-B. (1) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898*, No joint trial of child or young person and adult.

¹ These words were substituted for the words "committed to suitable custody under this Act, the court in determining the person to whose custody the child or young person shall be committed" by section 21 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² These sections were inserted by section 22, *ibid.*

*See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), section 223.

or any other law for the time being in force, no child or young person shall be charged with, or tried for, any offence together with an adult.

(2) If a child or young person is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898*, or any other law for the time being in force such child or young person and an adult would, but for the prohibition contained in sub-section (1), have been charged and tried together, the court taking cognizance of that offence shall direct separate trials of the child or young person and the adult.] Central Act V of 1898.

Removal of
disqualifi-
cation attach-
ing to convic-
tions of offences,

39. The conviction of a child or young person shall not be regarded as a conviction for the purposes of any disqualification attaching to a conviction for any offence.

Circumstances
to be taken
into consid-
eration in
making
orders under
this Act.

[39 A. For the purpose of making any order in respect of a child or young person under this Act, a competent court shall have regard to the following circumstances, namely :—

(a) the age of the child or young person;

(b) the circumstances in which the child or young person or parent of the child or young person is living;

(c) the reports made by or obtained from the probation officer;

(d) the reports made by or obtained from any person or organization approved by the State Government for the purpose;

¹ These sections were inserted by section 23 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

* See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), section 223.

(e) the religious persuasion of the child or young person ; and

(f) such other circumstances as may, in the opinion of the competent court, require to be taken into consideration in the interests of the child or young person as the case may be:

Provided that in the case of a youthful offender, the above circumstances shall be taken into consideration after the competent court has recorded a finding against the person that he has committed the offence.

39-B. (1) The State Government or such authority as may be empowered by it in this behalf may appoint probation officers for carrying out the purposes of this Act. **Appointment of Probation Officers.**

(2) Subject to any rules that may be made under this Act, it shall be the duty of the probation officer—

(a) to visit children and young persons in need of protection and youthful offenders at such intervals as the probation officer may think fit;

(b) to report to the competent court on the behaviour of any child or young person in need of protection or any youthful offender;

(c) to advise and assist children and young persons in need of protection or youthful offenders and if necessary, endeavour to find them suitable employment;

(d) where a child or young person in need of protection or a youthful offender is placed under the care of any person on certain conditions, to see whether such conditions are being complied with; and

(e) to perform such other duties as may be prescribed.

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Reports to be
treated
confidential.

39-C. The report of the probation officer or any other report considered by the competent court under section 39-B shall be treated as confidential:

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or young person or parent of the child or young person is living, the competent court may, if it thinks it expedient, communicate the substance thereof to the child or young person or parent of the child or young person concerned, as the case may be, and may give the child or young person or parent an opportunity to produce such evidence as may be relevant to the matter stated in the report.

Prohibition of
publication of
names, etc.,
of children
and young
persons
involved in
any proceed-
ings under
this Act.

39-D. (1) No report in any newspaper, magazine or news sheet of any inquiry regarding a child or young person under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the child or young person nor shall any picture of any such child or young person be published :

Provided that for reasons to be recorded in writing the court holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interests of the child, or young person as the case may be.

(2) Any person contravening the provisions of sub-section (1) shall be punishable with fine which may extend to one thousand rupees.]

Control of
custodian
over a child.

40.¹ [Any person in whose custody a child or young person is placed] under the provisions of this Act shall, while the order is in force, have the like control over the child or young person as if he were his

¹ These words were substituted for the words "Any person to whose custody a child or young person is committed" by section 24 of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

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parent, and shall be responsible for his maintenance, and the child or young person shall continue in his custody notwithstanding that he is claimed by his parent or any other person.

Central Act V of 1898. 41. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898*, shall, so far as may be, apply to bonds taken under this Act. Bonds taken under the Act

42. (1) An appeal from an order made by a court under sections 26, 29, 30, 31 or 33 shall lie, Appeals.

(a) if passed by a juvenile court or by any Magistrate other than a District or a Presidency Magistrate¹, to a District Magistrate;

(b) if passed by a District Magistrate, to the Court of Sessions;

(c) if passed by a Court of Sessions or a Presidency Magistrate¹, to the High Court.

(2) No appeal shall lie from any order passed in any such appeal.

(3) Any order passed under the provisions of this Act and not otherwise provided for may be revised by the High Court.

²[43. * * * * *].

44. (1) The ³[State Government] may make rules for the purpose of carrying into effect the provisions of this Act. Power to make rules

¹ According to clause (c) of sub-section (3) of section 3 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) any reference to a Presidency Magistrate shall be construed as a reference to a Metropolitan Magistrate.

² This section was omitted by the Adaptation (Amendment) Order of 1950.

³ The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

* See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), Chapter XXXIII.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may be made with regard to—

(a) the establishment and maintenance of ¹[approved] schools and auxiliary homes and the ²[approval] of schools as senior and junior ¹[approved] schools and of auxiliary homes ;

³[(aa) the establishment or recognition of rescue homes and the classes of children, young persons or youthful offenders that may be sent to such homes ;

(aaa) the establishment or recognition of homes and institutions to which children, young persons, and youthful offenders who are mentally deficient or physically handicapped or are suffering from contagious or incurable diseases may be sent for detention ;]

(b) the management of ¹[approved] schools, ⁴[rescue homes] and auxiliary homes ;

(c) the appointment of visitors and their tenure of office ;

(d) the inspection of ¹[approved] schools ;

⁵[(e) the maintenance of the inmates of approved schools and the education and training of such inmates either in such schools or in special cases, in educational institutions or institutions for professional, vocational or technical training outside the limits of such schools;]

¹ This word was substituted for the word "certified" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This word was substituted for the word "certification" by *ibid.*

³ These clauses were inserted by section 25(1) (i) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

⁴ These words were inserted by section 25(1)(ii), *ibid.*

⁵ This clause was substituted for the original clause (e) by section 25 (1) (iii), *ibid.*

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(f) the conveyance of youthful offenders and children to ¹[approved] schools ;

(g) the grant of permission to the inmates of ¹[approved] schools to absent themselves for short periods ;

(h) visits to and communication with the inmates of ¹[approved] schools ;

(i) the punishment of offences committed by the inmates of ¹[approved] schools ;

(j) the inspection of ²[unapproved] institutions under section 17 ;

(k) the class of persons who may be authorized to act under section 29(1) ;

(l) the manner in which ³[children or young persons] may be ⁴[placed in] suitable custody and the supervision of such children and young persons .

(m) the contribution by parents and other persons liable to maintain children and young persons ;

(n) the boarding out, licensing and supervision of children and young persons ;

(o) the procedure to be adopted in any case or inquiry under this Act before any court other than a juvenile court ;

¹ This word was substituted for the word "certified" by section 3 of, and the Schedule to, the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

² This word was substituted for the word "uncertified" by *ibid.*

³ These words were substituted for the words "a child or young person" by the Tamil Nadu Repealing and Amending Act, 1951 (Tamil Nadu Act XIV of 1951).

⁴ These words were substituted for the words "committed to" by section 25 (1) (iv) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).

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(p) the time within which appeals under section 42 shall be filed ;

(q) the detention of children and young persons under arrest or remanded or committed for trial ; and

(r) the procedure to be adopted in juvenile courts.

¹[(3)] All rules made under this section shall be published in the ²[Official Gazette] and, on such publication, they shall have the same effect as if enacted in this Act.

³[(4) All rules made under this Act shall, as soon as possible after they are made, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendments or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session.]

¹ Sub-section (3) was omitted and sub-section (4) was renumbered as sub-section (3) by the Second Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

² These words were substituted for the words "local official gazette" by the Adaptation Order of 1937.

³ This sub-section was added by section 25(2) of the Tamil Nadu Children (Amendment) Act, 1958 (Tamil Nadu Act XXXVII of 1958).