

## **Madras Children Act, 1920**

**04 of 1920**

**[29 June 1920]**

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**PREAMBLE**

An Act to make further provision for the custody, trial and punishment of youthful offenders and for the protection of children and young persons.

WHEREAS it is expedient to provide further for the custody, trial, and punishment of youthful offenders and for the protection of

children and young persons; and whereas the previous sanction of the Governor-General has been obtained under section 79 of the Government of India Act, 1915, to the passing of this Act; It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, Part IV, dated 18th December 1917, pp. 1156-1158. For Report of Select Committee see *ibid*) dated 26th August 1919, pp. 1213-1216. For Proceedings in Council, see *ibid* dated 26th March 1918, pp. 308-316 and *ibid*, dated 23rd December 1919, p. 1367 and *ibid*, dated 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 Madras Merged States (Laws) Act, 1949 (Madras 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 Madras (Transferred Territory) Extension of Laws Act, 1957 (Madras Act XXII of 1957), repealing the corresponding law in force in that territory.

## **PART 1 PRELIMINARY**

### **1. Short title :-**

1. This Act may be called the Madras Children Act, 1920.

**1**[(2) The **2**(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 Presidency of Madras, from such date as may be specified in the notification and may cancel or, modify any such notification.]

**3**[(3) \* \* \* \* \*]

1. 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).

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 sub-section was omitted by section 2(2) of the Madras

Children (Amendment) Act, 1924 (Madras Act I of 1924.).

## **2. Extent of application of the Reformatory Schools Act in areas to which the provisions of this Act have been applied**

:-

<sup>1</sup>[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 (Central Act VIII of 1897), in respect of youthful offenders except section 15 to the extent they apply to such class shall cease to be in force.]

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

## **3. Definitions :-**

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 a certified 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 sixteen years;

(3) "youthful offender" means any person who has been convicted of an offence punishable with transportation or imprisonment and who at the time of such conviction was under the age of sixteen 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) "certified school" means a school established or certified under this Act;

(6) "junior certified school" means a certified school for the training of children;

(7) "senior certified school" means a certified school for the training of youthful offenders;

(8) "prescribed" means prescribed by rules under this Act.

#### **4. Powers of courts :-**

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 Subdivisional Magistrate, (e) salaried Presidency Magistrate, (f) any Juvenile Court constituted under section 36 and (g) any magistrate of the first or second class specially authorized by the <sup>1</sup>[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. 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. Procedure when magistrate is not empowered to pass an order under this Act :-**

(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 a certified 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 Subdivisional 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 2 SENIOR CERTIFIED AND JUNIOR CERTIFIED SCHOOLS**

### **6. Establishment and certification of schools :-**

(1) The <sup>1</sup>[State Government] may establish and maintain senior certified and junior certified schools for the reception of youthful offenders and children.

(2) The <sup>1</sup>[State Government] may certify that any senior certified or junior certified school not established under sub-section (1) is fit for the reception of youthful offenders or children.

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.

### **7. Management of schools :-**

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

(2) Every school certified 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.

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.

### **8. Inspection of schools :-**

(1) The <sup>1</sup>[State Government] may appoint a chief inspector of certified 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 <sup>1</sup>[State Government] directs but shall act under the direction of the chief inspector.

(2) Every certified school shall, at least once in every year, be inspected by the chief inspector of certified 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.

### **9. Power of Inspectors :-**

A certified 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.

### **10. Medical Inspection :-**

Any registered medical practitioner empowered in this behalf by the <sup>1</sup>[State Government] may visit any certified 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.

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.

### **11. Powers of State Government to withdraw certificate :-**

The <sup>1</sup>[State Government] if dissatisfied with the condition, rules, management, or superintendence of a certified school, may at any time by notice served on the managers of the school declare that the certificate of the school is withdrawn as from a time specified in the notice, and at that time the withdrawal of the certificate shall take effect, and the school shall cease to be a certified school:

Provided that the <sup>1</sup>[State Government] may, if it thinks fit, instead of so withdrawing the certificate, 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.

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.

### **12. Resignation of Certificate by managers :-**

The managers of a certified school may on giving six months notice in writing to the <sup>1</sup>[State Government] through the chief inspector of their intention so to do, resign the certificate 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 certificate shall take effect, and the school shall cease to be a certified school.

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.

### **13. Effect of withdrawal or resignation of certificate :-**

A youthful offender or child shall not be received into a certified 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 certificate



or after the date of a notice of resignation of the certificate; 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 <sup>1</sup>[State Government] otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

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.

#### **14. Disposal of inmates on withdrawal or resignation of certificate :-**

When a school ceases to be a certified school, the youthful offenders or children detained therein shall be either discharged or transferred, by order of the <sup>1</sup>[State Government], to some other certified school in accordance with the provisions of this Act relating to discharge and transfer.

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.

#### **15. Auxiliary homes :-**

The <sup>1</sup>[State Government] may establish auxiliary homes for the reception of any inmates or any classes of inmates of certified schools or may certify any other such home heretofore or hereafter established by any other persons, and the certificate may be withdrawn or resigned in like manner as a certificate of a school, and every such home shall, for such purposes as are specified by the <sup>1</sup>[State Government], be treated as part, of the school or schools to which it is attached.

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.

#### **16. Liabilities of managers :-**

The managers of a certified school not established by the <sup>1</sup>[State

Government] 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, 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 certificate of the school.

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.

### **17. Inspection of uncertified poor schools and institutions :-**

(1) The <sup>1</sup>[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.

(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 <sup>1</sup>[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.

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.

### **PART 3 YOUTHFUL OFFENDERS**

#### **18. Detention and release on bail of children and young persons :-**

(1) Where a person apparently under the age of sixteen 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.

(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, 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.]

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

#### **19. [Omitted] :-**

**1**[\*\*\*]

1. This section was omitted by *ibid.*

#### **20. Remand or committal to custody :-**

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.

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

(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 certified school, his parent or guardian 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. Sentences that may not be passed on a child :-**

Notwithstanding anything to the contrary contained in any law no

child or young person shall be sentenced to death transportation or imprisonment or committed to prison in default of payment of a fine or in default of furnishing security:

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 certified school and that none of the other methods in which the case may legally be dealt with is suitable.

### **23. Commitment of offenders between twelve and sixteen" years of age to certified schools :-**

(1) Where any person, who in the opinion of the court before which he is charged is twelve years of age but less than sixteen years of age, is convicted of an offence punishable with transportation or 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 senior certified school.

(2) Where a child apparently under the age of twelve years is found to have committed an offence punishable with transportation or 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 junior certified school.

(3) Where a child, apparently of the age of twelve or thirteen years, is found to have committed an offence punishable with transportation or imprisonment, and the court is satisfied on inquiry that the child should be sent to a certified school, but, having regard to the special circumstances of the case, should not be sent to a senior certified 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 junior certified school, the court may order the child to be sent to a junior certified school having previously ascertained that the managers are willing to receive the child:

Provided that the <sup>1</sup>[State Government] may, on application of the

provided that the [State Government] may, on application of the managers of the junior certified school, by order transfer the child to a senior certified school.

(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(Central Act V of 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 junior certified school or a senior certified school respectively.

(5) Where prior to the commencement of this Act a youthful offender has been sentenced to transportation or imprisonment, the [State Government] may direct that in lieu of undergoing or completing such sentence, if under the age of sixteen years, he shall be sent to a senior certified school; and thereupon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in a senior certified school.

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.

#### **24. Period of detention :-**

The order in pursuance of which the youthful offender or child is sent to a certified 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 senior certified 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 eighteen years; and

(b) in the case of a child sent to a junior certified school such time as to the court may seem proper for the teaching and training 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 sixteen years.

**25. Power to discharge youthful offender or to commit him to suitable custody :-**

**1**[(1)] A court may, if it shall think fit, instead of directing any youthful offender to be detained in a certified school, order him to be--

(a) discharged after due admonition, or

(b) committed to 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) 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 or for any shorter period;]

and the court may **3**[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 **4**[under the supervision of a probation officer or of some other person, named by the court.]

**5**[(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.

(3) 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, 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 a certified school or pass a fresh order or orders under sub-section (1).]

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

2. The word and clause were inserted by section 2(1) (i), *ibid*.

3. 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).

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

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

**26. Power to order parent to pay fine, etc., instead of child or young person :-**

(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 conducted 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.

(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 (Central Act V of 1898).

## **27. Detention in the case of certain crimes committed by children or young persons :-**

(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 <sup>1</sup>[State Government].

(2) Notwithstanding the provisions of section 22, the <sup>1</sup>[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.

1. 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 I of 1937).

## **28. Methods of dealing with children and young persons charged with offences :-**

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.

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

(b) by committing the offender to 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

(c) by so discharging or committing the offender and placing him under the supervision of a person named by the court; or

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

**1**[(e)] by sending the offender to a junior certified school; or

**1**[(f)] by sending the offender to a senior certified school; or

**1**[(g)] by ordering the offender to be whipped; or

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

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

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

<sup>1</sup>[(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. 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 I of 1937).

#### **PART 4 CHILDREN AND YOUNG PERSONS NOT BEING YOUTHFUL OFFENDERS**

##### **29. Children liable to be sent to junior certified schools :-**

(1) In any area to which the <sup>1</sup>[State Government] shall direct that this section shall apply, any person authorized in this behalf in accordance with rules made by the <sup>1</sup>[State Government] may bring before a court any person apparently under the age of fourteen 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 transportation or 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; <sup>2</sup>[or

(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 certified school.

Power to commit child to suitable custody.

(2) Where under this Act a court is empowered to order a child to be sent to a junior certified school, the court, in lieu of ordering him to be so sent, may make an order for the committal of the child to suitable custody in the prescribed manner until he attains the age of sixteen years, or for any shorter period.

Power to commit young person to care of relative or fit person in certain cases.

(3) Any police officer or other person authorized by the <sup>1</sup>[State Government] in this behalf may bring before a court any person apparently of the age of fourteen or fifteen years so circumstanced that if he were a child he would come within one or other of the descriptions mentioned in subsection (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 for his committal to suitable custody in the prescribed manner until he attains the age of sixteen years, or for any shorter period :

<sup>3</sup>[Provided that a girl coming within the description mentioned in clause (e) of sub-section (1) may be committed to such custody until she attains the age of eighteen years, or for any shorter period.]

(4) The court which makes an order committing a child or young person to 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.

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

3. The proviso was added by section 4(2) of the Madras Children (Amendment) Act, 1936 (Madras Act I of 1937).

### **30. Uncontrollable children :-**

Where the parent or guardian of a child <sup>1</sup>[or young person] proves to a court that he is unable to control the child <sup>1</sup>[or young person]; and that he desires the child <sup>1</sup>[or young person] to be sent to a <sup>2</sup>[ . . . ] certified school the court, if satisfied on inquiry that it is expedient so to deal with the child <sup>1</sup>[or young person] and that the parent or guardian understands the results which will follow, may <sup>3</sup>[order the child or young person to be sent to a junior or senior certified school, as the case may be.]

<sup>4</sup>[Explanation.--Where any young person is ordered to be sent to a certified 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.]

1. These words were inserted by section 5(1) (i), *ibid*.

2. The word " junior " was omitted by section 5(1) (ii), *ibid*.

3. These words were substituted for the words "order him to be sent to any such school" by section 5(1) (iii), *ibid*.

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

## **PART 5 MAINTENANCE AND TREATMENT OF PERSONS SENT TO CERTIFIED SCHOOLS OR COMMITTED TO SUITABLE CUSTODY**

### **31. Contribution of parent :-**

(1) The court which makes an order for the detention of a youthful offender or child in a certified school or for the committal of a child or young person to 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 the Code of Criminal Procedure, 1898 (Central Act V of 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 the Code of Criminal Procedure, 1898 (Central Act V of 1898).

### **32. Boarding out of children :-**

The managers of a junior certified school 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 <sup>1</sup>[State Government].

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.

### **33. Placing out on licence :-**

(1) Where a youthful offender or child is detained in a certified 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:

<sup>1</sup>[Provided that the chief inspector may exercise the powers conferred on the managers of the school by this subsection 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 <sup>2</sup>[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.

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

(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.

(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 (Central Act V of 1898).

(6) The time during which a youthful offender or child is absent from a certified 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.

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

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

### **34. Penalty for abetting escape of youthful offender or child**

:-



Whoever--

(a) knowingly assists or induces directly or indirectly a youthful offender or child detained in or placed out on licence from a certified school to 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 to whose custody he is committed 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 to whose custody he is committed 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.

### **35. Discharge and transfer :-**

(1) The <sup>1</sup>[State Government] may at any time order a youthful offender or a child to be discharged from a certified school, either absolutely or on such conditions as the <sup>1</sup>[State Government] approves.

<sup>2</sup>[(2) The <sup>1</sup>[State Government] may order--

(a) a youthful offender under the age of fourteen years detained in a senior certified school to be transferred to a junior certified school;

(b) a youthful offender or child to be transferred from one senior certified school to another, or from one junior certified school to another;

(c) a child over the age of twelve years detained in a junior certified school to be transferred to a senior certified 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 is escaping from the school;

(d) a youthful offender over the age of fourteen years; detained in a junior certified school to be transferred to a senior certified school when a majority of the other children in the junior certified school are much below his age, or when there is not sufficient accommodation in the junior certified school;

(e) a youthful offender over the age of sixteen years detained in a senior certified school to be transferred to a Borstal school established under the Madras Borstal Schools Act, 1925 (Madras Act V of 1926), in the interests of discipline or for other special reasons.

**3**[(2-A) The powers conferred on the **4**[State] Government by clauses (a), (b), (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 **4**[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.]

(3) Upon the transfer of a youthful offender to a Borstal school under clause (e) of sub-section (2) above the provisions of the Madras Borstal Schools Act, 1925 (Madras Act V of 1926), shall apply to such offender as if he had been originally sentenced to detention in a Borstal school under that Act.

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

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

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

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

**35A. Transfers between certified schools and schools of like nature in different parts of India] :-**

<sup>1</sup>[(1) The <sup>2</sup>[State] Government may, generally or specially, notify in the Official Gazette that any specified certified school situated in the <sup>2</sup>[State] of Madras shall be available for the reception of children, young persons and youthful offenders directed to be sent to a certified school, reformatory school, or other school of a like nature, by any Court or Magistrate in any other part of <sup>4</sup>[ ] India; and thereupon provision may be made for the removal of the children, young persons and youthful offenders concerned accordingly;

Provided that no notification shall be published under this subsection without the consent of the <sup>5</sup>[ ] Government of the part of <sup>4</sup>[ ] India concerned.

(2) The <sup>2</sup>[State] Government may direct any child, young person or youthful offender to be transferred from any certified school in the <sup>3</sup>[State] of Madras to any certified school, reformatory school, or other school of a like nature in any other part of <sup>4</sup>[ ] India:

Provided that no one shall be transferred under this subsection without the consent of the <sup>5</sup>[ ] Government of the part of <sup>4</sup>[ ] India concerned.

(3) The <sup>2</sup>[State] Government may consent to the transfer to a certified school under this Act, of a child, young person or youthful offender detained in any certified 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 a certified school under this Act].

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

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

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

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

5. 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 Madras Repealing and Amending Act, 1957 (Madras Act XXV of 1957).

## **PART 6 JUVENILE COURTS**

### **36. Juvenile Courts :-**

(1) The <sup>1</sup>[State Government] may provide for the 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.

(2) Where no such separate court has been established the court before which a child or young person is brought shall unless the child or young person is tried jointly with any other person not being a child or young person, 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.

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.

## **PART 7 MISCELLANEOUS**

### **37. Presumption and determination of age :-**

(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 of sixteen 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 revision interfere with any presumption or declaration as to age made under sub-section (1).

### **38. Provision as to religious persuasion :-**

(1) In determining the certified 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.

(2) Where a child or young person is committed to suitable custody under this Act, the court in determining the person to whose custody the child or young person shall be committed 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.

**39. Removal of disqualification attaching to convictions of offences :-**

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.

**40. Control of custodian over a child :-**

Any person to whose custody a child or young person is committed 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 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.

**41. Bonds taken under the Act :-**

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

**42. Appeals :-**

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

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

**43. [Omitted] :-**

**<sup>1</sup>[\* \* \* \* \*].--**

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

**44. Power to make rules :-**

(1) The <sup>1</sup>[State Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(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 certified schools and auxiliary homes and the certification of schools as senior and junior certified schools and of auxiliary homes;

(b) the management of certified schools and auxiliary homes;

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

(d) the inspection of certified schools;

(e) the maintenance, education and industrial training of the inmates of certified schools;

(f) the conveyance of youthful offenders and children to certified schools;

(g) the grant of permission to the inmates of certified schools to absent themselves for short periods;

(h) visits to and communication with the inmates of certified schools;

(i) the punishment of offences committed by the inmates of certified schools;

(j) the inspection of uncertified institutions under section 17;

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

(l) the manner in which <sup>2</sup>[children or young persons] may be committed to 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;

(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.

**3**[(3)] All rules made under this section shall be published in the **4**[Official Gazette] and, on such publication, they shall have the same effect as if enacted in this Act.

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 "a child or young person" by the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

3. 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).

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