CHAPTER 285*

CHILDREN AND YOUNG PERSONS (CARE ORDERS) ACT

To make provision for the care of children and young persons.

8th August, 1980;
29th November, 1985

ACT XVIII of 1980, as amended by Acts XIII of 1983 and XIII of 2002; Legal Notice 423 of 2007; Act XXXIII of 2014 and II of 2019

Short title.

1. The short title of this Act is the Children and Young Persons (Care Orders) Act.

Interpretation.

2. In this Act -

"Board" means the Children and Young Persons Advisory Board set up under article 11;

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

"guardian" means a tutor or curator and includes a guardian in fact;

"Minister" means the Minister responsible for social welfare.

Care order on conviction of an offence.

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

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

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

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

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

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

(3) If, on an application of the Minister, it appears to the court which has made an order under subarticle (1) in respect of a child

*Repealed by Act XXIII of 2019.
†*See* article 14 (Trans. Prov.) of the Act as originally enacted, which article has been omitted under the Statute Law Revision Act, 1980.

or young person that it is appropriate to discharge the order, the court may so discharge the order.

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(4) Article 25 of the Probation Act shall *mutatis mutandis* apply to any finding of guilty in respect of which an order is made placing the child or young person in the care of the Minister.

Care order in respect of a child or young person in need of care, protection or control.
Amended by: XIII. 2002.12; XXXIII. 2014.2. Substituted by: II.2019.4.

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

(2) A copy of any order made by the Minister under sub-article (1) shall forthwith be sent by registered letter to the person exercising paternal authority over the child or young person, or to his guardian, if any, who shall be asked to state to the Chief Executive Officer of the Social Care Standards Authority within twenty-one days from the date of receipt of the said letter, whether he objects to the said order.

(3) If the person to whom the registered letter is sent under sub-article (2) shall, within the time therein prescribed, signify, even verbally, his objection to the order, the Chief Executive Officer of the Social Care Standards Authority shall, not later than seven days from the date on which he shall have become aware of the objection, refer the case to the Juvenile Court in such manner as shall be prescribed by regulations made under article 13.

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

(5) If the Juvenile Court confirms the order made under sub-article (1), the person referred to in the said sub-article may, after four months following such confirmation, request the Juvenile Court to review the order. Such a request shall be made by means of a registered letter to the Chief Executive Officer of the Social Care Standards Authority. The Chief Executive Officer of the Social Care Standards Authority shall, not later than seven days from the date of the receipt of such letter, refer the case to the Juvenile Court in the same manner as prescribed by the regulations made under article 13, so however that the said Court shall give its decision about the said reference within twenty-one days from when it is made to it.

(6) An order made under sub-article (1) shall, unless it has ceased to have effect earlier, cease to have effect on the date on which the child or young person in respect of whom the order is made attains the age of eighteen years.

Interim order.

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

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

(*b*) that it is in the interest of the said child or young person that he should be taken into the care of the Minister without following the procedure established in, and making an order under, article 4(1),

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

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

Removal order.

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

(2) An order made under subarticle (1) shall cease to have effect on the date on which the child or young person would have been released from prison.

Care, protection or control.

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

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

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

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

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

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

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

Provided that nothing in this Act shall be construed as rendering the Minister liable under article 35(3) and (5), paragraph (*a*) of the proviso to article 36, the provisos to subarticles (1) and (2) of article 39, and article 40(*a*) of the Criminal Code:

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

General duty of Minister.

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

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

Mode of providing accommodation and maintenance.

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

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

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

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

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

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

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

Children and Young Persons Advisory Board.

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

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

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

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

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

Offences. *Amended by: XIII. 1983.5; L.N. 423 of 2007.*

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

(2) Any person who knowingly compels, incites or assists or in any way aids or abets any such child or young person to abscond or to become or continue to be absent as mentioned in subarticle (1) shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding six months or to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94) or to both such fine and imprisonment.

Power to make regulations. *Amended by: XXXIII. 2014.3.*

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

(*a*) the procedure to be adopted in referring a case to the Juvenile Court and the manner and the time within which the said court shall review the case, under article 4(3), (4) and (5), respectively;

(*b*) the procedure of the Board;

(*c*) the manner in which homes, hostels and institutions referred to in article 10(1)(*a*) shall be administered;

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

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

(*f*) the periodical review by welfare officers of the cases of children or young persons in care.

14. *Omitted under Act IX of 1980.*

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