CHAPTER 287

JUVENILE COURT ACT

For the setting up of a Juvenile Court and to provide for matters relating to children and young persons.

25th July, 1980*

Enacted by ACT XXIV of 1980, as amended by Acts: XI of 1985 and VIII of 1990, XXIII of 2021 and LXIV of 2021.

1. This Act may be cited as the Juvenile Court Act. Short title.

2. In this Act, unless the context otherwise requires - Interpretation. *Amended by: LXIV.2021.22.*

"child or young person" means a person who is under the age of eighteen (18) years;

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

"Minister" means the Minister responsible for justice;

"public officer" has the same meaning as is assigned to it by article 124 of the Constitution.

3. (1) There shall be set up in accordance with the provisions of this Act, a court of law to be known as the Juvenile Court for the purpose of hearing charges against, or other proceedings relating to, a child or young person in accordance with this Act and for the purpose of exercising any other jurisdiction conferred on juvenile courts by or under this or any other Act, whether before or after the coming into force of this Act. Juvenile Court. *Amended by: VIII. 1990.3; XXIII.2021.30.*

(2) Without prejudice to sub-article (1), the Juvenile Court shall have a twofold jurisdiction, namely:

(*a*) the Juvenile Court shall be deemed to be a Court of Magistrates and shall have the same jurisdiction with regard to the hearing of charges against children and young persons which the Court of Magistrates, as a court of criminal judicature and as a court of inquiry, would, but for the provisions of this Act, have:

Provided that all the provisions of the Criminal Code and of any other law applicable to the Court of Magistrates shall, subject to the provisions of this Act, apply to the Juvenile Court: Cap. 9.

Provided further that judgments and interlocutory decrees of the Juvenile Court shall be subject to appeal in the same manner and within the same time as would apply to judgments and interlocutory decrees of the Court of Magistrates

See Government Notice No. 380 of the 25th of July, 1980.

as a court of criminal judicature;

(*b*) without prejudice to any previous proceedings, the Juvenile Court shall be deemed to be a Court of Magistrates with civil competence and shall be deemed to have civil jurisdiction with regard to the taking cognizance of proceedings relating to children and young persons in terms of the Minor Protection (Alternative Care) Act.

Cap. 602.

Constitution of Juvenile Court. *Substituted by: XI. 1985.2. Amended by: XXIII.2021.30.*

4. (1) The Juvenile Court shall consist of a magistrate.

(2) In the proceedings before it, except for the proceedings filed in terms of article 3(2)(b) the Juvenile Court shall be assisted by two persons, one of whom shall be a woman, appointed under this article, whom the court may consult in any case for its decision.

(3) Such consultation shall take place in open court, and the court shall not be bound to abide by the opinion of the assistants.

(4) The two assistants shall be appointed by the President, acting in accordance with the advice of the Prime Minister, from amongst persons who in the Prime Minister's opinion have previous experience and special qualifications for dealing with problems of juveniles.

(5) The President may, at any time, appoint more than two persons as assistants of the Juvenile Court but only two such persons shall assist the court in any one case.

(6) The office of an assistant of the Juvenile Court shall become vacant -

(*a*) at the expiration of five years from the date of his appointment or at such earlier time as may be specified in the instrument by which he is appointed; or

(*b*) if he is removed from office in the same manner and on the same grounds as a magistrate may be removed from office.

(7) A person appointed as assistant of the Juvenile Court shall, at the beginning of the first sitting of the court after his appointment, take in open court an oath to discharge his functions faithfully, impartially and in accordance with this Act.

(8) The assistants of the Juvenile Court may abstain or be challenged for the same reasons and on the same grounds as, according to law, a magistrate may abstain or be challenged. Any question regarding any cause of abstention or challenge shall be decided by the magistrate.

Sittings of the Juvenile Court. *Amended by: XI. 1985.3.*

5. (1) The Juvenile Court shall hold sittings in Malta and in Gozo at such regular intervals as may be necessary to expedite its business, and may also sit on Saturdays. The day and time of each sitting shall be determined by the court.

(2) The Minister shall, by notice in the Gazette, determine the building or buildings where the Juvenile Court shall sit in Malta and in Gozo.

Competence of the Juvenile court. *Amended by: XI. 1985.4; VIII. 1990.3; LXIV.2021.23.*

6. (1) Where in the course of any proceedings before the Juvenile Court it appears to the court that the person charged or to whom the proceedings relate has attained the age of eighteen (18) years, the said court may, if it thinks it undesirable to adjourn the case and refer it to the competent Court of Magistrates, proceed with the hearing and determination of the case; if, however, the Juvenile Court thinks otherwise, it shall adjourn the case and refer it to the competent Court of Magistrates which shall take cognizance of the case as if the proceedings had been commenced before the said Court of Magistrates.

(2) Where in the course of any proceedings before a Court of Magistrates it appears to the court that the person charged or to whom the proceedings relate is under the age of eighteen (18) years, the said court shall adjourn the case and refer it to the Juvenile Court which shall proceed with the hearing and determination of the case as if the proceedings had been commenced before the said Juvenile Court.

Child or young person charged jointly with other person of age.

(3) Notwithstanding the provisions of article 3 and of sub-articles (1) and (2), it shall be lawful to charge a child or young person before a court other than the Juvenile Court when the child or young person is charged jointly with another person who is not a child or young person.

Transfer of jurisdiction.

(4) Where a child or young person is charged before a court other than the Juvenile Court jointly with any other person not being a child or young person that court shall notify the Juvenile Court of the charges and the Juvenile Court shall, after granting an opportunity to the parties to the case to make their submissions on whether it should hear the case against the child or young person separately or whether it should transfer its jurisdiction to the court before which the charges were made in order to allow that court to proceed with the hearing of the case, decide whether to transfer its jurisdiction in respect of the child or young person to the court before which the child or young person stands so charged.

(5) Where the Juvenile Court decides that a transfer of jurisdiction to the court before which the charges were made should not take place, the court before which the charges were made shall order the separation of the proceedings against the child or young person from the rest of the proceedings and it shall send the case against the child or young person to be heard separately before the Juvenile Court. In such a case the prosecution shall do all that is necessary for that purpose.

(6) Where the Juvenile Court transfers or declines to transfer its jurisdiction in terms of sub-article (4):

(*a*) no appeal shall lie from the decision to transfer or to decline to transfer jurisdiction or from any decision which implements any transfer so ordered; and

(*b*) where the transfer of jurisdiction is made the

provisions of article 8 shall *mutatis mutandis* apply to the court to which jurisdiction is transferred in respect of the proceedings insofar as they concern the child or young person as if any reference in that article to the Juvenile Court where a reference to the court to which jurisdiction was transferred.

Exclusion of the public from hearings. *Amended by: XI. 1985.5.*

7. No person other than the officials of the Juvenile Court and of the prosecution, the parties to the case and their counsel or other members of the legal profession, representatives of the Ministry responsible for social welfare, witnesses or other persons directly concerned in the case, the parent or other relative or the guardian of the child or young person charged or concerned in the proceedings, and *bona fide* representatives of newspapers, shall, except by leave of the Juvenile Court, be present at a sitting of the same or in any place adjacent to the room in which the hearing of the case or proceedings is held.

Restrictions on reports of proceedings in the Juvenile Court.

8. (1) Without prejudice to anything contained in any other law, and subject as hereinafter provided, no newspaper report of, or sound or television broadcast relating to, any proceedings in the Juvenile Court shall reveal the name, address or school, or include any particulars calculated to lead to the identification, of any child or young person concerned in those proceedings, either as being the person against or in respect of whom the proceedings are taken or as being a witness therein, nor shall any picture be published in any newspaper or on television as being or including a picture of any child or young person so concerned in any such proceedings as aforesaid:

Provided that the Juvenile Court or the Minister may in any case, if satisfied that it is appropriate to do so for the purpose of avoiding injustice to a child or young person, by order dispense with the requirements of this sub-article in relation to him to such extent as may be specified in the order.

(2) Any person who publishes or broadcasts any matter in contravention of sub-article (1) shall be guilty of contempt of the authority of the Juvenile Court and shall be liable to a fine (*ammenda* or *multa*) or to detention in terms of the Criminal Code, saving always any other punishment to which the offender may be liable according to law in respect of any other offence arising from the said publication or broadcast:

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Provided that in respect of such other offence separate proceedings must be instituted, according to law.

(3) Without prejudice to the powers of the Juvenile Court conferred on it by articles 3(2) and (3), if the Police become aware of the publication or broadcast of any matter in contravention of sub-article (1), they shall forthwith inform the Juvenile Court and shall carry out such directions as the Juvenile Court shall give, orally or in writing, for proceedings to be taken before the said court against the offender, either by summons or by arrest.

Power of court to hear evidence with closed doors.

9. (1) Where, in any proceedings before any court of criminal justice in relation to an offence against, or any conduct contrary to, decency or morality, a child or young person is called as a witness,

the court may direct that any person, other than the persons mentioned in article 7, be excluded from the court during the taking of the evidence of the witness.

(2) The powers conferred on a court by this article shall be in addition and without prejudice to any other powers of the court to hold its sittings with closed doors.

Exclusion of children from court. *Amended by: LXIV.2021.24.*

10. No person under the age of sixteen (16) years who is not accompanied by his parent or other relative or guardian shall be permitted to be present in any court of criminal justice during the trial of any person charged with an offence or during any proceedings preliminary thereto; and any person under the age of sixteen (16) years present in court who is unaccompanied as aforesaid shall be ordered to be removed by the court unless he is the person charged with the offence, or except during such time as his presence is required as a witness or otherwise for the purposes of justice.

Provisions applicable to courts of criminal justice.

11. (1) The provisions of article 7 shall *mutatis mutandis* apply to any court of criminal justice where the person or one of the persons charged or indicted, or where the appellant or the respondent or one of the appellants or one of the respondents, is a child or young person.

(2) The provisions of article 8 shall *mutatis mutandis* apply to proceedings before any court of criminal justice.

Power to make regulations. *Substituted by: XI. 1985.6.*

12. The Minister may make regulations for prescribing the remuneration payable to the assistants of the Juvenile Court.