I assent.

(L.S.)

ANTON BUTTIGIEG
President

10th June, 1980

ACT No. XVIII of 1980

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

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

Short title.

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

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

Interpretation.

2. In this Act —

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

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

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

"Minister" means the Minister responsible for social welfare.

Care order on conviction of an offence,

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

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

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

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

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

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

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

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

Care Order in respect of a child or young person in need of care, protection or control.

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

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

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

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

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

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, subsection (1) of section 4 of this Act,

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

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

Removal order.

6. (1) The Minister may, if he is 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 subsection (1) of this section 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 unnecesssary suffering or seriously affect his health or proper development.

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

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

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

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

General duty of Minister.

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

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

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 subsection (1) of this section shall be construed as preventing the Minister from making use, in the case of any child or young person in his care, of the facilities and services available for children or young persons in the care of their parents or gurdian and, for that purpose, arranging for his accommodation and maintenance in any suitable manner not specified in subsection (1) of this section.

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

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

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

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 Services to act as Secretary of the Board and the person so designated shall, as part of his duties, be responsible for keeping its records.

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

Offences.

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

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

Power to make regulations.

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

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

(b) the procedure of the Board;

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

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

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

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

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

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

(a) The Approved Schools Ordinance, 1921,

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

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

are hereby repealed.

Passed by the House of Representatives at Sitting No. 399 of the 9th June, 1980.

C. AGIUS
Speaker

C. MIFSUD
Clerk to the House of Representatives

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