



The Bengal Children Act, 1922

Act 2 of 1922

Keyword(s):

Child, Guardian, Industrial School, Juvenile Court, Reformatory School, Young Person, Youthful Offender

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Bengal Act II of 1922¹

[THE BENGAL CHILDREN ACT, 1922.]²

SUPPLEMENTED	..	Act XXXV of 1925.
REPEALED IN PART	..	Ben. Act VI of 1933.
AMENDED	..	Ben. Act V of 1923. Ben. Act III of 1929.
ADAPTED	..	(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

[29th March, 1922.]

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 80A, sub-section (3), of the Government of India Act, to the passing of this Act;

It is hereby enacted as follows:—

CHAPTER I

Preliminary.

1. (1) This Act may be called the Bengal Children Act, 1922.

(2) It shall come into force ³[in whole or in part] on such date as the ⁴[State Government] may, by notification in the ⁵[Official Gazette], direct, ⁶[and for this purpose different dates may be appointed for different

Short title,
commence-
ment and
local extent.

¹This Act should be read with s. 51 of the West Bengal Children Act, 1959 (West Ben. Act XXX of 1959) and notification (1) No. 1955-S.W./JH-15/60, dated 22.6.61 (2) No. 284-S.W./L.H.-43/61, dated 8.2.63 and (3) No. 479-S.W./4A-4/63, dated 15.3.63, which bring certain sections of the latter Act, into force in Calcutta, Howrah, other places in the districts of Howrah and 24 Parganas and other areas.

²For Statement of Objects and Reasons, see the *Calcutta Gazette*, 1921, Pt. IV, page 21; and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1921, Vol. III, pages 151-156, and Vol. IV, page 123; and also Vol. VII, No. 1, 1922; pages 22-107 and 133-162.

This Act shall, so far as regards the appellate and revisional jurisdiction conferred on the High Court in Calcutta be as valid as if this Act had been passed by the Indian Legislature, see the Madras, Bengal and Bombay Children (Supplementary) Act, 1925 (XXXV of 1925), s. 2.

³The words within square brackets were inserted by s. 2 of the Bengal Children (Amendment) Act, 1923 (Ben. Act V of 1923).

⁴The words "Provincial Government" were originally substituted for the words "Local Government" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵The words within square brackets were substituted for the words "*Calcutta Gazette*" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶The words, brackets and figure within square brackets were added by s. 2 of the Bengal Children (Amendment) Act, 1923 (Ben. Act V of 1923).

(Chapter I.—Preliminary.—Sections 2, 3.)

provisions of this Act and for different parts of the area defined in sub-section (3)].

(3) Subject to the provisions of section 27, this Act extends in the first instance to the town of Calcutta, as defined in section 3 of the Calcutta Police Act, 1866, the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866, the port of Calcutta as defined by notification under section 5 of the Indian Ports Act, 1908, and the Municipality of Howrah, but the ¹[State Government] may, by notification in the ²[*Official Gazette*], extend it to any other town or place in ³[West Bengal].

Ben. Act IV
of 1866.Ben. Act II
of 1866.
XV of 1908.Repeal of
Act VIII of
1897.

2. The Reformatory Schools Act, 1897, with the exception of section 15 thereof, shall be deemed to be repealed—

VIII of 1897.

- (a) in the area to which this Act extends in the first instance under the provisions of section 1, sub-section (3), from the date of the commencement of this Act, and
- (b) in any other town or place to which this Act may hereafter be extended under section 1, sub-section (3), from the date of such extension.

Definitions.

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

- (1) "child" means a person under the age of fourteen years, and when used in reference to a child sent to an industrial school it 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) "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;
- (3) "industrial school" means an industrial school established or certified by the ¹[State Government] under section 6;
- ⁴(3a) "Juvenile Court" means a separate Court established under sub-section (1) of section 37, and includes a Court sitting in the manner provided by sub-section (2) of that section;

¹See foot-note 4 on page 45, *ante*.

²See foot-note 5 on page 45, *ante*.

³The words "West Bengal" were substituted for the word "Bengal" by paragraph (2) of Article 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁴Clause (3a) was inserted by s. 2 of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

of 1922.]

(Chapter I.—Preliminary.—Sections 4, 5.)

- (4) "prescribed" means prescribed by rules under this Act;
- (5) "reformatory school" means a reformatory school established or certified by the ¹[State Government] under section 6;
- (6) "young person" means a person who is fourteen years of age or upwards and under the age of sixteen years; and
- (7) "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. The powers conferred on Courts by this Act shall be exercised only by— Jurisdiction.

- (a) the High Court,
- (b) a Court of Session,
- (c) a Court of an Additional Sessions Judge and of an Assistant Sessions Judge,
- ²(d) a separate Court established under sub-section (1) of section 37,
- (e) a District Magistrate,
- (f) a Subdivisional Magistrate,
- (g) a Presidency Magistrate,
- (h) a Magistrate of the first class,
- (i) any Magistrate of the second class specially empowered by the ¹[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 in appeal or revision.

5. (1) When any Magistrate not empowered to pass an order under this Act is of opinion that a child or young person brought before him or convicted by him is a proper person to be sent to a reformatory or industrial 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 nearest Juvenile Court or Court of a Magistrate having authority to exercise powers under this Act and having jurisdiction in the case.

Procedure when Magistrate is not empowered to pass an order under this Act.

(2) The Court to which the proceedings are submitted under sub-section (1) may make such further inquiry (if any) as it may think fit and may make such order dealing with the case as such Court might have made if the child or young person had originally been brought before it.

¹See foot-note 4 on page 45, ante.

²Clause (d) was substituted for the original clause (d) by s. 3 of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

(Chapter II.—Reformatory and industrial schools.—Sections 6-8.)

CHAPTER II

Reformatory and industrial schools.

Establishment and certification of schools.

6. (1) The ¹[State Government] may establish and maintain reformatory and industrial schools for the reception of youthful offenders and children who may be sent there in pursuance of this Act.

(2) The ¹[State Government], on the application of or with the consent of the managers of any reformatory or industrial school not established under sub-section (1), may certify that such reformatory or industrial school is fit for the reception of youthful offenders or children to be sent there in pursuance of this Act; and may pay to the managers of such school such contributions as the ¹[State Government] may think fit for the maintenance thereof.

Management of schools.

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

(2) Every school certified under section 6, sub-section (2), shall be under the management of such persons as may be approved by the ¹[State Government], and the persons so approved shall be deemed to be the managers of the school for the purposes of this Act.

(3) Where girls and boys are accommodated in any reformatory or industrial school, the accommodation provided for girls shall be in a separate building and compound.

Inspection of schools.

8. (1) The ¹[State Government] may appoint a chief inspector of reformatory and industrial schools and so many inspectors and assistant inspectors as ²[it thinks] fit to assist the chief inspector; and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the ¹[State Government] ³[directs], but shall act under the direction of the chief inspector.

(2) Every reformatory and industrial school shall, at least once in every six months, be inspected by the chief inspector, or by an inspector or assistant inspector:

Provided that when any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall, when practicable, be conducted by a woman.

¹See foot-note 4 on page 45, *ante*.

²The words within square brackets were substituted for the words "they think" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³This word was substituted for the word "direct", *ibid*.

of 1922.]

(Chapter II.—Reformatory and industrial schools.—Sections 9-13.)

9. The chief inspector, or an inspector, or an assistant inspector authorized in that behalf by the chief inspector, may, at any time, enter and inspect any reformatory or industrial school in all its departments.

Power of inspectors.

10. Any qualified medical practitioner empowered in this behalf by the ¹[State Government] may visit any reformatory or industrial school at any time, with or without notice to its managers or other person in charge thereof, in order to report to the chief inspector on the health of the inmates and the sanitary condition of the school:

Medical inspection.

Provided that, in the case of a school for girls only, such practitioner shall, when practicable, be a woman.

11. The ¹[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 the 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:

Power of State Government to withdraw certificate.

Provided that the ¹[State Government] may, if ²[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:

Provided also that before the issue of notice under this section or under the first proviso thereto a reasonable opportunity shall be given to the managers of the school to show cause why the certificate shall not be withdrawn or admission to the school not be prohibited, as the case may be.

12. The managers of a certified school, on giving six months' notice in writing to the ¹[State Government], through the chief inspector, of their intention so to do, may resign the certificate of the school, and, accordingly, at the expiration of six months from the date of the receipt of the notice by the chief inspector (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.

Resignation of certificate by managers.

13. No youthful offender or child shall 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 for the school, or after the date of the issue of a notice of resignation of

Effect of withdrawal or resignation of certificate.

¹See foot-note 4 page 45, ante.

²See foot-note 2 page 48, ante.

(Chapter II.—Reformatory and industrial schools.—Sections 14-16.—
Chapter III.—Youthful offenders.—Section 17.)

the certificate; but the obligation of the managers of the school, mentioned in section 16, 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 ¹[State Government] otherwise ²[directs], continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates when school ceases to be certified.

14. When a school ceases to be a certified school, the youthful offenders or children detained therein shall, by order of the ¹[State Government], be discharged absolutely or on such conditions as the ¹[State Government] may impose or be transferred to some other reformatory or industrial school or auxiliary home in accordance with the provisions of this Act.

Auxiliary homes.

15. The ¹[State Government] may establish auxiliary homes for the reception of any inmates or any classes of inmates of reformatory or industrial schools, or may certify any other such home established before or after the passing of this Act by any other persons, and the certificate may be withdrawn or resigned in like manner as a certificate of a reformatory or industrial school; and every such home shall, for such purposes as may be specified by the ¹[State Government], be treated as part of the school or schools to which it is attached.

Liabilities of managers.

16. The managers of a certified school 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 and train and, further, if the school is residential, to 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 takes effect:

Provided that the ¹[State Government] may, on an application made in that behalf by the managers of a certified school, arrange for the transfer of such offender or child to any other reformatory or industrial school.

CHAPTER III

Youthful offenders.

Bail of child or young person.

17. When a person apparently under the age of sixteen years is arrested and cannot be brought forthwith before a Court, the officer in charge of the police-station to which such person is brought may in any case and shall, unless the charge is one of culpable homicide or any other offence punishable with death or transportation, release him on bail, with or without sureties:

Provided that when a girl apparently under the age of sixteen years is arrested, the officer in charge of a police-station who has made the arrest,

¹See foot-note 4 on page 45, *ante*.

²See foot-note 3 on page 48, *ante*.

of 1922.]

(Chapter III.—Youthful offenders.—Sections 18-20.)

or before whom the girl has been produced, shall release her at once if any person, who in his opinion is a sufficient surety, enters into a bond for such sum of money as the officer considers sufficient, to produce her before the Court and to appear in her stead, if required, at the police-station.

18. (1) When a person apparently under the age of sixteen years having been arrested is not released on bail as provided in section 17, the officer in charge of the police-station shall cause him to be detained in a place other than a police-station or jail in the prescribed manner, until he can be brought before a Court.

Custody of child or young person not released on bail.

(2) No police-officer shall, however, detain in custody any such person for a longer period than is reasonable under all the circumstances of the case; and such period shall not, in the absence of a special order of a Court, exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Court.

19. A Court, on remanding or committing for trial a child or young person who is not released on bail as provided in section 17, shall, instead of committing him to prison, order him to be detained in a place other than a police-station or jail in the prescribed manner, for the period for which he is remanded.

Remand or committal to custody.

20. (1) When a child or young person is charged with any offence, or when a child is brought before a Court on an application for an order to send him to an industrial 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.

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

(2) When the child or young person is arrested, the officer in charge of the police-station to which he is brought shall forthwith inform the parent or guardian, if he can be found, of such arrest, and shall also cause him to be warned to attend at the Court before which the child or young person will appear.

(3) The parent or guardian, whose attendance is 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 the parent or guardian is a person other than the father, the attendance of the father or, if the father is dead or cannot be found, the attendance of the nearest adult male relative 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.

(Chapter III.—Youthful offenders.—Sections 21, 22.)

(5) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child or young person, if such mother or female guardian does not, according to the customs and manners of the country, appear in public, but any such person may appear before the Court by a pleader or agent.

Restrictions on punishment of children and young persons.

21. 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:

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

Mode of sending youthful offenders to reformatory or industrial schools.

Commitment of offenders between twelve and sixteen years of age to reformatory or industrial schools.

22. (1) When a youthful offender, who in the opinion of the Court before which he is charged is twelve years of age or upwards, 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 reformatory school:

Provided that when the offender is ordered to be sent to a reformatory school he shall not in addition be sentenced to imprisonment.

(2) When a youthful offender of twelve years age or upwards has been sentenced to transportation or imprisonment, the ¹[State Government] may direct that, in lieu of undergoing or completing such sentence, he shall be sent to a reformatory 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 reformatory school.

(3) When a youthful offender, who in the opinion of the Court before which he is charged is under twelve years of age, is convicted of an offence punishable with death, transportation or imprisonment, the Court may order that he be sent to an industrial school.

(4) When a youthful offender of the age of twelve or thirteen years, who has not previously been convicted, is convicted of an offence punishable with transportation or imprisonment, and the Court is satisfied that the youthful offender should be sent to an industrial school, but, having regard to the special circumstances of the case, should not be sent to a reformatory school, and is also satisfied that the character and antecedents of the youthful offender are such that he will not exercise an evil influence over the other inmates of an industrial school, the Court may order the youthful offender to be sent to an industrial school after previously ascertaining that the managers are willing to receive him:

Provided that the ¹[State Government] may, on the application of the managers of the industrial school, by order, transfer the youthful offender to a reformatory school.

of 1922.]

(Chapter III.—Youthful offenders.—Sections 23-25.)

(5) When a young person has been ordered by a Court to give security under section 106 or section 118 of the Code of Criminal Procedure, 1898, and has failed to do so, the Court which made the order may order such young person to be sent to a reformatory school.

23. Every order, in pursuance of which a youthful offender or child is sent to a reformatory or industrial school, shall specify the time for which the youthful offender or child is to be detained in the school, being—

Period of detention.

- (a) in the case of a youthful offender sent to a reformatory 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 an industrial 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.

Other ways of dealing with youthful offenders.

24. A Court may, if it shall think fit, instead of directing any youthful offender to be detained in a reformatory or industrial school, order him to be—

Power to discharge youthful offender or to commit him to suitable custody.

- (a) discharged after due admonition, or
- (b) committed to the custody of his parent or guardian or any adult relative, or failing any such person, or if any such person is found unfit by the Court, then to the custody of any trustworthy and respectable person, on such parent, guardian, relative or person 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,

and the Court may, in addition to such order, make an order that the youthful offender be placed under the supervision of a person to be named by the Court.

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

Power to order parent to pay fine. etc.

(Chapter III.—Youthful offenders.—Section 26.—Chapter IV.—
Mode of sending neglected children to industrial schools.—Section 27.)

(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, on such order shall be made without giving the parent or guardian an opportunity of being heard.

(3) Any order directing that a parent or guardian shall pay a fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898.

(4) A parent or guardian may appeal against any such order as if it had been an order passed in proceedings against himself.

Act V of
1898.

Detention in
the case of
certain
crimes
committed by
children.

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

(2) Notwithstanding the provisions of section 21, the ¹[State Government] may order any such child to be detained in such place and on such conditions as ²[it thinks] fit, and whilst so detained the child 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 could have been sentenced for the offence committed:

Provided also that at any time during the period of such detention the ¹[State Government] may, if ²[it thinks] fit, direct that in lieu of such detention the youthful offender be kept in a reformatory school until he has attained the age of eighteen.

CHAPTER IV

Mode of sending neglected children to industrial schools.

Children
liable to be
sent to
industrial
schools.

27. (1) In any area to which the ¹[State Government] may, by notification in the ³[Official Gazette], direct that this section or any portion of it shall apply, a Court having jurisdiction under this Act—

- (i) upon receiving a petition in this behalf, or
- (ii) upon a police report, or
- (iii) upon its own knowledge or suspicion,

may, either by a summons to the parent or guardian of a child apparently under the age of fourteen years or by a warrant to be executed by a police-officer not below the rank of sub-inspector or by some other person

¹ See foot-note 4 on page 45, ante.

² See foot-note 2 on page 48, ante.

³ See foot-note 5 on page 45, ante.

of 1922.]

(Chapter IV.—Mode of sending neglected children to industrial schools.—Section 27.)

authorized by the '[State Government] in this behalf, order the production of such child on such a day as may be specified in the summons or warrant if the Court has reason to believe that the child—

- (a) lives by begging; or
- (b) is 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) is under the care of a parent or guardian who habitually neglects or cruelly ill-treats the child; or
- (e) frequents the company of any reputed thief or prostitute; or
- (f) is living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child.

(2) In any such area, any person authorized by the '[State Government] in this behalf may bring before a Juvenile Court or Court of a Magistrate having jurisdiction under this Act any child apparently under the age of fourteen years who—

- (a) is found in any street or place of public resort begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any such street or place for the purpose of so begging or receiving alms; or
- (b) 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
- (c) 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
- (d) frequents the company of any reputed thief or prostitute; or
- (e) lives in houses of ill-fame; or
- (f) is subject to cruel treatment;

and the Court before which a child is brought as coming within one of those descriptions shall examine the information and record the substance of such examination, and shall, if it thinks that there are sufficient grounds for inquiring further, fix a date for such inquiry.

¹See foot-note 4 on page 45, *ante*.

(Chapter IV.—Mode of sending neglected children to industrial schools.—Section 28.)

(3) On the date fixed for the production of the child under sub-section (1) or for the inquiry under sub-section (2), or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child to an industrial school should not be passed and make any further inquiry it thinks fit.

(4) If, after inquiry, the Court is satisfied that it is expedient to send the child to an industrial school, it shall pass an order to that effect.

(5) If, after inquiry, the Court is satisfied that the child has been living by begging at the instance or for the profit of any person who is a professional keeper of begging children, then the Court may direct such person to appear before it and, after hearing him in his defence, may, in its discretion, direct him to pay towards the cost of the proceedings any amount not exceeding twenty-five rupees, and such cost shall be realizable under the provisions of the Code of Criminal Procedure, 1898, as if it were a fine.

Act V of
1898.

Power to
commit
child or
young
person to
suitable
custody.

28. (1) When under this Act a Court is empowered to order a child to be sent to an industrial 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.

(2) Any person authorized by the ¹[State Government] in this behalf may bring before a Juvenile Court or Court of a Magistrate having authority to exercise powers under this Act and having jurisdiction in the case any young 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 section 27, and the Court, if satisfied, after inquiry in the manner prescribed by section 27, sub-sections (2) and (3), 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.

(3) 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 to be named by the Court.

²(4) Notwithstanding anything contained elsewhere in this Act, no order shall be passed sending a child to an industrial school, unless the Court is satisfied that accommodation suitable for such child is available.

¹See foot-note 4 on page 45, ante.

²Sub-section (4) was added by s. 3 of the Bengal Children (Amendment) Act, 1923 (Ben. Act V of 1923).

of 1922.]

(Chapter IV.—Mode of sending neglected children to industrial schools.—Sections 29, 30.—Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody.—Section 31.)

29. The ¹[State Government], at the request of the Court or on the application of a parent or relative of the child, may make an order directing the restitution on such conditions as may be specified in the order of any child, who having been dealt with by a Court under section 27, sub-section (4), has either been sent to an industrial school or committed under section 28, to such parent or relative of the child as the ¹[State Government] may select; and the order passed by the Court in respect of such child shall thereupon be deemed to be modified accordingly.

Power to State Government to restore child to parent or relative.

30. If it appears to a Court, on the complaint of any person, that a girl under the age of sixteen years is being treated with cruelty by her parent or guardian or that such girl, with the knowledge of her parent or guardian, is exposed to the risk of seduction or prostitution or living a life of prostitution, the Court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Care of girls.

CHAPTER V

Maintenance and treatment of persons in reformatory or industrial schools or under custody.

31. (1) The Court which makes an order for the detention of a youthful offender or child in a reformatory or industrial school, or for the committal of a child or young person to suitable custody under this Act, may order the parent or other person liable to maintain the youthful offender, young person or child to contribute to his maintenance, if able to do so, in the prescribed manner.

Contribution of parent.

(2) The Court, before making an order under sub-section (1), shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender, young person or child, and shall record the evidence, if any, in the presence of the parent or such other person, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader.

(3) The persons liable to maintain a youthful offender, young person or child shall, for the purposes of sub-section (1), include, in the case of illegitimacy, his putative father against whom an order under section 488 of the Code of Criminal Procedure, 1898, has already been passed, or who has been otherwise declared to be the putative father by any competent Court or authority:

Provided that where the youthful offender, young person or child is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the Court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the sums accruing due under the said order for maintenance to be paid to such person as may be named by the Court, and such sums shall be applied by him towards the maintenance of the youthful offender, young person or child.

Act V of 1898.

¹See foot-note 4 on page 45, ante.

(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody.—Sections 32-34.)

(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.

Act V of
1898.

Boarding
out of
children.

32. The managers of an industrial school to which a child under the age of eight years is sent may, with the consent in writing 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 in writing 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, when 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, so far as possible.

Placing out
on license.

33. (1) When a youthful offender or child is detained in a reformatory or industrial school, the managers of the school may at any time, with the consent in writing, of the chief inspector, by license, permit the youthful offender or child, on such conditions as may be prescribed, to live with any trustworthy and respectable person named in the license willing to receive and take charge of him with a view to train him for some useful trade or calling.

(2) Any license 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 license, and order the youthful offender or child to return to the school, and shall do so at the desire of the person to whom the youthful offender or child is licensed.

(4) If the youthful offender or child refuses or fails to return to the school, the managers of the school may, if necessary, arrest him, or cause him to be arrested, and may take him, or cause him to be taken, back to the school.

(5) The time during which a youthful offender or child is absent from a reformatory or industrial school in pursuance of a license under this section shall be deemed to be part of the time of his detention in the school:

Provided that, when a youthful offender or child has failed to return to the school on the license 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.

Power to
order parent
to produce a
youthful
offender or
child who
refuses to
return to a
school.

34. (1) When a license 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

of 1922.]

(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody.—Sections 35, 36.)

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 or any other law, be liable to a fine not exceeding twenty-five rupees.

(2) Any order directing that a parent or guardian shall pay a fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898.

Act V of 1898.

35. Whoever—

- (a) knowingly assists or induces, directly or indirectly, a youthful offender or child detained in or placed out on license from a reformatory or industrial school to escape from the school or from any person with whom he is placed out on license; or any child or young person to escape from the person to whose custody he is committed under this Act; or
- (b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on license, or to the person to whose custody he is committed under this Act, a youthful offender, young person or child who has so escaped, or knowingly assists in so doing;

Penalty for abetting escape of youthful offender or child.

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

36. (1) The ¹[State Government] may, at any time, order a youthful offender or a child to be discharged from a reformatory or industrial school either absolutely or on such conditions as the ¹[State Government] ²[approves].

Discharge and transfer.

(2) The ¹[State Government] may order—

- (a) a youthful offender or child to be transferred from one reformatory school to another, or from one industrial school to another;
- (b) a youthful offender under the age of fourteen years detained in a reformatory school to be transferred to an industrial school;
- (c) a young person detained in an industrial school, who is found to be exercising an evil influence over the other inmates of the school or who is guilty of a serious breach of the rules of the school or of escaping from the school, to be transferred to a reformatory school:

Provided that the whole period of the detention of the youthful offender, young person or child shall not be increased by the transfer.

¹See foot-note 4 on page 45, ante.

²This word was substituted for the word "approve" by paragraph 5(2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter VI.—Miscellaneous.—Sections 37, 37A, 38.)

CHAPTER VI

Miscellaneous.

Juvenile
Courts.

37. (1) [Notwithstanding any thing contained in the Code of Criminal Procedure, 1898, the State Government may, by notification in the *Official Gazette*, provide for the establishment for any district or any other area specified in the notification] of one or more separate Courts for the hearing of charges against children or young persons or of applications for orders of licenses relating to a child or young person at which the attendance of the child or young person is required.

Act V of
1898.

(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 charged 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 held or on different days or at different times from those at which the ordinary sittings are held.

* * * * *

Detention of
child or
young
person
pending trial
or on
conviction.

¹37A. Any child or young person charged with an offence may, pending trial or on conviction, be detained in the prescribed manner in a place, whether in Calcutta or elsewhere, to be set apart by the [State Government] for the detention of children or young persons.

Presumption
and determina-
tion of age.

38. (1) Whenever a person, whether charged with an offence or not, is brought before any criminal 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, and shall record a finding thereon, stating his age as nearly as may be.

(2) An order or judgment of the Court shall not be invalidated by any subsequent proof that the age of such person has not been correctly stated by the Court, and the age presumed or declared by the Court to be the age

¹The words and figures "Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the Provincial Government may, by notification in the *Calcutta Gazette*, provide for the establishment for any district or any other area specified in the notification" were originally substituted for the words, brackets and figures "The Local Government may provide for the establishment for any district or local area" by s. 4(1) of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929), and thereafter the words "*Official Gazette*" were substituted for the words "*Calcutta Gazette*" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and the word, "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation Laws Order, 1950.

²Sub-section (3) was repealed by s. 4(2) of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

³Section 27A was inserted by s. 5. *ibid.*

⁴See foot-note 4 on page 45, *ante*.

of 1922.]

(Chapter VI.—Miscellaneous.—Sections 39-41.)

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.

39. (1) In determining the reformatory or industrial 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, and shall pass an order to that effect.

Provision as to religious persuasion.

(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 the religion of such child or young person, and shall pass an order to that effect.

(3) Where under section 32 or section 33 a child or a youthful offender is boarded out or is permitted by license to live with any other person, the manager of the school shall select for this purpose a person of the same religion as the child or youthful offender or a person who gives a satisfactory undertaking that the child or the youthful offender shall be brought up in accordance with the religion of such child or youthful offender.

40. If any person over the age of sixteen years, who has the custody, charge or care of any child or young person, assaults, ill-treats, neglects, abandons or exposes such child or young person, or causes such child or young person to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child or young person unnecessary suffering or injury to his health (including injury to or loss of sight or hearing or limb or organ of the body, and any mental derangement), that person shall be punishable with imprisonment for a term not exceeding two years or with fine not exceeding two hundred rupees, or with both.

Penalty for cruelty to child or young person.

41. If any person having the custody, charge or care of a girl under the age of sixteen years causes or encourages or abets the seduction or prostitution of that girl, he shall be punishable with imprisonment for a term not exceeding two years.

Penalty for causing, encouraging or abetting seduction or prostitution of young girl.

¹Section 41 is repealed in the areas in which the Bengal Suppression of Immoral Traffic Act, 1933 (Ben. Act IV of 1933) is in force

(Chapter VI.—Miscellaneous.—Sections 42-47.)

Penalty for taking pawn from a child.

42. If a pawn-broker takes an article in pawn from any child, whether offered by that child on his own behalf or on behalf of any other person, he shall be punishable with fine not exceeding one hundred rupees.

Authority of persons having custody of child or young person.

43. Notwithstanding anything contained in any other law, 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 protection, and the child or young person shall continue in his custody notwithstanding that he is claimed by his parent or any other person.

Custody of youthful offenders, young persons and children in places of detention.

44. (1) A copy of the order or judgment, in pursuance of which a youthful offender, young person or child is committed to custody in a place of detention provided under this Act, shall be delivered with him to the person in charge of the place of detention, and shall be a sufficient authority for his detention in that place in accordance with the terms thereof.

(2) Any such person shall during such detention and whilst being conveyed to and from the place of detention be deemed to be in legal custody, and, if he escapes, may be arrested without a warrant and be brought back to the place of detention where he was detained.

Inspection of institutions for poor children.

45. (1) The [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], to be visited and inspected from time to time by persons appointed by the [State Government] for the purpose.

(2) Any person so appointed shall have power to enter the institution and to make a complete inspection thereof and of all papers, registers, and accounts relating thereto.

(3) Whoever obstructs any person appointed under sub-section (1) in the discharge of his duties, or refuses or wilfully neglects to furnish him with the necessary means of making any entry or inspection, shall be punishable with fine which may extend to fifty rupees.

Procedure in respect of bonds.

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

Act of 1898.

Removal of disqualification attaching to convictions of offences.

47. Notwithstanding anything contained in any other law, the conviction of a child or young person shall not be regarded as a disqualification attaching to a conviction of an offence under such law.

¹See foot-note 4 on page 45, *ante*.

²The words within square brackets were substituted for the words "the Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1922.]

(Chapter VI.—Miscellaneous.—Section 48.)

48. (1) The ¹[State Government] may make rules for carrying out the purposes of this Act. Rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the ¹[State Government] may make rules—

- (a) for the establishment, certification and maintenance of reformatory and industrial schools and auxiliary homes;
- (b) for the inspection of reformatory and industrial schools and auxiliary homes and prescribing the powers and duties of the chief inspector, and other inspectors;
- (c) prescribing the powers and duties of the managers of reformatory and industrial schools;
- (d) regulating the choice of a school;
- (e) for the boarding out, licensing and supervision of children and young persons;
- (f) for the contribution by parents and other persons liable to maintain children and young persons;
- (g) regulating the disposal and after-care of the inmates of reformatory and industrial schools and for the appointment of visitors and their tenure of office;
- (h) for the management of reformatory and industrial schools and auxiliary homes;
- (i) for the education and industrial and moral training of the inmates of reformatory and industrial schools and for the credit to them of a portion of the proceeds of their work;
- (j) for the conveyance of youthful offenders and children to reformatory and industrial schools;
- (k) prescribing visits to and communication with the inmates of reformatory and industrial schools;
- (l) for the grant of permission to the inmates of reformatory and industrial schools to absent themselves for short periods;
- (m) prescribing the punishment of offences committed by the inmates of reformatory and industrial schools;
- (n) prescribing the manner in which a child or young person may be committed to suitable custody and for the supervision of such children and young persons;
- (o) for the detention of children and young persons under arrest or remanded or committed for trial ²[or on conviction]; and,
- (p) prescribing the procedure to be adopted in Juvenile Courts.

¹See foot-note 4 on page 45, *ante*.

²These words were inserted by s. 6 of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

(Chapter VI.—Miscellaneous.—Sections 49, 50.)

* * * * *

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

Appeal.

49. (1) ¹[Notwithstanding anything contained in the Code of Criminal Procedure, 1898, and appeal from an order made by a Court under the provisions of this Act shall lie;]

Act V of 1898.

- (a) if passed by a Magistrate other than a District Magistrate or a Presidency Magistrate, to the District Magistrate;
- (b) if passed by a District Magistrate, to the Court of Sessions;
- (c) if passed by a Court of Session or Court of an Additional Sessions Judge or of an Assistant Sessions Judge or by a Presidency Magistrate, to the High Court.

⁴(1a) Notwithstanding anything contained in the said Code, or in sub-section (1), an appeal from an order made by a separate Court established under section 37, sub-section (1), shall lie to the District Magistrate within the local limits of whose jurisdiction such Juvenile Court is held or to the Chief Presidency Magistrate when such Court is held within the local limits of his jurisdiction.

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

Revision.

50. Any order passed under the provisions of this Act and not otherwise provided for may be revised by the High Court either on the report of a Sessions Judge or of a District Magistrate ⁵[or of the Chief Presidency Magistrate], or on the application of a party interested, or on its own initiative.

¹Sub-section (3) was omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

²See foot-note 5 on page 45, *ante*.

³The words and figures within square brackets were substituted for the words, brackets and figures "An appeal from an order made by a Court under sections 25, 27, 31 or 39 shall lie," by s.7(1) of the Bengal Children (Amendment) Act, 1929 (Ben. Act III of 1929).

⁴Sub-section (1a) was inserted by s. 7(2), *ibid*.

⁵The words within square brackets were inserted by s. 8, *ibid*.