

CHAPTER 14

JUVENILE OFFENDERS

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SCHEDULE

CHAPTER 14

JUVENILE OFFENDERS

AN ACT TO MAKE PROVISION FOR PROCEEDINGS IN REFERENCE TO
JUVENILE OFFENDERS

2 of 1972
LN 46A of 1978

[1st August 1972]

1. This Act may be cited as the Juvenile Offenders Act.

Short title

2. In this Act, unless the context otherwise requires—
“advocate” means any legal practitioner entitled to practise
in the High Court;

Interpretation
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“authorised representative” in relation to a party means a
person, not being an advocate, who is, to the satisfac-
tion of the court, authorised by a party to represent
him in any cause or matter;

“child” means a person who is, in the opinion of the court
having cognisance of any case in relation to such
person, under the age of fourteen years;

“court” does not include a local court established under the
Local Courts Act;

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Schedule

“grave crime” means any crime specified in the Schedule,
and the Minister may from time to time by order
amend the Schedule;

“guardian”, in relation to a child or young person, includes
any person who, in the opinion of the court having
cognisance of any case in relation to the child or
young person or in which the child or young person is
concerned, has for the time being the charge of or
control over the child or young person;

“place of detention” means a place of detention provided
for or appointed by the Minister under section 17;

“probation officer” has the meaning ascribed to that
expression by section 3 of the Probation of Offenders
Act;

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“young person” means a person who is, in the opinion of
the court having cognisance of any case in relation to
such person, fourteen years of age or upwards and
under the age of eighteen years.

3. This Act shall apply within such areas of Solomon Islands
as the Minister may in his discretion by notice from time to time
direct.

Application
LN 46A of 1978

Juvenile courts

4. (1) A court, other than the High Court acting in the exercise of its criminal jurisdiction, when hearing or inquiring into charges against children or young persons shall, unless the child or young person is charged jointly with any other person not being a child or young person, sit whenever circumstances permit either in a different building or room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings are held, and the court so sitting is in this Act referred to as a juvenile court.

(2) Where, in the course of any proceedings in a juvenile court, it appears to the court that the person charged or to whom the proceedings relate is of the age of eighteen years or upwards, or, where in the course of any proceedings in any court other than a juvenile court, it appears that the person charged or to whom the proceedings relate is under the age of eighteen years, nothing in this section shall be construed as preventing the court, if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case.

(3) So far as circumstances permit, provision shall be made for preventing persons apparently under the age of eighteen years whilst being conveyed to or from court, or whilst waiting before or after their attendance in court, from associating with any person not being a child or young person charged with or convicted of any offence other than an offence with which the person apparently under the age of eighteen years is charged or convicted jointly with any such person.

(4) In a juvenile court no person other than the members and officers of the court and the parties to the case, their advocates or authorised representatives, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend:

Provided that—

(a) bona fide representatives of any news agency or information service shall not be excluded, except by special order of the court; and

(b) no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the juvenile court, save with the permission of the court or in so far as required by the provisions of this Act, and any person who acts in contravention of this paragraph shall be guilty of an offence

and liable to a fine of fifty dollars or to imprisonment for three months, or to both such fine and such imprisonment.

5. Where a person apparently under the age of eighteen years is apprehended, with or without warrant, and cannot be brought forthwith before a juvenile court, a police officer of or above the rank of Inspector, or the officer in charge of the police station to which such person is brought, shall forthwith enquire into the case, and—

(a) unless the case concerns a grave crime; or

(b) unless it is necessary in the interests of such person to remove him from association with any undesirable person; or

(c) unless the officer has reason to believe that the release of such person would defeat the ends of justice,

shall release such person on a recognisance, with or without sureties, for such amount as will, in the opinion of the officer, secure the attendance of such person upon the hearing of the charge, such recognisance being entered into by him or by his parent or guardian or other responsible person.

6. Where a person apparently under the age of eighteen years having been apprehended is not released as aforesaid, the officer in charge of the police station to which such person is brought shall cause him to be detained in a place of detention until he can be brought before a juvenile court unless the officer certifies—

(a) that it is not practicable to do so; or

(b) that he is of so unruly or depraved a character that he cannot be safely so detained; or

(c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him,

and the certificate shall be produced to the court before which the person is brought.

7. It shall be the duty of the Commissioner of Police or other person having custody of a child or young person being detained to make arrangements for preventing so far as practicable such child or young person while being detained, from associating with any other person not being a child or young person, other than a relative or guardian, charged with an offence.

Bail of children and young persons arrested

Custody of children and young persons not released on bail after arrest

Prevention of association with adults during detention

Remand or
committal to
custody in a
place of
detention

8. (1) A court on remanding or committing for trial a child or young person who is not released on bail shall, instead of committing him to prison, commit him to custody in a place of detention, or to the care or custody of any person, named in the commitment, to be detained or cared for, as the case may be, for the period during which he is remanded or until he is thence delivered in due course of law:

Provided that in the case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained or cared for.

(2) A commitment under this section may be varied, or, in the case of a young person who proves to be of so unruly a character that he cannot be safely detained in such custody, or cared for, as the case may be, or to be of so depraved a character that he is not a fit person to be so detained, or cared for, revoked by any court, and if it is revoked the young person may be committed to prison.

9. (1) Where a child or young person is brought before a juvenile court for any offence it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence.

(2) If the court is satisfied that the child or young person understands the nature of the alleged offence it shall (unless the alleged offence is homicide) ask the child or young person whether he admits the offence.

(3) If the court is not satisfied that the child or young person understands the nature of the alleged offence, or if the child or young person does not admit the offence, the court shall then hear the evidence of the witnesses in support of the complaint or information. At the close of the evidence in chief of each such witness, the court shall ask the child or young person or, if it sees fit, the parent or guardian of the child or young person, whether he wishes to put any questions to the witnesses. If the child or young person instead of asking wishes to make a statement he shall be allowed to do so.

(4) If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.

(5) The court may for the purpose of assisting the child or

Procedure in
juvenile courts

young person in his defence or for the purpose of explaining anything in the statement of the child or young person, but not otherwise, put to such child or young person such questions as it may think necessary.

(6) It shall be the duty of the court to put to the witnesses such questions as appear to be necessary and proper in the interests of the child or young person.

(7) If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he wishes to say anything in extenuation or mitigation of the penalty or otherwise.

(8) Before deciding how to deal with the child or young person the court shall obtain such information as may readily be available as to his general conduct, home surroundings, school record, and medical history, in order to enable it to deal with the case in the best interests of the child or young person and for this purpose may direct a probation officer to prepare and submit to it a report accordingly, and the court may put to the child or young person any questions arising out of such information or report, and for the purpose of obtaining such information or for special medical examination or observation or for the purpose of considering how to deal with the case in the best interests of the child or young person the court may from time to time remand the child or young person on bail or to a place of detention.

(9) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for the purposes of inquiry or observation, the court may cause an entry to be made in the court register that the charge is proved and that the child or young person has been remanded and the court before which a child or young person so remanded is brought may without further proof of the commission of the offence make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.

(10) Where a child or young person is brought before a juvenile court for any offence other than homicide the case may be disposed of in such court.

10. (1) Where a child or young person is charged with any offence or is brought before a court under this or any other Act the court may in its discretion require the attendance of his parent or guardian and may make such orders as are necessary for the purpose.

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

Power to order parent or guardian to pay fine, etc. instead of child or young person

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(2) Where a child or young person is arrested, the police officer by whom he is arrested or the officer in charge of the police station to which he is brought shall, if the parent or guardian lives within a reasonable distance and can be found, cause him to be warned to attend at the court before which the child or young person will be brought.

11. (1) Where a child or young person is charged before any court with any offence for the commission of which a fine, damages or costs may be imposed, and the court is of opinion that it would be best met by the imposition of a fine, damages or costs, 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, damages or costs awarded be paid by the parent or guardian of the child or young person, instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conducted to the commission of the offence by neglecting to exercise due care of the child or young person.

(2) Where a child or young person is charged with any offence the court may order the parent or guardian to give security for his good behaviour.

(3) Where a court is satisfied that a charge against a child or young person is proved, the court may make an order against the parent or guardian under this section for the payment of a fine, damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

(4) 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 no such order shall be made without giving the parent or guardian an opportunity of being heard.

(5) Any sums imposed and ordered to be paid by a parent or guardian under this section or on forfeiture of any such security as aforesaid, may be recovered from him in the manner provided by section 28 of the Penal Code in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged.

(6) A parent or guardian may appeal against an order of a juvenile court made under this section in the manner prescribed by section 45 of the Magistrates' Courts Act, the provisions of which section shall apply to any such appeal.

12. (1) No child shall be sentenced to imprisonment or be committed to prison in default of payment of a fine, damages or costs.

(2) No young person shall be sentenced to imprisonment if he can be suitably dealt with in any other way specified in section 16.

(3) A young person sentenced to imprisonment shall not, so far as is practicable, be allowed to associate with prisoners not being children or young persons.

13. Notwithstanding anything in this Act to the contrary, when a child or young person is convicted of a grave crime, the court may sentence the offender to be detained for such period as may be specified in the sentence; and where such a sentence is passed the child or young person shall, during that period, notwithstanding anything in the provisions of this Act, be liable to be detained in such place and on such conditions as the Minister may in his discretion direct, and whilst so detained shall be deemed to be in legal custody.

14. (1) A person in detention pursuant to the directions of the Minister under section 13 may, at any time, be discharged by the Minister in his discretion on licence.

(2) A licence may be in such form and may contain such conditions as the Minister may in his discretion direct.

(3) A licence may at any time be revoked or varied by the Minister in his discretion and where a licence has been revoked the person to whom the licence related shall return to such place as the Minister may in his discretion direct, and if he fails to do so may be apprehended without warrant and taken to that place.

15. Where a child is convicted of an offence punishable, in the case of any person not being a child, with imprisonment, or would, if he were not a child, be liable to be imprisoned in default of payment of any fine, damages or costs, and the court considers that none of the other methods by which the case may be dealt with is suitable, the court may order that he be committed to custody in a place of detention for a period not exceeding six months.

16. Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt the court shall take into consideration the manner in which, under the provisions of this or any other Act or law enabling the court

Restriction on punishment of children and young persons

Detention in case of grave crimes committed by children or young persons
LN 46A of 1978

Provisions as to discharge of children and young persons detained in accordance with directions of Minister
LN 46A of 1978

Substitution of custody in a place of detention for imprisonment

Methods of dealing with children or young persons charged with offences

to deal with the case, the case should be dealt with, and, subject to such provisions, may deal with the case in any of the following manners or combination thereof, namely—

- (a) by dismissing the case; or
- (b) by discharging the offender on his entering into a recognisance, with or without sureties; or
- (c) by dealing with the offender under the provisions of the Probation of Offenders Act; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by ordering the offender to pay a fine, damages or costs; or
- (f) by ordering the parent or guardian of the offender to pay a fine, damages or costs; or
- (g) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (h) by directing that he be released on his entering into a bond to appear and receive sentence when called upon; or
- (i) by committing the offender to custody in a place of detention; or
- (j) where the offender is a young person, by sentencing him to imprisonment; or
- (k) by dealing with the case in any other manner in which it may be legally dealt with:

Provided that nothing in this section shall be construed as authorising the court to deal with any case in any manner in which it could not deal with the case apart from this section.

17. (1) Such place or places of detention as may be required for the purposes of this Act shall be provided or appointed by the Minister.

(2) If more than one place of detention is provided or appointed the Minister may determine that any such place shall be used for some only of the purposes for which places of detention are required to be provided.

(3) In selecting the place of detention, if there be more than one, to which a child or young person is to be committed the court shall have regard to whether the place is suitable for the reception of convicted or unconvicted persons, or of persons charged with serious or of minor offences, as the case may be,

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Provision of
places of
detention
LN 46A of 1978

and also, where practicable, to the religious persuasion and sex of the child or young person.

(4) A child or young person detained in a place of detention may be, by order of the Minister acting in his discretion, either discharged therefrom or transferred to some other place of detention.

18. (1) The order or judgment in pursuance of which a child or young person is committed to custody in a place of detention provided under this Act shall be delivered with the child or young person to the person in charge of the place of detention and shall be sufficient authority for his detention in that place in accordance with the tenor thereof.

(2) A child or young person whilst so detained and whilst being conveyed to and from the place of detention shall be deemed to be in legal custody and if he escapes may be apprehended without warrant and brought back to the place of detention in which he was detained.

19. Where a person, whether charged with an offence or not, is brought before any court and it appears to the court that he is a child or young person, an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to or presumed or declared by the court, and the age presumed or declared by the court to be the age of the person so brought before it shall, for the purposes of this Act, be deemed to be the true age of that person, and where it appears to the court that the person so brought before it is of the age of eighteen years or upwards, that person shall for the purposes of this Act be deemed not to be a child or young person.

20. In addition and without prejudice to any powers which a court may possess to hear proceedings in camera the court may, where a person who in the opinion of the court is a child or young person is called as a witness in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, direct that all or any persons, not being members or officers of the court or parties to the case, their advocates or authorised representatives, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of the child or young person:

Provided that nothing in this section shall authorise the exclusion of bona fide representatives of any news agency or information service.

Provisions as to
the custody of
children and
young persons in
places of
detention

Order not to be
invalidated by
subsequent proof
of age

Power to clear
court

Power to make
regulations
LN 46A of 1978

21. The Minister may make regulations, as from time to time appear to him to be necessary, providing for the proper carrying into effect of this Act, and without prejudice to the generality of the foregoing such regulations may provide for the inspection of places of detention and for the classification, treatment, employment and control of children and young persons detained in custody in a place of detention, and for the children and young persons whilst so detained being visited from time to time by persons appointed in accordance with such regulations.

Saving

22. Save in so far as other provision is expressly made in this Act nothing in this Act shall be deemed to affect any other law relating to children or young persons.

Section 2

SCHEDULE

GRAVE CRIMES

Murder

Attempted murder

Manslaughter

Unlawful wounding

Unlawful poisoning

Causing grievous harm

CHAPTER 14

JUVENILE OFFENDERS

Subsidiary Legislation

APPLICATION OF ACT
(Section 3)

LN 56/1972

It is hereby directed that the Act shall apply throughout Solomon Islands with effect from 1st August 1972.