

Hon. Venn Young

CHILDREN AND YOUNG PERSONS AMENDMENT

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Price \$1.70c

No. 24—1

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A BILL INTITULED

An Act to amend the Children and Young Persons Act 1974

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

1. Short Title—This Act may be cited as the Children and Young Persons Amendment Act 1984 and shall be read together with and deemed part of the Children and Young Persons Act 1974* (hereinafter referred to as the principal Act). 10

2. Interpretation—Section 2(1) of the principal Act is hereby amended by inserting in their appropriate alphabetical order, the following definitions:

*1974, No. 72

Amendments: 1977, No. 126; 1979, No. 59, s. 9(1); 1979, No. 124, s. 12; 1979, No. 125, ss. 2(3), 18(2); 1980, No. 87; 1981, No. 133, s. 50; 1982, No. 35; 1983, No. 129; 1983, No. 134, s. 98

“ ‘Hospital’ means a hospital or other institution for the reception and treatment of persons requiring medical treatment or suffering from any disease:

5 “ ‘Protection officer’ means a child and young person protection officer appointed pursuant to **section 12F** of this Act:”

3. Duty of Director-General to undertake preventive work—The principal Act is hereby amended by repealing section 5 and substituting the following section:

10 “5. (1) It shall be the duty of the Director-General to take positive action and such steps under this Act as in his opinion may assist—

15 “(a) In preventing children and young persons from being exposed to unnecessary suffering or deprivation or from becoming seriously disturbed or from committing offences; and

“(b) In protecting children and young persons from ill-treatment or harm caused by neglect.

20 (1) “(2) In pursuance of the duty imposed on him by **subsection (1)** of this section, the Director-General shall—

“(a) Provide facilities and resources for detecting ill-treatment of or harm caused by neglect or inadequate care to any child or young person:

25 “(b) Provide facilities and resources for ascertaining the existence of circumstances in which a child or young person is at risk of ill-treatment, or harm caused by neglect or inadequate care:

30 “(c) Arrange for prompt inquiry where he knows or has reason to suspect that any child or young person is—

“(i) Suffering or likely to suffer from ill-treatment or harm caused by neglect or inadequate care or control; or

35 “(ii) By reason of his behaviour, causing serious concern to his parents, guardians, or teachers:

40 “(d) Provide for such assistance, whether financial or otherwise, as the Director-General considers reasonable to any parent, guardian, child, or young person or to the person for the time being having the care of the child or young person where, in the opinion of the Director-General, such assistance is likely to assist in overcoming deficiencies in the care of the child or young person or to improve the behaviour of the child or young person:

“(e) Arrange for inquiry into any allegation that any child or young person who is being cared for, whether by the day or intermittently or continuously, away from his parents or guardians is not being properly cared for or is being cared for under conditions that are not suitable for his training or development.” 5

4. Warrants—Section 7 of the principal Act (as amended by section 4 of the Children and Young Persons Amendment Act 1983) is hereby amended by repealing subsection (6) and substituting the following section: 10

“(6) A child or young person so placed in a residence may be detained there beyond that period of 3 days if, within that period,—

“(a) A complaint under section 27 of this Act is made in respect of the child or young person and a Court presided over by a District Court Judge or a Justice directs that the child or young person be held in custody pending the hearing of the complaint; or 15

“(b) An application under **section 8A** of this Act is made in respect of the child or young person and a Court presided over by a District Court Judge or a Justice directs that the child or young person be held in custody pending the determination of that application.” 20

5. Place of safety orders—The principal Act is hereby amended by inserting after section 8, the following section: 25

“8A. (1) This section applies to—

“(a) Any child or young person placed in a residence pursuant to a warrant issued under section 7 or section 8 of this Act: 30

“(b) Any child or young person removed from his surroundings and conveyed to a residence pursuant to a warrant issued under section 28 of this Act:

“(c) Any other child or young person whom the Court is satisfied has been or is likely to be ill-treated physically, or sexually or emotionally, or has been or is likely to be harmed by reason of neglect or inadequate care. 35

“(2) The Court may on the application of any Social Worker make an order placing any child or young person to whom this section applies in the custody of— 40

“(a) The Director-General; or

“(b) Any person who the Court is satisfied is capable of caring for the child or young person and protecting him from ill-treatment or harm.

“(3) Subject to **subsection (4)** of this section the Director-
5 General or other person, as the case may be, shall have custody of the child or young person—

“(a) For such period not exceeding 3 months as may be specified in the order; or

10 “(b) Until any proceedings by way of complaint under section 27 of this Act in respect of the child or young person are determined—
whichever first occurs.

“(4) No order may be made under **subsection (2)** of this section placing a child or young person in the custody of the Director-
15 General or other person for a period which, taking into account any previous order made under that subsection, exceeds in the aggregate 3 months.

“(5) An order under **subsection (2)** of this section placing any child or young person in the custody of the Director-General
20 shall be sufficient authority for the child or young person to be placed in a residence.

“(6) The Court may on application by a social worker, or the person named in any order made under **subsection (2)** of this section, alter, vary, or discharge any such order.

25 “(7) An order under **subsection (2)** or **subsection (6)** of this section may be made on such conditions as the Court thinks fit.

“(8) An application for an order under **subsection (2)** of this section may be made either ex parte or on notice and in the case of any application made ex parte the Court may, if it
30 thinks fit, order that notice of the application be served on any other person.

“(9) Every application for an order under **subsection (6)** of this section made by any person other than a social worker shall be served on the Director of Social Welfare of the district in
35 which the Court at which the application is filed is situated.

“(10) Every application for an order under **subsection (6)** of this section by a social worker to alter, or vary, or discharge any order made under **subsection (2)** of this section placing the custody of a child or young person in any other person shall
40 be served on that person.

“(11) A copy of every order made under **subsection (2)** or **subsection (6)** of this section shall be served on every parent or guardian of the child or young person to whom the order relates and on any other person with whom, in the opinion
45 of the Court, the child or young person has a significant psychological attachment.

“(12) Every person on whom a copy of an application is served pursuant to this section shall be entitled to appear, either in person or by counsel, and be heard and to call evidence and cross-examine witnesses.”

6. Power to keep child or young person in hospital— 5

The principal Act is hereby amended by inserting after **section 8A** (as inserted by **section 5** of this Act) the following section:

“8B. (1) Where a child or young person is taken or admitted to any hospital for treatment or investigation of any injury or condition, and the medical superintendent of that hospital suspects on reasonable grounds that the injury or condition was caused by ill-treatment or neglect by any parent, or guardian, or person having care of that child, the medical superintendent of that hospital may retain the child or young person in the hospital for a period not exceeding 7 days. 10 15

“(2) A child or young person so kept in a hospital may be kept there beyond that period of 7 days, if within that period, an application under **section 8A** of this Act is made in respect of the child or young person and a Court presided over by a District Court Judge or a Justice directs that the child or young person be kept in the hospital pending the determination of that application. 20

“(3) An order under **subsection (2)** of this section shall be sufficient authority for keeping the child or young person in the hospital.” 25

7. Matters to be referred to Children’s Board—(1) Section 15 of the principal Act (as amended by section 3 of the Children and Young Persons Amendment Act 1977 and section 5 of the Children and Young Persons Amendment Act 1982) is hereby amended by inserting after subsection (1), the following subsection: 30

“(1A) Nothing in subsection (1) of this section shall apply in respect of any incident or matter which is reported to a protection officer pursuant to **section 12B** of this Act.” 35

(2) Section 15 of the principal Act (as so amended) is hereby amended by repealing subsection (4) and substituting the following subsection:

“(4) It shall be the function of every Children’s Board to consider details reported to it under subsection (1) or subsection (2) of this section, or **section 12K (9) (d)** of this Act and to determine what action (if any) is required.” 40

(3) Section 15 (6) of the principal Act is hereby amended by inserting after paragraph (c) the following paragraph:

“(cc) Refer the matter to a protection officer.” 45

8. New Part IIa inserted—The principal Act is hereby amended by inserting, after Part II, the following Part:

“PART IIa

“SPECIAL PROVISIONS RELATING TO CHILD PROTECTION

5 “12A. **Reporting of ill-treatment or neglect of child or young person by medical practitioner**—(1) Every registered medical practitioner shall in accordance with this section report any of the following matters which come to his attention as a result of a medical examination or consultation carried on
10 by him in his professional capacity:

“*(a)* Any significant injury to a child or young person which having regard to the medical history of the child or young person cannot have been caused by accident:

15 “*(b)* Any injury to a child or young person for which no adequate explanation of its cause has been given to the registered medical practitioner:

“*(c)* Any statement made by any person or any physical sign which indicates that a child or young person—

20 “*(i)* Has been subjected to any unlawful sexual or indecent act or taken part in any unlawful sexual or indecent act; or

“*(ii)* Has taken part in any form of sexual activity which might, in view of the age of the child or young person, be harmful to that child or young person.

25 “(2) A report under **subsection (1)** of this section shall be made to a protection officer or to any registered medical practitioner who is a member of a Child Protection Team.

30 “(3) Any registered medical practitioner who receives a report pursuant to **subsection (2)** of this section shall notify the Director-General of that report.

35 “(4) Without limiting section 43 of the Medical Practitioners Act 1968, every registered medical practitioner who fails to comply with this section is guilty of professional misconduct and shall be dealt with under subsection (2) of that section accordingly.

“12B. **Reporting of ill-treatment or neglect of child or young person by members of Police and social workers**—

40 (1) Every member of the Police and every Social Worker who has reasonable grounds for believing that any child or young person has been ill-treated physically, sexually, or emotionally, or harmed by reason of neglect or inadequate care, shall report the matter to a protection officer.

“12C. Reporting of ill-treatment or neglect of child or young person by others—Every person who has reasonable grounds for believing that any child or young person has been ill-treated physically, or sexually, or emotionally, or harmed by reason of neglect or inadequate care may report the matter to a protection officer. 5

“12D. Privilege—(1) This section applies to any oral or written statement—

“(a) Made for the purposes of or in connection with **sections 12A to 12C** of this Act: 10

“(b) Made to, or in the course of or as a result of any meeting of, a Case Consideration Panel:

“(c) Made to, or in connection with the work of, any Child Protection Team:

“(d) Made to a protection officer in connection with his functions under this Part of this Act. 15

“(2) Evidence of any oral or written statement to which this section applies is not admissible in proceedings before any Court, or tribunal, or a person acting judicially.

“(3) Nothing in **subsection (2)** of this section applies to the admission of any oral or written statement to which this section applies, if— 20

“(a) The maker of the statement consents to the admission of the statement; or

“(b) In the case of a statement to which **paragraphs (b) to (d) of subsection (1)** of this section apply, the statement is admissible evidence in proceedings by way of complaint under section 27 of this Act. 25

“12E. Confidentiality—(1) This section applies to any information or statement— 30

“(a) Made for the purposes of **sections 12A to 12C** of this Act:

“(b) Made to, or in the course of or as a result of any meeting of, a Case Consideration Panel:

“(c) Made to, or in connection with the work of, any Child Protection Team: 35

“(d) Made to a protection officer.

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who discloses to any other person any information or statement to which this section applies. 40

“(3) Nothing in **subsection (2)** of this section applies if—

“(a) The person from whom the information was received or by whom the statement was made consents to the disclosure:

of a social worker, not being an appeal on a question of law only, the child or young person, if he is then under the guardianship or in the custody of the Director-General or is under the supervision of a social worker, shall be entitled to be present unless the High Court or a Judge thereof otherwise directs.

“(2) On the hearing of any appeal against a guardianship order or an order placing a child or young person in the custody of the Director-General on a question of law only, the child or young person, if he is then under the guardianship or in the custody of the Director-General, shall not be entitled to be present except with the leave of the High Court or a Judge thereof.

“(3) Where under this section a child or young person is entitled to be present in the High Court on the hearing of any appeal, the person having custody of him may, without further authority than this subsection, cause him to be taken to the High Court for the hearing.

“(4) Where any appeal relating to a child or young person is made under this Part of this Act, the High Court or a Judge thereof may order that the child or young person shall be present at the hearing. If the child or young person is not present in accordance with the order, any member of the Police or a social worker may, without any further authority than the order, bring him before the Court.

“**61. Presence of parents at hearing of appeal**—(1) Where any appeal relating to a child or young person is made under this Part of this Act, the High Court or a Judge thereof may order that any parent or guardian of the child or young person, or any person who has been acting in the place of a parent, shall be present at the hearing, and may further order that that parent, guardian, or other person shall bring the child or young person with him; and the Registrar of that Court shall cause every person so ordered to be present to be served with written notice of the time and place at which he is required to attend.

“(2) If any person fails to attend at the High Court in accordance with an order made under **subsection (1)** of this section, the Court may direct the issue of a warrant to arrest him and bring him before the Court.

“(3) At the hearing of any appeal under this Part of this Act relating to a child or young person, any parent or guardian of the child or young person, or any person who has been acting in the place of a parent, may be examined in respect of the upbringing and control of the child or young person.

“62. Notification of appeal and result of appeal to local Director of Social Welfare—(1) Where any appeal under this Part of this Act relates to an order placing a child or young person under the guardianship or in the custody of the Director-General or under the supervision of a social worker, an additional copy of the notice of appeal shall be filed; and the Registrar of the District Court shall forthwith deliver or post that copy to the Director of Social Welfare for the district in which the Court is situated. 5

“(2) Where the decision of the High Court on any such appeal has been given, the Registrar of the High Court shall send to the Director as aforesaid a certificate setting out the result of the appeal. 10

“(3) Where under section 107 of the Summary Proceedings Act 1957 (as applied to appeals under this Part of this Act) a District Court Judge has certified that any such appeal has not been prosecuted, the Registrar of the District Court shall send a copy of that certificate to the Director. Where any such appeal has been dismissed for non-prosecution, the Registrar of the High Court shall send a certificate to that effect to the Director. 15 20

“63. No Court fees payable on appeals—No Court fees shall be payable in any Court in respect of any appeal under this Part of this Act.

“Reviews

“64. Review of guardianship orders—(1) Where an order has been made under this Act placing any child or young person under the guardianship of the Director-General, the child or young person or a parent of that child or young person, or the person who would be his guardian if he were not under the guardianship of the Director-General, or the person who had the custody or control of the child or young person immediately before the order was made may, at any time after the expiration of 12 months after the date of the making of the order, request the Director-General in writing to discharge the child or young person under **section 49** of this Act and, if that request is refused, may then apply to a Children and Young Persons Court for a review of the guardianship order made under this Act. 25 30 35

“(2) On any such application the Court may, as it thinks proper, having regard to the reasons for the guardianship order, the environment in which it is proposed that the child or young person shall live, and any other circumstances of the case, either— 40

“(a) Cancel the order as from such date as it thinks fit; or

“(b) Substitute a supervision order; or

“(c) Refuse the application.

“(3) Where an application under this section is refused a
5 further application for a review of the order shall not be
entertained unless 12 months have elapsed since the date of
the refusal and unless the application has been preceded by a
further request to the Director-General to discharge the child
or young person under **section 49** of this Act.

10 “**64A. Review of custody orders**—(1) Where an order has
been made under **section 31 (1) (d)** of this Act placing any child
or young person in the custody of the Director-General or of
any other person, the child or young person or a parent or
guardian of that child or young person, or the person who
15 had the custody or control of the child or young person
immediately before the order was made may, at any time after
the expiration of 6 months after the date of the making of the
order, request the Director-General or other person, as the
case may be, in writing to place the child or young person in
20 the custody of the person making the request and, if that
request is refused, may then apply to the Court for a review
of the custody order.

“(2) On any application under **subsection (1)** of this section
the Court may, if it thinks proper, having regard to the reasons
25 for the custody order, the environment in which it is proposed
that the child or young person shall live, and any other
circumstances of the case, either—

“(a) Cancel the order as from such date as it thinks fit; or

“(b) Make such other order respecting the custody of the
30 child and on such conditions as it thinks fit; or

“(c) Appoint the Director-General guardian of the child or
young person; or

“(d) Substitute a supervision order; or

“(e) Refuse the application.

35 “(3) Where an application under this section is refused a
further application for a review of the order shall not be
entertained unless 6 months have elapsed since the date of the
refusal and unless the application has been preceded by a
further request to the Director-General or other person, as the
40 case may be, to place the child or young person in the custody
of the person making the request.

“(4) Where an order has been made under **section 31 (1) (d)**
of this Act placing any child or young person in the custody
of a person other than the Director-General, the Director-
45 General may apply to the Court for a review of the custody
order.

“(5) On any application under **subsection (4)** of this section the Court may, if it thinks fit, having regard to the reasons for the custody order, the environment in which it is proposed that the child or young person shall live, and any other circumstances of the case, either—

- “(a) Cancel the order as from such date as it thinks fit; or
- “(b) Make such other order respecting the custody of the child and on such conditions as it thinks fit; or
- “(c) Appoint the Director-General guardian of the child or young person; or
- “(d) Substitute a supervision order; or
- “(e) Refuse the application.

“65. **Review of supervision orders**—Where an order has been made under this Act placing a child or young person under the supervision of a social worker for a fixed period, the social worker who has that child under his supervision for the time being, or the child or young person, or a parent of the child or young person, or his guardian, or the person who had custody or control of the child or young person immediately before the order was made, may apply to a Children and Young Persons Court for a review of that order, and on any such application the Court may, as it thinks proper—

- “(a) If 3 months have elapsed since the date when the order was made, cancel the order as from such date as it thinks fit and subject to such conditions precedent (if any) as it thinks fit to impose;
- “(b) Remove any condition imposed under section 47 of this Act; and substitute or add such other conditions as it thinks fit;
- “(c) Refuse the application:

“Provided that, where any application made under this section by a person other than a social worker is refused, a further application under this section shall not be entertained from a person other than a social worker if made within 3 months after the date of the refusal.

“66. **Notice of applications**—(1) Where any application is made under **section 64 or section 65** of this Act by a person other than a Social Worker, the person making the application shall give written notice of the application to the Director of Social Welfare of the district in which the Court at which the application is filed is situated:

“Provided that the Court may at any time require the person making the application to give written notice of the application to such other persons as it thinks fit.

“(2) Where any application is made under **section 65** of this Act by a social worker, he shall give written notice of the application to the following persons:

- “(a) The person to whom the application relates:
- 5 “(b) The parents of that person or his guardian:
- “(c) The person who has the custody or control of the child or young person or the person who had that custody or control immediately before the supervision order was made.

10 “(3) Where any application is made to the Court under **section 64A (1)** of this Act, the person making the application shall give written notice of the application to—

- “(a) The Director of Social Welfare of the district in which the Court at which the application is filed is situated;
- 15 and
- “(b) Where an order has been made placing any child or young person in the custody of any person other than the Director-General, to that person.

20 “(4) Where any application is made to the Court under **section 64A (4)** of this Act, the Director-General shall give written notice of the application to the person in whose favour an order respecting the custody of the child or young person has been made.

25 “(5) Every person who is given notice of any application under **section 64 or section 64A or section 65** of this Act pursuant to this section shall be entitled to appear, either in person or by counsel, and be heard and to call evidence and cross-examine witnesses.”

30 **19. Authority for foster care**—(1) Section 67 (1) of the principal Act is hereby amended by inserting after the word “guardianship”, the words “or in the custody”.

(2) Section 67 (2) of the principal Act is hereby amended by inserting after the word “guardianship”, the words “or in the custody”.

35 **20. Authority to establish institutions**—Section 69 (1) of the principal Act is hereby amended by inserting after the word “guardianship”, the words “or custody”.

21. Repeals—The enactments specified in the Schedule to this Act are hereby repealed.

SCHEDULE**Section 21**

ENACTMENTS REPEALED

- 1977, No. 126—The Children and Young Persons Amendment Act 1977:
sections 15 and 16.
- 1980, No. 87—The Children and Young Persons Amendment Act 1980.
- 1982, No. 135—The Children and Young Persons Amendment Act 1982:
sections 11, 12, 13, and 14.
- 1983, No. 129—The Children and Young Persons Amendment Act 1983:
section 13.

- “(i) His parent or guardian or the person for the time being having care of him is unable to provide, or is failing to provide, adequate training and control; or
- 5 “(j) Being of school age within the meaning of the Education Act 1964, he is persistently failing to attend school without reasonable cause; or
- “(k) Being a child of or over the age of 10 years, he has committed an offence or offences the number, nature, or magnitude of which indicates that—
- 10 “(i) He is beyond the control of his parent or guardian or the person for the time being having care of him; and
- “(ii) It is in the interests of his future social training, or in the public interest, that a finding be made in terms of this section of this Act.”
- 15 (2) Section 27 of the principal Act is hereby amended by repealing subsection (2A) (as inserted by section 7 of the Children and Young Persons Amendment Act 1982) and substituting the following subsection:
- 20 “(2A) Where it is alleged in a complaint made under this section that a child is in need of care, protection, or control, that complaint shall not be heard and determined by a Court unless—
- “(a) The facts alleged in support of the complaint have been reported to a Children’s Board pursuant to section 25 15 of this Act; or
- “(b) The Court decides that the delay in dealing with the substance of the complaint that would be caused by the reporting of those facts to a Children’s Board would be—
- 30 “(i) Prejudicial to the care and well-being of the child; or
- “(ii) Contrary to the public interest; or
- “(c) The complaint is made pursuant to **section 12L** of this Act.”
- 35 (3) Section 27 (3) of the principal Act (as amended by section 7 (2) of the Children and Young Persons Amendment Act 1977) is hereby amended by omitting the words “paragraph (i)”, and substituting the words “paragraph (k)”.
- 40 (4) Section 7 (2) of the Children and Young Persons Amendment Act 1977 is hereby consequentially repealed.

10. Warrant to remove child or young person—Section 28 of the principal Act (as amended by section 5 of the Children and Young Persons Amendment Act 1983) is hereby amended

45 by repealing subsections (4) and (5), and substituting the following subsections:

“(4) A warrant issued under this section shall be sufficient authority for the person for the time being in charge of a residence under this Act to hold the child or young person until—

“(a) He is brought before the Court so that the Court may make an order under section 43 (6) of this Act; or 5

“(b) Any application for an order under **section 8A** of this Act is determined—

whichever first occurs.

“(5) Every such child or young person shall be brought before a Children and Young Persons Court or, as the case may be, every application for an order under **section 8A** of this Act shall be made, within 7 days after the execution of the warrant.” 10

11. Special provisions with regard to evidence, and appointment of counsel or solicitor—(1) Section 29 (2) of the principal Act (as amended by section 7 (3) of the Children and Young Persons Amendment Act 1977) is hereby amended by omitting the expression “section 27 (2) (i)”, and substituting the expression “**section 27 (2) (k)**”. 15

(2) Section 29 of the principal Act is hereby amended by adding the following subsection: 20

“(6) Nothing in the Evidence Act (No. 2) 1980 and no rule of law shall prevent a registered medical practitioner from giving evidence in any proceedings under section 27 of this Act in respect of a complaint made on any of the grounds set out in **section 27 (2) (a) to (d)** of this Act which, in the opinion of the Court, is relevant to establishing the existence of any of those grounds.” 25

12. Special provisions in respect of children or young persons alleged to be ill-treated or neglected—Section 29A (1) (a) of the principal Act is hereby amended by inserting after the words “or paragraph (c)”, the words “or paragraph (d)”. 30

13. Orders of the Court on complaints—(1) Section 31 (1) of the principal Act is hereby amended by repealing paragraph (d) (as substituted by section 7 (1) of the Children and Young Persons Amendment Act 1983) and substituting the following paragraph: 35

“(d) Make an order—

“(i) Appointing the Director-General guardian of the child or young person to whom the complaint relates; or 40

5 “(ii) Placing the child or young person to whom the complaint relates under the supervision of the Director-General for a period specified by the Court in the order, being in the case of a complaint on any of the grounds set out in any of **paragraphs (a) to (d) of section 27 (2)** of this Act a period not exceeding one year, and in every other case a period not exceeding 3 years, but in neither case not extending beyond the child or young person’s seventeenth birthday; or

10 “(iii) Placing the child or young person to whom the complaint relates in the custody of the Director-General or such other person as may be specified in the order upon such conditions as the Court thinks fit.”

15 (2) Section 31 (1) (g) of the principal Act is hereby amended by omitting the expression “section 27 (2) (f)”, and substituting the expression “**section 27 (2) (k)**”.

20 **14. New heading and section inserted**—The principal Act is hereby amended by inserting after section 40 (as substituted by section 9 of the Children and Young Persons Amendment Act 1983) the following heading and section:

“Orders as to Access

25 **“40A. Power of the Court to make orders as to access—**
(1) Where the Court makes an order under this Act—

“(a) Appointing the Director-General guardian of any child or young person; or

“(b) Placing any child or young person in the custody of the Director-General or any other person—

30 it may, at any time, on application made to it by any parent, or guardian, or person having a significant relationship with that child or young person and who has been refused access to that child or young person, make an order granting access to that child or young person to that parent, or guardian or
35 person.

“(2) The Court may at any time on application or of its own motion alter, or vary, or discharge any order granting access made under **subsection (1)** of this section.

40 “(3) An application to alter, or vary, or discharge an order granting access made under **subsection (1)** of this section may be made—

“(a) By the Director-General; or

“(b) By the person in whose favour the order was made; or

“(c) Where an order has been made placing the child or young person in the custody of any person other than the Director-General, by that person.

“(4) Any order granting access made under **subsection (1)** of this section and any order altering or varying any such order may be made on such conditions as the Court thinks fit. 5

“(5) A copy of every application for an order granting access under **subsection (1)** of this section shall be served on—

“(a) The Director-General; and

“(b) Where an order has been made placing the child or young person in the custody of any person other than the Director-General, on that person. 10

“(6) Every application under **subsection (2)** of this section for an order altering or varying or discharging any order granting access, made by the person in whose favour the order was made, shall be served on— 15

“(a) The Director-General; and

“(b) Where an order has been made placing the child or young person in the custody of any person other than the Director-General, on that person. 20

“(7) Every application under **subsection (2)** of this section for an order altering or varying or discharging any order granting access, made by the Director-General, shall be served on—

“(a) The person in whose favour the order was made; and

“(b) Where an order has been made placing the child or young person in the custody of a person other than the Director-General, on that person. 25

“(8) Every application under **subsection (2)** of this section for an order altering or varying or discharging an order for access, made by a person referred to in **subsection (3) (c)** of this section, shall be served on— 30

“(a) The Director-General; and

“(b) The person in whose favour the order was made.

“(9) Every person who is given notice of any application under this section shall be entitled to appear, either in person or by counsel, and be heard and to call evidence and cross-examine witnesses.” 35

15. Psychiatric reports on parents, or guardians or other persons having care of a child or young person—The principal Act is hereby amended by inserting, after section 42A (as inserted by section 13 of the Children and Young Persons Amendment Act 1977) the following section: 40

“42B. (1) Where the Court finds that a complaint made on any of the grounds set out in **paragraph (a)**, or **paragraph (b)**, or

paragraph (c), or paragraph (d) of subsection (2) of section 27 of this Act is proved and it appears to the Court to be expedient that a psychiatric report on the mental condition of any parent, or guardian, or person having care of the child or young person to whom the complaint relates should be available to the Court the Court may, if it thinks fit, order that any parent, or guardian, or person having care of the child or young person attend for a psychiatric examination by a medical practitioner holding a specialist psychiatric appointment or being on the register of specialists in the specialty of psychological medicine or psychiatry.

“(2) Any adjournment for the purpose of obtaining a report pursuant to subsection (1) of this section shall not exceed 14 days, but may otherwise be on such conditions as the Court thinks fit.

“(3) Where an order has been made under subsection (1) of this section, any report forwarded to the Court pursuant to the order shall be considered by the Court before any order is made pursuant to section 31 of this Act, and the provisions of section 42 of this Act shall with all necessary modifications apply with respect to every such report.”

16. New headings and sections inserted—The principal Act is hereby amended by inserting after section 42B (as inserted by section 15 of this Act) the following headings and sections:

25 *“Community Reports*

“42C. **Community reports**—(1) In any proceedings under this Act the Court may—

“(a) On its own motion; or

30 “(b) At the request of any parent, or guardian, or person having care of a child or young person to whom a complaint under section 27 of this Act is addressed; or

“(c) At the request of any young person who appears before the Court pursuant to section 34 of this Act; or

35 “(d) At the request of any barrister or solicitor or other person who appears in the proceedings—

request any person to make a report either orally or in writing to the Court on any of the matters specified in subsection (2) of this section.

40 “(2) A report may be ordered pursuant to subsection (1) of this section on any of the following matters:

“(a) The ethnic, religious, cultural and community connections of any child or young person or any parent, or guardian, or other person having care of

45 any child or young person:

“(b) The resources available to maintain and develop any such ethnic, religious, cultural and community connections of that child or young person or any parent, or guardian, or other person having care of that child or young person. 5

“(3) Any adjournment for the purposes of obtaining a report pursuant to **subsection (1)** of this section shall not exceed 14 days, but may otherwise be on such conditions as the Court thinks fit.

“(4) Where an order has been made under **subsection (1)** of this section, any report furnished to the Court pursuant to the order shall be considered by the Court before any finding or order is made in the proceedings, and the provisions of section 42 of this Act shall, with all necessary modifications, apply with respect to every such report. 10 15

“Reports from Child Protection Teams

“42D. **Reports from Child Protection Team**—(1) In any proceedings under this Act not being proceedings on a complaint made at the direction of a Child Protection Team pursuant to **section 12L** of this Act, the Court may order any Child Protection Team to prepare and make available a protection plan in respect of any child or young person who is the subject of the proceedings. 20

“(2) Any adjournment for the purposes of obtaining a protection plan pursuant to **subsection (1)** of this section shall not exceed 14 days, but may otherwise be on such conditions as the Court thinks fit. 25

“(3) Where an order has been made under **subsection (1)** of this section, any protection plan furnished to the Court shall be considered by the Court before any finding or order is made in the proceedings, and the provisions of section 42 of this Act shall, with all necessary modifications, apply with respect to every such protection plan.” 30

17. Power of Court to impose additional conditions—
Section 47 (1) of the principal Act is hereby amended by repealing paragraph (i), and substituting the following paragraph: 35

“(i) Such other conditions as the Court thinks necessary—
 “(i) For ensuring the person’s good conduct; or
 “(ii) For preventing the commission by the young person of any offence; or 40
 “(iii) For giving effect to a protection plan.”

18. New Parts V and VI substituted—(1) The principal Act is hereby amended by repealing Parts V and VI, and substituting the following Parts:

“PART V

5

“GUARDIANSHIP AND CUSTODY ORDERS

“49. Effect of appointment of Director-General as guardian—(1) When the Court makes an order, pursuant to section 31 or section 36 or **section 64A** of this Act, appointing the Director-General guardian of a child or young person—

10 “(a) The Director-General shall be the guardian of that child or young person as if he had been appointed pursuant to section 8 of the Guardianship Act 1968; and

15 “(b) Except to the extent that they are preserved by this Act,—

“*(i)* All of the rights, powers, and duties of every other person who is a guardian of that child or young person or who may become a guardian during the time when the Director-General is the guardian shall be suspended and shall have no effect; and

20 “*(ii)* If that child or young person is, at the time of the making of the order, under the guardianship of the High Court by virtue of an order made under section 9 (1) of the Guardianship Act 1968, that guardianship shall, subject to **subsection (8)** of this section, be suspended during the time when the Director-General is the guardian; and

25 “(c) For the purposes of section 22L (1) of the Guardianship Act 1968, the order shall constitute an order with respect to the custody of the child or young person, and the Director-General shall be a person having rights of custody in relation to the child or young person pursuant to the order.

30 “(2) Any guardianship order shall be sufficient authority for any member of the Police or any social worker or any other person authorised in that behalf by the Director-General to take the child or young person to whom the order relates to such residence as the Director of Social Welfare for the district in which the Court is situated may direct, and to use such force as is reasonably necessary for that purpose.

35 “(3) Subject to section 4B of this Act, the Director-General may, in his discretion, transfer a child or young person from any residence under this Act to any other residence under this Act.

40 Act.

“(4) Subject to section 4B of this Act, where any child or young person is under the guardianship of the Director-General or in his custody by order made under this Act by a Court, any social worker, acting with the specific or general authority of the Director-General, may arrange placement of the child or young person— 5

“(a) In any residence:

“(b) In foster care:

“(c) In any school or other institution that provides care or training or physical or mental health care: 10

“(d) In employment.

“(5) Subject to section 4B of this Act, any social worker, acting with the specific or general authority of the Director-General, may at any time cancel any arrangement made under **subsection (4)** of this section and, after any such cancellation, may remove the child or young person to a residence or to such other place as the social worker may decide, using force if necessary. 15

“(6) The guardianship order may be discharged by the Director-General at any time before it ceases to have effect under **subsection (7)** of this section, if the Director-General is satisfied that it is in the interests of the child or young person and consistent with the public interest to do so. 20

“(7) A guardianship order shall cease to have effect when—

“(a) The young person to whom it relates attains the age of 20 years or sooner marries: 25

“(b) The child or young person to whom it relates is adopted by any person other than his parent.

“(8) A guardianship order shall cease to have effect if, after it is made, the High Court—

“(a) Orders, under section (9)(1) of the Guardianship Act 1968, that the child or young person to whom the guardianship order relates be placed under the guardianship of the High Court; or 30

“(b) Orders, where that child or young person was, at the time of the making of the guardianship order under the guardianship of the High Court by virtue of an order made under section (9)(1) of the Guardianship Act 1968, that that child or young person shall continue to be under the guardianship of the High Court. 40

“(9) Where a child or young person is discharged from the guardianship of the Director-General, all the powers and rights of guardianship shall revert to the person who would have been his guardian if he had never been placed under the guardianship of the Director-General unless some other person 45

has in the meantime become entitled to guardianship by virtue of an order made under the Adoption Act 1955 or the Guardianship Act 1968, in which case guardianship shall revert to the person so entitled.

5

“49A. Effect of placing child or young person in custody of Director-General or other person—(1) Where a Court makes an order under **section 8A or section 31 (1) (d)** of this Act placing any child or young person in the custody of the Director-General or any other person, the Director-General or

10 that other person, as the case may be, shall have custody of that child or young person as if a custody order had been made in favour of the Director-General or that other person under section 11 of the Guardianship Act 1968.

“(2) Any such custody order shall be sufficient authority for

15 any member of the Police or any Social Worker or any other person authorised in that behalf by the Director-General to take the child or young person to whom the order relates to such residence as the Director of Social Welfare for the district in which the Court is situated may direct or to the residence

20 of such other person, as the case may be, and to use such force as is reasonably necessary for that purpose.

“(3) Subject to section 4B of this Act, where any such custody order is made in favour of the Director-General the Director-General may, in his discretion, transfer a child or young person

25 from any residence under this Act to any other residence under this Act.

“(4) Subject to section 4B of this Act, where any such custody order is made in favour of the Director-General any social worker, acting with the specific or general authority of the

30 Director-General, may arrange placement of the child or young person—

“(a) In any residence:

“(b) In foster care:

“(c) In any school or other institution that provides care or

35 training or physical or mental health care:

“(d) In employment.

“(5) Subject to section 4B of this Act, where any such custody order is made in favour of the Director-General any social worker, acting with the specific or general authority of the

40 Director-General, may at any time cancel any arrangement made under **subsection (4)** of this section and, after any such cancellation, may remove the child or young person to a residence or to such other place as the social worker may decide, using force if necessary.

“(6) A custody order made under **section 31 (1) (d)** of this Act placing a child or young person in the custody of the Director-General, may be discharged by the Director-General at any time if the Director-General is satisfied that it is in the interests of the child or young person and consistent with the public interest to do so. 5

“49B. **Psychiatric treatment**—(1) The Director-General, or any social worker authorised by him generally or specially in that behalf, may, in respect of any child or young person placed under the guardianship or in the custody of the Director-General do, in any case where the Director-General considers it appropriate, one or more of the following things: 10

“(a) Make with the superintendent of any hospital within the meaning of the Mental Health Act 1969 arrangements of the kind mentioned in section 15 (1) of that Act: 15

“(b) Sign a request under section 19 of the Mental Health Act 1969:

“(c) Apply under section 21 of the Mental Health Act 1969 for a reception order. 20

“(2) Where the Director-General or a social worker makes arrangements or signs a request pursuant to **paragraph (a) or paragraph (b) of subsection (1)** of this section, the child or young person to whom those arrangements or that request relates shall not receive psychiatric treatment in any psychiatric hospital or licensed institution by virtue of those arrangements or that request unless consent to the treatment is given— 25

“(a) In the case of a young person of or over the age of 16 years, by that young person; or

“(b) In any other case,— 30

“(i) By a parent or guardian (not being the Director-General) of the child or young person; or

“(ii) If there is no such parent or guardian in New Zealand or no such parent or guardian can be found with reasonable diligence or is capable of giving consent, by a person in New Zealand who has been acting in the place of a parent; or 35

“(iii) If there is no person in New Zealand who has been so acting, or if no such person can be found with reasonable diligence or is capable of giving consent, by a District Court Judge or the Director-General. 40

“49C. **Secure care and discipline**—Where the Court makes an order, pursuant to section 31 or section 36 or **section 64A** of this Act, appointing the Director-General guardian of a child or young person, or an order pursuant to **section 8A** or **section 31 (1) (d)** of this Act placing a child or young person in the custody of the Director-General, that order shall be sufficient authority for the Director-General—

10 “(a) To contain the child or young person in an institution established pursuant to section 69 of this Act, which containment may be by such physical means as are both—

“(i) Reasonable in the circumstances;

“(ii) Permitted by regulations made under this Act:

15 “(b) To use such means to discipline the child or young person as are both—

“(i) Reasonable; and

“(ii) Within the limits permitted by regulations made under this Act.

20 “49D. **Search without warrant**—(1) For the purpose of exercising the powers conferred by **subsection (2)** or **subsection (5) of section 49** of this Act or **subsection (2)** or **subsection (5) of section 49A** of this Act, as the case may be, in respect of any child or young person, any member of the Police or any social worker or any other person authorised in that behalf by the
25 Director-General may, without a warrant, enter and search, by force if necessary, any dwellinghouse, building, aircraft, ship, carriage, vehicle, premises, or place, and remove the child or young person.

30 “(2) Every member of the Police, social worker, or other person exercising the powers conferred by **subsection (1)** of this section—

35 “(a) Shall identify himself to any person in or on the dwellinghouse, building, aircraft, ship, carriage, vehicle, premises, or place who questions his right to enter and search the same or to remove the child or young person; and

40 “(b) Shall tell any person who questions his right to enter and search the dwellinghouse, building, aircraft, ship, carriage, vehicle, premises, or place or to remove the child or young person that the powers are being exercised pursuant to the authority of **subsection (1)** of this section; and

45 “(c) If he is a member of the Police who is not in uniform, shall produce evidence that he is a member of the Police; and

“(d) If he is a social worker, shall produce evidence that he is a social worker; and

“(e) If he is a person (not being a member of the Police or a social worker) authorised by the Director-General to exercise the powers conferred by **subsection (1)** of this section, shall produce his authority from the Director-General. 5

“50. Earnings of young persons under care or guardianship and in employment—(1) The Director-General shall have authority to collect direct from the employer of any young person for the time being in the care of the Director-General or under his guardianship, or direct from the young person who is under care or guardianship as aforesaid, the whole or any portion of his earnings for the purpose of controlling or guiding that young person’s expenditure or providing adequately for his present or future needs. 10 15

“(2) Money held on behalf of a young person shall be held in a trust account in the name of an officer of the Department authorised by the Director-General and the officer so authorised may without further authority than this section from time to time withdraw from any such account amounts expended or to be expended on the young person’s behalf. 20

“(3) All money standing to the credit of a young person in any such trust account may be paid to the young person on his discharge from the care or guardianship of the Director-General, or at any time before his discharge, or the Director-General may in any case continue to hold the whole or any part of the money in trust for the young person after his discharge, to be paid to him at such times and in such manner as the Director-General thinks fit: 25 30

Provided that, save in exceptional circumstances, the Director-General shall not hold money under this section after the young person has attained the age of 20 years.

“(4) If any young person cannot be found, any money standing to his credit as aforesaid may, at the discretion of the Director-General, be paid into the Consolidated Revenue Account and, in the event of the death of any young person, any such money may, with the approval of the Minister, be applied in payment of expenses incurred in connection with the funeral of the young person and the balance, if any, paid to any relative or other person who, in the opinion of the Director-General, is entitled thereto or, in the absence of any such person, to the Consolidated Revenue Account. 35 40

“51. **Limitation upon tortious liability**—No liability in tort shall attach to the Director-General or any officer of the Department in respect of an act or omission on the part of a child or young person under the guardianship or in the custody
5 of the Director-General unless the act or omission occurs while the child or young person is acting as the servant or agent of the Director-General or of that officer and within the scope of his employment or authority as such.

“52. **Public Trustee may be appointed to administer property**—(1) If any child or young person under the guardianship or for the time being in the custody of the Director-General is or at any time becomes entitled to any real or personal property in New Zealand, or to any interest therein,
10 the Public Trustee shall be entitled, on receiving instructions from the Director-General, to take possession of such property and to apply the same for the benefit of the child or young person.

“2) Thereupon the Public Trustee, until the Director-General notifies the Public Trustee that the child or young person has
20 ceased to be under the guardianship or in the custody of the Director-General, shall have and may exercise in respect of all such property the same powers, duties, and functions as he would have if that child or young person were a protected patient and the Public Trustee were the manager of that
25 person’s estate under the Mental Health Act 1969.

“3) Nothing in section 4 of this Act shall apply in respect of the exercise of the powers conferred on the Public Trustee by this section.

“PART VI

30 “RIGHTS OF APPEAL FROM DECISIONS OF CHILDREN AND YOUNG PERSONS COURTS, AND FOR REVIEW OF GUARDIANSHIP, CUSTODY AND SUPERVISION ORDERS MADE BY THOSE COURTS

“*Appeals*

“53. **Appeal by child or young person**—(1) Where a
35 Children and Young Persons Court finds a charge of any offence proved against any young person, the young person may appeal to the High Court against the finding or against any sentence or order of the Children and Young Persons Court or a District Court in its summary jurisdiction based on that
40 finding or against both the finding and any such sentence or order.

“2) No appeal against any such finding may be brought until the young person has been sentenced or otherwise dealt with:

“Provided that, where the young person is not sentenced or otherwise dealt with within 1 month after the date of the finding, an appeal against the finding may be brought under **subsection (1)** of this section as if he had been sentenced or otherwise dealt with at the expiration of 1 month after the date of the finding: 5

“Provided also that, where in any case to which the first proviso to this subsection applies the young person has not appealed against the finding in accordance with that proviso, he may appeal against the finding after he has been sentenced or otherwise dealt with. 10

“(3) Where, on the hearing of any complaint under section 27 of this Act in respect of a child or young person, a Children and Young Persons Court finds that the grounds of the complaint are proved, the child or young person may appeal to the High Court against the finding or against any admonition, discharge, or order, given or made under section 31 (1) or section 31 (3) of this Act, or against both the finding and any such admonition, discharge or order. 15

“54. **Appeal by parents**—(1) Where, on the hearing of any complaint under section 27 of this Act in respect of a child or young person, a Children and Young Persons Court finds that the grounds of the complaint are proved, any parent or guardian of the child or young person or any person who has been acting in the place of a parent may appeal to the High Court against the finding or against any admonition, discharge, or order, given or made under section 31 (1) or section 31 (3) of this Act, or against both the finding and any such admonition, discharge, or order. 20 25

“(2) Where on the hearing of any charge against a young person a Children and Young Persons Court makes an order placing the young person under the guardianship of the Director-General or under the supervision of a social worker or postponing its final consideration of the matter, any parent or guardian of the young person or any person who has been acting in the place of a parent, may appeal to the High Court against the order. 30 35

“(3) Where on the hearing of any charge against a young person a Children and Young Persons Court makes an order under paragraph (e) or paragraph (f) of section 36 (1) of this Act requiring a parent or guardian of the young person to pay any sum by way of compensation or to make restitution, that parent or guardian may appeal to the High Court against the order. 40

“55. **Appeal by persons other than young persons dealt with in Children and Young Persons Court**—(1) Any person, other than a young person, who is convicted in a Children and Young Persons Court of any offence may appeal to the High Court against the conviction or against any sentence of the Children and Young Persons Court based on the conviction or against both the conviction and any such sentence.

“(2) No appeal against the conviction may be brought under this section until the person convicted has been sentenced or otherwise dealt with.

“55A. **Appeal by Police or social worker**—Where any complaint under any of the provisions of paragraphs (a), (b), (c), (d), (e), (f), and (i) of section 27 (2) of this Act has been heard by a Children and Young Persons Court, the complainant may appeal to the High Court against the finding of the Children and Young Persons Court or against any admonition, discharge, or order, given or made under section 31 (1) of this Act, or against both the finding and any such admonition, discharge, or order.

“56. **Appeal on a point of law only**—Where any charge or complaint has been heard by a Children and Young Persons Court, any person who under section 53 or section 54 of this Act is entitled to appeal against the finding, sentence, or order and the informant or the complainant, as the case may be, may, if dissatisfied with the finding, sentence, or order as being erroneous in point of law, appeal to the High Court by way of case stated for the opinion of that Court on a question of law only.

“57. **Application of Part IV of Summary Proceedings Act 1957**—(1) Subject to the provisions of this Part of this Act, the provisions of Part IV of the Summary Proceedings Act 1957 (including the other provisions of that Act which are applied in that Part), as far as they are applicable and with the necessary modifications,—

“(a) So far as they relate to general appeals, shall apply with respect to every appeal under section 53, section 54, section 55 or section 55A of this Act:

“(b) So far as they relate to appeals on points of law only by way of case stated, shall apply with respect to every appeal under section 56 of this Act.

“(2) In the application of the provisions of the said Part IV, those provisions shall be read as if—

“(a) References to a District Court were references to a Children and Young Persons Court; and

“(b) The Registrar of the District Court nearest to the Children and Young Persons Court in which the case was heard and determined were the Registrar of that Children and Young Persons Court; and

“(c) References to a District Court Judge or Justice or Justices (except the references thereto in section 50 of the Summary Proceedings Act 1957, the first reference thereto in section 54 of that Act, the first reference thereto in subsection (2) of section 125 of that Act, and the first reference thereto in section 126 of that Act) were references to a District Court Judge exercising jurisdiction in a Children and Young Persons Court. 5
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“58. **Effect of notice of appeal on guardianship order or custody order or supervision order**—(1) The operation of any order placing a child or young person under the guardianship or in the custody of the Director-General or of any order placing a child or young person under the supervision of a social worker or postponing the final consideration of a matter shall not be affected by the filing of a notice of appeal relating to the order, unless the District Court Judge who presided over the Court making the order or, if that District Court Judge is not available, some other District Court Judge exercising jurisdiction in a Children and Young Persons Court, on application by the appellant, directs that the operation of the order shall be suspended pending the determination of the appeal. Notice of any application or direction under this subsection shall be given by the Registrar to the Director of Social Welfare of the district in which the Court is situated. 15
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“(2) Where a direction is given under subsection (1) of this section in respect of any order placing a child or young person under the supervision of a social worker, the term of the order shall cease to run from the date of the direction.

“59. **Proceedings not open to public**—The provisions of sections 23 and 24 of this Act, with the necessary modifications, shall apply to the hearing in the High Court of any appeal against a decision of a Children and Young Persons Court. 35

“60. **Presence of child or young person at hearing of appeal**—(1) On the hearing of any appeal relating to an order placing a child or young person under the guardianship or in the custody of the Director-General or under the supervision 40

of a social worker, not being an appeal on a question of law only, the child or young person, if he is then under the guardianship or in the custody of the Director-General or is under the supervision of a social worker, shall be entitled to be present unless the High Court or a Judge thereof otherwise directs.

“(2) On the hearing of any appeal against a guardianship order or an order placing a child or young person in the custody of the Director-General on a question of law only, the child or young person, if he is then under the guardianship or in the custody of the Director-General, shall not be entitled to be present except with the leave of the High Court or a Judge thereof.

“(3) Where under this section a child or young person is entitled to be present in the High Court on the hearing of any appeal, the person having custody of him may, without further authority than this subsection, cause him to be taken to the High Court for the hearing.

“(4) Where any appeal relating to a child or young person is made under this Part of this Act, the High Court or a Judge thereof may order that the child or young person shall be present at the hearing. If the child or young person is not present in accordance with the order, any member of the Police or a social worker may, without any further authority than the order, bring him before the Court.

“61. **Presence of parents at hearing of appeal**—(1) Where any appeal relating to a child or young person is made under this Part of this Act, the High Court or a Judge thereof may order that any parent or guardian of the child or young person, or any person who has been acting in the place of a parent, shall be present at the hearing, and may further order that that parent, guardian, or other person shall bring the child or young person with him; and the Registrar of that Court shall cause every person so ordered to be present to be served with written notice of the time and place at which he is required to attend.

“(2) If any person fails to attend at the High Court in accordance with an order made under subsection (1) of this section, the Court may direct the issue of a warrant to arrest him and bring him before the Court.

“(3) At the hearing of any appeal under this Part of this Act relating to a child or young person, any parent or guardian of the child or young person, or any person who has been acting in the place of a parent, may be examined in respect of the upbringing and control of the child or young person.

“62. Notification of appeal and result of appeal to local Director of Social Welfare—(1) Where any appeal under this Part of this Act relates to an order placing a child or young person under the guardianship or in the custody of the Director-General or under the supervision of a social worker, an additional copy of the notice of appeal shall be filed; and the Registrar of the District Court shall forthwith deliver or post that copy to the Director of Social Welfare for the district in which the Court is situated. 5

“(2) Where the decision of the High Court on any such appeal has been given, the Registrar of the High Court shall send to the Director as aforesaid a certificate setting out the result of the appeal. 10

“(3) Where under section 107 of the Summary Proceedings Act 1957 (as applied to appeals under this Part of this Act) a District Court Judge has certified that any such appeal has not been prosecuted, the Registrar of the District Court shall send a copy of that certificate to the Director. Where any such appeal has been dismissed for non-prosecution, the Registrar of the High Court shall send a certificate to that effect to the Director. 15 20

“63. No Court fees payable on appeals—No Court fees shall be payable in any Court in respect of any appeal under this Part of this Act.

“Reviews

“64. Review of guardianship orders—(1) Where an order has been made under this Act placing any child or young person under the guardianship of the Director-General, the child or young person or a parent of that child or young person, or the person who would be his guardian if he were not under the guardianship of the Director-General, or the person who had the custody or control of the child or young person immediately before the order was made may, at any time after the expiration of 12 months after the date of the making of the order, request the Director-General in writing to discharge the child or young person under **section 49** of this Act and, if that request is refused, may then apply to a Children and Young Persons Court for a review of the guardianship order made under this Act. 25 30 35

“(2) On any such application the Court may, as it thinks proper, having regard to the reasons for the guardianship order, the environment in which it is proposed that the child or young person shall live, and any other circumstances of the case, either— 40

“(a) Cancel the order as from such date as it thinks fit; or

“(b) Substitute a supervision order; or

“(c) Refuse the application.

“(3) Where an application under this section is refused a
5 further application for a review of the order shall not be
entertained unless 12 months have elapsed since the date of
the refusal and unless the application has been preceded by a
further request to the Director-General to discharge the child
or young person under **section 49** of this Act.

10 “64A. **Review of custody orders**—(1) Where an order has
been made under **section 31 (1) (d)** of this Act placing any child
or young person in the custody of the Director-General or of
any other person, the child or young person or a parent or
guardian of that child or young person, or the person who
15 had the custody or control of the child or young person
immediately before the order was made may, at any time after
the expiration of 6 months after the date of the making of the
order, request the Director-General or other person, as the
case may be, in writing to place the child or young person in
20 the custody of the person making the request and, if that
request is refused, may then apply to the Court for a review
of the custody order.

“(2) On any application under **subsection (1)** of this section
the Court may, if it thinks proper, having regard to the reasons
25 for the custody order, the environment in which it is proposed
that the child or young person shall live, and any other
circumstances of the case, either—

“(a) Cancel the order as from such date as it thinks fit; or

“(b) Make such other order respecting the custody of the
30 child and on such conditions as it thinks fit; or

“(c) Appoint the Director-General guardian of the child or
young person; or

“(d) Substitute a supervision order; or

“(e) Refuse the application.

35 “(3) Where an application under this section is refused a
further application for a review of the order shall not be
entertained unless 6 months have elapsed since the date of the
refusal and unless the application has been preceded by a
further request to the Director-General or other person, as the
40 case may be, to place the child or young person in the custody
of the person making the request.

“(4) Where an order has been made under **section 31 (1) (d)**
of this Act placing any child or young person in the custody
of a person other than the Director-General, the Director-
45 General may apply to the Court for a review of the custody
order.

“(5) On any application under **subsection (4)** of this section the Court may, if it thinks fit, having regard to the reasons for the custody order, the environment in which it is proposed that the child or young person shall live, and any other circumstances of the case, either—

“(a) Cancel the order as from such date as it thinks fit; or

“(b) Make such other order respecting the custody of the child and on such conditions as it thinks fit; or

“(c) Appoint the Director-General guardian of the child or young person; or

“(d) Substitute a supervision order; or

“(e) Refuse the application.

“**65. Review of supervision orders**—Where an order has been made under this Act placing a child or young person under the supervision of a social worker for a fixed period, the social worker who has that child under his supervision for the time being, or the child or young person, or a parent of the child or young person, or his guardian, or the person who had custody or control of the child or young person immediately before the order was made, may apply to a Children and Young Persons Court for a review of that order, and on any such application the Court may, as it thinks proper—

“(a) If 3 months have elapsed since the date when the order was made, cancel the order as from such date as it thinks fit and subject to such conditions precedent (if any) as it thinks fit to impose:

“(b) Remove any condition imposed under section 47 of this Act; and substitute or add such other conditions as it thinks fit:

“(c) Refuse the application:

“Provided that, where any application made under this section by a person other than a social worker is refused, a further application under this section shall not be entertained from a person other than a social worker if made within 3 months after the date of the refusal.

“**66. Notice of applications**—(1) Where any application is made under **section 64 or section 65** of this Act by a person other than a Social Worker, the person making the application shall give written notice of the application to the Director of Social Welfare of the district in which the Court at which the application is filed is situated:

“Provided that the Court may at any time require the person making the application to give written notice of the application to such other persons as it thinks fit.

- “(2) Where any application is made under **section 65** of this Act by a social worker, he shall give written notice of the application to the following persons:
- 5 “(a) The person to whom the application relates:
 “(b) The parents of that person or his guardian:
 “(c) The person who has the custody or control of the child or young person or the person who had that custody or control immediately before the supervision order was made.
- 10 “(3) Where any application is made to the Court under **section 64A (1)** of this Act, the person making the application shall give written notice of the application to—
 “(a) The Director of Social Welfare of the district in which the Court at which the application is filed is situated;
15 and
 “(b) Where an order has been made placing any child or young person in the custody of any person other than the Director-General, to that person.
- 20 “(4) Where any application is made to the Court under **section 64A (4)** of this Act, the Director-General shall give written notice of the application to the person in whose favour an order respecting the custody of the child or young person has been made.
- 25 “(5) Every person who is given notice of any application under **section 64 or section 64A or section 65** of this Act pursuant to this section shall be entitled to appear, either in person or by counsel, and be heard and to call evidence and cross-examine witnesses.”

30 **19. Authority for foster care**—(1) Section 67 (1) of the principal Act is hereby amended by inserting after the word “guardianship”, the words “or in the custody”.

 (2) Section 67 (2) of the principal Act is hereby amended by inserting after the word “guardianship”, the words “or in the custody”.

35 **20. Authority to establish institutions**—Section 69 (1) of the principal Act is hereby amended by inserting after the word “guardianship”, the words “or custody”.

21. Repeals—The enactments specified in the Schedule to this Act are hereby repealed.

SCHEDULE**Section 21**

ENACTMENTS REPEALED

- 1977, No. 126—The Children and Young Persons Amendment Act 1977:
sections 15 and 16.
- 1980, No. 87—The Children and Young Persons Amendment Act 1980.
- 1982, No. 135—The Children and Young Persons Amendment Act 1982:
sections 11, 12, 13, and 14.
- 1983, No. 129—The Children and Young Persons Amendment Act 1983:
section 13.