



MONTSERRAT

## CHAPTER 2.11

# JUVENILES ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### JUVENILES ACT

Act 20 of 1982 .. in force 1 June 1990 (S.R.O. 6/1990)

Amended by Acts: 4 of 2003

9 of 2005 .. in force 5 May 2005

9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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S.R.O. (L.I.) 26/1949

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### JUVENILE COURT PROCEDURE RULES – Section 38

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**JUVENILES ACT**

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## CHAPTER 2.11

### JUVENILES ACT

*(Acts 20 of 1982, 4 of 2003, 9 of 2005 and 9 of 2011)*

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO JUVENILES AND FOR PURPOSES CONNECTED THEREWITH.

#### Commencement

*[1 June 1990]*

#### PART 1

##### PRELIMINARY

#### Short title

1. This Act may be cited as the Juveniles Act.

#### Interpretation

2. In this Act, unless the context otherwise requires—

“**child**” means a person under the age of fourteen years;

“**contribution order**” means an order made by a Juvenile Court, under the provisions of section 34, requiring any person to make contributions for the maintenance of a juvenile committed to the care of a fit person;

“**court**” means any court having jurisdiction in the matter;

“**fit person**” includes the Minister charged with responsibility for the administration of this Act and any person or body of persons, whether corporate or unincorporated, appointed for the purposes of this Act by the Governor acting on the advice of Cabinet;

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

“**intoxicating liquor**” means any fermented, distilled or spirituous liquor which cannot, save in certain specified circumstances, according to any law for the time being in force, be legally sold without a licence;

“**juvenile**” means a person under the age of sixteen years;

“**Juvenile Court**” or “**Court**” means a juvenile court established under section 4;

**“place of safety”** means any place appointed by the Governor acting on the advice of Cabinet to be a place of safety for the purposes of this Act;

**“probation officer”** means any person appointed as such by the Governor acting on the advice of Cabinet;

**“young person”** means a person who has attained the age of fourteen years and is under the age of sixteen years.

*(Amended by Act 9 of 2011)*

### **Courts to have regard to welfare of juvenile**

3. Any court, in dealing with a juvenile who is brought before it as being in need of care or protection or as an offender or otherwise, shall have regard to the welfare of the juvenile and shall, if it deems it necessary, take steps for removing the juvenile from undesirable surroundings.

## **PART 2**

### **JUVENILE COURT**

#### **Establishment of Juvenile Court**

4. (1) The Governor acting on the advice of Cabinet may by order provide—

- (a) for the establishment of one or more Juvenile Courts;
- (b) the Juvenile Courts to be held elsewhere than in the buildings used for the Magistrate’s Court;
- (c) for the appointment of the places and times when Juvenile Courts shall be held.

*(Amended by Act 9 of 2011)*

(2) A Juvenile Court shall be constituted of the Magistrate and two other persons, to be called assessors, appointed by the Governor acting on the advice of Cabinet:

Provided that, a Juvenile Court shall be deemed to be duly constituted when the Magistrate sits alone, if the Magistrate considers that it would be impracticable for the Juvenile Court to be constituted as required by this subsection or that it would be inexpedient, in the interests of justice, to adjourn the sitting of the court until such time as the assessors are available; and in such case the Magistrate shall record his reasons for sitting alone.

*(Amended by Act 9 of 2011)*

#### **Exclusion of general public from sittings of Juvenile Court**

5. (1) No persons other than the members and officers of the court and the parties to the case, including the parents or guardian of the juvenile concerned, their solicitors and counsel and other persons directly concerned in a case before a Juvenile Court shall, except by the leave of the court, be



allowed to be present during the hearing of any proceedings before the court.

(2) For the purposes of this section and section 21, any person appointed by the Governor acting on the advice of Cabinet as a probation officer shall be deemed to be an officer of the Court. (*Amended by Act 9 of 2011*)

### **General powers of Juvenile Court**

6. Subject to the provisions of this Act, a Juvenile Court shall have the same powers to compel the attendance of witnesses and other persons, to take evidence on oath, to preserve order and to enforce its orders and decisions as the Magistrate or the Magistrate's Court has under the Magistrate's Court Act and the Criminal Procedure Code.

### **Proceedings before Juvenile Court**

7. When a juvenile is charged with an offence which is triable summarily, unless the juvenile is charged jointly with another person who is not a juvenile, the Magistrate shall arrange for the charge against the juvenile to be heard in a Juvenile Court, and the procedure to be followed on the hearing of the charge shall be in accordance with rules made under this Act.

### **Provisions as to powers of Juvenile Court**

8. On the hearing of a charge against, or an application relating to, a person who is believed to be a juvenile, a Juvenile Court may, if it thinks fit so to do, proceed with the hearing and determination of the charge or application notwithstanding that it is discovered after the commencement of the hearing that the person in question is not a juvenile.

### **Methods of dealing with juvenile offenders**

9. (1) Where a juvenile has been found guilty of any offence before a Juvenile Court, that Court (which for the purposes of this section shall be deemed to be an inferior Court of summary jurisdiction within the meaning of the Probation of Offenders Act), may, notwithstanding any provisions of the Magistrate's Court Act, but without prejudice to any other powers conferred by law for dealing with such offender, make an order—

- (a) dismissing the case;
- (b) under the Probation of Offenders Act;
- (c) placing the offender, either in addition to or without making any other order under this section, for a specified period not exceeding three years, under the supervision of a probation officer;
- (d) committing the offender to the care of any fit person, whether a relative or not, who is willing to undertake the care of him;

(e) ordering the parent or guardian of the offender to enter into a recognizance for the good behaviour of such offender.

(2) Consent of any person to undertake the care of a juvenile in pursuance of an order made under subsection (1)(d) shall be proved in such manner as the Court may think sufficient to bind him.

(3) An appeal shall lie from any decision or order of a Juvenile Court and the procedure to be followed on the bringing and hearing of such appeal shall be the same as that applicable in the case of an appeal from a summary conviction by the Magistrate's Court, and the provisions of Part 10 of the Criminal Procedure Code shall apply *mutatis mutandis* accordingly.

### Special provisions relating to probation

10. (1) Where a juvenile has been placed under the supervision of a probation officer, that officer shall, while the order remains in force, visit, advise and befriend him and, when necessary, endeavour to find him suitable employment, and may, if it appears necessary in his interest so to do, at any time while the order remains in force and the juvenile is under the age of sixteen years, bring him before a Juvenile Court, and that Court may, if it thinks it is desirable in his interest so to do, commit the juvenile to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

(2) Where a person is bound by his recognizances before a Juvenile Court or that Court makes an order under the Probation of Offenders Act in respect of a juvenile, the attainment by that person of the age of sixteen years shall not deprive the Court of jurisdiction to enforce his attendance and deal with him in respect of any failure to observe the conditions of his recognizance, or of jurisdiction to vary or discharge the recognizance.

### Provisions relating to committal to fit persons

11. (1) Where under this Act a juvenile is brought before a Juvenile Court or where a juvenile has been convicted of any offence and the Court is satisfied that it is in the best interests of the juvenile to make an order committing him to the care of a fit person, and ascertains on inquiry that such a person is available and willing to undertake the care of the juvenile, the Court shall have power to summon such person before it for the purpose of examining such person as to his fitness to be so appointed.

(2) A Court before making an order under this Act committing a juvenile to the care of a fit person, shall endeavour to ascertain the religious persuasion of the juvenile, and shall, wherever possible in making such order, take into consideration such religious persuasion.

(3) Every order committing a juvenile to the care of a fit person shall contain a declaration—

(a) as to the age and religious persuasion (if ascertained) of the juvenile with respect to whom the order is made; and

- (b) where a contribution order has at the same time been made, stating the amount of such contribution and by whom it is payable.

### PART 3

#### PROVISIONS PRELIMINARY TO TRIAL OF JUVENILE OFFENDERS

#### **Separation in police stations, etc. of juveniles from adults**

**12.** Arrangements shall be made by the Commissioner of Police for preventing a juvenile, while detained in a police station, or while being conveyed to or from any criminal proceedings and whilst waiting before or after attendance in any criminal court, from associating with any adult, not being a relative, who is charged with any offence other than an offence with which the juvenile is jointly charged.

#### **Bail or detention of juveniles**

**13. (1)** Where a person apparently a juvenile is apprehended with or without warrant, and cannot be brought immediately before the appropriate court, the police officer in charge of the police station to which he is brought shall enquire into the case and may release him on a recognizance being entered into by him or his parent or guardian (with or without sureties) for such amount as will, in the opinion of the officer, secure his attendance upon the hearing of the charge, and shall so release him unless—

- (a) the charge is one of homicide or other grave crime; or  
(b) it is necessary in his interest to remove him from association with any reputed criminal or prostitute; or  
(c) the officer has reason to believe that his release would defeat the ends of justice.

**(2)** Where a person apparently a juvenile is apprehended and is not released under subsection (1), the police officer in charge of such police station shall cause him to be detained in a place of safety until he can be brought before the appropriate court.

#### **Remand of juvenile or committal to place of safety**

**14. (1)** The Magistrate's Court or a Juvenile Court (as the case may be), on remanding or committing for trial a juvenile who is not released on bail, shall commit him to custody in a place of safety named in the commitment, to be there detained for the period for 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 for the court so to commit him if the court certifies that he is of so unruly a character that he cannot safely be so committed, or that he is of so depraved

a character that he is not a fit person to be so detained; and where the commitment so certifies he may be committed to such place, including a prison, as may be specified in the commitment warrant.

(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 safely be detained in such custody, or to be so depraved a character that he is not a fit person to be so detained, may be revoked by the Magistrate's Court, or a Juvenile Court (as the case may be), and if it is revoked, the young person may be committed to such place, including a prison, as may be specified in the commitment warrant.

### **Trial of juvenile when charged jointly with an adult**

15. Where a juvenile is charged with an offence triable summarily jointly with a person who has attained the age of sixteen years or that person is charged at the same time with aiding, abetting, causing, procuring, allowing or permitting that offence, the charge shall be heard by the Magistrate's Court, in accordance with the provisions of the Magistrate's Court Act and the Criminal Procedure Code.

### **Juvenile charged with indictable offence**

16. Where a juvenile is charged with an indictable offence, proceedings for his committal for trial shall be heard in the Magistrate's Court, in accordance with the provisions of the Magistrate's Court Act, and the Criminal Procedure Code.

### **Court other than Juvenile Court to have power of a Juvenile Court**

17. Where under the provisions of this Act a juvenile is tried before any court which is not a Juvenile Court, then such court shall have in relation to that juvenile all the powers of a Juvenile Court.

## **PART 4**

### **EVIDENCE AND PROCEDURE IN CASES INVOLVING A JUVENILE**

#### **Evidence of child of tender years**

18. (1) Notwithstanding any provisions of the Criminal Procedure Code or the Magistrate's Court Act, where, in any proceedings against any person for any offence, any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received though not given upon oath, if in the opinion of the Court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth; and his evidence, though not given on oath, but otherwise taken and reduced into writing in accordance with the provisions of the Criminal Procedure Code, shall be deemed to be a deposition.

(2) If any child whose evidence is received as aforesaid wilfully gives false evidence in such circumstances that he would, if the evidence had been given on oath, have been guilty of perjury, he shall be guilty of an offence and liable to the same punishment as if he had committed perjury.

(3) Any requirement whereby at a trial on indictment it is obligatory for the court to give the jury a warning about convicting the accused on the uncorroborated evidence of a child is abrogated in relation to cases where such a warning is required by reason only that the evidence is the evidence of a child.

(4) Unsworn evidence of a child, may corroborate evidence (sworn or unsworn) given by any other person.

*(Amended by Act 9 of 2005)*

### **Extension of power to take deposition of juvenile**

**19. (1)** Notwithstanding any provisions of the Criminal Procedure Code or the Magistrate's Court Act, where the Magistrate is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the Magistrate's Court of any juvenile, in respect of whom any of the offences mentioned in the Schedule 1 is alleged to have been committed would involve serious danger to his life or health, the Magistrate may take in writing the deposition and add thereto a statement of his reason for taking it and of the day when and place where it was taken, and of the names of the persons (if any) present at the taking thereof.

(2) The Magistrate taking any such deposition shall transmit it with his statement—

- (a) if the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the court for trial at which the accused person has been committed;
- (b) in any other case, to the court before which proceedings are pending in respect of the offence.

### **Admission in evidence of deposition of juvenile**

**20.** Where, in any proceedings in respect of any of the offences referred to in section 19, the court is satisfied by the evidence of a duly qualified medical practitioner that the attendance before the court of any juvenile, in respect of whom the offence is alleged to have been committed, would involve serious danger to his life and health, any deposition of the juvenile taken under section 19 shall be admissible in evidence either for or against the accused person without further proof thereof if it purports to be signed by the Magistrate by or before whom it purports to have been taken:

Provided that, the deposition shall not be admissible in evidence against the accused person unless it is proved that reasonable notice of the intention to take the deposition has been served upon him and that he or his

counsel or solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the juvenile making the deposition.

### **Power to clear Court when juvenile giving evidence**

**21. (1)** Where, in any proceedings in relation to an offence against, or any conduct contrary to, decency or morality, a person who, in the opinion of the court, is a juvenile is called as a witness, the court may direct that all or any persons, not being members or officers of the court or parties to the case, their counsel or solicitors, or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of that witness:

Provided that, nothing in this section shall authorise the exclusion of *bona fide* representatives of a newspaper or news agency.

**(2)** The powers conferred on a court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings *in camera*.

### **Power to hear case in absence of juvenile**

**22.** Where, in any proceedings in relation to any of the offences referred to in section 19, the court is satisfied that the attendance before it of any juvenile in respect of whom the offence is alleged to have been committed is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the juvenile.

### **Restriction on presence of juvenile in court**

**23.** No child, other than an infant in arms, shall be permitted to be present in court during the trial of any other person charged with any offence, or during any proceedings preliminary thereto, except during such time as his presence is required as a witness or otherwise for the purpose of justice; and any child present in court, when under this section he is not permitted to be so present, shall be ordered to be removed.

### **Determination of age**

**24. (1)** Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence, and it appears to the court that he is a juvenile, the court shall make due enquiry as to the age of that person, and for that purpose shall take such evidence as may be forthcoming at the hearing of the case, but 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 the court, and the age presumed or declared by the court to be the age of the person so brought before it shall be deemed to be the true age of that person; and where it appears to the court that the person so brought before it has attained the age of sixteen years, that person shall be deemed not to be a juvenile.

(2) Where in any charge or indictment for any offence mentioned in the Schedule 1, it is alleged that the person by or in respect of whom the offence was committed was a juvenile, young person or child or was under or had attained any specified age, and he appears to the court to have been, at the date of the commission of the alleged offence, a juvenile, young person or child or to have been under or to have attained the specified age, as the case may be, he shall be presumed at that date to have been a juvenile, young person or child or to have been under or to have attained that age, as the case may be, unless the contrary is proved.

### **Mode of charging offences involving two or more juveniles**

25. (1) Where a person is charged with committing any of the offences mentioned in the Schedule 1 in respect of two or more juveniles, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not, if he is convicted, be liable to a separate penalty in respect of each juvenile except upon separate informations.

(2) The same information or summons may charge any person as having the custody, charge or care, alternatively or together, of two or more juveniles, and may charge him with the offence of assault, ill-treatment, neglect, abandonment or exposure, together or separately, of two or more juveniles, and may charge him with committing all or any of those offences in a manner likely to cause unnecessary suffering or injury to health, alternatively or together, but when those offences are charged together the person charged shall not, if he is convicted, be liable to a separate penalty for each.

(3) Where any offence mentioned in the Schedule 1 charged against any person is a continuous offence, it shall not be necessary to specify in the information, summons or indictment the date of the acts constituting the offence.

## **PART 5**

### **PROVISIONS FOR THE PROTECTION OF JUVENILES**

#### **Warrant to search for and remove juvenile**

26. (1) If it appears to the Magistrate on information on oath laid by any person, who in the opinion of the Magistrate is acting in the interests of a juvenile, that there is reasonable cause to suspect—

- (a) that a juvenile has been or is being assaulted, ill-treated or neglected in a manner likely to cause the juvenile unnecessary suffering; or
- (b) that any offence mentioned in the Schedule 1 has been or is being committed in respect of a juvenile,

the Magistrate may issue a warrant authorizing any police officer—

- (i) to search for the juvenile and, if it is found that the juvenile has been or is being assaulted, ill-treated or neglected in any such manner, or that any such offence has been or is being committed in respect of him, to take him to and detain him in a place of safety; or
- (ii) to remove the juvenile with or without search to a place of safety and to detain him there,

until in either such case, the juvenile can be brought before a Juvenile Court.

(2) The Magistrate, when issuing a warrant under this section, may by the same warrant cause any person accused of any offence in respect of the juvenile to be apprehended and brought before him in order that proceedings may be taken against him according to law.

(3) Any police officer authorised by warrant under this section to search for any juvenile, or to remove any juvenile with or without search, may enter (if need be by force) any house, building or other place specified in the warrant and may remove him therefrom.

(4) The police officer executing any warrant issued under this section may be accompanied by the person laying the information, if that person so desires, and may also, if the Magistrate so directs, be accompanied by a duly qualified medical practitioner.

### **Power to bring juveniles in need of care or protection before Court**

27. (1) Any police officer or authorised person may bring before a Juvenile Court a juvenile in need of care or protection.

(2) For the purposes of this section the expression “**authorised person**” means—

- (a) any probation officer; or
- (b) any person appointed by the Governor acting on the advice of Cabinet as such on the recommendation of a probation officer. (*Amended by Act 9 of 2011*)

### **Powers of Court**

28. (1) A Juvenile Court before which any juvenile is brought by virtue of section 26, 27 or 29, or any Court before which is brought any juvenile in respect of whom any of the offences mentioned in the Schedule 1 has been committed, may, if satisfied that the welfare of the juvenile so requires, make an order—

- (a) committing him to the care of any fit person, whether a relative or not, who is willing to undertake the care of him; or
- (b) requiring his parent or guardian to enter into a recognizance to exercise proper care and guardianship; or



(c) placing him, either in addition to, or without making, any order under paragraph (a) or (b), for a specified period, not exceeding three years, under the supervision of a probation officer.

(2) Any order made under subsection (1) may from time to time be renewed, varied or revoked by the court on its own motion, or on the application of any person, and if not earlier revoked by the Court, shall lapse upon the person who is the subject of the order attaining the age of sixteen years.

(3) If a Juvenile Court before which any juvenile is brought is not in a position to decide whether any or what order ought to be made under this section, it may make such interim order as it thinks fit for the juvenile's detention or continued detention in a place of safety, or for his committal to the care of a fit person, whether a relative or not, who is willing to undertake the care of him.

(4) Any interim order made under the preceding subsection shall not remain in force for more than thirty days but at any time within such period the Court may, if it considers it expedient so to do, make a further interim order; so, however, that in no case shall any interim order or orders made under this and the preceding subsection remain in force for more than sixty days after the date of the first order made under this subsection.

(5) If the Juvenile Court by which an interim order is made is satisfied on any occasion that, by reason of illness or accident, the juvenile is unable, to appear personally before the Court, any further interim order which the Court has power to make on that occasion may be made in the absence of the juvenile.

### **Disposal of Juvenile by order of Court**

**29. (1)** Where a person having the custody, charge or care of a juvenile has been—

- (a) convicted, in respect of that juvenile, of any of the offences mentioned in the Schedule 1; or
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards that juvenile by any court, that court may order that juvenile to be brought before a Juvenile Court with a view to the Court making an order under section 28, and shall direct that the probation officer be informed as soon as practicable of the order made.

(2) Where any court has, under this section, made an order directing that a juvenile be brought before a Juvenile Court, it shall be the duty—

- (a) of the complainant, if he is a police officer, in the proceedings against the person having the custody, charge or care of the juvenile; or

- (b) if the complainant is not a police officer, of the senior police officer present in court at the time that the order is made,

to bring the juvenile before the Juvenile Court.

### **Rights and powers of fit persons**

**30.** The person to whose care a juvenile is committed by an order made under section 28 shall, while the order is in force, have the same rights and powers and be subject to the same liabilities in respect of the juvenile's maintenance as if he were his parent, and the juvenile so committed shall continue in his care notwithstanding any claim by a parent or other person.

### **Transfer of juvenile under care of fit persons**

**31. (1)** The Court by which an order committing a juvenile to the care of a fit person is made, may at any time, on the application of a probation officer, order the juvenile under the care of such fit person to be transferred to the care of some other fit person.

(2) Upon a juvenile being transferred in accordance with the provisions of subsection (1), the Court shall cause notice thereof to be sent to the person liable to make contributions in respect of him.

### **Escapes from fit persons**

**32. (1)** A juvenile who runs away from a person to whose care he has been committed by an order made under section 28, may be apprehended without warrant by any police officer or authorised person for the purposes of section 27 and brought back to that person if that person is willing to receive him and, if that person is not willing to receive him, may be taken before a Juvenile Court which may make an order in respect of him as if he had been brought before the court as being in need of care and protection.

(2) Any person who knowingly assists or induces a juvenile to run away from a person to whose care he has been committed, or harbours or conceals a juvenile who has so run away and prevents him from returning, shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or to imprisonment for one year, or to both such fine and imprisonment.

*(Amended by Act 4 of 2003)*

### **Contributions**

**33. (1)** Where an order has been made by a Juvenile Court under section 28 committing a juvenile to the care of a fit person it shall be the duty of the following persons to make contributions in respect of him—

- (a) his father, adopted father or step-father;  
(b) his mother, adopted mother or step-mother.

(2) Where a juvenile has been committed to the care of a fit person, contributions under this Act shall be payable to that person to be applied by

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him in or towards the maintenance, or otherwise for the benefit, of the juvenile.

### **Contributions Orders**

**34. (1)** Where an order has been made by a Juvenile Court committing a juvenile to the care of a fit person the Court may at the same time make a contribution order on any person who under section 33 is liable, to make contributions in respect of the juvenile, requiring that person to contribute such weekly sum, not exceeding \$100, in respect of each juvenile as the Court, having regard to his means, thinks fit. *(Amended by Act 4 of 2003)*

**(2)** A contribution order shall, unless varied or revoked remain in force so long as the Juvenile remains in the care of the fit person and the Court when making such order shall have regard to any affiliation order in force in respect of the juvenile. Any such contribution order may be varied or revoked on the application of either the contributor or the person to whom the contributions are payable.

**(3)** A contribution order shall be enforceable, at the instance of the person to whom the contributions are payable in the same manner as an affiliation order made under the Magistrate's Court Act, and the provisions of Part 4 of that Act for the enforcement of an order for the maintenance of a juvenile shall apply, *mutatis mutandis*, accordingly.

**(4)** A person on whom a contribution order is made shall, if he changes his address, immediately give notice thereof to the person to whom, immediately before the change the contributions were payable, and, if he fails so to do, or he knowingly gives notice false in any and material particular, he shall be guilty of an offence and be liable on summary conviction to a fine of \$1,500.

*(Amended by Act 4 of 2003)*

### **Provisions as to affiliation orders**

**35. (1)** Where a juvenile who is ordered by a Juvenile Court to be committed to the care of a fit person is illegitimate, and an affiliation order for his maintenance is in force, the Court may at the same time order the payments under the affiliation order to be paid to the person to whom contributions in respect of the juvenile are payable under section 33.

**(2)** Any sums received under the affiliation order shall be applied in like manner as if they were contributions received under a contribution order.

**(3)** The making of an order under this section with respect to an affiliation order shall not extend the duration of that order.

### **Juvenile not to be used for begging or performing in public place**

**36. (1)** Without prejudice to the provisions of section 306 of the Penal Code, any person who—

- (a) causes or procures any juvenile; or
- (b) having the custody, charge or care of a juvenile,

allows him to be in any street or other public place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise) shall be guilty of an offence and liable on summary conviction to a fine of \$1,000 or to imprisonment for one year, or to both such fine and imprisonment. (*Amended by Act 4 of 2003*)

(2) If a person having the custody, charge or care of a juvenile is charged with an offence under this section, and it is proved—

- (a) that the juvenile was in any street or other public place for any such purpose as is mentioned in subsection (1); and
- (b) that the person charged allowed the juvenile to be in any street or other public place, he shall be presumed to have allowed him to be in any street or other public place for that purpose unless the contrary is proved.

(3) If any person while singing, playing, performing or offering any thing for sale in a street or other public place has with him a juvenile, the juvenile shall, for the purposes of this section, be deemed to be in that street or other public place for the purpose of inducing the giving of alms.

## PART 6

### SUPPLEMENTARY

#### **Saving for measures of parental discipline**

37. Nothing in this Act or the Penal Code shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer reasonable punishment to him in the course of normal parental or school discipline.

#### **Rules**

38. (1) The Governor acting on the advice of Cabinet may make rules for carrying into effect the provisions of this Act. (*Amended by Act 9 of 2011*)

(2) Without derogation from the generality of the power conferred by subsection (1), any rules made thereunder may provide for—

- (a) the procedure to be followed in Juvenile Courts;
- (b) the forms to be used in proceedings before Juvenile Courts and for any other purposes of this Act.

**SCHEDULE 1**

*(Sections 19, 24, 26, 28 and 29)*

1. Any offence under section 122, 123, 126, 127, 197, 199, 200, 206 or 207 of the Penal Code.
  2. Any offence against a juvenile under section 124, 139, 191, 195 or 198 of the Penal Code.
  3. Any other offence involving bodily injury to a juvenile.
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**SCHEDULE 2**  
**FORMS**

JUVENILE ACT

(Sections 9, 28, 29 and 38)

**ORDER COMMITTING JUVENILE TO CARE OF FIT PERSON**

To .....

WHEREAS.....a juvenile was brought before the Juvenile Court for.....as being in need of care or protection, or charged with an offence of.....

AND WHEREAS the said Court considers it expedient and in the best interests of the welfare of the said juvenile to make an order committing the said juvenile to the care of a fit person who is willing to undertake the care of him.

THESE, THEREFORE, are to command you the said ..... to deliver the said juvenile to ..... who has undertaken to care for the said juvenile, and to command you the said ..... to receive the said juvenile into your custody and to keep him in accordance with and until he is released under the provisions of the Juvenile Act.

IT IS HEREBY DECLARED THAT—

- (a) the age of the said juvenile is ..... years ..... months, being, born on the ..... day of .....
- (b) his religious persuasion is .....
- (c) a contribution order in the sum of \$..... a week payable by ..... being the ..... of the said juvenile has been made.

Given under my hand this ..... day of ....., 20.....  
at .....

.....

JUVENILE ACT

(Sections 34 and 38)

**CONTRIBUTION ORDER**

WHEREAS an order committing .....  
a juvenile to the care of .....  
of ..... has this day been/was on  
the ..... day of ....., 20..... made by this Court.

AND WHEREAS the said .....  
has made application for a contribution order.

IT IS HEREBY ORDERED that ..... being  
the ..... of the said juvenile shall  
pay to ..... the sum of ..... each week to  
be applied in accordance with the provisions of the Juvenile Act, the first of such payments  
to be made on the ..... day of ..... so long as the said  
juvenile remains in the care of the said ..... or until this  
order is varied or revoked in accordance with the provisions of the Juvenile Act.

Given under my hand this ..... day of ....., 20.....  
at .....

JUVENILE ACT

(Section 35)

**ORDER TRANSFERRING PAYMENTS UNDER AFFILIATION ORDER**

WHEREAS an affiliation order was made on the ..... day  
of ....., 20..... against .....  
of ..... ordering him to pay the sum  
of ..... a week  
to ..... towards the maintenance and education  
of ..... a juvenile of the age of .....

AND WHEREAS an order committing the said juvenile to the care of .....  
..... has this day been/was on the ..... day of ....., 20.....  
made by this Court.

AND WHEREAS the said ..... has  
made application for a contribution order.

IT IS HEREBY ORDERED that the payments to be made by the said ..... under the said affiliation order shall be made to ..... instead of to the said ..... the first of such payments to be made on the ..... day of ....., 20..... so long as the said affiliation order remains in force, to be applied in accordance with the provisions of the Juvenile Act.

Given under my hand this ..... day of ....., 20..... at.....

.....

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**JUVENILE COURT ORDER – SECTION 4**

*(S.R.O. (L.I.) 26/1949)*

**Short title**

1. This Order may be cited as the Juvenile Court Order.

**Establishment and constitution**

2. There shall be established in and for Montserrat a Juvenile Court within the meaning of the Juvenile Courts Act, and such a Court shall be constituted of the person for the time being performing the duties of Magistrate of Montserrat and of two assessors to be nominated by the Governor.

**Place and time of sitting**

3. Such Court shall be held in the office of the Magistrate in the Court House on the second Friday of each month at 10 a.m.
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**JUVENILE COURT PROCEDURE RULES – SECTION 38**

(S.R.O. (L.I.) 17/1949)

**Short title**

1. These Rules may be cited as the Juvenile Court Procedure Rules.

**Procedure in Juvenile Courts**

2. (1) Where a child or young person is brought before a Juvenile Court it shall be the duty of the Court to explain to him in simple language the substance of the alleged offence.

(2) After explaining the substance of the alleged offence the Court shall ask the child or young person whether he admits the offence.

(3) If the child or young person does not admit the offence the Court shall then hear the evidence of the witnesses in support thereof. 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 child's parent or guardian, whether he wishes to put any questions to the witness. If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so. It shall be the duty of the Court to put to the witnesses such questions as appear to be necessary. The Court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.

(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) 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 desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him the Court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interests of the child or young person and may put to him any question arising out of such information. For the purpose of obtaining such information or for special medical examination or observation the Court may from time to time remand the child or young person on bail or in custody.

(6) 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 purposes of enquiry 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. 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.



