

Penalties and Sentences (Youth Attendance Projects) Bill 1984

No.

TABLE OF PROVISIONS

PART I.—PRELIMINARY

Clause

1. Short title.
2. Commencement.

PART II.—AMENDMENTS TO THE PENALTIES AND SENTENCES ACT 1981

3. Principal Act.
4. Consequential amendment of Principal Act, s. 1.
5. Insertion of new Part VI. before final Part—

PART VI.—YOUTH ATTENDANCE ORDERS

DIVISION 1—INTERPRETATION

53. Interpretation

DIVISION 2—YOUTH ATTENDANCE ORDERS

54. Object of youth attendance order.
55. Youth attendance order.
56. Restrictions on power to make order.
57. Requirements of youth attendance order.
58. Supervising court to impose requirements.
59. Court to nominate a superintendent or responsible officer.
60. Concurrent orders.
61. Copy of order to be given.

DIVISION 3—ATTENDANCE AND OPERATION

62. Additional requirements of order.
63. Reporting by offender.
64. Suspension of youth attendance order.
65. Court may require superintendent or responsible officer to report.

DIVISION 4—YOUTH ATTENDANCE PROJECTS

66. Director-General may appoint youth attendance projects.
67. Objects of youth attendance project.
68. Offender subject to control &c. of superintendent or responsible officer.
69. Activities during attendance.

DIVISION 5—BREACH OF ORDER

70. Breach of order.

DIVISION 6—VARIATION OF ORDER

71. Application for variation of order.

DIVISION 7—REGULATIONS

72. Power to Governor in Council to make regulations.

6. Consequential amendment of Principal Act, Part VI.

PART III.—AMENDMENTS TO THE COMMUNITY WELFARE SERVICES ACT 1970

7. Principal Act.
8. Consequential amendment of section 1.
9. Amendment of section 83A.
10. Amendment of section 92.
11. Amendment of section 97.
12. Insertion of new Division 4A into Part IV.—

DIVISION 4A—YOUTH ATTENDANCE PERMITS FOR FINE DEFAULTERS

100. Interpretation.
 101. Object of youth attendance permit.
 102. Director-General may issue youth attendance permit.
 103. Cancellation of permit
 - 103A. Failure to report deemed escape from youth training centre.
 - 103B. Certain provisions of *Penalties and Sentences Act* 1981 to apply.
13. Amendment of section 129.
 14. Repeal of section 199A.
 15. Amendment of section 203. Regulations.

PART IV.—AMENDMENTS TO OTHER ACTS

16. Amendment of *Crimes Act* 1958, section 476. Youth attendance order.
17. Amendment of *Magistrates' Courts Act* 1971. New section 72 inserted. Youth attendance order.
18. Amendment of *Children's Court Act* 1973, section 26. Youth attendance order.

LEGISLATIVE ASSEMBLY

Read 1° 18 April 1984

(Brought in by Mrs Toner and Mr Trezise)

A BILL

To empower courts to order attendance at Youth Attendance Projects as a non-custodial alternative to detention in a youth training centre for young offenders, to amend the *Penalties and Sentences Act* 1981, the *Community Welfare Services Act* 1970 and other Acts and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to
5 say):

PART I.—PRELIMINARY

1. This Act may be cited as the *Penalties and Sentences (Youth Attendance Projects) Act* 1984. Short title.

10 2. (1) Subject to sub-section (2), the several provisions of this Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Commencement.

(2) Sections 9 and 14 shall come into operation on the day on which this Act receives the Royal Assent.

PART II.—AMENDMENTS TO THE PENALTIES AND SENTENCES ACT
1981

Principal Act No.
9554.
Amended by Nos.
9692, 9765, 9902,
9913, 9945, 9966
and 9968.

Consequential
amendment of
No. 9554, s. 1 (4).

Amendment of
No. 9554. New
Part VI inserted.

Interpretation.

“Department.”

“Offender.”

“Project.”

“Relevant
superintendent or
responsible
officer.”

3. In this Part the *Penalties and Sentences Act* 1981 is called the Principal Act.

4. In section 1 (4) of the Principal Act in the table of Parts— 5

(a) after the expression “Part V.—Detention in Youth Training Centre s. 51–52” there shall be inserted the following expression:

“Part VI.—Youth Attendance Orders ss. 53–72

Division 1—Interpretation s. 53

Division 2—Youth Attendance Orders ss. 54–61

Division 3—Attendance and Operation ss. 62–65

Division 4—Youth Attendance Projects ss. 66–69

Division 5—Breach of Order s. 70

Division 6—Variation of Order s. 71

Division 7—Regulations s. 72”; and

(b) for the expression “Part VI.—Transitory Provisions s. 53” there shall be substituted the expression “Part VII.—Transitory Provisions s. 73”.

5. Immediately before the Heading to the final Part of the Principal Act there shall be inserted the following Part: 20

‘PART VI.—YOUTH ATTENDANCE ORDERS

DIVISION 1—INTERPRETATION

53. (1) In this Part unless inconsistent with the context or subject-matter— 25

“Department” means the Department of Community Welfare Services.

“Offender” means a person in respect of whom a youth attendance order is in force.

“Project” means employment or other activities or any combination of employment or other activities considered suitable for a youth attendance project by the Director-General of Community Welfare Services. 30

“Relevant superintendent or responsible officer”, in relation to an offender, means the superintendent or responsible officer specified by the supervising court under section 59 as 35

responsible for ensuring that the conditions of the offender's youth attendance order are complied with.

5 "Responsible officer" means an officer of the Department appointed by the Director-General of Community Welfare Services to be the officer responsible for a youth attendance project in a region of the State. "Responsible officer."

10 "Superintendent" means the person in charge of a place, establishment or institution appointed to be a youth welfare service under section 92 of the *Community Welfare Services Act 1970*. "Superintendent."

"Supervising court", in relation to an offender, means the court which makes a youth attendance order in respect of the offender. "Supervising court."

15 "Week" means the period of seven days commencing on a Monday. "Week."

"Working day" does not include a Saturday, Sunday or public holiday. "Working day."

"Youth attendance order" means an order made by a supervising court under section 55. "Youth attendance order."

20 "Youth attendance project" means a project appointed as a youth attendance project under section 66 (1). "Youth attendance project."

25 (2) Where a provision of this Part requires a notice to be served by the Director-General of Community Welfare Services, a superintendent or responsible officer, it shall be sufficient compliance with the provision if the notice is served by a person acting under the authority of the Director-General, superintendent or responsible officer (as the case may be).

DIVISION 2—YOUTH ATTENDANCE ORDERS

30 54. The object of a youth attendance order is to provide a non-custodial correctional alternative for an offender who would otherwise be sentenced to detention in a youth training centre as a result of the gravity or habitual nature of the offender's unlawful behaviour. Object of youth attendance order.

35 55. (1) Where a court convicts a young person of an offence for which the court considers that the person would otherwise be sentenced to detention in a youth training centre, it may make a youth attendance order in respect of the person. Youth attendance order.

(2) The power to make a youth attendance order is subject to the restrictions set out in section 56.

40 (3) In this section and section 56 "young person" means a person who on the day of conviction is younger than 21 years.

Restrictions on power to make order.

56. (1) A court does not have power to make a youth attendance order under section 55 (1) unless—
- (a) the offence is punishable by imprisonment;
 - (b) it has made inquiries of the superintendent or responsible officer responsible for a youth attendance project, and is satisfied that—
 - (i) the young person is a suitable person to participate in the youth attendance project; and
 - (ii) a place in the youth attendance project will be available to the young person at the time when the young person is required to first report;
 - (c) it has explained to the young person in language likely to be readily understood by the young person—
 - (i) the nature and requirements of the order;
 - (ii) the consequences of failing to comply with the requirements;
 - (iii) the possibility of and grounds for applying for variation of the order; and
 - (d) the young person has consented to the order being made.
- (2) A court shall not make a youth attendance order to apply in default of payment of a fine or sum of money.
- (3) When a supervising court makes a youth attendance order, it shall not impose on the young person any other penalty for the offence.

Requirements of youth attendance order.

57. The requirements of a youth attendance order are—
- (a) the requirements which the supervising court imposes under section 58; and
 - (b) the requirements set out in section 62.

Supervising court to impose requirements.

58. A supervising court, when making a youth attendance order, shall impose upon the offender the following requirements:
- (a) That the offender attend at a youth attendance project for the number of weeks specified by the supervising court (not more than 52 weeks); and
 - (b) That, unless the offender is in custody at the time of the making of the order, the offender shall report to the relevant superintendent or responsible officer at the place, on the day and at the time, specified by the supervising court.

Court to nominate a superintendent or responsible officer.

59. A supervising court, when making a youth attendance order, shall specify a superintendent or responsible officer who shall be responsible for ensuring that the requirements of the order are complied with.

Concurrent orders.

60. (1) Where a person is convicted on the same day, or in the same proceedings, of more than one offence—

5

10

15

20

25

30

35

40

- (a) the aggregate term of attendance at a youth attendance project which may be required in respect of all of the offences shall not exceed 52 weeks;
- 5 (b) the supervising court may order that the period of attendance in respect of any of the offences be concurrent with the period of attendance in respect of any other of the offences; and
- 10 (c) if the supervising court makes a youth attendance order in relation to an offence and directs that the offender be detained in a youth training centre in respect of another offence, the aggregate term of attendance and detention in respect of all of the offences shall not exceed three years.

(2) Where a young person convicted of an offence is already subject to a youth attendance order, the supervising court, if it makes a youth attendance order, may order that the term of attendance be concurrent with the attendance under the earlier order.

61. (1) A youth attendance order shall be in, or to the effect of, the prescribed form.

Copy of order to be given.

20 (2) A supervising court, when it makes a youth attendance order, shall provide a copy of the order to—

- (a) the offender; and
- (b) the relevant superintendent or responsible officer.

DIVISION 3—ATTENDANCE AND OPERATION

25 62. In addition to the requirements imposed upon an offender by the supervising court under section 58, an offender shall be required—

Additional requirements of offender.

- (a) to comply with the provisions of a notice under section 63 and with the requirements for attendance in paragraphs (a), (b) and (c) of section 63 (1);
- 30 (b) to attend at any alternative day and time fixed under section 63 (5) or to attend for such extension of the term of the youth attendance order as is fixed under section 63 (6); and
- 35 (c) to carry out the reasonable directions of the relevant superintendent or responsible officer or any person acting under the authority of either of those persons under sections 68 and 69 (1).

63. (1) Subject to sub-sections (5) and (6), an offender shall in every week during the term of the youth attendance order—

Reporting by offender.

- (a) attend for four daylight hours of each week-end to be spent in community work by the offender;
- 40 (b) attend for a maximum of two further attendances; and
- (c) attend under paragraph (b) for a maximum of six hours.

(2) Subject to sub-section (1), the relevant superintendent or responsible officer shall from time to time specify in a notice in the

prescribed form sent by registered post to or served personally upon the offender—

- (a) the periods of time;
- (b) the starting and finishing times of each such period;
- (c) the number of times; and
- (d) the total number of hours—

5

in each week during which the offender is required to attend the youth attendance project.

(3) Subject to sub-section (1), the relevant superintendent or responsible officer may from time to time vary the details referred to in paragraph (a), (b), (c) or (d) of sub-section (2) by notice sent by registered post to or served personally upon the offender.

10

(4) In specifying the dates and times of attendance for an offender in a notice under this section the relevant superintendent or responsible officer shall specify dates and times which, as far as practicable, avoid interference—

15

- (a) with the attendance of the offender at the offender's place of employment, education, training or *bona fide* religious observance; or
- (b) with the offender's religious beliefs.

20

(5) The relevant superintendent or responsible officer may excuse an offender from reporting at a youth attendance project on any occasion—

- (a) on account of illness certified by a legally qualified medical practitioner; or
- (b) on account of any other good cause—

25

and if the relevant superintendent or responsible officer so excuses an offender, the relevant superintendent or responsible officer may fix an alternative day and time and shall specify the day and time in a notice sent by registered post to or served personally upon the offender.

30

(6) Where it is not reasonably practicable for an offender to make up lost time for which the offender has been excused under sub-section (5) during the term of the youth attendance order, the relevant superintendent or responsible officer may extend the term of the youth attendance order so that the lost time can be made up and shall inform the offender of the extension by a notice sent by registered post to or served personally upon the offender.

35

64. (1) Where—

- (a) at the time the supervising court makes a youth attendance order, the offender in respect of whom the youth attendance order is made is in custody in a prison, remand centre or youth training centre; or
- (b) after the making of a youth attendance order, the offender in respect of whom the youth attendance order is made is

40

taken into custody in a prison, remand centre or youth training centre—

the relevant superintendent or responsible officer may by a notice in writing in the prescribed form sent by registered post to or served
5 personally upon the offender suspend the offender's service of the youth attendance order.

(2) The relevant superintendent or responsible officer referred to in sub-section (1) shall, after consultation with the appropriate parole board, superintendent of a youth training centre or the Office of
10 Corrections, determine a time at and date on which an offender under sub-section (1) shall re-commence service of the youth attendance order and shall by a notice in writing sent by registered post to or served personally upon the offender specify the time at and date on which the offender is first required to report to the relevant superintendent or
15 responsible officer.

(3) With the consent of the appropriate parole board, the relevant superintendent or responsible officer may direct that the term of operation of a youth attendance order be served concurrently with a period of parole of the offender under the provisions of the *Community Welfare Services Act* 1970 but the service of the youth attendance order
20 by the offender shall not be a condition of the parole.

65. (1) Where at any time during the offender's service of a youth attendance order a court—

Court may require superintendent or responsible officer to report.

(a) finds an offender guilty of an offence; and
25 (b) is aware that a youth attendance order is in force in respect of the offender—

the court may require the relevant superintendent or responsible officer to provide the court with a report on the extent to and the manner in which the offender has complied with the youth attendance order.

30 (2) In dealing with the offence referred to in paragraph (a) of sub-section (1), the court—

(a) may take into account the report referred to in that sub-section; and
35 (b) shall not impose upon the offender a penalty greater than the penalty which the court may impose for that offence.

DIVISION 4—YOUTH ATTENDANCE PROJECTS

66. (1) For the purposes of this Part the Director-General of Community Welfare Services by notice published in the *Government Gazette* may appoint any project as a youth attendance project and
40 may by like notice at any time revoke such appointment.

Director-General may appoint youth attendance projects.

(2) A project appointed as a youth attendance project pursuant to sub-section (1) may be conducted—

- (a) by a youth welfare service appointed under section 92 of the *Community Welfare Services Act 1970*; or
- (b) by any other person or body. 5

Objects of youth attendance project.

67. The objects of a youth attendance project are to provide an offender with activities and requirements—

- (a) which take into account the gravity of the offender's behaviour;
- (b) which penalize the offender by imposing restrictions on the offender's liberty; 10
- (c) which require the offender to make amends for the offence committed by the offender by performing community services; and
- (d) which provide the offender with opportunities to receive such instruction, guidance, assistance and experiences as will assist the offender in developing an ability to abide by the law and complete the requirements of the youth attendance order. 15

Offender subject to control, &c., of superintendent or responsible officer.

68. An offender shall be subject to the reasonable control, direction and supervision of the relevant superintendent or responsible officer or any person acting under the authority of the relevant superintendent or responsible officer during— 20

- (a) each period of the offender's attendance at a youth attendance project; 25
- (b) the offender's absence from a youth attendance project when the offender is complying with a direction of the relevant superintendent or responsible officer or a person acting under the authority of the relevant superintendent or responsible officer; and 30
- (c) the offender's time of travel between the youth attendance project and a place outside the youth attendance project at which the offender is directed to be by the relevant superintendent or responsible officer or a person acting under the authority of the relevant superintendent or responsible officer. 35

Activities during attendance.

69. (1) An offender shall engage in employment or other activities as directed by the relevant superintendent or responsible officer.

(2) A direction given by the relevant superintendent or responsible officer under sub-section (1)— 40

- (a) may require an offender to engage in employment—
 - (i) at or in relation to a community service organization;
 - (ii) at the home of any old, infirm or disabled persons; or

- (iii) upon any Crown land or land occupied by the Crown or owned, leased or occupied by any person or body under any Act for a public purpose; and
- 5 (b) shall not require an offender to engage in any employment so as to take the place of some other person who would usually be engaged in that employment for hire or reward if that other person is absent from that other person's employment because of an industrial dispute involving that other person's employer or is otherwise available and willing
- 10 to perform the work required in that employment.
- (3) Where a direction under sub-section (1) requires an offender to engage in employment—
- 15 (a) the offender shall for the purposes of the *Workers Compensation Act* 1958 or any other Act or law be deemed to be a worker employed by the Crown;
- 20 (b) for the purposes of the *Workers Compensation Act* 1958 the weekly earnings of the offender shall be deemed to be an amount equivalent to the weekly earnings of the offender in any full-time employment in which the offender is engaged at that time or, if the offender is not then engaged in full-time employment, an amount which the Minister administering the *Workers Compensation Act* 1958 considers reasonable in the circumstances of the case; and
- 25 (c) the offender shall not be entitled to receive any remuneration in respect of any work performed in that employment.

DIVISION 5—BREACH OF ORDER

70. (1) An offender who—
- 30 (a) does not report to the relevant superintendent or responsible officer as specified under section 58 (b) or 64 (2) (as the case may be);
- (b) fails to attend the youth attendance project as specified in a notice pursuant to section 63 (2) or at an alternative time and on an alternative day fixed under section 63 (5) without being excused from attending under that sub-section;
- 35 (c) fails to comply with an extension of the term of the youth attendance order under section 63 (6);
- (d) contravenes any provision of a regulation made under this Part;
- 40 (e) contravenes any reasonable direction of the relevant superintendent or responsible officer under section 68 or 69 (1);
- (f) refuses to work as directed during an attendance at a youth attendance project; or
- (g) is absent from or leaves—

Breach of order.

- (i) a youth attendance project; or
(ii) any other place at which the offender has been directed to be present under section 68 (b)—
without reasonable excuse at a day and time when the offender is required to be present under this Part— 5
- shall be deemed to have breached the youth attendance order made in respect of that offender.
- (2) Subject to sub-section (3), on application to the supervising court by the Director-General of Community Welfare Services or an officer of the Department authorized by the Director-General for the purpose, the supervising court may, where the supervising court is satisfied that the offender has breached a youth attendance order under sub-section (1), make an order— 10
- (a) varying the provisions of or revoking the youth attendance order; 15
(b) directing the offender to comply with the youth attendance order; or
(c) making any order in respect of the offender which the supervising court could originally have made if it had not made the youth attendance order. 20
- (3) An application under sub-section (2) shall be made within seven working days after the alleged breach by the offender of the youth attendance order under sub-section (1).
- (4) The Director-General or officer referred to in sub-section (2) may by information and summons require the attendance of the offender at the hearing of the application in which case— 25
- (a) sections 5 to 8 of the *Magistrates (Summary Proceedings) Act 1975* shall apply with such modifications as are necessary to the information and summons; and
(b) every such information shall be regarded as an information for an offence and every such summons shall be regarded as a summons to answer an information. 30
- (5) In dealing with an application under sub-section (2), the supervising court shall take into account—
- (a) a report on the offender prepared by the relevant superintendent or responsible officer; 35
(b) the fact of the making of the youth attendance order; and
(c) the extent to and the manner in which the offender has complied with the youth attendance order.
- (6) A relevant superintendent or responsible officer shall, at the request of the Director-General of Community Welfare Services, provide the Director-General with— 40
- (a) a certificate of attendance in the prescribed form; and

(b) a report on the offender and on the extent to and the manner in which the offender has complied with the youth attendance order—

5 to enable the Director-General to determine whether an application under sub-section (2) should be made.

(7) Where an offender under sub-section (1) fails to appear before the supervising court at the time fixed for the hearing of the application, a warrant may be issued by the supervising court to apprehend the offender.

10 (8) The provisions of sections 12 to 16 of the *Magistrates (Summary Proceedings) Act 1975* shall, with such adaptations as are necessary, apply to warrants under sub-section (7), subject to the modification that a reference to the bringing of a person before a Magistrates' Court shall be construed as a reference to bringing the person as soon as
15 practicable before the supervising court.

(9) Where it is not possible for the supervising court to deal immediately with an application under sub-section (2) in respect of which the offender has been apprehended under sub-section (7), for the purposes of granting bail the provisions of the *Bail Act 1977* shall apply,
20 with such adaptations as are necessary, and in particular with the modifications that a reference to a person accused of an offence or an accused person shall be construed as a reference to the offender.

(10) An offender in respect of whom an order is made by a supervising court under sub-section (2) may pursuant to Part IX of the
25 *Magistrates' Courts Act 1971* or Part VI of the *County Court Act 1958* or the *Supreme Court Act 1958* (as the case may be) appeal from the order.

DIVISION 6—VARIATION OF ORDER

30 71. (1) Subject to sub-sections (2), (3) and (4) the Director-General of Community Welfare Services or an offender may make application to the supervising court for the variation of the youth attendance order in respect of that offender. Application for variation of order.

(2) An application under sub-section (1) may be made where—

- 35 (a) the circumstances of the offender—
- (i) have changed since the making of the youth attendance order; or
 - (ii) were not accurately presented to the supervising court before the making of the youth attendance order; or
- 40 (b) the offender is in custody or is otherwise unable to comply with the youth attendance order.

(3) Where the Director-General of Community Welfare Services is the applicant under sub-section (1), the Director-General shall, as soon as practicable after the making of the application under that sub-section,

send by registered post to or serve personally upon the offender a notice of the date set by the supervising court for the hearing of the application.

(4) Where the offender is the applicant under sub-section (1), the Clerk of Courts of a children's court or Magistrates' Court, Registrar of the County Court or Prothonotary of the Supreme Court (as the case may be) shall, as soon as practicable after the making of the application under that sub-section, send by registered post to or cause to be served personally upon the Director-General of Community Welfare Services a notice of the date set by the supervising court for the hearing of the application. 5 10

(5) In dealing with an application under sub-section (1), the supervising court shall take into account—

- (a) a report on the offender prepared by the relevant superintendent or responsible officer;
- (b) the fact of the making of the youth attendance order; and 15
- (c) the extent to and the manner in which the offender has complied with the youth attendance order—

and subject to sub-section (6) may make an order—

- (d) varying the provisions of or revoking the youth attendance order; 20
- (e) directing that the youth attendance order continue in force; or
- (f) making any order in respect of the offender which the supervising court could originally have made if it had not made the youth attendance order. 25

(6) Where an offender in respect of whom an application for variation of a youth attendance order is made under sub-section (1) fails to appear before the supervising court at the time fixed for the hearing of the application under that sub-section, a warrant may be issued by the supervising court to apprehend the offender. 30

(7) The provisions of sections 12 to 16 of the *Magistrates (Summary Proceedings) Act 1975* shall, with such adaptations as are necessary, apply to warrants under sub-section (6), subject to the modification that a reference to the bringing of a person before a Magistrates' Court shall be construed as a reference to bringing the person as soon as practicable before the supervising court. 35

(8) Where it is not possible for the supervising court to deal immediately with an application under sub-section (2) in respect of which the offender has been apprehended under sub-section (6), for the purposes of granting bail the provisions of the *Bail Act 1977* shall apply, with such adaptations as are necessary, and in particular with the modifications that a reference to a person accused of an offence or an accused person shall be construed as a reference to the offender. 40

(9) Where an offender changes his or her usual place of residence, the Director-General of Community Welfare Services, may, on receipt 45

of an application in writing by the offender, send by registered post to or serve personally upon the offender a written authority to attend at another youth attendance project specified in the authority at the time and place specified in the authority and the giving of the authority shall
5 have effect as if it were a variation of the provisions of a youth attendance order by a supervising court under paragraph (d) of sub-section (5).

(10) An offender in respect of whom an order is made by a supervising court under sub-section (5) (d), (e) or (f) may pursuant to
10 Part IX of the *Magistrates Courts Act 1971* or Part VI of the *County Court Act 1958* or the *Supreme Court Act 1958* (as the case may be) appeal from the order.

DIVISION 7—REGULATIONS

72. The Governor in Council may make regulations for or with
15 respect to— Power to Governor in Council to make regulations.

- (a) all matters necessary or expedient for the good order, discipline, safe custody and health of offenders;
- (b) the participation of offenders in youth attendance projects;
- 20 (c) the maximum number of offenders who may attend any youth attendance project;
- (d) the appointment, functions, powers and duties of superintendents and responsible officers under this Part;
- (e) the variation by the relevant superintendent or responsible officer under sections 63 and 64 of details relating to the
25 dates and times of attendance at a youth attendance project;
- (f) the conduct, management and supervision of youth attendance projects;
- (g) prescribing forms or notices authorized or required to be prescribed for the purposes of this Part and any other forms or notices which are necessary for the purposes of this Part;
- 30 (h) prescribing the nature of reasonable directions which may be given by a superintendent or responsible officer; and
- (i) generally any matter or thing which by this Part is authorized or required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving
35 effect to the provisions of this Part.

6. In the Principal Act following the Part inserted by this Act—

- (a) in the heading “PART VI.—TRANSITORY PROVISIONS” for the expression “VI.” there shall be substituted the expression “VII.”; and
- 40 (b) in the final section for the expression “53” there shall be substituted the expression “73”.

Consequential amendment of No. 9554.

Principal Act No. 8089.
Reprinted to No. 9554.
Subsequently amended by Nos. 9879, 9902, 9913, 9944, 9945, 9966 and 9968.
Consequential amendment of No. 8089, s. 1.

7. In this Part the *Community Welfare Services Act 1970* is called the Principal Act.

8. In section 1 of the Principal Act in the table of Parts and Divisions after the expression "Division 4.—Detection of Young Persons ss. 95–99" there shall be inserted the following expression: 5

"Division 4A.—Youth Attendance Projects for Fine Defaulters ss. 100–103B."

Amendment of No. 8089, s. 83A.

9. In section 83A (1) of the Principal Act—

- (a) the expression "a child placed under section 40" shall be repealed; 10
- (b) after the expression "(a)" there shall be inserted the expression "a child placed under section 40";
- (c) after the expression "(b)" there shall be inserted the expression "a child placed under section 40";
- (d) the word "or" occurring between paragraphs (a) and (b) shall be repealed; and 15
- (e) for the expression "placement—" there shall be substituted the following expression:
 - "placement; or
 - (c) the parent of or person caring for a child placed under section 40 is refusing to comply with a direction of the Director-General under section 40 for the transfer of the child to another placement—". 20

Consequential amendment of No. 8089, s. 92 (d).

10. In section 92 (d) of the Principal Act—

- (a) the words "the treatment of" shall be repealed; and 25
- (b) for the expression "169—" there shall be substituted the following expression:
 - "169;
 - (v) referred as a requirement of a youth attendance order under Part VI of the *Penalties and Sentences Act 1981*; 30
 - (vi) referred as a requirement of a youth attendance permit under Division 4A—".

Amendment of No. 8089, s. 97 (1).

11. In section 97 (1) of the Principal Act after the word "proceedings" there shall be inserted the words "or is otherwise lawfully required to be brought before a court". 35

Amendment of No. 8089, Part IV. New Division 4A inserted.

12. After Division 4 of Part IV of the Principal Act there shall be inserted the following Division:

‘Division 4A—Youth Attendance Permits for Fine Defaulters

100. (1) In this Division unless inconsistent with the context or subject-matter— Interpretation.

5 “Project” means employment or other activities or any combination of employment or other activities considered suitable for a youth attendance project by the Director-General. “Project.”

10 “Relevant superintendent”, in relation to a person, means the superintendent appointed by the Director-General to supervise the operation of the person’s attendance at a youth attendance project. “Relevant superintendent.”

15 “Superintendent” means the person in charge of a place, establishment or institution appointed to be a youth welfare service under section 92. “Superintendent.”

 “Week” means the period of seven days commencing on a Monday. “Week.”

 “Youth attendance project” means a project— “Youth attendance project.”

- 20 (a) appointed as a youth attendance project under section 66 (1) of the *Penalties and Sentences Act* 1981; and
- (b) conducted by a youth welfare service appointed under section 92.

 “Youth attendance permit” means a permit issued by the Director-General under section 102. “Youth attendance permit.”

25 (2) Where under this Division a notice is required to be served by the Director-General or a superintendent, it shall be sufficient compliance with this Division if the notice is served by a person acting under the authority of the Director-General or superintendent (as the case may be).

30 101. The object of a youth attendance permit is to provide an offender detained in a youth training centre in default of payment of a fine or sum of money with a non-custodial correctional alternative. Object of youth attendance permit.

35 102. (1) Subject to sub-sections (2), (3) and (4), the Director-General may issue a permit in the prescribed form to any person detained in a youth training centre in default of payment of a fine or sum of money authorizing the person to serve the unexpired portion of that person’s term of detention by way of attendance at a youth attendance project specified in the permit. Director-General may issue youth attendance permit.

 (2) A permit under sub-section (1) shall specify the following requirements:

- 40 (a) That the person attend at a youth attendance project for the number of weeks specified in the permit; and

(b) That the person shall report to the relevant superintendent at the place, on the day and at the time, specified in the permit.

(3) Where the unexpired portion of a person's term of detention under sub-section (1) consists of one or more weeks and an additional number of days less than a week—

(a) if the number of days is three or less, the person shall not be required to serve those days by attendance at a youth attendance project; or

(b) if the number of days is four, five or six, the person shall be required to serve a week of attendance at a youth attendance project in lieu of those days.

(4) A youth attendance permit may only be issued under sub-section (1)—

(a) where the person referred to in sub-section (1) agrees; and

(b) where the Director-General considers that the person referred to in sub-section (1) is a suitable person to attend a youth attendance project.

Cancellation of permit.

103. (1) The Director-General may at any time cancel a youth attendance permit by a notice in writing sent by registered post to or served personally upon the person in respect of whom the permit is issued.

(2) Where—

(a) the Director-General cancels a youth attendance permit under sub-section (1); and

(b) a certificate of the cancellation in the prescribed form signed by the Director-General is produced to a justice or magistrate—

the justice or magistrate may issue a warrant to apprehend the person and return that person to a youth training centre.

(3) The provisions of sections 12–16 of the *Magistrates (Summary Proceedings) Act 1975* shall, with such adaptations as are necessary, apply to warrants under sub-section (2), subject to the modification that a reference to the bringing of a person before a Magistrates' Court shall be construed as a reference to taking the person as soon as practicable to a youth training centre.

Failure to report deemed escape from youth training centre.

103A. A person in respect of whom a youth attendance permit is in force who, without being excused from reporting under this Division, fails to report to the youth attendance project—

(a) within forty-eight hours of a time when the person is required to first report or the start of a period of time when the person is required to attend; or

(b) where the end of the forty-eight hour period referred to in paragraph (a) does not fall on a working day, on the next working day after the end of the forty-eight hour period—

shall be deemed to have escaped from a youth training centre at the start of the forty-eight hour period for the purposes of section 174 (2) and section 98 and the provisions of section 98, shall with such modifications as are necessary, apply accordingly.

103B. For the purposes of this Division the provisions of sections 57, 59, 61, 62, 63, 64, 66, 68 and 69 of the *Penalties and Sentences Act* 1981 shall extend and apply, with such modifications as are necessary, with respect to a youth attendance permit and in particular with the modifications that any reference in those provisions to the “supervising court” shall be read and construed as if it were a reference to the Director-General and any reference to a youth attendance order shall be read and construed as if it were a youth attendance permit.’

Certain provisions of *Penalties and Sentences Act* 1981 to apply.

13. In section 129 of the Principal Act after the word “offence” there shall be inserted the words “or is otherwise lawfully required to be brought before a court”.

Amendment of No. 8089, s. 129.

14. Section 199A of the Principal Act shall be repealed.

Amendment of No. 8089.
Repeal of s. 199A.

15. In section 203 of the Principal Act after paragraph (z) there shall be inserted the following paragraphs:

Amendment of No. 8089, s. 203.
Regulations.

“(za) all matters necessary or expedient for the good order, discipline, safe custody or health of persons subject to youth attendance permits;

(zb) the participation of persons subject to youth attendance permits in youth attendance projects;

(zc) the maximum number of persons who may attend any youth attendance project under Division 4A of Part IV;

(zd) the appointment, functions, powers and duties of superintendents under Division 4A of Part IV;

(ze) the variation by the relevant superintendent of details relating to the dates and times of attendance at a youth attendance project;

(zf) the computation of the remaining portion of a term of detention in a youth training centre where a youth attendance permit is cancelled under section 103 (1);

(zg) the conduct, management and supervision of youth attendance projects under Division 4A of Part IV;

(zh) prescribing forms or notices authorized or required to be prescribed for the purposes of Division 4A of Part IV and

any other forms or notices which are necessary for the purposes of Division 4A of Part IV;”.

PART IV.—AMENDMENTS TO OTHER ACTS

Amendment of
No. 6231, s. 476.
Youth attendance
order.

16. In section 476 of the *Crimes Act* 1958—

(a) after the expression “476” there shall be inserted the expression “(1)”;

(b) after paragraph (c) the word “and” is repealed; and

(c) for paragraph (d) there shall be substituted the following expression:

“(d) if the person is a young person—instead of sentencing the person to a term of imprisonment, the court may, subject to and in accordance with Part V. of the *Penalties and Sentences Act* 1981, sentence the person to detention in a youth training centre; and

(e) if—

(i) the person is a young person; and

(ii) the court considers that the person would otherwise be sentenced to detention in a youth training centre—

the court may, subject to and in accordance with Part VI. of the *Penalties and Sentences Act* 1981, make a youth attendance order in respect of the person.

(2) In this section “young person” means a person who on the day of conviction is younger than 21 years.”.

Amendment of
No. 8184.
New s. 72.

17. After section 71 of the *Magistrates’ Courts Act* 1971 there shall be inserted the following section:

Youth attendance
order.

‘72. (1) Where a magistrates’ court convicts a young person of an offence, if—

(a) the offence is an offence for which imprisonment may be ordered; and

(b) the court considers the person would otherwise be sentenced to detention in a youth training centre—

the court may, subject to and in accordance with Part VI. of the *Penalties and Sentences Act* 1981, make a youth attendance order in respect of the person.

(2) In this section “young person” means a person who on the day of conviction is younger than 21 years.’.

Amendment of
No. 8477, s. 26.
Youth attendance
order.

18. In section 26 (1) (f) of the *Children’s Court Act* 1973—

(a) after sub-paragraph (i) the word “or” is repealed; and

(b) after sub-paragraph (ii) there shall be inserted the following expression:

“or

(iii) if—

5

A the child, on the day of conviction is of or over the age of fifteen years; and

B the court considers the child would otherwise be sentenced to detention in a youth training centre—

10

the court may, subject to and in accordance with Part VI. of the *Penalties and Sentences Act 1981*, make a youth attendance order in respect of the child.”.