

# **Penalties and Sentences (Youth Attendance Projects) Bill 1984**

## **NOTES ON CLAUSES**

### **PART I**

*Clause 1* Title of Act

*Clause 2* Provisions for Proclamation

### **PART II**

*Clauses 3 and 4* Identify the *Penalties and Sentences Act 1981* as the Principal Act and make provision for amending the table of Parts in that Act.

*Clause 5* Provides for creation of Part VI (Youth Attendance Orders) of the Principal Act.

#### **DIVISION 1—INTERPRETATION**

*Section 53* Provides for definitions of: department, offender, project, relevant superintendent or responsible officer, responsible officer, superintendent, supervising court, week, working day, youth attendance order, youth attendance project; it further defines provisions with regard to service of notices.

#### **DIVISION 2—YOUTH ATTENDANCE ORDERS**

*Section 54* provides for the object of a youth attendance order and emphasises the correctional aspects of youth attendance orders.

*Section 55* empowers the court to make a youth attendance order, where the person is under 21 and would otherwise be sentenced to detention in a youth training centre.

*Section 56* limits the court's power to make a youth attendance order unless (a) the offence is an imprisonable offence (b) the young person is found by the relevant superintendent or responsible officer to be suitable for a youth attendance project, and a place exists (c) the court has explained the effect of the order and (d) the young person agrees. The Order cannot be made for non-payment of a fine and is in lieu of any other penalty for the offence.

*Section 57* defines 'the requirements of a youth attendance order as those spelt out in Sections 58 and 62.

*Section 58* empowers the court to require the offender to attend the youth attendance project for up to 52 weeks and to specify the day and time for the offender's first report to the relevant superintendent or responsible officer (where the offender is not in custody).

*Section 59* requires the court to specify the relevant superintendent or responsible officer who will ensure that the requirements of the order are complied with.

*Section 60* provides for youth attendance orders to be served concurrently or aggregated for a maximum of 52 weeks and for further orders to be concurrent.

Where a sentence of detention in a youth training centre and a youth attendance order(s) are made on the same day the aggregate term of all orders is not to exceed three years.

*Section 61* provides that the court is to provide a copy of the order to the offender and the relevant superintendent or responsible officer.

### DIVISION 3—ATTENDANCE AND OPERATION

*Section 62 and 63* identify obligations on the offender further to *section 58* including requirements for attendance as notified by the superintendent or responsible officer and conformity to the reasonable directions of the superintendent or responsible officer.

The offender is required to do four hours of community work each weekend for every week the order is in force and up to two further attendances of a total of up to 6 hours in any one week to be determined from time by the relevant superintendent or responsible officer.

Further provision is made for the superintendent to avoid times for attendance which interfere with the offender's employment, education or religious observance. The offender may be excused by the superintendent or responsible officer for good cause and alternative times may be arranged including extension of the term of the order if necessary to make up for attendances missed.

*Section 64* allows the relevant superintendent or responsible officer to suspend service of the youth attendance order where the offender is in custody, requires the superintendent or responsible officer to determine an alternative time for the offender to report to the youth attendance project on release and also provides that a youth attendance order may be served concurrently with parole release if the relevant parole board agrees.

*Section 65* provides that where a court deals with an offender subject to a youth attendance order for a further offence it may take into account a report on the offender's progress at the youth attendance project, but not impose a penalty greater than that which could be imposed for the further offence.

### DIVISION 4—YOUTH ATTENDANCE PROJECTS

*Section 66* provides the Director-General of Community Welfare Services with power to appoint projects as youth attendance projects by notice published in the *Government Gazette*.

*Section 67* details the objects of youth attendance projects, and emphasises the correctional aspects of youth attendance projects.

*Section 68* specifies that the offender shall be under the control of the superintendent or responsible officer during the offender's attendance at the youth attendance project, absence from the project when complying with a direction of the Superintendent or responsible officer and time of travel to a place under direction of the superintendent or responsible officer.

*Section 69* requires the offender to engage in employment under a direction of the superintendent or responsible officer. Such work to be with a community service organization, private home of any old, disabled or ill person, or on a project on public land.

Provision is made to protect the jobs of persons who would usually perform them and for worker's compensation. No payment may be received for community service work.

### DIVISION 5—BREACH OF ORDER

*Section 70* deems an offender to have breached the youth attendance order when the offender fails to comply with the requirements of the order, and allows the Director-General to apply to the supervising court within seven days of an alleged breach.

The court may vary, revoke or sustain the order or deal with the offender on the basis of the original offence. It may consider reports and may issue a warrant of apprehension if the offender fails to appear. Provision is made for bail where the supervising court cannot deal with the matter immediately after apprehension. An offender may appeal against the new order.

#### DIVISION 6—VARIATION OF ORDER

*Section 71* provides a comparable provision to that for breach of the order and allows the offender or the Director-General to apply for variation of the youth attendance order where the offender's circumstances are different from those applying when the court made the order or the offender is in custody or for some other reason cannot meet requirements of the order. Similar provisions to section 70 are made for warrants of apprehension and bail. An offender may appeal against a variation of the order. The Director-General may direct the offender to attend another youth attendance project if there is a change of residence of the offender.

#### DIVISION 7—REGULATIONS

*Section 72* provides for the making of the regulations necessary to carry out or give effect to Part VI of the Principal Act—'Youth Attendance Orders'.

*Clause 6* amends some provisions for headings and section numbers in the Principal Act.

#### PART III—AMENDMENTS TO COMMUNITY WELFARE SERVICES ACT 1970

*Clauses 7 and 8* identify the *Community Welfare Services Act 1970* as the Principal Act for the purposes of these amendments, and amend the table of Parts and Divisions.

*Clause 9* provides for a machinery amendment to the Principal Act: the amendment to Section 83A provides that in addition to the present provision, where a warrant can be issued for the apprehension of a ward when the ward refuses to comply with a direction for transfer to another placement, a provision be included so that, where the parents of a child refuse to comply with such a direction a warrant can be issued by a justice.

*Clause 10* amends Section 92(d) of the Principal Act to allow youth welfare services to provide services to persons subject to youth attendance orders and youth attendance permits as correctional dispositions.

*Clause 11* amends section 97 of the Principal Act to extend that provision to offenders under the new Part VI of the *Penalties and Sentences Act 1981*.

*Clause 12* introduces a new Division 4A — YOUTH ATTENDANCE PERMITS FOR FINE DEFAULTERS into the ADOLESCENT WELFARE SERVICES Part of the Principal Act.

*Section 100* defines project, relevant superintendent, superintendent, week, youth attendance project, youth attendance permit, and provides for service of notices.

*Section 101* states the object of a youth attendance permit, namely to provide a non-custodial correctional alternative for an offender detained in a youth training centre in default of payment of a fine.

*Section 102* empowers the Director-General to issue a permit to attend a youth attendance project to any person detained in a youth training centre for non-payment of fines to serve out the remaining portion of their term of detention. Such a permit is subject to the agreement by the person and the person's suitability.

*Section 103* empowers the Director-General to cancel such a permit at any time and provides for a warrant to be issued for apprehension where necessary to return the person to a youth training centre.

*Section 103A* provides that the person who fails to report to a youth attendance project within 48 hours of a time when required to report shall be deemed to have escaped from a youth training centre and dealt with accordingly.

*Section 103B* extends the relevant provisions of youth attendance order legislation so they apply where appropriate to youth attendance permits.

*Clause 13* amends Section 129 of the Principal Act to extend that provision to offenders under the new Part VI of the *Penalties and Sentences Act 1981*.

*Clause 14* repeals Section 199A of the Principal Act which removes the offence of vagrancy.

*Clause 15* inserts necessary provisions for reputations in Section 203 of the Principal Act.

#### PART IV—AMENDMENTS TO OTHER ACTS

*Clause 16* amends Section 476 of the *Crimes Act 1958* to provide that where a young person convicted of an offence could otherwise be imprisoned that person can be now given a youth attendance order instead of being sentenced to detention in a youth training centre.

*Clause 17* amends the *Magistrates' Courts Act 1971* to make provision for imposition of a youth attendance order where detention in a youth training centre would otherwise be imposed.

*Clause 18* amends the *Children's Court Act 1973* to make provision for imposition of a youth attendance order where detention in a youth training centre would otherwise be imposed.