

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা  
কর্তৃপক্ষ কর্তৃক প্রকাশিত

সোমবার, জানুয়ারি ১৮, ২০১৬

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার  
লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ  
আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়  
মুদ্রণ ও প্রকাশনা শাখা  
প্রজ্ঞাপন

তারিখ: ২৪ পৌষ, ১৪২২ বঙ্গাব্দ/ ০৭ জানুয়ারি, ২০১৬ খ্রিস্টাব্দ

নং: ০১-৪১.০০.০০০০.০৫২.০১.০০৪.১৪-অনুবাদ—২০১৬-সরকারি কার্যবিধিমালা, ১৯৯৬ এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবন্টন) এর আইটেম ২৯(খ) এর ক্রমিক ৫ ও ৮ এবং মন্ত্রিপরিষদ বিভাগের বিগত ০৩-০৭-২০০০ ইং তারিখের সভায় গৃহীত সিদ্ধান্ত বাস্তবায়নের নিমিত্তে "শিশু আইন, ২০১৩" এর ইংরেজিতে অনূদিত পাঠ সর্বসাধারণের জ্ঞাতার্থে প্রকাশ করিল।

মোহাম্মদ দেদোয়ার হোসেন  
সহকারী সচিব।

( ৬৭১ )

মূল্য ৪ টাকা ৪০.০০

**The Children Act, 2013**

(Act No. XXIV of 2013)

[Dhaka, June 20, 2013/06 Ashar, 1420]

**An Act to provide for a new law for the purpose of implementing the United Nations Convention on the Rights of the Child by repealing the existing Children Act**

WHEREAS Bangladesh has become a party to the United Nations Convention on the Rights of the Child; and

WHEREAS it is expedient and necessary to provide for a new law to consolidate and reenact the existing Children Act, by repealing it, for the purpose of implementing the provisions of the said Convention;

It is hereby enacted as follows:—

**CHAPTER I  
PRELIMINARY**

**1. Short title and commencement.**—(1) This Act may be called the Children Act, 2013.

(2) It shall come into force on such date as the Government may, by notification in the *official Gazette*, appoint.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

- (1) "Department" means the Department of Social Services;
- (2) "legal or lawful guardian" means such a person who is, in the interest of the child, appointed or declared by the court as a guardian under section 7 of the Guardians and Wards Act, 1890 (Act No. VIII of 1890);
- (3) "child in conflict with the law" means any child who is, subject to the provisions of sections 82 and 83 of the Penal Code, accused of any offence under any existing law or found guilty upon trial;
- (4) "child in contact with the law" means any child who has been victim of, or witness to, any offence under any existing law;
- (5) "Penal Code" means the Penal Code, 1860 (Act No. X LV of 1860);
- (6) "section" means any section of this Act;

- (7) "Safe Home" means any certified institute or any such place or establishment, the authority of which carries out the duty of keeping, in safe custody, the child sent thereto under this Act by a Children's Court, the Child Affairs Police Officer, the Probation Officer or, as the case may be, any other person or authority;
- (8) "certified institute" means any certified institute mentioned in sections 59 and 60;
- (9) "Probation Officer" means any Probation Officer mentioned in section 5;
- (10) "Code of Criminal Procedure" means the Code of Criminal Procedure, 1898 (Act No. V of 1898);
- (11) "extended family" means the family of paternal grandfather, paternal grandmother, maternal grandfather, maternal grandmother, paternal uncle, paternal aunt, husband of father's sister, father's sister, mother's brother, wife of mother's brother, maternal aunt, husband of mother's sister, brother, wife of brother, husband of sister, or the family of such blood relative or any relative by such kinship;
- (12) "alternative care" means any measures taken under section 84;
- (13) "diversion" means any measures taken under section 48;
- (14) "person" shall include any company, association, organisation or, as the case may be, any institution;
- (15) "Board" or 'Child Welfare Board' means the National Child Welfare Board, the District Child Welfare Board or, as the case may be, the Upazila Child Welfare Board established under sections 7, 8 and 9;
- (16) "begging" means, with a view to receiving or collecting money, food, clothes or any other article from any person,—
- (a) to exhibit or use any child in a public place by way of dancing, singing, reading fortune, reciting holy scriptures or adopting any other tricks, whether by deceptive means or not; or
- (b) to cause sore, wound, injury on the body of a child or to mutilate a child through unethical means, and to show or keep such sore, wound, injury and deformity uncovered for exhibition; or
- (c) to cause any child to be feeble or lifeless by administering drugs or medicine, or in any other way to exhibit the child as dead;

- (17) "child" means any person specified as child in section 4;
- (18) "Children's Court" means any court specified in section 16;
- (19) "Child Development Centre" means any Child Development Centre established under section 59;
- (20) "Child Affairs Police Officer" means a police officer in charge of the Child Affairs Desk as mentioned in sub-section (2) of section 13;
- (21) "Social Worker" means a social worker working in the Department, or the union or municipal social worker working under the Department, or *Khalamma* (aunty), or *BoroBhaia* (senior brother) or any other worker of similar rank, irrespective of designation, who is engaged in providing care for children;
- (22) "social inquiry report" means the social inquiry report mentioned in section 31;
- (23) "disadvantaged child" means any child mentioned in sub-section (1) of section 89;
- (24) "Chairperson" means the Chairperson of the National Child Welfare Board or of the District Child Welfare Board or of the Upazila Child Welfare Board, as the case may be.

**3. Overriding effect of the Act.**—Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall prevail.

**4. Child.**—Notwithstanding anything contained in any other law for the time being in force, all persons *up to the age* of 18 (eighteen) years shall be regarded as children for the purposes of this Act.

## CHAPTER II

### APPOINTMENT OF PROBATION OFFICERS AND THEIR DUTIES AND RESPONSIBILITIES

**5. Probation Officer.**—(1) For performing functions under this Act, the Government shall appoint one or more Probation Officers in every district, upazila and metropolitan area, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), if any person is appointed as a Probation Officer under any other existing law immediately before the commencement of this Act, he shall continue to work as a Probation Officer under this Act until further direction is given as if he had been appointed as a Probation Officer under sub-section (1).

(3) Until a Probation Officer is appointed for any area, the Government may delegate the responsibilities of the Probation Officer to any Social Services Officer or any other officer of similar rank working in the Department or in different districts or upazilas under the Department.

**6. Duties and responsibilities of a Probation Officer.**—The duties and responsibilities of a Probation Officer shall be as follows:—

- (a) if any child, whether in contact with the law or in conflict with the law, is brought or otherwise comes to the police station, where applicable,—
  - (i) to ascertain the reason for bringing or coming thereto;
  - (ii) to meet the child concerned and provide assurance of all kinds of assistance;
  - (iii) to communicate and coordinate with the police to categorize the concerned case or complaint;
  - (iv) to trace the parents of the concerned child and assist the police to communicate with them;
  - (v) to assess the possibility of bail of the child with the Child Affairs Police Officer or, as the case may be, to undertake diversion upon the immediate assessment of the background of the concerned case;
  - (vi) to arrange for placing the child in a Safe Home through the Child Affairs Police Officer before producing the child in the court, if it is not possible to undertake diversion or release the child on bail for any reasonable cause; and
  - (vii) to discharge such other duties as may be prescribed by rules;
- (b) if any child, in contact with the law or in conflict with the law, is produced before the Children's Court,—
  - (i) to stay in the court or be present during the trial and, when necessary, to give company to the concerned child, in so far as possible;
  - (ii) upon field inquiry, to prepare a social inquiry report considering the conditions and surroundings of the concerned child and to submit it before the court;

- (iii) to ensure legal representation of the child, including legal aid, if necessary, through the District Legal Aid Committee;
  - (iv) in order to ensure justice for the child, without prejudice to the purpose of sub-clause (iii), to communicate, when necessary, with non-government legal aid organizations and to ensure legal representation of the child; and
  - (v) to discharge such other duties as may be prescribed by rules;
- (c) if any child in conflict with the law is sent to any Child Development Centre or any certified institute, where applicable,—
- (i) to prepare and maintain a separate file for each child;
  - (ii) to follow the procedures laid down in section 84 and ensure due care;
  - (iii) to meet the child at regular intervals or, according to the wish of the child, to pay visits to him at such times as he may demand;
  - (iv) to observe or monitor, in so far as possible, whether the parents, the extended family or the legal or lawful guardian is properly complying with the conditions of supervision of the concerned child;
  - (v) to supervise, in person, whether or not the child is properly provided with formal and vocational education;
  - (vi) to inform the court regarding the behaviour of the child and the effectiveness of the measures taken for the child at regular intervals and submit the report called for by the court;
  - (vii) to give good advice to the child, make the child sociable, in so far as possible, and render overall support for that purpose; and
  - (viii) to discharge such other duties as may be prescribed by rules;
- (d) in case of children in contact with the law or in conflict with the law, where applicable,—
- (i) to observe the conditions for diversion or alternative care; and
  - (ii) to discharge such other duties as may be prescribed by rules.

**CHAPTER III**  
**CHILD WELFARE BOARDS AND THEIR FUNCTIONS**

**7. National Child Welfare Board and its functions.**—(1) For the purposes of this Act, there shall be established a board to be called the 'National Child Welfare Board' consisting of the following members, namely:—

- (a) the Minister in charge of the Ministry of Social Welfare, who shall also be its Chairperson;
- (b) the Chairman of the Standing Committee for the Ministry of Social Welfare, ex-officio;
- (c) 2 (two) female Members of Parliament nominated by the Speaker of the House of the Nation, of whom one shall be from the treasury bench and another from the opposition;
- (d) the Inspector General of Police or an officer, not below the rank of Deputy Inspector General of Police, nominated by him;
- (e) the Secretary of the Ministry of Social Welfare, ex-officio;
- (f) one officer, not below the rank of Joint Secretary, nominated by the Ministry of Home Affairs;
- (g) one officer, not below the rank of Joint Secretary, nominated by the Local Government Division;
- (h) one officer, not below the rank of Joint Secretary, nominated by the Ministry of Education;
- (i) one officer, not below the rank of Joint Secretary, nominated by the Legislative and Parliamentary Affairs Division;
- (j) one officer, not below the rank of Joint Secretary, nominated by the Law and Justice Division;
- (k) one officer, not below the rank of Joint Secretary, nominated by the Ministry of Labour and Employment;
- (l) one officer, not below the rank of Joint Secretary, nominated by the Ministry of Information;
- (m) one officer, not below the rank of Joint Secretary, nominated by the Ministry of Women and Children Affairs;
- (n) Inspector General of Prison;
- (o) Divisional Commissioner of Dhaka Division, ex-officio;
- (p) one Director General nominated by the Prime Minister's Office;
- (q) Director General of the Directorate of Health Services, ex-officio;

- (r) Director General of the Directorate of Primary Education, ex-officio;
- (s) Director General of the Department of Disaster Management, ex-officio;
- (t) Director General of the Bangladesh Bureau of Statistics, ex-officio;
- (u) Director of the National Legal Aid Services Organisation, ex-officio;
- (v) President of the Bangladesh Supreme Court Bar Association or 1 (one) representative of its Executive Committee, nominated by him;
- (w) Managing Director of the National Foundation for Development of the Disabled, ex-officio;
- (x) Director of the Bangladesh Shishu Academy, ex-officio;
- (y) 2 (two) distinguished persons nominated by the Government;
- (z) one representative, nominated by the Government, from an established non-government voluntary organization on child affairs, which has activities at district level;
- (za) Director General of the Department of Social Services, ex-officio, who shall also be its Member Secretary.

(2) The National Child Welfare Board shall discharge the following duties and functions, namely:—

- (a) to supervise, coordinate, monitor and evaluate the activities of the Child Development Centres and the certified institutes;
- (b) in regard to disadvantaged children and children in contact with the law and in conflict with the law—
  - (i) to give direction to all concerned in formulating policies, making and implementing plans regarding reintegration and rehabilitation in the family and social life;
  - (ii) to provide necessary advice to the Government for the purposes of welfare and development of children, by ascertaining the gender-based number of such children and by collecting data and information about their ways of living;
  - (iii) to determine the ways of necessary diversion or alternative care, where applicable, and to assess the data and information of children under such process or care;



- (c) to approve the recommendations made by the District Child Welfare Boards;
- (d) in regard to District and Upazila Child Welfare Boards,—
  - (i) to formulate policies and, if necessary, to make recommendations and provide directives;
  - (ii) to call for reports on their activities from time to time and, for the purpose of coordinating their activities, if necessary, to arrange for inter-Board coordination meetings;
- (e) to undertake such other measures as may be necessary to discharge the aforesaid duties and functions.

**8. District Child Welfare Board and its functions.**—(1) In each district there shall be established a board to be called the 'District Child Welfare Board' consisting of the following members, namely:—

- (a) Deputy Commissioner, ex-officio, who shall also be its Chairperson;
- (b) Superintendent of Police of the district, ex-officio;
- (c) one representative to be nominated by the Chairman of the District Legal Aid Service Committee;
- (d) Civil Surgeon, ex-officio;
- (e) Superintendent of Jail of the district, ex-officio;
- (f) District Child Affairs Officer, ex-officio;
- (g) District Education Officer, ex-officio;
- (h) District Primary Education Officer, ex-officio;
- (i) 2 (two) Probation Officers nominated by the Deputy Director of the District Social Services Office;
- (j) District Information Officer, ex-officio;
- (k) Chairperson of the District Committee of Jatiya Mohila Sangstha;
- (l) President of the District Bar Association;
- (m) Public Prosecutor of the district;
- (n) 2 (two) distinguished persons of the concerned district nominated by the Deputy Commissioner;

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(o) 2 (two) representatives from the non-government voluntary organizations engaged in activities relating to affairs of the child in the concerned district if any, nominated by the Deputy Commissioner;

(p) Deputy Director of the District Social Services office, who shall also be its Member-Secretary.

(2) The District Child Welfare Board shall discharge the following duties and functions, namely:—

(a) to visit the Child Development Centre or, as the case may be, the certified institute or any other institute for children, if any, and to inspect the jail and to supervise, coordinate, monitor and evaluate the activities undertaken by those institutes;

(b) to determine the method of necessary alternative care for the disadvantaged children and for children in contact with the law and, where applicable, send them for alternative care and to analyse the data and information of the child under such care;

(c) to implement the directions of the National Child Welfare Board;

(d) to approve the recommendations made by the Upazila Child Welfare Board or, if necessary, to forward them to the National Child Welfare Board for approval;

(e) to call for report from the Upazila Child Welfare Boards, from time to time, on their activities and, if necessary, to organise inter-Board meetings for coordination of their activities;

(f) to discuss on the information provided by the Child Development Centres, certified institutes or, as the case may be, jail authority and to take necessary measures or initiatives for the welfare of the children; and

(g) to take such other measures as may be necessary to discharge the aforesaid duties and functions.

9. Upazila Child Welfare Board and its functions.—(1) In each Upazila there shall be established a board to be called the 'Upazila child welfare Board' consisting of the following members, namely:—

- (a) Upazila Nirbahi Officer, who shall also be its Chairperson;
- (b) Upazila Health and Family Planning Officer; (two);
- (c) Upazila Women Affairs Officer;
- (d) Upazila Education Officer;

- (e) Officer in Charge of the police station or the Child Affairs Police Officer nominated by him;
- (f) Probation Officer;
- (g) Chairman of Upazila Legal Aid Committee or a representative nominated by him, if any;
- (h) 2 (two) distinguished persons of the concerned upazila nominated by the Upazila Nirbahi Officer;
- (i) 1 (one) representative from the non-government voluntary organizations engaged in activities relating to child affairs in the concerned upazila, if any, nominated by the Upazila Nirbahi Officer;
- (j) Upazila Social Services Officer, who shall also be its Member-Secretary.

(2) The Upazila Child Welfare Board shall discharge the following duties and functions, namely:—

- (a) to supervise, coordinate, monitor and evaluate the activities undertaken by the certified institutes situated in the concerned upazila;
- (b) to determine the method of necessary alternative care for the disadvantaged children and children in contact with the law and, where applicable, send them for alternative care and to analyse the data and information of the child under such care;
- (c) to implement policies adopted and directions given from time to time by the National Child Welfare Board or, as the case may be, the District Child Welfare Board and to send the report called for;
- (d) to discharge such duties as may be prescribed by rules; and
- (e) to undertake such other measures as may be necessary to discharge the aforesaid duties and functions.

**10. Tenure, etc. of the officers nominated to the Board.**—(1) The members nominated to the National Child Welfare Board, the District Child Welfare Board and the Upazila Child Welfare Board shall hold their respective posts for two (2) years from the date of nomination thereto.

Provided that any member so nominated may, at his will, resign his office at any time by writing under his hand addressed to the concerned Chairperson, and the post shall be deemed to be vacant from the date of acceptance by the

**Chairperson.**

(3) The duties and functions of the Board shall be as prescribed by rules.

(2) The nominating authority may, at any time, by cancelling its nomination, nominate another competent person for the post.

(3) The Government may, if necessary, decrease or increase the number of members of the Board by notification in the *official Gazette*.

**11. Meetings of the Board.**—(1) Subject to other provisions of this section, the Board may determine the procedures of its meeting.

(2) The meeting of the Board shall be held at such place and time as may be determined by its Chairperson.

(3) There shall be held at least one meeting of the National Child Welfare Board at every 6 (six) months, one meeting of the District Child Welfare Board at every 4 (four) months and one meeting of the Upazila Child Welfare Board at every 3 (three) months.

(4) The Chairperson shall preside over all meetings of the Board and, in his absence, any member so directed by him in this behalf, or if there is no such direction, any other member elected by the members from amongst the members present at the meeting shall preside over the meeting of the Board.

(5) Presence of majority of the total number of members of the Board shall constitute the quorum of the meeting of the Board.

(6) Decisions of the Board shall be taken by the majority of votes of the members present at the meeting.

(7) No act or proceedings of the Board shall be invalid or called in question merely on the ground of any existence of a vacancy in, or defect in the constitution of the Board.

**12. Advisor to the District Child Welfare Board and Upazila Child Welfare Board.**—(1) A Member of Parliament of the concerned district, nominated by the Speaker of the House of the Nation, shall be the advisor to the District Child Welfare Board:

Provided that while nominating the advisor, preference shall be given, to the female Member of Parliament of the concerned district, if any.

(2) The female Vice-Chairman of the Upazila Parishad shall be the advisor to the Upazila Child Welfare Board.

(3) The duties and functions of the Advisors to the District Child Welfare Board and the Upazila Child Welfare Board shall be prescribed by rules.

**CHAPTER IV**

**CHILD AFFAIRS DESK, CHILD AFFAIRS POLICE OFFICER ETC.**

**13. Child Affairs Desk.**—(1) The Ministry of Home Affairs shall set up a Child Affairs Desk in every police station, by assigning its responsibilities to an officer, not below the rank of Sub-Inspector:

Provided that if there is any female Sub-Inspector working in the concerned police station, the female Sub-Inspector shall be given preference to assign the responsibility of the desk.

(2) The officer in charge of the 'Child Affairs Desk' as mentioned in subsection (1) shall be called the Child Affairs Police Officer.

**14. Duties and functions of Child Affairs Police Officer.**—The Child Affairs Police Officer shall discharge the following duties and functions, namely:—

- (a) to maintain separate files and registers for the case concerning children;
- (b) if any child comes or is brought to the police station—
  - (i) to inform the Probation Officer;
  - (ii) to inform the parents of the child or, in the absence of both of them, the guardian or the authority in supervision of the child, or legal or lawful guardian or, as the case may be, any member of the extended family, and to notify them about the date of producing the child before the court along with detailed information;
  - (iii) to provide immediate mental support;
  - (iv) to arrange for first aid and, if necessary, to send the child to a clinic or hospital;
  - (v) to take necessary measures to meet the basic needs of the child;
- (c) to ensure that the age of the child is being determined correctly or in determining the age, the birth registration certificate of the child or other reliable documents relevant thereto are taken into consideration;
- (d) upon joint assessment with the Probation Officer regarding the allegations brought against the child, to take diversionary measures or to arrange for bail after assessing the possibility thereof;

- (e) if it is not possible to undertake diversion or release the child on bail due to any reason, to arrange for placement in a Safe Home before producing the child in the court for the first time;
- (f) at every month to send all information of child related cases in prescribed form to the Probation Officer and to the Police Head Quarters through Superintendent of Police and, where applicable, to the District Legal Aid Committee;
- (g) to discharge such duties as may be prescribed by rules; and
- (h) to undertake such other measures as may be required to discharge the aforesaid functions.

**15. Prohibition on submission of joint charge-sheet against a child with an adult offender.**—Notwithstanding anything contained in section 239 of the Code of Criminal Procedure or any other law for the time being in force, no charge-sheet shall be submitted accusing a child jointly with any adult offender for any offence.

#### CHAPTER V

#### CHILDREN'S COURT AND ITS PROCEDURES

**16. Setting up Children's Courts, etc.**—(1) For the purposes of this Act and for the trial of offences thereunder, there shall be at least one court to be called the Children's Court in every district headquarter and in every metropolitan area, as the case may be.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, for the purpose of sub-section (1), the Law and Justice Division, in consultation with the Supreme Court shall, by notification in the official Gazette, declare one or more courts of Additional Sessions Judge in every district and metropolitan area, as the case may be, as the Children's Court and, if more courts than one are so declared, it shall determine the local extent of territorial jurisdiction of every such court:

Provided that if there is no Additional Sessions Judge in any district, the District and Sessions Judge of that district shall discharge the duties of a Children's Court in addition to his own duties.

**17. Sittings and powers of Children's Court.**—(1) If a child in conflict with the law or a child in contact with the law is involved in any case under any law whatsoever, the Children's Court shall have the exclusive jurisdiction to try the case.

(2) If any child is involved in a case together with any adult, the Children's Court shall, on the basis of separate charge-sheets under section 15, take evidence of the child and the adult separately in separate sittings on the same day and continue uninterruptedly on the next working day in the same manner until examinations are closed.

(3) Without prejudice to the generality of the provisions of section 18, the Children's Court shall conduct its sittings according to the provisions of sub-section (2) in such place, day and manner as may be prescribed by rules:

Provided that until the rules are made, the Judge of a Children's Court shall commence and adjourn the sittings according to the provisions of sub-section (2), upon determination of the date, time and place of the trial at his discretion.

(4) The sittings of the Children's Court shall be held, in so far as possible, in any building or room and in a day or time other than the building or room and the day or time in which the sittings of the regular courts are generally held, and the sittings shall be held in an ordinary room, instead of a courtroom with witness box and the podium surrounded by red-cloth of the usual court, so far as it concerns the case of child only and not the adults.

**18. Jurisdiction of Children's Court.**—The jurisdiction of a Children's Court shall be as follows:—

- (a) the powers of a Court of Sessions under the Code of Criminal Procedure;
- (b) the jurisdictions of a Civil Court in respect of issuing summons, summoning witnesses and ensuring their appearance, producing documents or materials and receiving evidence on oath.

**19. Environment and facilities of Children's Court.**—(1) The set-up, decoration and seating arrangement of the courtroom shall be prescribed by rules.

(2) The seating arrangement of a Children's Court shall be made in a manner so that every child may sit nearer to the parents or, in the absence of both of them, to the guardian or the authority in supervision or the legal or lawful guardian or members of the extended family and to the Probation Officer and the lawyer.

The Children's Court shall, if necessary, ensure special seating arrangements for the impaired children along with appropriate seating arrangement in the courtroom for the child keeping consistent with the provision of sub-section (1).

(4) Notwithstanding anything contained in any other law, the lawyer, members of the police or other employees of the court shall not wear their professional or official uniform in the courtroom during trial of a child in a Children's Court.

**20. Relevant date for determining the age of a child.**—Notwithstanding anything contained in any other law for the time being in force or in any judgment or order of the court, the date of committing of the offence shall, for the purposes of this Act, be the relevant date for determining the age of the child.

**21. Presumption and determination of age of the child by the Children's Court.**—(1) If any child, whether being charged with an offence or not, is brought before the Children's Court in connection with any offence, or if any child is brought before the court for the purpose other than of giving evidence, and it appears to the Children's Court that he is not a child, the court may hold necessary inquiry and hearing to assess the age of that child.

(2) Based on the evidence as may be forthcoming during the inquiry and hearing under sub-section(1), the Children's Court shall record its findings thereon and declare the age of the child.

(3) For the purposes of determining the age—

- (a) the Children's Court may call for relevant documents, registers, information or statement from any person or institution;
- (b) the court may issue subpoena to any person or to any officer or employee of any institution to produce documents, registers, information or statements as mentioned in clause (a).

(4) The age of any child ascertained and declared by the Children's Court under this section shall, for the purposes of this Act, be deemed to be the actual age of that person, and any order or judgment of the court shall not be ineffective or invalidated by any subsequent proof that the age of such person has been incorrectly ascertained:

Provided that if any person, previously declared 'not a child' by the Children's Court, is subsequently proved to be a child by any undoubted documentary evidence, the court may revise its previous order regarding the age of the concerned child with adequate justification.

**22. Participation of a child in court proceedings.**—(1) Participation in person at all stages of the trial shall be considered as a right of the concerned child.



(2) Notwithstanding anything contained in sub-section (1), the Children's Court may, subject to the consent of the child, at any stage of any case or proceeding of the trial, exempt him from personal appearance and continue the case or the proceeding in his absence if his presence is not considered necessary for the best interest of the child:

Provided that in such a case the presence of the parents of the child and, in the absence of both of them, the presence of the guardian or the authority in supervision of the child or legal or lawful guardian of the child or, as the case may be, members of the extended family and the concerned lawyer along with the Probation Officer shall be ensured.

(3) If the proceedings are conducted in absence of the child according to the provision of sub-section (2), the Children's Court shall record in the case-docket the reasons of such absence and inform the child through the person present in the proceeding on behalf of the child of the steps taken and proceedings conducted by the court and of the measures to be taken for or against the child.

(4) The lawyer appointed on behalf of the child and the Probation Officer shall assist the concerned child to understand the decisions and order of the court as well as the nature and consequence of the judicial proceeding including language support.

(5) If any carelessness, negligence or failure of any Child Affairs Police Officer or of the concerned police officer or the Probation Officer in discharging his duties in filing and conducting cases properly in accordance with the provisions of this Act is noticed by the Children's Court, the court shall immediately refer the matter, in the case of a Probation Officer, to the Deputy Director of the District Social Services Office and, in the case of a Child Affairs Police Officer or the concerned police officer, to the Superintendent of Police for taking appropriate legal action, and the concerned authorities shall be bound to intimate the concerned Children's Court with a report relating to the action taken by them.

**23. Persons allowed to remain present at any sitting of Children's Courts.**—Subject to the provisions of this Act, no person shall be present at any sitting of a Children's Court, except—

- (a) the concerned child;
- (b) the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision of the child or legal or lawful guardian of the child or, as the case may be, members of the extended family;

- (c) the officers and employees of the Children's Court;
- (d) the parties to the case or proceeding before the Children's Court, the Child Affairs Police Officer or the concerned Police Officer, concerned lawyers of the case, and such other persons directly concerned in the case or proceeding including the Probation Officer; and
- (e) persons specially authorized by the Children's Court to appear or remain present.

**24. Presence of the parents or guardian of the accused child in the Children's Court.**—The Children's Court may direct the parents of the child who is produced before the Children's Court under this Act or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, to appear before the court if he or they are alive and reside within a reasonable distance from the court:

Provided that if the aforesaid persons reside beyond reasonable distance, the court shall direct them to appear before it specifying a reasonable time.

**25. Withdrawal of all persons other than the child from the Children's Court.**—(1) During the hearing of any case, if the Children's Court thinks that it is necessary for the best interest of the child, it may direct any of the persons as mentioned in section 23, except the concerned child, to leave the courtroom and the person so directed shall be bound to leave the courtroom accordingly.

(2) If any child is called as a witness in the hearing of a case relating to any offence against decency or morality, the Children's Court may direct the persons whom the Court thinks reasonable or proper to be withdrawn in the best interest of the child, except the concerned lawyers of the case or proceeding, the officers and employees of the Children's Court and the Probation Officer, to leave the courtroom and, upon such direction, the concerned persons shall be bound to leave the court.

**26. Keeping the child in safe custody during trial.**—(1) To keep the child in safe custody during the trial shall be considered as a measure of last resort and it will be for the shortest possible period of time.

(2) The child kept in safe custody shall be sent for diversion within the shortest possible time.

(3) If it appears to be extremely necessary to keep the child in safe custody, the Children's Court shall pass an order to send the concerned child to any certified institute situated within a reasonable distance from the court:

Provided that if any child is sent to any certified institute under this sub-section, the child so sent must be kept separate from the older children staying in that institute.

**27. Language, interpreter and other special assistance measures.—(1)** All concerned proceedings, including taking evidence of the child in contact with the law and the child in conflict with the law, shall be conducted in an easy and understandable language.

(2) If the child requires assistance for explanation of the proceedings of the court including taking of evidence in his understandable language, the court shall pass an order to provide the child with an interpreter free of cost.

**28. Confidentiality of proceedings of the Children's Court.—(1)** No photograph or description or news or report of a child, who is connected with a case or has testified as a witness before any Children's Court, shall be disclosed or published in any print or electronic media or on the internet which may directly or indirectly lead to identification of such child.

(2) Notwithstanding anything contained in sub-section (1), if it appears to the Children's Court that the disclosure or publication of the photograph, description, news or report of a child shall not be harmful for the interest of the child, the court may give permission for publication of the photograph, description, news or report of the concerned child.

**29. Release on bail of the child in conflict with the law by the Children's Court.—(1)** Notwithstanding anything contained in the Code of Criminal Procedure including this Act or in any other law for the time being in force, the Children's Court may release a child produced before it on bail, with or without surety, whether the offence is bailable or not, unless the case of the concerned child is dealt with diversion.

(2) The bail may be granted, with or without surety, on the bond by the concerned child or by the parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, Probation Officer or any institute or organisation whom or which the Children's Court shall consider appropriate.

(3) If the bail is not granted under sub-sections (1) and (2), the Children's Court shall record the reasons for the refusal of such bail.

**30. Factors to be taken into consideration in passing orders by the Children's Court.**—For the purpose of passing any order under this Act, the Children's Court shall consider the following factors, namely:—

- (a) age and gender of the child;
- (b) physical and mental condition of the child;
- (c) educational qualification of the child or the class in which the child studies;
- (d) social, cultural and ethnic background of the child;
- (e) financial condition of the child's family;
- (f) life style of the child and of his family;
- (g) reasons behind the commission of the offence, information regarding gang formation, overall background and surrounding circumstances;
- (h) opinion of the child;
- (i) social inquiry report; and
- (j) other ancillary factors which are expedient or necessary to be taken into consideration for correction and in the best interest of the child.

**31. Social inquiry report.**—(1) Within 21 (twenty one) days of production of the child before the Children's Court, the Probation Officer shall, in such manner as may be prescribed by rules, submit a social inquiry report to the Children's Court and send a copy thereof to the nearest Board and the Department.

(2) Upon completion of local inquiry, the social inquiry report mentioned in sub-section (1) shall contain the description of the familial, social, cultural, financial, psychological, ethnic and educational qualification and background of the child, and the condition and locality in which he lives and under which circumstances the offence has been committed.

(3) All reports related to the child including the social inquiry report of the Probation Officer shall be deemed to be confidential.

**32. Timeframe for concluding trial.**—(1) Notwithstanding anything contained contrary in the Code of Criminal Procedure or any other law for the time being in force, the Children's Court shall complete the trial within 360 (three hundred and sixty) days from the day of the child's first appearance before it.

(2) If the conclusion of trial within the time specified in sub-section (1) is not possible for any reasonable and practical ground, the Children's Court may, for reasons to be recorded in writing, extend the deadline of trial by another 60 (sixty) days.

(3) The proceedings shall continue consecutively from the commencement of trial in the Children's Court till its conclusion without any adjournment according to the provisions of sub-section (2) of section 17.

(4) If the trial is not concluded within the time specified in sub-sections (1) and (2), except of the cases prosecuted for the offence of murder, rape, robbery, dacoity, drug-dealings, or any other heinous, hateful, or serious offences, the concerned child shall be discharged from allegations which, in the court's opinion, are of lesser gravity, and no other legal proceeding shall be taken against him for the same offence from which he is discharged:

Provided that if an adult is accused of in the concerned case, the case against him shall continue.

**33. Restriction on certain punishments upon the child.—**(1) Notwithstanding anything to the contrary contained in any other law, no child shall be sentenced to death, imprisonment for life or imprisonment:

Provided that when a child is found to have committed such a serious offence for which the detention provided under the Act is, in the opinion of the court, not sufficient or if the court is satisfied that the child is so unruly or of such depraved character that he cannot be committed to any certified institute and that none of the other methods in which the case may legally be dealt with is suitable, the Children's Court may sentence the child to imprisonment and may order him to be sent to prison:

Provided further that the period of imprisonment shall not exceed the maximum period provided for the offence committed by him:

Provided further that during the period of such imprisonment the court may at any time, if it thinks fit, direct that in lieu of such imprisonment, the child shall be detained in a certified institute until he attains the age of 18 (eighteen) years.

(2) The child sentenced to imprisonment under the proviso to sub-section (1) shall not be allowed to associate with adult offenders in the prison.

**৩. Order of detention by Children's Court, etc.—**(1) Where a child is found guilty of an offence punishable with death or imprisonment for life, the Children's Court may order him to be detained in a Child Development Centre for a period not exceeding 10 (ten) years but not less than 3 (three) years:

Provided that if any child is found guilty of an offence not punishable with death or imprisonment for life, the Children's Court may order him to be detained in a Child Development Centre for a period not exceeding 3 (three) years.

(2) Notwithstanding anything to the contrary contained in the order of the Children's Court or in any other law for the time being in force, if there are positive and significant changes in the behaviour, character or personality of the child who is ordered to be detained and if the child is not charged for murder, rape, robbery, dacoity, drugs-dealing or any other heinous, hateful or serious offences, the authority of the Child Development Centre or the certified institute may, for the purposes of taking measures to release the child immediately upon his attaining the age of 18 (eighteen) years, send recommendation to the Government at least 3 (three) months before the child attains the age of 18 (eighteen) years.

(3) If the child, charged with an offence of murder, rape, robbery, dacoity or drug-dealings or any other serious offence, attains the age of 18 (eighteen) years and the case is still under trial, or where the child, ordered by a court to be detained in connection with cases of such offences, attains the age of 18 (eighteen) years, the authority of the Child Development Centre or any certified institute shall, with approval of the Children's Court, send the concerned person to the central or district jail immediately.

(4) The prison authority shall make arrangement for keeping the person sent under sub-section (3) in a separate ward by separating him from the accused persons staying in the jail who are convicted or under trial under any other law, where the concerned person shall stay for the period of his detention or, as the case may be, for the remaining period of his detention.

(5) Where the trial concludes after the child has attained the age of 18 (eighteen) years and the child is ordered to be detained, the Children's Court shall send the child directly to the central or district jail.

(6) Notwithstanding anything contained contrary in this section, the Children's Court may, if it thinks fit, instead of directing any child to be detained in a Child Development Centre under sub-section (1), order him to be discharged after due admonition or released on probation subject to good conduct.

(7) While releasing the child on probation under sub-section (6), the Children's Court may order him to be placed under the supervision of a Probation Officer or may commit him to the care of his parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family or other competent person:

Provided that if any child is committed to the care of his parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, the concerned person shall execute a bond, with or without surety or in any other manner as the court may require, committing himself to be responsible for the good conduct of the child for any period not exceeding 3 (three) years.

(8) If it appears to the court upon the report received from the Probation Officer or otherwise that the child released on probation has not been of good conduct during the period of his probation, it may, after making such inquiry as it deems fit, order the child to be detained in a certified institute for the remaining probation period.

**35. Periodic review and release.**—(1) The Children's Court shall mention in every order the provision of periodic review of that order, by which the Children's Court may review any order passed by it, and may release the child with or without condition.

(2) The Government may, at any time, upon consideration of the recommendations received under sub-section (2) of section 34, order to release any child detained from the Child Development Centre or certified institute with or without condition as may be specified by it or may refer the matter to the National Child Welfare Board for its recommendation on the concerned issue.

**36. Use of terminology when passing order.**—(1) Notwithstanding anything to the contrary contained in the Penal Code, the Children's Court, when passing any order, apart from the terminologies used in this Act, shall not use the terms 'offender', 'convicted' or 'sentenced' as used in the Penal Code.

(2) For the purpose of sub-section (1), in the case of children, the Children's Court shall, instead of the terms 'offender', 'convicted' or 'sentenced', use 'a person found guilty of an offence', 'finding guilty' or 'an order of finding guilty', as the case may be, and such other synonyms of these words as the court deems appropriate.

**37. Dispute resolution.**—(1) If any child, in the opinion of the Children's Court, commits an offence of lesser gravity, the court may direct the Probation Officer to take steps to resolve the dispute between the victim and the child who committed the offence, and in that case the provisions of section 49 shall apply, *mutatis mutandis*.

(2) The Probation Officer shall, according to such conditions and procedures as may be specified by the Children's Court and through the participation of appropriate persons of society, determine the rules of procedures for resolving the dispute and shall accordingly resolve the dispute between the victim and the child who committed the offence, and shall inform the Children's Court about this as soon as possible.

(3) Upon receipt of information under sub-section (2), the Children's Court shall make necessary order on the matter and issue direction as to what needs to be done, if any, in this regard, and inform the Department about this.

(4) If any direction is issued under sub-section (3), the Department shall, upon taking necessary measures according to the said direction, inform the court about the progress.

**38. Payment of compensation.**—(1) If any accused is found guilty of an offence committed against any child victim, the Children's Court may, upon a request by that child or his parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, Probation Officer, lawyer or Public Prosecutor or on its own motion, order the accused to provide appropriate compensation for the purpose of restoring the child to its previous position.

(2) If any order of compensation is made under sub-section (1), the Children's Court shall include therein necessary guidelines for the payment of compensation in full or by installments through the court within the period specified in the order and a direction about its use for the welfare of the child.

**39. Order upon parents to pay compensation.**—(1) Where the person found guilty of any offence against a child is himself a child, and if the Children's Court passes an order of compensation to be paid to the child victim, the Children's Court shall specify in that order that the compensation shall be paid by the parents of the child found guilty or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, if—

- (a) the parents, the caregiver or the authority in supervision or legal or lawful guardian or members of the extended family of the child are found;



- (b) the parent, the caregiver or the authority in supervision or legal or lawful guardian or members of the extended family are financially solvent to pay the compensation; and
- (c) the parents, the caregiver or the authority in supervision or legal or lawful guardian or members of the extended family instigated the commission of the offence by neglecting to exercise due care and upbringing of the child.

(2) The court may, where applicable, direct the Probation Officer to collect necessary information for the purpose of passing order under this section.

(3) For the failure to pay the compensation by the parents of the child, the caregiver or the authority in supervision or legal or lawful guardian or members of the extended family, the child shall not be awarded imprisonment.

**40. Information relating to judgment and acquittal.**—(1) The Children's Court shall, within 7 (seven) working days after the conclusion of the trial, communicate the judgment in writing to the child or his parents or, in the absence of both of them, to the caregiver or the authority in supervision of the child or legal or lawful guardian or, as the case may be, members of the extended family, Probation Officer or lawyer of the child.

(2) When any child is acquitted, the Children's Court shall communicate, directly or through the Department, Probation Officer or lawyer in the manner specified by it, the information of such acquittal to the child or his parents or, in the absence of both of them, to the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family.

(3) If any child is acquitted in any case under sub-section (2), and if any child in contact with the law is involved in that case, the Children's Court shall communicate, directly or through the Department, Probation Officer or lawyer in the manner specified by it, the information of such acquittal to the child in contact with the law or to his parents or, in the absence of both of them, to the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family.

**41. Appeal and revision.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, an appeal may lie to the High Court Division against an order passed by the Children's Court under this Act within 60 (sixty) days from the date of the order.

(2) Notwithstanding anything contained in sub-section (1), the power of the High Court Division shall not be affected as to revision of any order passed by the Children's Court.

(3) If any appeal is preferred or any application for revision is filed under this section, it shall be disposed of within 60 (sixty) days from the date it is preferred or, as the case may be, filed.

**42. Applicability of the provisions of the Code of Criminal Procedure.**—(1) Save as any provision, specific and to the contrary, contained in this Act or in the rules made thereunder, the provisions of the Code of Criminal Procedure shall be applicable and be followed, in so far as possible, in the trial of cases or proceedings under this Act.

(2) Notwithstanding anything contained in sub-section (1), all offences committed under this Act shall be cognizable, and if there is any specific provision in this Act or in the rules made thereunder, such provision shall be followed in the concerned case.

**43. Removal of disqualification attaching to conviction, etc.**—Though a child is found guilty of any offence under this Act or any other law,—

- (a) section 75 of the Penal Code or section 565 of the Code of Criminal Procedure shall not be applicable to him;
- (b) he shall not be considered disqualified of being employed in a public or private office or contesting in any election under any law.

## CHAPTER VI

### ARREST, INVESTIGATION, DIVERSION AND BAIL

**44. Arrest, etc.**—(1) Notwithstanding anything contained in this section, a child below the age of 9 (nine) years shall, in no circumstances, be arrested or, as the case may be, detained.

(2) Notwithstanding anything contained in any other law, no child shall be arrested or detained under any law relating to preventive detention.

(3) After arrest of a child, the police officer who arrests the child shall immediately inform the Child Affairs Police Officer the causes and place of arrest and subject matter of the allegation etc. and, after primary determination of his age, shall record it in the file:

Provided that no child shall be hand-cuffed or tied up with rope or cord around the waist.

(4) For the purpose of determination of age under sub-section (3), the police officer shall record his age by finding out and verifying the birth-registration certificate or, in absence of such certificate, the relevant documents including the school certificate or the date of birth given at the time of school admission:

Provided that where it appears to the police officer that the concerned person is a child but, despite all possible attempts, it is not possible to be confirmed through any documentary evidence, the said person shall in that case be considered as a child under the provisions of this Act.

(5) If there is no safe place appropriate for a child in the concerned police station, steps shall be taken to detain the child in a Safe Home after arrest until his production before the court:

Provided that in case of detaining the child in a Safe Home, he shall not be kept together with the adults or any child who has already been found guilty or offender and with any child in contact with law.

**45. Informing the parents and the Probation Officer.**—(1) If any child, after arrest, is brought to the police station by the officer who makes such arrest, the Child Affairs Police Officer shall, without prejudice the provisions of Chapter IV and in a manner prescribed by rules, inform —

- (a) the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision of the child or legal or lawful guardian of the child or, as the case may be, members of the extended family;
  - (b) the Probation Officer; and
  - (c) the nearest Board, if necessary;
- about such arrest.

(2) If it is not possible to inform the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family and the Probation Officer or, as the case may be, the Board according to the provision of sub-section (1), the Child Affairs Police Officer shall submit a report to the court stating the reasons for not complying with the said provision, on the first date of producing the concerned child before the court.

**46. Investigation.**—If there is no provision, specific and to the contrary, contained in this Act or the rules made thereunder the provisions of the Code of Criminal Procedure shall, in so far as possible, be applicable and be followed in all investigations under this Act.

**47. Statement, warning and release.**—(1) The Child Affairs Police Officer shall record the statements of the child in presence of the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family and the Probation Officer or the Social Worker.

(2) Considering the nature of allegation brought against the child and his mental and socio-economic condition, the Child Affairs Police Officer may-

- (a) release the child after warning in writing or verbally, in presence of the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, and the Probation Officer or the Social Worker, which shall not be regarded as a record against the child; or
- (b) send him for diversion.

**48. Diversion.**—(1) For the purposes of this Act, after the arrest or detention of a child in conflict with the law, diversion may be undertaken at any stage of the proceedings instead of formal trial, considering the familial, social, cultural, financial, ethnic, psychological and educational background of the child in order to ensure the best interest of the child or for the purpose of resolving the dispute.

(2) Notwithstanding anything contained in the Code of Criminal Procedure or any other law for the time being in force, the Child Affairs Police Officer or the Children's Court, as the case may be, at any stage of the proceedings after the arrest of the child, may send the matter to the Probation Officer for diversion in order to resolve the dispute in an alternative way instead of formal trial.

(3) If diversion is undertaken under sub-section (2), the Probation Officer shall monitor as to whether the concerned child, the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, are complying with the conditions of diversion, and shall report the matter, from time to time, to the Child Affairs Police Officer or, as the case may be, to the Children's Court.

(4) If the concerned child, the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, violates any condition of diversion, the Probation Officer shall immediately inform the Child Affairs Police Officer or the Children's Court, as the case may be, of the matter in writing.

(5) The process and procedure of taking diversion shall be prescribed by rules.

(6) For the purposes of this section, the Department may undertake appropriate, time-befitting and implementable programmes for the implementation of diversion.

**49. Family conference.**—(1) If diversion is undertaken under section 48, the Probation Officer may take initiative to resolve the concerned dispute on priority basis by arranging family conference.

(2) The participants of the family conference may, upon determination of, and by following, the procedures of the conference on the basis of consensus, undertake plan to ensure the best interest of the child, and it shall be informed to the Children's Court or to the Child Affairs Police Officer, as the case may be.

(3) The Children's Court or the Child Affairs Police Officer, as the case may be, may determine the required procedures for the family conference at the time of sending the child for diversion under any special circumstances, and the Probation Officer shall organize the family conference accordingly.

(4) If the child or his parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, violates or fails to satisfy any condition according to the decision of the family conference, the Probation Officer shall inform the Children's Court or the Child Affairs Police Officer, as the case may be, of the matter in writing.

(5) If the participants of the family conference fail to reach at any decision consensually, the conference shall be cancelled and the Probation Officer shall return the matter to the Children's Court or to the Child Affairs Police Officer, as the case may be, for taking another form of diversion.

(6) The proceedings of the family conference shall be considered confidential and any statement made by any person participating in the said conference shall not be used subsequently as evidence in legal proceedings before any court.

**50. Duration of diversion.**—(1) The diversion shall be initiated and completed within the time specified by the Children's Court or the Child Affairs Police Officer, as the case may be, under the provisions of this Act or the rules made thereunder.

(2) If the child charged with an offence responds positively to adopt diversionary measures, the diversion may be concluded before the specified time.

**51. Breach of conditions of diversion or failure to comply with the order of diversion.**—(1) Upon receiving the report from the Probation Officer under the provisions of this Act or otherwise, if it appears to the Children's Court or the Child Affairs Police Officer, as the case may be, that the child, the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, have violated the conditions of diversion or failed to comply with any order relating to diversion, the Children's Court or the Child Affairs Police Officer, as the case may be, may, after verifying the matter in the manner prescribed by rules,—

- (a) pass a similar order with different condition;
- (b) issue warrant for the arrest of the child;
- (c) send a written notice to the child for appearing before the Children's Court or the police station;
- (d) send the case record to the Public Prosecutor for initiating trial process against the concerned child;
- (e) pass an order to send the child to a certified institute; or
- (f) pass any other order under this Act.

**52. Bail, etc.**—(1) Notwithstanding anything contained to the contrary in any other law for the time being in force, including the Code of Criminal Procedure or in any other provision of this Act, after the arrest of any child, if it is not possible to release the child or send him to diversion, or to produce before the court forthwith according to the provisions of this Act, the Child Affairs Police Officer may release the child on bail, with or without any condition and surety, to the custody of his parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family or the Probation Officer.

(2) In case of releasing any child on bail under sub-section (1), the Child Affairs Police Officer need not to consider whether the concerned offence is bailable or non-bailable.

(3) Notwithstanding anything contained in sub-section (2), if the offence is of severe or heinous in nature, or if the child's release on bail is contrary to the best interest of the child, or if there is apprehension that upon release on bail the child may come in contact with any notorious criminal or be exposed to moral risks, or that the purpose of justice may be affected if bail is granted, the Child Affairs Police Officer shall not grant bail or release the child concerned.

(4) If the child arrested is not released under sub-section (3), the Child Affairs Police Officer shall, after the arrest, make arrangement for producing the concerned child before the nearest Children's Court within 24 (twenty four) hours excluding the required time of travel.

(5) If a child, who has not been released on bail from the police station, is produced before the Children's Court, the Children's Court may release him on bail or pass an order to detain him in a Safe Home or Child Development Centre.

**53. Responsibility of informing about the child in contact with the law.**—Where any person has a reason to believe that any child is a victim of any criminal incident or a witness to any crime, he shall inform the matter to the Child Affairs Police Officer, the Probation Officer or the Social Worker and, in such a case, the concerned Child Affairs Police Officer, the Probation Officer or the Social Worker shall take necessary measures regarding the overall security of the child.

**54. Special measures and protection in respect of child in contact with the law.**—(1) At all stages of the judicial proceedings, due respect for dignity of the child, surrounding conditions, age, sex, incapacity and maturity of the child in contact with the law shall be taken into consideration.

(2) The child in contact with the law shall be interviewed by the Child Affairs Police Officer in a special and child-friendly environment:

Provided that in case of a female child, the interview shall be taken by a female police officer in presence of the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, and the Probation Officer among whose presence the child agrees or feels comfortable to give interview.

(3) Considering the best interest of the child in contact with the law, the Children's Court may pass order for taking any one or more of the following steps in order to ensure the protection and confidentiality of the child, namely:—

- (a) to maintain confidentiality regarding all information about the child in contact with the law involved in the judicial proceedings, and not to make public any such information by which the concerned child may be identified;
- (b) to take initiative to conceal the photograph and physical description of the child testifying as witness or, for the purpose of preventing any harm to the child, to examine the child through any of the following means, subject to availability:—
  - (i) behind the curtain;
  - (ii) through video recorded evidence of the child-witness before hearing but, in that case, the defence lawyer shall be given the opportunity to remain present and to cross-examine the concerned child at the time of taking evidence;
  - (iii) through a qualified and competent mediator;
  - (iv) by conducting a camera trial session; or
  - (v) by video linkage system, if introduced;
- (c) if the child declines to give testimony in presence of the accused, or if it appears that the child may be obstructed by the presence of that person to speak the truth, to order the accused for leaving the courtroom under the custody of police for the time being, provided, in such case, the defence lawyer shall be given the opportunity of being present in the courtroom and to examine the child;
- (d) to allow interval while taking evidence of the child;
- (e) to fix the schedule of hearing at such day and time suitable for the age and maturity of the child; and
- (f) to provide necessary security for the child along with his guardians during, before and after giving testimony as a witness or victim; or
- (g) to adopt any other means as the court may think fit, considering the best interest of the child and the rights of the accused.

(4) Notwithstanding anything contained in sub-section (3), for ensuring the protection of the child, the Children's Court may, considering the best interest of the child in contact with the law, order to resolve the dispute through diversion by determining the procedure.



CHAPTER VII

LEGAL REPRESENTATION AND ASSISTANCE

55. Legal representation, etc.—(1) No court shall proceed with its trial in any case without legal representation on behalf of the child in conflict with the law and the child in contact with the law.

(2) The child shall preserve the right to convey necessary opinion to his legal representative in his own language and, where applicable, with the help of an interpreter.

(3) If no lawyer is appointed by the parents of the child or, in the absence of both of them, by the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, or the child has no parent or caregiver or authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, or if they do not have the financial capacity to appoint a lawyer, the Children's Court, according to the Legal Aid Act, 2000 and the rules, regulations and policy made thereunder, shall take appropriate measures in order to engage a competent lawyer from amongst the enrolled or panel lawyers of the District Legal Aid Committee or, as the case may be, the Supreme Court to conduct the proceedings of the case.

56. Presence of legal representative.—(1) The lawyer appointed on behalf of the child under sub-section (3) of section 55 shall mandatorily remain present in every hearing of the concerned case and, if he is unable for any reasonable cause to conduct the case, shall, by reasonable time, inform the matter in writing, with the cause of such inability, to the concerned court through his representative or the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family or Probation Officer.

(2) If any lawyer informs the court under sub-section (1) about his inability to conduct the case, the hearing of the concerned case shall remain adjourned until a new lawyer is appointed:

Provided that the District Legal Aid Committee of the concerned district shall in no way take more than 30 (thirty) days in appointing a new lawyer.

(3) If a lawyer is appointed on behalf of the child by the parents of the child and, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family, the concerned lawyer shall mandatorily remain present in every hearing of the concerned case:

Provided that the concerned lawyer, if necessary, may, for any reasonable ground, subject to permission of the Children's Court, seek exemption from the hearing of the case.

**57. Inadequate legal representation and misconduct.**—If the lawyer appointed on behalf of the child remains absent repeatedly in the court without any reasonable ground, or if his negligence is specifically noticed in conducting the case, the Children's Court shall discharge him from the responsibility of conducting the case and, by considering this as misconduct, give direction to the Chairman of District Legal Aid Committee or, as the case may be, the Bangladesh Bar Council and the concerned Bar Association for taking appropriate legal action, and call for a report on the measures taken according to the direction within not more than 30 (thirty) days from the date of such direction.

**58. Protective measures.**—At any stage of the trial, if it appears that the child in contact with the law or, as the case may be, the child in conflict with the law is susceptible to any harm, the authority in supervision of the child shall undertake the following safety measures for that child, namely:-

- (a) to avoid direct contact of the concerned child with the accused person;
- (b) to provide security of the concerned child through the police or other agency, and to keep secret the where-about of that child;
- (c) to apply to the court or the police for appropriate security of the concerned child and, if necessary, of the members of his family.

## CHAPTER VIII

### CHILD DEVELOPMENT CENTRES AND CERTIFIED INSTITUTES

**59. Establishment of Child Development Centres and certification.**—

- (1) The Government shall establish and maintain required number of Child Development Centres, based on gender disaggregation for accommodation, correction, and development of the children ordered to be detained in the judicial proceedings and for the children under trial.

(2) Without prejudice to the relevance of sub-section (1) the Government may, at any time, certify any of its institute or establishment as appropriate for the placement of children charged with any offence.

(3) For the purpose of accommodation, correction, development, maintenance and administration of the children coming into and residing in the institute established under sub-section (1) or, as the case may be, certified under sub-section (2), the Government shall formulate policy or issue circular from time to time.

**60. Establishment of certified institutes at private initiatives.**—The Government may, for the purposes of this Act, by notification in the official Gazette, in the manner prescribed by rules or in line with the policy, permit any person, institute or organization to establish and run nongovernment institutes as certified institutes, subject to fulfillment of prescribed conditions.

**61. Penalty for running any institute without lawful certificate.**—To run any institute mentioned in section 60 without lawful certificate or to continue to run any institute that has failed to fulfill the conditions prescribed by rules shall be considered to be an offence under this Act and, for that offence, the owner, director or officer of the concerned institute shall be punished with imprisonment for a term which may extend to 5 (five) months, or with fine of Taka 50,000 (fifty thousand).

**62. Informing the Department about the children residing in the certified institute.**—Every institute, established and run publicly or privately, as the case may be, under sections 59 and 60, shall report to the Department by writing in a form prescribed by rules, mentioning the name, sex and age of every child and the reasons for receiving the child with date by fifteenth (15th) day of every month and shall also be bound to provide all other information to the Department as may be required by it.

**63. Minimum standards of care.**—(1) The Government shall, by issuing office orders and directives, determine the minimum standards of proper care for the children staying in the certified institutes, and the certified institutes shall maintain the minimum standards of care according to such orders or directives.

(2) The children staying in the certified institutes shall be classified into different classes and kept separately in consideration of the degree or nature of the offences committed by them and the age of the children:

Provided that while making such classification, special attention should be given so that a child above 9 (nine) years of age may not be kept together with a child 10 (ten) years of age and that a child of above 10 (ten) years of age may not be kept together with a child of above 12 (twelve) years of age, in the same room and in the same floor:

Provided further that in case of children of 12 (twelve) years of age and above, matters relating to their accommodation should be cautiously monitored and arrangement shall be made, in so far as possible, to keep them in separate rooms, considering the degree of offence, physical growth, strength of the child etc.

(3) For the purpose of section 82 of the Penal Code, no child below the age of 9 (nine) years shall be kept in a certified institute:

Provided further that if any child below the age of 9 (nine) years, who does not have any guardian, is found anywhere, he should be sent to the Department or to any of its nearest office, and the Department upon notifying the concerned Board in this regard shall consider the child a disadvantaged child, and, where applicable, shall take the subsequent necessary measures according to the provisions of section 84 or 85.

(4) The certified institutes shall protect the best interest of every child staying therein and ensure their fulltime monitoring, humane behaviour and vocational training including proper education.

**64. Inspection of certified institutes by the Government or its representative.**—The Government or any representative empowered by it and the Director General of the Department or any other person or institution authorized by him may inspect any certified institute, with the objective of collecting information for any purpose, official or special, and may advise the Government for taking necessary measures on the basis of information so received.

**65. Transfer among different institutes.**—The Department may, in case of special necessity, order to transfer a child from one certified institute to another certified institute.

**66. Transfer to other institute.**—When the certified status of any institute is lost or withdrawn the children staying in that institute may, subject to the provisions of this Act, be transferred to another certified institute by order of the Director General of the Department.

**67. Power of the Government to withdraw certification.**—If any certified institute fails to maintain the minimum standards of care determined by the Government under section 63 for proper care of the children staying in that institute, the Government may, by issuing notice to the said institute, declare that the concerned certification has been withdrawn from the date mentioned in the notice:

Provided that before issuing such notice, the manager of the concerned certified institute shall be given a reasonable opportunity to show cause, as to why the certificate of that institute shall not be withdrawn.

**68. Control of the custodian over a child.**—If any child is handed over under supervision of any person or certified institute under the provisions of this Act, the person or institute shall be liable for control, protection, care and development of the child like his parents, and keep the child continuously in his or its custody till the time specified by the Children's Court or the Board or any other court, even though the parents of the child or any other persons claim otherwise.

**69. Procedure relating to the absconding child.**—(1) Notwithstanding anything contained in any other law for the time being in force or other provisions of this Act, any police officer may, without warrant, arrest any child who has absconded from the custody of the certified institute or the person, in whose custody he was directed to stay, and cause the child to be returned to the concerned institute or person without registering any offence committed by the child or without filing any separate case against the child:

Provided that such child shall not be deemed to have committed any offence due to such absconding.

(2) If any absconded child mentioned in sub-section (1) is arrested, he shall be kept in a Safe Home until the child is returned to the concerned institute or person.

#### CHAPTER IX PENALTY FOR SPECIAL OFFENCES IN RESPECT OF CHILDREN

**70. Penalty for cruelty to a child.**—If any person assaults, ill-treats, neglects or forsakes any child under his custody, charge or care, or leaves him unprotected, uses him for personal service, or exposes him in an indecent way, and if such assault, ill-treatment, negligence, forsaking, abandonment, use in personal service or exposure causes unnecessary sufferings to the child or creates such an injury to his health that leads to loss of his eyesight or hearing or causes injury to any limb or organ of his body and causes any mental derangement, the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 5 (five) years, or with fine which may extend to Taka 1 (one) lac, or with both.

**71. Penalty for employing a child in begging.**—If any person employs any child for the purpose of begging or causes any child to beg, or if any person having the custody, supervision or care of a child indulges or encourages his employment for the purpose of begging, or gives him away for begging, the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 5 (five) years, or with fine which may extend to Taka 1 (one) lac, or with both.

**72. Penalty for being drunk while in charge of a child.**—If any person is found drunk in any public place while having the charge of a child, and for this reason if such person is incapable of taking due care of the child, the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 1 (one) year or with fine which may extend to Taka 50 (fifty) thousand, or with both.

**73. Penalty for giving intoxicating drug or dangerous drug to a child.**—If any person, due to illness or any other urgent cause, gives or causes to be given intoxicating drug or dangerous drug to a child without advice of a duly qualified medical practitioner, the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 3 (three) years or with fine which may extend to Taka 1 (one) lac, or with both.

**74. Penalty for permitting a child to enter places where intoxicant or dangerous drugs are sold.**—If any person takes a child to any place where intoxicant or dangerous drugs are sold, or the proprietor, owner or any person in charge of such place permits a child to enter such place, or if any person causes a child to go to such place, the person shall be punished with imprisonment for a term which may extend to 3 (three) years, or with fine which may extend to Taka 1 (one) lac, or with both.

**75. Penalty for inciting a child to bet or borrow.**—If any person orally or in writing or by any sign or otherwise incites or attempts to incite a child to make any bet or wager or to enter into or take any share in any betting or wagering transaction, or by such means incites a child to borrow money or to enter into any transaction of borrowing money, the person shall be punished with imprisonment for a term which may extend to 2 (two) years, or with fine which may extend to Taka 50 (fifty) thousand, or with both.

**76. Penalty for taking on pledge or purchasing articles from a child.**—If any person takes any article on pledge from a child, whether offered by the child on his own behalf or on behalf of any person, the person shall be deemed to have committed an offence under this Act and, for such offence, shall be punished with imprisonment for a term which may extend to 1 (one) year, or with fine which may extend to Taka 25 (twenty five) thousand, or with both.

**77. Penalty for allowing a child to be in brothel.**—(1) No child over the age of 4 (four) years shall be allowed or permitted to reside in or to go to a brothel:

Provided that after completion of 4 (four) years of age, the concerned authority shall, upon considering the child a disadvantaged child, send him to the Department or its nearest office to take necessary measures under section 84 or 85, as the case may be.

(2) If any person contravenes the provision of sub-section (1), the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 2 (two) years, or with fine which may extend to Taka 50 (fifty) thousand, or with both.

**78. Penalty for leading or encouraging a child to seduction.**—(1) If any person having the actual charge or supervision of a child leads the child to seduction, or induces the child to prostitution or encourages for doing so, or causes or encourages any person other than her husband to have sexual intercourse with her, the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 5 (five) years, or with fine which may extend to Taka 1 (one) lac, or with both.

(2) On the basis of a complaint made by any person, if it appears to the court that any child with or beyond the knowledge of his parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family is being led to seduction, or exposed to the risk of engaging in prostitution, then the court may direct the concerned parents, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family to execute a bond for the purpose of taking due care and keeping supervision of such child.

[**Explanation.**—For the purposes of this section, the person who knowingly allows any child to live with, or to enter into or continue in, the employment of any prostitute or of a person known to be immoral character shall be deemed to have led or encouraged the seduction or prostitution of a child.]

**79. Penalty for carrying fire arms or illegal and banned stuff and committing terrorist activity by using a child.**—(1) If any person uses any child to carry or transport fire arms or illegal and banned stuff, the person involved shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 3 (three) years, or with fine which may extend to Taka 1 (one) lac, or with both.

(2) Any person, whether he has actual charge or supervision of a child or not, engages or uses any child in any terrorist activity mentioned in section 6 of the Anti-terrorism Act, 2009 (Act No. XVI of 2009), the person shall be deemed to have committed such terrorist activity by himself and shall, for such offence, be punished with the penalties provided for the offence in the section.

**80. Penalty for exploitation of a child.**—(1) If any person entrusted with the custody or care of, or with the duty of rearing, a child by the Children's Court, or any other person secures a child ostensibly to employ as a servant or to employ the child in a factory or in other establishments in accordance with the provisions of the Labour Act, 2006, but in fact exploits the child for his own interest, or keeps him detained or enjoys his earnings, such acts shall be deemed to be an offence under this Act and, for such offence, the person involved shall be punished with imprisonment for a term which may extend to 2 (two) years, or with fine which may extend to Taka 50 (fifty) thousand, or with both.

(2) If any person entrusted with the custody or care of, or with the duty of rearing, a child by the Children's Court, or any other person secures a child ostensibly to employ as a servant or to employ in a factory or in other establishments in accordance with the provisions of the Labour Act, 2006, but in fact leads the child to seduction or exposes the child to the risk of engaging in prostitution or immoral activities, such acts shall be deemed to be an offence under this Act and, for such offence, the person involved shall be punished with imprisonment for a term which may extend to 5 (five) years, or with fine which may extend to Taka 1 (one) lac, or with both.

(3) If any person avails himself of result of the labour of a child exploited or employed in the manner referred to in sub-section (1) or (2), or uses such child for his immoral gratification, the person shall be liable to be an abettor of the relevant offence.

**81. Penalty for publishing secret information by news media.**—(1) No report, photo or information relating to any case under trial or judicial proceedings under this Act shall be published in print or electronic media or on the internet which is against the interest of the child and by which the child may be identified directly or indirectly.



(2) If any person contravenes the provision of sub-section (1), the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 1 (one) year, or with fine which may extend to Taka 50 (fifty) thousand, or with both.

(3) If any company, association, organization or institution contravenes the provision of sub-section (1), the concerned company, association, organization or institution may be subject to a fine which may extend to Taka 2 (two) lac including suspension of its registration for not more than 2 (two) months.

**82. Penalty for abetting escape of a child.**—If any person knowingly, directly or indirectly,—

- (a) assists or induces a child to escape from any certified institute or Safe Home or from the supervision of the person responsible for Diversion; or
- (b) after such escaping shelters, hides or creates obstruction or assists to create obstruction for returning the child to that place or the person,

the person shall be deemed to have committed an offence under this Act and shall, for such offence, be punished with imprisonment for a term which may extend to 1 (one) year, or with fine which may extend to Taka 50 (fifty) thousand, or with both.

**83. Penalty for giving false information.**—If any person discloses any information relating to any child in the proceedings of any case under this Act in any court which is false, vexatious or frivolous in nature, the court, subject to necessary investigation, may, for reasons to be recorded in writing, direct the person giving the concerned information to pay compensation of any amount of money exceeding Taka 25 (twenty five) thousand in favour of the person against whom that information has been given, and may, for the default to pay the compensation, be punished with a simple imprisonment for a term which may extend to 6 (six) months:

Provided that before giving the order to pay compensation, a notice shall be given to the informant to show cause as to why he should not be ordered to pay the compensation, and if any cause is shown by the informant, it shall be taken into consideration.

**CHAPTER X**  
**ALTERNATIVE CARE ETC.**

**84. Alternative care.**—(1) Alternative care may be initiated in order to ensure the overall welfare and the best interest of the disadvantaged children and the children in contact with the law for whom special protection, care and development need to be ensured upon consideration of their familial, social, cultural, financial, ethnic, psychological and educational background:

Provided that before sending to alternative care, the complete report regarding assessment of the child according to section 92 shall be considered.

(2) While deciding the means and types of alternative care, the re-integration of the child with the parents shall be accorded with priority:

Provided that if the parents are divorced or live separately for any other reason, the child shall be re-integrated with any one of the parents by giving importance to the opinion of the child as far as possible:

Provided further that before giving importance to the opinion of the child, the characteristics of the parents including the causes of their living separately shall be ensured.

(3) If it is not possible to re-integrate the child with the parents under sub-section (2), the child may be re-integrated with the extended family or, in absence of the parents, may be sent to the caregiver or the authority in supervision or legal or lawful guardian or any other appropriate person for the purpose of community-based integration.

(4) If the measures mentioned in sub-sections (2) and (3) are not possible to be taken, the concerned child may be sent to any institute mentioned in section 85.

(5) Notwithstanding anything contained in sub-section (2), if it appears for any reasonable cause that the parents of the child may engage the child in any immoral or illegal activity, the child shall be sent to any institute mentioned in section 85 until the period of changing such situation of the parents, and the Government shall take effective measures to rehabilitate the concerned parents so that the child may be re-integrated with them.

(6) The processes, procedures and matters ancillary to alternative care shall be prescribed by rules.

**85. Institutional care for the disadvantaged children.**—The Department shall ensure the institutional care through any of the following institutes in light of the policy formulated by the Government in this behalf for the disadvantaged children for whom the parental care or non-intuitional care under sub-sections (2) and (3) of section 84 may not be ensured, namely:—

- (a) government children homes (*Sharkari Shishu Paribar*);
- (b) baby homes (*Chotomoni Nibash*);
- (c) training and rehabilitation centres for the destitute children;
- (d) government shelter homes; and
- (e) other institutes to be determined by the Government.

**86. Assessors of alternative care.**—The Child Welfare Board or the Probation Officer shall determine the most appropriate means of alternative care for the child considering the best interest of the child.

**87. Establishment of alternative care measures by the Department.**—The Department shall take the following measures for the purpose of alternative care under this Act, namely:-

- (a) to take projects or programmes for providing financial and other assistance including counseling to the parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family to ensure proper care of children;
- (b) to undertake appropriate and reasonable steps including counseling in order to arrange vocational training, determine the means of livelihood of the child and re-integrate with parents;
- (c) to take measures for monitoring in the manner prescribed by rules for being ensured of the real situation and information relating to matters mentioned in clauses (a) and (b);
- (d) to undertake any other relevant step for carrying out the purposes of this Act.

**88. Duration of alternative care and follow-up.**—(1) For the protection of the best interest of a child, the duration of alternative care may be either short term or long term.

(2) The Probation Officer shall, taking into consideration the opinion of the child and of his family, periodically review the adopted alternative care arrangement.

(3) As part of the periodical review, the Probation Officer shall on a regular basis inspect the alternative care arrangement of the child and shall inform the matter to the District or Upazila Child Welfare Board or, as the case may be, the Department.

(4) On the basis of review mentioned in sub-section (2), the Probation Officer may, if necessary, recommend the Department to consider about taking any other appropriate measures under this Act.

**89. Disadvantaged children.**—(1) For the purposes of this Act, the following children shall be considered as disadvantaged children, namely:—

- (a) the child whose parents, any one or both, have died;
- (b) the child without legal or lawful guardian;
- (c) the child without any particular home or residence or without visible means of living;
- (d) the child engaged in begging or anything against welfare of the child;
- (e) the child dependent on the parents imprisoned or living in the prison with the imprisoned mother;
- (f) the child victim of sexual oppression or harassment;
- (g) the child staying with or going usually to the residence or workplace of any person or offender engaged in prostitution or anti-social or seditious activities;
- (h) the child disabled of any type;
- (i) the child with unnatural behavioural disorder caused by drugs or any other reason;
- (j) the child who has fallen into ill company, or who may face moral degradation or who is at the risk of entering into the criminal world;
- (k) the child residing in slum;
- (l) the homeless child residing on the street;
- (m) the effeminate child (*hijra*);
- (n) the gypsy and the untouchable (*harijan*) child;
- (o) the child infected with or affected by HIV-AIDS; or
- (p) any child considered by the Children's Court or the Board to be in need of special protection, care and development.

(2) The Government may take necessary measures in the manner prescribed by rules for the purposes of ensuring special protection, care and development of the disadvantaged children.

**90. Sending of children by any person or organization, etc.—**(1) If any person or organization gets any disadvantaged child or any child in contact with the law or any child in conflict with the law or, as the case may be, comes across any information in this regard, the person or the organization shall send the concerned child or the information—

- (a) to the nearest police station or to the Probation Officer or Social Worker; or
- (b) to the Department or its nearest office.

(2) The Probation Officer or the Social Worker, upon getting the disadvantaged child or the child in contact with the law or the child in conflict with the law or, as the case may be, coming across any information in this regard shall record such information in a form prescribed by rules and send-

- (a) the child in contact with the law and the child in conflict with the law or, as the case may be, the information relating to it to the Child Affairs Police Officer of the concerned police station; and
- (b) the disadvantaged child or, as the case may be, the information relating to it to the Department or its nearest office.

(3) The Department or any of its office, upon getting the disadvantaged child, the child in contact with the law or the child in conflict with the law or, as the case may be, coming across any information in this regard, shall record such information in a form prescribed by rules and-

- (a) send the child in contact with the law and the child in conflict with the law or, as the case may be, the information thereof to the Child Affairs Police Officer of the concerned police station; and
- (b) take necessary measures for the disadvantaged child according to the provisions of section 84 and, as the case may be, section 85.

**91. Sending of the child by the police.—**(1) If any police officer gets any disadvantaged child, any child in contact with the law or any child in conflict with the law or, as the case may be, comes across any information in this regard, the police officer shall send the concerned child to the Child Affairs Police Officer of the concerned police station.

(2) Upon receipt of any child under sub-section (1), the Child Affairs Police Officer shall, with regard to the child in contact with the law and the child in conflict with the law, take measures according to the provisions of this Act and, with regard to the disadvantaged child, shall send the child to the Department or, as the case may be, its nearest office for taking necessary measures according to the provisions of sections 84 and 85..

**92. Assessment of a child.**—(1) The Probation Officer or the Social Worker shall assess the child received under this Act in the manner prescribed by rules after placing him in any institute mentioned in section 85 or in any other 'Safe Home', and shall take necessary measures according to the provisions of this Act in order to ensure his overall development.

(2) The Probation Officer or the Social Worker shall find out the parents of the child or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family as well as the actual conditions of the child.

**93. Submission of information to the Child Welfare Board.**—(1) To ensure the best interest of the child, the Probation Officer shall submit all the information preserved and received by him to the concerned Child Welfare Board through the Member Secretary of the Board on a regular basis and send a copy thereof to the Director General of the Department.

(2) The District Child Welfare Board or, as the case may be, the Upazilla Child Welfare Board shall review the information received under sub-section (1) and make recommendations to the concerned authorities for the overall welfare of the child.

**94. Sending to the Children's Court by the Board.**—(1) If it appears to the Board that, for the best interest of the child, it is necessary to remove any child from his parents or, in the absence of both of them, the caregiver or the authority in supervision or legal or lawful guardian or, as the case may be, members of the extended family or any other person entrusted with the care and control of the child, the Board may refer the matter to the Children's Court for taking measures thereon.

(2) If any matter is referred to the Children's Court under sub-section (1) and, in this regard, if any child is brought before it, the court shall, upon examining the relevant information, record in writing the summary thereof and, if there are adequate reasons for further inquiry on the matter, shall fix a date in this behalf.

(3) On the date fixed for the inquiry under sub-section (2), the Children's Court shall make hearing and receive all relevant evidences for or against the measures that might be taken under this Act and keep record thereof, and may pass order to place the child on alternative care until such time as it thinks proper after determining the means of care in the manner prescribed by rules.

(4) While ordering the child to be placed on alternative care under sub-section (3), the Children's Court shall direct the Probation Officer to execute such a bond as the court deems appropriate, with or without surety, for ensuring the welfare of the child and upon the condition of providing the child with the opportunity of leading an honest and industrious life.

(5) If any child is sent to alternative care under the provisions of this section, the Children's Court shall confer the responsibility to the Probation Officer of observing whether the direction of taking care is being properly complied with or not and direct him to submit a report thereon to the court on a quarterly basis.

## CHAPTER XI

### MISCELLANEOUS PROVISIONS

**95. Power to make rules.**—The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Act.

**96. Government's responsibility for effective implementation of the Act.**—The Government shall take all necessary measures for the effective implementation of this Act and may, if necessary, issue directives in this regard.

**97. Removal of ambiguity.**—If any ambiguity arises to give effect of any provision of this Act, the Government may, by notification in the *official Gazette*, remove such ambiguity, subject to be consistent with the provisions of this Act.

**98. Protection of action taken in good faith.**—If any person is affected by anything which is done in good faith or intended to be done under this Act or rules made thereunder, he shall not be entitled to institute any suit, prosecution or other legal proceeding against the person concerned.

**99. Publication of authentic English text.**—(1) After the commencement of this Act, if necessary, the Government may, by notification in the *official Gazette*, publish an authentic English text of this Act.

(2) In the event of conflict between the Bengali and the English texts, the Bengali text shall prevail.

**100. Repeal and savings.**—(1) Upon the commencement of this Act, the Children Act, 1974 (Act No. XXXIX of 1974), hereinafter referred to as "the said Act", shall stand repealed.

(2) Notwithstanding such repeal under sub-section (1),—

- (a) anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act;
- (b) any action pending under the said Act on the date of commencement of this Act shall have to be completed, in so far as possible, in accordance with the provisions of this Act;
- (c) the custody of children staying in any certified institute or remand home, in continuation of any pending case under the said Act, shall continue, as before, in accordance with the provisions of this Act;
- (d) cases pending in Juvenile Courts under the said Act shall be disposed of by those Juvenile Courts in the manner as if the said Act had not been repealed and abrogated;
- (e) Kishore Unnayan Kendra or Kishori Unnayan Kendra or all other institutes including shelters, established in whatever name, under the said Act shall continue their functions, until further direction is given, in the manner as if they had been established or certified under this Act; and
- (f) if any uncontrolled child of any parents is detained or remain detained under the said Act in any Child Development Centre or certified institute, the child shall have to be returned to the parents or guardians immediately after the period, for which the child was so detained, is over.