CAYMAN ISLANDS.

De amendment - Law 19 9/1964 " 28 9/1965 " 24 9/1966

I assent,

[L.S.]

J. A. CUMBER,

Administrator

12th June, 1964

THE JUVENILE OFFENDERS LAW, 1964.

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 $E_{\text{NACTED}}$  by the Legislature of the Cayman Islands.

1—This Law may be cited as the Juvenile Offenders Law, 1964. Short tit

2—In this Law -

Interpretation.

"approved school" means a school approved by the Minister under the Juvenile Law of Jamaica;

"approved school order" means any order made by a Court sending a juvenile to an approved school;

"child" means a person under the age of fourteen years;

"contribution order" means an order made by a Court requiring any person to make contributions in respect of any juvenile committed to any approved school;

"Court" means any Court sitting to try a juvenile offender;

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

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"juvenile" means a person under the age of seventeen years; "Minister" means the Minister of the Government of Jamaica charged for the time being with responsibility for the subject of Child Care and Protection;

"place of safety" means any place appointed by the Administrator to be a place of safety for the purposes of this Law, or any hospital or other suitable place the occupier of which is willing temporarily to receive a juvenile;

"probationer officer" means a person appointed under the Probation of Offenders Law to be a probation officer; "young person" means a person who has attained the age of fourteen years and is under the age of seventeen years.

Age of criminal responsibility. 3—It shall be conclusively presumed that no child under the age of eight years can be guilty of any criminal offence.

Cruelty to juveniles.

- 4— (1) Every person who, having attained the age of seventeen years and having the custody, charge or care of any juvenile wilfully assaults, ill-treats, neglects, abandons or exposes such juvenile, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause that juvenile unnecessary suffering or injury to health, (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), shall be guilty of a misdemeanour, and shall be liable -
  - (a) on conviction on indictment before the Grand Court, to a fine not exceeding one hundred pounds or to imprisonment for any term not exceeding two years, or to both such fine and imprisonment;
  - (b) on summary conviction before the Stipendiary Magistrate to a fine not exceeding twenty five pounds or to imprisonment for any term not exceeding three months, or to both such fine and imprisonment.

- (2) For the purposes of this section -
  - (a) a parent or other person legally liable to maintain a juvenile shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, such parent or other person fails to provide adequate food, clothing, rest, medical aid or lodging for him;
  - (b) where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) while the infant was in bed with some other person who has attained the age of seventeen years and was at the time of going to bed under the influence of drink or any drug, then that other person shall be deemed to have neglected the infant in a manner likely to cause injury to the infant's health;
  - (c) any person having attained the age of seventeen years, who gives, or causes to be given, or sells or causes to be sold, to any child under the age of 14 years any intoxicating liquor, except upon the order of a duly qualified medical practitioner, or in case of sickness, apprehended sickness, or other urgent case, shall be deemed to have ill-treated that child in a manner likely to cause injury to the child's health;
  - (d) any person having attained the age of seventeen years and having the custody, charge or care of any child under the age of seven years, who allows that child to be in any room or yard containing a stove, coal-stove, or open fire-place, not sufficiently protected to guard against the risk of that child being burnt or scalded, without taking reasonable precautions against the risk, and by reason thereof that child is killed or suffers serious injury, shall be deemed to have neglected that child in a manner likely to cause injury to the child's health:

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Provided that neither this paragraph, nor any proceedings taken thereunder, shall affect the liability of any person to be indicted for manslaughter or for any offence against the Offences against the Person Law.

- (3) A person may be convicted of an offence under this section -
  - (a) notwithstanding that actual suffering or injury to health, or the likelihood of actual suffering or injury to health, was obviated by the action of another person;
  - (b) notwithstanding the death of the juvenile in respect of whom the offence is committed.
- (4) Upon the trial of any person who has attained the age of seventeen years for infanticide or for the manslaughter of a juvenile of whom he had the custody, charge or care, it shall be lawful for the jury, if they are satisfied that he is guilty of an offence under this section to find him guilty of that offence.
- (5) (a) If it is proved that a person convicted under this section was directly or indirectly interested in any sum of money accruing or payable in the event of the death of the juvenile and had knowledge that that sum of money was accruing or becoming payable, then -
  - (i) in the case of a conviction on indictment before the Grand Court, the maximum amount of fine which may be imposed under this section shall be two hundred pounds and the Court may, instead of any other penalty, sentence that person to imprisonment for any term not exceeding five years;
  - (ii) in the case of a summary conviction before the Stipendiary Magistrate, the maximum amount of the fine which may be imposed under this section shall be fifty pounds and the Stipendiary Magistrate

may, instead of any other penalty, sentence that person to imprisonment for any term not exceeding six months.

- (b) For the purposes of this subsection -
  - (i) a person shall be deemed to be directly or indirectly interested in a sum of money if he has any share in or any benefit from the payment of that money, notwithstanding that he is not the person to whom it is legally payable;
  - (ii) a copy of a policy of insurance, certified to be a true copy by an officer or agent of the insurance company granting the policy, shall be evidence that the juvenile therein stated to be insured has in fact been so insured and that the person in whose favour the policy has been granted is the person to whem the money thereby insured is legally payable.
- (6) Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful centrel or charge of a juvenile to administer reasonable punishment to him.

5 - (1) Every person who -

Begging.

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

to be in any street, premises or place for the purpose of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise) shall be guilty of an offence against this Law.

- (2) If a person having the custody, charge or care of a juvenile is charged with an offence under this section, and it is proved -
  - (a) that the juvenile was in any street, premises or place for any such purpose as is mentioned in

subsection (1) of this section; and

(b) that the person charged allowed the juvenile to be in the street, premises or place, he shall be presumed to have allowed him to be in the street, premises or place for that purpose unless the contrary is proved.

(3) If any person while singing, playing, performing or offering anything for sale in a street or public place has with him a child who has been lent or hired out to him, the child shall, for the purposes of this section, be deemed to be in that street or place for the purpose of inducing the giving

5 A 6 - (1) If it appears to a Justice on information on oath laid by any person who, in the opinion of the justice, is acting in the interests of a juvenile that there is reasonable cause to suspect -

(a) that the juvenile has been or is being assaulted, illtreated or neglected in a manner likely to cause that ju-

venile unnecessary suffering; or

(b) that any offence mentioned in the First Schedule to this Law has been or is being committed in respect of the juvenile,

the Justice may issue a warrant authorising any constable -

(i) to search for the juvenile and, if it is found that the juvenile has been or is being assaulted, illtreated or neglected in any such manner, or that any such offence has been or is being committed in respect of him, to take him to and detain him in a place of safety;

or

(ii) to remove the juvenile with or without search to a place of safety and to detain him there, until, in either such case, the juvenile can be brought before a Court.

- (2) A Justice issuing a warrant under this section may by the same warrant cause any person accused of any offence in respect of the juvenile to be apprehended and brought before a court of summary jurisdiction in order, that proceedings may be taken against him according to Law.
- (3) Any constable authorised by warrant under this section to search for any juvenile, or to remove any juvenile with or without search, may enter (if need be by force) any house, building or other place specified in the warrant and may remove him therefrom.
- (4) The constable executing any warrant issued under this section may be accompanied by the person laving the information, if that person so desires, and may also, if the Justice by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.
- (5) It shall not be necessary in any information or warrant under this section to name the juvenile.
- 7-(1) A constable may take to a place of safety any juvenile Detention of in respect of whom any of the offences mentioned in the place of safety. First Schedule to this Law has been, or there is reason to telieve has been, committed, or who is, in accordance with the provisions of section 8 of this Law, about to be brought before a court.

- (2) Any juvenile taken to a place of safety under this section, and also any juvenile who seeks refuge in a place of safety, may there be detained until he can be brought before a court; and every juvenile so detained shall be brought before a court at the earliest practicable opportunity.
- (3) A Court sitting to try a juvenile offender shall consist either
  - (a) of the Stipendiary Magistrate sitting alone, or
  - (b) of three Justices, one of whom shall be a woman.

General considerations for guidance of

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courts.

8 - Every Court in dealing with a juvenile who is brought before it as an offender shall have regard to the welfare of the juvenile and shall, if it deems it necessary, take steps for removing the juvenile from undesirable surroundings and for securing that proper provision be made for his education and training.

Attendance at Court of parent or guardian of juvenile charged with an offence

- 9-(1) Where a juvenile is charged with any offence his parent or guardian may in any case, and shall, if he can be found and resides within a reasonable distance, be required to attend at the court before which the case is heard or determined during all the stages of the proceedings, unless the court is satisfied that it would be unreasonable to require his attendance.
- (2) For the purpose of enforcing the attendance of a parent or guardian and enabling him to take part in the proceedings and enabling orders to be made against him, a summons may be issued and served on him requiring his attendance before the court, and the provisions of the Justice of the Peace Jurisdiction Law shall, with the necessary adaptations and modifications, apply to the procedure on such summons.
- (3) The parent or guardian whose attendance is required under subsection (1) shall be the parent or guardian having the actual possession and control of the juvenile:

Provided that where the juvenile had been, prior to the institution of the proceedings, removed from the custody or charge of his parent by an order of a court, the attendance of such parent shall not be required.

tion officer of charges against juveniles.

Notice to probate 10 - (1) Where a juvenile is to be brought before any court the person bringing such juvenile before the court shall cause notice of the grounds on which such juvenile is brought before the court, and of the date on which such matter will be heard. to be served on the probation officer at a reasonable time before such date.

(2) Upon receipt of the notice referred to in subsection (1) of this section, it shall be the duty of the probation officer to make such investigations and render available to the court such information as to the home surroundings, school record, age, health and character of the juvenile as the probation officer is able to obtain and as in his opinion is likely to be of assistance to the court.

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11 - Unless the court otherwise directs members of the public other than the immediate relatives or parents or guardian or other interested party of the juvenile concerned, who can satisfy the court that his attendance is necessary, shall be excluded from the hearing of any criminal proceedings against a juvenile.

Members of the public excluded from hearing.

· Restriction on Newsport Reports

12 - (1) Where a juvenile has been found guilty of an offence before any court, that court may, subject to the provisions of dealing with juvenile offenders.

28/67

- of this Law make an order 
  (a) dismissing the case;
  - (b) placing the juvenile on probation under the Probation of Offenders Law;
  - (c) when the offender is a young person, ordering him to pay a fine, damages or costs;
  - (d) sending the offender to an approved school in Jamaica to be determined by the Minister;
  - (e) ordering the parent or guardian of the offender to pay a fine, damages or costs;
  - (f) ordering the parent or guardian of the offender to enter into a recognizance for the good behaviour of such offender for a period not exceeding two years;

(g) committing him or her to the care of any fit person whether a relative or not who is willing to undertake the care of him or her.

(2) An order under this section may be made against a parent or guardian who having been required to attend has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

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(3) Any sums ordered under this section to be paid by a parent or guardian may be recovered from him by distress or imprisonment, and in default of such recovery such parent or guardian may be imprisoned as if he had been convicted of financial the offence in respect to which the juvenile was charged.

28/65 Enforcement of recognizance.

13 - If it appears to a court that any person, having entered into a recognizance under Section 12 of this Law, has failed to comply with any of the conditions of that recognizance, the Court may adjudge the recognizance to be forfeited and the sum of money named therein to be payable by the parent, guardian or other surety, and thereupon that recognizance may be enforced against such parent, guardian or other surety as if the sum of money named therein were a fine ordered to be paid by a court of summary jurisdiction upon summary conviction of an offence.

Restriction on nunishment.

- 14 (1) Sentence of death shall not be pronounced on or recorded against a person under the age of 18 years, i.e. the person committing the offence must be under the age of 18 years, even though he may have attained the age of 18 years at the date of trial, but in place thereof the Court shall sentence him to be detained during Her Majesty's pleasure, and if so sentenced, he shall, notwithstanding anything in the other provisions of this Law, be liable to be detained in such place (including, save in the case of a child, a prison) and under such conditions as the Administrator may direct, and while so detained shall be deemed to be in legal custody.
- (2) A juvenile shall not be sentenced to imprisonment for any offence, or be committed to prison in default of any fine, damages or costs.

First Schedule.

(3) Where a young person is convicted for an offence specified in the First Schedule to this Law and the Court is of the opinion that none of the methods in which the case may be dealt with are suitable, the court may sentence the offender to be detained for such period as may be specified in the sentence. Where such a sentence has been passed the

young person shall during that period notwithstanding anything in the other provisions of this Law, be liable to be detained in such place (including a prison) and on such conditions as the Administrator may direct, and while so detained shall be deemed to be legal custody.

- (4) The Administrator may release on licence any person detained under subsection (1) or (3) of this section. Such licence shall be in such form and contain such conditions as the Administrator may direct, and may at any time be revoked or varied by the Administrator. Where such licence is revoked the person to whom it relates shall return forthwith to such place as the Administrator may direct, and if he fails to do so may be arrested by any Constable without warrant and taken to such place.
- 15 A Court shall not order a child under the age of ten Restriction on years to be sent to an approved school unless for any reason approved school. the court is satisfied that he cannot suitably be dealt with otherwise.

16 - (1) A court before making an approved school order with respect to any juvenile shall endeavour to ascertain the committed to approved school. religious persuasion of the juvenile.

- (2) Every approved school order shall contain a declaration -
  - (a) as to the age and religious persuasion (if ascertained) of the juvenile with respect to whom the order is made; and
  - (b) where a contribution order has at the same time been made under section 19 of this Law, stating the amount of such contribution and by whom it is payable.
- (3) Any court which makes an approved school order in relation to any juvenile shall cause -
  - (a) such order; and
  - (b) a record embodying all such information in the possession of the court with respect to the juvenile as is

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in the opinion of the court, material to be known by the Minister, to be delivered with as little delay as possible to the Minister.

- (4) Pending the admission into an approved school of a juvenile in respect of whom an approved school order is made, the juvenile unless the court which made the order has otherwise directed shall be detained in a place of safety to be determined by the Court.
- (5) Where a court orders a child to be sent to an approved school, the order shall be the authority for his detention in an approved school until the expiration of a period of three years from the date of the order, and if at the expiration of that period he is under the age of sixteen years, for his further detention until he attains that age.
- (6) Where a court orders a young person to be sent to an approved school, the order shall be the authority for his detention in an approved school -
  - (a) if at the date of the order he has not attained the age of sixteen years, until the expiration of a period of two years from the date of the order; and
  - (b) if at the date of the order he has attained the age of sixteen years, until he attains the age of eighteen years.
- (7) Where a person, in respect of which an approved school order has been made, attains the age of seventeen years during the continuance of such order, the provisions of this Law shall continue to be applicable to him until he attains the age of eighteen years as if he were a juvenile.
- (8) A juvenile detained under any approved school order and while being conveyed to or from any approved school shall be deemed to be in legal custody.
- 17 (1) Any person who has been ordered to be sent to an approved school and who -
  - (a) escapes from the school in which he is detained, or from any hospital, home or institution in which he is receiving medical attention; or

Escapes from approved schools, and fit persons.

- (b) being absent from his school on temporary leave of absence or on licence, runs away from the person in whose charge he is, or fails to return to the school at the expiration of his leave, or upon the revocation of his licence; or
- (c) being absent from the school under supervision. fails to return to the school upon being recalled, may be apprehended without warrant by any constable or authorised person and returned to the approved school.
  - (2) Any person who knowingly -
  - (a) assists or induces a person to commit any such offence as is mentioned in subsection (1) of this section; or
  - (b) harbours or conceals a person who has committed such an offence or prevents him from returning; or
  - (c) harbours or conceals a juvenile after an approved school order has come into operation in respect of him and during the continuance of such order,

shall be guilty of an offence against this Law.

18 - (1) Where an order has been made by a court committing a juvenile to an approved school it shall be the duty of the following persons to make contributions in respect of him -

- (a) his father, adopted father or step-father:
- (b) his mother, adopted mother or step-mother; and
- (c) any person who, at the date when any such order is made is cohabiting with the mother of the juvenile, whether he is the putative father or not.
- (2) Where a juvenile has been committed to an approved school contributions under this Law shall be paid to the Managers of the approved school to which such juvenile has been committed, to be applied in or towards the maintenance of such school.
- 19 (1) Where an order has been made committing a juvenile Contribution to an approved school, the court which makes that order may at the same time make a contribution order on any

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person who is under section 18 (1) of this Law liable to make contributions in respect of the juvenile, requiring that person to contribute such weekly sum, not exceeding seven pounds, in respect of each juvenile, as the court having regard to his means thinks fit.

- (2) A contribution order shall, unless varied or revoked remaininforce so long as the juvenile remains in the approved school, and the court when making such order shall have regard to any Affiliation Order in force in respect of the juvenile. Any such contribution order may be varied or revoked on the application of either the contributor or the person to whom the contributions are payable.
- (3) A contribution order shall be enforceable at the instance of the Clerk of the Court to whom the contributions are payable, in the same manner as an Affiliation Order made under the Bastardy Law.
- (4) A person on whom a contribution order is made shall, if he changes his address, forthwith give notice thereof to the person to whom, immediately before the change, the contributions were payable, and if he fails so to do, or if he knowingly gives notice false in any material particular, he shall be guilty of an offence against this Law.
- (5) Where a contribution order has been made by the court in respect of an approved school order all monies payable thereunder shall be paid to the Clerk of the Court, George Town, Grand Cayman, who shall then remit and cause all such monies to be paid to the appropriate approved schoolmanager in Jamaica.

Provisions as to Affiliation Order. 20 - (1) Where a juvenile who is ordered by a court to be committed to an approved school, is illegitimate, and an Affiliation Order for his maintenance is in force, that court may at the same time order the payments under the Affiliation Order to be paid to the person to whom contributions in respect of the juvenile are payable under Section 18 (2) of this Law.

- (2) Any sums received under the Affiliation Order shall be applied in like manner as if they were contributions received under a contribution order.
- (3) If the putative father changes his address, he shall forthwith give notice thereof to the person to whom, immediately before the change, the payments under the order were payable, and, if he fails so to do, or if he knowingly gives a notice false in any material particular, he shall be guilty of an offence under this Law.
- (4) The making of an order under this section with respect to an Affiliation Order shall not extend the duration of that order.
- (5) In this section an Affiliation Order includes an order made under the Maintenance Law in respect of a juvenile.
- 21 Any person guilty of an offence against this Law, or any regulations made thereunder for which no special punishment is provided, shall be liable on summary conviction before the Stipendiary Magistrate to a fine not exceeding twenty five pounds or in default to imprisonment for a term not exceeding two months, and in the case of a continuing offence to a further fine not exceeding two pounds for each day on which the offence continues after conviction.

Offences under Regulations.

22 - The Administrator in Executive Council may make Administrator may regulations generally for giving effect to the provisions of in Executive this Law.

make Regulations Council.

23 - Any juvenile committed to an approved school under Rules prescribed this Law shall during the period of such committal be subject to the rules governing the treatment of persons in approved schools as prescribed under the Fourth Schedule to the Juveniles Law of Jamaica.

Schedule Jamaica Law. Cap. 189.

24 - An approved school order, a contribution order and an order made under Section 21 subsection (1) of this Law shall be in the appropriate form set out in the Second Schedule to this Law.

Repeal of I

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25 - The Juvenile Offenders Law, 1906, is hereby repealed.

### FIRST SCHEDULE (SECTION 14 (3) )

- 1. Murder and manslaughter.
- 2. Treason.
- 3. Infanticide.
- 4. Any offence under Section 4, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 25, 26, 27, 39, 43, 45, 46, 49, 50, 52, 53, 54, 55, or 63 of the Offences against the Person Law.
- 5. Any offence under Section 34 or 40 of the Larceny Law.

#### SECOND SCHEDULE

(SECTION 24)

## FORM I

The Juvenile Offenders Law

## APPROVED SCHOOL ORDER

To the Minister, and to all persons authorised by the said Minister, and to the Managers of the approved schools named in the endorsement hereon;

WHEREAS (1)
a juvenile was brought before the (2) court for the Island of Grand Cayman, Cayman Islands, charged with the offence.

(3) AND WHEREAS the (2) court for the Cayman Islands

AND WHEREAS the (2) court for the Cayman Islands considered it expedient and in the best interests of the welfare of the said juvenile to make an order sending the said juvenile to an approved school;

These, therefore, are to command you the said Minister and all persons authorised by the said Minister to detain the said juvenile in a place of safety until the name of an approved school is endorsed hereon by the Minister and

Cap. 268 Jamaica.

Cap. 212 Jamaica.

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then to take the said juvenile to the said approved school and deliver him to the Managers thereof; and to command you, the Managers of the approved school named in the endorsement hereon, to receive the said juvenile into your custody and to keep him in accordance with and until he is released under the provisions of the Juvenile Offenders Law.

| to ease and the provisions of the savenne offenders Law  |
|--|
| It is hereby declared that -   |
| <ul> <li>(a) the age of the said juvenile is (4) years months, being born on (4).</li> <li>(b) his religious persuasion is (5).</li> <li>(c) a contribution order in the sum of (6) a week payable by (7) being the (7) of the said juvenile has been made.</li> </ul> |
| A record in accordance with the provisions of the Juvenile Offenders Law is forwarded herewith.  |
| Given under my hand this (8)day of at  |
| , <del>-</del>   |
| (10)   |
| ENDORSEMENT  |

(12) .....

- (1) State full name.(2) Amend, if necessary.
- (3) State nature of offence.
- (4) State age and date of birth.
- (5) State religious persuasion, if ascertainable.
- (6) State amount, if contribution order made.

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[No.

- (4) State name of applicant, and if he is the superintendent also of the approved school.
- (5) State name and status of person by whom contributions payable.
- (6) State person to whom contributions payable under Section 13 (2) of the Juvenile Offenders Law.
- (7) State amount of contribution.
- (8) State date.
- (9) State place.
- (10) Signature of the proper officer of the Court.

#### (SECTION 20 (1) ) FORM III

The Juvenile Offenders Law.

# ORDER TRANSFERRING PAYMENTS UNDER AFFILIATION ORDER

| de on the $(1)$ | Whereas an affiliation order was mad |
|-----------------|--------------------------------------|
|                 | against (2)                          |
|                 | ordering him to pay the sum of (3)   |
|                 | a week to (4)                        |
|                 | maintenance and education of (5)     |
|                 | a juvenile of the age of (6)         |
|                 | he attains the age of (7)            |
|                 |                                      |
|                 |                                      |

And Whereas an order committing (5)..... a juvenile (8) to the care of a fit person, or to an approved school, has (8) this day, or on the (1)..... been made by (8) this court;

It is hereby ordered, that the payments to be made by the said (2) under the affiliation order shall be made to (9).....instead of to the said (4)..... the first of such payments to be made on the (1)..... so long as the said affiliation order remains in force, to be applied in accordance with the provisions of the Juvenile Offenders Law.

| Given 1     | under my h | and this $(1)$ | <br>       |
|-------------|------------|----------------|------------|
| day of      |            | at (10)        | <br>in the |
| Island of G |            |                |            |

- (1) State date.
- (2) State name or person against whom affiliation order made.
- (3) State sum payable under the affiliation order.
- (4) State person to whom sum payable under the affiliation order.
- (5) State full name of juvenile.
- (6) State age of juvenile.
- (7) State age till which affiliation order payable.
- (8) Strike out inapplicable alternative.
- (9) State person to whom contributions are payable under section 20 (2).
- (10) State place.
- (11) Signature of the proper officer of the Court.

Passed by the Assembly this 7th day of April, 1964.

J. A. Cumber, President

Sybil McLaughlin, Clerk of the Legislative Assembly.

Published by Government Notice No. 62 of 1964 and came into operation on the 12th day of June, 1964.