

A BILL

*i n t i t u l e d*

An Act to amend the Child Act 2001.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

**1.** (1) This Act may be cited as the Child (Amendment) Act 2015.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

**Amendment of section 2**

**2.** The Child Act 2001 [*Act 611*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) in subsection (1)—

(i) in the definition of “member of the family”, by substituting for the words “member of the extended family, who is a household member” the word “relative”;

- (ii) by deleting the definition of “household member”;
- (iii) in the definition of “probation hostel”, by substituting for the words “Part X” the words “sections 46 and 98”;
- (iv) in the definition of “hospital”, by substituting for the word “University” the words “public institution of higher learning, but does not include any part of the Government hospital or teaching hospital of a public institution of higher learning, which are privatized or corporatized.”;
- (v) in the definition of “foster parent”, in paragraph (a), by substituting for the words “paragraph 30(1)(e)” the words “subparagraph 30(1)(c)(i)”;
- (vi) by deleting the definition of “Child Welfare Committee”;
- (vii) by inserting after the definition of “probationer” the following definition:
  - “counsellor” means any counsellor, assistant counsellor, psychology officer or assistant psychology officer in the Ministry responsible for welfare services;’;
- (viii) by deleting the definition of “extended family”;
- (ix) by inserting before the definition of “Director General” the following definition:
  - “Registrar General” means the Registrar General of Children appointed under subsection 9(1);’;
- (x) in the definition of “Director General”, by inserting after the words “Director General of Social Welfare” the words “, and includes the State Director of Social Welfare of each of the States”;
- (xi) by inserting after the definition of “Director General” the following definition:
  - “community service” means any work, service or course of instruction for the betterment of the public at large under the purview of the Ministry responsible for welfare services;’;

- (xii) by substituting for the definition of “Supervising Court” the following definition:

‘ “Supervising Court” means the Court For Children for the district or area in which a child is required—

(a) to reside under a probation order;

(b) to perform community service under a community service order; or

(c) to be placed or detained under any other order made under this Act;’;

- (xiii) in the definition of “Council”, by substituting for the words “Co-ordinating Council for the Protection of Children” the words “National Council for Children”;

- (xiv) by inserting after the definition of “Minister” the following definition:

‘ “Child Welfare Team” means a team established by the Council under section 7A;’;

- (xv) by inserting after the definition of “Social Welfare Officer” the following definitions:

‘ “Education Officer” has the meaning assigned to it in the Education Act 1996 [Act 550];

“prison officer” has the meaning assigned to it in the Prison Act 1995 [Act 537];’;

- (xvi) in the definition of “medical officer”, by substituting for the words “University” the words “public institution of higher learning, but does not include a registered medical practitioner in any part of the Government hospital or teaching hospital of a public institution of higher learning which are privatized or corporatized;”;

- (xvii) in the definition of “Protector”, by deleting paragraph (d);

(xviii) by inserting after the definition of “Protector” the following definitions:

‘ “Assistant Protector” means a person appointed by the Minister under section 8A;

“family based care” means the care of a child in a family environment including—

(a) the care of a child by a parent, guardian or relative;

(b) the care of a child by a foster parent or fit and proper person; or

(c) the care of a child in a centre;’;

(xix) in the definition of “Registrar”—

(a) by deleting the words “in Need of Protection”; and

(b) in the national language text, by substituting for the words “Pendaftar Besar” the words “Ketua Pendaftar”;

(xx) by deleting the definition of “Registrar General” appearing after the definition of “Registrar”;

(xxi) by inserting after the definition of “guardian” the following definition:

‘ “community service order” means an order requiring a child to perform community service under section 97A;’

(xxii) by substituting for the definition of “centre” the following definition:

‘ “centre” means a shelter established or operated by any person including a State Government, either—

(i) individually; or

(ii) through a co-operation or joint-venture with the Federal Government,

as approved by the Minister for the purpose of care, protection and rehabilitation of children under section 53A;’;

(xxiii) by inserting after the definition of “brothel” the following definition:

“relative” means a person who is related through the full-blood or half-blood, or through marriage or adoption, including *de facto* adoption;’; and

(xxiv) in the definition of “Henry Gurney School”, in paragraph (b), by substituting for the words “Director General of Prisons” the words “Commissioner General of Prison”; and

(b) in subsection (2), by inserting after the words “Federal Territory of Kuala Lumpur” the words “, Federal Territory of Putrajaya”.

### **Amendment of Part II**

3. The principal Act is amended by substituting for the heading of Part II the following heading:

“NATIONAL COUNCIL FOR CHILDREN”

### **Substitution of section 3**

4. The principal Act is amended by substituting for section 3 the following section:

#### **“Establishment of the National Council for Children**

3. (1) A council to be known by the name of National Council for Children is established.

(2) The functions of the Council are—

(a) to advise and make recommendations to the Government on all issues and aspects of child protection, care, rehabilitation, development and participation at national, regional and international level;

(b) to develop programmes and strategies aiming at educating the society and to raise awareness throughout society, including at the family level, regarding the rights and dignity of a child;

- (c) to develop programmes aiming at educating the society in the prevention of child abuse and neglect as well as the prevention of child's involvement in immoral or criminal acts;
- (d) to ensure that the standard of services provided by the Government agencies and departments, non-governmental bodies or organizations and private sectors for the care, protection and rehabilitation of children meet the needs of the children;
- (e) to co-ordinate the various resources from all parties, including Government agencies and departments, non-governmental bodies or organizations and private sectors, who are involved in providing services for the care, protection, rehabilitation and development of children;
- (f) to co-ordinate and monitor the implementation of the national policy and national plan of action relating to children with Government agencies and departments, non-governmental bodies or organizations and private sectors;
- (g) to collect and collate data and information, and undertake and promote research, relating to protection, care, rehabilitation, development and participation of children;
- (h) to design an efficient and effective management system throughout Malaysia for children in need of protection;
- (i) to promote the participation of children in decision making process in matters affecting them;
- (j) to monitor the activities and the performance of functions of the Child Protection Teams and Child Welfare Teams; and
- (k) to do such other things as it thinks fit to enable it to perform its functions effectively or which are incidental to the performance of its functions.

(3) The Council shall have the power to do all things necessary or expedient for or in connection with the performance of its functions.

**New section 3A**

**5.** The principal Act is amended by inserting after section 3 the following section:

**Funds**

**“3A.** The Government shall allocate the Council with adequate funds annually to enable the Council to perform its functions under this Act.”.

**Amendment of section 4**

**6.** Section 4 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) The Council shall consist of the following members:

- (a) the Minister who shall be the Chairman;
- (b) the Secretary General of Treasury or his representative;
- (c) the Secretary General of the Ministry responsible for child protection who shall be the Deputy Chairman;
- (d) the Attorney General or his representative;
- (e) the Inspector General of Police or his representative;
- (f) the Secretary General of the Ministry responsible for human resources or his representative;
- (g) the Secretary General of the Ministry responsible for home affairs or his representative;
- (h) the Secretary General of the Ministry responsible for communications or his representative;
- (i) the Director General of Health or his representative;

- (j) the Director General of Education or his representative;
  - (k) the Director General of National Registration or his representative;
  - (l) the Commissioner General of Prison or his representative;
  - (m) the Director General of Immigration or his representative;
  - (n) the Director General of Social Welfare who shall be the Secretary;
  - (o) two representatives from the department responsible for welfare services;
  - (p) a representative from the ministry, in the State of Sabah, responsible for welfare services;
  - (q) a representative from the ministry, in the State of Sarawak, responsible for welfare services;
  - (r) two representatives from amongst the children who shall be appointed by the Minister, on the recommendation of the Director General of Social Welfare; and
  - (s) not more than five persons with appropriate experience, knowledge and expertise on matters relating to the welfare and development of children including any person qualified to advise on relevant indigenous, ethnic, cultural or religious factors, to be appointed by the Minister.”; and
- (b) by substituting for subsection (2) the following subsection:

“(2) A member of the Council appointed under paragraph (1)(r) or (s) shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding two years and shall be eligible for reappointment for a maximum period of two consecutive terms.”.



**New section 4A**

7. The principal Act is amended by inserting after section 4 the following section:

**“Revocation and resignation**

**4A.** (1) The Minister may, at any time, revoke the appointment of any member of the Council appointed under paragraph 4(1)(*r*) or (*s*).

(2) Any member of the Council appointed under paragraph 4(1)(*r*) or (*s*) may, at any time, resign by giving a one-month written notice to the Minister.”.

**Amendment of section 5**

8. Section 5 of the principal Act is amended—

(*a*) in subsection (1), by substituting for the words “four times” the word “twice”;

(*b*) in subsection (3), by inserting after the words “Seven members of the Council” the words “including at least one member of the Council appointed under paragraph 4(1)(*r*)”; and

(*c*) by inserting after subsection (4) the following subsections:

“(4A) The Council may invite any person to attend any of the meetings of the Council for the purpose of advising the Council on any matter under discussion but such person shall not be entitled to vote at the meeting.

(4B) The members of the Council and any person invited to attend a meeting of the Council under subsection (4A) may be paid such allowances as the Minister may determine.”.

**New section 5A**

9. The principal Act is amended by inserting after section 5 the following section:

**“Resolutions without meeting**

5A. (1) Subject to subsection (2), the Council may, where necessary, pass a resolution without meeting.

(2) The following conditions shall be complied with:

- (a) all members of the Council have been informed of the proposed resolution, or reasonable efforts have been made to inform all members of the Council of the proposed resolution; and
- (b) all members of the Council indicate agreement with the resolution in accordance with the method determined by the Council.”.

**Amendment of section 6**

10. Section 6 of the principal Act is amended by inserting after subsection (9) the following subsection:

“(10) Except for ~~the~~ members of the committee appointed from amongst ~~the~~ members of the Council, any other persons appointed as members of the committees may be paid such allowance as the Minister may determine.”.

**New section 6A**

11. The principal Act is amended by inserting after section 6 the following section:

**“Vacation of office**

6A. (1) The office of a member of the Council appointed under paragraph 4(1)(r) or (s) and the appointment of a member of a committee who is not a member of the Council shall be vacated if—

- (a) he dies;

- (b) there has been proved against him, or he has been convicted of, a charge in respect of—
  - (i) an offence involving fraud, dishonesty or moral turpitude;
  - (ii) an offence under any law relating to corruption; or
  - (iii) any other offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine, for more than two years;
- (c) he becomes of unsound mind or otherwise incapable of discharging his duties;
- (d) he becomes bankrupt;
- (e) in respect of a member of the Council, he absents himself from three consecutive meetings of the Council without leave of the Chairman, and in respect of a member of a committee who is not a member of the Council, he absents himself from three consecutive meetings of the committee without leave of the chairman of the committee;
- (f) in respect of a member of the Council, his appointment is revoked by the Minister, and in respect of a member of a committee who is not a member of the Council, his appointment is revoked by the Council; or
- (g) he resigns.

(2) Where a member of the Council appointed under paragraph 4(1)(r) or (s) ceases to be a member of the Council, by reason of any provision in this Act, the Minister may appoint another person to fill the vacancy for the remaining term for which the vacating member was appointed in accordance with the provisions applicable.”.

### **Amendment of section 7**

**12.** Section 7 of the principal Act is amended—

- (a) in subsection (1), by substituting for the word “protection” the words “care and protection”;

(b) by substituting for subsection (2) the following subsection:

“(2) A Child Protection Team shall consist of the following members:

- (a) not more than seven persons with appropriate experience, knowledge and expertise on matters relating to the care and protection of children, to be appointed by the Minister;
- (b) a medical officer; and
- (c) a senior police officer.”;

(c) by inserting after subsection (2) the following subsection:

“(2A) The Minister may appoint any member referred to in paragraph (2)(a) to be the chairman of the Child Protection Team.”; and

(d) in subsection (3), by inserting after the words “shall” the words “be supervised by a Protector and shall”.

### **New section 7A**

**13.** The principal Act is amended by inserting after section 7 the following section:

#### **“Establishment of Child Welfare Teams**

**7A.** (1) The Council shall establish throughout Malaysia groups of persons, each group to be known as a “Child Welfare Team”, for the purpose of co-ordinating locally-based services\* to families and children if children—

- (a) are or are suspected of being in need of protection and rehabilitation; or
- (b) are found guilty of any offence.

(2) A Child Welfare Team shall consist of the following members:

- (a) not more than seven persons with appropriate experience, knowledge and expertise on matters relating to the protection and rehabilitation of children, to be appointed by the Minister;

(b) an education officer; and

(c) a senior police officer.

(3) The Minister may appoint any member referred to in paragraph (2)(a) to be the chairman of the Child Welfare Team.

(4) A Child Welfare Team shall be supervised by a probation officer or Protector and shall have the authority to co-opt from time to time such other persons as it may reasonably require to assist it in the performance of its functions and duties or as the circumstances of each case may require, including any person qualified to advise on relevant indigenous, ethnic, cultural or religious factors.”.

#### **New subsection 8A**

**14.** The principal Act is amended by inserting after section 8 the following section:

#### **“Appointment of Assistant Protector**

**8A.** The Minister may, by notification in the *Gazette*, appoint any person to exercise the powers and perform the duties of an Assistant Protector under sections 18, 19 and 20 subject to such conditions as may be specified in the notification.”.

#### **Amendment of section 9**

**15.** Section 9 of the principal Act is amended—

(a) in the shoulder note, in the national language text, by substituting for the words “Pendaftar Besar” the words “Ketua Pendaftar”;

(b) in subsection (1), by substituting for the words “Registrar General of Children in Need of Protection” the words “Registrar General of Children”;

(c) in subsection (2), by deleting the words “in Need of Protection”; and

- (d) in subsection (3), in the national language text, by substituting for the words “Pendaftar Besar” the words “Ketua Pendaftar”.

### **Amendment of section 14**

**16.** Subsection 14(1) of the principal Act is amended—

- (a) in the shoulder note, by inserting after the word “order” the words “placement,”;
- (b) by substituting for paragraph (a) the following paragraph:
- “(a) the placement or detention of a child in a place of detention, place of refuge, probation hostel, approved school, Henry Gurney School, approved institution or centre;”; and
- (c) in paragraph (b)—
- (i) by inserting after the words “Social Welfare Officer” the words “, Protector”; and
- (ii) by deleting the word “or” at the end of the paragraph;
- (d) by substituting for the comma at the end of paragraph (c) the semicolon;
- (e) by inserting after paragraph (c) the following paragraph:
- “(d) the period of community service order;”; and
- (f) by substituting for the words “detention, supervision or probation” the words “placement, detention, supervision, probation or community service”.

### **Amendment of section 15**

**17.** Section 15 of the principal Act is amended—

- (a) in subsection (1)—
- (i) in paragraph (a), by inserting after the words “be it” the words “during the investigation or”;

- (ii) in paragraph (b), by substituting for the words “Part V” the words “, Parts V, VI and VIII”;
  - (iii) by inserting after paragraph (b) the following paragraph:
    - “(ba) any child who is detained under Part VII”; and
  - (iv) in paragraph (c), by substituting for the words “of the offences specified in the First Schedule” the words “offence under any written law”; and
- (b) in subsection (3)—
- (i) by substituting for the words “The Court For Children, in any case” the words “The Court For Children or, in urgent cases, a Magistrate”;
  - (ii) in paragraph (a), by inserting after the words “Court For Children” the words “or Magistrate”; and
  - (iii) by inserting after the word “Court” the words “or Magistrate”.

### **Amendment of section 17**

**18.** Subsection 17(1) of the principal Act is amended—

- (a) in paragraph (a), by substituting for the words “member of his extended family” the word “relative”;
- (b) by substituting for paragraph (c) the following paragraph:
  - “(c) the parent or guardian of the child—
    - (a) is unfit, or has neglected, or is unable, to exercise; or
    - (b) has acted negligently in exercising, proper supervision and control over the child;”;
- (c) in paragraph (e)—
  - (i) by substituting for the comma at the end subparagraph (ii) the semicolon;

- (ii) by deleting the words “and no other suitable person is willing and able to care for the child;”;
- (d) by deleting paragraph (h); and
- (e) in paragraph (k)—
  - (i) by deleting the word “or” at the end of subparagraph (i);
  - (ii) by substituting for the full stop at the end of subparagraph (ii) the words “; or”; and
  - (iii) by inserting after subparagraph (ii) the following subparagraph:
    - “(iii) carrying out any other illegal activities.”.

### **Amendment of section 18**

#### **19.** Section 18 of the principal Act is amended—

- (a) by renumbering the existing section as subsection (1);
- (b) in subsection (1), by inserting after the word “Protector” the words “, Assistant Protector” wherever appearing; and
- (c) by inserting after subsection (1) the following subsections:

“(2) A Protector who takes a child into temporary custody under this section shall, immediately upon such taking, cause the parent or guardian of the child to be notified of such taking.

(3) An Assistant Protector or police officer who takes a child into temporary custody under this section shall—

- (a) immediately upon such taking, notify the Protector of such taking and cause the parent or guardian of the child to be notified of such taking; and
- (b) within twelve hours after such taking, bring the child before a Protector.



(4) If a child who is taken into temporary custody under this section escapes or is removed without lawful authority, the Protector shall inquire into the circumstances of the case and notify the parent or guardian of the child of such escape or removal.

(5) Any child who is taken into temporary custody under this section who escapes or is removed without lawful authority may be arrested without a warrant by a Protector, Assistant Protector or police officer.

(6) If the child is arrested by a Protector, the child shall be brought before the Court For Children by the Protector in accordance with section 19.

(7) If the child is arrested by an Assistant Protector or a police officer, the child shall be immediately brought before a Protector who shall bring the child before the Court For Children in accordance with section 19.

(8) Any person who—

- (a) removes a child from temporary custody under subsection (1) without lawful authority;
- (b) knowingly assists or induces, directly or indirectly, a child to escape from the temporary custody under subsection (1); or
- (c) knowingly harbours or conceals a child who has so escaped, or prevents him from returning to the temporary custody under subsection (1),

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.”.

### **Amendment of section 19**

**20.** Section 19 of the principal Act is amended—

- (a) in subsection (1), by inserting after the words “before a Court For Children” the words “by a Protector”;

(b) in subsection (2)—

- (i) by substituting for the word “placed” the words “temporarily placed”; and
- (ii) in paragraph (a), by inserting after the words “place of safety” the words “or centre”;

(c) in subsection (3)—

- (i) by inserting after the words “place of safety” the words “or centre”; and
- (ii) in paragraph (a), by inserting after the words “place of safety” the words “or centre”; and

(d) by deleting subsections (4) and (5).

### **Amendment of section 20**

**21.** Section 20 of the principal Act is amended—

(a) in subsection (1), by deleting the words “or police officer” wherever appearing;

(b) by inserting after subsection (1) the following subsection:

“(1A) If an Assistant Protector or police officer who takes a child into temporary custody under section 18 is of the opinion that the child is in need of medical examination or treatment, the Assistant Protector or police officer may, instead of bringing the child before the Protector under paragraph 18(3)(b), present the child before a medical officer.”;

(c) in subsection (2), by inserting after the word “Protector” the words “, Assistant Protector”;

(d) by inserting after subsection (2) the following subsection:

“(2A) If a child who is taken into temporary custody by an Assistant Protector or police officer—

- (a) is presented before a medical officer under subsection (1A); or

(b) is a patient in a hospital and left in the hospital under subsection (2),

to be medically examined or treated, the Assistant Protector or police officer shall notify the Protector of such action.”;

(e) by inserting after subsection (3) the following subsection:

“(3A) If an Assistant Protector does not take a child into temporary custody under section 18 but he is satisfied on reasonable grounds that the child is in need of medical examination or treatment, he may, with the approval of a Protector, direct in writing the person who appears to him to have the care of the child for the time being to immediately take the child to a medical officer.”; and

(f) in subsection (4)—

(i) by substituting for the words “subsection (3)” the words “subsections (3) and (3A)”;

(ii) by inserting after the word “Protector” the words “, Assistant Protector”.

### **Amendment of section 21**

**22.** Section 21 of the principal Act is amended by inserting after the words “20(1)” the words “, (1A)”.

### **Amendment of section 25**

**23.** Subsection 25(2) of the principal Act is amended—

(a) by substituting for the word “placed” the words “temporarily placed”; and

(b) in paragraph (a), by inserting after the words “place of safety” the words “or centre”.

**Amendment of section 27**

**24.** Subsection 27(1) of the principal Act is amended by substituting for the word “Protector” the words “Social Welfare Officer”.

**Amendment of section 28**

**25.** Section 28 of the principal Act is amended—

- (a) in subsection (1), by substituting for the word “Protector” the words “Social Welfare Officer”;
- (b) in subsection (2), by substituting for the words “released on a bond on conditions to be determined by the Court” the words “liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both.”; and
- (c) by deleting subsection (3).

**Amendment of section 29**

**26.** Subsection 29(1) of the principal Act is amended by substituting for the word “Protector” the words “Social Welfare Officer”.

**New section 29A**

**27.** The principal Act is amended by inserting after section 29 the following section:

**“Information on children in need of care and protection**

**29A.** If any person, other than the persons referred to in sections 27, 28 and 29, has reason to believe that a child is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused, he may give such information to a Social Welfare Officer.”.

**Amendment of section 30**

**28.** Section 30 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting before the word “may” the words “, after taking into consideration that it is desirable to place a child in a family based care,”;

(ii) by substituting for paragraph (c) the following paragraph:

“(c) in the case of a child who has no parent or guardian or who has been abandoned as described in paragraph 17(1)(e), make an order—

(i) placing the child in the care, custody and control of a foster parent found to be suitable by the Director General for a period of two years from the date the child is placed in the care, custody and control of the foster parent or until he attains the age of eighteen years, whichever is the shorter, and pending that, place the child in a place of safety; or

(ii) placing the child in the care of a fit and proper person, for a period of two years from the date of the order or until he attains the age of eighteen years, whichever is the shorter;

(iii) by inserting after paragraph (c) the following paragraph:

“(ca) make an order placing the child in a centre for a period of three years from the date of the order or until he attains the age of eighteen years, whichever is the shorter;”;

- (iv) by substituting for the words “; or” at the end of paragraph (d) the full stop; and
- (v) by deleting paragraph (e);
- (b) by inserting after subsection (1) the following subsection:
  - “(1A) In addition to an order made under paragraph (1)(a),(b), (c) or (ca), the Court For Children may make an order placing the child under the supervision of—
    - (a) a Protector; or
    - (b) other person appointed for the purpose by the Court For Children,
 for a period specified by the Court For Children.
- (c) in subsection (2), by substituting for the words “paragraph (1)(e)” the words “subparagraph (1)(c)(i)”;
- (d) in subsection (3), by substituting for the words “paragraph (1)(e)” the words “subparagraph (1)(c)(i)”;
- (e) in subsection (4), by substituting for the words “(1)(e)” the words “(1)(c)”;
- (f) in paragraph (13)(b), by inserting after the words “place of safety” the words “or centre”.

### **Amendment of section 31**

#### **29. Section 31 of the principal Act is amended—**

- (a) in subsection (1)—
  - (i) in paragraph (a), by inserting after the words “the child” the words “or acts negligently,”;
  - (ii) by substituting for the word “twenty” the word “fifty”; and
  - (iii) by substituting for the word “ten” the word “twenty”;

(b) by substituting for subsection (2) the following subsection:

“(2) The Court shall, in addition to any punishment specified in subsection (1), order the person convicted of an offence under that subsection—

(a) to execute a bond with sureties to be of good behavior for such period and on such conditions as the Court thinks fit; and

(b) to perform community service.”; and

(c) by inserting after subsection (3) the following subsections:

“(3A) The community service referred to in paragraph (2)(b)—

(a) shall not be less than thirty-six hours and not more than 240 hours in aggregate;

(b) shall be performed within the period of not exceeding six months from the date of the order; and

(c) shall be subject to such conditions as may be specified by the Court.

(3B) Any person who fails to comply with the order of the Court to perform community service under paragraph (2)(b) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

### **Amendment of section 32**

**30.** Section 32 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1);

(b) in subsection (1)—

(i) by deleting the word “or” at the end of paragraph (a);

(ii) by substituting for the comma at the end of paragraph (b) the words “; or”

(iii) by inserting after paragraph (b) the following paragraph:

“(c) carrying out any other illegal activities,”;

(iv) by substituting for the word “five” the word “twenty”; and

(v) by substituting for the word “two” the word “five”; and

(c) by inserting after subsection (1) the following subsections:

“(2) The Court shall, in addition to any punishment specified in subsection (1), order the person convicted of an offence under that subsection to perform community service.

(3) The community service referred to in subsection (2)—

(a) shall not be less than thirty-six hours and not more than 240 hours in aggregate;

(b) shall be performed within the period of not exceeding six months from the date of the order; and

(c) shall be subject to such conditions as may be specified by the Court.

(4) Any person who fails to comply with the order of the Court to perform community service under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

### **Amendment of section 33**

**31.** Section 33 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1);

(b) in subsection (1)—

(i) by substituting for the word “five” the word “twenty”; and



- (ii) by substituting for the word “two” the word “five”; and
- (c) by inserting after subsection (1) the following subsections:

“(2) The Court shall, in addition to any punishment specified in subsection (1), order the person convicted of an offence under that subsection to perform community service.

(3) The community service referred to in subsection (2)—

- (a) shall not be less than thirty-six hours and not more than 240 hours in aggregate;
- (b) shall be performed within the period of not exceeding six months from the date of the order; and
- (c) shall be subject to such conditions as may be specified by the Court.

(4) Any person who fails to comply with the order of the Court to perform community service under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

#### **Amendment of section 34**

**32.** Subparagraph (1)(a)(ii) of the principal Act is amended by inserting after the word “Protector” the words “, Assistant Protector”.

#### **Amendment of section 35**

**33.** Subsection 35(4) of the principal Act is amended—

- (a) by inserting after the word “Protector” the words “, after taking into consideration that it is desirable to place a child in a family based care,”; and

(b) by substituting for paragraph (b) the following paragraph:

“(b) be placed—

- (i) in the care of a relative or fit and proper person on such terms and conditions as the Protector may require;
- (ii) in a centre; or
- (iii) in a place of safety,

until the child attains the age of eighteen years or for any shorter period.”.

### **Amendment of section 37**

**34.** Section 37 of the principal Act is amended—

(a) in paragraph (3)(a), by substituting for the word “detained” the word “placed”; and

(b) in subsection (6)—

- (i) by inserting after the word “Protector” the words “, after taking into consideration that it is desirable to place a child in a family based care,”; and
- (ii) by substituting for paragraph (b) the following paragraph:

“(b) be placed—

- (i) in the care of a relative or fit and proper person on such terms and conditions as the Protector may require;
- (ii) in a centre; or
- (iii) in a place of safety,

until the child attains the age of eighteen years or for any shorter period.”.

**Amendment of section 38**

**35.** Section 38 of the principal Act is amended—

- (a) by deleting the word “or” at the end of paragraph (b);
- (b) by substituting for the full-stop at the end of paragraph (c) the semicolon; and
- (c) by inserting after paragraph (c) the following paragraphs:

“(d) has been brought into or is to be sent out of Malaysia and the custody of the child has been acquired either—

(i) after having been purchased; or

(ii) by fraud, false representation or false pretence,

whether or not for the purposes of prostitution or for having sexual intercourse with another or for any immoral purposes;

- (e) has been procured either within or outside Malaysia for the purpose of being used, trained or disposed of as a prostitute; or
- (f) is being detained against his will for the purposes of—
  - (i) prostitution or for having sexual intercourse with another or for immoral purposes; or
  - (ii) being sent out of Malaysia for the purposes of prostitution or for having sexual intercourse with another or for immoral purposes.”.

**Amendment of section 39**

**36.** Section 39 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after the word “removed” the word “immediately; and

(ii) by substituting for the word “detained” the word “placed”;

(b) by inserting after subsection (1) the following subsection:

“(1A) If the person referred to in subsection (1) fails to comply with the order made under that subsection within twenty-four hours from the date of the order, the Protector or police officer may remove the child and temporarily place the child in a place of refuge.”;

(c) in subsection (2)—

(i) by substituting for the word “detained” the word “placed”; and

(ii) by substituting for the words “subsection (1)” the words “subsections (1) and (1A)”;

(d) in subsection (3), by substituting for the words “subsection (1)” the words subsection “(2)”;

(e) by substituting for subsection (4) the following subsection:

“(4) If the Court For Children is satisfied that a child brought before it is in need of protection and rehabilitation, the Court For Children may order the child to be placed in a place of refuge until an order is made by the Court under section 40.”.

### **New section 39A**

**37.** The principal Act is amended by inserting after section 39 the following section:

#### **“Inquiry by Protector**

**39A.** (1) If a Court For Children makes an order for a child to be placed in a place of refuge under subsection 39(4), an inquiry into the circumstances of the child’s case shall be made by the Protector.

(2) The Protector shall complete the inquiry and submit the report of the inquiry to the Court For Children within a period not exceeding one month from the date the order is made under subsection 39(4).”.

**Substitution of section 40**

**38.** The principal Act is amended by substituting for section 40 the following section:

**“Powers of Court For Children in relation to a child in need of protection and rehabilitation**

**40.** (1) If after considering the report submitted under section 39A, the Court For Children is satisfied that any child brought before it is a child in need of protection and rehabilitation, the Court For Children, after taking into consideration that it is desirable to place a child in a family based care, may—

- (a) make an order requiring the parent or guardian of the child to execute a bond, with or without sureties, as the Court For Children may determine, for a period not exceeding three years from the date of the order subject to such conditions as the Court thinks fit for the proper care and guardianship of the child;
- (b) make an order placing the child for a period not exceeding three years from the date of the order in the care of a person whether a relative or not who is willing and whom the Court For Children considers to be a fit and proper person to undertake the care of such child;
- (c) make an order placing the child under the supervision of a Social Welfare Officer appointed for the purpose by the Court For Children, subject to such conditions as the Court thinks fit and for a period not exceeding three years from the date of the order;
- (d) make an order placing the child in a centre for a period not exceeding three years from the date of the order; or
- (e) make an order placing the child in a place of refuge for a period of three years from the date of the admission of the child into a place of refuge under subsection 39(1) or (1A), as the case may be, and the order shall be an authority for his placement in a place of refuge.

(2) In determining what order to be made under subsection (1), the Court For Children shall treat the best interests of a child as the paramount consideration.

(3) An order under subsection (1) shall not be made without giving the parent or guardian of the child an opportunity to attend and be heard.

(4) Notwithstanding subsection (3), an order under subsection (1) may be made if the Court For Children is satisfied on the information given by a Protector that the parent or guardian of the child, having been required to attend, has failed to do so, or is not available or cannot be found within a reasonable time.

(5) The order made under paragraph (1)(c) or (e) may have the effect of extending the period of such supervision or placement, as the case may be, beyond the date on which the child attains the age of eighteen years.

(6) Notwithstanding paragraph (1)(e), the Board of Visitors of the place of refuge in which a child is being placed may reduce the period of the placement but no reduction shall be made which will have the effect of enabling the child to be released from the place of refuge within twelve months from the date of his admission into the place of refuge as specified in that paragraph, except by the authority of the Minister.

(7) The Court For Children shall, when making an order under paragraph (1)(c) or (e), order the parent or guardian of a child to execute a bond for the duration of the order with such conditions which may include—

- (a) in the case of paragraph (1)(c), ensuring that the child remains indoors within stipulated times; and
- (b) in the case of paragraph (1)(e), regular visits to the place of refuge where the child is placed.

(8) Any child sent to a place of refuge under paragraph (1)(e) shall, on the expiration of the period of his placement whether by—

- (a) effluxion of time; or
- (b) reason of any reduction made pursuant to subsection (6),

be placed under the supervision of a Social Welfare Officer or other person appointed by the Protector for such purpose.

(9) The period of supervision for the purpose of subsection (8) shall be determined by the Board of Visitors of the place of refuge on the recommendation of the Protector but shall not in any case exceed one year from the date of expiration of the period of placement of the child.

(10) The Minister may, on the application of the child or his parent or guardian, exempt the child from the application of subsection (8) if he is satisfied that the case warrants such exemption.

(11) Without prejudice to the powers of the Board of Visitors pursuant to subsection (6), the Court For Children may, on the application in writing made by—

- (a) a Protector;
- (b) the parent or guardian of the child to whom an order made under this section relates; or
- (c) the child,

amend, vary or revoke any order made under this section—

- (aa) if the Court For Children is satisfied that it is in the best interests of the child to do so; and
- (bb) upon proof that the circumstances under which the order was made have changed after the making of the order.

(12) A Court For Children may, in making any order under subsection (1), impose such conditions or give such directions as the Court thinks fit for the purpose of ensuring the safety and well-being of the child in respect of whom such order is made, and such conditions or directions may include the following:

- (a) that the parent or guardian of the child accompanied by the child shall attend interactive workshops organized at designated centres established for such purpose; or

(b) if the child is in an educational institution, that the parent or guardian shall consult with the child's teacher and head teacher or principal once a month.

(13) Any parent or guardian who fails to comply with any of the conditions imposed or directions given under subsection (12) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

(14) Any person who fails to comply with the conditions of the bond under paragraph (1)(a) or subsection (7) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

### **Amendment of section 41**

**39.** Section 41 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “his own application in the prescribed form” the words “the application of the child or his parent or guardian”;

(b) by substituting for subsection (3) the following subsection:

“(3) Subject to subsections (4) and (5), and if circumstances warrant it, the person in charge of any place of refuge may, on an application made to him by the child or by the parent or guardian of the child, receive into the place of refuge any child who is in urgent need of protection.”; and

(c) by inserting after subsection (6) the following subsection:

“(7) The Protector may impose such conditions or give such directions as he thinks fit for the purpose of ensuring the safety and well-being of the child received or brought under this section, and such conditions or directions may include the following:

(a) that the parent or guardian of the child accompanied by the child shall attend interactive workshops organized at designated centres established for such purpose;



- (b) that the parent or guardian of the child shall visit the child on a regular basis as determined by the Protector; or
- (c) that the parent or guardian of the child accompanied by the child shall attend counselling sessions conducted by a counsellor.”.

#### **Deletion of section 42**

**40.** The principal Act is amended by deleting section 42.

#### **Amendment of section 43**

**41.** Paragraph 43(1)(d) of the principal Act is amended by inserting after the words “any other person” the words “or for any immoral purposes”.

#### **Amendment of section 45**

**42.** Section 45 of the principal Act is amended—

(a) in the shoulder note, by substituting for the word “**Detention**” the word “**Placement**”;

(b) in subsection (1)—

- (i) by substituting for the word “detained” the word “placed”;
- (ii) by substituting for the words “place of safety” the words “place of refuge”; and
- (iii) by substituting for the word “detention” the word “placement”; and

(c) in subsection (2)—

- (i) by substituting for the word “detention” the word “placement”;
- (ii) by substituting for the words “place of safety” the words “place of refuge”; and

- (iii) by substituting for the words “in accordance with paragraph 30(1)(d)” the words “but the placement shall not extend beyond the date on which the child attains the age of eighteen years.”.

### **Substitution of section 46**

**43.** The principal Act is amended by substituting for section 46 the following section:

#### **“Children beyond control**

**46.** (1) An application in writing may be made to the Court For Children to detain a child in a probation hostel or centre—

- (a) by a parent or guardian of a child, on the ground that the parent or guardian is unable to exercise proper supervision and control over the child and the child is falling into bad association; or
- (b) by a Protector in the case of a child who has no parent or guardian or has been abandoned by his parent or guardian and after reasonable inquiries the parent or guardian cannot be found, on the ground that the child is not under proper supervision and control and the child is falling into bad association.

(2) Upon receiving the application in paragraph (1)(a), the Court For Children shall ascertain that the parent or guardian—

- (a) understands the nature and consequences of his application; and
- (b) agrees to proceed with the application.

(3) After receiving the application under subsection (1) and in the case of the application made under paragraph (1)(a), ascertaining that the parent or guardian understands the nature and consequences of his application, and agrees to proceed with the application under subsection (2), the Court For Children—

- (a) shall immediately inquire into the circumstances of the child’s case;

(b) shall direct the probation officer to prepare and submit a probation report to the Court For Children for the Court to determine whether an order under subsection (5) may be made in respect of the child; and

(c) may order the child to be temporarily detained in a probation hostel or centre if it considers necessary to do so.

(4) In order to enable the probation officer to prepare and submit the probation report referred to in paragraph (3)(b), the Court For Children may from time to time, adjourn the case for such period not exceeding one month at a time.

(5) The Court For Children may, after considering the probation report referred to in paragraph (3)(b) and taking into consideration that it is desirable to place a child in a family based care—

(a) make an order placing the child in the care of a fit and proper person;

(b) make an order placing the child in a centre;

(c) make an order detaining the child in a probation hostel; or

(d) make an order placing the child under the supervision of—

(i) a probation officer; or

(ii) any person appointed for the purpose by the Court,

for a period specified by the Court.

(6) In addition to an order made under paragraph (5)(a), (b) or (c), the Court For Children shall make an order placing the child under the supervision of—

(a) a probation officer; or

(b) any person appointed for the purpose by the Court,

for a period not exceeding three years from the date of the order.

(7) The Court For Children may, in making any order under subsection (5), impose such conditions or give such directions as the Court thinks fit for the purpose of ensuring the safety and well-being of the child in respect of whom such order is made, and such conditions or directions may include the following:

- (a) that the parent or guardian of the child shall visit the child on a regular basis as determined by the Court For Children;
- (b) that the parent or guardian of the child accompanied by the child shall attend interactive workshops organized at designated centres established for such purpose;
- (c) that the parent or guardian of the child accompanied by the child shall attend counselling sessions conducted by a counsellor; or
- (d) if the child is in an educational institution, that the parent or guardian of the child shall consult with the child's teacher and head teacher or principal once a month.

(8) Any parent or guardian who fails to comply with any of the conditions imposed or directions given under subsection (7) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit.

#### **Amendment of section 47**

**44.** Section 47 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “46(2)(bb)” the words “46(5)(d) or subsection 46(6)”; and
- (b) by substituting for subsection (2) the following subsection:

“(2) The Supervising Court before whom a child is brought under paragraph (1)(b) may amend the order made under section 46—

- (a) if the Supervising Court is satisfied that it is in the best interests of the child to do so; and
- (b) upon proof that the circumstances under which the order was made have changed after the making of the order,

and a copy of the amended order shall be given to the Court For Children in which the order was made under section 46.”.

**Amendment of section 48**

**45.** Section 48 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the word “ten” the word “fifty”;  
and

(ii) by substituting for the word “five” the word  
“twenty”; and

(b) in subsection (2)—

(i) by substituting for the word “ten” the word “fifty”; and

(ii) by substituting for the word “five” the word  
“twenty”.

**Amendment of section 49**

**46.** Section 49 of the principal Act is amended—

(a) by substituting for the word “ten” the word “fifty”; and

(b) by substituting for the word “five” the word “twenty”.

**New Part VIIIA**

**47.** The principal Act is amended by inserting after section 53 the following Part:

“PART VIIIA

CENTRE

**Minister may approve centres**

**53A.** (1) The Minister may approve any centre to be a place for the care, protection and rehabilitation of children as may be required for the purposes of this Act.

(2) The Minister shall cause centres to be inspected for the purpose of ensuring the safety and well-being of children placed in such centres.”.

### **Amendment of section 55**

**48.** Subsection 55(1) of the principal Act is amended by substituting for the word “care” the word “protection”.

### **New section 55A**

**49.** The principal Act is amended by inserting after section 55 the following section:

#### **“Aftercare of child released from place of refuge**

**55A.** If a child is sent to a place of refuge, the Court For Children making the order shall, at the same time, make an order that after the expiration of the period of his placement he shall, for a period of one year, be under the supervision of—

- (a) a Protector; or
- (b) such other person as the Child Welfare Team may appoint.”.

### **Amendment of section 56**

**50.** Paragraph 56(b) of the principal Act is amended—

- (a) by substituting for the word “detained” the word “placed”; and
- (b) in subparagraph (ii), by substituting for the word “detention” the word “placement”.

### **Amendment of section 59**

**51.** Paragraph 59(a) of the principal Act is amended by substituting for the word “Protector” the words “probation officer”.

**New section 62A**

**52.** The principal Act is amended by inserting after section 62 the following section:

**“Aftercare of child released from probation hostel**

**62A.** If a child is sent to a probation hostel, the Court For Children making the order shall, at the same time, make an order that after the expiration of the period of his detention he shall, for a period of one year, be under the supervision of—

- (a) a probation officer; or
- (b) such other person as the Child Welfare Team may appoint.”.

**Substitution of section 63**

**53.** The principal Act is amended by substituting for section 63 the following section:

**“Child who escapes or is removed from probation hostel**

**63.** (1) Any child who escapes or is removed from a probation hostel without lawful authority—

- (a) may be arrested without a warrant by any probation officer or police officer; and
- (b) be brought back to that hostel or before the Supervising Court.

(2) If the child is brought before the Supervising Court under paragraph (1)(b)—

- (a) in the case of a child detained in a probation hostel under paragraph 46(5)(c), the Supervising Court may exercise its power under subsection 47(2); and
- (b) in the case of a probationer, the Supervising Court may deal with the child for the offence for which he was sent to the probation hostel in the same manner in which the Supervising Court could deal with him if it had just found him guilty of that offence.”.

**Amendment of section 67**

**54.** Subsection 67(1) of the principal Act is amended—

- (a) in paragraph (a), by inserting after the words “offence” the words “other than grave crimes”;
- (b) by substituting for paragraph (b) the following paragraph:
  - “(b) the probation report submitted to the Court For Children shows that the child is in need of institutional rehabilitation; and”; and
- (c) by substituting for the words “on the recommendation of the probation officer” the words “after considering the probation report”.

**Amendment of section 70**

**55.** Paragraph 70(b) of the principal Act is amended by substituting for the words “Child Welfare Committee” the words “Child Welfare Team”.

**Amendment of section 71**

**56.** Subsection 71(1) of the principal Act is amended by inserting after the word “warrant” the words “by a probation officer or police officer”.

**New section 73A**

**57.** The principal Act is amended by inserting after section 73 the following section:

**“Commissioner General of Prison’s Standing Orders in respect of Henry Gurney School**

**73A.** The Commissioner General of Prison may issue Commissioner General of Prison’s Standing Orders in respect of Henry Gurney School which shall be consistent with this Act or of any regulations made under the Act.”.



**Amendment of section 75**

**58.** Section 75 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for paragraph (b) the following paragraph:

“(b) the probation report submitted to the Court For Children shows that the child is not suitable to be rehabilitated in an approved school; and;” and

(ii) by substituting for the words “on the recommendation of the probation officer” the words “after considering the probation report”;

(b) in paragraph (2)(b)—

(i) by deleting the word “and” at the end of subparagraph (i); and

(ii) in subparagraph (ii)—

(A) by substituting for the words “Director General of Prisons” the words “Commissioner General of Prison”; and

(B) by substituting for the full stop at the end of the paragraph the words “; and”; and

(iii) by inserting after subparagraph (ii) the following subparagraph:

“(iii) in subsection 71(1), for the words “probation officer” there shall be substituted the words “prison officer”.”; and

(c) in subsection (3), by substituting for the words “Director General of Prisons” the words “Commissioner General of Prison”.

**Amendment of section 81**

**59.** Section 81 of the principal Act is amended—

- (a) in the shoulder note, by inserting after the word “**person**” the words “**placed or**”;
- (b) by inserting after the word “child” the words “placed or”; and
- (c) by inserting after the word “person’s” the words “placement or”.

**Amendment of section 82**

**60.** Section 82 of the principal Act is amended by substituting for the words “and approved school” the words “, approved school and Henry Gurney School”.

**Amendment of section 83**

**61.** Section 83 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**Trials of**” the words “**Criminal procedure for**”; and
- (b) in paragraph (2)(b), by substituting for the words “(g)” the words “(da)”.

**New section 83A**

**62.** The principal Act is amended by inserting after section 83 the following section:

**“Arrest**

**83A.** (1) A child who is arrested shall not be handcuffed unless—

- (a) the offence with which he is arrested for is a grave crime; or
- (b) the child forcibly resists the endeavour to arrest him or attempts to evade the arrest.

(2) When a child is arrested, he shall be informed of his grounds of arrest, and a police officer shall, as soon as may be, before commencing any form of questioning or recording of any statement from the child, communicate to the parent or guardian, or relative of the child and a probation officer to inform—

- (a) the child's whereabouts;
- (b) the grounds of the child's arrest; and
- (c) the right to consult with a counsel of the child's choice.

(3) A police officer may allow the probation officer and the parent or guardian of a child to be present at the place where the child is being detained after arrest to ensure the child's welfare.

(4) Nothing in this section shall be deemed to affect the powers of a police officer to deal with a child arrested in accordance with the Criminal Procedure Code.”.

### **Amendment of section 85**

**63.** Section 85 of the principal Act is amended—

(a) in the shoulder note, by inserting after the words “**police stations**” the words “, **place of detention**”;

(b) by substituting for paragraph (a) the following paragraph:

“(a) to prevent a child while—

- (i) being conveyed to or from police station or place of detention;
- (ii) being detained in a police station or place of detention;
- (iii) being conveyed to or from any Court;  
or
- (iv) waiting before or after attendance in any Court,

from associating with an adult who is charged with an offence;” and

(c) by substituting for paragraph (c) the following paragraph:

“(c) to prevent the picture of a child while—

- (i) being arrested;
- (ii) being conveyed to or from police station or place of detention;
- (iii) being detained in a police station or place of detention;
- (iv) being conveyed to or from any Court;  
or
- (v) waiting before or after attendance in any Court,

from being recorded in any manner on tape or film or by any electronic medium.”.

### **Amendment of section 87**

**64.** Section 87 of the principal Act is amended by deleting paragraph (a).

### **New section 89A**

**65.** The principal Act is amended by inserting after section 89 the following section:

#### **“Application for legal representation**

**89A.** (1) If a child is charged with any offence and is incapable to appoint a counsel to represent him, the child may apply to the Court For Children for a counsel for such purpose.

(2) The Court shall, upon receiving the application made by the child under subsection (1), assign a counsel to represent the child.”.

### **Amendment of section 90**

**66.** Section 90 of the principal Act is amended—

- (a) in subsection (12), by inserting after the words “child,” the words “direct a probation officer to prepare and submit a probation report to the Court for the Court to”; and
- (b) in subsection (13), by substituting for the words “by a probation officer” the words “and submitted by a probation officer within thirty days from the date the direction is given by the Court For Children to the probation officer to prepare and submit the probation report.”.

### **Amendment of section 91**

**67.** Subsection 91(1) of the principal Act is amended—

- (a) by inserting after paragraph (d) the following paragraph:

“(da) make a community service order”; and
- (b) by deleting paragraph (g).

### **Deletion of section 92**

**68.** Section 92 of the principal Act is deleted.

### **Amendment of section 95**

**69.** Subsection 95(2) of the principal Act is amended by substituting for the words “Except in the case of whipping, the execution of which shall be stayed pending appeal, no” the word “No”.

**New Chapter 3A of Part X**

**70.** Part X of the principal Act is amended by inserting after section 97 the following Chapter:

“Chapter 3A

COMMUNITY SERVICE ORDER

**Community service order**

**97A.** (1) If a Court For Children by or before which a child is found guilty of an offence, is of the opinion that it is appropriate to do so, the Court For Children may make an order requiring the child to perform community service not exceeding 120 hours in aggregate within the period of not exceeding six months, at such time and place as may be specified by the Court For Children.

(2) During the period of community service order, the child—

- (a) shall submit to the supervision of a Social Welfare Officer;
- (b) shall perform the community service for the number of hours in aggregate imposed on him by the Court For Children within the period of not exceeding six months;
- (c) shall not commit any offence; and
- (d) shall comply with such other requirements, as the Court For Children having regard to the circumstances of the case considers necessary including any one or more of the following:
  - (i) that the child shall attend interactive workshops organized at designated centres established for such purpose;
  - (ii) if the child is in an educational institution, that the child shall attend the institution; or
  - (iii) the child shall attend counselling sessions conducted by a counsellor.

(3) If the Court For Children makes a community service order under subsection (1) the Court For Children shall—

- (a) consider the recommendations and views of a probation officer as to the suitability of the community service to be performed by the child; and
- (b) explain to the child in simple language, suitable to his age, maturity and understanding—
  - (i) the effect of the order; and
  - (ii) that failure to comply with any requirement of the order is an offence; and
- (c) give a copy of the order to—
  - (i) the parent or guardian of the child;
  - (ii) the child;
  - (iii) the probation officer; and
  - (iv) except if it is itself the Supervising Court, the Court For Children for the district or area named in the order in which the child is required to perform the community service.

### **Failure to comply with community service order**

**97B.** (1) If at any time during the period of community service order it appears to a Supervising Court that a child has failed to comply with any of the requirements of the community service order under paragraphs 97A(2)(a), (b) or (d), the Supervising Court may issue—

- (a) a summons requiring the child to appear at the place and time specified in the summons; or
- (b) a warrant for his arrest.

(2) A warrant under subsection (1) shall not be issued except on information in writing and on oath submitted by the probation officer.

(3) A summons or warrant issued under this section shall direct the child to appear or be brought before the Supervising Court.

(4) A child when arrested under subsection (1) may, if not brought immediately before the Supervising Court under subsection (3)—

- (a) be detained in a place of detention; or
- (b) be released on bail, with or without sureties,

until such time as he can be brought before the Supervising Court.

(5) If it is proved to the satisfaction of the Supervising Court that a child has failed to comply with any of the requirements of the community service order under paragraph 97A(2)(a),(b) or (d), the Court may, without prejudice to the continuance of the community service order—

- (a) impose on him a fine not exceeding five thousand ringgit;
- (b) deal with the child for the offence in respect of which the community service order was made in any manner in which the Court could deal with him if the Court had just found him guilty of that offence; or
- (c) in the case of a child who has not performed the the community service for the full hours in aggregate imposed on him, order him to perform the community service the unexpired residue of hours in aggregate under the order originally issued by the Court For Children for such period not exceeding six months from the date of the order made under this paragraph.

(6) A fine imposed under this section for failing to comply with any of the requirements of a community service order shall be—

- (a) deemed for the purpose of any written law to be a sum adjudged to be paid on a conviction; and
- (b) taken into account in making any subsequent order upon the child under this section or section 97c.



(7) For the purposes of paragraph (6)(a), “a sum adjudged to be paid on a conviction” includes any costs, damages or compensation adjudged to be paid on a conviction, of which the amount is ascertained by the conviction.

(8) A child who fails to comply with paragraph 97A(2)(c) shall be dealt with under section 97C.

### **Commission of further offence**

**97c.** (1) If it appears to a Supervising Court that—

(a) a child has been found guilty by a Court of an offence committed during the period of the community service order; and

(b) the child has been dealt with in respect of that offence,

the Supervising Court may issue—

(aa) a summons requiring the child to appear at the place and time specified in the summons; or

(bb) a warrant for his arrest.

(2) A warrant under subsection (1) shall not be issued except on information in writing and on oath submitted by the probation officer.

(3) A summons or warrant issued under this section shall direct the child to appear or to be brought before the Supervising Court.

(4) If it is proved to the satisfaction of the Supervising Court that a child in whose case the order was made has been found guilty and dealt with in respect of an offence committed during the community service period, the Court may deal with him for the offence for which the order was made in any manner in which the Court could deal with him if the Court had just found him guilty of that offence.

**Effects of community service order**

**97D.** (1) The finding of guilt for an offence for which an order is made under this Chapter requiring the child to perform community service shall be deemed not to be a conviction for any purpose other than for the purposes of—

- (a) the proceedings in which the order is made; and
- (b) any subsequent proceedings which may be taken against a child under this Chapter.

(2) Subsection (1) shall not affect—

- (a) the right of any such child—
  - (i) to appeal against a finding of guilt; or
  - (ii) to rely on a finding of guilt in bar of any subsequent proceedings for the same offence; or
- (b) the revesting or restoration of any property in consequence of the finding of guilt of any such child.

**Amendment of community service order**

**97E.** (1) If the Supervising Court is satisfied that a child proposes to change or has changed his residence from the district or area named in the community service order to another district or area, the Court may, and if an application on that behalf is made by the probation officer, shall, by order amend the community service order by substituting for the district or area named therein the district or area where the child proposes to reside or is residing.

(2) If the community service order contains requirements which, in the opinion of the Supervising Court, cannot be complied with unless the child continues to reside in the district or area named in the order, the Supervising Court shall not amend the order except in accordance with subsection (4).

(3) If a community service order is amended under subsection (1), the Supervising Court shall send to the Court For Children for the new district or area named in the order a copy of the order together with such documents and information relating to the case as it considers likely to be of assistance to the Court For Children.

(4) Without prejudice to subsections (1) and (3), the Supervising Court may, on an application made by the probation officer or by the child, by order amend the community service order by—

- (a) revoking any of the requirements in the community service order; or
- (b) inserting in the community service order, either in addition to or in substitution for any such requirement, any requirement which could be included in the order if the order were then being made by the Court in accordance with section 97A.

(5) The Supervising Court shall not amend a community service order under subsection (4) by—

- (a) reducing the period of the community service order; or
- (b) extending that period such that the community service period becomes more than six months.

**Court to give copies of amending community service order to probation officer**

**97F.** On the making of an order amending a community service order under section 97E—

- (a) the Court shall immediately give sufficient copies of the amending order to the probation officer; and
- (b) the probation officer shall give a copy of the amending order to—
  - (i) the child; and
  - (ii) the Social Welfare Officer.”.

**Amendment of section 106**

**71.** The principal Act is amended by substituting for subsection 106(1) the following subsection:

“(1) A child who escapes or is removed from the care of a fit and proper person without lawful authority may be—

- (a) arrested without a warrant by a Protector, probation officer or police officer; and
- (b) brought before the Court For Children by which the order was made or before the Supervising Court.”.

**Amendment of section 115**

**72.** Section 115 of the principal Act is amended—

- (a) in paragraph (b), by inserting after the word “Protector” the words “, Assistant Protector”;
- (b) in paragraph (c), by inserting after the word “Protector” the words “, Assistant Protector”;
- (c) by substituting for the word “five” the word “ten”; and
- (d) by substituting for the word “two” the word “three”.

**Amendment of section 118**

**73.** Section 118 of the principal Act is amended by deleting the words “in Need of Protection”.

**Amendment of section 119**

**74.** Section 119 of the principal Act is amended—

- (a) by deleting the word “and” at the end of paragraph (a); and

(b) by inserting after paragraph (a) the following paragraph:

“(aa) details of persons convicted of any offence in which a child is a victim; and”.

### **Amendment of section 120**

**75.** Paragraph 120(1)(c) of the principal Act is amended by substituting for the words “Child Welfare Committee” the words “Child Welfare Team”.

### **Amendment of section 123**

**76.** Section 123 of the principal Act is amended by inserting after the words “Protector,” the words “Assistant Protector, prison officer,”.

### **Amendment of section 125**

**77.** Section 125 of the principal Act is amended—

- (a) by substituting for the word “five” the word “ten”; and
- (b) by substituting for the word “two” the word “three”.

### **Amendment of section 128**

**78.** Section 128 of the principal Act is amended—

- (a) in subsection (2)—
  - (i) in paragraph (a), by inserting after the words “probation hostels” the words “, places of detention”;
  - (ii) in paragraph (c), by inserting after the words “responsibilities of” the words “Protectors, Assistant Protectors and”;
  - (iii) in paragraph (d), by substituting for the words “Child Welfare Committees” the words “Child Protection Teams and Child Welfare Teams”; and

- (iv) in paragraph (m), by inserting after the words “Child Protection Teams” the words “and Child Welfare Teams”; and
- (b) in subsection (3)—
  - (i) by substituting for the word “five” the word “ten”; and
  - (ii) by substituting for the word “two” the word “three”.

### **Amendment of First Schedule**

**79.** The First Schedule to the principal Act is amended by substituting for the words “Paragraphs 15(1)(c) and” the word “Paragraph”.

### **Savings provision**

**80.** (1) For the purposes of this section, “appointed date” means the date appointed under subsection 1(2) for the coming into operation of this section.

(2) On the appointed date, the Co-ordinating Council for the Protection of Children is dissolved.

(3) The members of the dissolved Council appointed under the principal Act and the members of the committees appointed by the dissolved Council under the principal Act before the appointed date shall cease to hold office on the appointed date.

(4) Every act or thing done, taken or commenced by the members of the dissolved Council referred to in the principal Act before the appointed date shall, on and after the appointed date, be deemed to have been done, taken or commenced under the principal Act as amended by this Act.

(5) Any investigations, inquiry, trial or proceedings, and matters relating to such investigations, inquiry, trial or proceedings under the principal Act existing and pending immediately before the appointed date shall continue and be dealt with under the principal Act as if it had not been amended by this Act.

(6) Any investigations, inquiry, trial or proceedings, and matters relating to such investigations, inquiry, trial or proceedings which could have been commenced or instituted under the principal Act before the appointed date shall be commenced, instituted and dealt with under the principal Act as if it had not been amended by this Act.

(7) Any application or approval under the principal Act existing and pending on the appointed date shall, on the appointed date, be dealt with under the principal Act as amended by this Act.

(8) Any judgment, sentence, order, decision or direction made under the principal Act shall, on the appointed date, be deemed to have been made under the principal Act as amended by this Act and continue to be in force and have effect.

(9) Subject to subsection (10), any judgment, sentence, order, decision or direction made under the principal Act existing and pending immediately before the appointed date shall, on the appointed date, be dealt with under the principal Act as if it had not been amended by this Act.

(10) Any order made under section 30, 35, 37, 40 or 46 of the principal Act existing and pending immediately before the appointed date shall, on the appointed date, be dealt with under the principal Act as amended by this Act.

(11) Any such rights, privileges, obligations, liability, penalty, or punishment acquired, accrued or incurred under the principal Act, may be continued, enforced, imposed and be dealt with, as the case may be, as if the principal Act had not been amended by this Act.

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#### EXPLANATORY STATEMENT

This Bill (“the proposed Act”) seeks to amend the Child Act 2001 (“Act 611”) primarily to enhance the protection and welfare of children. The proposed Act seeks to provide for the establishment of the National Council for Children (“the Council”) to better deal with issues and aspects relating to children’s protection, care, rehabilitation, development and participation, to introduce the concept of family based care to encourage children’s development and well-being, to make provisions relating to the participation and involvement of society in providing services relating to care, protection, rehabilitation and development of children, to substitute for the words “detained” and “detention”

for the words “placed” and “placement” respectively in respect of children who in are in need of care and protection and rehabilitation, wherever appearing, to allow for the details of persons convicted with any offence in which a child is a victim be kept in the Register of Children, to abolish the punishment of whipping for children who are found guilty of an offence and to introduce provisions relating community service to be performed by the children, to further clarify children’s rights upon arrest, to increase the amount of penalty for offences under Act 611 and to provide for community service as a form of punishment for offences under Act 611, and to provide for consequential matters or incidental matters.

2. *Clause 1* contains the short title and provision on the commencement of the proposed Act.

3. *Clause 2* seeks to amend section 2 of Act 611 to introduce new definitions and to amend certain existing definitions in Act 611.

4. *Clause 3* seeks to amend Part II of Act 611 consequential to the amendment made in *Clause 5*.

5. *Clause 4* seeks to amend section 3 of Act 611 to provide for the establishment of the Council to replace the Co-ordinating Council for the Protection of Children and to provide for the functions and powers of the Council.

6. *Clause 5* seeks to introduce new section 3A to provide that the Government shall allocate the Council with adequate funds annually to enable the Council to perform its functions under Act 611.

7. *Clause 6* seeks to amend section 4 of Act 611 to provide for the membership of the Council, which includes two representatives from amongst the children who shall be appointed by the Minister on the recommendation of the Director General of Social Welfare. This is to promote participation of children in decision making process in matters affecting them. This *clause* also seeks to provide that a member of the Council appointed under paragraph 4(1)(r) or (s) shall, unless he sooner resigns or vacates his office or his appointment is sooner revoked, hold office for a term not exceeding two years and shall be eligible for reappointment for a maximum period of two consecutive terms.

8. *Clause 7* seeks to introduce new section 4A into Act 611 to provide for the revocation of appointment and resignation of the members of the Council appointed under paragraphs 4(1)(r) and (s).

9. *Clause 8* seeks to amend section 5 of Act 611 to provide that the Council shall meet at least twice a year and that the quorum of the Council shall include at least one representative from amongst the children. This *clause* also seeks to provide that the Council may invite any person to attend any of its meetings, and that the members of the Council and any person invited to attend the meetings of the Council may be paid such allowances as the Minister may determine.



10. *Clause 9* seeks to introduce new section 5A into Act 611 to allow the Council to pass a resolution without meeting if all members of the Council have been informed of the proposed resolution, or reasonable efforts have been made to inform all members of the Council of the proposed resolution. All members of the Council must also indicate agreement with the resolution in accordance with the method determined by the Council.

11. *Clause 10* seeks to amend section 6 of Act 611 to provide that, except for members of the committee appointed from amongst the members of the Council, any other persons appointed as members of the committee may be paid such allowance as the Minister may determine.

12. *Clause 11* seeks to introduce new section 6A into Act 611 to set out the circumstances in which the office of a member of the Council or of the committee may be vacated.

13. *Clause 12* seeks to amend section 7 of Act 611 to provide that persons with appropriate experience, knowledge and expertise on matters relating to the care and protection of children may be appointed by the Minister to become a member of the Child Protection Teams. This is to ensure effective co-ordination of services given to families and children if the children are or are suspected of being in need of care and protection. With this amendment, the Protector is tasked to supervise the Child Protection Teams.

14. *Clause 13* seeks to introduce new section 7A into Act 611 to establish the Child Welfare Teams to co-ordinate locally-based services to families and children if children are or are suspected of being in need of protection and rehabilitation or if they are found guilty of any offence. This *clause* also seeks to provide for the membership of the Child Welfare Teams. A probation officer or Protector is tasked to supervise the Child Welfare Teams.

15. *Clause 14* seeks to introduce new section 8A into Act 611 to provide for the appointment of Assistant Protectors by the Minister by notification in the *Gazette* subject to such conditions as may be specified in the notification.

16. *Clause 15* seeks to amend section 9 of Act 611 following the substitution of the term “Pendaftar Besar” in the national language with the term “Ketua Pendaftar”.

17. *Clause 16* seeks to amend section 14 of Act 611 to empower the Court For Children to make an order relating to the placement of a child in a place of refuge and period of community service order under the proposed Chapter 3A of Part X of Act 611 which has the effect of extending the period of such placement and community service beyond the date on which the child attains the age of eighteen years.

18. *Clause 17* seeks to amend section 15 of Act 611 to enhance the protection for children in relation to mass media reporting and publication. Currently, under paragraph 15(1)(a) of Act 611, restrictions on media reporting and publication apply to steps taken against a child concerned or purportedly concerned in any criminal act or omission only at pre-trial, trial or post-trial stage of such criminal act or omission. On the other hand, under

paragraph 15(1)(c) of Act 611 restrictions to mass media reports and publication apply to any child in respect of whom any of the offences under the First Schedule has been or is suspected to have been committed. With this amendment, such restrictions shall apply, even during the investigation of such criminal act or omission and also to any child in respect of whom any offences under any written law has been or is suspected to have been committed.

19. *Clause 18* seeks to amend section 17 of Act 611 to widen the meaning of a child in need of care and protection. With this amendment, a child is in need of care and protection if his parent has acted negligently in exercising proper supervision and control over the child, and if the child is allowed to be on any streets, premises or place for the purposes of any other illegal activities, apart from illegal activities detrimental to the health and welfare of the child.

20. *Clause 19* and *20* seeks to amend sections 18 and 19 of Act 611 respectively to improvise the provisions on the taking of a child in need of care and protection into temporary custody and empower an Assistant Protector to take the child into temporary custody. *Clause 19* provides that any Assistant Protector or police officer who takes a child into temporary custody under this section shall immediately upon such taking, notify the Protector and within twelve hours upon such taking, bring the child before a Protector. If a child taken into temporary custody under this Part escapes or is removed without lawful authority, the Protector shall inquire into the circumstances of the case and notify the parent or guardian of the child of such escape or removal and if the child is found, the child shall be brought before the Court For Children by the Protector in accordance with section 19 of Act 611. *Clause 19* also seeks to makes it an offence for any person who removes a child from temporary custody without lawful authority, knowingly assists or induces, directly or indirectly, a child to escape from the temporary custody or knowingly harbours or conceals a child who has so escaped, or prevents the child from returning to the temporary custody. *Clause 20* seeks to provide that if a child is brought before a Magistrate under subsection 19(1) of Act 611, the Magistrate may direct that the child be temporarily placed in a centre until such time as the child can be brought before a Court For Children. This is to promote efficiency in dealing with the child in need of care and protection. The appointment of Assistant Protectors is also intended to enable members of community to be involved in providing care and protection for children.

21. *Clause 21* seeks to amend section 20 of Act 611 to empower an Assistant Protector who takes a child into temporary custody to bring the child before a medical officer instead of bringing the child before a Protector if he is of the opinion that the child is in need of medical examination or treatment. This *clause* also seeks to provide that if an Assistant Protector does not take a child into temporary custody under section 18 of Act 611 but he is satisfied on reasonable grounds that the child is in need of medical examination or treatment, he may, with the approval of a Protector, direct in writing the person who appears to him to have the care of the child for the time being to immediately take the child to a medical officer.

22. *Clause 22* seeks to amend section 21 of Act 611 consequential to the insertion of new subsection 20(1A) under *clause 21*.

23. *Clause 23* seeks to amend section 25 of Act 611 to provide that a child who is being medically examined or treated and brought before a Magistrate under subsection 25(2) of Act 611, may be directed by the Magistrate to be temporarily placed in a centre until such time as the child can be brought before a Court For Children.

24. *Clauses 24, 25 and 26* seek to amend sections 27, 28 and 29 of Act 611 respectively to impose a duty on a medical officer or a registered medical practitioner, family member of a child and child care provider, who believes on reasonable grounds that a child is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused, to immediately inform a Social Welfare Officer instead of a Protector. Currently, any family member who fails to comply with subsection 28(1) of Act 611 commits an offence and shall, on conviction, be released on a bond on conditions to be determined by the Court. With this amendment, the provision on bond is removed and any family member who fails to comply with subsection 28(1) of Act 611 shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years or to both. This amendment is necessary to deal with the rise of child abuse and neglect cases. In many cases, family members would be in the best position to inform the Social Welfare Officer if a child is being ill-treated, neglected, abandoned or exposed, or is sexually abused.

25. *Clause 27* seeks to introduce new section 29A to provide that if any person, other than persons referred to in sections 27, 28 and 29, has reason to believe that a child is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused, he may give such information to a Social Welfare Officer. This is to encourage information to be given by community members including teachers, friends and neighbours of a child if the child is physically or emotionally injured as a result of being ill-treated, neglected, abandoned or exposed, or is sexually abused. Such information is important in order to save a life of a child.

26. *Clause 28* seeks to amend section 30 of Act 611 regarding the powers of the Court For Children to make orders in respect of a child in need of care and protection so as to be in line with the concept of family based care. This *clause* provides that the Court For Children shall, before making the order under subsection 30(1) of Act 611, take into consideration that it is desirable to place a child in a family based care. “Family based care” means the care of a child in a family environment, including—

- (a) the care of a child by a parent, guardian or relative;
- (b) the care of a child by a foster parent or fit and proper person; or
- (c) the care of a child in a centre.

27. *Clause 29* seeks to amend section 31 of Act 611 to increase the existing penalty under this section from a fine not exceeding twenty thousand ringgit or imprisonment for a term not exceeding ten years or to both to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding twenty years or to both. This *clause* also seeks to provide for community service as an additional punishment.

28. *Clause 30* seeks to amend section 32 of Act 611 to increase the existing penalty under this section. With this amendment, any person who, being a person having the care of a child who allows that child to be on any street, premises or place for the purposes of begging, receiving alms, whether or not there is any pretence of singing, playing, performing or offering anything for sale, or carrying out illegal hawking, illegal lotteries, gambling or other illegal activities detrimental to the health and welfare of the child or for any other illegal activities, commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding five years or to both. This *clause* also seeks to provide for community service as an additional punishment.

29. *Clause 31* seeks to amend section 33 of Act 611 to increase the existing penalty under this section. With this amendment, any person who, being a person having the care of a child leaves that child without making reasonable provision for the supervision and care of the child for a period which is unreasonable having regard to all the circumstances, or under conditions which are unreasonable having regard to all the circumstances, commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding five years or to both. This *clause* also seeks to provide for community service as an additional punishment.=

30. *Clause 32* seeks to amend section 34 of Act 611 consequential to the amendments made in *clauses 19* and *20* relating to the taking of a child into custody by an Assistant Protector.

31. *Clause 33* seeks to amend section 35 of Act 611 regarding the power of the Protector to make orders in respect of taking of a child into care, custody or control by a person which is required to be notified to the Protector under section 35 of Act 611. Under section 35 of Act 611, when the taking of a child into the care, custody or control by a person has been notified to a Protector, the Protector shall make an inquiry regarding the circumstances of such taking and make orders relating to the child. With this amendment, the Protector shall, in making the order, take into consideration that it is desirable to place a child in a family based care.

32. *Clause 34* seeks to amend section 37 of Act 611 regarding the power of the Protector to make orders in respect of taking of a child into care, custody or control by a person which is required to be notified to the Protector under section 35 of Act 611 but no such notification has been made and the child has not been produced at the time and place specified by the Protector. With this amendment, the Protector shall, in making the order, take into consideration that it is desirable to place a child in a family based care.

33. *Clause 35* seeks to amend section 38 of Act regarding the criteria of a child who is in need of protection with the purpose to streamline the procedures in respect of a child in need of protection and rehabilitation.

34. *Clause 36* seeks to amend section 39 of Act 611 regarding the removal of a child in need of protection and rehabilitation to a place of refuge. Currently, under subsection 39(1) of Act 611, any Protector or police officer who is satisfied on reasonable grounds that a child is in need of protection and rehabilitation may order the child to be removed to a place of refuge and the child shall be temporarily detained in such place of refuge. With this amendment, the removal of the child to a place of refuge shall be done immediately. If a person ordered by a Protector or police officer to remove a child to a place of refuge fails to comply within twenty-four hours with an order made under that subsection from the date of the order, a Protector or police officer may remove the child and temporarily place the child in a place of refuge.

35. *Clause 37* seeks to introduce new 39A regarding an inquiry into the circumstances of the child's case by the Protector if the Court For Children makes an order for a child to be placed in a place of refuge under subsection 39(4) of Act 611. This *clause* also provides that the Protector shall complete the inquiry and submit the report of the inquiry to the Court For Children within a period not exceeding one month from the date the order is made under subsection 39(4).

36. *Clause 38* seeks to substitute section 40 of Act 611 to amend the provision relating to the powers of the Court For Children and procedures in relation to a child in need of protection and rehabilitation and to provide that the Court For Children shall, in making the order, take into consideration that it is desirable to place a child in a family based care.

37. *Clause 39* seeks to amend section 41 of Act 611 to allow a parent or guardian of a child in need of urgent protection to apply to the Protector for the child to be placed in a place of refuge. This *clause* also seeks to empower the Protector to impose such conditions or give such directions as he thinks fit for the purpose of ensuring the safety and well-being of the child received in a place of refuge or brought before him under section 41 of Act 611.

38. *Clause 40* seeks to delete section 42 of Act 611 consequential to the amendments made in *clauses 35, 36 and 37*.

39. *Clause 41* seeks to amend section 43 of Act 611 to make the act of bringing into Malaysia, receiving or harbouring a child knowing or having reason to believe that the child has been procured for immoral purposes as an offence under Act 611.

40. *Clause 42* seeks to amend section 45 of Act 611 to empower any Court to place a child with respect to whom a scheduled offence is alleged to have been committed and whom the Court considers to be in need of protection in a place of refuge.

41. *Clause 43* seeks to amend section 46 of Act 611 to enable the Protector to apply from Court For Children in the case of a child who has no parent or guardian or has been abandoned by his parent or guardian and after reasonable inquiries the parent or guardian cannot be found for the child, to be detained in a probation hostel or centre on the ground that the child is not under

proper supervision or control and the child is falling into bad association. This *clause* also seeks to provide that the Court For Children shall make an order placing the child under the supervision of a probation officer or any person appointed by the Court in addition to the order made under paragraph 46(5)(a), (b) or (c) of Act 611. The Court For Children shall, in making the order under section 46 of Act 611, take into consideration that it is desirable to place a child in a family based care.

42. *Clause 44* seeks to amend section 47 of Act 611 relating to the power of Supervising Court to amend the orders made under section 46. With this amendment, the Supervising Court may amend the orders made under section 46 by a Court For Children if the Supervising Court is satisfied that it is in the best interests of the child to do so and upon proof that the circumstances under which the order was made have changed after the making of the order. The Supervising Court shall give a copy of the amending order to the Court For Children in which the order was made under section 46.

43. *Clauses 45* and *46* seek to amend sections 48 and 49 of Act 611 respectively to substitute the existing penalty for offences of unlawful transfer of possession, custody or control of child and importation of child by false pretense with a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding twenty years or to both.

44. *Clause 47* seeks to introduce new Part VIII A into Act 611 relating to the power of the Minister to approve any centre to be a place for care, protection and rehabilitation of children. Under this *clause*, the Minister shall cause centres to be inspected for the purpose of ensuring the safety and well-being of children placed in such centres.

45. *Clause 49* seeks to introduce new section 55A into Act 611 to provide for aftercare of a child released from a place of refuge. If a child is sent to a place of refuge, the Court For Children making the order shall, at the same time, make an order that after the expiration of the period of his placement he shall be under the supervision of a Protector or such other person as the Child Protection Team may appoint for a period of one year.

46. *Clause 51* seeks to amend paragraph 59(a) to empower a probation officer instead of a Protector to arrest without warrant any child who escapes or is removed from a place of detention without lawful authority.

47. *Clause 52* seeks to introduce new section 62A into Act 611 to provide for aftercare of a child released from a probation hostel. If a child is sent to a probation hostel, the Court For Children making the order shall, at the same time, make an order that after the expiration of the period of his placement he shall be under the supervision of a probation officer or such other person as the Child Welfare Team may appoint for a period of one year.

48. *Clause 53* seeks to amend section 63 of Act 611 to further clarify the power of Supervising Court in dealing with a child who escapes or is removed without lawful authority from a probation hostel.

49. *Clause 54* seeks to amend section 67 of Act 611 to exclude a child who has committed a grave crime from being sent to an approved school. This amendment is necessary to ensure effective rehabilitation of children placed in an approved school.

50. *Clause 55* seeks to amend section 70 consequential to the establishment of Child Welfare Teams.

51. *Clause 56* seeks to amend section 71 to clarify that a police officer or probation officer may arrest without warrant a child who escapes from an approved school or who fails to return to the approved school after being absent on temporary leave of absence or with permission.

52. *Clause 57* seeks to introduce a new section 73A to provide that the Commissioner General of Prison may issue a Commissioner General of Prison's Standing Orders in respect of Henry Gurney Schools which shall be consistent with Act 611 or of any regulations made under Act 611.

53. *Clause 58* seeks to amend section 75 of Act 611 in relation to the probation report to be considered by a Court For Children before a child is sent to a Henry Gurney School. Apart from this, this *clause* seeks to make modification to subsection 71(1) of Act 611 to empower the prison officer to arrest without warrant a child who escapes from a Henry Gurney School or who fails to return to the Henry Gurney School after being absent on temporary leave of absence or with permission.

54. *Clause 60* seeks to amend section 82 of Act 611 to empower the Minister to appoint a Board of Visitors for Henry Gurney School for the purpose of effective supervision of children detained in a Henry Gurney School.

55. *Clause 61* seeks to amend section 83 consequential to the abolishment of punishment of whipping under Act 611.

56. *Clause 62* seeks to introduce a new section 83A into Act 611 relating to the right of a child when arrested. If a child is arrested, he shall not be handcuffed unless the offence with which he is arrested for is a grave crime or the child forcibly resists the endeavour to arrest him or attempts to evade the arrest. This *clause* also provides that the child shall be informed of his grounds of arrest, and that a police officer shall, as soon as may be, before commencing any form of questioning or recording of any statement from the child, communicate to the parent or guardian, or relative of the child and a probation officer to inform the child's whereabouts, grounds of the child's arrest and the child's right to consult with a counsel of the child's choice. A police officer may allow a probation officer and a parent or guardian of a child to be present at the place where the child is being detained after arrest to ensure the child's welfare.

57. *Clause 63* seeks to amend section 85 of Act 611 to provide that a child shall be prevented from associating with an adult while being conveyed to or from police station or place of detention and while being detained in a place of detention, and to prevent the picture of a child from being recorded in any manner while being arrested or while being conveyed to or from police station or place of detention.

58. *Clause 64* seeks to amend section 87 of Act 611 consequential to the amendment made in *clause 62* relating to the duty of the police officer to inform child's parents or guardians and probation officer regarding the child's arrest.

59. *Clause 65* seeks to introduce a new section 89A into Act 611 to provide for the right of the child who is charged with an offence to apply to the Court For Children for a legal representation if he is incapable to appoint a counsel to represent him.

60. *Clause 66* seeks to amend section 90 of Act 611 to provide that the Court For Children shall direct a probation officer to prepare and submit a probation report within thirty days from the date of such direction by the Court For Children.

61. *Clause 67* seeks to amend section 91 of Act 611 to provide for the abolishment of punishment of whipping imposed on a child who has been found guilty of an offence and to introduce community service to be performed by the child.

62. *Clauses 68 and 69* seek to amend section 92 and 95 of Act 611 respectively consequential to the amendment made in *clause 67* relating to the abolishment of punishment of whipping.

63. *Clause 70* seeks to introduce a new Chapter 3A which consist of sections 97A to 97F into Part X of Act 611 on community service order. Under this Chapter, if a Court For Children by or before which a child is found guilty of an offence, is of the opinion that it is appropriate to do so, the Court For Children may make an order requiring the child to perform community service not exceeding 120 hours in aggregate within the period of not exceeding six months, at such time and place as may be specified by the Court For Children. During the period of community service order, the child shall submit to the supervision of a Social Welfare Officer and shall perform the community service for the number of hours in aggregate imposed on him by the Court For Children within the period not exceeding six months. The child shall also comply with such other requirements as the Court For Children considers necessary. Under this *clause*, failure to comply with any requirement of a community service order is an offence. This *clause* also seeks to provide that the finding of guilt for an offence for which an order is made under this Chapter requiring the child to perform community service shall be deemed not to be a conviction for any purpose other than for the purposes of the proceedings in which the order is made and any subsequent proceedings which may be taken against a child under this Chapter. Apart from these, this *clause* also provides that the Supervising Court may amend community service order.

64. *Clause 71* seeks to amend subsection 106(1) of Act 611 to empower a Protector, probation officer or police officer to arrest without warrant a child who escapes or is removed from the care of a fit and proper person without lawful authority.



65. *Clause 72* seeks to amend section 115 of Act 611 to provide that the offence of obstruction shall also apply in relation to Assistant Protectors who are carrying their duties under Act 611. This *clause* also seeks to increase the penalty for offences under section 115 of Act 611 from a fine not exceeding five thousand ringgit or imprisonment for a term not exceeding two years or to both to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both.

66. *Clause 74* seeks to amend section 118 of Act 611 following the change of name of the Register of Children in Need of Protection.

67. *Clause 75* seeks to amend section 119 of Act 611 to allow for the details of persons convicted of any offence in which a child is a victim to be kept in the Register of Children.

68. *Clause 76* seeks to amend section 120 of Act 611 consequential to the establishment of the Child Welfare Team.

69. *Clause 77* seeks to amend section 123 of Act 611 to extend the application of section 123 in relation to protection against suit and legal proceedings to an Assistant Protector and prison officer.

70. *Clause 78* seeks to amend section 125 of Act 611 to increase the general penalty under Act 611 from a fine not exceeding five thousand ringgit or imprisonment for a term not exceeding two years or to both to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years or to both.

71. *Clause 79* seeks to amend section 128 of Act 611 relating to the power of the Minister to make regulations under Act 611.

72. *Clause 80* seeks to amend the First Schedule to Act 611 consequential to the amendments made under *clause 17*.

73. *Clause 81* contains savings provisions.

74. Other amendments not specifically dealt with in this Statement are amendments which are minor or consequential in nature.

*FINANCIAL IMPLICATIONS*

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)3012]