

# **Jammu and Kashmir Juvenile Justice Rules, 2007**

JAMMU & KASHMIR

India

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### **Rule JAMMU-AND-KASHMIR-JUVENILE-JUSTICE-RULES-2007 of 2007**

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Jammu and Kashmir Juvenile Justice Rules, 2007Published vide SRO 128 dated 11th April, 2007, w.e.f. 11.4.2007In exercise of the powers conferred by Sub-Section (1) of Section 62 of the Jammu and Kashmir Juvenile Justice Act, 1997 (Act No. VIII of 1997), the Government hereby make the following rules namely:

## **Chapter I**

### **1. Short title and commencement.**

(1)These rules may be called the Jammu and Kashmir Juvenile Justice Rules, 2007.(2)These rules shall come into force on the date of their publication in the official Gazette.

### **2. Definitions.**

- In these rules, unless the context otherwise requires,(a)"Act" means the Jammu and Kashmir Juvenile Justice Act, 1997 (Act No. VIII of 1997);(b)"Form" means the form annexed to these rules;(c)"Institution" for the purpose of these rules means a Juvenile Home or an Observation Home, or a Special Home set up, certified or recognized under sections 9,10p and 11 of the Act respectively;(d)"Officer-in-Charge" means a person appointed for the control and management of the institution;(e)All words and expressions used in these Rules but not defined shall have the same meaning as assigned to them in the Act.CHAPTER-II Competent Authority and Institutions for Juveniles

### **3. (A) Juvenile Welfare Board.**

- (i) The Board forming a Bench shall consist of a Chairman and two Social Workers, of whom at least one shall be a woman.(ii)Every such Bench shall have the powers conferred by the Code of

Criminal Procedure, Samvat 1989 on a Chief Judicial Magistrate or, as the case may be, a Judicial Magistrate of the First Class.(iii)(a)A Judicial Magistrate or a KAS Officer with special knowledge or training in Juvenile Psychology or Juvenile Welfare shall be designated as the Chairman of the Board.(b)In case the Chairman with such special knowledge or training is not available, then, the Government shall provide him such short term training in Juvenile Psychology or Juvenile Welfare as it considers necessary.(iv)The two Social Workers, of whom at least one shall be a woman, shall be appointed by the Government on the recommendation of the Selection Committees set up under sub-rule (ii) of Rule 23 of these rules.(v)The Selection Committee shall take into consideration the panels of names recommended by the local authority while considering the selection of Social Workers for the Board and shall prepare a panel of names for each Board including a panel of names to fill up vacancies which may arise during the tenure of the Board.(vi)The Social Worker to be appointed as a Member of the Board shall be a person who has been actively involved and engaged in planning, implementing and administering measures relating to Health, Education or other welfare activities pertaining to children.(vii)The Board shall have a tenure of three years and the appointment of members shall be co-terminus with the tenure of the Board.(viii)A Social Worker shall be eligible for appointment as a Member of the Board for a maximum of two terms.(ix)The Board shall hold its sittings in the premises of an Observation Home and shall meet on all the working days of a week.(x)A member may resign any time, by giving one months advance notice in writing or may be removed from his office after an enquiry is held by an Officer nominated by the Government if, -(a)he has been found guilty of misuse of power vested under this Act;(b)he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence; and(c)he fails to attend the proceedings of the Board for three consecutive months without any valid reason or he fails to attend less than three fourth of the sittings in a year.(xi)The Social Workers working as Members of the Board shall be paid such Travelling and/or Meeting Allowance and/or Honorarium as the State Government may decide from time to time.(B)Juvenile Court(i)A Juvenile Court shall consist of a Judicial Magistrate who shall be assisted by a panel of two honorary Social Workers, of whom at least one shall be a woman.(ii)The Social Worker must possess special knowledge or training in Juvenile Psychology or Juvenile Welfare.(iii)The panel of Social Workers shall have a tenure of three years and shall be eligible for appointment for a maximum of two terms.(iv)The procedure for selection of Social Workers shall be the same as is prescribed for the selection of Social Workers for the Juvenile Welfare Board.

#### **4. Institutional Management for Juveniles.**

(1)The Government shall set up separate Juvenile Homes/Special Homes/Observation Homes for boys and girls.(2)The Government shall set up separate Juvenile Homes /Special Homes /Observation Homes for girls above the age of 10 years and boys in the age group of 11 to 15 and 16 to 18 years as and when required.(3)The following procedure shall be followed in respect of the newly admitted juveniles, namely:(a)receiving and search;(b)hair-cut (unless prohibited by religion), issue of toiletry items;(c)disinfection and storing of juveniles personal belongings & other valuables;(d)bath;(e)issue of new set of clothes, bedding and other outfit and equipment (as per prescribed scales);(f)medical examination and treatment and in case the juvenile is suspected to be suffering from contagious or infectious diseases, mental ailments, addiction etc, he/she shall be

immediately segregated in specially earmarked dormitories or wards or hospitals;(g)attending to immediate and urgent needs of the juveniles like appearing in examinations, interview letter to parent(s), personal problems etc; and(h)verification by the officer-in-charge of the order of the Board, identification marks, register entries, cash and other valuables, etc.(4)Every institution shall follow a schedule of orientation for the newly admitted juvenile in respect of:(a)health, sanitation, hygiene;(b)institutional discipline and standards of behaviour, respect for elders, teachers, etc;(c)self-improvement opportunities; and(d)responsibilities and obligations.(5)A case history of the juvenile admitted to an institution shall be maintained which may contain information regarding his sociocultural and economic background and this information may invariably be collected through all possible and available sources, including home, parents or guardians, employer, school, friends and community.(6)The educational level and vocational aptitude of the juvenile admitted may be assessed on the basis of test and interview conducted by the Teacher, the Workshop Supervisor and other technical staff and necessary linkages may also be established with outside specialists and community-based welfare agencies, psychologist, psychiatrist, juvenile guidance clinic, hospital and local doctors, open school, Jan Sikshan Sansthan, etc.(7)All residents in the institution shall be given work like:(a)self-help in maintaining their own establishment;(b)cleaning of open spaces, gardening, etc; and(c)preliminary operations for crafts.(8)A well conceived programme of pre-release planning and follow-up of cases discharged from special homes shall be organized in all institutions in close collaboration with existing governmental and voluntary welfare organizations.

## **5. Daily Routine.**

- Every institution shall have a well regulated daily routine for the juveniles which shall be displayed and which shall provide, inter-alia, for regulated and disciplined life, personal hygiene and cleanliness, physical exercise, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing and special programmes for Sundays and holidays.

## **6. Diet Scale.**

- The Government shall prepare a diet scale, to be strictly adhered to by the institutions, for juveniles in consultation with nutrition experts so that the diet becomes balanced, nutritious and varied, with a special diet which may be provided on holidays, festivals and to the sick juveniles as required.

## **7. Issue of clothing, bedding and other articles.**

- Each juvenile shall be provided with clothing and bedding, including custom-ary under-garments, towel, jersey for winter, school uniform for juveniles attending outside schools, durry, bed-sheets, blanket, pillow, chappals or shoes, utensils as required and tooth powder, soap, oil, comb, etc as per the scale laid down by the Government from time to time.

## 8. Sanitation and Hygiene.

- Every institution shall have the following facilities, namely:(a)sufficient treated drinking water;(b)sufficient water for bathing and washing clothes, maintenance and cleanliness of the premises;(d)proper drainage system;(e)protection from mosquitoes;(f)sufficient number of latrines in the proportion of at least one latrine for seven juveniles;(g)sufficient number of bathrooms in the proportion of at least one bath room for ten juveniles;(h)sufficient space for washing;(i)clean and fly-proof kitchen;(j)sunning of bedding and clothing; and(k)maintenance of cleanliness in the Medical Centre.

## 9. Medical Care.

(1)Every institution shall provide for the necessary medical facilities so as to ensure that:(a)regular facilities are available for medical treatment;(b)arrangements are made for immunization coverage; and(c)the juveniles with deteriorating health or serious cases are referred to the nearest civil hospital or recognized treatment centre in which all the medical facilities shall be provided to them without any loss of time or delay.(2)Each juvenile admitted in an observation home shall be medically examined by the Medical Officer within 24 hours and in special cases within 48 hours giving the reasons therefor and also at the time of transfer of the juvenile to a special home, within a similar period before transfer and further at any other time that may be considered necessary by the Medical Officer or the Officer-in-Charge.(3)No surgical treatment shall be carried out on any juvenile without the previous consent of his parent or guardian (unless the parent or guardian as the case maybe, cannot be found and the condition of the juvenile is such that any delay shall, in the opinion of the medical officer, involve unnecessary suffering or injury to the health of the juvenile) or without obtaining a direction to this effect from the Board.(4)A health record of each juvenile in the institution shall be maintained on the basis of quarterly medical check-up.

## 10. Monitoring and Evaluation of Juveniles.

(1)A juvenile shall be grouped on the basis of the age, physical and mental health, length of stay, order/degree of delinquency and the character.(2)For monitoring and evaluation, a committee of following personnel shall be constituted:-

Officer-in-Charge	Chairperson
Juvenile Welfare Officer/Psychologist	Member-Secretary
Medical Officer	Member
Workshop Supervisor/Instructor in Vocation	Member
Teacher	Member

(3)The committee shall meet periodically to consider and review:(a)custodial care, housing, place of work, area of activity and type of supervision required;(b)individual problems of juveniles, family contact and adjustment/economic problems, and institutional adjustment, etc.(c)vocational training and opportunities for employment;(d)education, i.e., health education, social education, academic education, vocational education and moral education;(e)social adjustment recreation, group work

activities, guidance and counselling;(f)special instructions, collecting moral information, and special precautions to be taken, etc;(g)review of progress and adjusting institutional programmes to the needs of the inmates;(h)planning post-release rehabilitation programme and follow-up for a period of two years in collaboration with after-care service;(i)prerelease preparation;(j)release; and(k)any other matter which the Officer-in-Charge may like to bring up.

## **11. Rewards and Earnings.**

(1)Rewards to the juveniles, at such rates as may be fixed by the management of the institution from time to time, may be granted by the Officer-in-Charge/Superintendent of Homes as an encouragement to steady work and good behaviour.(2)At least half the amount earned by the Juvenile shall be deposited in the manner prescribed by the concerned authority from time to time in his name (of the inmate) and the account book shall be kept with superintendent. The rest may be permitted to be spent by the inmate as pocket money on purchase of articles such as sweets, toys, etc on fixed days of the week.(3)At the time of premature release of inmate from the institution his account book shall be transferred to the probation Officer whose duty is to supervise him. If the inmate is released on the expiry of the period of stay ordered by the competent Authority the money deposited in his name shall be withdrawn by the Superintendent and handed over personally after obtaining a proper receipt to the parent or guardian who comes to take charge of the inmate and if he does not come, to inmate.

## **12. Visits to and communication with inmates.**

(1)The parents and other relations of the juveniles shall be allowed to visit once in a month or in special cases, more frequently at the discretion of the Officer-in-Charge/Superintendent of Home as per the visiting hours laid down by him.(2)The receipt of letters by the juveniles of the institution shall not be restricted and they shall also have freedom to write as many letters as they like at all reasonable times. However, the institution shall ensure that where parents, guardians or relatives are known, at least one letter is written to them by the juvenile every month for which the postage shall be provided.(3)The Officer-in-Charge/Superintendent of Home may peruse any letter written by or to the juvenile, and after perusal he may, for the reasons, he considers sufficient to refuse to deliver or issue the letter, destroy the same after recording his reasons in a book maintained for the purpose.

## **13. Prohibited Articles.**

- No person shall, except with the written permission of the Superintendent or the Medical Officer of the institution, bring into the institution the following prohibited articles, namely:(a)fire-arms or other weapons, whether requiring license or not (like La thi, spears, swords, etc);(b)alcohol and spirit of every description;(c)Bhang, Ganja, opium and other narcotic or psychotropic substances;(d)tobacco; and/or(e)any other article specified in this behalf by the Government by a general or special order.

## **14. Articles found on search and inspection.**

(1)The Officer-in-Charge/Superintendent of Home shall see that every juvenile received in the institution is searched, his personal effects inspected and any money or valuables found with or on the person of the juvenile is kept in the safe custody of the Officer-in-Charge/Superintendent of Home.(2)Girls shall be searched by a female member of the staff with due regard to decency.(3)In every institution, a register of money, valuables and other articles found with or on the person of a juvenile received therein shall be maintained which may be called the Personal Belongings Register.(4)The entries made in the Personal Belongings Register, relating to each juvenile, shall be read over to the juvenile in the presence of a witness whose signature shall be obtained in token of the correctness of such entries and it shall be countersigned by the Officer-in-Charge/Superintendent of Home.

## **15. Disposal of articles.**

- The money or valuables belonging to a juvenile received or retained in an institution shall be disposed of in the following manner:-(a)On an order made by the competent authority in respect of any juvenile, directing the juvenile to be sent to an institution, the Officer-in-Charge/Superintendent of Home shall deposit such juveniles money together with the sale proceeds, in the manner laid down from time to time, in the name of the juvenile.(b)The juveniles money shall be kept with the Officer-in-Charge/ Superintendent of Home and valuables, clothing, bedding and other articles, if any, shall be kept in safe custody.(c)When such juvenile is transferred from one institution to another, all his money, valuables and other articles, shall be sent along with the juvenile to the Officer-in-Charge/Superintendent of Home of the institution to which he has been transferred together with a full and correct statement of the description and estimated value thereof.(d)At the time of release of such juvenile, the valuables and other articles kept in safe custody and the money deposited in name of the juvenile shall be handed over to the parent or guardian, as the case may be, with an entry made in this behalf in the register and signed by the Officer-in-Charge/Superintendent of Home.(e)(i)When a juvenile of an institution dies or escapes, the valuables and other articles left by the deceased /escapees and the money deposited in the name of the juvenile shall be handed over by the Officer-in-Charge/Superintendent of Home to any person who establishes his claim thereto and executes an indemnity bond.(ii)A receipt shall be obtained from such person for having received such valuables and other articles and the amount.(iii)If no claimant appears within a period of six months from the date of death or escape of such juvenile, the valuables and other articles and amount shall be disposed of as per the decision taken by Monitoring and Evaluation Committee.

## **16. Duties of the Officer-in-Charge.**

(1)The Officer-in-Charge shall be responsible for the following, namely:(a)security measure and periodical inspection thereof;(b)proper maintenance of buildings and premises;(c)prompt, firm and considerate handling of all disciplinary matters;(d)careful handling of plants and equipment;(e)accident preventive measures;(f)fire preventive measures(g)segregation of a juvenile suffering from contagious or infectious diseases;(h)proper storage and inspection of food

stuffs;(i)stand-by arrangements for water storage, power plants, emergency lighting, etc.(2)In the event of an escape of a juvenile, the following action shall be taken, namely:(a)The Officer-in-Charge shall immediately send the guards in search of the juvenile, at places like railway stations, bus stands and other places where the juvenile is likely to go;(b)The parents or guardians shall be informed immediately about such escape;(c)A report shall be sent to Police Station of the area along with the details and description of the juvenile with identification marks and a photograph, with a copy to the Board and the authorities concerned;(d)The Officer-in-Charge shall hold an inquiry with such escape and send his report to the Board and the authorities concerned.(3)On the occurrence of any case of death or suicide, the procedure to be adopted shall be as under:(a)If a juvenile dies within twenty-four hours of his admission to the institution, an inquest and postmortem examination shall be got conducted at the earliest.(b)Whenever a sudden or violent death or death from suicide or accident takes place, immediate information shall be given to the Officer-in-Charge and the Medical Officer.(c)The Officer-in-Charge and the Medical Officer shall examine and inspect the dead body and in case a juvenile dies due to causes other than natural causes, or if the cause of death is not known, or if the death has occurred due to suicide, violence or accident, or whenever there is any doubt or complaint or question concerning the cause of death of any juvenile, the Officer-in-Charge shall inform the Officer-in-Charge of the Police Station having jurisdiction.(d)The Officer-in-Charge shall also immediately give intimation to nearest Magistrate empowered to hold inquests.(e)The Medical Officer shall report to the Officer-in-Charge about the happening of the natural death of a juvenile and see that the body is decently removed to the mortuary.(f)In case of natural death or due to illness of a juvenile inmate of an observation home or special home, the Officer-in-Charge shall obtain a report of the Medical Officer stating the cause of death and a written intimation about the death shall be given immediately to the nearest Police Station, the Board, the State Human Rights Commission and the authorities concerned.(g)The parents or guardians of the deceased juvenile shall be contacted and the Officer-in-Charge shall wait for twenty four hours for the arrival of relatives.(h)As soon as the inquest is held, the body shall be disposed 'of in accordance with the known religion of the juvenile.(4)In the event of any custodial rape or sexual abuse, the following action shall be taken, namely:(a)In case a resident makes any complaint or occurrence of such rape or abuse comes to the knowledge of the Superintendent of Home, a report shall be placed before the Board, who shall order for special investigation and direct the local police station to register case against the person(s) found guilty under the relevant provisions of the Indian Penal Code 1860(45 of 1860).(b)The Special Juvenile Police Unit shall also take due cognizance of such occurrences and conduct necessary investigations.(5)In the event of any other offence committed in respect of residents, the Board shall take cognizance and arrange for necessary investigation to be carried out by Special Juvenile Police Unit.

## **17. Leave of absence of a juvenile.**

(1)The juvenile or juveniles of an institution may be allowed to go on leave of absence or released on licence and stay with his family during academic examination, emergencies or special occasions like marriage in the family.(2)While the leave of absence for short period not exceeding seven days excluding the journey time may be recommended by the Officer-in-Charge, granting of such leave shall be by the Board.(3)The parents or guardian(s) of the juvenile or child may submit an application to the Officer-in-Charge requesting for release of the juvenile or juveniles on leave,

stating clearly the purpose for the leave and the period of leave.(4)If the Officer-in-Charge considers that granting of such leave is in the interest of the juvenile(s), he shall call for a report of the Probation Officer on its advisability or otherwise and forward the case to the Board.(5)While issuing orders sanctioning the leave of absence or release on licence in Form VII, as the case may be, the competent authority shall mention the period of leave and the conditions attached to the leave order, and if any of these conditions are not complied with during the leave period, the juvenile or child may be called back to the institution.(6)The parent or guardian shall arrange to have the juvenile escorted from and to the institution and bear the travelling expenses; whereas, in exceptional cases or during an emergency, the Officer-in-Charge may arrange to have the juvenile escorted to the place of the family and back.(7)If the juveniles or juveniles run away from the family during the leave period, the parent or guardians are required to inform the Officer-in-Charge of the institution immediately and try to trace the juvenile and, if found, send the juveniles or child to the institution.(8)If the parent or guardians do not take proper care of the juvenile or child the leave period or do not bring the juvenile(s) back to the institution within the stipulated period, such leave may be refused on later occasions.(9)If the juveniles or child do not return to the institution on expiry of the sanctioned leave, the Board shall refer the case to police for taking charge of the juvenile and bring them/him back to the institution.(10)The period of such leave shall be counted as a part of the period of stay in the institution and the time which elapses after the failure of a juvenile to return to the institution within the stipulated period, shall be excluded while computing the period of his stay in the institution.

## **18. Release.**

(1)The Officer-in-Charge shall maintain a roster of the cases of juveniles to be released on the expiry of the period of stay as ordered by the Board.(2)Each case shall be placed before the Classification Committee for proper mainstreaming and with regard to cases in which the juvenile or child are kept for the maximum period, action may be initiated six months before they attain the age of eighteen years.(3)A timely information of the release of a juvenile or child and of the exact date of release shall be given to the parents or guardian and the parents or the guardian shall be invited to come to the institution to take charge of the juvenile or child on that date.(4)If necessary, the actual expenses of the parents or guardians journey both ways and of the juveniles journey from the institution shall be paid to the parents or guardian by the Officer-in-Charge at the time of the release of the juvenile.(5)If the parent or guardian, as the case may be, fails to come and take charge of the juvenile on the appointed date, the juvenile child shall be taken by the escort of the institution and, in case of a girl; she shall be escorted by a female escort.(6)At the time of release or discharge, a juvenile or child may be provided with a set of summer or winter clothing, if the Officer-in-Charge deems it necessary.(7)If the juvenile or child has no parent or guardian, he may be sent to an aftercare organization or, in the event of employment, to the person who has undertaken to employ the juvenile.(8)The Officer-in-Charge/Superintendent of Home of a girls institution, subject to the approval of the competent authority, may get suitable girls above the age of eighteen years married according to the procedure laid down by that authority from time to time.(9)The Officer-in-Charge/Superintendent of Home shall order the discharge of any juvenile, the period of whose detention has expired and inform the competent authority within seven days of the action taken and, if the date of release falls on a Sunday or another public holiday, the juvenile may be



released on the preceding day with an entry to that effect being made in the Register of Discharge.(10)The Officer-in-Charge/Superintendent of Home shall, in appropriate cases, order the payment of subsistence money at such rates as may be fixed from time to time and the railway fare or road fare, or both.(11)In deserving cases, the Officer-in-Charge/Superintendent of Home may provide the juvenile with such small tools as may be necessary, subject to such maximum cost as may be fixed by the institution to start a business or employment.(12)The Officer-in-Charge/Superintendent of Home may, subject to the approval of the competent authority, allow at their own request such girls as have no place to go to, to stay in the institution after the period of their stay is over, till the time some other suitable arrangements are made.

## **19. Maintenance of case file.**

(1)The case file of each juvenile shall be maintained in the institution containing the following information, so far as applicable:(a)report of the person or agency who produced the juvenile before the Board.(b)Probation Officer's report(c)information from previous institution;(d)initial interview material, information from family members/ relatives/community/friends and miscellaneous information;(e)source of further information;(f)observation reports from staff members;(g)reports from Medical Officer, Intelligence Quotient(t.Q) testing/aptitude testing/educational or vocational tests;(h)social history;(i)summary and analysis by Officer-in-Charge;(j)initial classification sheet;(k)instruction regarding training and treatment programme and about special precautions to be taken; (1) leave and other privileges granted;(m)violation of rules, if any, and special achievements;(n)quarterly progress report from various sections;(o)review sheet;(p)monthly cycle (m.c) report (in case of girls);(q)pre-release programme;(r)final progress report;(s)leave of absence or release on license;(t)final discharge;(u)follow-up reports;(v)central index number;(w)annual photograph; and(x)remarks.(2)All the case files maintained by the institutions and the Board shall, as far as practicable, be computerized and networked so that the data is centrally available.

## **20. Production of a Juvenile.**

(1)As soon as a juvenile in conflict with the law is apprehended by the police, the police shall place the juvenile under the charge of the special juvenile police unit, or the designated police officer.(2)The special juvenile police unit to which the juvenile is brought shall inform the probation officer concerned of such apprehension to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry.(3)Prior to production of a juvenile before the Board, the juvenile may be placed in a safe place within the Police Station (which shall not be a lock- up) or in a place of safety.(4)The special juvenile police or the designated police officer shall produce the juvenile before the Magistrate or a member of the Board within twenty four hours of his apprehension (excluding the time taken to bring the juvenile from the Police Station or place of safety to the Board).(5)In case of delay in production before the Magistrate or the Board, the details of not doing so be recorded in the police daily diary or general diary.(6)In case a recognized voluntary organization takes a juvenile to the Board, the voluntary organization shall also inform the concerned Police Station.(7)The State Government shall recognize only those registered voluntary organizations which can provide the services of probation, counselling, case work, a place of safety and also associate with the Special

Juvenile Police Unit and which are willing and have the capacity, facilities and expertise to do so.(8)The registered voluntary organization shall prepare a report narrating the circumstances of apprehension and offence committed and produce the juvenile before the Board or Police with the report.(9)When a juvenile is produced before an individual member of the Board, the order given by the member shall be ratified in the next meeting of the Board.(10)The Police or the recognized voluntary organization shall be responsible for the safety and basic amenities to the juveniles apprehended or kept under their charge during the period they are with them.

## **21. Procedure to be followed by a Board in holding inquiries and the determination of age.**

(1)In all cases under the Act the proceedings shall be conducted in as simple a manner as possible and care shall be taken to ensure that the juvenile against whom the proceedings have been instituted is given home like atmosphere during the proceedings.(2)When witnesses are produced before examination, the Board shall be free to use the power under section 165 of the Indian Evidence Act, 1872(1 of 1872), to question them so as to bring out any point that may go in favour of the juvenile or the child.(3)While examining a juvenile and recording his statement, the competent authority shall be free to address the juvenile or child in any manner that may seem suitable, in order to put the juvenile at ease and to elicit the true facts, not only in respect of the offence of which the juvenile is accused, but also in respect of the home and social surroundings and the influence to which the juvenile might have been subjected.(4)The record of the examination shall be in such form as the Board may consider suitable having regard to the contents of the statement and circumstances in which it was made.(5)In every case concerning a juvenile, the Board shall either obtain:-(i)a birth certificate given by a corporation or a municipal authority; or(ii)a date of birth certificate from the school first attended; or(iii)matriculation or equivalent certificate, if available; and(iv)in the absence of (i) to (iii) above, the medical opinion by a duly constituted Medical Board, subject to a margin of one year, in deserving cases for the reasons to be recorded by such Medical Board, regarding his age; and, when passing orders in such case shall, after taking-into consideration such evidence as may be available or the medical opinion, as the case may be, record a finding in respect of his age.(6)The Government shall recognize registered voluntary organizations, to supervise and submit periodical reports, as directed by the Board regarding the orders passed under clauses (a) (b) and (c) of Section 12 of the Act.(7)In accordance with the rules made under sub-section (1) of Section 13 of the Act, the Board shall, in Form-I, order a Probation Officer, or otherwise to conduct a social investigation, reporting on the character and antecedents of the juvenile or child with a view to assessing the best possible mode for placement, such as, with the family, an institution or otherwise permission under the Act.(8)When a juvenile or child is placed under the care of a parent or a guardian and the Board considers it expedient to place the juvenile or child under the supervision of a probation officer, it shall issue a supervision order in Form-II.(9)The competent authority may, while making an order placing a juvenile under the care of a parent, guardian or fit person, as the case may be, direct such parent, guardian or fit person to enter into a bond in Form IV with or without sureties.(10)Whenever the Board orders a juvenile to be kept in an institution, it shall forward to the Superintendent of Homes of such institution a copy of its order, in Form-III with particulars of the home and parents or guardian and previous record.(11)The juvenile or child shall be lodged in a home closest to where he belongs.(12)The

Officer-in-Charge of an institution, certified as special home under sub-section 1 of section 10 of the Act, shall be informed in advance by the Board before any juvenile or child is committed to it.(13)The Officer-in-Charge of the said institution may, on receipt of the information, intimate in writing objections, if any, to the committal of the juvenile or child and the objections shall be taken into consideration by the Board before the juvenile or child is committed to the said institution.(14)In case the Board orders the parent of the juvenile or the child to pay a fine and the amount realized shall be deposited in the government treasury.

## **22. Procedure in respect of special offences.**

- The offences against the juvenile specified in sections 41, 42, 43, 44 and 45 shall be either bailable or non-bailable besides being cognizable under the provisions of the Code of Criminal Procedure Act, Samvat 1989 and the provisions of bail or otherwise, shall apply on the Police, the Board and the concerned accordingly.

## **23. Advisory Board.**

(1)The Advisory Board shall consist of a Chairperson and four other members as the Government may think fit to appoint, of whom at least one shall be a women and another, an expert on matters concerning juvenile.(2)The Chairperson and members of the Committee shall be appointed on the recommendation of a Selection Committee set up by the State Government, for the purpose.(3)The Selection Committee shall consist of following seven members, namely:(a)a retired Judge of the High Court or retired Secretary to the State Government having experience in Social Welfare shall be the Chairperson of the Selection Committee;(b)two representatives of reputed non-governmental organizations working in the area of juvenile welfare;(c)a representative from an academic body;(d)two representatives of the concerned department of the State Government; and(e)a representative of the State Human Rights Commission or such recognized agency or cell or a retired special Judicial Magistrate.(4)The Selection Committee shall take into consideration the panel of names recommended by the concerned local authority, who could be considered for selection of members of the Advisory Board.(5)The Selection Committee shall also prepare a list of names for each Committee to fill in vacancies, which may arise during the tenure of the Advisory Board.(6)A person to be selected as a member of the Advisory Board shall have either of the following qualifications, in addition to five years experience in their respective field, namely:(a)respectable, well educated citizen with the background of special knowledge of social work, juvenile psychology, education, sociology or home science; or(b)a teacher or a doctor or a senior retired public servant who has been involved in work concerning juvenile welfare; or(c)a social worker of repute, who has been directly engaged in juvenile welfare.(7)The Chairperson of the Advisory Board shall be at least a graduate with either of the qualifications given in sub-rule 6.(8)The Advisory Board shall have a tenure of three years and the appointment of members shall be co-terminus with the tenure of the Advisory Board.(9)A member of the Advisory Board shall be eligible for appointment for a maximum of two terms.(10)A member may resign at any time by giving one months' notice in writing.(11)Any casual vacancy of the Advisory Board may be filled by appointment of another person from the list or panel prepared by the Selection Committee, and shall hold office for the remaining term of the Advisory Board.(12)The members of the Advisory Board shall be paid such

travelling or meeting allowance or honorarium as the State Government may decide from time to time.

## **24. Procedure etc, in relation to Advisory Board.**

(1)The Board shall hold its sitting in the premises of a Juveniles' Home and shall meet at least three days a week.(2)The quorum for the meeting shall be three members attending, which may include the Chairperson.(3)Any decision taken by an individual member, when the Board is not sitting, shall require ratification by the Board, by the order of at least two members.(4)The final disposal of cases relating to juvenile in need of care and protection, shall take place from the office of the committee, by the order of at least two members.(5)The Advisory Board shall take into consideration the age, physical and mental health background, opinion of the juvenile and the recommendation of the case worker, prior to disposal of such cases.

**CHAPTER-III 25. Production of a Juvenile child before the Advisory Board.**(1)Any juvenile or child in need of care and protection shall be produced before the Committee by one of the following persons:-(i)any police officer or special juvenile Police Unit or a designated police officer;(ii)any public servant;(iii)any voluntary organization or an agency as may be recognized by the Government;(iv)any social worker or a public spirited citizen authorized by the Government, or(v)by the Juvenile or child himself.(2)When any person or organization authorized under clause (iv) receives a juvenile or child in need of care and protection, he may produce the juvenile or child before the Board with the report of the circumstances under which the juvenile or child came to his notice.(3)A juvenile or child, above two years of age, shall be produced before the Board within forty eight hours of such admission, excluding the journey time taken by the person or the organization; and for juvenile or child under two years of age, the person or the organization shall send a written report along with the photograph, within forty eight hours of admission, excluding the journey time.(4)In case the Board is not sitting, the juvenile or child shall be kept in a place of safety and provided with all basic facilities and adequate protection.(5)Every possible effort shall be made to trace and associate the family and assistance of recognized voluntary organizations or juvenile or child may also be taken.(6)In case a recognized voluntary organization takes a juvenile or child to the Board, they shall also submit a report on the circumstances under which the juvenile or child came to their notice, and efforts shall be made by them for tracing the family.(7)The Board shall make arrangements to send the juvenile or child to the designated place of safety, with age and sex appropriate facilities, pending the inquiry.(8)The juvenile or child may be escorted by the police officer or representative of the voluntary organization or by any other arrangement as considered appropriate by the Board.(9)The competent authority may, while making an order placing a juvenile or child under the care of a parent, guardian or fit person, as the case may be, direct such parent, guardian or fit person to enter into a bond in Form IV with or without sureties.(10)Whenever the Committee orders a juvenile or child to be kept in an institution, it shall forward to the Officer-in-Charge of such institution a copy of its order in Form-III with particulars of the home and parents or guardian and previous record.(11)The juvenile or child shall be lodged in a home closest to where he belongs.

**CHAPTER-IV 26. Procedure for inquire.**(1)When a juvenile or child is brought before the Advisory Board, the Board shall assign the case to a social worker or case worker or juvenile or child welfare officer or Officer-in-Charge, as the case may be, of the home or any recognized agency for conducting the inquiry.(2)The direction for the inquiry under sub rule (1) shall be given in Form-I.(3)The Board shall direct the concerned person or organization about the

details or particulars to be enquired into for suitable rehabilitation.(4)The inquiry must be completed within four months unless special circumstances do not permit to do so in the interest of the juvenile or child, and for which a written extension must be taken by the inquiring officer or the agency under sub-section(3) of section 9 of the Act.(5)After completion of the inquiry, if, the juvenile or child is under orders to continue in the juvenile home, the Board shall carry out an annual review of the progress of the juvenile in the home.

## 27. Inspection.

(1)The Government shall constitute State, District or city level inspection teams on the recommendation of Selection Committee under rule 23(3) for a period of 3 years to visit and oversee the day to day functioning of the Homes and give suitable directions to be followed by them.(2)The team shall also make suggestions for the improvement and development of the institution.(3)The team shall consist of a minimum of five members from the representatives of the Government, local authority, the Committee, medical and other experts, voluntary organizations and reputed social workers.(4)The inspection visit shall be carried out by not less than three members.(5)The team may visit the homes either by prior intimation or by surprise.(6)The team shall interact with the juvenile during the visit to the institution, to determine their well being and uninhibited feed back.CHAPTER-V 28. After Care Organization.(1)The after care organization, as outlined in the Act, are to take care of juveniles or children after they leave special homes/juveniles homes.(2)These after care organizations are essential for all juvenile or youth between the age of 18 to 20 years; and as such, this age group is most vulnerable and need care, guidance and protection.(3)The objective of these homes shall be to enable such juvenile to adapt to the society and during their stay in these transitional homes these children will be encouraged to move away from an institution-based life to a normal one.(4)The target groups will include juveniles or children who have either left special homes or juveniles home.(5)The key components of the model include setting up of temporary homes for a group of youth, who can be encouraged to learn a trade and contribute towards the rent as well as the running of the home.(6)There shall also be provision for a peer counsellor, who will be in regular contact with these youths to discuss their rehabilitation plans and provide creative outlets for their energy and to tide over crisis periods in their life.(7)The programmes under the scheme shall include:-(i)Facilitating employment generation for these youths will be a key programme.(ii)After a youth has saved a sufficient amount, he can be encouraged to stay in a place of his own and move out of the group home.(iii)The youth may continue staying in the home and return the deposit to the Non-Governmental Organizations (NGOs).(iv)The youth learning a vocational trade can be given a stipend, which may be stopped once the youth gets a job.(v)Loans to these youth to set up entrepreneurial activities may also be arranged.(vi)A counsellor shall also be made available for juvenile at these homes, as at this stage of life, they can be lured into crime or drug dependence and such other habits or deviant behaviour.(8)The strategy for juvenile who have been juveniles or have left special homes shall be to help them to return to normal life and adjust and adapt to their environment.(9)There shall be provision for vocational training of these children to enable them to sustain themselves through their own efforts.(10)Structure. One counsellor can be made in-charge of a cluster of five homes and each home may house 6 to 8 juveniles who may opt to stay together on their own.CHAPTER-VI Miscellaneous

## **29. Recognition of fit person or fit institution.**

(1) Any individual or a suitable place or institution, the occupier or manager of which is willing temporarily, to receive a juvenile or child in need of care, protection or treatment for a period as may be necessary, may be recognized by the competent authority as a fit person or a fit institution. (2) Any association or body of individuals, whether incorporated or not, established for or having for its object the reception or protection of juveniles or children or the prevention of cruelty to juvenile; and which undertakes to bring or to give facilities for bringing up any juvenile entrusted to its care in conformity with the religion of his birth, may be included within the meaning of fit institution. (3) A list of names and the addresses of fit persons and fit institutions approved by the competent authority shall be kept in the office of the Board and the committee and shall be used when necessary. (4) After committal of a juvenile by the competent authority to an institution recognized as a fit institution with collateral branches, the manager of such institution may send the juvenile to any of the branches of such institution after giving an intimation to the competent authority under whose orders the juvenile or the children was committed. (5) Before declaring any person or institution as a fit person or a fit institution, the competent authority shall hold due enquiry and only on being satisfied, recognition shall be given.

## **30. Certification or recognition and transfer of Management of Institution.**

(1) If the management of any organization desires that its organization may be certified or recognized under the Act, the same shall make an application together with a copy each of the rules, bye-laws articles of association, list of members of the society or the association running the organization, office bearers and a statement showing the status and past record of social or public service provided by the organization, to the Government, who shall after verifying the provisions made in the organization for the boarding and lodging, general health, educational facilities, vocational training and treatment services may grant certification or recognition under Section 9, 10, 11 & 12 of the Act, as the case may be, on the condition that the organization shall comply with the standards or services as laid down under the Act and the rules framed thereunder, from time to time and to ensure an all round growth and development of juvenile or child placed under its charge. (2) The Government may, transfer the management of any institution run under the Act to a voluntary organization of repute, who has the capacity to run such an institution; and certify the said voluntary organization as a fit institution to own the requisite responsibilities under a Memorandum of Understanding for a specified period of time. (3) The institution and the infrastructure already available with the Government in relation to the Juvenile Justice Act, 1997 shall be suitably used for implementing the Act. (4) The State Government may, if dissatisfied with the conditions, rules, management of the organization certified or recognized under the Act, at any time, by notice served on the manager of the organization, declare that the certificate or recognition of the organization, as the case may be, shall stand withdrawn as from a date specified in the notice and from the said date, the organization shall cease to be an organization certified or recognized under section 12 of the Act as the case may be: Provided that the concerned organization shall be given an opportunity of making a representation in writing, within a period of thirty days, against the grounds of withdrawal of certificate or recognition of that organization. (5) The decision to withdraw or to restore the certificate, or recognition of the organization may be taken, on the basis

of a thorough investigation by a specially constituted advisory board under section 53 of the Act.(6)On the report of the advisory board, the Officer-in-Charge of the home shall be asked to show cause so as to give an explanation within thirty days.(7)When an organization ceases to be an organization, certified or recognized under sections 12 of the Act, the juvenile or child kept therein shall, under the orders of the designated officer empowered in this behalf by the State Government, be either,-(a)discharged absolutely or on such conditions as the officer may impose; or(b)transferred to some other institution established, certified or recognized under sections 9,10,11 & 12 of the Act, in accordance with the provisions of the Act and the rules relating to their discharge and transfer by giving intimation of such discharge or transfer to the Board or the Committee, as the case may be.

### **31. Grant-in-aid to certified or recognized organization.**

(1)An organization certified or recognized under sections 9, 10, 11 and 12 of the Act, may during the period when certification or recognition is in force, may apply for grants-in-aid by the Government, for the maintenance of Juvenile or child received by them under the provisions of the Act; and for expenses incurred on their education, treatment, vocational training, development and rehabilitation.(2)The grants-in-aid may be admissible, at such rates, which shall be sufficient to meet the prescribed norms, in such manner and subject to such conditions as may be mutually agreed to by both the parties.(3)In case of transfer of management of government run homes under section 12 of the Act to a voluntary organization, the same budget which the Government was spending on that home, shall be given to the voluntary organization as grant-in-aid under the Memorandum of Understanding signed between both the parties describing their role and obligations.

### **32. Admission of outsiders.**

- No stranger shall be admitted to the premises of the institution, except with the permission of the Chief Inspector or Officer-in-Charge.

### **33. Identity Photos.**

(1)On admission to a home established under the Act, every juvenile or child shall be photographed and three copies of the photograph shall be obtained.(2)One photograph shall be kept in the case file of the juvenile or child, one shall be fixed with the index card and the third copy shall be kept in an album serially with the negative in another album.

### **34. Police Officers to be in plain clothes.**

- While dealing with a juvenile or child under the provisions of the Act and the rules made there-under, except at the time of arrest, the Police Officer shall wear plain clothes and not the police uniform.

### **35. Prohibition on the use of handcuffs and fetters.**

- No juvenile or the child dealt with under the provisions of the Act and the rules made there-under shall be handcuffed or fettered.

### **36. Visitors Book.**

(1) A visitors Book shall be maintained, in every institution, in which the person visiting the home shall record the date of his visit with remarks or suggestions, which he may think proper. (2) The Officer-in-charge shall forward a copy of every such entry to the designated authority, and the local authority, with such remarks as he may desire to offer in explanation or otherwise; and thereon, the designated authority shall issue such orders as he may consider necessary.

### **37. Maintenance of Registers.**

- The Officer-in-Charge shall maintain in his office, such registers and forms, as required by the Act and as specified by the rules made there-under.

**CHAPTER-VII 38. Procedure for sending a juvenile or child outside the jurisdiction of the competent authority.**

(1) In the case of a juvenile or child whose ordinary place of residence lies outside the jurisdiction of the competent authority, and if the competent authority considers it necessary to take action under section 50 of the Act, it shall direct a probation officer to make enquiries as to the fitness and willingness of the relative or other person to receive the juvenile or the child at the ordinary place of residence, and whether such relative or other fit person can exercise proper care and control over the juvenile or the child. (2) Any juvenile or the child, who is a foreign national and who has lost contact with his family shall also be entitled for protection. (3) The juvenile or the child, who is a foreign national, shall be repatriated, at the earliest, to the country of his origin in co-ordination with the Ministry of External Affairs and respective Embassy or High Commission. (4) On being satisfied with the report of the probation officer or case marker or child welfare officer as the case may be, the competent authority may send the juvenile or the child, if necessary, on execution of a bond by the juvenile, as nearly as in Form V, to the said relative or fit person on giving an undertaking by the said relative or fit person in Form-VI. (5) A copy of the order passed by the competent authority under section 50 shall be sent to: (a) the probation officer who was directed to submit a report under sub-rule(1); (b) the probation officer, if any, having jurisdiction over the place where the juvenile or the child is to be sent; (c) the competent authority having jurisdiction over the place where the juvenile or the child is to be sent; and (d) the relative or the person who is to receive the juvenile or the child. (6) Any breach of a bond or undertaking or of both given under sub-rule(4), shall render the juvenile or the juvenile liable to be brought before the competent authority, who may make an order directing the juvenile or the child to be sent to a home. (7) During the pendency of the order under sub-rule (4), the juvenile or the child shall be sent by the competent authority to an observation home or juvenile home. (8) Where in the case of a juvenile or the child, the competent authority considers it expedient to send the juvenile or the juvenile back to his ordinary place of residence under section 50, the competent authority shall inform the relative or the fit person, who is to receive the juvenile or child accordingly; and shall invite the said relative or fit person to come to the home, to take charge of the juvenile or child on such date, as may be specified by the competent authority. (9) The competent authority inviting the



said relative or fit person under sub-rule (8) may also direct, if necessary, the payment to be made by the Officer-In-charge of the home, of the actual expenses of the relative or fit persons journey both ways, by the appropriate class and the juveniles journey from the home to his ordinary place of residence, at the time of sending the juvenile or the child.(10)If the relative of the fit person fails to come to take charge of the juvenile or the child on the specified date, the juvenile or child shall be taken to his ordinary place of residence by the escort of the observation home and in the case of a girl, at least one escort shall be a female.

### **39. Mode of Dealing with Juvenile or child suffering from dangerous diseases or mental complaint.**

(1)When a juvenile or child kept in a home under the provisions of the Act, or placed under the care of a fit person or a fit institution, is found to be suffering from a disease, requiring prolonged medical treatment or physical or mental complain, which will respond to treatment or is found addicted to a narcotic drug or psychotropic substance; the juvenile may be removed by an order of the authority empowered on this behalf to an approved place set up for such purpose for the remainder of the term for which he has to stay, under the order of the competent authority or for such period as may be certified by medical officer to be necessary for the proper treatment of the juvenile or the child.(2)Where it appears to the authority ordering the removal of the juvenile or the child under sub-rule (1), that the juvenile is cured of the disease or physical or mental complain, he may, if the juvenile or the child is still liable to stay, order the person having in charge, to send the juvenile or child to the home or fit person from which or from whom he was removed, or if the juvenile or child is no longer liable to be kept in home, order him to be discharged.(3)Where action has been taken under sub-rule (1), in the case of a juvenile or child suffering from an infectious or contagious disease, the authority empowered under the sub-rule (1), before restoring the said juvenile or child to his partner in marriage or to the guardian, as the case may be, shall where it is satisfied that such action shall be in the interest of the said juvenile or child, call upon the partner in marriage or the guardian, as the case may be, to satisfy it that such partner or guardian will not re-infect the juvenile or child.(4)If there is no organization either within the jurisdiction of the competent authority, or nearby State for sending the juvenile or child suffering from dangerous \*diseases, as required under section 48 of the Act, necessary organization shall be set up by the State government at such places, as it may deem fit.

### **40. Protection of action taken in good faith.**

- No suit of legal proceedings shall be against any functionary under the Act in respect of anything which is in good faith done or intended to be done in pursuance of the Act during the performance of the duties assigned to them.

### **41. Delegation of powers.**

- The Government may delegate powers to local authority under section 60 of the Act, to carry out the following responsibilities, namely:(a)Recommending the panel of names to the Selection

Committee for appointment of Social Workers for the Board, Chairperson and members of the Committee, District Advisory Boards under rules;(b)To designate its responsibilities for the inspection committee under sub-section (2) of section 54 of the Act;(c)To visit the institution and make suggestions for the improvement and development of institution under sub-section 2 of section 54 of this Act;(d)To give order for inter-state transfer of juvenile or child with prior intimation to the Board and the Committee under section 47 of the Act; and(e)Create a fund for the welfare and rehabilitation of the juvenile or the child dealt with under the Act.