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PART IV (A) – PROVINCIAL COUNCILS

Provincial Councils Notifications

NORTHERN PROVINCE PROVINCIAL COUNCIL

Northern Province Provincial Council Department of Probation and Child Care Services
Statute No. 05 of 2016

NOTICE is hereby given that the Northern Province Provincial Council has adopted the Northern Province, Provincial Council Department of Probation and Child Care Services Statute No. 05 of 2016 on 08th November, 2016 and that the Hon. Governor Northern Province has given his Assent to it on 16th March, 2017.

K. THEIVENDRAM,
Secretary,
Council Secretariat,
Northern Provincial Council.

Council Secretariat,
A 9 Road,
Kaithady.
17th March, 2017.

A Statute to provide for the Establishment of a Department of Probation and Child Care Services for the Northern Province; for the Appointment of Provincial Commissioner of Probation and Child Care Services and for the matters connected therewith or incidental thereto. This Statute is inconsistent with the provision of the probation of offenders ordinance No. 42 of 1944.

Be enacted by the Northern Provincial Council of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Statute may be cited as the Department of Probation and Child Care Services Statute of the Northern Province No. 05 of 2016 and shall come into operation on such date as the Governor of the Northern Province may give his assent thereto.

Short title and
date of operation.



PART I

ESTABLISHMENT OF A DEPARTMENT OF PROBATION AND CHILD CARE SERVICES

Establishment of a Department of Probation and Child Care Services.

2. There shall be established a Department known as Department of Probation and Child Care Services of the Northern Province (hereinafter referred to as the “Department”) for the purpose of carrying out the objects of the Department specified in Section 5 of this Statute.

Appointment of Provincial Commissioner of Probation and Child Care Services & etc.

3. (1) There shall be appointed a person to be the Provincial Commissioner of Probation and Child Care Services (hereinafter referred to as the “Provincial Commissioner”) who shall be the Head of the Department. The Provision of this statute shall be implemented under the supervision and guidance of the Secretary to the Ministry of the Provincial Minister assigned the subject of the Probation and Child Care Services.

- (2) There may be appointed officers and servants as are necessary for the purpose of carrying out the objects of the Department in each judiciary division.

4. (1) The Minister may make regulations with respect to any matter required for the implementation of provisions of this Statute.

The power of the Minister to make regulation.

- (2) Every regulation made under this Section shall be published in the *Gazette* and shall come into force on the date of such publication or on such later date as may be specified in such regulation.

- (3) Every regulation made by the Minister shall, within three months after its publication in the *Gazette*, be brought before the Provincial Council for its approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done there under. Notification of the date on which any regulation is deemed to be rescinded shall be published in the *Gazette*.

- (4) The provisions of Part IV of the Provincial Councils Act, No. 42 of 1987 shall apply to the appointment, transfer, dismissal and disciplinary control of the staff of the Department.

Objects of the Department.

5. The Department shall be responsible for carrying out the following objects –
- (a) ensuring the legal protection for vulnerable child;
 - (b) assisting the Court to make probation order;
 - (c) providing and facilitating the foster care system for vulnerable child;
 - (d) providing rehabilitation and re-socialization of child offenders and providing vocational training for child offenders and institutionalized child;
 - (e) providing psycho-social support for vulnerable child;
 - (f) taking measures to reduce and prevent the number of children likely to breakdown in life due to poverty or other social requirements and preventing the child labour;
 - (g) taking very lenient and mitigated judicial actions in respect of children; and
 - (h) providing requisite service to needy child.

Powers, functions and duties of the Department.

6. The powers, functions and duties of the Department shall be to take measures for the protection of victims of child abuse and to obtain court order for residential protection for orphaned or deserted child or victims of child abuse;

- (a) to create an awareness, of the right of a child to be protected from abuse and the methods of preventing child abuse and to conduct research relating to prevention of child abuse;

- (b) to take appropriate steps for securing the care and protection of needy child and to provide counseling to children not obedient to their parents; irregular to school, stubborn and engaged in anti-social activities;
- (c) to establish provincial, district or divisional committees and sub-committee thereof to combat the child abuse;
- (d) to receive complaints from the public relating to child abuse and where necessary, to refer such complaints to the appropriate authorities;
- (e) to provide emergency and other assistance to the child and to admit the needy child to the institutions which provide child care services;
- (f) to facilitate for the reunification of institutionalized children with their families and provide assistance;
- (g) to support and facilitate the adoption of child;
- (h) to hire the service of the legal professional and non-legal professional;
- (i) in relation to a child who is a suspect, offender or in need of care or protection –
 - (i) to report to the court on the suitability of transferring the proceedings;
 - (ii) to make recommendation with regard to competence of any foster care;
 - (iii) to investigate any matter relating to need of care or protection;
 - (iv) to carry out interviews, investigations or inquiries into the facts of the case;
 - (v) to make and submit to the court an interim social report and final social report;
 - (vi) to convene institutional case conference or community based case conference;
 - (vii) to undertake the child under the supervision of probation officer;
 - (viii) to endeavour to identify and resolve relevant issue with a view to compounding the offence alleged against the child;
 - (ix) to resource and provide with basic needs including food, water and toilets for the benefit of children who are brought to the Department or Probation unit;
 - (xi) to provide transport service to every child who is a suspected child offender or in need of care or protection to the court from any institution where he resides and from court back to such institution;
- (j) to issue license or certificate to the institutions which provide child care services or to grant approval to any service and to supervise and monitor the institutions which provide child care services;
- (k) to charge or levy any fees for rendering service to the institutions which provide child care services;
- (l) to undertake the supervision of the offender and to see that the conditions stipulated in the court order under Probation of offenders Ordinance No. 42 of 1944 are fully and strictly observed;

- (m) to visit or receive reports from the offender at such intervals as may be specified in the order, or, subject thereto, as the officer may think fit;
- (n) to prepare such periodical reports relating to the behaviour and progress of the offender;
- (o) to advise, assist and befriend the offender under his supervision and where necessary, to endeavour to secure employment and lodging accommodation for him;
- (p) to submit all such information relating to the character, antecedents, environment and mental or physical condition of the offender to the court;
- (q) to prepare a report to the court as to the suitability of the case for supervision under probation and as to the question whether the supervision of the offender can be undertaken by the Probation Officers;
- (r) to formulate necessary rules of internal administration of the Department;
- (s) generally, to do all such other things as are necessary to achieve the objects of the Department.

PART II

FINANCE

Finance of the Department.

7. There shall be paid out of the Financial allocations to the department for all such sums of money required to defray the expenditure incurred by the Department in the exercise, discharge and performance of its powers, functions and duties.

Financial year.

8. The financial year of the Department shall be the calendar year.

Accounts and audits.

9. (1) The Department shall cause proper books of accounts to be kept of the assets and liabilities, income and expenditure and all other transactions of the Department.
- (2) The provisions of Section 23 (1) and 23 (2) of the Provincial Council Act No. 42 of 1987 shall apply in this regard and the accounts of the Northern Province Department of Probation and Child Care Services shall be audited annually by the Auditor General or a qualified auditor appointed by the Auditor General in terms of Article 154 of the Constitution.

Expenses incurred by any person to be paid by the Department.

10. Any expense incurred by any person in any suit or prosecution brought against him before any court in respect of any act which is done by him or purported to be done by him under this Statute or on the direction of the Provincial Commissioner shall, if the court holds that the act was done in good faith, be paid out of the Financial allocation of the Department unless such expenses are recovered by him in suit or prosecution.

PART III

GENERAL

Delegation of Powers, function and duties.

11. The Provincial Commissioner may delegate any of his powers or duties to any suitable officer of the Department.

12. (1) The Department shall register and supervise the following institutions – Registration of certain institutions.
- (a) approved home established under Section 452 of the Criminal Procedure Code Act, No. 15 of 1979;
 - (b) remand home established under Section 48 of the Children and Young Persons Ordinance;
 - (c) approved school established under Section 50 of the Children and Young Persons Ordinance;
 - (d) certified school established under Section 51 of the Children and Young Persons Ordinance;
 - (e) orphanage established under Section 7 of the Orphanage Ordinance;
 - (f) children home under Section 14 of the Orphanage Ordinance;
 - (g) children safe house;
 - (h) day care centres;
 - (i) State receiving homes;
 - (j) Child Development Centres;
 - (k) Boarding houses and hostels; and
 - (l) any institution which provides child care service.
- (2) The Provincial Commissioner may collect information whenever he thinks fit, from any institution referred to in Sub section (1).
- (3) it shall be duty of the Institutions referred in Sub section (1) to furnish such information to the Provincial Commissioner whenever such information is requested.
13. It is hereby declared as follows:– Savings
- (a) all movable and immovable property vested in the Department of Probation and Child Care Service of the Northern Province on the day preceding the date of operation, shall, with effect from the date of operation of the Statute vest in the Department;
 - (b) all contracts and agreements entered into by or with the Department of Probation and Child Care Service of the Northern Province and subsisting on the day preceding the date of operation, shall, with effect from the date of operation of the Statute, be deemed to be contracts and agreements entered into by or with the Department;
 - (c) all actions and proceedings instituted by or against the Department of Probation and Child Care Service of the Northern Province and pending on the day preceding the date of operation, shall, with effect from the date of operation of the Statute, be deemed to be actions and proceedings instituted by or against the Department as the case may be, and may be continued and completed accordingly;

- (d) all officers and servants of the Department of Probation and Child Care Service of the Northern Province on the day preceding the date of operation of the Statute, shall, with effect from the date of operation of the Statute, be deemed to be officers and servants of the Department;
- (e) all judgements and orders made in favour or against the Department of Probation and Child Care Service of the Northern Province and remaining unsatisfied on the date preceding the date of operation of the Statute, shall, with effect from date of operation, be deemed to be judgements and orders made in favour of, or against, the Department, as the case may be, and may be enforced accordingly; and
- (f) all liabilities of the Department of Probation and Child Care Service of the Northern Province on the day preceding the date of operation, shall with effect from the date of operation of the Statute, be deemed to be liabilities of the Department.

14. In this Statute, unless the context otherwise requires –

Interpretation.

“**Minister**” means the Minister of the Northern Province to whom the subject of Probation and Child Care Services is assigned;

“**probation order**” means an order made under Section 3 of Probation of Offenders Ordinance (Chapter 24) and

“**written laws**” means any law and subordinate legislation and includes Statutes made by Northern Provincial Council, Orders, Proclamations, Rules, By-laws and Regulations made or issued by anybody or person having power or authority under any law to make or issue the same.

Tamil text to prevail
in the case of
inconsistency

15. In the event of any inconsistency between the Tamil and Sinhala texts of this Statute, the Tamil text shall prevail.