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THE SUPREME COURT OF THE FEDERATION OF MALAYA.

REGISTRAR'S CIRCULAR NO. 12/49

JUVENILE COURTS ORDINANCE, 1947.

The Juvenile Courts Ordinance, 1947 (Ordinance No. 28 of 1947) has now been brought into force as from the 1st December, 1949.

2. The Juvenile Courts themselves consist of the President of the Sessions Court ⁽¹⁾ with two advisers under the provisions of section 4 of the Ordinance. Magistrates, however, will be concerned with juveniles by reason of the provisions of sections ⁽²⁾ 6 and 8 ⁽²⁾ of the Ordinance which read as follows:-

"6.(1) Where a person apparently under the age of seventeen years is arrested with or without a warrant; he shall be brought before a Juvenile Court and, where he cannot be brought forthwith before a Juvenile Court, the officer making the arrest shall without unnecessary delay take or send the person arrested before a Magistrate who shall inquire into the case, and,

- (a) unless the charge is one of murder or other grave crime; or
- (b) unless it is necessary in the interest of such person to remove him from association with any undesirable person; or
- (c) unless the Magistrate has reason to believe that the release of such person would defeat the ends of justice,

shall release such person on a bond, with or without sureties, for such amount as will, in the opinion of the Magistrate, secure the attendance of such person upon the hearing of the charge, being entered into by his parent or guardian or other responsible person.

(2) No person shall be detained in the absence of, or after the expiry of, a special order of a Magistrate under section 117 of the Criminal Procedure Code of the Federated Malay States for a period exceeding twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court."

8. Where a person apparently under the age of seventeen years having been arrested and awaiting trial before a Juvenile Court is not released under the provisions of section 6 of this Ordinance, the Magistrate or Juvenile Court before whom such person is brought shall cause him to be detained in a place of detention provided under this Ordinance until he be brought before the Juvenile Court having jurisdiction unless the Magistrate or Juvenile Court certifies:

- (a) that it is impracticable so to do; or
- (b) that such person is

(c) that by reason of his state of health or of his mental or bodily condition it is inadvisable so to detain him;

and, in any such case, the Magistrate or Juvenile Court shall have power to order such person to be detained in a prison or mental hospital, as the case may require and, if an order for detention in a mental hospital is made, the provisions of Chapter XXXIII of the Criminal Procedure Code of the Federated Malay States or of Chapter XXXI of the Criminal Procedure Code of the Straits Settlements shall, with any necessary modifications, apply."

3. Sections 3⁽²⁾ and 42⁽¹⁾ of the Ordinance are also of importance.

Under section 3 no juvenile may be tried otherwise than in accordance with the provisions of the Ordinance; and under section 42 any case, which has been commenced and is pending against a juvenile, must be transferred to the appropriate Juvenile Court. It follows that Magistrates have no jurisdiction to try any person who is under the age of 17⁽⁴⁾ unless the juvenile is charged jointly with an adult.⁽⁵⁾

4. The provisions of section 7 should also be carefully borne in mind by Magistrates. They are as follows:-

"7. No child or young person while detained in a police station or while being conveyed to or from any criminal Court, or while waiting before or after attendance in any criminal Court shall be permitted to associate with an adult (not being a relative) who is charged with any offence other than an offence with which the child or young person is jointly charged."⁽⁶⁾

It is suggested that Magistrates should get into touch with the local police authorities in the various places they visit with a view to obtaining the co-operation of the police in the carrying out of the provisions of section 7 above set out.

5. Magistrates dealing with juveniles should deal with them in chambers and not in the Court House.

6. Presidents of Sessions Courts should take immediate steps to ensure that Circuit Magistrates in their area are in possession of copies of the Ordinance and that their attention is drawn to any of the provisions thereof with which Magistrates will be concerned.

7. Rules under section 42⁽⁷⁾ of the Ordinance⁽⁸⁾ are being

drafted by the Chief Social Welfare Officer for approval by the Chief Justice.

8. It will take a little time to get the system of Juvenile Courts working smoothly. In the meantime the Chief Justice trusts that all Judges, Presidents of Sessions Courts and First Class Magistrates will settle difficulties amongst themselves locally, only referring to this Headquarters difficulties of really major importance.

T. J. P.
REGISTRAR.

The Federal Registry,
Supreme Court,
Federation of Malaya.

Kuala Lumpur, 5th December, 1949.
(RSC.38/48) (TRH/AJS)

Copies to: All Judges.
Presidents, Sessions Courts.
First Class Magistrates.
Chief Social Welfare Officer