

**FREQUENTLY ASKED QUESTIONS
ON
CHILD WELFARE COMMITTEE (CWC)
AND
JUVENILE JUSTICE BOARD (JJB)**

**Constituted under
The Juvenile Justice
(Care and Protection of Children)
Act, 2015**



KAILASH SATYARTHI CHILDREN'S FOUNDATION

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Introduction

The Juvenile Justice (Care and Protection of Children) Act, 2015 is the principle law in the country for children alleged and found to be in conflict with law and children in need of care and protection. The Act provides for child friendly approaches in the adjudication and disposal of matters keeping best interest of children as paramount. The Act also provides for several institutional and non-institutional measures for rehabilitation and social re-integration of children.

The Act has come into force from 15th January, 2016 and the Model Rules under the Act were notified on 21st September, 2016. The provisions of the Act are guided by fundamental principles for care and protection of children which are detailed in Chapter two of the Act. These Principles are:

- (i) Principle of presumption of innocence
- (ii) Principle of dignity and worth
- (iii) Principle of participation
- (iv) Principle of best interest
- (v) Principle of family responsibility
- (vi) Principle of safety
- (vii) Positive Measures
- (viii) Principle of non-stigmatising semantics
- (ix) Principle of non-waiver of rights
- (x) Principle of equality and non-discrimination
- (xi) Principle of right to privacy and confidentiality
- (xii) Principle of institutionalisation as a measure of last resort
- (xiii) Principle of repatriation and restoration
- (xiv) Principle of fresh start
- (xv) Principle of diversion
- (xvi) Principle of natural justice

Children in Need of Care and Protection

Section 2(14) of the Act, provides a comprehensive list of children who can be declared as those in need of care and protection. The Section states

“child in need of care and protection” means a child ▸

- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or
- (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or
- (iii) who resides with a person (whether a guardian of the child or not) and such person—
 - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
 - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or
 - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or
- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or
- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or
- (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or
- (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or
- (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or

- (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or
- (x) who is being or is likely to be abused for unconscionable gains; or
- (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or
- (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

A child in need of care and protection is brought before a Child Welfare Committee (CWC) to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

The institutional and non-institutional measures for children in need of care and protection include:

1. Children's home: These are meant for placement of children in need of care and protection for their care, treatment, education, training, development and rehabilitation. These are established or maintained, in every district or group of districts, by the State Government, either by itself, or through a voluntary or non-governmental organization, and are registered as such for the purposes specified under Section 50 of the Act.
2. Open Shelter: This is a community based facility for children in need of residential support, on short term basis, with the objective of protecting them from abuse or weaning them, or keeping them, away from a life on the streets.
3. Specialised Adoption Agency: This means an institution established by the State Government or by a voluntary or non-governmental organization and recognized under Section 65, for housing orphans, abandoned and surrendered children, placed there by order of the Committee, for the purpose of adoption.

4. After care: This is meant for any child who leaves a child care institution on completion of eighteen years of age who may be provided with financial support in order to facilitate child's re-integration into the mainstream of the society.
5. Foster care: This means placement of a child, by the Committee for the purpose of alternate care in the domestic environment of a family, other than the child's biological family, that has been selected, qualified, approved and supervised for providing such care. This can be for a short or extended period of time.
6. Group Foster Care: This means a family like care facility for children in need of care and protection who are without parental care, aiming on providing personalized care and fostering a sense of belonging and identity, through family like and community based solutions.
7. Sponsorship: This means provision of supplementary support to families, to Children's Homes and to special homes to meet medical, nutritional, educational and other needs of the children, with a view to improving their quality of life. Sponsorship can be individual to individual sponsorship, group sponsorship or community sponsorship.
8. Fit Person: this means any person, prepared to own the responsibility of a child, for a specific purpose, and such person is identified after inquiry made in this behalf and recognized as fit for the said purpose, by the Committee, to receive and take care of the child.
9. Fit Facility: This means a facility being run by a Governmental organization or a registered voluntary or non-governmental organization, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognized as fit for such purpose by the Committee.

Children in Conflict with Law

According to Section 2(13) of the Act, "child in conflict with law" mean a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence.

A child in conflict with law is produced before a Juvenile Justice Board. On the basis of nature of offence, specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Juvenile Justice Board may:

- (a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;
- (b) direct the child to participate in group counselling and similar activities;
- (c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;
- (d) order the child or parents or the guardian of the child to pay fine: Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;
- (e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;
- (f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;
- (g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home:

Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

The institutional and non-institutional measures for children alleged or found to be in conflict with law include:

1. Observation Homes: These are meant for temporary reception, care and rehabilitation of children alleged to be in conflict with law during the pendency of an inquiry. Every child alleged to be in conflict with law who is not placed under the charge of parent or guardian and is sent to an observation home, is segregated according to the child's age and gender, after giving due consideration to physical and mental status of the child and degree of the offence committed.
2. Special Homes: These homes are meant for rehabilitation of those children in conflict with law who are found to have committed an offence and who are placed there by an order of the Juvenile Justice Board. In these homes also, segregation and separation of children found to be in conflict with law is made on the basis of age, gender, the nature of offence committed by them and the child's mental and physical status.
3. Place of safety: These are meant to place a person above the age of eighteen years or child in conflict with law, who is between the ages of sixteen to eighteen years and is accused of or convicted for committing a heinous offence. Every place of safety has separate arrangements and facilities for stay of such children or persons during the process of inquiry and children or persons convicted of committing an offence.
4. After care: This is meant for any child who leaves a child care institution on completion of eighteen years of age with financial support in order to facilitate child's re-integration into the mainstream of the society.
5. Fit Person: this means any person, prepared to own the responsibility of a child, for a specific purpose, and such person is identified after inquiry made in this behalf and recognized as fit for the said purpose, by the Board, to receive and take care of the child.
6. Fit Facility: This means a facility being run by a Governmental organization or a registered voluntary or non-governmental organization, prepared to temporarily own the responsibility of a particular child for a specific purpose, and such facility is recognized as fit for such purpose by the Board.

Frequently Asked Questions on Child Welfare Committee

1. What is the Composition of a Child Welfare Committee (CWC) in the Act?

The Committee consists of a Chairperson, and four other members of whom at least one is a woman and another, an expert on matters concerning children.

2. Is a CWC provided any additional support to help it function effectively?

The District Child Protection Unit provides a Secretary and other staff that may be required for secretarial support to the Committee for its effective functioning.

3. What are the provisions to ensure the CWC is sensitized on the provisions of law?

Under Section 27(1), the State Government is made responsible to provide induction training and sensitisation to all members including Chairperson of the Committee on care, protection, rehabilitation, legal provisions and justice for children, within a period of sixty days from the date of their appointment. Further, under Model Rule 89, the State Government is also required to organize regular training programmes for all stakeholders including JJB members on the implementation of the JJ Act, 2015.

4. What should be the qualification of the CWC members?

Person appointed as a member of the Committee should be actively involved in health, education or welfare activities pertaining to children for at least seven years or should have been a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.

5. What is the term of members of the Committee?

The term of the members of the committee is for a period of three years from the date of appointment. They are eligible for maximum of two terms which cannot be continuous.

6. What are the criteria's for terminating members of CWC?

Members of CWC are terminated if they are found guilty of misuse of power or they have 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. A member can also be terminated if he fails to attend the proceedings of the Committee consecutively for 3 months without any valid reason or he fails to attend less than three-fourths of the sittings in a year.

7. Who is the Grievance Redressal Authority in case of CWC?

The District Magistrate is the grievances redressal authority for the Child Welfare Committee. Anyone connected with a child, can file a petition before the District Magistrate, who is required to consider and pass appropriate orders.

8. What is the periodicity of review of the Committee by the District Magistrate?

The Committee is reviewed quarterly by the District Magistrate.

9. What is the Power of CWC?

The Committee has the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

10. Can Committee form subcommittees?

No, the Committee should function cohesively as a single body and cannot form any subcommittees.

11. How many times minimally the Committee needs to meet in a month and for how many hours?

The Committee is required to meet at least 20 days in a month. It is also required to sit for a minimum of six hours on all working days.

12. Is visit to a Child Care Institution by the Committee, considered as sitting?

Under Section 28(2), a visit to a child care institution by the Committee, to check its functioning and wellbeing of children is considered as a sitting by the Committee.

13. How many members need to be present at the time of final disposal of the case by the Committee?

At the time of final disposal of the case by the Committee, at least three members should be present.

14. What happens, if there is difference of opinion among the members of the committee at the time of taking decision?

In the event of any difference of opinion among the members of the Committee at the time of taking any decision, the opinion of the majority prevails but if there is no majority, then the opinion of the Chairperson prevails.

15. Where does the Committee hold its sitting?

The Committee holds its sittings in the premises of a children's home or, at a place in proximity to the children's home or at a suitable premises in any institution run under the Act for children in need of care and protection.

16. The Committee is required to adopt child friendly approaches in dealing with children, what are these?

The child friendly approaches include ensuring:

- no person(s) un-connected with the case are present in the room during sitting
- only person(s), with whom the child feels comfortable, are present during the sitting
- premises do not look like a court room
- sitting arrangement is such to enable the Committee to interact with the child face to face
- chairperson and members do not sit on a raised platform

- No barriers, such as witness boxes or bars are kept between the Committee and the children
- Reaching out to children, who cannot be produced before them and hold its sittings at a place convenient for such children
- Usage of child friendly conduct and adoption of child friendly attitude with regard to body language, facial expression, eye contact, intonation and volume of voice while addressing the child
- Informed participation of the child and parent or guardian
- Interview of the child is conducted sensitively
- No usage of any adversarial or accusatory words that adversely impact the dignity or self esteem of the child

17.If the Committee is not sitting, can a child be produced before a single member of the Committee?

Yes, a child in need of care and protection can be produced before a single member of the Committee. At least one member of the Committee is required to be always available to take cognizance on any matter of emergency and issue necessary directions to Special Juvenile Police Unit (SJPU) or local police of the district.

For this purpose the Chairperson of the Committee is required to draw up a monthly duty roster of the Committee members who are to be available and accessible every day, including on Sundays and holidays. The roster is to be circulated in advance to all the police stations, the Chief Judicial Magistrate/Chief Metropolitan Magistrate, the District Judge, the District Magistrate, the Board, the District Child Protection Unit and the Special Juvenile Police Unit.

18.What happens if a child in need of care and protection cannot be produced before the Committee?

On receiving information about a child or children in need of care and protection, who cannot be produced before the Committee, the Committee is mandated to reach out to the child or children and hold its sitting at a place that is convenient for such child or children.

19.Does the JJ Act provide for any mandatory inspection of homes by the Committee?

Under Section 30(viii), the Child Welfare Committee is required to conduct at least two inspection visits per month of residential facilities for children in need of care and protection and make recommendations for improvement to District Child Protection Unit and the State Government.

20. Does the Committee receive cases referred by Board?

Under Section 17(2) when the Board feels that a child in conflict with law is also a child in need of care and protection then it can refer the child to the Committee for necessary action.

21. What happens if there is abuse of a child in children’s home?

In case of a complaint of abuse of a child in a children’s home or any child care institution meant for children in need of care and protection, the Committee can conduct an inquiry and give directions to the police or the District Child Protection Unit or labour department or Child line services and provides appropriate legal service to the Child. (Section 30{xvi}).

22.How does the Committee maintain records of children brought before it?

The Committee documents and maintains detailed case record along with a case summary of every child in Form 15. The Form includes the name of the child, his/her parents, date of production before the Committee, name of the person producing, orders passed by the Committee and other important documents like medical record, social investigation report, individual care plan, rehabilitation card, and Case history of the child.

23.Can children provide suggestions to the Committee?

A suggestion box or grievance redressal box is maintained at a prominent place in the premises of the Committee where children are encouraged to put forward their inputs. This box is operated by the District Magistrate or his nominee.

24.What information is submitted by the Committee to the District Magistrate every quarter?

The Child Welfare Committee is required to send quarterly information in Form 16 about children in need of care and protection received by it to the District Magistrate with all relevant details on nature of disposal of cases, pending cases and reasons for such pendency.

After review, the District Magistrate can direct the Committee to take necessary remedial measures to address the pendency and if necessary send a report of such review to the State Government. However, if pendency of cases continues to be unaddressed by the Committee even after three months of receiving directions, the State Government can terminate the said Committee and constitute a new Committee.

25.What is a rehabilitation card?

Rehabilitation card is a tool to monitor progress of the child as per his individual care plan and the Child Welfare Committee may issue the same, which is Form 14 in Model Rules.

26.What are the different records that need to be maintained by the Committee?

The records to be maintained by CWC are listed below:

- Entries of the cases listed in a day and next date and the Committee shall prepare a daily cause list of the cases before it.
- Entries and particulars of children brought before the Committee and details of the Childcare Institution where the children are placed or the address where the children are sent.
- Execution of bonds.
- Movement including visits to institutions.
- Children declared legally free for adoption.
- Children recommended for or placed in sponsorship.
- Children placed in individual or group foster care.
- Children transferred to or received from another Committee.
- Children for whom follow up is to be done.

- Children placed in after care.
- Inspection record of the Committee.
- Record of Minutes of the meetings of the Committee.
- Correspondence received and sent.

27. Who can produce a child before the Committee?

Anybody can produce a child before CWC including:

- Any police officer or special juvenile police unit or a designated Child Welfare Police Officer
- Any officer of District Child Protection Unit or inspector appointed under any labour law
- Any public servant
- Child line Services
- Voluntary or non-governmental organisation
- Child Welfare Officer or probation officer
- Any social worker
- Public spirited citizen
- Child himself
- Any nurse, doctor or management of a nursing home, hospital or maternity home

28. Can the Committee take suo motu cognizance of children who are in need of care and protection?

Yes, the Committee can take suo motu cognizance of cases and reach out to children in need of care and protection, who are not produced before the Committee, provided that such decision is taken by at least three members.

29. What is the time period for production of a child before the committee?

As per the Act, a child must be produced before the Committee within a period of 24 hours excluding the time necessary for the journey.

30.What is the procedure followed by the Committee for placing a child in an institution?

The procedure followed by Committee for placing child in an institution involves following steps:

- On receiving a child the CWC holds inquiry to understand the circumstances under which the child is produced and accordingly declares him/her as a child in need of care and protection
- Prima facie determines the age of the child in order to ascertain its jurisdiction
- Assign the case to a social worker or case worker or child welfare officer or to any recognised non-governmental organisation for conducting the social investigation through an order in Form 21
- If required, send the child to Children's home, fit facility, fit person or Specialized Adoption Agency during the process of inquiry
- On completion of inquiry –
 - if the Committee decides that the child has no family or other support then they send the child to a children's home , fit facility or person or foster family till suitable means of rehabilitation are found or till the child attains the age of 18 years.
 - Restore the child to parents or guardian or family after verifying reports including social investigation report, which provides an assessment of the family situation of the child
 - give dates for follow-up of the child not later than one month from the date of disposal of the case and thereafter once every month for the period of first six months and thereafter every three months for a minimum of one year or till such time as the Committee deems fit.

31.Who is responsible for conducting social investigation and why is it conducted?

When a child is brought before the Committee, the case is assigned to a social worker or case worker/child welfare officer from a child care institution or to any recognised non-governmental organisation for conducting the social investigation through an order in Form 21. The social investigation report (Form 22) provides an assessment of the

child, his family, situation of the child in detail, and explain in writing whether it will be in the best interest of the child to restore him to his

32. In how many days the social investigation report should be completed?

The social investigation is to be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child.

33. What happens with the child if the Committee comes to know he has no family?

After the completion of the inquiry, if the Committee is of the opinion that the child has no family or ostensible support or is in continued need of care and protection, it may send the child to a Specialized Adoption Agency if the child is below six years of age, or to children's home or to a fit facility or person or foster family, till suitable means of rehabilitation are found for the child.

34. What is the procedure for a parent or guardian to surrender a child before a Committee?

The procedure for surrender of child and declaring him/her as legally free for adoption

- Parent or guardian who wish to surrender a child to make an application to the Committee in Form 23
- Where parent or guardian is unable to make an application due to illiteracy or any other reason, the Committee is to facilitate the same through the Legal Aid Counsel provided by the Legal Services Authority
- Give parents or guardian who wish to surrender the child, a two months' time to reconsider their decision
- Conduct inquiry and provide counseling to parents to explain and understand the consequences of surrender
- Execute a surrender deed by the parent or guardian after completion of reconsideration period and declare the child as legally free for adoption

35.Can mentally retarded parents or victim of sexual assault surrender their child to the Committee?

Yes, as per Section 38(3), notwithstanding anything contained in any other law for the time being in force, a mentally retarded parents or victim of sexual assault, can surrender a child before the Child welfare Committee. The Committee after following the procedures under the Act can declare such child as free for adoption

36.What is the procedure followed for declaring an orphan or abandoned child as legally free for adoption by the committee?

The procedure for declaring an orphan or abandoned child as legally free for adoption includes:

- If abandoned or orphan child is received by a child care institution, he/she is to be produced before the Committee within twenty-four hours (excluding the time necessary for the journey) along with a report in Form 17 containing the particulars and photograph of the child as well as the circumstances in which the child was received
- A copy of the report is also to be submitted by the child care institution to the local police station within the same period
- Child Welfare Committee is to issue an order in Form 18 for short term placement and interim care of the child during pendency of inquiry
- Committee to use Trackchild portal to ascertain whether the abandoned child or orphan child is a missing child
- Committee may direct the publication of the particulars and photograph of the orphan or abandoned child in national newspapers with wide circulation within 72 hours from the time of receiving the child for the purposes of tracing out the biological parents or the legal guardian(s)
- After making inquiry, Committee is to issue an order in Form 25 declaring the abandoned or orphan child as legally free for adoption
- Decision to declare an orphan or abandoned child as legally free for adoption is to be taken by at least three members of the Committee.

37.What is the time period for conducting inquiry in case of declaring a child legally free for adoption?

A child is declared legally free for adoption within a period of two months from the date of production of the child, for children who are up to two years of age and within four months for children above two years of age.

38.Can the Committee, ask police to register an FIR

As per Section 8(3)(l) of the JJ Act, only Juvenile Justice Board can ask Police to register an FIR and not a Child Welfare Committee. Therefore, the Committee needs to write to the Board for filing an FIR.

39.What is after care?

After care is meant for those children who leave institutional care on attaining eighteen years of age. After care is available till twenty-one years and in exceptional circumstances can be extended for two more years on completing twenty-one years of age.

40.What are the different services provide under the aftercare program?

The services provided under the after-care programme include:

- Community group housing on a temporary basis for groups of six to eight persons.
- Provision of stipend during the course of vocational training or scholarships for higher education and support till the person gets employment;
- Arrangements for skill training and placement in commercial establishments through coordination with National Skill Development Programme, & Indian Institute for Skill Training
- Provision of a counselor to discuss their rehabilitation plans.
- Provision of creative outlets for channelising their energy
- Arrangement of loans and subsidies for persons in after-care, aspiring to set up entrepreneurial activities.
- Encouragement to sustain themselves without State or institutional support.

Frequently Asked Questions on Juvenile Justice Board

1. What is the composition of a Juvenile Justice Board?

The Juvenile Justice Board (JJB) consists of a Metropolitan Magistrate or a Judicial Magistrate of First Class as the Principal Magistrate of the Board and two social workers as members. In the earlier law, in many States, it was found that the Chief Metropolitan Magistrate (CMM) or Chief Judicial Magistrate (CJM) were holding the charge of Principal Magistrate. As they are already burdened with cases, the cases before the JJB remained un-attended leading to huge pendency of cases. In order to address this issue, in the new Act under Section 4(1), it is clearly stated that the CMM or CJM cannot be the Principal Magistrate of the Board.

The Social worker members should be persons who have been actively involved in health, education, or welfare activities pertaining to children for at least seven years or a practicing professional with a degree in child psychology, psychiatry, sociology or law.

2. What is the term of members of the Board?

The term of social worker members of the Board is for a period of three years from the date of appointment. They are eligible for maximum of two terms which cannot be continuous.

3. What are the provisions for sitting of the Board?

The Board is required to hold its sittings in either an Observation Home or a Special Home or any place which is close to these child care institutions. The Board cannot hold its sittings in any court or jail premises.

The Board is required to sit on all working days for a minimum of six hours unless the case pendency is less.

4. What are the allowances given to the Board?

The Principal Magistrate of the Board is a judicial officer therefore his/her pay and allowances are governed by relevant State Judicial Service. The social worker members of the Board are paid not less than

Rs 1500/- per sitting, which includes sitting allowance, travel allowance and any other allowance.

5. What are the provisions in law to ensure JJB members are sensitized on the law?

Under Section 4(5), the State Government is made responsible to provide induction training and sensitisation to all members including Principal Magistrate of the Board on care, protection, rehabilitation, legal provisions and justice for children, within a period of sixty days from the date of their appointment. Further, under Model Rule 89, the State Government is also required to organize regular training programmes for all stakeholders including JJB members on the implementation of the JJ Act, 2015.

6. Who monitors the pendency of cases in a JJB?

The Chief Judicial Magistrate or the Chief Metropolitan Magistrate reviews the pendency of cases of the Board once in every three months. Based on the review, they may direct the Board to increase the frequency of its sittings or may recommend the constitution of additional Boards.

The pendency of cases is also reviewed every six month by a high level committee consisting of:

- Executive Chairperson of the State Legal Services Authority as the Chairperson
- Home Secretary
- Secretary responsible for the implementation of JJ Act, 2015 in the State
- a representative from a voluntary or nongovernmental organization to be nominated by the Chairperson

The JJB is required to furnish information of pendency of cases to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate and the District Magistrate on quarterly basis in Form 12 of the Model Rules.

The Board is also required to maintain "Case Monitoring Sheet" of every case and every child in Form 11 of the Model Rules. The sheet facilitates tracking and monitoring of timelines of cases before the Board.

7. Does the Board have power to pass a decision or order in case of children who are in need of care and protection?

No, the Board has the power to deal with children in conflict with law. Children who are in need of care and protection are to be referred to a Child Welfare Committee for appropriate order.

8. What happens if a child ceases to be a child during the process of inquiry?

Under Section 5 of the Act, where an inquiry has been initiated in respect of any child under this Act, and during the course of such inquiry, the child completes the age of eighteen years, then, the inquiry is to be continued by the Board and orders as if such person had continued to be a child.

9. What happens if a person is apprehended for committing an offence when he was a child?

Under Section 6 of the Act, if a person is apprehended for committing an offence when he or she was a child or below 18 years of age then such person is to be treated as a child under the JJ Act, 2015. However, as the person is an adult and cannot be kept in an observation home with children, the Act states that such person is to be placed in a Place of safety.

Every State Government is required to establish at least one place of Safety in a state.

10. If the Board is not sitting, can a child be produced before a single member of the Board?

Yes, a child in conflict with law can be produced before a single member of the Board. The order given by individual member is to be ratified by the Board in its next meeting.

The Principal Magistrate is to draw a monthly roster of member who are required to be available and accessible every day including Holidays. The roster is to be circulated in advance to all police stations, CJM/CMM, District judge, District Magistrate, Child Welfare Committee, District Child Protection Unit and Special Juvenile Police Unit.

11.Can one member of the Board pass an order for disposal of the case?

No, at least two members including the Principal Magistrate should be present at the time of final disposal of a case.

12.What happens if there is difference of opinion among members of the Board in an interim or final order?

In case of difference of opinion among members of the Board, the opinion of majority is to prevail and if there is no majority then the opinion of Principal Magistrate is to prevail.

13.Is the Board required to give bail in all cases brought before it?

If a child is brought before the Board for committing a bailable or non-bailable offence, the Board may release the child on bail with or without surety and place him under the supervision of probation officer or a fit person. The bail may however be denied if there appears reasonable ground for believing that:

- the release is likely to bring him into association with any known criminal
- expose him to moral, physical or psychological danger
- his release would defeat the ends of justice

14.What are the different child friendly approaches, that a Juvenile Justice Board should adopt?

The child friendly approaches include:

- Ensuring no person un-connected with the case is present during proceedings
- Ensuring only persons whom the child feels comfortable, are present during proceedings
- The premises should not look like a court room
- Board members should interact with child face to face
- Board members should ensure their facial expressions, body language, eye contact, intonation and volume of voice in addressing children is not threatening to child rather it should make the child comfortable

15.What are the functions of JJB other than disposing of matters related to children in conflict with law?

The Board is required to conduct at least one inspection visit every month of Observation Home, Special Home and Place of safety and recommend action for improvement to the District Child Protection Unit and State Government.

The Board is also required to conduct regular inspection of jails meant for adults to check if any child is lodged in jail. In case a child is found then the Board is to take immediate action for transfer of child to an Observation home.

16.How does the Board ensure free legal aid for the child?

Every child who files or defends a case is entitled to free legal services under the Legal services Authority act, 1987. The Board is to ensure free legal services to children through State or District Legal Aid Services Authority or through the Legal cum Probation Officer placed in the District Child Protection Unit.

The Board can also deploy services of student volunteers or NGOs for para legal and other tasks such as contacting the parents of child and collecting relevant social and rehabilitative information about the child.

17.What is the timeline for inquiry if a child commits a petty offence?

The inquiry is to be completed within four months from the date of first production of child before the Board. The period may be extended for a maximum of two months by the Board. In case the inquiry remains inconclusive even after the extended period then the proceedings stand terminated as per Section 14(4) of the Act.

18.What are the timelines for inquiry if a child commits a serious or heinous offence?

The inquiry is to be completed within four months from the date of first production of child before the Board. The period may be extended for a maximum of two months by the Board. However, if the Board requires more time, the permission needs to be taken from the Chief Judicial Magistrate or Chief Metropolitan Magistrate after recording reasons in writing.

19.If a child aged 15 years commit a heinous offence, can the Board conduct preliminary assessment?

No, preliminary assessment is to be conducted only when the child completes sixteen years of age. In this case, the Board is to conduct inquiry as per Section 14 and pass order as per Section 18 of the Act.

20.What are the provisions to tackle heinous offences committed by children?

- (i). If heinous offence is committed by a child below the age of 16 years, then the child is to be tried by the Juvenile Justice Board (JJB) as per the procedures under Section 14 and 18 of the Act. This implies that a child will not be given detention of more than three years.
- (ii). If heinous offence is committed by a child between the age of 16-18 years, then the child is first produced before the Juvenile Justice Board. The Board is to conduct a preliminary assessment. The assessment is basically to assess the capacity of the child to commit the offence and whether the child understands the consequences of the alleged offence.

Based on the preliminary assessment, two situations may arise:

- a) The Juvenile Justice Board decides that the matter should be disposed off by the Board itself, the Board follows the procedures as per Section 14 and 18 of the Act.
- b) The Board decides that the child needs to be tried as an adult and thus make an order to transfer the trial of the case to the Children’s Court as per Section 18(3) of the Act.

When the matter comes before the Children’s Court, the Children’s Court has two options:

- a) The Children’s Court decides that there is no need for trial of the child as an adult. In such case, the Children’s Court has the power of the Juvenile Justice Board as per Section 8(2) of the Act and therefore instead of transferring the case back to the Board, the Children’s Court can conduct inquiry and pass orders accordingly. This implies that a child will not be given detention of more than three years.

- b) On the other hand, the Children’s Court may decide that there is a need for trial of the child as an adult and thus will follow the procedures prescribed under CrPC. The quantum of detention in such case is not prescribed in the Act and has been left at the discretion of the Children’s Court.

Under Section 21 of the Act, no child for any offence can be sentenced for life without the possibility of release or sentenced to death by the Board or the Children’s Court.

21.Is preliminary assessment an inquiry by the Board?

No, preliminary assessment by the Board is to assess the capacity of child to commit the offence and if the child understands the consequences of the alleged offence. To do so, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

22.Can the period of preliminary assessment be extended?

No, the preliminary assessment should be completed within a period of three months.

23.Is the order of the Board in case of preliminary assessment appealable?

Yes, the order of the Board in case of preliminary assessment is appealable under Sub-section (2) of Section 11 of the Act.

24.Are there any timelines for police to submit reports to JJB?

Yes, the Model Rules have laid down timelines under Rule 10, these are:

- In case of petty or serious offences, the final report by police is to be submitted within two months of receiving information.
- In case of heinous offence alleged to have been committed by a child above 16 years of age, police has to submit statement of witnesses and other documents during the course of investigation within ONE MONTH from the date of first production of the child before the Board.

25.What is the procedure if police is unable to file final report as it is not reasonably known that the person involved in the offence is a child?

In such cases, extension of time may be granted by the Board for filing final report by Police.

26.Can the Board give a punishment of more than three years if after preliminary assessment the Board decides to conduct inquiry on itself?

If after preliminary assessment, the Board comes to the conclusion that the child committed the offence with a “child-like” mind then it will keep the case with itself and after inquiry it may give order to keep the child in a child care institution for a maximum of three years.

27.What happens in a case where the behavior or conduct of a child already placed in a Special Home is not in his best interest or in the interest of other children?

If the behavior of child placed in a Special Home is not in his interest or in the interest of other children then in such a case, the Board can order for the transfer of the child to a Place of safety.

28.What is the procedure for determining age of the child?

The Act under Section 94 gives two possible scenarios. In the first scenario, if on the basis of appearance of the child, the Board decides that the child brought before it is a child then in such case, it has to record its observation stating the age of child as nearly as may be and proceed with inquiry without waiting for further confirmation of age.

In the second scenario, if the Board has reasonable ground regarding age of child then it will follow the procedure as per Section 94(2), which is given below:

- (i) Date of birth certificate from the school or the matriculation or equivalent certificate from the examination Board concerned, and in the absence thereof;
- (ii) Birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) And only in the absence of (i) and (ii) age is to be determined by an ossification test or any other medical test for determining age of child. Provided the test is completed within 15 days of order by the Board.

29.What are different orders that a Board can give in respect of child found to be in conflict with law?

The orders that can be given by Board in respect of a child found to be conflict with law are listed in detail under Section 18 of the Act. These are summarized below:

- (i) Allow the child to home after advise and admonition
- (ii) Direct the child to participate in counseling
- (iii) Order the child to perform community service
- (iv) Release child on probation of good conduct and place with parent/guardian/fit person/fit facility
- (v) Send child to special home for not more than three years
- (vi) Order child to attend school/vocational training centre/therapeutic centre/undergo de-addiction programme
- (vii) Prohibit child from visiting a specified place
- (viii) Order for re-admission or continuation of the child in school where the child has been disallowed from continuing his education on account of pendency of inquiry or because the child has stayed in a child care institution for any length of time
- (ix) Issue rehabilitation card to monitor progress made by the child

30.What is the procedure, if a child runs away from an observation home or special home or place of safety?

If a child runs away from a home, the police is required to take charge of the child and produce him within twenty four hours before the Board, which had passed the original order in respect of that child. If the child is found in a different district or city or state then the child is to be produced before the nearest Board.

The Board is to determine the reasons as to why did the child run away and give appropriate directions keeping the best interest of child as the main consideration. The Board cannot initiate any additional proceedings in respect of such run-away child.

31. For how long is the Board required to maintain records of children in conflict with law?

The records of conviction in respect of a child in conflict with law are to be kept in safe custody till the expiry of the period of appeal or for a period of seven years, and no longer. Thereafter, the records are to be destroyed by the Board.

32. What are the provisions for appeal if a person is aggrieved by an order of the Board?

Any person aggrieved by the order of the Board can file an appeal in Children's Court within 30 days from the date of order. Any person aggrieved by an order of Children's court may file an appeal before the High Court. An appeal against an order of the Board after making preliminary assistance can be filed before a Court of Session





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TO COMPLAINT ABOUT CHILD ABUSE, PLEASE CALL US ON:

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