

# CHILDREN COURT RULES, 2018

## CONTENTS

	Rule	Page
PART 1		
CITATION, COMMENCEMENT AND POWERS		
Citation and Commencement	Rule 1.1	
Definitions	Rule 1.2	
Application of the Rules	Rule 1.3	
Effect of non-compliance of the Rules	Rule 1.4	
Who may exercise the powers of the Court	Rule 1.5	
Powers, authority and jurisdiction of the Registrar	Rule 1.6	
Powers, authority and jurisdiction of the Masters	Rule 1.7	
Court office	Rule 1.8	
Court's discretion as to where it deals with cases	Rule 1.9	
Time: Court to state calendar date	Rule 1.10	
Time: computation	Rule 1.11	
Meaning of "month"	Rule 1.12	
PART 2		
OVERRIDING OBJECTIVE		
The overriding objective	Rule 2.1	
Application by the Court of the overriding objective	Rule 2.2	
Duty of the Court to take account of the welfare of the child	Rule 2.3	
Duty of participants in the conduct of a children matter	Rule 2.4	

## PART 3

## SERVICE OF DOCUMENTS

Definitions	Rule 3.1
When this Part applies	Rule 3.2
Methods of service	Rule 3.3
Service by handing over	Rule 3.4
Service by delivery or posting	Rule 3.5
Service by electronic means	Rule 3.6
Service by person in custody	Rule 3.7
Service on a person in custody	Rule 3.8
Service by other methods	Rule 3.9
Service by specified means	Rule 3.10
Date of service	Rule 3.11
Proof of service	Rule 3.12

## PART 4

## DISCLOSURE

Disclosure	Rule 4.1
Prosecution's duty	Rule 4.2
Withholding of disclosable material	Rule 4.3

## PART 5

## CASE MANAGEMENT

Court's duty to manage cases	Rule 5.1
Case management: powers of the Court	Rule 5.2
Case progression officers and their duties	Rule 5.3
Case preparation and progression: general principles	Rule 5.4
Application to vary a direction	Rule 5.5
Agreement to vary a time limit fixed by a direction	Rule 5.6

## PART 6

## TRIAL MANAGEMENT

Court's duty to manage a trial	Rule 6.1
Trial management	Rule 6.2

## PART 7

COURT'S POWER TO ORDER INVESTIGATION  
AND APPOINT A CHILDREN'S PROBATION  
OFFICER

Mode of ordering investigation	Rule 7.1
Appointment of a Children's probation officer for the child	Rule 7.2
Person to conduct assessment, investigation and report	Rule 7.3

## PART 8

## STARTING A PROSECUTION

When this Part applies	Rule 8.1
Making a complaint	Rule 8.2
Content of complaint	Rule 8.3
Summons and warrant: Summary offences	Rule 8.4
Summons: Indictable offences	Rule 8.5
Initial details in criminal proceedings before a Magistrate	Rule 8.6
Content of initial details	Rule 8.7

## PART 9

## BAIL

When this Part applies	Rule 9.1
Bail hearing	Rule 9.2
Who shall be notified when bail is granted	Rule 9.3
Bail conditions	Rule 9.4
Court to make provision for care of child at Community Residence	Rule 9.5

## PART 10

## THE STEPS IN THE FLOW OF CASES

The phases of various children matters	Rule 10.1
The intake phase	Rule 10.2
Intake conference in intake phase: all children matters	Rule 10.3
The case preparation management phase in criminal matters (summary and indictable)	Rule 10.4
Summary matters: the hearing phase	Rule 10.5
Indictable matters: the preliminary enquiry phase	Rule 10.6
Indictable matters: the hearing phase	Rule 10.7
The sentencing phase: all matters	Rule 10.8
The monitoring phase: all matters	Rule 10.9
The hearing and management phase: beyond control/CHINS [s. 61 of Children Act (Chap 46:01)]	Rule 10.10
The hearing and management phase: all other matters	Rule 10.11

## PART 11

THE INTAKE AND CASE PREPARATION  
MANAGEMENT PHASES

Definitions	Rule 11.1
When this Part applies	Rule 11.2
Intake phase	Rule 11.3
Case preparation and management phase – all matters	Rule 11.4
Procedure at intake conference where child is under fourteen years charged	Rule 11.5
Procedure at intake conference where child is fourteen years and over charged but excluding murder and manslaughter	Rule 11.6
Procedure at intake conference for child charged in indictable matters including murder and manslaughter or where child elects indictable	Rule 11.7
Procedure at intake conference in sections 61, 81(1)(b) of the Children Act (Chap. 46:01)	Rule 11.8
Records of intake conference	Rule 11.9

## PART 12

SUMMARY MATTERS: THE HEARING PHASE—  
INITIAL HEARING

What is the initial hearing in summary matters	Rule 12.1
Application	Rule 12.2
Procedure of the hearing phase	Rule 12.3

## PART 13

INDICTABLE MATTERS: INITIAL HEARING—  
THE PRELIMINARY ENQUIRY PHASE

What is an initial hearing in indictable matters: preliminary enquiry	Rule 13.1
Who shall conduct an initial hearing at a preliminary enquiry	Rule 13.2
Application	Rule 13.3
Who may be present	Rule 13.4
Adjournment	Rule 13.5
Procedure at initial hearing	Rule 13.6
Procedure at preliminary enquiry	Rule 13.7

## PART 14

INDICTABLE MATTERS: THE TRIAL—  
THE HEARING PHASE

Initial hearing in indictable matters	Rule 14.1
Procedure for trial	Rule 14.2
Procedure on guilty plea	Rule 14.3
Procedure where a child committed for trial pleads not guilty	Rule 14.4
Procedure where a child committed for sentencing pleads not guilty	Rule 14.5

## PART 15

## MAXIMUM SENTENCE INDICATION HEARING

Application	Rule 15.1
Procedure for MSI	Rule 15.2
Duration of an MSI	Rule 15.3
Building effect of an MSI	Rule 15.4
Right of appeal against an MSI	Rule 15.5
Non acceptance of MSI	Rule 15.6

## PART 16

## THE SENTENCING PHASE: ALL MATTERS

Duty of the Court to explain sentence	Rule 16.1
Court to ask for pre-sentence report	Rule 16.2
Order for care of the child being sentenced	Rule 16.3
Order referring a child offender to Peer Resolution	Rule 16.4
Order referring a child offender to the Children Drug Treatment Court Process	Rule 16.5

## PART 17

## THE MONITORING PHASE: ALL MATTERS

Judicial supervision of child through monitoring hearing	Rule 17.1
Assignment of children's probation officer	Rule 17.2
Court may request the appearance of child	Rule 17.3
Further order to address the welfare of the child	Rule 17.4
Procedure on notice of non-compliance with Court orders made against children	Rule 17.5

## PART 18

## EVIDENCE AND SPECIAL MEASURES

Definitions	Rule 18.1
Evidence of a witness in person	Rule 18.2
Special measures directions	Rule 18.3
Alternative means of giving evidence	Rule 18.4
Application for special measures direction	Rule 18.5
Application for special measures directions: evidence by alternative means	Rule 18.6
Special measures direction for a child witness	Rule 18.7
Written witness statements	Rule 18.8
Video conferencing	Rule 18.9
Video digital recording	Rule 18.10
Video digital recording in cross-examination and re-examination	Rule 18.11
Evidence of a child through an intermediary or court interpreter	Rule 18.12
Taking of deposition by Registrar or Master using computer aided transcription, audio-digital recording or video digital recording.	Rule 18.13
Conducting hearings by telephone, video conference or other appropriate electronic means	Rule 18.14

## PART 19

APPLICATIONS UNDER THE CHILDREN ACT  
(CHAP. 46:01)

Scope of this Part	Rule 19.1
Who can make an application	Rule 19.2
Making an application	Rule 19.3
Duties of Clerk of the Peace	Rule 19.4
Fixing a date for an intake conference	Rule 19.5
Right of a child to legal representation	Rule 19.6
Hearing and management phase	Rule 19.7

## PART 20

## APPLICATIONS FOR ALL OTHER MATTERS

Procedure for all other matters	Rule 20.1
---------------------------------	-----------

## PART 21

PROCEEDINGS UNDER SECTION 57 OF THE  
CHILDREN ACT (CHAP. 46:01)

Proceedings for a section 57 order	Rule 21.1
------------------------------------	-----------

## PART 22

## PRACTICE DIRECTIONS AND GUIDES

Who may issue Practice Directions	Rule 22.1
Scope of Practice Directions	Rule 22.2
Publication of Practice Directions	Rule 22.3
Date from which Practice Directions take effect	Rule 22.4
Compliance with Practice Directions and practice guides	Rule 22.5

PART 23

FORMS AND DOCUMENTS

Forms Rule 23.1

Documents Rule 23.2

PART 24

TERM AND VACATION

Term and vacation Rule 24.1

Hearing of applications, etc., in vacations Rule 24.2

Days on which court office is open and office hours Rule 24.3

PART 25

TRANSITIONAL

Transitional Rule 25.1

LEGAL NOTICE No. 22

REPUBLIC OF TRINIDAD AND TOBAGO

THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01 THE SUMMARY  
COURTS ACT, CHAP. 4:20

THE INDICTABLE OFFENCES (PRELIMINARY ENQUIRY) ACT, CHAP. 12:01  
THE CRIMINAL PROCEDURE ACT, CHAP. 12:02

THE EVIDENCE ACT, CHAP. 7:02

THE CHILDREN ACT, CHAP. 46:01

THE FAMILY AND CHILDREN DIVISION ACT, 2016

## RULES

MADE BY THE RULES COMMITTEE UNDER SECTION 78 OF THE SUPREME COURT  
OF JUDICATURE ACT; SECTION 77(1) OF THE CRIMINAL PROCEDURE ACT;  
SECTION 14E OF THE EVIDENCE ACT; SECTION 117A OF THE CHILDREN ACT,  
CHAP. 46:01; SECTION 23 OF THE SUMMARY COURTS ACT, AND SECTION  
60(1)(F) OF THE FAMILY AND CHILDREN DIVISION ACT, 2016, SUBJECT TO  
NEGATIVE RESOLUTION OF PARLIAMENT

## THE CHILDREN COURT RULES, 2018

### PART 1

#### CITATION, COMMENCEMENT AND POWERS

##### Contents of this Part

Citation and Commencement	Rule 1.1
Definitions	Rule 1.2
Application of the Rules	Rule 1.3
Effect of noncompliance of the Rules	Rule 1.4
Who may exercise the powers of the Court	Rule 1.5
Powers, authority and jurisdiction of the Registrar	Rule 1.6
Powers, authority and jurisdiction of the Masters	Rule 1.7
Court office	Rule 1.8
Court's discretion as to where it deals with cases	Rule 1.9
Time: Court to state calendar date	Rule 1.10
Time: Computation	Rule 1.11
Meaning of "Month"	Rule 1.12

**Citation and Commencement**

1.1 These Rules may be cited as the Children Court Rules, 2018.

**Definition**

1.2 In these Rules, unless the context otherwise requires—

“appropriate adult” means a person over the age of eighteen years who is—

- (a) a social worker;
- (b) a welfare officer (probation);
- (c) a Clerk of the Peace;
- (d) an Attorney-at-law for the child;
- (e) any other responsible person with whom the child is comfortable; and
- (f) in the case of a child with a disability, the appropriate professional,

but does not include the following persons:

- (g) an accomplice;
- (h) a person, not being a parent, with previous convictions relating to a child or affecting that child within the last ten years;
- (i) a person, not being a parent on probation;
- (j) a member of the police service or any employee in the police service other than—
  - (i) a family member;
  - (ii) a person who is well-known to the child; or
  - (iii) a person with whom the child is comfortable; or
- (k) a person employed at a Rehabilitation Centre service other than—
  - (i) a family member;
  - (ii) a person who is well-known to the child; or
  - (iii) a person with whom the child is comfortable;

“Authority” means the Authority established under section 4 of the Children’s Authority Act (Chap. 46:10);

“careplan” means a plan which addresses the rehabilitative, social, emotional and therapeutic psycho-social needs of a child;

- “child” means any person under the age of eighteen years;
- “child offender” has the meaning assigned to under section 1A of the Child Rehabilitation Centre Act, (Chap. 13:05);
- “children care matter” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;
- “Children Court” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;
- “Children Court Judge” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;
- “Children Drug Treatment Court Process” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;
- “children matter” has the meaning assigned to under section 3 of the Family and Children Division Act, 2016;
- “Children’s Attorney” means an Attorney-at-law appointed in accordance with section 88 of the Children Act (Chap. 46:01);
- “Children’s Probation Officer” has the meaning assigned to it under section 2 of the Probation of Offenders Act, (Chap. 13:51);
- “company” has the meaning assigned to it under the Companies Act (Chap. 81:01);
- “complaint” includes information and is the initial document setting out the circumstances resulting in the child being brought before the Court;
- “corporation” includes a company both local and external, a body corporate or an unincorporated entity and partnership;
- “Court” includes the Supreme Court;
- “court office” means—
- (a) the place where documents are to be filed and includes a registry or sub-registry; and
  - (b) the place where work of a formal or administrative nature is to be dealt with by members of the court staff;
- “court officer” means the appropriate member of the staff at a court office;
- “Family Court” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;

“Judge” means a Children Court Judge as defined in section 3 of the Family and Children Division Act, 2016;

“Master” means a Children Court Master as defined in section 3 of the Family and Children Division Act, 2016;

“participant” means anyone involved in any way in a children matter;

“partnership” has the meaning assigned to it under the Partnership Act (Chap. 81:02);

“Peer Resolution” has the meaning assigned to it under section 3 of the Family and Children Division Act, 2016;

“Peer Resolution Centre Coordination Unit” means the Unit established under section 7(5)(b)(i) of the Family and Children Division Act, 2016;

“Rules” means the Children Court Rules, 2018.

#### **Application of the Rules**

1.3 (1) These Rules apply in—

- (a) any criminal matter in which a child is charged;
- (b) any matter in which an application is made in respect of a child and the attendance in Court of the child is required;
- (c) matters brought under section 61 of the Children Act (Chap. 46:01);
- (d) any matter in which a charge has been laid against a child, but the trial has not begun before the coming into force of these Rules; and
- (e) any other children matter.

(2) Notwithstanding subrule (1), where these Rules are silent, the Criminal Procedure Rules, 2016 shall apply.

#### **Effect of non-compliance with the Rules**

1.4 (1) A failure to comply with a rule does not nullify a proceeding, a step taken or any record or order made in the proceedings.

(2) Where a person fails to comply with a rule, a Court may make any order it considers just in the circumstances.

**Who may exercise the powers of the Court**

1.5 (1) Except where a statute, rule or Practice Direction provides otherwise, the functions of the Children Court may be exercised by any Judge, Master or Registrar, in accordance with the Family and Children Division Act, 2016.

(2) The Chief Justice may, by direction, allocate the work of the Children Court between Judges, Masters and Registrars.

**Powers, authority and jurisdiction of the Registrar**

1.6 (1) The Registrar shall have power to transact all business and exercise all authority and jurisdiction as may be transacted and exercised by a Clerk of the Peace or a Clerk of the Court.

(2) It shall be lawful for the Registrar stationed in Tobago, whenever there is no Judge or Master present in Tobago, and it is not possible for a Judge or Master to hear the matter by video-conferencing or by telephone, to make all such orders as may be necessary for the following purposes:

- (a) for matters in relation to the liberty of the child; and
- (b) for the granting of interim injunctions or other orders under section 23(5) of the Supreme Court of Judicature Act, (Chap. 4:01), except that the Registrar shall not be bound to make any order under the provisions of this rule, unless the urgency of the case and the interest of justice so require.

(3) The Registrar stationed in Tobago shall have power to alter, vary or discharge any order in relation to subrule (2).

**Powers, authority and jurisdiction of Masters**

1.7 (1) Subject to the provisions of subrule (2), a Master shall have power to transact all such business and exercise all such authority and jurisdiction as may be transacted or exercised by a Judge in respect of all children matters, including:

- (a) the conduct and determination of preliminary inquiries under the Indictable Offence (Preliminary Enquiry) Act (Chap. 12:01);
- (b) indictable matters to be dealt with summarily when ordered by a Judge either for case management or for trial and disposition;

- (c) the conduct and determination of summary matters;
- (d) applications pursuant to section 61 of the Children Act (Chap. 46:01);
- (e) applications pursuant to section 25 of the Children's Authority Act (Chap. 46:10); and
- (f) applications for bail under the Bail Act (Chap. 4:60).

(2) A Master shall not exercise any authority or jurisdiction in respect of the following:

- (a) applications for wardship;
- (b) trial on indictments;
- (c) proceedings for the grant of an injunction or other order under section 23(5) of the Supreme Court of Judicature Act (Chap. 4:01);
- (d) applications for judicial review or an application for a writ of *habeas corpus*;
- (e) an application for an order of committal in civil proceedings;
- (f) appeals from Registrars;
- (g) applications under section 34 of the Supreme Court of Judicature Act (Chap. 4:01) for leave to institute legal proceedings;
- (h) such business, authority and jurisdiction as the Chief Justice may from time to time direct to be transacted or exercised only by a Judge; and
- (i) proceedings in respect of which jurisdiction is given by any enactment specifically to a Judge and in which the decision of the Judge is final.

#### **Court office**

1.8 (1) Where these Rules refer to an act being done by the court office or require or permit the performance of an act of a formal or administrative character, that act may be performed by a member of the court office authorised in writing by the Chief Justice.

(2) Where these Rules expressly so provide, any other functions of the Court may be carried out by a member of the court office authorised in writing by the Chief Justice.

#### **Court's discretion as to where it deals with cases**

1.9 (1) The Court may deal with a case at any place that it considers appropriate.

(2) In considering what place may be appropriate, the Court shall consider the convenience of such place to the participants and their Attorneys-at-law.

**Time—Court to state calendar date**

1.10 When making a judgment, order or direction which imposes a time limit for imposing any act, the Court shall, wherever practicable—

- (a) state the calendar date; and
- (b) include the time of day,

by which such act may be done.

**Time—computation**

1.11(1) This rule shows how to calculate any period of time for doing any act which is fixed—

- (a) by these Rules;
- (b) by any Practice Direction; or
- (c) by any order of the Court.

(2) All periods of time expressed as a number of days are to be computed as clear days.

(3) In this rule “clear days” means that in computing the number of days, the day on which the period begins and the day on which the period ends are not included.

**Examples**

- (a) Notice of an application must be served at least three days before the hearing. If an application is to be heard on Friday 20th October, the last date for service is Monday 16th October.
- (b) A trial bundle must be filed not more than seven days before the date on which the trial is due to start. If the trial is due to start on Tuesday 17th October, the bundle must be filed on or after Monday 9th October.

(4) Where the specified period—

- (a) is five days or less; and
- (b) includes—
  - (i) a Saturday or Sunday; or
  - (ii) any other day on which the court office is closed, that day does not count.

(5) When the period fixed—

- (a) by these Rules;
- (b) by any Practice Direction; or

(c) by any order,  
for doing any act at the court office ends on a day on which the Court is closed, it shall be in time if done before 4 p.m. on the next day on which the Court is open.

- (6) When the period fixed—
- (a) by these Rules;
  - (b) by any practice direction; or
  - (c) by any order, for doing any act which does not need to be done at Court ends—
    - (i) on a Saturday or Sunday;
    - (ii) on any public holiday; or
    - (iii) on Carnival Monday or Carnival Tuesday,  
it shall be done before 4 p.m. on the next ordinary business day.

### **Meaning of “month”**

1.12 Where “month” occurs in any order or any other document, it means a calendar month.

## **PART 2**

### THE OVERRIDING OBJECTIVE

#### **Contents of this Part**

The overriding objective	Rule 2.1
Application by the Court of the overriding objective	Rule 2.2
Duty of the Court to take into account the welfare of the child	Rule 2.3
Duty of the participants in the conduct of a children matter	Rule 2.4

#### **The overriding objective**

2.1 (1) The overriding objective of these Rules is to enable the Court to act in the interest of justice and to—

- (a) promote a children justice system that will—
  - (i) deal with children matters justly;
  - (ii) provide for the treatment and rehabilitation of child offenders;
  - (iii) enable child offenders to live responsibly and productively;
  - (iv) promote accountability for violations of law; and
  - (v) protect the community.

- (2) In this section, “deal with children matters justly” includes –
- (a) presuming a child to be innocent until proven guilty by judicial process;
  - (b) recognising and upholding a child’s right to be heard;
  - (c) treating the prosecution, defence, and all other participants fairly;
  - (d) using effective and efficient case management for all children proceedings in order to secure a just and timely determination of each case and any measures which may be applicable;
  - (e) holding children accountable through measures that are proportionate to the seriousness of the offence and the degree of responsibility of the child;
  - (f) ensuring that appropriate information is available to the Court especially when bail and sentencing are under consideration;
  - (g) dealing with cases in ways which take into account—
    - (i) the complexity of the issues;
    - (ii) the age and maturation of the child;
    - (iii) the gravity of the offence alleged; and
    - (iv) the severity of the consequences, including bail proceedings for the child accused and others affected; and
  - (h) the Court adhering to its duty to manage cases pursuant to Part 6.

#### **Application by the Court of the overriding objective**

2.2 The Court shall seek to give effect to the overriding objective when it—

- (a) exercises any discretion given to it by Rules or any other written law;
- (b) interprets the meaning of any rule or Practice Direction;
- (c) manages a case; and
- (d) applies any Practice Direction.

#### **Duty of the Court to take into account the welfare of the child**

2.3 (1) It is the duty of the Court to take into account the welfare of any child who appears whether as a victim or witness.

(2) Where a Court is required to make a determination of what is in the best interest of the child, the Court shall consider and evaluate all factors affecting the child, having regard to the child's age and developmental needs.

- (3) The factors referred to in subrule (2) shall include—
- (a) food, shelter, health, clothing and anything affecting the physical safety and welfare of the child;
  - (b) love, affection, bonding, and emotional ties existing between—
    - (i) the child and each parent or person available to care for the child; and
    - (ii) the child and his siblings;
  - (c) the promotion of the child's nurturing and safety;
  - (d) the capacity and disposition of each parent or person available to care for the child to give him love, affection, and guidance and to continue the education and rearing of the child;
  - (e) the mental and physical health of all individuals involved in the child's life;
  - (f) the home environment of each parent or person available to care for the child and the child's sense of attachments, including his sense of security, familiarity and continuity;
  - (g) the child's need for permanence, including the child's need for stability and continuity of relationships with his parent, siblings, other relatives, and any other person who has provided significant care to the child;
  - (h) the stability of the family unit and the presence or absence of support systems within the community to benefit the child;
  - (i) the school and community record and history of a child, including familial, friends, cultural, religious as well as health or educational special needs;
  - (j) the least disruptive placement for the child;
  - (k) the risks attendant on placing the child;
  - (l) evidence of family violence, substance abuse, criminal history, or sexual, mental, or physical child abuse in any present, past, or home being considered for the child;
  - (m) the child's wishes and long-term goals;

- (n) the views of the parent or persons available to care for such child;
- (o) recommendations of the Authority or Children’s Attorney in relation to custody; and
- (p) any other factors considered by the Court to be relevant and proper to its determination.

(4) In this subrule, “sibling” includes half sibling and step sibling.

#### **Duty of the participants in the conduct of a children matter**

2.4 (1) Each participant shall—

- (a) prepare and conduct the case in accordance with the overriding objective;
- (b) comply with these rules, Practice Directions and directions made by the Court; and
- (c) at once, inform the Court and all participants, of any failure (whether or not that participant is responsible for that failure) by any participant to—
  - (i) take any procedural step required by these Rules;
  - (ii) follow any Practice Direction; or
  - (iii) direction of the Court.

### **PART 3**

#### SERVICE OF DOCUMENTS

##### **Contents of this Part**

Definitions	Rule 3.1
When this Part applies	Rule 3.2
Methods of service	Rule 3.3
Service by handing over	Rule 3.4
Service by delivery	Rule 3.5
Service by electronic means	Rule 3.6
Service by person in custody	Rule 3.7
Service on a person in custody	Rule 3.8
Service by other methods	Rule 3.9
Service by specified means	Rule 3.10
Date of service	Rule 3.11
Proof of service	Rule 3.12

**Definition**

3.1 In this Part—

“custodian” means the Manager of a Rehabilitation Centre or the Keeper of the prisons;

“Keeper” has the meaning assigned to it under section 2 of the Summary Courts Act (Chap. 4:20);

**When this Part applies**

3.2 The rules in this Part apply to the service of every document in a case to which these Rules apply, subject to any written law or Practice Direction.

**Methods of service**

3.3 A document may be served by—

- (a) handing over (rule 3.4);
- (b) electronic means (rule 3.6);
- (c) by other methods (rule 3.9); or
- (d) by specified means (rule 3.10).

**Service by handing over**

3.4 (1) A document may be served on—

- (a) an individual, by handing it to, or leaving it with that person;
- (b) a corporation, by handing it to a senior officer of that corporation or by complying with section 491 of the Companies Act (Chap. 81:01); and
- (c) a corporation or an individual who is legally represented in the case, by handing it to that representative.

(2) Where a document is left in accordance with subrule (1), the nature and the contents must be explained by the serving participant.

(3) If an individual is a child, a copy of a document served under subrule (1)(a) shall be handed to the child’s parent, guardian or person with responsibility for the child or where no such person is readily available, an application shall be made to the Court for an alternative means of service.

**Service by delivery**

3.5 (1) A document may be served by addressing it to the person to be served and delivering and leaving it at the appropriate address for service under this rule.

- (2) The address for service under this rule is on—
  - (a) an individual, at an address which is the known address of the individual or at an address where it is reasonably believed that he will receive it;
  - (b) an individual who is a child, at an address of the child's parent, guardian or person with responsibility for the child;
  - (c) a corporation, at its registered office, and if there is no readily identifiable registered office, then any place where it carries on its activities or business; and
  - (d) a corporation or an individual who is legally represented in the case, at that representative's office.

**Service by electronic means**

- 3.6 (1) This rule applies where—
  - (a) the person to be served—
    - (i) has given an electronic address; and
    - (ii) has not refused to accept service by electronic means;or
  - (b) the person to be served is legally represented in the case and the representative has given an electronic address.

(2) Where a document may be served by electronic means under this rule, the general rule is that the person serving it shall use that method.

(3) A document may be served by transmitting it by electronic means to that person or representative, as appropriate, at that address.

(4) Where a document is served under this rule, the person serving it need not provide a paper copy as well.

**Service by a person in custody**

3.7 (1) A person in custody may serve a document by handing it to the custodian and addressed to the person to be served.

- (2) The custodian shall—
  - (a) endorse it with the time and date of receipt;
  - (b) record its receipt; and
  - (c) deliver or cause it to be delivered promptly to the addressee.

(3) The custodian shall provide the person in custody with a receipt for the document handed to him for service, and shall endorse on a copy of the document retained by the person in custody, the time and date of receipt.

#### **Service on a person in custody**

3.8 (1) A document may be served on a person in custody by handing it to the custodian or a person designated by him addressed to the person to be served.

(2) The custodian or the person designated by him shall—

- (a) endorse it with the time and date of receipt;
- (b) record its receipt; and
- (c) deliver or cause it to be delivered promptly to the addressee.

(3) The custodian shall provide the person in custody with the document handed to him for service.

#### **Service by other methods**

3.9 When the Court permits service of a document by a method other than that specified in these Rules or in any other written law, the order shall specify—

- (a) the method to be used; and
- (b) the date by which the document is to be served.

#### **Service by specified means**

3.10 Notwithstanding any rule in this Part, where any written law or any order of the Court or Rule of Court states how a document shall be served, the document shall be served in that way.

#### **Date of service**

3.11 (1) Unless otherwise shown, a document served other than by handing over is deemed to be served—

- (a) in the case of a document left at an address, on the next business day after the day on which it was left;
- (b) in the case of a document sent by pre-paid post or by the equivalent of pre-paid post, on the fifth business day after the day on which it was posted or despatched;
- (c) in the case of a document transmitted by electronic means, on the day it was transmitted; and
- (d) in any other case, on the day on which the addressee responds to it, if that is earlier.

(2) Where a document is served on, or by a court officer, “business day” does not include a day on which the Court office is closed.

#### **Proof of service**

- 3.12 The person who serves a document may prove service by—
- (a) swearing an affidavit explaining how and when it was served; or
  - (b) making oral oath or affirmation in Court.

### **PART 4**

#### **DISCLOSURE**

#### **Contents of this Part**

Disclosure	Rule 4.1
Prosecution’s duty	Rule 4.2
Withholding of disclosable material	Rule 4.3

#### **Disclosure**

- 4.1 The Court shall give directions for disclosure including—
- (a) fixing a date by which the prosecution shall disclose to the child all the evidence they intend to rely upon at trial;
  - (b) fixing a date by which the prosecution shall disclose any material in the possession of the prosecution that they do not intend to use at trial which materially weakens the prosecution case or assists the accused;
  - (c) fixing a date by which an Attorney-at-law for the child may be permitted to inspect and copy relevant material if disclosure is not made available under paragraph (b); or
  - (d) fixing a date by which the prosecution shall confirm that any material in the possession of the prosecution, that they do not intend to use at trial, which materially weakens the prosecution case or assists the accused, has been served on the child.

#### **Prosecution’s duty**

- 4.2 The prosecution’s duty of disclosure under rule 4.1 is on-going.

#### **Withholding of disclosable material**

4.3 An application may be made to the Court to withhold disclosable material on the basis of public interest immunity.

**PART 5**

## CASE MANAGEMENT

**Contents of this Part**

Court's duty to manage cases	Rule 5.1
Case management: powers of the Court	Rule 5.2
Case progression officers and their duties	Rule 5.3
Case preparation and progression: general principles	Rule 5.4
Application to vary a direction	Rule 5.5
Agreement to vary a time limit fixed by a direction	Rule 5.6

**Court's duty to manage cases**

5.1 (1) The Court shall further the overriding objective by actively managing cases at each stage of the proceedings from commencement to termination.

- (2) In this Part, “actively managing cases” includes—
- (a) avoiding delay in the proceedings of the case;
  - (b) ensuring that a child appearing before the Court has legal representation at all times and as soon as possible;
  - (c) early identification of the issues;
  - (d) early identification of the needs of witnesses;
  - (e) achieving certainty as to what shall be done by whom and when, in particular by the early setting of a timetable for the progress of the case and otherwise establishing case management plans based on the identified issues and needs of each case;
  - (f) adhering to the timetable set for the progress of the case by limiting adjournments and otherwise enforcing the timetable;
  - (g) deciding which cases may benefit from early referral for rehabilitative intervention and doing so as early as possible;
  - (h) maintaining Court control of case scheduling;
  - (i) establishing and enforcing timelines for hearings to resolve issues;
  - (j) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;

- (k) ensuring that all of the information required to make decisions as to the care, custody and control of any children in the case is before the Court at the appropriate time;
- (l) encouraging the participants to co-operate in the progression of the case; and
- (m) giving any directions appropriate to the needs of that case as early as possible and modifying directions where necessary.

(3) In this Part, “rehabilitative interventions” include Peer Resolution, the Children Drug Treatment Court Process and other programmes designed to assist children.

(4) The Court shall ensure that—

- (a) participants are apprised of their duty to act to help resolve cases efficiently;
- (b) participants help to resolve cases consistent with the needs of the case with respect to—
  - (i) what action shall be taken;
  - (ii) the persons who shall take action; and
  - (iii) when any action shall be employed; and
- (c) the case management plan to create maximum predictability of Court procedures, timelines and outcomes is enforced.

(5) The Court shall seek to deal with as many aspects of the case, as is practicable, on the same occasion.

(6) Where it appears appropriate so to do, the Court may proceed to conduct a hearing by means of—

- (a) written documents;
- (b) the telephone; or
- (c) video conferences or any other appropriate electronic means,

instead of requiring the attendance of participants and their lawyers in Court.

(7) The Court may make appropriate use of technology to facilitate the participants and case management.

**Case management powers of the Court**

5.2 (1) In fulfilling its duty under rule 5.1 (Court's duty to manage cases) the Court may give any direction and take any step to manage a case actively unless that direction or step would be inconsistent with these Rules or any other written law.

(2) In managing a case actively, the Court may—

- (a) nominate a Judge or Master to manage the case;
- (b) give a direction on its own initiative or on an application by a participant;
- (c) ask or permit a participant to propose a direction;
- (d) receive applications and representations by letter and by telephone or any other appropriate electronic means, and conduct a hearing by such means;
- (e) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
- (f) give directions without a hearing;
- (g) shorten or extend a time limit fixed by a direction;
- (h) require that issues in the case be—
  - (i) identified in writing; and
  - (ii) determined separately and in a particular order;
- (i) require participants to—
  - (i) file in Court written submissions, including a no case submission by the defence, and a reply by the prosecution; and
  - (ii) serve the submissions and replies referred to in subparagraph (i) on a date or within a period specified by the Court; and
- (j) specify the consequences of failing to comply with a direction.

(3) Any power to give a direction under this Part includes a power to vary or revoke that direction.

(4) If a participant fails to comply with a rule or a direction, the Court may—

- (a) fix, postpone, bring forward, extend, cancel or adjourn a hearing; and
- (b) impose such other sanction as may be appropriate.

**Case progression officers and their duties**

5.3 (1) In fulfilling its duty to manage cases, the Court shall, where appropriate, nominate a court officer to be known as a “Court case progression officer” who shall be responsible for the progression of the case.

(2) The Court shall ensure that the participants know the identity of the Court case progression officer and how he can be contacted.

(3) In addition to the Court case progression officer, nominated by the Court and unless the Court directs otherwise, each participant shall nominate a Court case progression officer at the intake conference and inform the other participant as to the name and contact information of that person.

(4) A Court case progression officer shall—

- (a) monitor compliance with directions;
- (b) ensure that the Court is kept informed of events that may affect the progress of the case;
- (c) ensure that he can be contacted promptly about the case during ordinary business hours; and
- (d) act promptly and reasonably in response to communications about the case.

**Case preparation and progression—general principles**

5.4 (1) At every hearing, the Court may—

- (a) take the child’s plea (unless already done) or if no plea can be taken, ascertain whether the child is likely to plead guilty or not guilty; and
- (b) where a direction has not been complied with, enquire into the reasons for non-compliance, identify who was responsible, and take appropriate action.

(2) In order to prepare for the hearing, the Court shall take every reasonable step—

- (a) to encourage and to facilitate the attendance of witnesses when they are needed; and
- (b) to facilitate the participation of any person, including the child or child in respect of whom an application is being made.

(3) In this subrule, “facilitate the participation”, in relation to a child, includes—

- (a) the appointment of an intermediary in accordance with section 99 of the Children Act (Chap. 46:01);
- (b) the referral of the child to the Children Court Witness Support Unit;
- (c) the appointment of a Children’s Attorney for the child pursuant to section 88 of the Children Act (Chap. 46:01);
- (d) the decision to hear a child’s evidence by video-digital recording or by any other appropriate electronic means;
- (e) the provision of money for ground transportation to and from the Court for the child and his parent, guardian or person with responsibility for the child and witnesses; and
- (f) any other order that the Court may deem appropriate.

(4) The Court shall make every effort to conclude the case at the hearing, and where it is not concluded, shall give directions to conclude the case at the next hearing or as soon as possible.

#### **Application to vary a direction**

5.5 (1) A participant may apply to vary a direction if—

- (a) the Court gave the direction without a hearing;
- (b) the Court gave the direction at a hearing in his absence;  
or
- (c) circumstances have changed.

(2) A participant who applies to vary a direction shall—

- (a) apply as soon as practicable after he becomes aware of the grounds for so doing; and
- (b) give as much notice to the other participants as the nature and urgency of his application permits.

#### **Agreement to vary a time limit fixed by a direction**

5.6 (1) Where the participants agree to vary a time limit fixed by the Court, they shall make an application to the Court to vary the time limit stating reasons.

- (2) The Court may grant the application where—
- (a) the variation does not—
    - (i) affect the date of any hearing that has been fixed; or
    - (ii) significantly affect the progress of the case;
  - (b) the Court has not prohibited variation by agreement; and
  - (c) the Court’s case progression officer has been promptly informed.

## PART 6

### TRIAL MANAGEMENT

#### Contents of this Part

Court’s duty to manage a trial	Rule 6.1
Trial management	Rule 6.2

#### Courts duty to manage a trial

6.1 The Court’s duty is to manage a trial in accordance with the overriding objective.

#### Trial management

- 6.2 (1) In order to manage a trial the Court shall—
- (a) establish, with the active assistance of the participants, the disputed issues;
  - (b) determine how the trial will proceed by giving directions as to the procedure to be followed at trial;
  - (c) set a timetable that takes account of the disputed issues and any timetable proposed by a participant;
  - (d) estimate the total length of the trial;
  - (e) allocate times for the participants; and
  - (f) set a date for trial.

(2) The Court shall ensure that adjournments are kept to a minimum and that requests are made in accordance with the overriding objective.

(3) The Court may make orders setting reasonable time limits for compliance with its orders and directions.

(4) Subject to any written law, the Court may require a participant to state the following information either orally or in writing using Form 4 in the Schedule of the Criminal Procedure Rules, 2016:

- (a) the witnesses whom the participant wants to give evidence in person;
- (b) the order in which the participants witnesses are to give evidence;
- (c) whether that participant requires an order compelling the attendance of any person including a witness;
- (d) the arrangements or special measures that are desirable and appropriate to facilitate the giving of evidence by a witness;
- (e) the arrangements that are desirable and appropriate to facilitate the participation of any other person, including the child, the child in respect of whom an application is being made or the expert witnesses;
- (f) any written or other evidence that the participant intends to introduce;
- (g) any facts and evidence that can be agreed upon between the participants;
- (h) issues which may require a ruling as to admissibility of evidence;
- (i) other material, if any, that a person intends to make available to the Court in the presentation of the case;
- (j) any participant who intends to raise any point of law that could affect the conduct of the trial or appeal; and
- (k) any relevant disclosure requested by a participant;

(5) The Court shall—

- (a) set a timetable for the service of skeleton arguments and lists of authorities upon which the participant intends to rely; and
- (b) limit—
  - (i) the examination, cross-examination or re-examination of a witness; and
  - (ii) the duration of any stage of the hearing;
- (c) direct that the case be heard in another Court; and
- (d) require a participant to give a certificate of readiness before the trial using Forms 2 and 3 in the Schedule to the Criminal Procedure Rules, 2016.

(6) In matters being heard indictably, the Court shall require a completed hearing questionnaire using Form 4 in the Schedule of the Criminal Procedure Rules, 2016.

(7) Notwithstanding subrule (6), if any participant fails to file a hearing questionnaire in the time given by the Court, the Court may list the matter.

(8) The Court shall set the matter for trial within a reasonable time having regard to the overriding objective of these Rules and the welfare of the child.

## PART 7

### COURT'S POWERS TO ORDER INVESTIGATION AND APPOINT A CHILDREN'S PROBATION OFFICER

#### Contents of this Part

Mode of ordering investigation	Rule 7.1
Appointment of a Children's Probation Officer for the child	Rule 7.2
Person to conduct assessment, investigation and report	Rule 7.3

#### Mode of ordering investigation

7.1 Where any written law provides that the Court may order an investigation into any matter, the Court may do so by Order directed to the investigator or investigating agency.

#### Appointment of a Children's Probation Officer

7.2 The Court may at any time appoint a Children's Probation Officer to report on any matter relating to the welfare of any child and may call for this report at any time.

#### Person to conduct an assessment, investigation and report

7.3 (1) Where a Court requires an assessment, investigation and report on a child or person associated with a child to determine what provision shall be made for the care of that child pending hearing, during hearing or post hearing, the Court may order that a suitably qualified Children's Probation Officer or other suitably qualified person conduct such assessment, investigation and report on the child or person.

(2) Where the order is made for a Children's Probation Officer to conduct an assessment, the order shall be directed to the Children's Probation Officer and copied to the Chief Probation Officer.

**PART 8**

## STARTING A PROSECUTION

**Contents of this Part**

When this Part applies	Rule 8.1
Making a complaint	Rule 8.2
Content of complaint	Rule 8.3
Summons and warrant: Summary offences	Rule 8.4
Summons: Indictable offences	Rule 8.5
Initial details in criminal proceedings before a Judge, Master or Magistrate	Rule 8.6
Content of initial details	Rule 8.7

**When this part applies**

- 8.1 This Part applies to proceedings in a Children Court where—
- (a) proceedings have been instituted against a child in accordance with Part III of the Summary Courts Act (Chap. 4.20); and the Indictable Offences (Preliminary Enquiry) Act (Chap. 12.01); or
  - (b) a child who is in custody and charged with an offence appears before a Master or Magistrate or Judge.

**Making a complaint**

8.2 (1) Any person may make a complaint against a child alleged to have committed a summary offence, unless a written law states otherwise.

(2) Every complaint may be made by the complainant in person, or by his Attorney-at-law or by any person authorised in writing on his behalf.

(3) Notwithstanding subrule (1), a complaint shall be made in writing where it is required to be so by the written law on which it is founded, or by some other written law.

(4) Where a complaint is made orally to any person designated by the Chief Justice to receive the complaint, he shall reduce it to writing.

(5) Subject to any written law, a complaint may be made on, or without oath.

**Contents of the complaint**

- 8.3 (1) Every complaint shall be for one offence only.
- (2) In the statement of the offence, it shall be sufficient to use—
- (a) the words of the written law creating the specific offence, describing the offence with which the child is charged and without necessarily detailing all the essential elements of the offence;
  - (b) ordinary language using similar words to the words of the written law creating the offence;
  - (c) such particulars as may be necessary for giving reasonable information as to the nature of the charge; and
  - (d) words which identify the written law to which the offence relates.
- (3) The statement of the complaint shall state—
- (a) the time of the offence; and
  - (b) the place where the offence was committed.

**Summons and warrant: Summary offences**

8.4 (1) Where a complaint has been made that any child has committed, or is suspected of having committed any summary offence, a Justice may issue a summons directed to the child—

- (a) stating the substance of the complaint; and
- (b) requiring the child to appear at a place and time stated in the summons.

(2) The summons must be served on the child not less than forty-eight hours before the time set for the child to appear.

(3) A Justice may, on receipt on oath of a complaint made in writing for any summary offence, instead of issuing a summons, issue a warrant to bring the child against whom the complaint has been made before the Court.

**Summons: Indictable offences**

8.5 (1) Where a complaint is made to a Justice against a child who has committed an indictable offence, a Justice shall issue a summons or warrant in accordance with section 6 of the Indictable Offences (Preliminary Enquiry) Act (Chap. 12:01).

(2) A Justice may issue a summons to a child although there is no complaint in writing upon oath.

(3) The summons shall be directed to the child and shall require him to appear at the time and place mentioned in the summons.

(4) Every summons shall be served by a police officer upon the child who is accused in accordance with rule 3.3, either by delivering it to him personally or if he cannot be found, by leaving it with some person for him at his last or most usual place of abode.

**Initial details in criminal proceedings before a Judge, Master or Magistrate**

8.6 (1) The prosecutor shall serve a summary of the initial details of the prosecution's case on the court office—

- (a) as soon as practicable; and
- (b) no later than the commencement of the first intake conference.

(2) Where a request is made for a summary of initial details by the Attorney-at-law on behalf of a child, the prosecutor shall serve it on the child or his Attorney-at-law in accordance with rule 3.3 as soon as practicable.

(3) Where an Attorney-at-law does not request the initial details, the prosecutor shall make them available to the child and his parent, guardian or person with responsibility for the child at, or before, the commencement of the first intake conference.

**Content of initial details**

8.7 Initial details of the prosecution's case shall include a summary of the evidence and any supporting document and the child's previous convictions.

**PART 9**

BAIL

**Contents of this Part**

When this Part applies	Rule 9.1
Bail hearing	Rule 9.2
Who shall be notified when bail is granted	Rule 9.3
Bail conditions	Rule 9.4
Court to make provision for care of child at Community Residence	Rule 9.5

**When this Part applies**

9.1 This Part applies when a child has been charged with an offence.

**Bail Hearing**

9.2 (1) Bail may be granted at any stage of the proceedings in accordance with the Bail Act (Chap 4:60).

(2) The Court shall not grant an adjournment in respect of bail of more than two days.

(3) The prosecution may seek an extension of the adjournment referred to in subrule (2) for no more than five days.

(4) The Defence Counsel, Children's Attorney or any participant representing the interest of the child may seek an extension of the adjournment referred to in subrule (2) for no more than five days.

(5) Where the child receives bail he can be released to a fit person as defined in section 3 of the Children's Authority Act (Chap. 46:10).

(6) Where the child receives bail and cannot be released to a fit person, the Court shall make an order remanding him to a Community Residence in accordance with the Children Act (Chap. 46:01).

**Who shall be notified when bail is granted**

9.3 When bail is granted, the Court office shall notify the following persons:

- (a) the virtual complainant;
- (b) the Children's Authority;
- (c) any Community Residence to which the child had been assigned;
- (d) the Chief Probation Officer and the child's probation officer (if any);
- (e) the charging officer;
- (f) the Child Protection Unit of the Police Service;
- (g) the prosecution; and
- (h) any other person or agency that the Court may deem fit having regard to the terms of bail.

**Determining the granting of bail**

9.4 In considering whether to grant bail to a child, the Court may take into consideration—

- (a) the nature of the offence allegedly committed;
- (b) the age of the child;
- (c) any assessments which have been conducted; and
- (d) any relevant reports.

**Bail conditions**

9.5 In determining the conditions of bail, the Court may take into account recommendations from—

- (a) all participants or their representatives;
- (b) the Authority; and
- (c) the Children’s Attorney.

**Court to make orders for the provision for care of child at Community****Residence**

9.6 Where any child is remanded to a Community Residence, the Court shall make such orders and give such directions as may be necessary to provide for the care and welfare of the child.

**Appeal**

9.7 An appeal shall lie against a decision of a Judge or Master under this Part.

**PART 10****STEPS IN THE FLOW OF CASES****Contents of this Part**

The phases of various children matters	Rule 10.1
The intake phase	Rule 10.2
Intake conference in intake phase: all children matters	Rule 10.3
The case preparation management phase in criminal matters (indictable and summary)	Rule 10.4
Summary matters: the hearing phase	Rule 10.5
Indictable matters: the preliminary enquiry phase	Rule 10.6
Indictable matters: the hearing phase	Rule 10.7
The sentencing phase: all matters	Rule 10.8
The monitoring phase: all matters	Rule 10.9

---

The hearing and management phase: beyond control/ CHINS [sections 61 of Children Act (Chap. 46:01)]	Rule 10.10
The hearing and management phase: all other matters	Rule 10.11

**The phases of various children matters**

10.1(1) Children matters shall proceed through the following phases:

- (a) summary matters, the—
  - (i) intake phase;
  - (ii) case preparation and management phase;
  - (iii) hearing phase;
  - (iv) sentencing phase; and
  - (v) monitoring phase;
- (b) indictable matters, the—
  - (i) intake phase;
  - (ii) case preparation and management phase;
  - (iii) preliminary enquiry phase;
  - (iv) hearing phase;
  - (v) sentencing phase; and
  - (vi) monitoring phase; and
- (c) children in need of supervision (hereinafter known as “CHINS” ) matters and all other matters the—
  - (i) intake phase; and
  - (ii) hearing and management phase.

**The intake phase**

10.2 The intake phase applies to all matters before the Court including the following matters:

- (a) summary;
- (b) indictable;
- (c) CHINS; and
- (d) any matter under section 81(1)(b) of the Children Act (Chap. 46:01).

**Intake conference in intake phase—all children matters**

10.3 (1) In all matters before the Court referred to in rule 10.1(a) to (c), a child or child in respect of whom an application is being made, shall first attend an intake conference presided over by a Judge or Master.

(2) The intake conference may be adjourned to allow time for assessments of the child or the delivery of other relevant reports.

**The case preparation and management phase in criminal matters (indictable and summary)**

10.4 There shall be a case preparation and management phase during which the participants shall prepare for the initial hearing by complying with the Orders and procedures relevant to the initial hearing.

**Summary matters: the hearing phase**

10.5 (1) The hearing phase in summary matters—

- (a) begins with an initial hearing in which trial management orders may be made;
- (b) continues through the actual hearing; and
- (c) concludes with—
  - (i) a finding of not guilty and the discharge of the child; or
  - (ii) a finding of guilty.

**Indictable matters: the preliminary enquiry phase**

10.6 (1) The preliminary enquiry phase of a matter being heard indictably—

- (a) begins with a preliminary review hearing in which appropriate trial management orders may be made; and
- (b) continues to the order for committal or discharge.

(2) If the matter proceeds by paper committal procedures, the phase begins when the prosecution indicates that it will proceed by written statements, and ends with a committal or discharge.

**Indictable matters: the hearing phase**

10.7 (1) The hearing phase in a matter being heard indictably—

- (a) begins with an indictment being proffered;
- (b) continues with—
  - (i) an initial hearing in which trial management orders may be made; and
  - (ii) the actual hearing of the matter; and
- (c) concludes with the finding of guilty or not guilty.

**The sentencing phase: all matters**

10.8 (1) Where the child is found guilty, the matter proceeds to the sentencing phase and the Court may—

- (a) make any orders necessary, including orders for monitoring and reporting by a probation officer, the Children's Authority, a social worker and any other appropriate person or body; or
- (b) request and receive reports, assessments and recommendations which will guide its decisions as to the orders that should be made for the sentence, sanctions, care and development of the child.

(2) The sentencing phase ends with the Court making the sentencing orders for the child.

**The monitoring phase: all matters**

10.9 (1) In the monitoring phase, the child's progress is monitored by the Court, which may require the attendance of the child at any time.

(2) The Court may, in accordance with any written law, seek reports in writing and in person, from appropriate persons or agencies with regard to the child's care and progress.

(3) The Court may, in accordance with any written law, make further orders with regard to the care or supervision of the child.

(4) The monitoring phase ends when the period of the child's sentence expires or the child is otherwise discharged.

**The hearing and management phase: sections 61 of the Children Act (Chap. 46:01)**

10.10 (1) The hearing and management phase begins when the Court sets a date to hear all the participants including the child.

- (2) The hearing and management phase ends when—
  - (a) the Court discharges the child from its supervision or care or that of the Authority; or
  - (b) the child attains the age of eighteen years.

**The hearing and management phase: all other matters**

10.11 (1) In all other matters before the Court, the hearing and management phase begins when the Court sets a date to hear all the participants, including the child.

- (2) The hearing and management phase ends when—
  - (a) the Court discharges the child from its supervision or care or that of the Authority; or
  - (b) the child attains the age of eighteen years.

**PART 11**

## THE INTAKE AND CASE PREPARATION AND MANAGEMENT PHASES

**Contents of this Part**

Definitions	Rule 11.1
When this Part applies	Rule 11.2
Intake phase	Rule 11.3
Case preparation and management phase all matters	Rule 11.4
Procedure at intake conference where child under fourteen charged	Rule 11.5
Procedure at intake conference where child fourteen and over charged but excluding murder and manslaughter	Rule 11.6
Procedure at intake conference for child charged in indictable matters including murder and manslaughter or where child elects indictable proceedings	Rule 11.7
Procedure at intake conference in sections 61 of the Children Act (Chap. 46:01)	Rule 11.8
Records of intake conference	Rule 11.9

**Definitions**

## 1.1 In this Part—

“caseplan” means a plan for each child which details the services which should be provided for the child either pending further appearance or during detention.

**When this Part applies**

11.2 This Part applies to the intake and case management of the phases of the steps in the flow of cases (Part 10) in all cases where children come before the Court.

**Intake phase**

11.3 (1) The Court shall hold an initial intake conference as soon as possible after a child is charged or an application is made.

## (2) At the initial intake conference the Court shall—

- (a) consider urgent issues which affect the liberty of the child or the immediate welfare of the child;
- (b) dispense with matters which can be disposed of quickly;

- (c) verify the identification and personal particulars of the child, parent, guardian or person with responsibility for the child or the appropriate adult;
- (d) inform the child and the parent, guardian or person with responsibility for the child, or the appropriate adult, of the child's legal rights, including his right to an Attorney-at-law, in a language that they can all understand;
- (e) ensure that a child has legal representation at all times;
- (f) hear an application for bail and an application to reconsider bail in accordance with the Bail Act (Chap. 4:60);
- (g) move forward indictable matters and summary matters in which there will be pleas of guilty;
- (h) call for and receive reports relevant to the child;
- (i) give directions for initial hearings in summary or indictable matters;
- (j) in indictable matters, inquire from the prosecution the mode of presentation of evidence;
- (k) make arrangements for the care of the child pending any further hearing;
- (l) develop a case plan for the child;
- (m) address the care of the child; or
- (n) make interim orders in applications.

(3) The general principle is that intake conferences should not exceed five sittings, however, each case shall be dealt with on its own merits.

(4) An intake conference may be adjourned to receive assessments and reports and to address further issues.

**Case preparation and management phase: all matters**

11.4 (1) The case preparation and management phase includes—

- (a) preparing for the initial hearing in summary matters or for the preliminary enquiry in matters heard indictably;
- (b) ensuring that the summary trial or the preliminary enquiry can be set for hearing without delay;
- (c) ensuring the efficient management and timely conclusion of the summary trial or the preliminary enquiry;

- (d) ensuring compliance with directions of the Court;
  - (e) giving further directions of the Court as required; and
  - (f) dealing with any other matter that the Court deems fit.
- (2) Preparation for the initial hearing by the participants includes—
- (a) complying with directions and orders made by the Court in the intake phase;
  - (b) preparing, and if required, filing any forms and questionnaires pursuant to these rules;
  - (c) making applications for further directions; and
  - (d) keeping the case progression officers informed pursuant to these Rules and by any orders of the Court.

**Procedure at intake conference where child under the age of fourteen is charged**

11.5 (1) At an intake conference, when a child under the age of fourteen years is charged with a criminal offence other than murder or man-slaughter, the Court shall—

- (a) enquire of the prosecutor whether—
  - (i) legal representation was provided for the child in accordance with section 15B of the Legal Aid and Advisory Act (Chap. 7:07) or privately;
  - (ii) the Authority has been notified;
  - (iii) the parent, legal guardian or person with responsibility for the child has been identified and notified of the proceedings; and
  - (iv) the child has been granted police bail;
- (b) verify the identity, place of abode or address of the child accused and other contact information of the child and that of his parent, guardian or person with responsibility for the child;
- (c) verify as far as possible the age of the child;
- (d) inform the child, in language he can understand, of his right to legal representation;
- (e) enquire from the parent, guardian or person with responsibility for the child as to whether the child is represented by an Attorney-at-law or whether an application needs to be made to the Legal Aid and Advisory Authority for the appointment of an Attorney-at-law;

- (f) where the child is represented, record the appearance of the Attorney-at-law and whether the Attorney-at-law is Duty Counsel;
- (g) where the parent, guardian or person with responsibility for the child requests an opportunity to retain an Attorney-at-law, fix a date by which an Attorney-at-law shall be retained or make an order for legal aid to be granted, within seven days;
- (h) inform the child of the charge by reading the charge and providing a copy of the charge to the child and the parent, guardian or person with responsibility for the child and the Attorney-at-law for the child;
- (i) make a determination as to whether the child requires an interpreter or intermediary; and
- (j) explain in terms the child can understand (with the assistance of an intermediary, if necessary)—
  - (i) the allegation;
  - (ii) that the offence is one which is a criminal offence;
  - (iii) what a plea is;
  - (iv) that the Court is about to ask how he pleads;
  - (v) that pleading guilty means that he admits that he committed the offence;
  - (vi) that if he pleads guilty, then the Court shall proceed to consider the appropriate sanction;
  - (vii) that if he pleads not guilty, the Court will proceed to deal with the matter or make arrangements to have another Court deal with the matter; and
  - (viii) that if he does not answer, the Court will enquire of his Attorney-at-law whether he wishes to make an application with respect to the child's fitness to plead.

(2) Upon completion of the explanation to the child by the Court, the Court shall proceed to ask the child how he wishes to plead.

(3) If the child does not answer the question put to him under subrule (2), the Court shall enquire of the Attorney-at-law for the child whether an application may be made on the child's fitness to plead.

(4) Where the child pleads guilty and the Court is satisfied that the plea represents a clear acknowledgement of guilt, the prosecution shall summarise the prosecution's case against the child and read the facts of the case.

(5) Where the child disagrees with the facts referred to in subrule (4), a plea of not guilty shall be entered.

(6) Where the child validates as accurate the facts referred to in subrule (4), the Court may convict the child without receiving evidence.

(7) The Court may, in determining or framing the orders to be made, hear submissions or receive reports from any or a combination of the following persons:

- (a) the victim
- (b) the prosecution;
- (c) the Attorney-at law for the child;
- (d) the Authority;
- (e) the Children's Attorney;
- (f) the parent, guardian or person with responsibility for the child;
- (g) the probation officer
- (h) the social worker;
- (i) the psychologist; or
- (j) the child.

(8) Upon hearing the submissions from persons referred to in subrule (7)(a) to (j) the Court may, with or without proceeding to record a conviction, make any one or a combination of the following orders:

- (a) order that the child attend and participate in an appropriate rehabilitative programme;
- (b) where the child is a first time offender and the offence is an offence other than one prescribed in Schedule 4 of the Family and Children Division Act 2016, refer the child to Peer Resolution for sentencing or for recommendation of a sentence;
- (c) where the Court thinks it is in the best interest of the child to refer the child to the Children Drug Treatment Court Process, order that the child be referred to the Children Drug Treatment Court Process;
- (d) where the Judge, Master or Magistrate is of the view that there is insufficient information before the Court, it may adjourn pending receipt of further assessments and reports;

- (e) make any order prescribed or permitted by any written law; or
- (f) make any order pursuant to section 59(2) of the Children Act (Chap. 46:01).

(9) Where the child—

- (a) does not indicate that he is pleading guilty;
- (b) indicates that he is not pleading guilty; or
- (c) does not answer,

the Court may—

- (d) proceed to hear the matter;
- (e) adjourn the matter to a fixed date for intake conference; or
- (f) adjourn the matter to a fixed date for an adjourned intake hearing.

(10) Where the Court decides to adjourn the matter, the Court may—

- (a) make an order for the release or placement of the child pending hearing, unless the charge is one which is non-bailable;
- (b) make orders for case management, including appointment of case progression officers;
- (c) order that an assessment of the child be done and the report submitted to the Court; or
- (d) request a report from the Authority, probation officer or any social worker who has been working with the child.

(11) The Court may, in any of the circumstances referred to in subrule (9)(a) to (c) and unless the charge is one which is non-bailable—

- (a) make an order releasing the child into the custody of his parents, guardian or person with responsibility for the child, or other fit person or fit relative;
- (b) place the child on bail with conditions;
- (c) make an order remanding the child—
  - (i) where the child is under ten years of age, to a Children's Home; or
  - (ii) where the child is ten years of age or over, to a Rehabilitation Centre; or
- (d) make any order in relation to the child pending hearing as the Court thinks fit.

(12) Before a Court adjourns a matter pursuant to subrule (10) or makes an order pursuant to subrule (11), the Court may hear submissions from the—

- (a) prosecution;
- (b) Attorney-at-law for the child;
- (c) Children’s Attorney appointed for the child;
- (d) Authority;
- (e) parents, guardian, or persons with responsibility for the child; and
- (f) child.

(13) In making a determination upon hearing submissions under subrule (11), the Court may take into account—

- (a) the bio-data of the child;
- (b) the risk assessment data;
- (c) the police criminal records including—
  - (i) warnings or cautions;
  - (ii) reprimands and discharges;
  - (iii) appearances before school-based Peer Resolution; and
  - (iv) appearance before Court-annexed Peer Resolution;
- (d) the probation report;
- (e) the school based report;
- (f) the reports while in Community Residence awaiting an intake conference; and
- (g) any other relevant factors.

**Procedure at intake conference for child aged fourteen years and over charged with a criminal offence, excluding murder or manslaughter**

11.6 (1) At the intake conference, when a child aged fourteen years and over is charged with a criminal offence, other than murder or manslaughter, the Court shall—

- (a) enquire of the prosecutor whether—
  - (i) legal representation was provided for the child in accordance with section 15B of the Legal Aid and Advisory Act (Chap. 7:07) or privately;
  - (ii) the Authority has been notified;
  - (iii) the parent, legal guardian or person with responsibility for the child has been identified and notified of the proceedings; and
  - (iv) the child has been granted police bail;

- 
- (b) verify the identity, place of abode or address of the child and other contact information of the child and that of his parent, guardian or person with responsibility for the child;
  - (c) verify as far as possible the age of the child;
  - (d) inform the child, in language he can understand, of his right to legal representation;
  - (e) enquire from the parent, guardian or person with responsibility for the child as to whether the child is represented by an Attorney-at-law or whether an application needs to be made to the Legal Aid and Advisory Authority for the appointment of an Attorney-at-law;
  - (f) where the child is represented, record the appearance of the Attorney-at-law and whether the Attorney-at-law is Duty Counsel;
  - (g) where the parent, guardian or person with responsibility for the child requests an opportunity to retain an Attorney-at-law, fix a date by which an Attorney-at-law shall be retained or make an order for legal aid to be granted within seven days;
  - (h) inform the child of the charge by reading the charge and providing a copy of the charge to the child and the parent, guardian or person with responsibility for the child and the Attorney-at-law for the child;
  - (i) make a determination as to whether the child requires an interpreter or intermediary;
  - (j) explain the following where applicable, in terms the child can understand (with the assistance of an intermediary, if necessary):
    - (i) the allegation;
    - (ii) that the offence is a criminal offence;
    - (iii) where the offence is an indictable offence and the Court wishes to try it summarily that he can elect to have the matter heard either indictably or summarily;
    - (iv) the meanings of “indictably” and “summarily” and the consequences of both;
    - (v) that he can consult with his parent, guardian or person with responsibility for him or his Attorney-at-law, how he wishes to proceed;
    - (vi) that if he elects to proceed summarily the Court will ask him how he wishes to plead;
    - (vii) what a plea is;

- (viii) that pleading guilty means that he admits that he committed the offence;
- (ix) that if he pleads guilty, then the Court shall proceed to consider the appropriate sanction;
- (x) that if he pleads not guilty, the Court will proceed to deal with the matter or make arrangements to have another Court deal with the matter;
- (xi) that if he does not answer, the Court will enquire of his Attorney-at-law whether he wishes to make an application with respect to the child's fitness to plead; and
- (xii) that if he intends to elect to proceed indictably, and he intends to plead not guilty, the Court shall adjourn the matter for an initial hearing in a preliminary enquiry and what that means.

(2) Upon completion of the explanation to the child by the Court, the Court shall proceed to ask the child what he elects.

(3) Where the child elects summary trial he will be asked to enter a plea.

(4) Where the child pleads guilty and the Court is satisfied that the plea represents a clear acknowledgement of guilt, the prosecution shall summarise the prosecution's case against the child and read the facts of the case.

(5) Where the child disagrees with the facts referred to in subrule (4), a plea of not guilty shall be entered.

(6) Where the child validates as accurate the facts referred to in subrule (4), the Court may convict the child without receiving evidence.

(7) The Court may, in determining or framing the orders to be made, hear submissions or receive reports from any or a combination of the following persons:

- (a) the victim;
- (b) the prosecution;
- (c) the Attorney-at-law for the child;
- (d) the Authority;
- (e) the Children's Attorney;
- (f) the parent, guardian or person with responsibility for the child;
- (g) the probation officer;
- (h) the social worker;
- (i) the psychologist; or
- (j) the child.

(8) Upon hearing the submissions from persons referred to in subrule (7)(a) to (j), the Court may, with or without proceeding to record a conviction, make any one or a combination of the following orders:

- (a) order that the child attend and participate in an appropriate rehabilitative programme;
- (b) where the child is a first time offender and the offence is an offence other than one prescribed in Schedule 4 of the Family and Children Division Act 2016, refer the child to Peer Resolution for sentencing or for recommendation of a sentence;
- (c) where the Court thinks it is in the best interest of the child to refer the child to the Children Drug Treatment Court Process, order that the child be referred to the Children Drug Treatment Court Process;
- (d) where the Judge, Master or Magistrate, is of the view that there is insufficient information before the Court, it may adjourn the proceedings pending receipt of further assessments and reports;
- (e) make any order prescribed or permitted by any written law; or
- (f) make any order pursuant to section 59(2) of the Children Act (Chap. 46:01).

(9) Where the child does not indicate that he is pleading guilty, he does not answer nor does he indicate that he is not pleading guilty, the Court may—

- (a) where the Court considers it necessary, request that the Solicitor General appoint a Children's Attorney for the child; and
- (b) proceed to hear the matter,

or adjourn the matter to—

- (c) a fixed date for initial hearing; or
- (d) a fixed date for an adjourned intake hearing.

(10) If the child does not answer the question put to him under subrule (2), the Court shall enquire of the Attorney-at-law for the child whether an application may be made on the child's fitness to plead.

(11) Where the Court adjourns the matter to a fixed date for an initial hearing or an adjourned intake hearing, the Court may—

- (a) make an order for the release or placement of the child pending hearing;
- (b) make orders for case management including the appointment of a case progression officer;

- (c) order that an assessment of the child be done and the report submitted to the Court; or
  - (d) request a report from the Authority, probation officer or any social worker who has been working with the child.
- (12) The Court may, with respect to subrule (9) and unless the charge is one which is non-bailable—
- (a) make an order releasing the child into the custody of his parent, guardian or person with responsibility for the child, or other fit person or fit relative;
  - (b) place the child on bail with conditions;
  - (c) make an order remanding the child—
    - (i) where the child is under ten years of age, to a Children’s Home; or
    - (ii) where the child is ten years of age or over, to a Rehabilitation Centre;
  - (d) make an order releasing the child to the care of the Authority, which may place the child in an appropriate Community Residence or foster care; or
  - (e) make an order placing the child at a particular Community Residence or foster care.
- (13) Before a Court adjourns a matter pursuant to subrule (11) or makes an order pursuant to subrule (12) the Court may hear submissions from—
- (a) the prosecution;
  - (b) the Attorney-at-law for the child;
  - (c) the Children’s Attorney appointed for the child;
  - (d) the Authority;
  - (e) the parent, guardian or person with responsibility for the child; and
  - (f) the child .
- (14) In making a determination upon hearing submissions under subrule (12), the Court may take into account—
- (a) the bio data of the child;
  - (b) the risk assessment data;
  - (c) the police criminal records including—
    - (i) warnings or cautions;
    - (ii) reprimands and discharges;
    - (iii) appearances before school-based Peer Resolution; and
    - (iv) appearance before Court-annexed Peer Resolution;
  - (d) the probation report;

- (e) the school based report;
- (f) the reports while in Community Residence awaiting an intake conference; and
- (g) any other relevant factors.

(15) If the matter is to proceed indictably, the procedure shall be in accordance with the procedure at rule 11.7 *mutatis mutandis*.

**Procedure at intake conference in indictable matters including murder and manslaughter or if a child elects indictable proceedings**

11.7 (1) At an intake conference when a child who is charged with murder or manslaughter or charged with any other indictable offence, having elected at an earlier intake conference to have his matter heard indictably, appears before the Court in a later intake conference, the Court shall—

- (a) enquire of the prosecutor, before the intake conference, whether—
  - (i) legal representation was provided for the child in accordance with section 15B of the Legal Aid and Advisory Act (Chap. 7:07) or privately;
  - (ii) the Authority has been notified;
  - (iii) the parent, legal guardian or person with responsibility for the child has been identified and notified of the proceedings; and
  - (iv) the child has been granted police bail;
- (b) verify the identity, place of abode or address of the child accused and other contact information of the child and that of his parent, guardian or person with responsibility for the child;
- (c) verify as far as possible the age of the child;
- (d) inform the child, in language he can understand, of his right to legal representation;
- (e) enquire from the parent, guardian or person with responsibility for the child as to whether the child is represented by an Attorney-at-law or whether an application needs to be made to the Legal Aid and Advisory Authority for the appointment of an Attorney-at-law;
- (f) where the child is represented, record the appearance of the Attorney-at-law and whether the Attorney-at-law is Duty Counsel;

- (g) where the parent, guardian or person with responsibility for the child requests an opportunity to retain an Attorney-at-law, fix a date by which an Attorney-at-law shall be retained or make an order for legal aid to be granted within seven days;
  - (h) inform the child of the charge by reading the charge and providing a copy of the charge to the child and the parent, guardian or person with responsibility for the child and the Attorney-at-law for the child;
  - (i) make a determination as to whether the child requires an interpreter or intermediary;
  - (j) explain the following where applicable in language the child can understand (with the assistance of an intermediary, if necessary):
    - (i) the allegation;
    - (ii) that the offence is a criminal offence;
    - (iii) that the offence is one which shall be heard indictably;
    - (iv) that if he has elected to proceed indictably, what that means;
    - (v) what a plea is;
    - (vi) that the Court will not call upon him to plead;
    - (vii) that pleading guilty means that he admits that he has committed the offence;
    - (viii) that if he informs the Court that he is guilty of the offence, the Court will proceed to the preliminary inquiry; and
    - (ix) what is a preliminary enquiry.
- (2) Upon completion of the explanation the Court shall address the child as follows:
- “The charges are laid indictably. You are not called upon to plead. If you want to plead guilty, you can now tell me.”
- (3) The Court may adjourn the matter to—
- (a) a fixed date for initial hearing; or
  - (b) a fixed date for an adjourned intake hearing.
- (4) If the child does not answer, the Attorney-at-law for the child may make an application on the child’s fitness to plead.

(5) Upon adjourning the matter to a fixed date for initial hearing or adjourned intake hearing, the Court may—

- (a) make an order for the release or placement of the child pending hearing unless the charge is one which is non-bailable;
- (b) make orders for case management including appointment of case progression officers;
- (c) order that an assessment of the child be done and the report submitted to the Court; and
- (d) request a report from the Authority, probation officer and any social worker who has been working with the child.

(6) The Court may, with respect to subrules (5) and (6) and unless the charge is one which is non-bailable—

- (a) make an order releasing the child into the custody of his parent, guardian or person with responsibility for the child, or other fit person or fit relative;
- (b) place the child on bail with conditions;
- (c) make an order remanding the child—
  - (i) where the child is under ten years of age, to a Children's Home; or
  - (ii) where the child is ten years of age or over, to a Rehabilitation Centre;
- (d) make an order releasing the child to the care of the Authority which may place the child in an appropriate Community Residence or foster care; or
- (e) make an order placing the child at a particular Community Residence or foster care.

(7) The Court may make specific orders for the care of the child pending hearing, including orders for his education, and for assessment, counselling and medical care.

(8) In determining any order under this rule, the Court may hear submissions from—

- (a) the Attorney-at-law for the State and the accused;
- (b) the Children's Attorney;
- (c) the Authority;
- (d) the parent, guardian or person with responsibility for the child; and
- (e) the child.

**Procedure at intake conference under section 61 of the Children Act (Chap.46:01) and other applications**

11.8 When a parent makes an application under section 61 of the Children Act (Chap. 46:01), or makes any other application, and the child comes before the Court at an intake conference, the Court shall—

- (a) ensure that the Authority has been notified by the Court office;
- (b) determine whether a Children's Attorney should be appointed;
- (c) verify the identity, address of the child and other contact information of the child and that of his parent, guardian or person with responsibility for the child;
- (d) verify as far as is possible the age of the child;
- (e) inform the child, in language he can understand, of his right to legal representation;
- (f) enquire whether the child is represented by an Attorney-at-law or whether he is to apply to the Legal Aid and Advisory Authority for the appointment of an Attorney-at-law;
- (g) where the child has legal representation, record the appearance of the Attorney-at-law and whether the Attorney-at-law is Duty Counsel;
- (h) where the parent, guardian or person with responsibility for the child requests an opportunity to retain an Attorney-at-law, fix a date by which an Attorney-at-law shall be retained or make an order for legal aid to be granted within seven days;
- (f) inform the child of the details of the application in language the child understands (with the assistance of an intermediary if necessary);
- (g) provide the child with a copy of the application;
- (h) make a determination as to whether the child requires an interpreter or intermediary;
- (i) order that the child be assessed and that the report on the assessments be submitted to the Court; and
- (j) address the care of the child, including the placing of the child in foster care, with a fit adult, or in a Community Residence pending decisions to be made for the permanent care of the child;

**Records of the intake conference**

11.9 (1) At the end of an intake conference, the Court shall immediately make a record of all procedural orders, directions given and detailed case plan for the child.

- (2) The record in subrule (1) shall be given forthwith to—
- (a) the child and his Attorney-at-law;
  - (b) the parent, guardian or person with responsibility for the child;
  - (c) the Authority;
  - (d) the probation officer;
  - (e) the Children’s Attorney; and
  - (f) any other person whom the Court deems necessary.

## PART 12

### SUMMARY MATTERS: THE HEARING PHASE—INITIAL HEARING

#### Contents of this Part

What is the initial hearing in summary matters	Rule 12.1
Application	Rule 12.2
Procedure of the hearing phase	Rule 12.3

#### What is the initial hearing in summary matters

12.1 (1) The first stage of the hearing phase of summary matters in this Part is known as the initial hearing.

(2) The initial hearing denotes the start of the summary trial where directions are given for trial and the case cannot be concluded at that stage.

#### Application

12.2 This rule applies where the accused—

- (a) is not jointly charged with an adult; or
- (b) is jointly charged with an adult but the cases are severed;  
and
- (c) has elected summary trial; or
- (d) is charged summarily.

#### Procedure of the hearing phase

12.3 (1) The Court shall verify the identity and address of the child and of his parent, guardian or person with responsibility for the child.

(2) The Court shall inform the accused of his right to legal representation and take a record of the name of the legal representative.

(3) The Court shall read the allegation of the offence to the child and provide him and his parent, guardian or person with responsibility for the child with copies of the allegation.

(4) The Court shall explain, in terms that the child can understand and with the assistance, if necessary, of a person who is able to communicate the terms effectively to the child—

- (a) the allegation;
- (b) that the offence is one which is a criminal offence;
- (c) what a plea is;
- (d) that the Court is about to ask how he pleads;
- (e) that pleading guilty means that he admits that he committed the offence;
- (f) that if he pleads guilty, then the Court shall proceed to consider the appropriate sanction;
- (g) that if he pleads not guilty, the Court shall proceed to deal with the matter or make arrangements to have another Court deal with the matter; and
- (h) that if he does not answer, the Court shall enquire of his Attorney-at-law whether he wishes to make an application with respect to the child's fitness to plead.

(5) Upon completion of the explanation to the child by the Court, the Court shall proceed to ask the child how he wishes to plead.

(6) Where the child admits the offence and it is a summary offence, the Court shall proceed in accordance with section 99(7) and (8) of the Summary Courts Act (Chap. 4:20) and the Children Act (Chap. 46:01).

(7) Where the child enters a plea of not guilty, or the child does not answer when called upon to plead, the Court may proceed in accordance with section 63(3) and (4) of the Summary Courts Act and may—

- (a) request that the Solicitor General appoint a Children's Attorney under the Children Act (Chap. 46:01);
- (b) set, follow or revise a timetable for the progress of the case including for the trial or the appeal; and
- (c) give directions and consequential orders that may be necessary to ensure that the case, in general, and the hearing, in particular, is managed efficiently.

**PART 13**

## INDICTABLE MATTERS: INITIAL HEARING: THE PRELIMINARY ENQUIRY

**Contents of this Part**

What is an initial hearing in indictable matters: preliminary enquiry	Rule 13.1
Who shall conduct an initial hearing at a preliminary enquiry	Rule 13.2
Application	Rule 13.3
Who may be present	Rule 13.4
Adjournment	Rule 13.5
Procedure at initial hearing	Rule 13.6
Procedure at preliminary enquiry	Rule 13.7

**What is an initial hearing in indictable matters: preliminary enquiry**

13.1 At the initial hearing of the preliminary enquiry, the Court shall give directions for the conduct of the preliminary enquiry.

**Who shall conduct an initial hearing at a preliminary enquiry**

13.2 The initial hearing shall be conducted by a Judge or Master.

**Application**

13.3 This rule applies where the child—

- (a) is charged with an offence that must be tried indictably; and
- (b) has elected an indictable trial.

**Who shall be present**

13.4 (1) The following persons may attend an initial hearing:

- (a) the prosecutor;
- (b) the child;
- (c) the Attorney-at-law for the child;
- (d) the child's parent, guardian or person with responsibility for the child or and where applicable, an appropriate adult;
- (e) an intermediary;
- (f) an interpreter; or
- (g) a Children's Attorney.

(2) Notwithstanding subrule (1), an initial hearing under this Part may proceed in the absence of the child—

- (a) where the Court is satisfied that the child is ill or injured and that the nature of the illness or injury is such as to make him unable to attend; or
- (b) for any other reason that the Court deems appropriate.

### **Adjournment**

13.5 (1) Where there is a consent application for an adjournment for more than twenty-eight days, the Court may adjourn the initial hearing.

(2) Notwithstanding subrule (1), where the child accused is remanded at a Rehabilitation Centre, the matter may not be adjourned for a period of more than ten days.

### **Procedure at an initial hearing**

13.6 (1) At an initial hearing of a preliminary enquiry the Court shall—

- (a) verify the identity, place of abode or given address and other contact information of the child and that of his parent, guardian or person with responsibility for the child;
- (b) inform the child of his right to legal representation and enquire whether the child is represented by an Attorney-at-law and—
  - (i) if the child is represented, record the appearance of the Attorney-at-law;
  - (ii) if the parent, guardian or person with responsibility for the child requests an opportunity to retain an Attorney-at-law, fix a date by which an Attorney-at-law shall be retained or make an order for legal aid to be granted within one week;
- (c) inform the child of the charge by reading the charge and providing a copy of the charge to child, the parent, guardian or person with responsibility for the child;
- (d) explain to the child that he is not called upon to plead; and
- (e) inform the child of his right to have an interpreter, where applicable.

(2) The Court shall explain in terms the child can understand (with the assistance of the intermediary, if necessary)—

- (a) the allegation;
- (b) that the offence is a criminal offence;
- (c) that the offence shall be heard indictably;

- (d) that he has elected to proceed indictably and what that means;
- (e) that the Court will not call upon him to plead;
- (f) that if he wants to plead guilty, he will have to say it himself to the Court and the Court will record the intention; and
- (g) that the Court will proceed to the preliminary enquiry and explain what a preliminary enquiry is.

(3) The Court shall ask the child to indicate whether he is pleading guilty using the following words:

“The charges are laid indictably so you are not called upon to plead. However, if you wish to plead guilty, you can now tell me.”,

provided however, that if the child is not represented by an Attorney-at-law, the Court shall not ask the child if he wishes to plead guilty.

(4) Where the child does not want to plead guilty the Court may give directions for the conduct of the preliminary enquiry.

(5) The Court may direct that the prosecution and defence may appear in a preliminary enquiry by telephone, video conference or other appropriate electronic means.

#### **Procedure at preliminary enquiry**

13.7 (1) A preliminary enquiry shall proceed as follows:

- (a) the prosecution shall present a concise statement of facts, law and evidence;
- (b) the prosecution shall introduce the evidence on which it relies;
- (c) the prosecution witnesses shall be called upon to give evidence in the presence of the accused, if evidence is taken *viva voce*;
- (d) where evidence is taken in the absence of the child, the certified transcript shall be presented to him and he shall be informed of his right to cross-examine the witness;
- (e) where the prosecution is relying on the evidence contained in statements, the statements shall be tendered in the presence of the accused, and the Court shall inform the child that he is entitled to cross-examine the witnesses;
- (f) the Court may discharge the child after the prosecution has presented its evidence on the basis that the prosecution's evidence is insufficient for any reasonable Court to properly convict;

- (g) the Court shall give the notice of alibi and shall explain the meaning of the words “alibi” and “evidence in support of alibi”;
- (h) where the child intends to rely on an alibi at his trial and he has not provided particulars in accordance with section 16A of the Indictable Offences (Preliminary Enquiry) Act (Chap.12:01), he may give those particulars in writing to the Director of Public Prosecutions as set out in Form 1 of the Schedule of the Criminal Procedure Rules, 2016; and
- (i) the Court shall explain in terms the child can understand (with the assistance of an intermediary, if necessary) his right to give evidence and that the child may introduce evidence.

(2) When giving the alibi warning referred to in subrule 1(g), the Court shall address the child using the following words or words to the like effect:

“I warn you that if this Court should commit you for trial, you may not be permitted at that trial to give evidence of an alibi or to call witnesses in support of an alibi, unless you have earlier given particulars of the alibi and of the witnesses in support thereof. You may give those particulars now to this Court or in writing to the Director of Public Prosecutions not later than ten days from the end of committal proceedings.”,

and shall take or cause to be taken down in writing or have recorded the evidence of the witnesses in their presence accordingly.

## PART 14

### INDICTABLE MATTERS: THE TRIAL —THE HEARING PHASE

Initial hearing in indictable matters	Rule 14.1
Procedure for trial	Rule 14.2
Procedure on guilty plea	Rule 14.3
Procedure where a child committed for trial pleads not guilty	Rule 14.4
Procedure where a child committed for sentencing pleads not guilty	Rule 14.5

#### **Initial hearings in indictable matters**

14.1 (1) Upon the indictment being filed by the Director of Public Prosecutions, the Court shall set a date for an initial hearing.

(2) Upon the filing of the indictment by the Director of Public Prosecutions, the Marshal shall serve the indictment together with the depositions on the child.

(3) At the initial hearing, the Court shall enquire whether the child was committed for sentencing or for trial.

(4) Where the participants are not ready, the Court shall set a date for an adjourned initial hearing and may—

- (a) give directions for the appointment of legal aid for the child; and
- (b) make any other orders that the Court deems fit.

(5) Where the participants indicate that they are ready to proceed, the Court shall proceed to—

- (a) give directions for trial;
- (b) hear and determine applications for special measures under Part 18; and
- (c) hear and rule on submissions as to the identification of all possible legal issues including—
  - (i) the admissibility of confessions and admissions;
  - (ii) the identification of possible defences;
  - (iii) applications to lead evidence of bad character of witnesses or child;
  - (iv) fresh evidence applications;
  - (v) applications to permit hearsay evidence pursuant to section 15 of the Evidence Act (Chap.7:01);
  - (vi) applications to tender depositions pursuant to section 39 of the Indictable Offences (Preliminary Enquiry) Act (Chap.12:01); and
  - (vii) other evidential objections.

**Procedure for trial**

14.2 (1) On the day set for the trial of the matter, the Court shall—

- (a) verify the identity and address of the child and of his parent, guardian or person with responsibility for the child;
- (b) inform the child of his right to an Attorney-at-law and take a record of the Attorney-at-law;
- (c) read the charge to the child; and
- (d) explain in terms the child can understand (with the assistance of an intermediary or interpreter, if necessary)—
  - (i) the allegation;

- (ii) that the offence is a criminal offence;
- (iii) how the trial will proceed;
- (iv) the meaning of a plea;
- (v) that the Court shall ask how the child wants to plead and the child shall have to answer the question himself;
- (vi) that pleading guilty means that the child admits he committed the offence; and
- (vii) that if the child pleads guilty, the Court shall proceed to determine the appropriate sanctions which shall be applied;
- (viii) that if the child does not answer, the Court shall proceed to determine whether the child is mute by malice, by will or God or unfit to plead; and
- (ix) that if the child answers no, the Court shall proceed to empanel a jury and to hear evidence.

**Procedure on guilty plea**

14.3 (1) Where the child pleads guilty, the Court shall proceed to the sentencing phase.

(2) Notwithstanding subrule (1), the Court may enter a plea of not guilty for the child and proceed to empanel a jury and hear evidence, if the Court is of the view that the guilty plea was equivocal.

**Procedure where a child committed for trial pleads not guilty**

14.4 (1) Where the child having been committed for trial pleads not guilty, the Court shall proceed to give directions, empanel a jury and hear the matter.

(2) The charges shall be read over to the child using language he can understand (with the assistance of an intermediary, if necessary) and the plea of child shall be taken in the presence and hearing of the jury.

**Procedure where a child committed for sentencing pleads not guilty**

14.5 Where a child having been committed for sentencing is called upon to plead and pleads Not guilty the Court shall set a date for trial.

**PART 15****MAXIMUM SENTENCE INDICATION HEARING****Contents of this Part**

Application	Rule 15.1
Procedure for MSI	Rule 15.2
Duration of an MSI	Rule 15.3
Building effect of an MSI	Rule 15.4
Right of appeal against an MSI	Rule 15.5
Non-acceptance of MSI	Rule 15.6

**Application**

15.1 This Part applies to matters proceeding indictably where a child is seeking a Maximum Sentence Indication (hereinafter referred to as “an MSI”).

**Procedure for an MSI hearing**

15.2 (1) An Attorney-at-law for a child may apply to the Judge for an MSI.

(2) An application for an MSI must be made by notice in the practice Form 1 in the Schedule to these Rules, at any time prior to trial but not excluding the present right to change a plea at any time prior to sentencing.

(3) An application for an MSI shall be signed by the Attorney-at-law for the child indicating that he has clearly explained the material consequences of the application to the child.

(4) The Judge shall explain the meaning and implication of an MSI and ensure that the child has understood the same.

(5) An MSI may relate to –

- (a) a sentence of a particular type;
- (b) a sentence of a particular quantum;
- (c) a sentence that would not be imposed; or
- (d) a combination of sentences.

(6) An MSI should be confined to the maximum sentence to be imposed if a plea of guilty were tendered at the stage of the proceedings at which the indication was sought, and the Judge should not indicate the maximum possible sentence following conviction after trial.

(7) Subject to subrule (8), the Judge may grant an MSI if he is satisfied that the information available at that time is sufficient for that purpose.

(8) Without limiting subrule (7), the Judge shall have the following information before granting an MSI:

- (a) a summary of the facts on which the MSI is granted, agreed on by the Prosecution and the Defence; and
- (b) information as to any previous conviction of the accused.

(9) The Judge may request a pre-sentencing report to assist in granting an MSI.

(10) Where the Judge proposes to grant an MSI, the Judge shall give both sides an opportunity to be heard on the matter, and where appropriate, the Attorneys-at-law may provide references to the guidelines set out in *R. v Goodyear* and any such other assistance as the Judge may require.

(11) The Judge retains the unfettered discretion to refuse to give an MSI, with or without giving reasons for his refusal to do so.

(12) The Judge may also reserve his position until such time as he feels able to give an MSI.

(13) If a Judge has refused to give an MSI, it remains open to the accused to request a further MSI at a later stage.

(14) An accused is not permitted to make a request for an indication on the different sentences that might be imposed if various different pleas were to be offered.

(15) An MSI should not be requested if there is uncertainty between the prosecution and defence about an acceptable plea to the charge or any factual basis relating to the plea.

(16) Where there is an agreement between the prosecution and the defence about the basis of a plea it shall be reduced into writing and a copy provided to the Judge, but any basis of a plea will be subject to the approval of the Judge.

(17) After hearing submissions from the Children's Attorney, and where the Judge is satisfied that the child, being aware of and understanding the consequences of an MSI, wishes to have an MSI hearing, the Attorney-at-law for the child shall indicate to the Judge that the child wishes to have an MSI.

(18) Where the Judge decides to give an MSI, he shall state the MSI he is likely to impose.

(19) The Attorney-at-law for the child with the assistance of the Children's Attorney shall explain the Judge's decision to the child and his parent, guardian or person with responsibility for the child.

(20) Where the child pleads guilty, the Court shall take the plea and hear submissions in mitigation, after which, the Court shall sentence the child.

(21) If the Attorney-at-law for the child does not apply for an MSI, the Court may inform the child that he is entitled to make an application.

**Duration of an MSI**

15.3 An MSI has effect—

- (a) until the close of business on the date specified by the Court; and
- (b) until the expiry of five working days after the date on which the MSI was granted, in cases where no date is specified,

whether or not the same Judge is sitting.

**Binding effect of an MSI**

15.4 (1) When an MSI is given and the accused pleads guilty to the offence to which the MSI applies within its effective period, the MSI is binding on the Judge unless—

- (a) information become available to the Judge after the MSI was given but before sentencing; and
- (b) the Judge is satisfied that the information materially affects the basis on which it is given.

(2) Subject to Rule 15.3, the MSI is not binding on a Judge other than the Judge who gave the direction.

**Right of appeal against MSI**

15.5 There is no right of appeal against an MSI.

**Non-acceptance of MSI**

15.6 The fact that an accused does not plead guilty after an MSI is given by a Judge, does not preclude the Judge from presiding over the subsequent trial.

**PART 16**

## THE SENTENCING PHASE—ALL MATTERS

**Contents of this Part**

Duty of the Court to explain sentence	Rule 16.1
Court to ask for pre-sentence report	Rule 16.2
Order for care of the child being sentenced	Rule 16.3
Order referring a child to Peer Resolution	Rule 16.4
Order referring a child to the Children Drug Treatment Court Process	Rule 16.5

**Duty of the Court to explain sentence**

16.1 (1) It is the duty of the Court to ensure that the sentence is clearly explained to the child and the parent, guardian or person with responsibility for the child.

**Court to ask for pre-sentence report**

16.2 Before a child is sentenced, the Court shall ask for a written pre-sentence report.

**Order for care of the child being sentenced**

16.3 The Court, when sentencing a child, shall request a care plan for the child may make orders to ensure the enforcement.

**Order referring a child to Peer Resolution**

16.4 (1) Upon receiving a guilty plea from the child, the Court may refer the child to Peer Resolution in accordance with section 40 of the Family and Children Division Act, 2016.

(2) Where the Court makes an order referring a child to Peer Resolution, the Court shall adjourn the sentencing hearing pending the receipt of the Peer Resolution recommendation.

(3) Upon receipt of the recommendation referred to in subrule (2), the court office shall within three days, notify the participants of the date, time and place for the pronouncement of the sanction.

**Order referring a child to the Children Drug Treatment Court Process**

16.5 The Court may refer a child to the Children Drug Treatment Court Process in accordance with section 47 of the Family and Children Division Act, 2016.

**PART 17**

## THE MONITORING PHASE: ALL MATTERS

**Contents of this Part**

Judicial supervision of child through monitoring hearings	Rule 17.1
Assignment of Children's Probation Officer	Rule 17.2
Court may request the appearance of child	Rule 17.3
Further order to address the welfare of the child	Rule 17.4
Procedure on notice of non-compliance with Court orders made against children	Rule 17.5

**Judicial supervision of child through monitoring hearings**

17.1 In any children matter, the Children Court may continue judicial supervision of a child through monitoring hearings with the child and his family or other systems of support.

**Assignment of Children's Probation Officer**

17.2 When the Court sentences a child, a Children's Probation Officer shall be assigned—

- (a) to monitor the child's compliance with the sentence and sanction;
- (b) to ensure that the child is assessed for risk; or
- (c) for any other purpose as the Court directs,

and shall report to the Court at appropriate intervals or as directed by the Court.

**Court may request the appearance of the child**

17.3 The Court may request the appearance of the child in order to enquire into the child's progress.

**Further order to address the welfare of the child**

17.4 (1) The Court may at any time, make a further order to address the welfare of the child.

(2) In making a further order under subrule (1), the Court may request—

- (a) submissions from the Authority;
- (b) the Children's Probation Officer's report; or
- (c) submissions from the Attorney-at-law for the child or the Children's Attorney.

**Procedure on notice of non-compliance with Court orders made against child**

17.5 (1) The Children’s Probation Officer shall file a notice of non-compliance as soon as a breach of a Court order by a child becomes reasonably known to him.

(2) The Court shall set a date for a non-compliance hearing and serve a notice containing the date, time and place of the hearing on the Attorney-at-law for the child, the Children’s Attorney (if any), the child’s parent, guardian or person with responsibility for the child, the Director of Public Prosecutions and the Authority.

(3) At the non-compliance hearing, the Court may—

(a) renew the order; or

(b) make any order that it deems fit.

**PART 18**

EVIDENCE AND SPECIAL MEASURES

**Contents of this Part**

Definitions	Rule 18.1
Evidence of a witness in person	Rule 18.2
Special measures directions	Rule 18.3
Alternative means of giving evidence	Rule 18.4
Application for special measures direction	Rule 18.5
Applications for special measures directions: evidence by alternative means	Rule 18.6
Special measures direction for a child witness	Rule 18.7
Written witness statements	Rule 18.8
Video conferencing	Rule 18.9
Video-digital recording	Rule 18.10
Video-digital recording in cross examination and re-examination	Rule 18.11
Evidence of a child through an intermediary or Court interpreter	Rule 18.12

---

Taking of deposition by Registrar or Master using computer aided transcription, audio-digital recording or video-digital recording	Rule 18.13
Conducting hearings by telephone, video conference or other appropriate electronic means	Rule 18.14

**Definitions**

18.1 In this Part—

“special measure direction” means a direction given pursuant to rule 18.3.

**Evidence of a witness in person**

18.2 (1) This rule applies where a participant wants to introduce evidence by calling a witness to give that evidence in person.

(2) Unless the Court otherwise directs—

(a) a witness waiting to give evidence shall not wait inside the Court room, unless that witness is—

(i) a participant; or

(ii) an expert witness;

(b) a witness who gives evidence in the Court room shall do so from the place provided for that purpose or in some other place as directed by the Court; and

(c) a witness address shall not be given on record unless it is relevant to an issue in the case.

(3) Subject to section 98 of the Children Act (Chap. 46:01), before giving evidence, a witness shall take an oath or affirm.

**Special measures directions**

18.3 (1) The Court may give directions for special measures for the taking of evidence of any witness.

(2) Where the witness has a physical disability, the Court may direct that the witness be provided with a device to enable questions and answers to be communicated to or by the witness.

(3) Special measures for a child or other child witness may include measures to facilitate a child witness or child to give evidence including—

(a) familiarisation with the court room layout;

(b) the presence of a supporting person;

(c) re-configuration of the court room; and

(d) alternative means of giving evidence.

**Alternative means of giving evidence**

18.4 In this Part “alternative means of giving evidence” includes—

- (a) a witness statement;
- (b) video conferencing;
- (c) video-digital recording;
- (d) evidence of a child with an intermediary;
- (e) evidence with a language interpreter;
- (f) evidence with a sign language interpreter;
- (g) a deposition taken by the Registrar or a Master by order of the Court using computer aided transcription;
- (h) a deposition taken by the Registrar or a Master by order of the Court using audio-digital recording or audio and video-digital recording;
- (i) telephone; and
- (j) any other alternate electronic means including telecommunications application software using Voice Over IP.

**Application for special measures direction**

18.5 (1) An applicant for a special measures direction shall—

- (a) explain why the special measure is necessary, giving reasons for the request; and
- (b) attach any other material on which the applicant relies.

(2) Where the applicant proposes that a child witness give evidence by video conferencing or other telecommunications using Voice over IP he shall—

- (a) identify someone by name, if possible, to accompany the child while giving evidence;
- (b) explain why that person is appropriate; and
- (c) consider the views of the child.

(3) Where the applicant is unable to identify someone by name to accompany the child in accordance with subrule (2)(a), the Court shall appoint an appropriate person.

**Applications for special measures directions: evidence by alternative means**

18.6 (1) The Court may order that the applicant or any other participant give evidence by alternative means as set out in rule 18.4.

(2) In making an order under subrule (1), the Court may take into account—

- (a) the welfare of all children involved in the matter;
- (b) the safety and security of all participants;
- (c) the right of the accused to a fair hearing; and
- (d) the opinions of experts.

(3) In the case of a video-digital recorded statement, the applicant shall identify—

- (a) the date and duration of the recording; and
- (b) the part of the statement the applicant wants the Court to admit as the video-digital recorded evidence, if the applicant does not want the Court to admit all of the recording.

#### **Special measures direction for a child witness**

18.7 (1) This rule applies where a Court wishes to give a special measures direction to assist a child witness either—

- (a) pursuant to an application; or
- (b) on the Court's own initiative.

(2) A participant who wishes a child to give evidence by alternative means shall, as soon as reasonably practicable—

- (a) state the alternative means of giving evidence;
- (b) state the reasons for the application; and
- (c) provide the Court with supporting documents.

(3) A participant who wishes a child to have the presence of a supporting person shall—

- (a) identify the supporting person, if possible;
- (b) state the reasons for the application;
- (c) explain why the person referred to in paragraph (a) would be an appropriate companion for the child witness; and
- (d) provide the Court with supporting documents.

(4) On an application to admit video-digital recorded evidence, the applicant shall identify—

- (a) the date and duration of the recording; and
- (b) the whole or part of the video-digital recorded evidence, the applicant wishes the Court to admit as evidence.

**Written witness statements**

18.8 (1) A participant may give evidence by way of a written statement in accordance with section 63A of the Summary Courts Act (Chap. 4:20), section 16 C of the Indictable Offences (Preliminary Enquiry) Act (Chap. 12:01) and 31B of the Sexual Offences Act (Chap. 11:28).

**Video conferencing**

18.9 (1) The Court may conduct any children matter by a video-conference in accordance with section 5 (3) and (4) of the Family and Children Division Act, 2016.

(2) Notwithstanding any other provisions of this rule, a Judge may order a participant's personal appearance in Court for a hearing.

(3) Any participant desiring to call a witness by video-conference shall, at least ten days before the hearing, file an application to present testimony by video-conference.

(4) The court office shall serve the relevant participants with the application referred to in subrule (3) immediately upon its filing.

(5) A participant may file an objection within five days of being served with the application referred to in subrule (3).

**Video-digital recording**

18.10 (1) A special measures direction may provide for a video-digital recording of an interview of the witness to be admitted as evidence-in-chief of the witness.

(2) In considering whether to grant or refuse an application, the Court shall have regard to all the circumstances of the case and in particular—

- (a) the interest of justice;
- (b) whether there would be prejudice to the accused;
- (c) whether the witness will be available for cross-examination;  
or
- (d) whether there has been compliance with any Rules of Court requiring disclosure of the circumstances in which the recording was made.

(3) Where a video-digital recording is admitted under this rule as evidence-in-chief, the witness shall be called for cross-examination, unless a special measures direction provides for cross-examination to be given otherwise than by testimony in Court.

**Video-digital recording in cross-examination and re-examination**

18.11 Where a special measures direction provides for a video-digital recording to be admitted as evidence-in-chief of the witness, the direction may also provide for any cross-examination and any re-examination to be recorded by means of a video-digital recording.

**Evidence of a child through an intermediary or a Court interpreter**

18.12 (1) A special measures direction may provide for any examination of the witness in any place, through a person approved by the Court as an intermediary in accordance with section 99 of the Children Act Chap. 46:01 or a Court interpreter under the Interpreters Act (Chap. 6:54).

(2) The Court shall warn any person sworn as and acting as an intermediary or an interpreter, that shall be liable to conviction for perjury where he knowingly misstates what has been stated by or to the witness.

(3) Where a person acts as an intermediary or interpreter in any proceedings, the words of the intermediary or interpreter shall be taken down in writing or recorded and shall form part of the record of the proceedings.

(4) Where a person acts as a sign language interpreter in any proceedings, each person using sign language shall be videotaped and the words of the sign language interpreter to the Court shall be recorded or taken down in writing and both shall form part of the record of the proceedings.

**Taking of depositions by Master or Registrar using computer aided transcription, audio-digital recording or audio and video-digital recording**

18.13 (1) The Court may order that a deposition be taken by the Master or the Registrar in accordance with section 91 of the Children Act (Chap. 46:01).

(2) The court office shall notify the participants of the date, time and place for taking the deposition.

(3) The Master or Registrar shall deliver the certified deposition to the Court.

**Conducting hearings by telephone, video conference or other appropriate electronic means**

18.14 The Court may conduct hearings, including the taking of evidence by means of telephone, video conference or other appropriate electronic means in accordance with section 5(4) of the Family and Children Division Act, 2016.

## PART 19

APPLICATIONS UNDER THE CHILDREN ACT (CHAP. 46:01)  
(SECTION 61)**Contents of this Part**

Scope of this Part	Rule 19.1
Who can make an application	Rule 19.2
Making an application	Rule 19.3
Duties of Clerk of the Peace	Rule 19.4
Fixing a date for an intake conference	Rule 19.5
Right of a child to legal representation	Rule 19.6
Hearing and management phase	Rule 19.7

**Scope of this Part**

19.1 This Part deals with applications for a Court order declaring a child to be a child in need of supervision.

**Who can make an application**

19.2 The following persons may make an application under this Part with respect to a child:

- (a) a parent;
- (b) a guardian; or
- (c) a person with responsibility for the child.

**Making an application**

19.3 (1) An application under this Part shall be made using Forms 2, 3 and 4 in the Schedule to these Rules, as applicable.

(2) An application may be made in writing to the Clerk of the Peace in the Court in the district who shall immediately transmit the application to the nearest Children Court office.

(3) Notwithstanding subrule (1), an application may be made orally if made in the course of other proceedings.

(4) Notwithstanding subrules (1) and (2), where the circumstances are such that the Court needs to be accessed immediately, an application shall be made in writing to the Registrar.

**Fixing a date for an intake conference**

19.4 (1) On receipt of an application under rule 19.3, the court office shall fix a date for the hearing of the application which shall be within forty-eight hours of the receipt of the application and shall—

- (a) notify the applicant; and
- (b) notify the Clerk of the Peace,

of the date, time and place.

(2) The Clerk of the Peace shall provide the applicant with a copy of the application, on which shall be endorsed the date, time and location of such hearing and acknowledgement of the applicant having been notified.

(3) The Clerk of the Peace shall make a record of the application and the date, time and place of the hearing and of having notified the applicant thereof.

(4) Notwithstanding subrule (1), a participant may apply to the Court for the date of the intake conference to be brought forward.

**Right of the child to legal representation**

19.5 (1) Whenever there is a section 61 application, the Court shall ensure that the child is represented.

(2) Notwithstanding subrule (1), the Court may request the Solicitor General to appoint a Children’s Attorney.

**Hearing and management phase**

19.6 (1) The Court may hear an application during the hearing and management phase.

(2) At the hearing of an application under this Part, the Court shall—

- (a) hear the applicant;
- (b) hear the child; and
- (c) receive reports about the child including—
  - (i) assessment reports; and
  - (ii) reports about the child’s activities, home, family life, school life and mental and physical well-being.

(3) The hearing and management phase ends when—

- (a) the Court discharges the child from its supervision or the care of the Authority; or
- (b) the child attains the age of eighteen years.

## PART 20

## APPLICATIONS FOR ALL OTHER MATTERS

**Contents of this Part**

Procedure for all other matters Rule 20.1

**Procedure for all other matters.**

20.1 (1) Any participant may make an application for all other matters referred to in Rule 10 1 (c) to the Court using Forms 2, 3 and 4 in the Schedule to these Rules as applicable.

(2) In the hearing of the application, the Court may make the following orders:

- (a) transfer the matter;
- (b) proceed to hear the matter;
- (c) adjourn the matter to be heard by another Court;
- (d) dismiss the matter;
- (e) give directions for the further hearing of the matter;
- (f) give appropriate directions and make appropriate orders for the child's welfare;
- (g) hear the child, the parent and any other relevant persons;
- (h) request any further assessments or reports the Court thinks necessary to address the child's welfare;
- (i) monitor the child's progress;
- (j) make orders as to the child's care;
- (k) make orders for supervision of the child;
- (l) deem the child to be in need of care and protection;
- (m) make orders for assessment and reporting as the Court deems necessary; and
- (n) make any order or give any direction as the Court deems fit taking into account the welfare of the child.

## PART 21

## PROCEEDINGS UNDER SECTION 57 OF THE CHILDREN ACT, 2012

**Contents of this Part**

Proceedings for a section 57 order Rule 21.1

**Proceedings for a section 57 order**

21.1 (1) Where in the course of proceedings a child is found to have committed an offence, as a result of a parent, guardian or person with responsibility's failure to exercise reasonable supervision over the child, the Court may—

- (a) issue a summons to the parent, guardian or person with responsibility for the child, if neither is present in Court at the time of his conviction; or
- (b) inform the parent, guardian or person with responsibility for the child present, in Court,

to attend Court at a fixed date and time to show cause why the parent, guardian or person with responsibility for the child should—

- (c) not be required to pay a fine;
- (d) attend counselling; or
- (e) enter into recognisance,

in addition to that which is to be paid by the child or for the child by order of the Court.

(2) A parent, guardian or person with responsibility for the child, pursuant to subrule (1), may make submissions to the Court under oath, orally or in writing, at the hearing.

(3) Where submissions under subrule (2) are made in writing, they shall be filed at the court office at least thirty-six hours before the hearing to show cause, and they shall be certified by the parent, guardian or person with responsibility for the child as true.

**PART 22****PRACTICE DIRECTIONS AND GUIDES****Contents of this Part**

Who may issue Practice Directions	Rule 22.1
Scope of Practice Directions	Rule 22.2
Publication of Practice Directions	Rule 22.3
Date from which Practice Directions take effect	Rule 22.4
Compliance with Practice Direction and practice guides	Rule 22.5

**Who may issue Practice Directions**

22.1 Practice Directions may only be issued by the Chief Justice.

**Scope of Practice Directions**

22.2 (1) A Practice Direction may be issued in any case where provision for such a direction is made by these Rules.

(2) The Chief Justice may issue Practice Directions and practice guides in furtherance of the relevant legislation and these Rules.

**Publication of Practice Directions**

22.3 Practice Directions shall be—

- (a) published in the Trinidad and Tobago Gazette; and
- (b) displayed and made available at each Court office.

**Date from which Practice Directions take effect**

22.4 A Practice Direction takes effect from the date of publication in the *Trinidad and Tobago Gazette* unless the direction specifies some other date.

**Compliance with Practice Direction and practice guides**

22.5 (1) If a participant fails to comply with a practice direction or a practice guide, the Court may impose such sanctions or make such order as may be appropriate against him in accordance with Part 1.4.

## PART 23

## FORMS AND DOCUMENTS

**Content of this Part**

Forms	Rule 23.1
Documents	Rule 23.2

**Forms**

23.1 (1) The forms in the Schedule to these Rules and, where appropriate, practice forms, shall be used in the cases to which they apply.

(2) A form may be varied if the variation is required by the circumstances of a particular case.

(3) Notwithstanding subrule (2), a form shall not be varied so as to leave out any information or guidance which the form in the Schedule or Practice Direction gives to the intended recipient of the form.

(4) Where these Rules require a participant or the Court to send a blank form to any other participant, he shall send it without variation except the insertion of the title of the case and the Court address to which that document is to be returned.

(5) A form marked with the word “Seal” shall bear the seal of the High Court.

### **Documents**

23.2 (1) So far as is practicable, every document prepared for use in the Supreme Court shall—

- (a) be on “letter size” paper, approximately eleven inches long by eight point five inches wide; and
- (b) have margins of one inch (25 mm) left at the top and bottom and one point five inches (38 mm) at each side.

(2) Every document to be filed at the Court shall be headed with the title of the proceedings and contain—

- (a) a description of the document; and
- (b) a statement of the nature of the case.

(3) In addition to the requirements of subrule (2), the document referred to therein shall be endorsed with—

- (i) the name;
- (ii) firm name;
- (iii) bar number;
- (iv) address;
- (v) telephone and fax numbers(if any); and
- (vi) e-mail address (if any)

of the Attorney-at-law filing the document, and where an advocate Attorney-at-law has been instructed—

- (vii) the name;
- (viii) bar number;
- (ix) telehopne and fax numbers (if any); and
- (x) e-mail address(if any),

of that advocate.

PART 24  
TERM AND VACATION

**Content of this Part**

Term and vacation	Rule 24.1
Hearing of applications, etc., in vacations	Rule 24.2
Days on which court office is open and office hours	Rule 24.3

**Term and vacation**

24.1 (1) There shall be three terms, namely—

(a) the first term which begins—

(i) in the case of the Court of Appeal, on the 11th January; and

(ii) in the case of the High Court,

on the 3rd January, and ends on the Thursday before Easter;

(b) the second term which begins on the Monday following Easter Monday and ends on the 31st July; and

(c) the third term which begins on the 16th September and ends—

(i) in the case of the Court of Appeal, on the 21st December; and

(ii) in the case of the High Court, on the 19th December, such dates are inclusive.

(2) Accordingly, the vacations are as follows:

(a) the long vacation which begins on 1st August and ends on 15th September;

(b) first short vacation which—

(i) in the case of the Court of Appeal, begins on the 22nd December and ends on the 10th January; and

(ii) in the case of the High Court, begins on the 20th December and ends on the 2nd January; and

(c) the second short vacation which begins on Good Friday and ends on the Sunday following Easter Monday, such dates are inclusive.

**Hearing of applications, etc., in vacations**

24.2 (1) During vacations the Court shall hear and determine only such matters as it certifies as urgent or requiring prompt attention.

(2) A participant may apply to the Court for any matter to be heard in vacation.

**Days on which court offices open and office hours**

24.3 The court offices shall be open on every day of the year except—

- (a) Saturdays and Sundays;
- (b) Carnival Monday and Tuesday;
- (c) public holidays;
- (d) the next following working day after Christmas day;
- (e) Monday and Tuesday after Easter; and
- (f) such other days as the Chief Justice may direct,

between 8.00 a.m. and 4.00 p.m..

PART 25

TRANSITIONAL

**Content of this Part**

Transitional

Rule 25.1

**Transitional**

25.1 (1) Save as provided in subrule 1.3 in Part 1, the relevant Rules of Court and other statutory provisions shall continue to apply to children matters commenced in the Supreme Court or Magistrates' Court before the commencement of this Act.

(2) Where before the commencement of these Rules, a child has been charged with an offence, and evidence has been heard by a Magistrate, the Magistrate shall have jurisdiction to continue to hear or determine the proceedings notwithstanding any provisions to the contrary in these Rules.

SCHEDULE

FORM 1

[Rule 15.2 (2)]

IN THE HIGH COURT OF JUSTICE  
FAMILY AND CHILDREN DIVISION  
CHILDREN COURT

(full address for each court, telephone/fax numbers, email)

Case No:

THE STATE

V.

NAME OF CHILD (Unique identifier)

for

Offence

REQUEST FOR A MAXIMUM SENTENCE INDICATION

This request is made by ..... for the Court to indicate:  
*(name of child)*

- a sentence of a particular type
- a sentence of a particular quantum
- a sentence that would not be imposed
- a combination of sentence

Include:

1. Summary of the facts agreed by the prosecution and the defence.
2. Information as to any previous convictions of the child.

.....  
*Attorney-at-law for the child*

FORM 2

[Rule 19.3(1) and 20.1(1)]

IN THE HIGH COURT OF JUSTICE  
FAMILY AND CHILDREN DIVISION  
CHILDREN COURT  
(full address for each court, telephone/fax numbers, email)

Case No:

THE STATE  
V.  
NAME OF CHILD/CHILDREN (Unique identifier)  
for  
Offence

**APPLICATION RELATING TO CHILDREN**

1. FULL NAMES OF EACH CHILD TO WHOM THIS APPLICATION RELATES:

2. THE APPLICANT

Give your name, address and telephone number and date of birth.

Your Attorney-at-law's name, address, telephone number, FAX number.

3. THE CHILD/CHILDREN

State the full names, date of birth or age and your relationship to each child.

4. OTHER CASES AFFECTING THE CHILD/CHILDREN

State with regard to each child whether there have been any previous proceedings in ANY Court. Give name of Court, date, type of proceedings and order made. Attach copy orders wherever possible.

5. RESPONDENT(S) TO THE APPLICATION

Give the full names, addresses and dates of birth and age of each respondent to the application and state their relationship to each child.

6. CARE OF THE CHILDREN

State with reference to each child: current address, how long the child has lived there whether it is his or her normal address, who cares for the child, whether there are other children there and, if so, the child's relationship to the other children.

## 7. OTHER ADULTS

State with regard to each child whether there is any adult other than a parent living with the child, whether that adult lives there permanently, whether he has been involved in any Court proceedings relating to the child.

## 8. THE ORDERS YOU SEEK

State briefly the orders that you seek in respect of each child—custody, access or other.

## 9. YOUR REASONS FOR MAKING THE APPLICATION

Set out briefly your reasons, you may be able to amplify them in writing later.

Signed: .....

Dated: .....

## HEARING

Directions will be given relating to this application at the initial hearing on .....(date) at .....(time) at ..... before the Honourable Mr./Madame Justice ..... /Master ..... . [Directions have already been given at the directions hearing on]

The Court office is at , telephone number ....., FAX number ..... The office is open between [8.00 a.m. and 4.00 p.m. every day except Public Holidays and on such other days as the Court office is closed.

FORM 3

[Rule 19.3(1) and 20.1(1)]

IN THE HIGH COURT OF JUSTICE  
FAMILY AND CHILDREN DIVISION  
CHILDREN COURT  
(full address for each court, telephone/fax numbers, email)

Case No:

THE STATE

V.

NAME OF CHILD (Unique identifier)

For

Offence

APPLICATION RELATING TO CHILDREN

REPLY TO APPLICATION RELATING TO CHILDREN

FULL NAME OF EACH CHILD TO WHOM THIS APPLICATION RELATES:

1. THE RESPONDENT

Give your name, address and telephone number, date of birth.

Your attorney's name, address, telephone number, FAX number.

2. THE CHILD/CHILDREN.

State the full name, date of birth or age and your relationship to each child.

3. OTHER CASES AFFECTING THE CHILD/CHILDREN

State with regard to each child whether you disagree with or can add to the information given by the Applicant in this section.

(Attach copy orders wherever possible)

4. CARE OF THE CHILD/CHILDREN

State with regard to each child whether you disagree with or can add to the information given by the Applicant in this section.

5. OTHER ADULTS

State with regard to each child whether you disagree with or can add to the information given by the Applicant in this section.

6. THE ORDERS YOU SEEK

State briefly any orders that you seek in respect of each child - custody, access or other.

7. YOUR REASONS FOR OPPOSING THE APPLICATION OR FOR MAKING ANY APPLICATION OF YOUR OWN

Set out briefly your reasons, you may be able to amplify them in writing later.

Signed.....

Dated.....

The Court office is at [                    ], telephone number ....., FAX number ..... The office is open between [8.00 a.m. and 4.00 p.m. every days except Public Holidays and such other days as the Court office is closed.

FORM 4

(Rule 20.1)

IN THE HIGH COURT OF JUSTICE  
FAMILY AND CHILDREN DIVISION  
CHILDREN COURT

(full address for each court, telephone/fax numbers, e-mail)

Case No:

THE STATE

V.

NAME OF CHILD (Unique identifier)

for

Offence

NOTICE OF APPLICATION

The [complainant][applicant][defendant] [respondent] applies to the court for an order that—

A draft of the order that I seek is attached. The grounds of the application are—

I/We hereby certify that the facts stated above are true to the best of my/our knowledge, information and belief.

[An affidavit in support accompanies this application]

Signed [Attorney for] [complainant][applicant][defendant] [respondent]

Dated:

NOTICE:

This application will be heard by [the Honourable Mr./Madame Justice .....][Master .....] on ..... the .....day of ..... 20..... ,at ..... a.m./p.m. at Children Court situate at [address].

If you do not attend this hearing an order may be made in your absence. OR

The [Judge] [Master] will deal with this application by—

The Court office is at [.....] telephone number ....., FAX ....., The office is open between [8.00 a.m.] and [4.00 p.m.] Mondays to Fridays except Public Holidays and on such other days as the Court office is closed.

NB: This notice of application must be served as quickly as possible on the respondent to this application.

Made by the Rules Committee this 27th day of February, 2018.

I. ARCHIE  
*Chief Justice*

C. PEMBERTON  
*Justice of Appeal*

A. FITZPATRICK S.C.  
*Attorney-at-law*

F. AL RAWI  
*Attorney General*

N. BANSEE-SOOKHAI  
*Registrar*

S. INDARSINGH  
*Attorney-at-law*