

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 25 of 1937.

AN ORDINANCE

Relating to Education.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Education Ordinance* Short title.
1937.

2.—(1.) The *Education Ordinance 1928* and the *Education Ordinance 1930* are repealed. Repeal.

(2.) Notwithstanding the repeal of the Ordinances specified in sub-section (1.) of this section—

(a) any regulations made in pursuance of the *Education Ordinance 1928*, or under that Ordinance as subsequently amended, and in force immediately prior to the commencement of this Ordinance, shall continue in force as regulations under this Ordinance and may be repealed or amended by regulations made thereunder; and

(b) any registration, certificate, register or appointment effected, granted, kept or made thereunder and in force, in use or held immediately prior to the commencement of this Ordinance, or any right, title, interest, power, duty, obligation or liability created by, acquired under, or at any time existing under, or by virtue or in respect of any such registration, certificate, register or appointment, and all such registrations, certificates, registers or appointments shall continue to be of the same force and effect as if this Ordinance had not been made.

Incorporation.

3. This Ordinance shall be incorporated and read as one with the *Public Instruction Act* of 1880 and the *Free Education Act* 1906 of the State of New South Wales in their application to the Territory.

Parts.

4. This Ordinance is divided into Parts, as follows:—

Part I.—Preliminary.

Part II.—Compulsory Attendance at Schools.

Part III.—Certified Schools.

Part IV.—Miscellaneous.

Definitions.

5. In this Ordinance, unless the contrary intention appears—

“the Court” means the Children’s Court established under the *Neglected Children and Juvenile Offenders Act* 1905, of the State of New South Wales, in its application to the Territory, and includes any Court exercising the jurisdiction of a Children’s Court;

“the Registrar” means the Registrar of Schools appointed under section seven of this Ordinance;

“truant” means a child who habitually disobeys the order of his parents or guardian to attend school.

Exercise of powers and functions by State authorities.

6. Subject to this Ordinance and the Regulations, any person or authority under the *Public Instruction (Amendment) Act* 1916, and the *Public Instruction (Amendment) Act* 1917, of the State of New South Wales, may exercise any power or function under this Ordinance which corresponds to any of the powers or functions which he or it may exercise under those Acts.

Appointment of Registrar, Acting Registrar and Attendance Inspector.

7.—(1.) There shall be a Registrar of Schools, who shall be appointed by the Minister.

(2.) The Minister may appoint an officer to be Acting Registrar of Schools during the absence of the Registrar or during any temporary vacancy in the office of Registrar, and any Acting Registrar so appointed shall have and may exercise all the powers and functions of the Registrar.

(3.) The Minister may appoint such Attendance Inspectors and other officers as he considers necessary for carrying out this Ordinance.

PART II.—COMPULSORY ATTENDANCE AT SCHOOLS.

Compulsory enrolment.

8.—(1.) The parent or guardian of any child who is between the ages of seven and fourteen years and who is residing in the Territory shall cause the child to be enrolled as a scholar at school in the Territory maintained by or on behalf of the Commonwealth or a school certified under this Ordinance.

(2.) The parent or guardian of any child who is between the ages of seven and fourteen years and who is residing in the Territory and who is not enrolled as a scholar at a school in the Territory maintained by or on behalf of the Commonwealth or a school certified under this Ordinance shall be guilty of an offence.

Penalty: For the first offence, One pound, and for any subsequent offence in respect of the same child, Five pounds.

9. If any parent or guardian of a child who is between the ages of seven and fourteen years and who is residing in the Territory fails to cause the child to attend, as a scholar, a school in the Territory maintained by or on behalf of the Commonwealth, or a school certified under this Ordinance, on any half-day when the school is open, shall be guilty of an offence. Compulsory attendance.

Penalty: For the first offence, One pound, and for any subsequent offence in respect of the same child, Five pounds.

10. It shall be a good defence in any prosecution under section eight or nine of this Ordinance that at the date alleged in the information— Defence in prosecutions under sections 8 and 9

- (a) the child was of the age of thirteen years or more, and had received a certificate certifying that he had been educated up to the prescribed standard of education;
- (b) the child was receiving regular and efficient instruction on at least eighty-five days in each half-year in his home or at a school outside the Territory, the onus of proof of which shall lie upon the parent or guardian;
- (c) the prescribed person or authority had granted an exemption certificate under this Ordinance in respect of the child, and the certificate was in force; or
- (d) there was not a school within three miles by the nearest practicable route of the place of residence of the child, or that the child was less than eleven years of age, and there was not a school within two miles by the nearest practicable route of his place of residence:

Provided that in any case where the child may travel to school on a free pass by train or other conveyance, this defence shall not be sufficient unless it be shown that the child would have to walk three miles, or if less than eleven years of age, two miles, in order to travel by the train or conveyance, that distance to be computed so as to include mileage to the train or conveyance, and also from the terminal point of the train or conveyance to the school.

Good defence
to prosecution
under section 9.

11. It shall be a good defence in any prosecution under section nine of this Ordinance that at the date alleged in the information—

- (a) the child was prevented from attending school by sickness, danger of infection or temporary or permanent infirmity, and, within seven days after the date on which the sickness, danger, or infirmity occurred or arose, the defendant gave or caused to be given notice thereof in writing to the teacher of the school which the child attended immediately prior to that date; or
- (b) the child had not been absent for more than six half-days on which the school was open during the three months immediately preceding that date.

Certain
averments
to be
prima facie
evidence.

12.—(1.) In any prosecution for an offence against section eight or section nine of this Ordinance, all or any of the following averments by the informant may be included in the information and, if included therein, shall be *prima facie* evidence of the matter or matters averred namely:—

- (a) That the child is of or about the age stated in the information;
- (b) That at the date of the alleged offence the child was residing in the Territory;
- (b) That at the date of the alleged offence the child was not enrolled as a scholar at a school in the Territory maintained by or on behalf of the Commonwealth or a school certified under this Ordinance.

(2.) This section shall apply to any matter so averred although evidence in support or rebuttal of the matter averred or of any other matter is given.

Two hours'
attendance
constitutes
half-day's
attendance.

13. For the purposes of this Ordinance, an attendance for not less than two hours during the period for which a school is open on any half-day shall constitute attendance on that half-day, but any child having received the teacher's sanction to leave school on any half-day before the completion of the hours appointed shall be deemed to have attended on that half-day.

Certificate
of principal
of school
to be evidence
of facts stated
therein.

14. A certificate purporting to be under the hand of the head master or principal teacher of a school maintained by or on behalf of the Commonwealth or a school certified under this Ordinance stating—

- (a) that a child is or is not enrolled as a scholar at such school;
- (b) the particulars of attendance of a child at such school;
or
- (c) that a child has obtained a certificate certifying that the child has been educated up to the prescribed standard of education.

shall be evidence of the facts stated in such certificate.

15.—(1.) The proprietor or principal teacher of every school shall— Register of attendances.

- (a) keep a register, in a form approved by the Registrar of the attendance of scholars at his school;
- (b) at the request of the Registrar, any Attendance Inspector or any Inspector of Schools, produce the register to him and permit him to inspect and make extracts from the register; and
- (c) on request, furnish the Registrar, when required, with a return showing any information concerning the attendance of scholars which may be deemed necessary in order to secure compliance with the provisions of this Ordinance.

(2.) If any such proprietor or teacher fails to carry out any of the provisions of this section, or falsifies any such register or return, he shall be guilty of an offence.

Penalty: Ten pounds.

16.—(1.) The prescribed person or authority may grant a certificate exempting a child from the attendance at school required by this Ordinance where he is satisfied— Exemption certificates.

- (a) that the child receives efficient instruction at home or elsewhere;
- (b) that such conditions exist as make it necessary or desirable that the certificate should be granted; or
- (c) that there is not adequate school accommodation.

(2.) A certificate granted under this section shall be in force for the period mentioned in the certificate and no longer.

17. Where it is proved, to the satisfaction of an Inspector of Schools appointed under any Act of the State of New South Wales relating to education and performing duties or exercising functions in relation to schools in the Territory, that a child has satisfactorily completed the course of study for the sixth class or an equivalent course of study satisfactory to the inspector, and is not less than thirteen years of age, the inspector or a prescribed person or authority shall grant the child a certificate accordingly. Certificate of education up to prescribed standard.

18.—(1.) If, in any prosecution under this Ordinance for failing to cause a child to attend a school, there is evidence of the service of a notice on the parent or guardian that it is intended to charge that the child is a truant, and the Court is satisfied that the child is a truant, it may order him to be sent to an institution selected by the Minister for the detention of truants. Truants.

(2.) A child sent to any such institution in pursuance of any such order shall be there detained until he reaches the age of fourteen years, provided that the child may be transferred by the Minister to any other institution.

(3.) Where a child has, in pursuance of this section, been detained in any such institution for any period deemed sufficient by the Minister, the Minister may grant a licence under which the child may leave the institution.

(4.) Any child permitted to leave any such institution in pursuance of such a licence shall regularly attend such school as is specified in the licence, and the teacher in charge of the school shall, if the child is absent from the school on any occasion, report to the prescribed person or authority.

(5.) If, in the opinion of that person or authority, the child is not attending the school regularly, the Minister may withdraw the licence and order the child to be again sent to an institution selected by the Minister.

(6.) In the selection of any institution under this section, the Minister shall have regard to the expressed desire of the parent or guardian of the child as to the religious training of the child or, in the absence of any such expressed desire, to the desire of the authorities controlling an institution of the religious denomination to which the child belongs.

(7.) Where, in pursuance of this section, a Court orders a child to be detained in an institution, the Court may, while the Agreement set forth in the Schedule to the *Juvenile Offenders (Detention) Agreement Ordinance 1936* or any Agreement in substitution for that Agreement is in force, commit the child to a State institution in the State of New South Wales until he reaches the age of fourteen years.

(8.) For the purposes of the last preceding sub-section, "State institution" means any institution within the meaning of the *Child Welfare Act, 1923*, of the State of New South Wales.

**Payment by
parent towards
maintenance of
child.**

19.—(1.) If it appears to the Court, on complaint by or on behalf of the Minister, that any parent is of ability to maintain or to contribute to the maintenance and training of his child during his detention as a truant, the Court may order the parent to pay to the Commonwealth or to such person or authority as the Minister appoints, a reasonable sum not exceeding One pound per week for or towards the maintenance and training of the child.

(2.) Any order made under this section shall be enforced and may be appealed from, quashed, confirmed, or varied in the same manner in all respects as an order made under the *Infant Protection Act 1904*, of the State of New South Wales, in its application to the Territory.

PART III.—CERTIFIED SCHOOLS.

20. In this Part, “school” means an assembly at appointed times of three or more persons of not more than nineteen years of age for the purpose of being instructed by a teacher in one or more of the following subjects, namely:—

Definition of
“school”.

Reading, Writing, Arithmetic, Grammar, Geography,
English or any other language, Mathematics, History, any
natural or experimental or applied Science, Bookkeeping
or Accountancy,

but does not include—

- (a) a school established or maintained by or on behalf of the Commonwealth;
- (b) the Canberra University College;
- (c) the Australian School of Forestry; or
- (d) any school declared by the Minister, by notice in the *Gazette*, to be a school to which the provisions of this Part shall not apply.

21.—(1.) A person shall not establish, maintain or conduct any school unless it is registered or certified in accordance with this Part.

Schools to be
registered.

Penalty: Ten pounds.

(2.) The proprietor or principal teacher of any school shall not receive or permit to be received into any school any child for the purposes of education beyond the standard in respect of which the school is registered or certified under this Part.

Penalty: Ten pounds.

22.—(1.) The proprietor or principal teacher of any school, shall apply to the Minister for registration of the school under this section, and the Minister shall cause it to be registered on a list to be kept for that purpose, and upon registration the school may be declared by the Minister to be a provisionally certified school from the time of registration to the thirty-first day of December next ensuing.

Registration.

(2.) Any person desirous of establishing any school to be attended by children between the ages of seven and nineteen shall apply to the Registrar for registration of the school, and if the Minister is satisfied from evidence submitted by the applicant that the premises in which it is proposed to conduct the school are provided with proper access, drainage, light, ventilation and sanitary conveniences, and that the school will provide regular and efficient instruction, the Registrar shall register it on a list to be kept for that purpose, and upon registration the school shall be a provisionally certified school for a period of six months commencing on the date of registration.

Inspection of
schools.

23. The Minister shall, before the expiration of the period for which provisional registration has been given under the last preceding section, cause every school so registered to be inspected by the prescribed person or authority, and, where that person or authority reports that efficient and regular instruction is being given in any school, the Registrar, subject to the approval of the Minister, may issue a certificate to that effect, and the school shall then be a certified school during a term to be stated in the certificate.

Inefficient
schools.

24.—(1.) If the prescribed person or authority, upon inspection of any school, is of opinion that efficient and regular instruction is not being given, he shall so inform the Registrar, and shall state the reasons for his opinion.

(2.) Notice shall thereupon be sent to the proprietor or principal teacher of the school informing him of the reasons and requiring him to make the changes necessary to the efficiency of his school.

(3.) The prescribed person or authority may, thereafter, make a further inspection and, if he reports that efficient and regular instruction is then being given, the Registrar, subject to the approval of the Minister, may issue the certificate mentioned in the last preceding section.

Extension of
registration.

25. In any case where a school registered under section twenty-two of this Ordinance has not within the prescribed period obtained a certificate under section twenty-three of this Ordinance, the Registrar may extend to the thirtieth day of June next ensuing the time for obtaining a certificate, and in that case the school shall until that date continue to be a provisionally certified school.

Certificate
may be
limited.

26.—(1.) Subject to this section, a school shall be certified to be a secondary school for the instruction of children of all ages or to be a primary school for the instruction of children up to a certain age only, as is prescribed, and any certificate issued may be recalled by the Registrar upon report by the prescribed person or authority that the age limit stated therein should be altered, and the Registrar, subject to the approval of the Minister, may thereupon issue a new certificate in accordance with that report.

(2.) A school shall not be certified to be a secondary school unless the organization and equipment, the method and range of instruction, the efficiency of the teaching staff and the manner of the conduct of the school are in accordance with the respective standards for secondary schools approved by the Minister.

Cancellation of
certificate.

27. Certified schools may, by direction of the Minister, be inspected from time to time, and any certificate issued under this Ordinance may be cancelled by the Minister if he is satisfied upon inquiry and report that efficient and regular instruction is not being given in the school named in the certificate, or if the proprietor or principal teacher is guilty of any breach of this Ordinance.

28. The Registrar shall cause to be kept a list of certified List of certified schools. primary schools and a list of certified secondary schools.

29.—(1.) The prescribed person or authority may, at any hour Inspection of school buildings in the daytime, enter any building and premises in which a school is held for the purpose of ascertaining whether the building and premises are provided with proper access, drainage, light, ventilation and sanitary conveniences.

(2.) If the Minister considers that the building or premises are not so provided or are in disrepair, he may give the proprietor or head teacher notice to provide proper access, drainage, light, ventilation or sanitary conveniences, or to place the building or premises in proper repair.

(3.) If, within one month or such further time as the Minister directs, the notice has not been complied with to the satisfaction of the Minister, the school, if certified, shall cease to be a certified school.

30. Teachers or proprietors of certified schools shall furnish Returns to be furnished. returns to the Registrar in accordance with the prescribed forms.

PART IV.—MISCELLANEOUS.

31. Where, in pursuance of this Ordinance, notice in writing is given to a teacher that a child was prevented by any cause from attending school, the teacher shall file the notice for inspection by the Registrar or any Attendance Inspector. Filing of excuses for absence of scholars.

32.—(1.) The Minister may, at such times and in such localities as he thinks fit, cause to be delivered at each dwelling house, by post or otherwise, a form of return as prescribed. Form of return to be furnished by parent.

(2.) The parent or guardian of any child between the ages of seven and fourteen years residing in any dwelling house, shall, with regard to that child, within the prescribed time, complete the form of return delivered at that dwelling house in pursuance of the last preceding sub-section, and cause it to be returned as prescribed.

(3.) Any such parent or guardian who—

(a) fails, refuses or neglects to complete and return or cause to be completed and returned that form with respect to any such child; or

(b) wilfully makes any false statement in that form, shall be guilty of an offence.

Penalty: One pound.

33. An order made by the Court or by the Minister under this Ordinance that a child be sent to an institution shall be forwarded to the person having the chief immediate control of the institution and shall be a sufficient warrant for the detention of the child in pursuance of this Ordinance. Orders sending children to institution.

Admission to
school.

34. The Minister may refuse the admission of any child to any school maintained by or on behalf of the Commonwealth if there is accommodation for that child in another school so maintained within the prescribed distance of the dwelling place of that child.

Conveyance of
children
to and from
school.

35. The Minister may make provision for the conveyance of children to and from any school in the Territory.

Prosecutions.

36. Any prosecution under this Ordinance may be instituted by the Registrar or any other person thereto authorized in writing by the Minister.

Regulations.

37. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular for prescribing matters providing for and in relation to—

- (a) the furnishing of returns by parents or guardians, giving particulars of all children in a dwelling house;
- (b) institutions for the detention of children pursuant to a breach of this Ordinance, and providing for the treatment of children sent to institutions in pursuance of this Ordinance;
- (c) the forms of orders, certificates, and other documents under this Ordinance, or the regulations for the time being in force thereunder;
- (d) the establishment and maintenance of bursaries entitling the holders thereof to proceed either to a University or a Secondary School; and
- (e) the imposition of penalties not exceeding Ten pounds for the breach of any such regulation.

Dated this fifteenth day of December, 1937.

GOWRIE

Governor-General.

By His Excellency's Command,

A. G. CAMERON

for Minister of State for the Interior.

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