

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 20 of 1928.

AN ORDINANCE

Relating to Education.

BE it ordained by the Deputy of the Governor-General of 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*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Education Ordinance* Short title.
1928.

2. This Ordinance shall commence on a date to be fixed by Commencement
the Commission by notice in the *Gazette*.

3. This Ordinance shall be incorporated and read as one with Incorporation
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.

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

Part I.—Preliminary.

Part II.—Compulsory Attendance at Schools.

Part III.—Certified Schools.

Part IV.—Miscellaneous.

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

“ the Commission ” means the Federal Capital Commission;
“ the Court ” means the Children’s Court established under the *Neglected Children and Juvenile Offenders Act* 1905, of the State of New South Wales, and includes a magistrate or justices exercising the jurisdiction of a Children’s Court;
“ 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 any regulations made under this Ordinance, 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.

Delegation by
Commission.

7.—(1.) The Commission may delegate any of its powers and functions under this Ordinance (except this power of delegation) in relation to any matters or class of matters, so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power or function by the Commission.

PART II.—COMPULSORY ATTENDANCE AT SCHOOL.

Compulsory
attendance at
school.

8.—(1.) The parent or guardian of any child between the ages of seven and fourteen years shall cause the child to attend regularly either a school maintained by or on behalf of the Commonwealth or the Commission or a school certified under this Ordinance.

(2.) Every parent or guardian of a child between the ages of seven and fourteen years who fails to cause the child to attend a school in which the child is a scholar on any half-day when the school is open, and who fails to show to the satisfaction of the Court that the non-attendance on the half-day was due to one or more of the causes mentioned in sub-section (4.) of this section, 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.

(3.) In any prosecution under this section the averment of the prosecutor contained in the information that the child is of or about the age stated in the information shall be *prima facie* evidence of that age.

(4.) It shall be a good defence in any such prosecution that at the date alleged in the information—

- (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, 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;
- (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;

- (e) the child was prevented from attending school by sickness, danger of infection, temporary or permanent infirmity, or other cause deemed by the Court to be sufficient, and within seven days after the date on which the sickness, danger, infirmity or cause 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
- (f) the child had not been absent for more than six half-days on which the school was open during the three months immediately preceding the half-day.

(5.) An attendance for not less than two hours during the period for which the 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.

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

- (a) keep a register, in a form approved by the Commission, of the attendance of scholars at his school;
- (b) at the request of any prescribed person or authority, produce the register to him and permit him to inspect and make extracts from the register; and
- (c) on request, furnish the Commission, 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.

Exemption
certificates.

10.—(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—

- (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.

Certificate of
education up to
prescribed
standard.

11. 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.

Truants.

12.—(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 Commission for the detention of 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 Commission 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 Commission, the Commission 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 Commission may withdraw the licence and order the child to be again sent to an institution selected by the Commission.

(6.) In the selection of any institution under this section, the Commission 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.

13.—(1.) If it appears to the court, on complaint by or on behalf of the Commission, 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 Commission or to such person as it appoints, a reasonable sum not exceeding One pound per week for or towards the maintenance and training of the child.

Payment by parent towards maintenance of 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.

PART III.—CERTIFIED SCHOOLS.

14.—(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.

15.—(1.) The proprietor or principal teacher of any school, other than a school established or maintained by or on behalf of the Commonwealth or the Commission, attended by children between the ages of seven and nineteen, shall apply to the Commission for registration of the school under this section, and the Commission shall cause it to be registered on a list to be kept for that purpose, and upon registration the school shall 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 Commission for registration of the school, and if the Commission 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 Commission shall cause it to be registered 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.

16. The Commission 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 Commission 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.

17.—(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 Commission, 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 Commission may issue the certificate mentioned in the last preceding section.

Extension of
registration.

18. In any case where a school registered under section fifteen of this Ordinance has not within the prescribed period obtained a certificate under section sixteen of this Ordinance, the Commission 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.

19.—(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 Commission upon report by the prescribed person or authority that the age limit stated therein should be altered, and the Commission 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 Commission.

Cancellation of
certificate.

20. Certified schools may be, by direction of the Commission, inspected from time to time, and any certificate issued under this Ordinance may be cancelled by the Commission if it is satisfied upon enquiry 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.

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

22.—(1.) The prescribed person or authority may, at any hour 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. Inspection of school buildings.

(2.) If the Commission considers that the building or premises are not so provided or are in disrepair, it 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 Commission directs, the notice has not been complied with to the satisfaction of the Commission, the school, if certified, shall cease to be a certified school.

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

PART IV.—MISCELLANEOUS.

24. 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 prescribed person or authority. Filing of excuses for absence of scholars.

25.—(1.) The Commission may, at such times and in such localities as it 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.

Orders sending
children to
institution.

26. An order made by the Court or by the Commission 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.

Admission to
school.

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

Regulations.

28. The Commission 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 Fifty pounds for the breach of any such regulation.

Dated this sixth day of September, One thousand nine hundred and twenty-eight.

W. P. CULLEN

Deputy of the Governor-General.

By His Excellency's Command,

NEVILLE HOWSE

Minister of State for Home and Territories.

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