

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 6 of 1936.

AN ORDINANCE

To approve an Agreement made between the Minister of Public Instruction of the State of New South Wales and the Attorney-General of the Commonwealth of Australia for the reception, detention and maintenance in institutions in the State of New South Wales of children committed to those institutions by the Courts of the Territory for the Seat of Government.

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:—

1. This Ordinance may be cited as the *Juvenile Offenders (Detention) Agreement Ordinance 1936*. Short title.
2. This Ordinance shall commence on a date to be fixed by the Minister by notice published in the *Gazette*. Commencement.
3. In this Ordinance, unless the contrary intention appears— Definition.
“the Agreement” means the Agreement made between the Honourable David Henry Drummond, Minister of Public Instruction of the State of New South Wales and the Honourable Robert Gordon Menzies, Attorney-General of the Commonwealth of Australia (a copy of which Agreement is set forth in the Schedule to this Ordinance).
4. The Agreement is ratified and approved. Approval of Agreement.

THE SCHEDULE.

AGREEMENT made the sixth day of December in the year One thousand nine hundred and thirty-five BETWEEN THE HONOURABLE DAVID HENRY DRUMMOND the Minister of Public Instruction of the State of New South Wales for and on behalf of the said State of the one part and THE HONOURABLE ROBERT GORDON MENZIES Attorney-General of the Commonwealth of Australia for and on behalf of the said Commonwealth of the other part WHEREBY IT IS AGREED AS FOLLOWS:—

1. In this Agreement unless the contrary intention appears the singular shall include the plural and the plural the singular and the masculine the feminine and the following expressions shall have the meanings respectively set opposite to them—

“Attorney-General” means the Attorney-General for the time being of the Commonwealth or other the Minister of the Commonwealth for the time being administering the Statutes and Ordinances of the Territory relating to uncontrollable children.

- "Court" includes Judge, Magistrate or Justice of the Peace.
- "Child" means boy or girl under eighteen years of age and in the absence of positive evidence as to age apparently under eighteen years of age.
- "Commonwealth" means the Commonwealth of Australia.
- "Officer" includes member of police force or any authorised person.
- "Minister" means the Minister of the State for the time being administering the State Act.
- "Secretary" means the Secretary to the Child Welfare Department of the State or the person acting as such for the time being.
- "State" means the State of New South Wales.
- "State Act" means the Child Welfare Act 1923 of the State as amended by subsequent Acts and includes any Act hereafter passed in amendment of or in substitution for such Act and includes the Regulations for the time being in force under any such Act.
- "State Institution" means an institution in the State established under the State Act or any place or premises of the State in which a child may be held detained or placed under any of the provisions of the State Act.
- "Superintendent" includes manager or person in charge for the time being.
- "Territory" means the Territory for the Seat of Government of the Commonwealth.

2. (a) When a Court acting or purporting to act under any law or ordinance of or in force in the Territory commits any child into or orders any child to be committed removed into or detained in any State Institution such child may be taken by an Officer of the Territory from the Territory to the Metropolitan Shelter of the Child Welfare Department of the State at Sydney and when such child is together with the said Order of the Court and if required evidence of identity of the child handed over by such Officer to and received into the custody or charge of the Superintendent of such Metropolitan Shelter then during the subsistence of the said Order of the Court or of any Order of a Court acting or purporting to act as aforesaid amending or extending or in replacement of such Order, but subject to the provisions of this Agreement such child shall be detained cared for and maintained in such Metropolitan Shelter and conveyed and removed to a State Institution or Institutions as determined by the Minister from time to time and there detained cared for and maintained as if the child had been a child lawfully committed by a Children's Court of the State to a State Institution under the State Act by an Order then in force.

(b) Subject to the provisions of this Agreement upon the child being received into the custody or charge of the Superintendent of the said Metropolitan Shelter as aforesaid the child shall become and thereafter remain subject to the terms and provisions of the State Act in all respects as if such child had been a child lawfully committed to a State Institution by a Children's Court of the said State under the State Act by an Order for the time in force and the Minister the Secretary and other Officers of the State may as regards such first mentioned child exercise any powers discretions and authorities vested in any of them by the State Act save and except that no such child shall be boarded out placed out or apprenticed under the State Act without the consent of the Attorney-General.

(c) Where any child is handed over by an Officer of the Territory to the Superintendent of the said Metropolitan Shelter in purported or intended execution of the provisions of sub-clause (a) of this clause no action suit or proceeding shall lie against the State or any officer or authority of the State for or by reason of the apprehension conveyance or removal of such child or his detention in the said Metropolitan Shelter or any State Institution or the exercise in respect of such child of any power discretion or authority vested in any person by the State Act and the State and any officer or authority of the State shall not be held liable by reason of any further Order of any Court acting or purporting to act as mentioned in Sub-clause (a) of this Clause unless and until the Secretary has been given notice of the same.

3. Upon service upon him of an Order under the hand of the Attorney-General directing the removal to the Territory of a child detained in a State Institution or boarded out, placed out or apprenticed under the State Act in pursuance of this Agreement the Secretary shall forthwith deliver or cause to be delivered at a Centre to be agreed upon such child into the custody of the person named in the Order as authorised to receive the child.

4. Any child who in pursuance of this Agreement has been received in a State Institution or who has been boarded out placed out or apprenticed under the State Act and who is discharged therefrom or from the operation of

the State Act shall be conveyed to the Territory or other Centre as may be determined upon by the Attorney-General at the cost and expense of the Commonwealth.

5. In respect of each and every child who is handed over by an Officer of the Territory to the Superintendent of the Metropolitan Shelter as aforesaid and is received into the custody or charge of the said Superintendent the Commonwealth shall pay to the State the cost to the State of maintaining such child and any expense reasonably incurred in conveying such child from one place to another. For the purpose of this Clause the cost to the State of maintaining a child shall during the continuance and operation of this Agreement be deemed to be One pound ten shillings per week and proportionately for part of a week:

Provided that if in exercise of the powers conferred by or under the State Act a child is boarded out or placed out or apprenticed the said weekly payments of One pound ten shillings for the cost of the maintenance of such child shall not be payable in respect of the period for which such child shall be actually in the custody and charge of the person or master to whom he is boarded out placed out or apprenticed and in lieu thereof the Commonwealth shall pay to the State the expenses incurred by the State on behalf of the child (including boarding out or maintenance payments for clothing medical and dental attention and for conveyance of the child from the State Institution to the place at which it is boarded out or placed out or apprenticed and its return from such place to a State Institution).

6. In the month of July in each year during the continuance or operation of this Agreement the Secretary shall furnish to the Attorney-General particulars of—

- (1) the names of all children in respect of whom the Commonwealth may be liable who in the period ending on the thirtieth day of June then last past and commencing in the first case with the commencement of this Agreement and in subsequent cases with the first day of July of the preceding year were received detained cared for maintained or otherwise dealt with by the State or its Officers or authorities under or in pursuance of this Agreement; and
- (2) the State Institutions in which such children respectively were maintained and the period of maintenance in each Institution.

7. In the calendar month after the termination of this Agreement the Secretary shall furnish to the Attorney-General the particulars mentioned and referred to in Clause Six hereof in regard to all children in respect of whom the Commonwealth may be liable but in reference to the period commencing on the first day of July last past and ending on the termination of this Agreement.

8. Any moneys payable by the Commonwealth to the State pursuant to this Agreement shall be paid to the Secretary at Sydney.

9. Within a period of one calendar month after the particulars referred to in Clause Six hereof have been furnished to the Attorney-General in respect of any period ending on the thirtieth day of June in each year as mentioned in such Clause and after the particulars referred to in Clause Seven hereof have been furnished to the Attorney-General in respect of the period ending on the termination of this Agreement the Commonwealth will pay to the State as herein provided the moneys payable hereunder in regard to all children in respect of whom the Commonwealth may be liable for or in relation to the period ending on the thirtieth day of June or the termination of this Agreement as the case may be to which the particulars relate.

10. Either the Minister or the Attorney-General may terminate this Agreement at any time by giving to the other of them six calendar months' previous notice in writing of such termination.

11. Upon and after any such termination the Attorney-General may make an order directing the removal from the State to the Territory of any child at such termination detained in a State Institution under this Agreement or boarded out or placed out or apprenticed under the State Act and this Agreement (but subject in every such case to the arrangements for such boarding out or placing out or apprenticeship) and may cause such order to be served upon the Secretary and the Secretary shall forthwith at the State Institution or other place in which such child is delivered or cause to be delivered such child into the custody of the person respectively named in the order as authorised to receive such child and the person shall immediately convey to the Territory the child so delivered to him.

12. Notwithstanding any such termination of this Agreement the provisions of this Agreement (including the provisions of Clauses four, five and fifteen) shall continue to apply to and with respect to the children at the said termination detained hereunder in State Institutions or boarded out or placed out or apprenticed under the State Act and this Agreement until delivered to a person authorised by the Attorney-General to receive them or until discharged from such Institutions or from the operation of the State Act.

13. Unless the context otherwise requires any notice demand request or communication that may or is to be given or made by the Attorney-General or the Commonwealth to the State or the Minister or the Secretary or any other authority of the State in pursuance of or under this Agreement shall be deemed to have been duly given or made if signed by or on behalf of the Attorney-General and delivered to the Secretary or sent in a prepaid letter addressed to the Secretary at his usual official address.

14. Unless the context otherwise requires any notice demand request communication certificate statement or particulars that may or are to be given or made or furnished by the State or the Minister or the Secretary or any other authority of the State to the Commonwealth or to the Attorney-General in pursuance of or under this Agreement shall be deemed to have been duly given made or furnished if signed by or on behalf of the Minister or the Secretary or other authority and delivered to or left at the office of the Attorney-General at Canberra or sent in a prepaid letter addressed to the Attorney-General at Canberra.

15. If any child shall die whilst detained in a State Institution or whilst otherwise in the custody of the State under the terms of this Agreement or whilst boarded out or placed out or apprenticed under the State Act and this Agreement the State shall do all things necessary for such child's burial and the Commonwealth shall pay to the State all reasonable expenses to which the State may have been put in connection with the burial of such child.

16. The Commonwealth shall be responsible for the cost for the conveyance of all children from the Territory to the said Metropolitan Shelter at Sydney and the Commonwealth shall pay to the State the reasonable expenses of conveying all such children from the said Shelter to a State Institution and of the removal of any child from one State Institution to another.

17. This Agreement is subject to ratification by the Parliament of the said State and by a law of the Territory and shall not be of any force or effect until so ratified.

IN WITNESS whereof the parties hereto have hereunto set their hands the day and year first above written.

Signed by the HONOURABLE DAVID HENRY DRUMMOND Minister of Public Instruction of the State of New South Wales for and on behalf of the said State in the presence of—	} D. H. DRUMMOND.
C. BATE.	

Signed by the HONOURABLE ROBERT GORDON MENZIES the Attorney-General of the Common- wealth of Australia for and on behalf of the said Commonwealth in the presence of—	} ROBERT G. MENZIES.
GEO. S. KNOWLES.	

Dated this eighteenth day of February, 1936.

GOWRIE

Governor-General.

By His Excellency's Command,

ROBERT G. MENZIES
for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.