

# AUSTRALIAN CAPITAL TERRITORY.

No. 17 of 1957.

## AN ORDINANCE

### Relating to the Welfare of Children and Young Persons.

I THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1955*.

Dated this fifteenth day of November, 1957.

W. J. SLIM  
Governor-General.

By His Excellency's Command,  
ALLEN FAIRHALL  
Minister of State for the Interior.

### CHILD WELFARE ORDINANCE 1957.

#### PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Child Welfare Ordinance 1957*.<sup>Short title.</sup>\*
2. This Ordinance shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.<sup>Commencement.</sup>
- 3.—(1.) The following enactments of the State of New South Wales shall, after the commencement of this Ordinance, cease to apply to the Territory as laws of the Territory:—<sup>Repeal and saving.</sup>
  - Destitute Children's Society Act, 1901;
  - State Children Relief Act, 1901;
  - Infant Convicts Adoption Act, 1901;
  - Children's Protection Act, 1902;
  - Infant Protection Act, 1904, Parts III., IV. and V.;
  - Neglected Children and Juvenile Offenders Act, 1905.

\* Notified in the *Commonwealth Gazette* on 28th November, 1957.  
6511/55.—PRICE 1s. 9d.

(2.) The following Ordinances are repealed:—

*Juvenile Offenders (Probation) Ordinance* 1940;  
*Juvenile Offenders Ordinance* 1941;  
*Neglected Children and Juvenile Offenders Ordinance*  
 1949.

(3.) An action or proceeding instituted before the commencement of this Ordinance under a law that ceases to be in force in the Territory by virtue of this section may be continued and determined after that commencement as if instituted under this Ordinance.

(4.) An order made by a court under a law that ceases to be in force in the Territory by virtue of this section and in force immediately before the commencement of this Ordinance, being an order similar in nature to an order that may be made by a court under this Ordinance, continues in force after that commencement as if made under this Ordinance.

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

**Parts.**

- Part I.—Preliminary (Sections 1-5).
- Part II.—Administration (Sections 6-11).
- Part III.—Court Proceedings involving Children and Young Persons (Sections 12-15).
- Part IV.—Establishment of Depots, Shelters, Homes and Hostels (Sections 16-17).
- Part V.—Guardianship, Care and Control of Children and Young Persons (Sections 18-27).
- Part VI.—Allowances in Respect of Destitute Children (Sections 28-29).
- Part VII.—Licensing of Places for the Reception of Children and of Day Nurseries and Kindergartens (Sections 30-42).
- Part VIII.—Lying-in Homes (Sections 43-46).
- Part IX.—Neglected Children, Uncontrollable Children and Young Persons and Juvenile Offenders (Sections 47-74).
- Part X.—Maintenance of Children by their Relatives (Sections 75-86).
- Part XI.—Employment of Children (Sections 87-93).
- Part XII.—Offences (Sections 94-104).
- Part XIII.—Miscellaneous (Sections 105-128).

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

“admit to government control”, in relation to a child or young person, means admit to the control of the Minister for the purpose of being apprenticed, boarded out, placed out or placed as an adopted boarder, and “admitted to government control” and “admission to government control” have corresponding meanings;

“adopted boarder” means a child or young person who—

(a) is under the school leaving age and is permitted by the Minister to remain with a foster parent without payment of an allowance by the Minister; or

(b) is over the school leaving age and is permitted by the Minister to remain with a foster parent on terms and conditions which do not require that the whole or a part of any wages earned by the child or young person be paid to the Minister on behalf of the child or young person;

“adopting parent” means a person who has adopted a child or young person by an order of adoption under the *Adoption of Children Ordinance 1938-1949* or by a deed of adoption and, where such an order is made in favour of a husband and wife on their joint application, includes both the husband and the wife;

“board out” means place in the care of a person for the purpose of being nursed, maintained, trained or educated by that person or in that person’s home, and “boarded out” has a corresponding meaning;

“care” includes custody and control;

“child” means a person under the age of sixteen years;

“depot” means a depot established under Part IV. of this Ordinance;

“foster parent” means a person with whom a child or young person is boarded out or placed as an adopted boarder;

“home” means a home established under Part IV. of this Ordinance;

“hostel” means a hostel established under Part IV. of this Ordinance;

“institution” means a State institution;

“juvenile offender” means a child or young person who has committed an offence;

“lying-in home” means a hospital or house in which women are received for confinement;

“maintenance” includes clothing, support, training, education and recreation;

“neglected child” means a child or young person—

- (a) who is in a brothel or lodges, lives or resides, or wanders about, with reputed thieves, persons who have no visible lawful means of support or common prostitutes, whether or not the reputed thieves, the persons or the common prostitutes include a parent of the child;
- (b) who has no visible lawful means of support or no fixed place of abode;
- (c) who begs in a public place, habitually wanders about public places with no ostensible occupation or habitually sleeps in the open air in a public place;
- (d) who, without reasonable excuse, is not provided with sufficient and proper food, nursing, clothing, medical aid or lodging or who is ill-treated or exposed;
- (e) who (in the case of a child) takes part in a public exhibition or performance whereby the life or limbs of the child is or are endangered, within the meaning of Part XI. of this Ordinance;
- (f) who (in the case of a child) is engaged in street trading within the meaning of Part XI. of this Ordinance otherwise than in accordance with a licence under that Part;
- (g) whose parents are drunkards, or, if one parent is dead, insane, unknown, undergoing imprisonment or not taking proper care of the child or young person, whose other parent is a drunkard;
- (h) who is in a place where opium or a preparation of opium is smoked;
- (i) who is living in conditions that indicate that the child or young person is lapsing or likely to lapse into a life of vice or crime;
- (j) who is under incompetent or improper guardianship;

- (k) who is destitute;
- (l) whose parents are unfit to retain the child or young person in their care, or, if one parent is dead, insane, unknown, undergoing imprisonment or not exercising proper care of the child or young person, whose other parent is unfit to retain the child or young person in his care;
- (m) who is suffering from venereal disease and is not receiving adequate medical treatment;
- (n) who is falling into bad associations or is exposed to moral danger; or
- (o) who, without lawful excuse, does not attend school regularly;

“ officer ” means a person appointed by the Minister to be an officer for the purposes of this Ordinance;

“ parent ”, in relation to a child or young person, includes a step-parent, adopting parent or guardian of the child or young person and a person who is by law liable to maintain the child or young person;

“ place of safety ” means a police station, hospital or other place the occupier of which is willing temporarily to receive a child or young person;

“ place out ” means place in employment without apprenticing, and “ placed out ” has a corresponding meaning;

“ public place ” includes a vessel, vehicle, room, field or other place to which the public for the time being have or are permitted to have access, whether on payment of money or otherwise;

“ shelter ” means a shelter established under Part IV. of this Ordinance or a place of safety;

“ State institution ” has the same meaning as in the Agreement;

“ the Agreement ” means the Agreement a copy of which is set out in the Schedule to the *Child Welfare Agreement Ordinance 1941*;

“ the Court ” means the Court of Petty Sessions when known by virtue of section thirteen of this Ordinance as the Children’s Court;

“ the Department ” means the Department of the Interior;

“ the Director ” means the person holding the office of Director of Child Welfare under this Ordinance;

“ the school leaving age ” means the age of fifteen years;  
 “ the Territory ” includes the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Territory Acceptance Act 1915*;

“ uncontrollable ”, in relation to a child or young person, means not controllable, or not in fact controlled for the time being, by a parent or by the person in whose care he is;

“ ward ” means a child or young person who has been—  
 (a) admitted to government control;  
 (b) committed to an institution; or  
 (c) admitted into a hostel;

“ young person ” means a person who has attained the age of sixteen years but has not attained the age of eighteen years.

#### PART II.—ADMINISTRATION.

Administration. **6.**—(1.) Subject to the next succeeding sub-section, this Ordinance shall be administered by the Minister of State for the Interior.

(2.) Part III. of this Ordinance shall be administered by the Attorney-General.

Director of Child Welfare. **7.**—(1.) There shall be a Director of Child Welfare, who shall be the person for the time being holding the office of Secretary to the Department.

(2.) Where a person (not being the Secretary to the Department) is performing the duties of the office of Secretary to the Department, that person has all the functions, powers and duties of the Director.

Child Welfare Committee. **8.**—(1.) The Minister may establish a Child Welfare Committee and appoint persons to be members of the Committee.

(2.) The Child Welfare Committee shall—

- (a) report to the Minister upon such matters relating to child welfare as he refers to the Committee; and
- (b) advise the Minister on matters connected with child welfare in the Territory.

Secretary of Child Welfare Committee. **9.** Upon the establishment of the Child Welfare Committee, the Director shall appoint an officer of the Department to be the secretary of the Committee.

Child Welfare Committee rules. **10.**—(1.) The Child Welfare Committee shall make rules for the conduct of its business.

(2.) The rules made by the Child Welfare Committee shall not be operative until they have been approved by the Minister.

(3.) Rules made under this section shall be deemed not to be regulations for the purposes of the *Regulations Publication Ordinance* 1940.

**11.—**(1.) The Minister or the Director may, either generally or in relation to a matter or class of matters, by writing under his hand, delegate all or any of his powers and functions under this Ordinance or the regulations (except this power of delegation). Delegation.

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister or the Director.

### PART III.—COURT PROCEEDINGS INVOLVING CHILDREN AND YOUNG PERSONS.

**12.** The Court of Petty Sessions has jurisdiction—

- (a) to hear and determine complaints, informations, applications and other proceedings under this Ordinance and the regulations; and
- (b) where a child or young person is brought before that Court as, or is charged with being, a neglected child or an uncontrollable child or young person, to hear and determine the matter or charge.

Jurisdiction of  
Court of Petty  
Sessions.

**13.—**(1.) The Court of Petty Sessions shall—

- (a) when it is exercising the jurisdiction conferred by the last preceding section; and
- (b) when a child or young person is charged before it with an offence against a law in force in the Territory,

The Children's  
Court.

be known as the Children's Court.

(2.) The *Court of Petty Sessions Ordinance* 1930-1953 and the rules and regulations made under that Ordinance shall, subject to this Ordinance and the regulations made under this Ordinance, apply to and in relation to the Court in the exercise of the jurisdiction conferred on it by the last preceding section and to and in relation to proceedings before the Court.

(3.) The Attorney-General may make regulations, not inconsistent with this Ordinance, providing for modification or adaptation of the provisions of the *Court of Petty Sessions Ordinance* 1930-1953 and the rules and regulations made under that Ordinance in their application to and in relation to the Court and to and in relation to proceedings before the Court.

Exclusion of  
persons from  
hearing.

14.—(1.) The room or other place in which the Court sits shall not be open to the public and persons not directly interested in the matter before the Court shall, unless the Court otherwise directs, be excluded during the hearing of the matter.

(2.) The Court may—

- (a) order a child or young person to leave the Court at any time during the hearing of a matter before the Court if it is of opinion that in the interests of the child or young person such a direction should be given;
- (b) order any person to leave the Court during the examination of a witness; and
- (c) give directions prohibiting or restricting the disclosure of information with respect to the hearing of a matter before the Court.

(3.) A person shall not disclose information with respect to the hearing of a matter before the Court in contravention of a direction given under paragraph (c) of the last preceding sub-section.

Penalty: One hundred pounds.

Appeals.

15.—(1.) Subject to this section, an appeal lies to the Supreme Court from a determination, finding of guilt or order of the Court (not being a contribution order made by the Court under Part X. of this Ordinance) by the persons and in the manner provided by Part XI. of the *Court of Petty Sessions Ordinance* 1930-1953.

(2.) Where an appellant is a child or young person, the appeal may be taken by him or by his parent on his behalf and in his name.

(3.) Where an appellant is a child or young person, he may, in place of his release from custody upon entering into a recognizance, be committed by the Court to a shelter pending the determination of the appeal.

#### PART IV.—ESTABLISHMENT OF DEPOTS, SHELTERS, HOMES AND HOSTELS.

Establishment  
of depots,  
shelters, homes  
and  
hostels.

16.—(1.) The Minister may establish—

- (a) depots for the temporary accommodation and maintenance of children and young persons;
- (b) shelters for the reception and temporary detention and maintenance of children and young persons;
- (c) homes for the reception and maintenance of—
  - (i) physically defective children and young persons;



- (ii) invalid and sick children and young persons;
- (iii) babies; and
- (iv) children and young persons admitted to government control; and

(d) hostels for the accommodation and maintenance of expectant and nursing mothers.

(2.) The Minister shall cause notice of the establishment of a depot, shelter, home or hostel under the last preceding subsection to be published in the *Gazette*.

17.—(1.) The Minister has the control of all depots, shelters, homes and hostels established under this Ordinance. Control and inspection of depots, &c.

(2.) An officer appointed for that purpose by the Minister shall inspect each depot, shelter, home and hostel at least once in every three months and shall, after each inspection, submit to the Minister a report, which shall include information on such matters as the Minister requires.

#### PART V.—GUARDIANSHIP, CARE AND CONTROL OF CHILDREN AND YOUNG PERSONS.

18.—(1.) The Minister shall—

(a) admit a child or young person to government control for the purpose of being apprenticed, boarded out, placed out or placed as an adopted boarder where—

(i) a court has committed the child or young person to the care of the Minister, or has released the child or young person to the custody of the Minister, to be dealt with as a ward admitted to government control; or

(ii) the Minister is satisfied that it is necessary in the interests of the child or young person so to do and, if the child or young person is in the custody of a parent, the parent has requested or consented to the admission of the child or young person to government control;

(b) provide, or arrange for the provision of, accommodation and maintenance for a child or young person admitted to government control until he is apprenticed, boarded out, placed out or placed as an adopted boarder;

(c) pay foster parents at such rates as are determined by the Minister; and

(d) arrange the terms and conditions of the custody of a ward.

Powers of Minister.

- (2.) The Minister may—
- (a) direct the removal or transfer of a ward, other than a ward who has been committed to an institution;
  - (b) apprentice, board out, place out or place as an adopted boarder a ward, other than a ward who has been committed to an institution;
  - (c) approve of persons who apply for the custody of wards and of the homes of those persons;
  - (d) direct the return of a ward, other than a ward who has been committed to an institution, to the care of his parent or another person; and
  - (e) direct the absolute discharge of a ward, other than a ward who has been committed to an institution, from supervision and control.

Minister to be guardian of wards.

**19.**—(1.) Notwithstanding any other law of the Territory relating to the guardianship or custody of children or young persons, the Minister is the guardian of a child or young person who is a ward, to the exclusion of the parent or other guardian.

(2.) Where a ward attains the age of eighteen years the Minister may terminate his guardianship.

(3.) Where the Minister does not terminate his guardianship of a ward under the last preceding sub-section, the Minister remains the guardian until the person who was a ward attains the age of twenty-one years.

Care of person of ward.

**20.** Subject to this Ordinance, the Minister has the care of the person of all wards, except during the period when they are inmates of an institution or are boarded out or placed as adopted boarders with foster parents or placed out or apprenticed with any other person.

Placing of ward with foster parent.

**21.**—(1.) The Minister may, upon such terms and conditions as are prescribed or as he, in a special case, approves, place a ward as an adopted boarder in the care of a foster parent.

(2.) Where a ward who has attained the school leaving age is to be or is employed by the foster parent in whose care he has been placed but the foster parent is unable to pay to him wages at a rate determined by the Minister to be reasonable, the ward shall not be placed or kept in the care of the foster parent except with the consent of the ward.

(3.) Where a ward who is placed as an adopted boarder has attained the school leaving age and is in employment but his total weekly earnings are not sufficient to cover the weekly inclusive cost of his maintenance and other reasonable expenses, payment to a foster parent in accordance with paragraph (c) of

sub-section (1.) of section eighteen of this Ordinance shall not exceed such rate as is necessary to provide for the difference between that weekly inclusive cost and the total weekly earnings of the ward.

(4.) Subject to the last preceding sub-section, payment to a foster parent in accordance with paragraph (c) of sub-section (1.) of section eighteen of this Ordinance shall not extend beyond the time when the ward attains the school leaving age unless—

(a) the ward is an invalid or is otherwise incapacitated;

or

(b) there are special circumstances, and the Minister authorizes the payment.

(5.) The employer or foster parent of a ward shall not, without the approval of the Minister, accept from a relative of the ward or from any other person monetary assistance towards the maintenance of the ward.

**22.—**(1.) Where a ward attains the school leaving age, the Minister shall, except where the ward has been placed with a foster parent in pursuance of the last preceding section or except in such other circumstances as are prescribed, by indenture bind the ward or cause the ward to be bound as an apprentice or, where apprenticeship conditions are not applicable or desirable, place him in suitable employment. Apprenticeship or placing out of ward.

(2.) Where a ward who is in the care of a foster parent attains the school leaving age, the Minister may make arrangements, in consultation, where desirable, with the foster parent, for placing him in suitable employment.

**23.—**(1.) A ward shall not be placed out unless the proposed employer of the ward enters into an agreement in writing in accordance with a form approved by the Minister. Indentures of apprenticeship and agreements for placing out.

(2.) An indenture of apprenticeship or agreement for the placing out of a ward shall contain provisions to the satisfaction of the Minister for the maintenance and religious instruction of the ward and for the due payment of such wages as are payable under the indenture or agreement.

(3.) Where a ward is placed out in employment in respect of which there is in force an award or industrial agreement, the agreement for the placing out of the ward shall provide for payment to the ward of wages at the rate prescribed by that award or industrial agreement.

(4.) An employer shall pay all wages earned by a ward, except such part of the wages as the employer is required to pay to the ward as pocket money, to the Minister.