

THE
ORDINANCES
OF THE
NORTHERN TERRITORY
OF AUSTRALIA

IN FORCE ON 1st JANUARY, 1961.

With Tables.

IN THREE VOLUMES

VOLUME III.

National Parks and Gardens Ordinance
to
Workmen's Dwellings Ordinance.

By Authority:

A. J. ARTHUR, Commonwealth Government Printer, Canberra.

WELFARE ORDINANCE 1953-1960.

2407

An Ordinance to Provide for the Care and Assistance
of Certain Persons.

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Welfare Ordinance*
1953-1960.*

Short title
Short title
extended:
No. 17, 1958,
s. 4.
Commence-
ment.

2. This Ordinance shall come into operation on a date to
be fixed by the Administrator by notice in the *Gazette*†.

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

Part I.—Preliminary.

Part II.—Administration.

Part III.—Wards.

Parts.
Amended by
No. 29, 1957,
s. 2.

Division 1.—Declaration of Wards.

Division 2.—Powers in Relation to Wards.

Division 3.—Duties of Director in Relation to
Property of Wards.

Division 4.—Appeals by Wards.

Division 5.—Revocation of Declarations Otherwise
than by Appeal.

Part IV.—Reserves, Institutions, Camping Grounds and
Prohibited Areas.

Division 1.—Reserves and Institutions.

Division 2.—Camping Grounds.

Division 3.—Prohibited Areas.

* The *Welfare Ordinance, 1953-1960* comprises the *Welfare Ordinance, 1953* as amended.
Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following
table.

Ordinance.	Number and Year.	Date of Notification of Governor General's Assent in Northern Territory Government Gazette.	Date of Assent by Administrator.	Date of Commencement.
<i>Welfare Ordinance 1953.</i>	No. 16, 1953	15th July, 1953	..	13th May, 1957
<i>Welfare Ordinance 1955.</i>	No. 3, 1955	12th February, 1955	..	13th May, 1957
<i>Welfare Ordinance 1957.</i>	No. 29, 1957	4th September, 1957	..	4th September, 1957
<i>Welfare Ordinance (No. 2)</i> <i>1957</i>	No. 42, 1957	18th December, 1957	..	18th December, 1957
<i>Administrator's Council</i> <i>Ordinance 1959</i>	(No. 27, 1959	..	7th July, 1959	28th April, 1960
<i>Welfare Ordinance 1959.</i>	(No. 27, 1959	9th December, 1959	..	9th December, 1959
<i>Welfare Ordinance 1960.</i>	No. 10, 1960	..	2nd September, 1960	2nd September, 1960

† The date fixed was 13th May, 1957—see table above.

Part V.—Offences by and against Wards.

Part VA.—Offences in Relation to Works of Painting or Drawing done by Wards.

Part VI.—Miscellaneous.

Repeal.

4. The Ordinances specified in the First Schedule to this Ordinance are repealed.

Preservation of reserves made and recognizances entered into under repealed Ordinances.

5. Notwithstanding the repeal effected by the last preceding section—

(a) a reserve which was set apart as a reserve within the meaning of the repealed Ordinances and which existed as a reserve, immediately before the date when this Ordinance comes into operation, shall be deemed to be a reserve for the purposes of this Ordinance until that reserve is altered or revoked; and

(b) a recognizance entered into under the repealed Ordinances shall continue in effect and be enforceable

as though those Ordinances had not been repealed.

Definitions.
Amended by No. 22, 1959, s. 6 and First Schedule.

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

"camping ground" means a place, area, or part of the Territory declared, under this Ordinance, to be a camping ground for wards;

"district" means a part of the Territory declared, under this Ordinance, to be a district;

"institution" means a mission station, reformatory, orphanage, school, home or other establishment approved by the Administrator in Council in accordance with this Ordinance, or established by the Commonwealth as an institution for the purposes of this Ordinance;

"notice in the *Gazette*" means the publication in the *Gazette* of a copy of an instrument made and signed by the Administrator;

"police officer" means a member of the Northern Territory Police Force;

"prohibited area" means a place, area or part of the Territory declared, under this Ordinance, to be a prohibited area for wards;

"relation" includes a relation whether by blood, marriage or custom;

"reserve" means land which, in accordance with the provisions of a law of the Territory, is declared to be a reserve for wards;

"superintendent" means a person appointed to the position of superintendent of a reserve or institution;

"the Director" means the Director of Welfare appointed under this Ordinance and includes an Acting Director so appointed;

"the Register" means the Register of Wards referred to in section sixteen of this Ordinance;

"this Ordinance" includes the Regulations;

"ward" means a person in respect of whom a declaration, made under section fourteen of this Ordinance, is in operation;

"welfare officer" means a person appointed under this Ordinance to be a welfare officer.

PART II.—ADMINISTRATION.

7.—(1.) The Minister shall appoint a Director of Welfare who, under the Administrator, is responsible for the administration of this Ordinance. Appointment of Director.

(2.) In the event of—

(a) the illness of the Director;

(b) the temporary inability of the Director to perform the duties of his office; or

(c) the absence of the Director from the Territory,

the Minister may appoint a person to be the Acting Director of Welfare during the illness, temporary inability, or absence of the Director.

(3.) An Acting Director has all the powers and may perform all the functions of the Director.

8. It is the duty of the Director—

(a) in relation to wards, to take steps—

(i) to promote their social, economic and political advancement for the purpose of assisting them and their descendants to take their place as members of the community of the Commonwealth;

Duties of Director.

Welfare Ordinance
1953-1960.

- (ii) to arrange as far as is practicable for the education of wards, including their vocational training, by collaboration with, and assistance to, the education authority and educational institutions and in other appropriate ways;
- (iii) to promote their physical well being, to inculcate proper habits of hygiene and sanitation and to improve their standards of nutrition and housing;
- (iv) to detect, prevent and cure disease and for that purpose to establish and maintain a liaison with the Commonwealth Department of Health;
- (v) to arrange for their vocational training and to obtain suitable employment for them in industrial and other enterprises and for this purpose to establish and maintain a liaison with appropriate organizations;
- (vi) to provide such relief and assistance as is necessary or appropriate; and
- (vii) to exercise a general supervision and care over matters affecting their welfare;
- (b) subject to direction by the Administrator, to apply and apportion moneys made available for the purposes of this Ordinance in such manner as he considers proper;
- (c) to supervise and regulate the use and management of institutions, other than institutions established by the Commonwealth;
- (d) to control the management of institutions established by the Commonwealth;
- (e) to supervise and regulate the use and management of reserves;
- (f) in relation to persons other than wards, upon such conditions as the Administrator approves, and in relation to persons who are in indigent circumstances, upon such conditions as the Director sees fit—
- (i) to arrange for those persons to be accommodated in institutions where such treatment, care or attention can be provided for those persons as they require;

Welfare Ordinance
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- (ii) to arrange for the supply to those persons of such accommodation, food, clothing or financial or other assistance as those persons require;
- (iii) to arrange such transportation for those persons from one part of the Territory to another or to a part of the Commonwealth outside the Territory as they require;
- (iv) to take such other steps as he considers necessary for the relief of the distress and the promotion of the welfare of those persons; and
- (v) to arrange for the proper burial of those persons in the event of their death; and
- (g) to perform such other duties and functions as are prescribed.

9. An article issued or given to a ward or to a person in indigent circumstances by the Director in pursuance of the provisions of this Ordinance is and remains the property of the Commonwealth.

Articles remain property of Commonwealth.

10.—(1.) The Director may, by instrument in writing, delegate to a person or authority all, or any, of his powers, functions and authorities under this Ordinance (except this power of delegation) in relation to a matter or class of matters or to a district or part of the Territory so that the delegated powers, functions and authorities may be exercised by the delegate with respect to the matter or class of matters or the district or part of the Territory specified in the instrument of delegation.

Delegation by Director.

(2.) A delegation under the last preceding sub-section is revocable in writing, at will and does not prevent the exercise of a power, function or authority by the Director.

11.—(1.) The Administrator may appoint such welfare officers as he considers necessary for the purposes of this Ordinance.

Appointment of welfare officers.

(2.) The Administrator may appoint a welfare officer to a particular district and may transfer him from one district to another.

(3.) A welfare officer shall exercise such powers and perform such duties and functions as he is directed and as are prescribed.

12. The Administrator may appoint such superintendents and other officers as he deems necessary for the purposes of this Ordinance.

Appointment of superintendents and other officers.

Declaration of
districts, &c.
Amended by
No. 22, 1959,
s. 6 and First
Schedule.

13. The Administrator in Council may, by notice in the *Gazette*—

- (a) declare a part of the Territory to be a district for the purpose of this Ordinance and assign a name to that district;
- (b) declare a place, area of land, or a part of the Territory to be a camping ground for wards; and
- (c) declare a place, area of land, or a part of the Territory to be a prohibited area for wards.

PART III.—WARDS.

Division 1.—Declaration of Wards.

Declaration of
Wards.

Sub-section (1.)
amended by
No. 22, 1959,
s. 6 and First
Schedule.

14.—(1.) Subject to the provisions of this section, the Administrator in Council may, by notice in the *Gazette*, declare a person to be a ward if that person, by reason of—

- (a) his manner of living;
- (b) his inability, without assistance, adequately to manage his own affairs;
- (c) his standard of social habit and behaviour; and
- (d) his personal associations,

stands in need of such special care or assistance as is provided for by this Ordinance.

(2.) A person shall not be declared to be a ward if that person is—

- (a) a person who, under Part V. of the Northern Territory Electoral Regulations—
 - (i) is entitled to enrolment, subject to the provisions of Part VI. of those regulations and to vote at an election of a member of the House of Representatives for the Northern Territory;
 - (ii) would, but for his being under twenty-one years of age, be entitled to enrolment, subject to the provisions of Part VI. of those regulations and to vote at such an election; or
 - (iii) would, but for his not having resided in Australia for six months continuously, be entitled to enrolment, subject to the provisions of Part VI. of those regulations and to vote at such an election; or

- (b) a person who holds a certificate of exemption issued, and in force, under section four of the *Immigration Act 1901-1949*;

Amended by
No. 5, 1956,
s. 3; and No.
27, 1959, s. 2.

- (c) a person who is lawfully married to any person referred to in paragraphs (a) and (b) of sub-section (2.) of this section.

(3.) The provisions of the last preceding sub-section shall not apply in the case of a person who requests the Administrator to declare him to be a ward.

Added by
No. 5, 1956,
s. 3.

15. A person who is legally in the care, custody or control, or under the guardianship of a person or authority under the provisions of any of the State Acts specified in the Second Schedule to this Ordinance, or of any of those State Acts as amended from time to time, shall, if he enters the Northern Territory, and while he remains in the Northern Territory, be deemed to be a ward for the purposes of this Ordinance.

Person
controlled by
State Acts
become wards
on entering
Territory.

16.—(1.) The Director shall keep a Register of Wards in which he shall enter the names of persons who, under section fourteen of this Ordinance, are declared to be wards, together with such other matters and particulars as are prescribed.

Register of
wards.

(2.) The Register is *prima facie* evidence of all matters required by this Ordinance to be entered in the Register.

(3.) The Director or a person authorized by the Director to do so may certify, by writing under his hand, that a person named or described in the certificate—

Substituted by
No. 42, 1957,
s. 2.

- (a) is or is not a ward; or
- (b) at a time specified in the certificate, was or was not a ward.

(4.) A certificate signed, or purporting to be signed, by the Director or a person so authorized is—

Amended by
No. 42, 1957,
s. 2.

- (a) admissible in evidence in all courts and proceedings without proof or production of the Register; and
- (b) is *prima facie* evidence of the facts stated in the certificate.

Division 2.—Powers in Relation to Wards.

17.—(1.) Where the Director considers that it is in the best interests of a ward, he may—

Director may
take ward
into custody,
&c.

- (a) take the ward into his custody;
- (b) authorize a person to take the ward into custody on behalf of the Director;
- (c) order that the ward be removed to, and kept within, a reserve or institution;
- (d) order that the ward be kept within a reserve or institution; and

(e) order that the ward be removed from one reserve or institution to another reserve or institution.

(2.) The Director shall not exercise a power under the last preceding sub-section if by so doing—

(a) a child under, or appearing to be under, the age of fourteen years would be removed from his parents; or

(b) a parent would be removed from his children, unless the Administrator has, in writing, authorized the Director so to do.

Director may enter places and remove wards.

18. If the Director has reasonable cause to believe that a ward, in respect of whom he has made an order under the last preceding section, is in a conveyance, ship or premises, the Director may enter, or authorize a person on his behalf to enter, that conveyance, ship or premises and take the ward into his custody.

Persons to assist Director.

19.—(1.) A person who is in a conveyance, ship or premises into which the Director wishes to enter, or into which the Director has authorized a person on his behalf to enter, for the purpose of taking a ward into custody, shall take all reasonable steps to facilitate—

(a) the entry into that conveyance, ship or premises of the Director or the person authorized by the Director;

(b) the removal of the ward by the Director or the person authorized by the Director.

Penalty: One hundred pounds or imprisonment for six months.

(2.) This section applies notwithstanding that the Director may, at any time, have placed the ward under the control or management of the person in charge of the conveyance, ship or premises.

Wards to remain where placed by Director.

20. When the Director has made an order under section seventeen of this Ordinance, a ward shall not—

(a) refuse to be taken into custody by the Director or by a person authorized by the Director to take the ward into custody on behalf of the Director;

(b) refuse to be removed to, or kept within, a reserve or institution;

(c) refuse to be kept within a reserve or institution;

(d) refuse to be removed from one reserve or institution to another reserve or institution; or

(e) leave, or attempt to leave, a reserve or institution except with the permission of the Director.

Penalty: Ten pounds or imprisonment for three months.

21.—(1.) The Director or a welfare officer may authorize a person in writing in the prescribed form—

Director may authorize removal, &c., of wards.

(a) to remove a ward from a reserve, institution or district to another reserve, institution or district; or

(b) to take a ward from a place in the Territory to a place outside the Territory.

(2.) An authority shall not be granted under this section if—

(a) a child who is, or appears to be, under the age of fourteen years would be removed from his parents, against the will of those parents, or either of them; or

(b) a parent would be removed, against his will, from his child who is, or appears to be, under the age of fourteen years,

unless the Administrator has, in writing, authorized the granting of the authority.

22.—(1.) The Director or a welfare officer may, before granting an authority under the last preceding section, require the person seeking the authority to enter into a recognizance, in duplicate and in the prescribed form, for such amount and with such surety as the Director or the welfare officer, as the case may be, considers to be sufficient to pay the expenses of the return of the ward to the place from which it is intended to remove the ward.

Director, &c., may require recognizance.

(2.) When a welfare officer requires a recognizance and surety under the last preceding sub-section, he shall retain one copy of the recognizance and surety and forward the other copy to the Director.

23.—(1.) A person shall not—

(a) remove from, or cause to be removed from, or assist or induce a ward to leave, a reserve, institution or district; or

(b) remove a ward, or cause a ward to be removed, or assist or induce a ward to go, from a place in the Territory to a place outside the Territory,

unless he is authorized so to do under section twenty-one of this Ordinance or, being an officer or employee of the Commonwealth Department of Health, or an agent or employee of an

Offence to remove wards without authority. Sub-section (1.) amended by No. 42, 1957, s. 3.

agent of that Department, he is acting in the course, and for the purposes, of his duty.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

(2.) This section does not apply to the superintendent of an institution who, for the purposes of the institution, removes, or causes to be removed, a ward from that institution to a place in the Territory, unless the Administrator causes notice to be served personally or by post on the superintendent requiring him not to remove, or cause to be removed, a particular ward specified in that notice.

Director is guardian of wards.
Substituted by No. 42, 1957, s. 4.

24.—(1.) Subject to this Ordinance, the Director is the guardian of the person and the estate of a ward as if that ward were an infant and the Director were the guardian of that infant for all purposes except—

(a) the commencement of proceedings by a ward against—

(i) the Director; or

(ii) a person other than the Director, in respect of an act which, in the opinion of the Director, was lawfully done by that person in the course of and for the purpose of his duties under a law of the Territory;

(b) the commencement or defence of proceedings by or against a ward certified in writing by the Director to be, in the opinion of the Director, capable of commencing or defending the proceedings, as the case requires;

(c) the commencement of proceedings by a ward against another ward; and

(d) the defence by a ward of proceedings commenced against him by another ward.

(2.) Where—

(a) a ward proposes to commence proceedings against another ward; and

(b) the Director is of the opinion that—

(i) the first mentioned ward is not capable of commencing the proceedings; or

(ii) the second mentioned ward is not capable of defending the proceedings,

the Director may apply to the Court in which the proceedings are proposed to be taken for an order appointing for the proceedings a next friend or guardian *ad litem* or both, as the case requires.

Division 3.—Duties of Director in Relation to Property of Wards.

25.—(1.) All property of a ward, whether corporeal or incorporeal, but not including property to which Part V.A. of this Ordinance applies, shall be held by the Director as trustee for the ward, and the Director shall undertake the general care and management of that property.

Director to hold property of ward as trustee.
Sub-section (1.) substituted by No. 29, 1957, s. 3.

(1A.) For the purposes of the last preceding sub-section, the Director—

Inserted by No. 29, 1957, s. 3.

(a) shall be deemed to have possession of and may retain, let, sell, mortgage or dispose of, any of that property whether real or personal;

(b) may, in the name of the ward, receive or sue for the recovery of money or any other property due or belonging to or held in trust for the benefit of a ward and sue for damages for the conversion of, or injury to, the property of a ward; and

(c) may, in the name of, and on behalf of, a ward exercise any power exercisable by a ward and appoint a person to act as attorney or agent for any purpose connected with the property of a ward.

(2.) Where the Director does any of the acts referred to in paragraph (a) of the last preceding sub-section, the Registrar-General for the Territory shall, upon being satisfied—

Amended by No. 29, 1957, s. 3.

(a) that a memorandum or instrument relating to a transaction concerning real property of the ward has been signed by the Director on behalf of the ward; and

(b) that the transaction took place during the time that a declaration, under section fourteen of this Ordinance, was in force in relation to the ward; and

(c) that the transaction is authorized by that paragraph, treat the memorandum or instrument as though it had been duly signed by the Director as the properly appointed attorney of the ward.

Added by
No. 29, 1957,
s. 3.

(3.) Where a ward transfers or agrees to transfer goods or articles which are in the ward's actual possession and are of a value not greater than Ten pounds, the provisions of sub-sections (1.) and (1A.) of this section shall be deemed not to apply to those goods or articles and the transfer or agreement to transfer is as effective to pass the property in the goods or articles or to create an obligation as if the transfer or agreement had been made by the Director.

Added by
No. 29, 1957,
s. 3.

(4.) Except as provided in the last preceding sub-section, a transfer, purported transfer or agreement to transfer, made by a ward with respect to property of the ward held by the Director as trustee for the ward, has no effect to transfer the property or create an obligation in relation to the property.

Director may
make certain
payments from
property of
a ward.

26. The Director may pay, or cause to be paid, out of the property or the income from the property of a ward—

- (a) any debt, judgment or costs, for the payment of which he is satisfied the ward is liable;
- (b) such payments and allowances for the support or maintenance of a dependent of the ward as the Director sees fit; and
- (c) all costs, charges and expenses incurred, in respect of the ward, by the Director in exercising any of the powers conferred by this Division.

Director to
keep accounts.

27. The Director shall keep a proper record and account of all the moneys and other property of a ward which come into his hands or are dealt with by him under this Division.

Director to
hold property
for benefit
of ward.

28. Subject to the provisions of this Division, the Director shall preserve and hold in trust all property and the income from the property of a ward for the benefit of the ward and, when he ceases to be a ward, the Director shall restore that property and the accumulated income from it to him, or in the event of his death to his executor, administrator or heirs.

Director not
liable for
omissions.

29.—(1.) The Director is not answerable to any person for any property of a ward which has not actually come into his hands by virtue of this Ordinance, nor for any loss or damage to property which does not come into his hands.

(2.) Notwithstanding the provisions of the last preceding sub-section, the Director shall, when a ward ceases to be a ward or when a ward dies, account to him or to his executor, administrator or heirs, as the case may be, in the same manner as though the Director were the trustee of the ward.

Division 4.—Appeals by Wards.

30.—(1.) There shall be a Tribunal, to be known as the Wards Appeal Tribunal, which shall hear and determine appeals by wards for the revocation of declarations made under this Ordinance.

Wards Appeal
Tribunal.

(2.) The Judge of the Northern Territory shall constitute the Tribunal established under this section.

31.—(1.) The Administrator shall appoint a Secretary to the Tribunal.

Secretary to
Tribunal.

(2.) The Secretary shall perform such duties as he is directed and as are prescribed.

32.—(1.) A ward may, in the prescribed manner, at any time appeal to the Wards Appeal Tribunal for the revocation of a declaration made under this Ordinance declaring him to be a ward.

Appeal against,
and suspension
of, declaration.

(2.) The grounds for an appeal under this section shall be that, having regard to his manner of living, his ability, without assistance, adequately to manage his own affairs, his standard of social habit and behaviour and his personal associations, he does not stand in need of the special care and assistance provided under this Ordinance.

(3.) An appellant shall serve a copy of his appeal on the Secretary to the Wards Appeal Tribunal and on the Administrator.

(4.) At any time within twenty-eight days from and including the date when a declaration is made under section fourteen of this Ordinance, a ward, who has served copies of his appeal in accordance with the last preceding sub-section, may apply to a court of summary jurisdiction, constituted by a stipendiary or special magistrate, for an order suspending the operation of that declaration.

(5.) The court of summary jurisdiction to which an application is made under the last preceding sub-section shall hear the application and, if it thinks proper, may make an order suspending the operation of the declaration until the appeal is determined by the Wards Appeal Tribunal.

(6.) The Clerk of the court of summary jurisdiction shall forthwith forward a copy of an order made under the last preceding sub-section to the Administrator and to the Director.

33. Upon receiving a notice of an appeal by a ward, the Secretary to the Wards Appeal Tribunal shall fix a place, time and date for the hearing of the appeal and notify the ward and the Administrator of that place, time and date.

Secretary to
fix date of
hearing.

Tribunal to
make
investigation.

34.—(1.) On the hearing of an appeal, the Wards Appeal Tribunal shall make a thorough investigation of the matter, without regard to legal forms and solemnities, and shall direct itself by the best evidence which it can procure, or which is laid before it, whether that evidence is such as the law would require or admit in other cases or not.

(2.) The Tribunal may direct that the hearing shall be held in public or in private.

Powers of
Tribunal.

35.—(1.) The Tribunal may—

(a) summon a person to attend and to—

- (i) give evidence;
- (ii) give evidence and produce a document;
- or
- (iii) produce a document,

by causing notice in writing, signed by the Secretary to the Tribunal, to be served either personally or by post on that person; and

(b) take evidence on oath.

(2.) A person who has been summoned to appear as a witness before the Tribunal, shall not, without reasonable excuse, and after tender of his reasonable expenses, fail to answer to the summons.

Penalty: Fifty pounds.

(3.) A person who appears before the Tribunal as a witness in answer to a summons shall not, without reasonable excuse, refuse to be sworn.

Penalty: Fifty pounds.

(4.) A person who appears before the Tribunal as a witness, otherwise than in answer to a summons, may be requested by the Tribunal to give evidence on oath and if he declines to be sworn his evidence shall not be received.

(5.) A person who has been sworn as a witness before the Tribunal shall not, without reasonable excuse, refuse to produce documents or to answer truthfully questions he is required to answer.

Penalty: Fifty pounds.

(6.) Whenever a witness to be examined by the Tribunal conscientiously objects to take an oath, he may, instead of taking an oath, make an affirmation that he conscientiously objects to take the oath and that he will state the truth, the whole truth, and nothing but the truth to all questions asked of him, and an affirmation so made shall be of the same force and effect and shall entail the same liabilities as an oath.

(7.) In this section, "reasonable excuse" means, in relation to an act or omission, an excuse that would excuse an act or omission of a similar nature by a witness or a person summoned as a witness before a court of law.

36.—(1.) If the Tribunal, having heard the evidence concerning an appeal, is satisfied that the appellant does not stand in need of such special care or assistance as is provided under this Ordinance, it may make an order revoking the declaration by which the appellant was declared to be a ward.

Tribunal may
make order
revoking
declaration.

(2.) The Tribunal may, whether it makes an order under the last preceding sub-section or not, make such order as to the costs of the appeal as it thinks proper.

(3.) The Secretary to the Tribunal shall forthwith forward a copy of any order made by the Tribunal to the Administrator and to the Director.

(4.) The Administrator shall forthwith cause a copy of an order made under sub-section (1.) of this section to be published in the *Gazette*.

(5.) The Director shall forthwith cause particulars of an order made under sub-section (1.) of this section to be entered in the Register.

37. An order made under the last preceding section takes effect immediately upon the making of the order and from and including the date of that order the appellant is no longer a ward.

Effect of order.

Division 5.—Revocation of Declarations Otherwise than by Appeal.

38. When, with the consent of the Director, the marriage of a person who is not a ward is celebrated with a person who is a ward, the ward ceases to be a ward from and including the date of the marriage.

Effect of
marriage.

39. Notwithstanding the provisions of sub-section (2.) of section fourteen of this Ordinance, the power conferred upon the Administrator under that section is not affected—

Administrator's
power to make
declaration not
affected by
revocation of
previous
declaration.
Amended by
No. 27, 1959,
s. 3.

(a) by the fact that a declaration in respect of a particular person has been revoked by an order made by the Wards Appeal Tribunal;

(b) by the fact that a declaration previously made by the Administrator has been revoked by the Administrator; or

PART IV.—RESERVES, INSTITUTIONS, CAMPING GROUNDS AND PROHIBITED AREAS.

Division 1.—Reserves and Institutions.

40. The Administrator in Council may, subject to such conditions as are prescribed and to such further conditions as the Administrator in Council thinks fit, approve a mission station, reformatory, orphanage, school, home or other establishment, whether within the Territory or otherwise, as an institution for the purposes of this Ordinance.

Administrator may approve institutions.
Amended by No. 22, 1959, s. 6 and First Schedule.

41.—(1.) The Administrator may grant a lease of any unleased lands of the Crown in the Territory, including land reserved or dedicated for the use or benefit of wards but not including lands reserved or dedicated for any other purpose, to an institution for a term not exceeding twenty-one years;

Administrator may grant lease to institution.

(2.) A lease granted under the last preceding sub-section may provide for the renewal of the lease for a further term of twenty-one years following upon the expiration of the lease, subject to the lessee having complied with the terms and conditions of the lease and subject to the Administrator being satisfied that the land comprised in the lease is required for, and applied to, the use and benefit of wards.

Conditions of lease.

42. A lease granted under the last preceding section shall contain—

- (a) conditions as to the minimum developmental work to be done and the minimum improvements to be made during the term of the lease;
- (b) a condition providing for the cancellation of the lease by the Administrator in the event of the lessee failing to comply with a term or condition of the lease; and
- (c) such other conditions as the Administrator thinks fit and as are prescribed.

Preservation of leases granted under repealed Ordinances.

43. Notwithstanding the repeal effected by section four of this Ordinance, a lease granted to an institution under the repealed Ordinances shall continue as though the repealed Ordinances had not been repealed.

Administrator, &c., may enter and authorize entry on a reserve.

44. The Administrator, the Director, a welfare officer and the superintendent may—

- (a) enter and remain on a reserve; and
- (b) authorize a person to enter or remain on a reserve.

45. A person shall not enter or remain on a reserve unless—
- (a) he is a ward who resides on the reserve or a relation of that ward;
 - (b) he is an officer or employee of the Commonwealth Department of Health, or an agent or employee of an agent of that Department, acting in the course, and for the purposes, of his duties;
 - (c) he is authorized to enter or remain on the reserve under the last preceding section; or
 - (d) his action is necessary for the protection of life or property.

Persons not to enter reserves without authority.

Penalty:

For a first offence—One hundred pounds, or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both; and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

46. The Administrator, the Director, a welfare officer or the superintendent may—

Administrator, &c., may enter and authorize entry on land leased to institution.

- (a) enter or remain on land included in a lease granted to an institution under this Ordinance;
- (b) enter or remain on land reserved for the purposes of an institution established by the Commonwealth; and
- (c) authorize a person to enter or remain on that land.

47. A person shall not enter or remain on land included in a lease granted to an institution or reserved for the purposes of an institution established by the Commonwealth unless—

Persons not to enter lands of institution without authority.

- (a) he is a ward, who has been directed to be kept in that institution or a relation of that ward;
- (b) he is an officer or employee of the Commonwealth Department of Health, or an agent or employee of an agent of that Department, acting in the course, and for the purposes, of his duty;
- (c) he is authorized to enter or remain on that land under the last preceding section; or
- (d) his action is necessary for the protection of life or property.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

Administrator
may serve
notice
forbidding
entry, &c.

48. Notwithstanding the provisions of section forty-four, forty-five, forty-six or section forty-seven of this Ordinance, the Administrator may cause notice in writing to be served personally or by post on a person ordering that person—

- (a) not to enter or remain on a reserve or on the land included in a lease granted to an institution under this Ordinance or on the land reserved for the purposes of an institution established by the Commonwealth; or
- (b) not to authorize any person or a person specified in that notice, to enter or remain on a reserve or on the land included in a lease granted to an institution under this Ordinance or on the land reserved for the purposes of an institution established by the Commonwealth.

Person to
comply with
notice.

49. A person upon whom a notice is served under the last preceding section shall not—

- (a) enter or remain on a reserve;
- (b) authorize any person or a person specified in the notice, as the case may be, to enter or remain on a reserve;
- (c) enter or remain on land—
 - (i) included in a lease granted to an institution under this Ordinance; or
 - (ii) reserved for the purposes of an institution established by the Commonwealth; or
- (d) authorize any person or a person specified in that notice, as the case may be, to enter or remain on that land.

Penalty:

In the case of a ward—Twenty pounds or imprisonment for six months, or both;

In the case of any other person—for a first offence—One hundred pounds or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

Division 2.—Camping Grounds.

50. The Administrator, the Director, a welfare officer or a superintendent may—

Administrator,
&c., may cause
entry on
camping
ground.

- (a) enter or remain upon a camping ground;
- (b) be or remain within five chains of a place, not being a camping ground, where wards are camped; and
- (c) authorize a person—
 - (i) to enter or remain on a camping ground; or
 - (ii) to be or remain within five chains of a place, not being a camping ground, where a ward is camped.

51. A person shall not—

- (a) enter or remain on a camping ground; or
- (b) be or remain within five chains of a place, not being a camping ground, where a ward is camped

Person not to
enter camping
ground without
authority.

unless—

- (c) he is a ward;
- (d) he is a relation of a ward;
- (e) he is an officer or employee of the Commonwealth Department of Health, or an agent or an employee of an agent of that Department, acting in the course, and for the purposes, of his duty;
- (f) he is authorized to be or to remain there under the last preceding section; or
- (g) his action is necessary for the protection of life or property.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

Administrator, &c., may serve notice forbidding entry, &c.

52. Notwithstanding the provisions of the last two preceding sections, the Administrator, the Director or a welfare officer may cause notice in writing to be served personally or by post on a person ordering him—

- (a) not to enter or remain on a camping ground specified in that notice;
- (b) not to be or remain within five chains of the place specified in that notice, not being a camping ground, where a ward is camped; or
- (c) not to authorize any person or the person specified in that notice—

- (i) to enter or remain on a camping ground; or
- (ii) to be or remain within five chains of a place, not being a camping ground, where a ward is camped.

Person to comply with notice.

53. A person upon whom a notice is served under the last preceding section shall not—

- (a) enter or remain on the camping ground specified in that notice;
- (b) be or remain within five chains of the place specified in that notice, not being a camping ground, where a ward is camped; or
- (c) authorize any person or the person specified in that notice, as the case may be—
- (i) to enter or remain on a camping ground; or
- (ii) to be or remain within five chains of a place, not being a camping ground, where a ward is camped.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months.

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

Meaning of 'camped'.

54. For the purposes of this Division, a ward is deemed to be camped in the place which, for the time being, is, or has been, his sleeping place.

Division 3.—Prohibited Areas.

55. The Administrator, the Director or a welfare officer may—

- (a) take a ward;
- (b) authorize in writing a ward to go;
- (c) authorize in writing a person to take a ward into a prohibited area.

Administrator &c., may take ward into prohibited area.

56. A ward shall not enter or remain in a prohibited area except in pursuance of the last preceding section.

Penalty: Ten pounds or imprisonment for three months.

Ward not to enter prohibited area without permission.

57. A person shall not, without the authority of the Administrator, the Director or a welfare officer—

- (a) take a ward into a prohibited area;
- (b) induce a ward to enter a prohibited area; or
- (c) suffer a ward to be in a conveyance in his charge or on premises occupied by him, within a prohibited area.

Person not to take ward into prohibited area without authority.

Penalty: Fifty pounds or imprisonment for three months.

58. A person shall not conceal or harbour a ward who is within a prohibited area in contravention of the provisions of this Ordinance.

Penalty: Fifty pounds or imprisonment for three months.

Person not to harbour ward in prohibited area.

59. The Director, a welfare officer or a police officer may at any time remove from a prohibited area a ward who is within that area in contravention of the provisions of this Ordinance.

Ward may be removed from prohibited area.

60. Notwithstanding the repeal effected by section four of this Ordinance, a place which, immediately before the date when this Ordinance comes into operation, was a prohibited area under the repealed Ordinances is a prohibited area for the purposes of this Ordinance as though declared to be a prohibited area under this Ordinance.

Continuance of prohibited areas declared under repealed Ordinances.

PART V.—OFFENCES BY AND AGAINST WARDS.

61. A person shall not habitually live with a ward unless he is a ward or a relation of the ward.

Person not to live with ward unless he is a ward.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

Welfare Ordinance
1953-1960.

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

Director may order ward not to live with another ward.

62. Notwithstanding the provisions of the last preceding section, the Director may cause notice in writing to be served personally or by post on a ward, or a relation of a ward, ordering him, either for a time specified in that notice or permanently not to live with a ward specified in that notice or with any ward.

Person to comply with notice.

63. A person upon whom a notice is served under the last preceding section shall not, in contravention of the order contained in that notice, live with the ward specified in that notice or with any ward.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds, or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

Certain males not to live, &c., with female wards.

64. A male person, other than a ward, shall not—

- (a) habitually live with a female ward to whom he is not married;
- (b) habitually consort, keep company or associate, with a female ward to whom he is not married;
- (c) between the hours of sunset and sunrise, be in the company of a female ward to whom he is not married, except with lawful excuse;
- (d) cohabit with, have or attempt to have sexual intercourse with, a ward to whom he is not married; or
- (e) invite, persuade, or attempt to persuade a ward to whom he is not married to have sexual intercourse with him.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

Welfare Ordinance
1953-1960.

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

65. Notwithstanding the provisions of the last preceding section, the Director may cause notice in writing to be served on a ward ordering the ward not to do any of the acts or things mentioned in paragraphs (a), (b), (c), (d) or (e) of the last preceding section with relation to a ward specified in that notice.

Director may forbid ward to do certain things.

66. A ward, upon whom a notice is served in pursuance of the provisions of the last preceding section, shall not, in contravention of the order contained in that notice, do any of the acts referred to in paragraphs (a), (b), (c), (d) or (e) of section sixty-four of this Ordinance.

Ward to comply with notice.

Penalty:

For a first offence—One hundred pounds or imprisonment for six months, or both;

For a second offence—not more than Two hundred pounds or imprisonment for twelve months, or both, and not less than Fifty pounds or imprisonment for three months;

In other cases—not more than Five hundred pounds or imprisonment for two years, or both, and not less than One hundred pounds or imprisonment for six months.

67.—(1.) A person shall not celebrate a marriage of a ward to another person not being a ward unless—

Ward not to be married without consent of Director or Magistrate. Substituted by No. 27, 1969, s. 4.

- (a) he is authorized to celebrate marriage in accordance with the provisions of the *Registration of Births, Deaths and Marriages Ordinance 1941-1954*; and
- (b) the Director has given his consent in writing to the marriage of that ward to the other person; or
- (c) the Director having refused his consent, a Magistrate has granted consent to the marriage in accordance with the provisions of sub-section (2.) of this section.

(2.) Where the Director refuses to give his consent under this section to a proposed marriage, or after a period of one month has expired after application has been made to him

PART VI.—MISCELLANEOUS.

Penalty for
obstructing, &c.

72. A person shall not—

- (a) obstruct or hinder the Administrator, the Director, a welfare officer, a superintendent or any other person exercising a power or duty under this Ordinance;
- (b) refuse to render assistance, when called upon to assist by the Director, welfare officer, a superintendent or other person exercising a power or duty under this Ordinance.

Penalty: One hundred pounds or imprisonment for six months.

Aiding and
abetting, &c.

73. Subject to the provisions of section sixty-eight of this Ordinance, a person who aids, abets, counsels or procures, or by act or omission is directly or indirectly knowingly concerned in, or is a party to, the commission of an offence against this Ordinance is deemed to have committed that offence and is punishable accordingly.

Averments.
Sub-section (1)
inserted by
No. 42, 1957,
s. 5.

74.—(1.) In any prosecution for a contravention of, or failure to comply with, any provision of this Ordinance or any other law of the Territory, an averment of the prosecutor contained in the information or complaint—

- (a) as to a matter specified in sub-section (4.) of this section;
- (b) made in writing; and
- (c) served on the defendant in accordance with the provisions of this section,

is evidence of the matter averred.

(2.) The last preceding sub-section applies to a matter averred although—

- (a) evidence in support or rebuttal of the matter averred or of any other matter is given; or
- (b) the matter averred is a mixed question of law and fact, but in that case the averment is *prima facie* evidence of the fact only.

(3.) Evidence given in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of the evidence shall be neither increased nor diminished by reason of this section.

(4.) This section applies only to an averment that—

- (a) a person named or described in the averment is or is not a ward or at a specified time was or was not a ward; or

Substituted by
No. 42, 1957,
s. 5.

(b) a place named or described in the averment is, or at a specified time was—

- (i) within a reserve;
- (ii) on land included in a lease granted to an institution under this Ordinance;
- (iii) on land reserved for the purposes of an institution established by the Commonwealth;
- (iv) within a camping ground;
- (v) within a prohibited area; or
- (vi) within a district.

(5.) An averment shall not be made under this section unless the Crown Law Officer, being satisfied that the averment is reasonably necessary for the due administration of justice and will not impose hardship upon or occasion injustice to the defendant, certifies in writing to that effect on the paper containing the averment.

(6.) An averment shall not be evidence for the purposes of this section unless a copy of the paper containing the averment has been served on the defendant in the same manner as the process requiring his attendance before the court.

(7.) Service of a copy of the paper containing the averment may be proved in the same manner as service of the process requiring the defendant's attendance before the court may be proved.

(8.) Upon the hearing of proceedings in respect of a contravention, or failure to comply with, any provision of this Ordinance, the court may, if the amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question in dispute to be determined.

(9.) If the court considers the defendant has been misled by the form of the averment, it may refuse to allow the amendments, adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

75. A prosecution for an offence against the provisions of sections fifty-one, fifty-six, or fifty-seven of this Ordinance shall not be commenced without the authority in writing of the Director.

Prosecutions
for certain
offences to be
instituted only
by authority
of the Director.

76. Proceedings for the contravention of, or failure to comply with, a provision of this Ordinance may be instituted in a court of summary jurisdiction.

Proceedings for
offences may
be dealt with
summarily.

Defence in certain cases.

77. In any proceedings alleging an offence under section forty-five, forty-seven, forty-nine, fifty-one or fifty-three of this Ordinance, it shall be a defence for the person charged to show that he did not commit the offence knowingly.

Court may commit a person to the care of the Director.
Amended by No. 10, 1960, s. 2.

78. When a person, who is not a ward, is convicted of an offence against any law of the Territory or of the Commonwealth, the court before which the person is convicted or the court hearing an appeal against such a conviction or against a sentence for such a conviction may, instead of imposing a penalty in respect of that offence, commit that person to the care of the Director for a period not exceeding one year.

Person to obey Director's instructions.

79. A person who is committed to the care of the Director under the last preceding section shall not refuse or neglect to obey the reasonable directions given to him by the Director.

Penalty: One hundred pounds or imprisonment for six months, or both.

Person who celebrates marriage to give notice to Administrator.

80.—(1.) A person who, with the consent of the Director, celebrates the marriage of a ward to another person who is not a ward shall forthwith send a notice by post to the Administrator and to the Director setting forth particulars of the date of the marriage and of the names of the parties.

Penalty: Fifty pounds.

(2.) The Administrator shall forthwith cause a notice to be published in the *Gazette* stating that the person, who prior to the marriage was a ward, is no longer a ward.

(3.) The Director shall forthwith cause particulars of the marriage to be entered in the Register.

Arrest without warrant.

81. Subject to the provisions of section seventy-five of this Ordinance, a police officer may, without a warrant, arrest a person—

- (a) who, in his sight, commits an offence against this Ordinance; or
- (b) whom he has reasonable cause to suspect of having committed, or of being about to commit, an offence against this Ordinance.

Trial of a ward.
Substituted by No. 42, 1957, s. 6.

82.—(1.) Where a person is charged with an offence against this Ordinance or any other law of the Territory, before a plea is taken the court before which the person is charged may, in its discretion, require the production of a certificate under section sixteen of this Ordinance as to whether the person is or is not a ward or at a specified time was or was not a ward.

(2.) If the certificate is not produced, the court may adjourn the matter from time to time for such period as the court thinks fit.

(3.) The production of a telegram purporting to be signed by the Director and purporting to certify that a person named in the telegram is or is not a ward or at a specified time was or was not a ward is admissible in evidence in the matter and is evidence that the person so named is or is not a ward or at a specified time was or was not a ward, as the case may be.

(4.) If the court is satisfied, from a certificate or telegram so produced, or otherwise, that the person charged is a ward or at the time of the alleged offence was a ward—

- (a) the court shall permit counsel, the Director or a welfare officer to appear on behalf of the person;
- (b) the person shall not be permitted to admit his guilt or a fact sought to be proved against him unless upon the advice of his counsel, the Director or the welfare officer appearing for him;
- (c) a statement or admission alleged to have been made by the person is not admissible in evidence unless it is shown that the statement was made at a time when the person was not a ward or was made in the presence, and with the consent, of his counsel, the Director or a welfare officer; and
- (d) the husband or wife of the person or, if the person is married by tribal custom, the man or woman with whom the person was living at the time of the alleged commission of the offence, is competent but not compellable to give evidence.

83. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which 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—

Regulations.

- (a) for prescribing the duties and regulating the exercise and discharge of all or any of the powers or functions of the Director and other officers appointed or employed under this Ordinance;
- (b) for prescribing the particulars to be recorded in the Register;
- (c) for prescribing the information to be supplied concerning wards;