

STATUTORY RULES.

1940. No. .

REGULATIONS UNDER THE NATIONAL SECURITY ACT 1939-1940.*

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *National Security Act 1939-1940*.

Dated this *Seventeenth*
day of *September*, 1940.

Governor-General

By His Excellency's Command,

G. A. A. Foll.

for and on behalf of the Minister of State
for Defence Co-ordination.

NATIONAL SECURITY (OVERSEAS CHILDREN) REGULATIONS.

1. These Regulations may be cited as the National Security citation.
(Overseas Children) Regulations.

2.—(1.) In these Regulations, unless the contrary intention Definitions.
appears—

“Child Welfare laws” means—

- (a) in relation to the State of New South Wales—the
“*Child Welfare Act, 1939*” of that State;
- (b) in relation to the State of Victoria—the Children’s
Welfare Acts of that State;
- (c) in relation to the State of Queensland—“*The State
Children Acts, 1911 to 1928*” of that State;
- (d) in relation to the State of South Australia—the
“*Maintenance Act, 1926-1937*” of that State;
- (e) in relation to the State of Western Australia—the
“*Child Welfare Act, 1907-1937*” and the “*Child
Welfare Act Amendment Act, 1936*”, of that
State;
- (f) in relation to the State of Tasmania—the “*Infants’
Welfare Act 1935*” of that State; and
- (g) in relation to the Australian Capital Territory—the
“*Neglected Children and Juvenile Offenders Act,
1905*”, of the State of New South Wales in its
application to the Territory,

and includes, in relation to any State, the regulations under
the Child Welfare laws of that State and also includes any
laws amending or in substitution for, such laws;

* Notified in the *Commonwealth Gazette* on _____, 1940.
4220.—20/9.9.1940.—PRICE 5d.

“custodian” means a person who has, in pursuance of these Regulations, accepted responsibility for the welfare and care of an overseas child;

“Overseas child” means a person under the age of twenty-one years who has, in pursuance of an arrangement made, during the war, between His Majesty’s Government in the United Kingdom and the Commonwealth Government, been accepted by the Commonwealth Government and received into Australia for custody and care by the Commonwealth Government;

“State” includes the Australian Capital Territory;

“State authority” means—

- (a) in relation to the State of New South Wales—the Director of the Child Welfare Department of that State;
- (b) in relation to the State of Victoria—the Secretary of the Children’s Welfare Department of that State;
- (c) in relation to the State of Queensland—the Director of the State Children Department of that State;
- (d) in relation to the State of South Australia—the Children’s Welfare and Public Relief Board of that State;
- (e) in relation to the State of Western Australia—the Under Secretary, Department of Lands and Immigration of that State;
- (f) in relation to the State of Tasmania—the Director of Social Services of that State; and
- (g) in relation to the Australian Capital Territory—the Secretary, Department of the Interior;

“State Minister” means—

- (a) in relation to any State other than the State of Western Australia—the Minister within the meaning of the Child Welfare laws of that State;
- (b) in relation to the State of Western Australia—the Minister of State for Lands and Immigration of that State; and
- (c) in relation to the Australian Capital Territory—the Minister;

“the Minister” means the Minister of State for the Interior;

“these Regulations” includes any order made thereunder;

“welfare and care” includes custody, control, maintenance, education, training and employment.

(2.) For the purposes of these Regulations, a custodian shall be deemed to be registered in the Register of Custodians in which his name, address and occupation is entered in pursuance of these Regulations.

3.—(1.) Upon the arrival in Australia of an overseas child, the Guardianship of Minister shall, subject to these Regulations, be the guardian of the person of the child, to the exclusion of the father and mother and every other guardian of the child, until the child reaches the age of ^{overseas} children.

twenty-one years or leaves Australia or until the Governor-General, by order, directs that the provisions of these Regulations shall cease to apply to and in relation to the child, whichever first happens.

(2.) Such guardianship shall upon the reception of an overseas child into a State become vested in the State Authority of that State, and thereupon such State Authority shall, subject to these Regulations, have, in relation to the person of such child and to the exclusion of all other persons, the same rights, powers, duties, obligations and liabilities as the natural guardian of the child, and shall also have, in relation to the child, rights and powers similar to the rights and powers exercisable by the State Minister of the State and the State Authority, respectively, in relation to a child who, in pursuance of the child welfare laws of the State is committed to the custody or care of any person or authority or becomes a ward or State child or a ward or child of the State or of any department or authority of the State.

(3.) Where pursuant to these Regulations consent has been given by a State Authority for the removal of an overseas child to another State, the guardianship of the person of such child shall, upon the removal being effected, become vested in the State Authority of that other State in the same manner and to the same extent and with the same effect as provided in the last preceding sub-regulation.

(4.) The Minister may at any time, by order under his hand directed through the State Minister to such State Authority, revoke the guardianship vested by these Regulations in a State Authority, and thereupon the guardianship shall vest in the Minister.

4. The State Minister of the State in which an overseas child is to be placed in pursuance of these Regulations may make all such arrangements and do all such things as he thinks necessary or expedient for—

Reception and immediate care of children.

- (a) receiving the child into the State;
- (b) placing the child with a custodian; and
- (c) the welfare and care of the child in the State.

5.—(1.) Any person desiring to become the custodian of an overseas child may make application in that respect to the State authority of the State in which the applicant resides.

Applications for custodianship.

(2.) An application or an offer to accept the custody of an overseas child received, whether before or after the commencement of these Regulations, by any authority of the Commonwealth or a State, shall be deemed to be an application made in pursuance of this regulation.

6.—(1.) A State authority may approve or refuse any application made or deemed to be made in pursuance of the last preceding regulation.

Powers of State authority in relation to applications.

(2.) Before approving any application a State authority shall be satisfied that the applicant is a suitable person to be a custodian.

7.—(1.) A State authority may place with an applicant whose application has been approved (in these Regulations referred to as “the approved applicant”) one or more overseas children (not exceeding in number the number of children for whom the application has been approved).

Placing of overseas children.

(2.) In the placement of an overseas child with an approved applicant, a State authority shall have regard to any arrangement with respect to the placement of the child to which the parents or guardians

of the child in the United Kingdom are parties and to any wishes expressed by them, and shall, as far as practicable, place the child in accordance with such arrangement or wishes.

8. An approved applicant shall, upon receiving an overseas child into his custody, furnish to the State authority an acknowledgment in writing, in accordance with such form as the State authority requires, of the acceptance by him of responsibility for the welfare and care of the child, and shall, thereupon, become the custodian of the child. Acceptance of custodianship.

9.—(1.) A custodian shall, in accordance with these Regulations, provide for the welfare and care of every overseas child of whom he is the custodian. Duties of custodians.

(2.) Without limiting the effect of the last preceding sub-regulation, the duties and obligations of a custodian in relation to any such overseas child shall, subject to such exceptions, modifications, adaptations and additions prescribed by order made by the Minister, be of the like kind to those of a person in relation to a child who is committed to his care, or of whom he becomes the guardian or foster parent, in pursuance of the child welfare laws of the State in which the custodian is resident.

10. A State authority shall, in relation to overseas children in his State, keep a Register of Custodians in which he shall enter— Register of custodians.

- (a) the name, address, occupation and religion of every custodian;
- (b) the name of every child in the custody of each custodian;
- (c) the age, sex and religion of such child;
- (d) the names, addresses and occupations of the parents or guardians of the child in the United Kingdom;
- (e) the date of arrival and the ship in which the child arrived in Australia; and
- (f) such other particulars as the Minister determines.

11.—(1.) If a custodian proposes to change his place of abode within the State in which he is resident he shall notify such proposed change to the State authority of the State in which he is registered, if practicable, at least seven days before the change is effected. Notification of change of address of custodian.

(2.) If it is not practicable for the custodian so to notify the proposed change he shall notify it at the earliest practicable moment.

12.—(1.) A custodian, who proposes to change his place of abode to a place outside the State in which he is registered, shall not remove an overseas child outside the State unless and until the State authority of that State consents to such removal. Consent to removal out of State.

(2.) Upon such consent being given, the State authority shall forthwith note the proposed removal in the Register of Custodians and, if the child is to be removed to another State, forward to the State authority of that other State, for entry in the Register of Custodians kept by him, particulars relating to the custodian and the overseas child.

13. Nothing in these Regulations shall affect the operation in relation to overseas children of any provision of the Child Welfare laws of the States: Saving of application of State laws.

Provided that, if any such child is dealt with under any such law of a State, the State authority of that State shall, within seven days after the child is so dealt with, advise the Secretary, Department of the Interior, of the action taken in relation to the child:

Provided further that if, under any such law, an overseas child is committed to the custody or care of any person or authority, or becomes a ward or a State child or a ward or child of a State or of any Department or authority of a State, nothing in any such State law shall prevent the State Minister of the State in which the custodian of the child is resident from directing the manner in which that child shall be dealt with and, if the State Minister so directs, the person or authority having the custody or care of the child shall deal with him accordingly.

14. If an overseas child absconds from the custody of his custodian, becomes ill, meets with an accident or dies, the custodian shall immediately give such notice and do all such further acts and things as are directed by the State Minister of the State in which the custodian is resident.

Notice to be given if child absconds, &c.
Cf. S.A. s. 140.

15.—(1.) If a custodian of an overseas child—

(a) dies;

(b) becomes, in the opinion of the State Minister of the State in which the custodian is registered, physically or mentally incapable of acting as custodian; or

(c) becomes, in the opinion of that State Minister, unsuitable from any cause whatsoever to be a custodian,

the State authority of that State shall, subject to any directions of the State Minister, cancel the custodianship and cause the child to be removed from the custody of the custodian and may place the child with another person or, if another person is not available, shall take such action for the welfare and care of the child as the State Minister directs.

(2.) In the placement of a child in pursuance of this regulation, the State authority shall have regard to any wishes expressed by the parents or guardians of the child in the United Kingdom, and shall, as far as practicable, place the child in accordance with those wishes.

16. Where a custodian satisfies the State Minister of the State in which he is registered that, by reason of circumstances which have arisen since he became a custodian, he is unable to continue to act as custodian of an overseas child, the State Minister may cancel his custodianship and the State authority of that State may take such action as if the custodianship were cancelled in pursuance of the last preceding regulation.

Custodian unable to continue custodianship.
Cf. S.A. s. 138.

17. If an overseas child who—

(a) has absconded; or

(b) has been unlawfully removed, from the custody of his custodian; or

Child absconding to another State or Territory.

(c) has been, without the consent of the State authority concerned, removed by his custodian outside the State in which the custodian is registered,

is found anywhere in Australia, any member of the Police Force of the Commonwealth or of any State or Territory of the Commonwealth may apprehend the child, hold him in custody and return him to the State authority of the State from which he absconded or was removed.

18. A person shall not without lawful excuse (proof whereof shall lie upon him)—

Offences in respect of overseas child.

(a) remove any overseas child, or counsel or cause any overseas child to be withdrawn or to abscond, from the custody of his custodian; or

(b) knowing any overseas child to have been so removed or withdrawn or to have absconded, harbour or conceal the child or prevent him from returning to his custodian.

19. A person shall not, in any application made in pursuance of these Regulations, make any statement which is false in any material particular.

False statements in application.

20. A custodian shall not, directly or indirectly, make to the parents or guardians in the United Kingdom of any overseas child, any request for remuneration, financial assistance or any benefit whatsoever.

Requests for financial assistance to overseas parents.

21. The Minister may by order provide for all matters which by these Regulations are required or permitted to be provided or which are necessary or convenient to be provided for carrying out or giving effect to these Regulations and in particular—

Power of Minister to make orders.

(a) for regulating the entry into Australia of overseas children and their reception and immediate welfare and care on arrival therein;

(b) for prescribing the principles to be observed in relation to the placing of such children;

(c) for regulating the placing of such children;

(d) for determining the rules and requirements to be complied with by custodians in relation to such children and their welfare and care;

(e) for exempting custodians or any class of custodians from all or any of the provisions of these Regulations;

(f) for prescribing exceptions, modifications, adaptations and additions to the Child Welfare laws of the States in their application in respect of the duties and obligations of custodians; and

(g) for regulating the return to the United Kingdom of such children.

22. The Governor-General may, by order, direct that the provisions of these Regulations shall cease to apply to and in relation to any overseas child, and these Regulations shall thereupon cease to apply accordingly.

Regulations to cease to apply as directed by Governor-General.

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