

PUBLIC ACTS OF NEW SOUTH WALES 1824-1957

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WITH A FOREWORD BY

THE ATTORNEY-GENERAL AND MINISTER OF JUSTICE

THE HONOURABLE R. R. DOWNING, LL.B., M.L.C.

VOLUME I

ABORIGINES PROTECTION

TO

CLOSER SETTLEMENT

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ABORIGINES PROTECTION ACT, 1909-1943.

The Aborigines Protection Act, 1909, is reprinted as amended by—

Aborigines Protection Amending Act, 1915, No. 2. Assented to, 15th February, 1915.

Aborigines Protection (Amendment) Act, 1918, No. 7. Assented to, 12th March, 1918.

Police Regulation (Amendment) Act, 1935, No. 13. Assented to, 13th March, 1935.

Aborigines Protection (Amendment) Act, 1936, No. 32. Assented to, 10th July, 1936.

Aborigines Protection (Amendment) Act, 1940, No. 12. Assented to, 22nd May, 1940. Date of commencement, 14th June, 1940: Government Gazette No. 88 of 14th June, 1940, p. 2525.

Aborigines Protection (Amendment) Act, 1943, No. 13. Assented to, 25th June, 1943. Date of commencement of s. 2 (3), for certain purposes, 25th June, 1943; for all purposes, 5th July, 1945: s. 2 (1) (2) and Government Gazette No. 68 of 5th July, 1945, p. 1165.

Reference may be made to the following Acts:—

Aborigines Protection (Amendment) Act, 1940, s. 2 (2): dissolution of the board for the protection of aborigines.

Aborigines Protection (Amendment) Act, 1943, s. 2: reconstitution of the Aborigines Welfare Board.

Attachment of Wages Limitation Act, 1957, s. 10: attachment of moneys due to employees of, and contractors to, the board constituted under this Act.

Act No. 25, 1909.

An Act to provide for the protection and care of aborigines; to repeal the Supply of Liquors to Aborigines Prevention Act; to amend the Vagrancy Act, 1902, and the Police Offences (Amendment) Act, 1908; and for purposes consequent thereon or incidental thereto. [Assented to, 20th December, 1909.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Aborigines Protection Act, 1909," Short title. and shall come into force on a date to be fixed by proclamation of the Governor in the Gazette.

[1.] Date of commencement, 1st June, 1910: Government Gazette No. 72 of 11th May, 1910, p. 2486.

By Act No. 13, 1943, s. 1 (3) this Act, as amended by subsequent Acts and by Act No. 13, 1943, may be cited as the Aborigines Protection Act, 1909-1943.

ss. 2, 3.

Repeal.

Interpretation

Substituted
definition,
Act No. 7,
1918, s. 2 (i)
(a).

Amended,
Act No. 32,
1936, s. 2
(1) (a) (i).

New defini-
tion added,
Act No. 13,
1943, s. 4 (a).

Substituted
definition,
Act No. 12,
1940, s. 3
(a) (i).

New defini-
tion added,
Act No. 13,
1943, s. 4 (a).

New defini-
tion added,
Act No. 12,
1940, s. 3 (a)
(ii).

New defini-
tion added,
Act No. 13,
1943, s. 4 (a).

Amended,
Act No. 32,
1936, s. 2 (1)
(a) (iii).

Repealed,
Act No. 12,
1940, s. 3 (a)
(iii).

Amended,
Act No. 7,
1918, s. 2 (i)
(b).

New defini-
tion added,
Act No. 12,
1940, s. 3
(a) (iv).

2. The Acts specified in the Schedule hereto are, to the extent indicated, repealed.

3. In this Act, unless the context or subject matter otherwise indicates or requires:—

“Aborigine” means any full-blooded or half-caste aboriginal who is a native of Australia and who is temporarily or permanently resident in New South Wales.

“Adopted boarder” means a child who, if under the maximum age up to which he is compelled by law to attend school, is allowed by authority of the board to remain with a foster parent without payment of an allowance or, if over the maximum age up to which he is compelled by law to attend school, is allowed by authority of the board to remain with the foster parent on terms and conditions which do not require that the whole or any part of any wages earned by the child be paid to the board on behalf of such child.

“Board” means the Aborigines Welfare Board, constituted under this Act.

“Boarded-out” means placed in the care of some foster parent for the purpose of being nursed, maintained, trained or educated by such person or in such person’s home.

“Child” means an aborigine under eighteen years of age.

“Foster parent” means any person with whom any child is boarded-out or placed as an adopted boarder.

“Liquor” means and includes wine, spirits, beer, porter, stout, ale, cider, perry, or any spirituous or fermented fluid whatever capable of producing intoxication and also includes methylated spirits.

“Local Committee” * * * * *

“Prescribed” means prescribed by this Act or the regulations.

“Reserve” means area of land heretofore or hereafter reserved from sale or lease under any Act dealing with Crown lands, or given by or acquired from any private person, for the use of aborigines.

“Regulations” means regulations in force under this Act.

“Stations” means stations on reserves.

“Ward” means a child who has been admitted to the control of the board or committed to a home constituted and established under section eleven of this Act.

4. (1) There shall be a board to be called the "Aborigines Welfare Board" which shall consist of eleven members. s. 4.
Aborigines
Welfare Board.

(2) (a) The person for the time being holding the office of Under Secretary, Chief Secretary's Department, shall be a member of the board and shall be the chairman. Amended,
Act No. 13,
1935, s. 7
(1).
Substituted
section,
Act No. 12,
1940,
s. 2 (1).

(b) The remaining members of the board (in this section referred to as "appointed members") shall be appointed by the Governor. Amended,
Act No. 13,
1943, s. 2
(3) (a).

Of the appointed members—

- (i) one shall be the Superintendent of Aborigines Welfare;
- (ii) one shall be an officer of the Department of Public Instruction;
- (iii) one shall be an officer of the Department of Public Health;
- (iv) one shall be a member of the police force of or above the rank of inspector;
- (v) one shall be an expert in agriculture;
- (vi) one shall be an expert on sociology and/or anthropology;
- (vii) two shall be persons nominated by the Minister for appointment;
- (viii) two shall be aborigines one being a full-blooded aborigine, and the other being either a full blooded aborigine or a person apparently having an admixture of aboriginal blood nominated for appointment, in accordance with the regulations, by aborigines or persons apparently having an admixture of aboriginal blood possessing the prescribed qualifications.

Amended,
Act No. 13,
1943, s. 2 (3)
(b) (i).

New sub-
paragraph
added,
Act No. 13,
1943, s. 2
(3) (b) (ii).

(c) The term of office of a member nominated pursuant to sub-paragraph (viii) of paragraph (b) of this subsection shall be three years. Upon the expiration of the term of office of any such member he shall be eligible from time to time for reappointment.

New
paragraph
added,
Act No. 13,
1943, s. 2
(3) (b) (ii).

(3) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to the appointment of appointed members, nor shall any member of the board, in his capacity as such member, be subject to the provisions of any such Act.

(4) An appointed member shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Governor;
- (c) ceases to reside in the State;
- (d) becomes bankrupt, compounds with his creditors or makes an assignment of his estate for their benefit;
- (e) becomes an insane person or patient, or an incapable person within the meaning of the Lunacy Act of 1898;
- (f) absents himself from two consecutive ordinary meetings of the board except on leave granted by the board.

ss. 4-5.

New subsection added,
Act No. 13,
1943, s. 2
(3) (c).

(4A) If the office of a member nominated pursuant to subparagraph (viii) of paragraph (b) of subsection two of this section becomes vacant otherwise than by reason of the expiration of his term of office, the Minister may nominate an aborigine or person apparently having an admixture of aboriginal blood for appointment to the vacant office for the remainder of the term for which his predecessor was appointed. Any person appointed in accordance with this subsection shall be eligible for reappointment.

(5) The board shall annually elect one of its members to be vice-chairman.

(6) (a) The procedure for the calling of meetings of the board and for the conduct of business at such meetings shall, subject to this Act and to any regulations made in relation thereto be as determined by the board.

(b) Four members of the board shall form a quorum and any duly convened meeting of the board at which a quorum is present shall be competent to transact any business of the board.

(c) At any meeting of the board the chairman or in his absence the vice-chairman shall preside.

If both the chairman and the vice-chairman are absent the members present shall elect one of their number to preside at the meeting.

(7) No act or proceeding of the board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced there was a vacancy in the office of any member of the board.

(8) Each member of the board shall be entitled to receive allowances to cover expenses incurred by him for conveyance and subsistence in travelling upon business of the board at such rates and in such circumstances as may be prescribed.

Except as provided in this subsection no fees or remuneration of any kind shall be paid to a member in respect of his services as such member.

Incorporation
of board.
New section
added,
Act No. 13
1943, s. 2
(3) (d).

4A. (1) The board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(2) The common seal shall be kept in the custody of the chairman and shall not be affixed to any instrument except in pursuance of a resolution of the board. Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

Superintendent
and other
officers and
employees.
Substituted
section,
Act No. 12,
1940, s. 2
(1).

5. (1) The Governor may, under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint a Superintendent of Aborigines Welfare and such other officers and employees as may be necessary for the administration of this Act.

(2) The Superintendent of Aborigines Welfare and other officers and employees shall be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, during their tenure of office. ss. 5—7.

6. The board may appoint committees at such times and for such purposes as the board may think fit.

Committees
Substituted
section,
Act No. 12,
1940, s. 2
(1).

Each committee shall exercise and discharge such functions and duties as the board may determine.

7. (1) It shall be the duty of the board—

Duties of
board.

(a) to, with the consent of the Minister, apportion, distribute, and apply as may seem most fitting, any moneys voted by Parliament, and any other funds in its possession or control, for the relief or benefit of aborigines or for the purpose of assisting aborigines in obtaining employment and of maintaining or assisting to maintain them whilst so employed, or otherwise for the purpose of assisting aborigines to become assimilated into the general life of the community;

Amended,
Act No. 12,
1940, s. 3
(b) (i).

(b) to distribute blankets, clothing, and relief to aborigines at the discretion of the board;

(c) to provide for the custody and maintenance of the children of aborigines;

Amended,
Act No. 12,
1940, s. 3
(b) (ii).

(d) to manage and regulate the use of reserves;

(e) to exercise a general supervision and care over all aborigines and over all matters affecting the interests and welfare of aborigines, and to protect them against injustice, imposition, and fraud;

Amended,
Act No. 32,
1936, s. 2
(1) (b).

(f) to arrange for the inspection at regular intervals of each station and training school under the control of the board, by the Superintendent of Aborigines Welfare and one or more of the other members of the board, or by one or more of such other members.

New para-
graph added,
Act No. 12,
1940, s. 3
(b) (iii).

(1A) The board may, with the consent of the Minister—

New subsection
added,
Act No. 13,
1943, s. 3
(a).

(a) acquire by purchase or lease or otherwise any land for the purposes of sale, lease or transfer, in accordance with the provisions of this subsection;

(b) erect buildings on land so acquired;

(c) sell or lease any such land with any buildings thereon to any aborigine or person apparently having an admixture of aboriginal blood on such terms and subject to such covenants and conditions as the board may from time to time determine;

Without prejudice to the generality of paragraph (c) of this subsection the board may, under that paragraph, sell land to an aborigine or person apparently having an admixture of aboriginal blood on terms and conditions which provide that upon payment by such aborigine or person of such amount of the purchase money as may be specified in the

ss. 7-8B.

contract the land will be transferred to him on condition that he executes a mortgage in favour of the board in such form as it requires for the balance of purchase money with interest at the rate fixed by the contract.

New subsection added,
Act No. 12,
1940, s. 3
(b) (iii).

(2) The board may on the application of the parent or guardian of any child admit such child to the control of the board.

Control of reserves.

Amended,
Act No. 12,
1940, s. 3
(c).

8. (1) All reserves shall be vested in the board, and it shall not be lawful for any person other than an aborigine, or an officer under the board, or a person acting under the board's direction, or under the authority of the regulations, or a member of the police force, to enter or remain upon or be within the limits of a reserve upon which aborigines are residing, for any purpose whatsoever:

Proviso added,
Act No. 7,
1918, s. 2
(ii) (a).

Provided that the board may, by permit in the prescribed form, authorise, subject to such terms and conditions as it may think fit, any person apparently having an admixture of aboriginal blood to enter or remain upon or be within the limits of any such reserve.

Amended,
Act No. 7,
1918, s. 2
(ii) (b).

(2) The board may remove from a reserve any aborigine or other person who is guilty of any misconduct, or who, in the opinion of the board, should be earning a living away from such reserve.

(3) Any building erected on a reserve shall be vested in and become the property of the board, also all cattle, horses, pigs, sheep, machinery, and property thereon purchased or acquired for the benefit of aborigines.

Removal to reserves, etc.

New section added,
Act No. 32,
1936, s. 2
(1) (c).

Amended,
Act No. 12,
1940, s. 3
(d).

8A. (1) Where an aborigine or a person apparently having an admixture of aboriginal blood is, in the opinion of the board, living in insubstantial or undesirable conditions, or should in the opinion of the board be placed under control, a stipendiary or police magistrate may, on the application of the board, order such aborigine or person to remove to a reserve or place controlled by the board, or, if such aborigine or person is but temporarily resident in this State, to return to the State whence he came within a time specified in the order.

(2) Any such order may on a like application be cancelled or varied by the same or another stipendiary or police magistrate.

(3) Until such an order is cancelled every aborigine or other person named therein in that behalf shall be and remain under the control of the board while he is in this State.

(4) The manner of making application under this section and the procedure to be adopted thereon and in connection therewith shall be as prescribed by regulations made under this Act.

Enticing aborigine to remove from reserve.

New section added,
Act No. 32,
1936, s. 2

8B. Whosoever, without lawful authority or excuse the proof whereof shall lie on him, removes an aborigine or causes, assists, entices or persuades an aborigine to remove from a reserve shall be guilty of an offence against this Act

8c. (1) Whosoever, without the written consent of the board, removes or causes to be removed from New South Wales to any place outside New South Wales any aborigine shall be guilty of an offence against this Act.

ss. 8C—11A.

Removing
aborigine
from New
South Wales.New section
added,
Act No. 32,
1936, s. 2
(1) (c).

This subsection shall not apply to the removal by any person of any child, of whatever age, of such person.

(2) The board, before giving its consent to the removal of an aborigine from New South Wales, may require that a bond be entered into with it in such sum as it considers sufficient by the person seeking the consent and two sufficient sureties approved by the board, conditioned to secure the proper supervision, care and treatment of the aborigine during his absence from New South Wales and his return to New South Wales within a specified time or within such time as the board may from time to time fix, and to secure the performance of such other conditions in the interest of the aborigine as the board may in its discretion impose as a condition of giving its consent.

9. Any person who gives, sells, or supplies, except in case of accident, or on the prescription of a duly qualified medical practitioner, any liquor to any aborigine or person having apparently an admixture of aboriginal blood, shall be guilty of an offence against this Act. Nothing in this section shall affect the operation of the Liquor Act, 1912, as amended by subsequent Acts.

Supply of
liquor to
aborigines.Amended,
Act No. 7,
1918, s. 2
(iii);
Act No. 32,
1936, s. 2
(1) (d).

10. Whosoever, not being an aborigine, or the child of an aborigine, lodges or wanders in company with any aborigine, and does not, on being required by a justice, give to his satisfaction a good account that he has a lawful fixed place of residence in New South Wales and lawful means of support, and that he so lodged or wandered for some temporary and lawful occasion only, and did not continue so to do beyond such occasion, shall be guilty of an offence against this Act.

Wandering
with
aborigines.

11. The board may constitute and establish under this Act homes for the reception, maintenance, education and training of wards and may assign a name or names to such homes.

Constitution
and establish-
ment of homes.Amended,
Act No. 2,
1915, s. 2
(i); Act No.
7, 1918, s.
2 (iv).Substituted
section,
Act No. 12,
1940, s. 3 (e).

11A. (1) The board may, by indenture, bind or cause to be bound any ward as an apprentice or may, where apprenticeship conditions are not applicable or desirable, place any ward in other suitable employment.

Apprenticeship
and placing in
employment.New section
added,
Act No. 2,
1915, s. 3.

(2) The indentures of apprenticeship and agreements shall be in the forms prescribed and shall contain provisions to the satisfaction of the board for the maintenance, training, care and religious instruction of any ward concerned and for the due payment of any wages payable thereunder. Such indentures and agreements shall be exempt from the provisions of the Stamp Duties Act, 1920-1939.

Substituted
section,
Act No. 12,
1940, s. 3 (e).

[9.] Supply of liquor to aboriginal, or person having apparently admixture of aboriginal blood, is offence, apart from qualification introduced by s. 49 of Liquor Act, 1912: *Coleman v. Dodd*, (1923) 23 S.R. 599; 40 W.N. 150; 13 Austn Digest 396. Special leave refused: (1923) 32 C.L.R. 616 (note).

ss. 11A—11D.

(3) All wages earned by any ward except such part thereof as the employer is required to pay to the ward personally as pocket money, shall be paid by the employer to the board on behalf of such ward and shall be applied as prescribed.

(4) The wages due by any employer or person on account of any ward may be sued for and recovered in the name of the board, or any officer authorised by the board in that behalf, in any court of competent jurisdiction, for the benefit of such ward.

Placing of
wards in homes
pending
apprenticeship
or
employment.

New section
added,
Act No. 2,
1915, s. 3.
Amended,
Act No. 32,
1936, s. 2 (1)
(e).

Substituted
section,
Act No. 12,
1940, s. 3 (e).

Securing
observance of
conditions of
apprenticeship.

New section
added,
Act No. 12,
1940, s. 3
(e).

11B. (1) Where a ward is not regarded by the board as ready for placement in employment or for apprenticeship, such ward may be placed in a home for the purpose of being maintained, educated and trained.

(2) Where the board is satisfied that any ward is not likely to succeed in his employment or as an apprentice, the board may, with the approval of the employer or guardian of such ward, cancel any indenture of apprenticeship or agreement, and may place such ward in a home for the purpose of being maintained, educated and trained.

11C. Upon complaint made by the board or any officer authorised by the board in that behalf, that any person with whom any ward has been placed in employment or apprenticed is not observing or performing the conditions of any indenture of apprenticeship or agreement or is unfit to have the further care of such ward any magistrate or justice may call upon such person to answer such complaint, and on proof thereof a children's court established under the Child Welfare Act, 1939, may order such agreement to be terminated and may direct that the ward be sent to a home constituted and established under section eleven of this Act pending arrangements for further employment or apprenticeship.

Authority of
board.
cf. Act No. 17,
1939, s. 23.

New section
added,
Act No. 13,
1943, s. 4
(b).

11D. (1) The board shall be the authority to—

- (a) admit a child to its control;
- (b) provide for the accommodation and maintenance of any child admitted to its control until he is apprenticed, placed in employment, boarded-out, or placed as an adopted boarder;
- (c) pay foster parents such rates as may be prescribed;
- (d) direct the removal or transfer of any ward (other than a ward who has been committed to an institution for a specified term);
- (e) apprentice, place in employment, board-out or place as an adopted boarder any ward (other than a ward who has been committed to an institution for a specified term);
- (f) approve of persons applying for the custody of wards and of the homes of such persons;
- (g) arrange the terms and conditions of the custody of any ward;
- (h) direct the restoration of any ward (other than a ward who has been committed to an institution for a specified term) to the care of his parent or of any other person;
- (i) direct the absolute discharge of any ward (other than a ward who has been committed to an institution for a specified term) from supervision and control.

(2) (a) The board may, under and in accordance with subsection ss. 11D, 11E. one of this section, board out any child to the person for the time being in charge of any charitable depot, home or hostel and may make to the person in charge of such charitable depot, home or hostel, payments in respect of such child at the rates prescribed for payments under paragraph (c) of that subsection.

(b) Where payments are, in accordance with paragraph (a) of this subsection, made to the person for the time being in charge of any charitable depot, home or hostel an officer appointed for the purpose may, at any time inspect such charitable depot, home or hostel and make such examinations into the state and management thereof and the conditions and treatment of the children and young persons (being inmates thereof) in respect of whom the payments are so made, as he thinks requisite, and the person for the time being in charge of the charitable depot, home or hostel shall afford all reasonable facilities for such inspection and examination.

(c) In this subsection "charitable depot, home or hostel" means a depot, home or hostel established or maintained by a charitable organisation and used wholly or in part for purposes analogous to the purposes referred to in subsection one of section twenty-one of the Child Welfare Act.

(3) The board may, upon such terms and conditions as may be prescribed or as it may, in any special case, approve, place a ward as an adopted boarder in the care of a foster parent.

When such ward is over the maximum age up to which he is compelled by law to attend school and is to be employed by the foster parent, but the foster parent is unable to pay the prescribed rate of wages the consent of the board and of the ward shall be obtained before he is so placed in the care of a foster parent.

(4) Payment to a foster parent for any ward shall not extend beyond the time when the ward shall have attained the maximum age up to which he is compelled by law to attend school unless—

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

(b) the case possesses unusual features which call for special consideration,

and the board authorises such payment.

(5) On attaining the maximum age up to which he is compelled by law to attend school a ward shall, except in the circumstances referred to in subsections three and four of this section, or except in such other circumstances as may be prescribed, be apprenticed or placed in employment.

11E. The board may remove any child from any charitable institution, depot, home or hostel supported wholly or in part by grants from the Consolidated Revenue Fund and cause him to be apprenticed, placed in employment, boarded-out, or placed as an adopted boarder.

Boarding out
from charitable
institutions.
cf. Act No. 17,
1939, s. 24.
New section
added,
Act No. 13,
1943, s. 4
(b).

ss. 11F-13.

Extension of period of supervision, cf. Act No. 17, 1939, s. 25.
New section added,
 Act No. 13, 1943, s. 4 (b).

Deductions from payments to foster parents, cf. Act No. 17, 1939, s. 26.
New section added,
 Act No. 13, 1943, s. 4 (b).

Wards absconding, etc.

Amended,
 Act No. 32, 1936, s. 2
 (1) (f).

Substituted section,
 Act No. 12, 1940, s. 3 (e).

11F. The board may cause to be visited and inspected any child who has been a ward for any period not exceeding two years after the date upon which such child attains the age of eighteen years.

11G. The board may deduct from the payments due to any foster parent such amount as may be deemed equivalent to the loss occasioned by the neglect of such foster parent to keep outfits up to the standard prescribed.

12. (1) If any ward placed in a home constituted and established under section eleven of this Act, or any ward placed in employment or apprenticed, is absent without the leave of the board, or of any officer authorised in that behalf by the board, any member of the police force or any officer of the board may apprehend such ward and convey him to such home or back to his employer.

(2) Any magistrate or justice may issue a warrant for the arrest of any ward who has absconded or been illegally removed from his proper custody.

(3) Where any ward who has absconded or has been illegally removed from his proper custody is arrested, he shall, as soon as practicable, be brought before a children's court established under the Child Welfare Act, 1939.

(4) Any ward who absconds from his proper custody shall be guilty of an offence against this Act, and such court may—

(a) order the offender to be punished by one or more of the methods of punishment referred to in Part XI of the Child Welfare Act, 1939;

(b) exercise any of the powers enumerated in subsection one, subsection two, or subsection three of section eighty-three of the Child Welfare Act, 1939; but where it decides to exercise the power referred to in paragraph (d) of subsection one or paragraph (c) of subsection two of that section it shall commit the child to the care of the board to be dealt with as a ward admitted to the control of the board; and where it decides to exercise the power referred to in paragraph (c) of subsection one or paragraph (d) of subsection two of that section, the court shall commit the child to a home constituted and established under section eleven of this Act; or

(c) return the ward to his former custody.

13. (1) Whosoever without the consent of the board or of any officer authorised by the board in that behalf or of the officer-in-charge of any home constituted and established under section eleven of this Act, as the case may be, holds or attempts to hold any communication with any ward who is an inmate of such home or enters or attempts to enter any

Protection of wards.

Amended,
 Act No. 7, 1918, s. 2
 (vi); Act No. 32, 1936, s. 2 (1) (g).

Substituted section,
 Act No. 12, 1940, s. 3 (e).

such home or any premises belonging thereto or used in connection therewith, and does not depart therefrom when required to do so, or after being forbidden so to do by the board or any officer so authorised or of the officer-in-charge of such home, as the case may be, holds or attempts to hold any communication, directly or indirectly, with any ward who is an inmate of such home, shall be guilty of an offence against this Act. ss. 13, 13A

(2) A person shall be guilty of an offence against this Act if he—

- (a) ill-treats, terrorises, overworks or injures any ward; or
- (b) counsels, or causes or attempts to cause, any ward to be withdrawn or to abscond from any home constituted and established under section eleven of this Act, or from the charge of any person with whom he is placed or to whom he is apprenticed or to escape from his proper custody; or
- (c) knowing any ward to have so been withdrawn or to have so absconded or escaped harbours or conceals such ward or prevents him from returning to such home or person or to his proper custody; or
- (d) having the care of any ward—
 - (i) illegally discharges or dismisses or attempts to discharge or dismiss him from any home constituted and established under section eleven of this Act,
 - (ii) illegally detains him in any home constituted and established under section eleven of this Act,
 - (iii) neglects him, or
 - (iv) does not well and truly observe, perform and keep all the covenants, conditions and agreements contained in any indenture or agreement entered into by him respecting any ward, and which by such indenture or agreement he has bound himself or agreed, to observe, perform or keep.

13A. (1) Any justice may, upon oath being made before him by any officer authorised by the board in that behalf, or by any member of the police force, that having made due inquiry he believes any child to be a neglected or uncontrollable child—

- (a) issue his summons for the appearance of such child before a children's court established under the Child Welfare Act, 1939; or
- (b) in the first instance issue his warrant directing such child to be apprehended.

(2) Any person having the care, custody or control of a child may apply to a children's court established under the Child Welfare Act, 1939, to commit the child to the control of the board or to a home constituted or established under section eleven of this Act upon the ground that he is an uncontrollable child.

Neglected and uncontrollable children.

New section added,
Act No. 2,
1915, s. 4.
Amended,
Act No. 32,
1936, s. 2
(1) (h).

Substituted section,
Act No. 12,
1940, s. 3
(e).

ss. 13A—13C. (3) The expressions “neglected child” and “uncontrollable” shall respectively have the meanings given to those expressions in the Child Welfare Act, 1939.

(4) Any officer authorised by the board in that behalf or any member of the police force may, although the warrant is not at the time in his possession, apprehend any child for whose apprehension a warrant has been issued under this section.

(5) Any child apprehended as a neglected or uncontrollable child shall be taken to a place of safety or to a shelter constituted or established under the Child Welfare Act, 1939, and as soon as practicable thereafter shall be brought before a children’s court established under that Act.

(6) Any child charged as a neglected or uncontrollable child shall be brought before a children’s court established under the Child Welfare Act, 1939.

(7) The provisions of sections eighty-one and eighty-two of the Child Welfare Act, 1939, shall apply, mutatis mutandis, to and in respect of any proceedings against a child under this section:

Provided that where the court decides to exercise the power referred to in paragraph (d) of section eighty-two of that Act, it shall commit the child to the care of the board to be dealt with as a ward admitted to the control of the board, and where the court decides to exercise the power referred to in paragraph (e) of that section it shall commit the child to a home constituted and established under section eleven of this Act.

In case of unfair treatment, board to remove aborigine.

New section added, Act No. 32, 1936, s. 2 (1) (i).

13B. In any case where an aborigine is living with, or employed by, any other person, and the board has reason to believe that such aborigine is not receiving fair and proper treatment, and is not being paid a reasonable wage, or the board is of opinion that his moral or physical well-being is likely to be impaired by continuance in such employment, or that he is being influenced to continue in such employment, the board shall have the power to terminate same and remove the aborigine concerned to such reserve, home or other place as it may direct. For the purposes of this section any officer of the board, or member of the police force, shall have access to such aborigine at all reasonable times for the purpose of making such inspection and inquiries as he may deem necessary.

Employer to pay wages to Superintendent in certain cases.

New section added, Act No. 32, 1936, s. 2 (1) (i).

Amended, Act No. 12, 1940, s. 3 (f).

13C. In any case where it appears to the board to be in the best interests of the aborigine concerned and/or of his wife and/or children the board may direct employers or any employer to pay the wages of the aborigine to the Superintendent of Aborigines Welfare or some other officer named by him, and any employer who fails to observe such directions shall be deemed to have not paid such wages. The wages so collected shall be expended solely on behalf of the aborigine to whom they were due and/or of his wife and/or children, and an account kept of such expenditure.

13D. All actions and other proceedings against any person for the recovery of wages due to an aborigine who is, or has been, employed by such person, or for any breach of an agreement made with an aborigine, may be instituted and carried on by, or in the name of, an officer of the board, a member of the police force, or any other person authorised by the board.

ss. 13D—16.

Actions—
by whom
instituted.New section
added,
Act No. 32,
1936, s. 2
(i) (i).

14. The board may cause any aborigines who are camped or are about to camp within or near any reserve, town, or township to remove to such distance from the reserve, town, or township as they may direct.

Power to
remove
aborigines
camped in the
vicinity of
townships.
Amended,
Act No. 7,
1918, s. 2
(vii).

14A. The board may authorise the medical examination of any aborigine or person having apparently an admixture of aboriginal blood and may have such aborigine or person so examined, removed to and kept in a public hospital or other institution for appropriate curative treatment, or may require such aborigine or person to undergo such treatment as and where provided.

Medical
examination
and treat-
ment.
New section
added,
Act No. 32,
1936, s. 2
(i) (j).

Any such examination shall be performed only by a medical practitioner authorised in that behalf either generally or in a particular case by the Chief Medical Officer of the Government.

15. Every blanket or other article issued by the Government or by the board to any aborigine shall be considered to be on loan only, and to be the property of the board, and any unauthorised person other than an aborigine who has in his possession or custody any blanket, or other article or portion thereof, which reasonably appears from the marks thereon or otherwise to have been so issued shall be guilty of an offence against this Act.

Illegal
possession
of blankets

16. (1) Where an aborigine under sixteen years of age has been admitted to the control of the board and is a ward, or where any order has been made by a children's court established under the Child Welfare Act, 1939, committing an aborigine under sixteen years of age—

Maintenance
of children
under
sixteen years
by near
relatives.

(a) to the care of any person; or

(b) to the control of the board; or

(c) to a home constituted and established under section eleven of this Act,

Amended,
Act No. 2,
1915, s. 5;
Act No. 32,
1936, s. 2
(i) (k).

the near relatives shall be liable to pay for or to contribute towards his maintenance.

Substituted
section,
Act No. 12,
1940, s. 3
(g).

(2) The provisions of Part XII of the Child Welfare Act, 1939, shall, mutatis mutandis, extend to and in respect of the maintenance of any such aborigine and the liability of the near relatives in respect of such maintenance.

For the purposes of such extension—

(a) a reference in that Part to the Minister shall be construed as a reference to the board,

ss. 16-18c.

- (b) a reference in that Part to an institution shall be construed as a reference to a home constituted and established under section eleven of this Act, and
- (c) a reference in that Part to the Director shall be construed as a reference to the Superintendent of Aborigines Welfare.

Penalties,
etc.

Substituted
section,
Act No. 12,
1940, s. (3) (g).

17. (1) Any person guilty of an offence against this Act shall be liable, upon summary conviction, unless some other penalty or punishment is expressly provided, to a penalty not exceeding twenty pounds or to imprisonment for one month, or to both such penalty and imprisonment.

(2) Proceedings for an offence against this Act or the regulations may be taken before a court of petty sessions.

Proceedings.

Substituted
section,
Act No. 12,
1940, s. 3
(g).

18. Proceedings for an offence against this Act or the regulations may be instituted in the name of the board by any officer or employee of the board or member of the police force.

Proof.

New section
added,
Act No. 32,
1936, s. 2
(1) (b).

18A. In any proceeding for an offence against this Act or upon a breach of a regulation made thereunder, the averment in the information or complaint that any person therein named or referred to is an aborigine or the reference in the information or complaint to such person as an aborigine shall be sufficient evidence of the truth of such averment or reference unless the contrary is shown to the satisfaction of the court.

Tribunal may
determine
whether
person is
aborigine
or not.

New section
added,
Act No. 32,
1936, s. 2
(1) (b).

18B. In any legal proceedings or inquiry, whether under this Act or otherwise, if the court, judge, coroner, magistrate, justice or justices do not consider that there is sufficient evidence to determine whether a person concerned or in any way connected with the proceedings or inquiry is or is not an aborigine, such court, judge, coroner, magistrate, justice or justices having seen such person may determine the question according to his or their own opinion.

Exemption
of aborigines
from
provisions
of Act and
regulations.

New section
added,
Act No. 13,
1943, s. 3
(b).

18C. (1) The board may upon application in writing issue to any aborigine or person apparently having an admixture of aboriginal blood, who, in the opinion of the board, ought no longer be subject to the provisions of this Act or the regulations or any of such provisions, a certificate in or to the effect of the prescribed form exempting such aborigine or person from the provisions of this Act or the regulations specified therein. Upon the issue of such certificate and until such time as such certificate may be cancelled as hereinafter provided, the provisions specified in such certificate shall not apply to or in respect of the aborigine or person apparently having an admixture of aboriginal blood named in the certificate and any such aborigine or person shall be deemed not to be an aborigine or person apparently having an admixture of aboriginal blood within the meaning of the provisions of this Act or the regulations specified in such certificate.

(2) The board may at any time cancel any certificate issued under this section and any person to whom any such certificate has been issued shall,

upon being notified of such cancellation, return the certificate to the board. ss. 18c—20.

Any person who fails to return any such certificate within the time specified in any such notification shall be guilty of an offence against this Act.

(3) Nothing in this section contained shall operate so as to preclude any aborigine or person apparently having an admixture of aboriginal blood to whom a certificate under this section has been issued from being nominated or appointed as a member of the board or from holding office as such.

19. Any station or reserve on which aborigines are located, and any buildings, and the stores, stock, and any other matter or thing thereon or therein, or any home or institution in which any aborigine is resident may be inspected by any member of the board, or, by any person authorised by the board in that behalf. The person making such inspection shall report thereon to the board.

Inspection of
aboriginal
stations, &c.

Amended,
Act No. 13,
1935, s. 7

(1);
Act No. 32,
1936, s. 2

(1) (m);
Act No. 12,
1940, s. 3 (h).

Delegation.

New section

added,

Act No. 12,

1940, s. 3 (i).

19A. (1) The board may, from time to time, by resolution delegate to any person either generally or in any particular case or class of cases such of the powers, authorities, duties or functions of the board as may be specified in the resolution: Provided that no such delegation shall have any force or effect unless and until the same has been approved by the Minister.

(2) A delegate while acting within the scope of any such delegation to him shall be deemed to be the board.

(3) The board may by resolution revoke any such delegation, and in such case shall submit a full report of the circumstances to the Minister.

19B. The board shall as soon as practicable after the first day of July in each year submit to the Minister a report of its proceedings during the next preceding year.

Annual
report.

New section

added,

Act No. 12,

1940, s. 3 (i).

The Minister shall cause such report to be laid before both Houses of Parliament.

20. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular and without prejudice to the generality of the foregoing power may make regulations for all or any of the matters following:—

Regulations.

Amended,

Act No. 32,

1936, s. 2

(1) (n) (i).

(a) Prescribing the mode of transacting business and the duties generally of the board, committees and persons appointed or employed to carry out the provisions of this Act.

Amended,

Act No. 12,

1940, s. 3

(j) (i).

(b) Authorising entry upon a reserve by specified persons or classes of persons for specified objects, and the conditions under which such persons may visit or remain upon a reserve, and fixing the duration of their stay thereupon, and providing for the revocation of such authority.

s. 20.

Amended,
Act No. 12,
1940, s. 3
(j) (ii).

Amended,
Act No. 12,
1940, s. 3
(j) (iii).

Substituted
paragraph,
Act No. 12,
1940, s. 3
(j) (iv).

Amended,
Act No. 12,
1940, s. 3
(j) (v).

Repealed,
Act No. 32,
1936, s. 2
(1) (n) (ii).

Amended,
Act No. 32,
1936, s. 2
(1) (n) (iii)
(iv) (v) (vi).

- (c) Prescribing the mode of distribution and expenditure of moneys granted by Parliament for the relief or assistance of aborigines.
- (d) Apportioning amongst or for the benefit of aborigines the earnings of any aborigines living upon a reserve.
- (e) Providing for the care, and custody of aborigines.
- (f) Prescribing the conditions on which wards may be apprenticed or placed in employment under this Act, the form and contents of agreements, appointments, apprenticeship articles, and other instruments and documents, the minimum rates of wages of wards so apprenticed or placed in employment, and the liabilities of persons in respect of the welfare of wards apprenticed to or placed in their care.
- (g) Providing for the mode of supply to aborigines of rations, blankets, and other necessities, or any medical or other relief or assistance.
- (h) Providing for the control of aborigines residing upon a reserve, and for the inspection of wards placed in employment or apprenticed under this Act.
- (i) Maintaining discipline and good order upon reserves.
- (j) Allotting land on any reserve for occupation by individuals or families.
- (k) * * * * *
- (l) Imposing any penalty not exceeding ten pounds for the breach of any regulation.
- (2) Such regulations shall—
 - (i) be published in the Gazette;
 - (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and
 - (iii) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and, if not, then within fourteen sitting days after the commencement of the next session. But if either House of Parliament passes a resolution, notice whereof has been given, at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

SCHEDULE

Reference to Acts.	Title or short title.	Extent of repeal.
31 Victoria No. 16	Supply of Liquors to Aborigines Prevention Act.	The whole.
No. 74, 1902 ..	Vagrancy Act, 1902	Section 4 (1 b), and the definition of "aboriginal" in section 3.
No. 12, 1908 ..	Police Offences (Amendment) Act, 1908	Section 3.