

Aborigines Protection.

Act No. 25, 1909.

ABORIGINES
PROTECTION.

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. [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:—

Short title.

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

Repeal.

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 The Acts specified in the Schedule hereto are, to the extent indicated, repealed.

Interpretation.

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

"Aborigine" means any full-blooded aboriginal native of Australia, and any person apparently having an admixture of aboriginal blood who applies for or is in receipt of rations or aid from the board or is residing on a reserve.

"Board" means board for protection of aborigines constituted under this Act.

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

"Local Committee" means committee appointed by the board to act in conjunction with the board under this Act.

"Prescribed" means prescribed by this Act or the regulations.

"Reserve" means area of land heretofore or hereafter reserved from sale or lease by the Governor, 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.

Constitution of
board.

4. (1) There shall be a board, to be styled "The Board for Protection of Aborigines," to consist of the Inspector-General of Police,

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Police, or Acting Inspector-General of Police, who shall, ex officio, be chairman, and not more than ten other members who shall be appointed by the Governor.

(2) The board shall, subject to the direction of the Minister, be the authority for the protection and care of aborigines under this Act.

(3) The board shall annually elect one of its members as vice-chairman.

5. The board may appoint managers of stations and such other officers as may be necessary. Appointment of officers.

6. The board may appoint local committees consisting of not more than seven nor less than three persons, to act in conjunction with the board, and also officers to be called guardians of aborigines; and may at any time abolish such local committees, or remove any members therefrom, or cancel the appointment of any guardian. Appointment of local boards and local guardians.

Such committees and guardians shall exercise and perform the powers and duties prescribed by this Act and the regulations.

7. 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 of aborigines;
- (b) to distribute blankets, clothing, and relief to aborigines at the discretion of the board;
- (c) to provide for the custody, maintenance, and education of the children of aborigines;
- (d) to manage and regulate the use of reserves;
- (e) to exercise a general supervision and care over all matters affecting the interests and welfare of aborigines, and to protect them against injustice, imposition, and fraud.

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, to enter or remain upon or be within the limits of a reserve upon which aborigines are residing, for any purpose whatsoever. Control of reserves.

(2) The board may remove from a reserve any aborigine 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.

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Supply of liquor to
aborigines.

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, shall be guilty of an offence against this Act. Nothing in this section shall affect the operation of the Liquor (Amendment) Act, 1905.

Wandering with
aborigines.

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.

Employment of
female or infant
aborigines.

11. (1) The board may, in accordance with and subject to the provisions of the Apprentices Act, 1901, by indenture bind or cause to be bound the child of any aborigine, or the neglected child of any person apparently having an admixture of aboriginal blood in his veins, to be apprenticed to any master, and may collect and institute proceedings for the recovery of any wages payable under such indenture, and may expend the same as the board may think fit in the interest of the child.

Every child so apprenticed shall be under the supervision of the board, or of such person as may be authorised in that behalf by the regulations.

Any such child so apprenticed shall be liable to be proceeded against and punished for absconding, or for other misconduct, in the same way as any child apprenticed by his father with such child's consent.

(2) For the purposes of this section, the words "neglected child" shall have the same meaning as that assigned to them in the Neglected Children and Juvenile Offenders Act, 1905: Provided that for such purposes a person shall be deemed a child who is above fourteen and under twenty-one years of age.

(3) Nothing in this section shall affect the provisions of the Neglected Children and Juvenile Offenders Act, 1905.

Court may put
an end to
apprenticeship.

12. A court, upon complaint made by the board that any person to whom any such child has been apprenticed is not performing the conditions of such indenture, or is unfit to have the further care or control of such apprentice, may summon such person to answer such complaint, and on proof thereof on oath may order such apprenticeship to be put an end to.

In this section "court" has the meaning given in the Neglected Children and Juvenile Offenders Act, 1905.

Enticing a child to
leave apprenticeship
or school.

13. Any person who entices a child apprenticed as aforesaid to leave his lawful service, or who entices the child of any aborigine,
or

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or of any person apparently having an admixture of aboriginal blood in his veins, to leave any school, home, or institution, without the consent of the board, shall be guilty of an offence against this Act.

14. The board may cause any aborigines, or any persons apparently having an admixture of aboriginal blood in their veins, 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.

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) If it appears to a court on complaint by or on behalf of the board that any near relative is of ability to maintain or to contribute to the maintenance at the cost of the Government of any child of an aborigine under sixteen and over five years of age, the court may on summons order such near relative to pay to the board a reasonable sum, in instalments or otherwise, as the court directs for or towards—

Cost of maintenance of aboriginal child may be recovered from near relatives.

- (a) the past maintenance of such child, whether such child be alive or not at the time of the application ;
- (b) the future maintenance of such child :

Provided that in any proceedings in respect of the maintenance of an illegitimate child, of which the defendant is alleged to be the father, no order under this section shall be made—

Evidence necessary for order for maintenance.

- (c) upon the evidence of the mother, unless her evidence be corroborated in some material particular ; or
- (d) if the court is satisfied that at the time the child was begotten the mother was a common prostitute.

(2) Where an order under this section is made in respect of a person against whom an order has been made in respect of the child under the Infant Protection Act, 1904, or the Neglected Children and Juvenile Offenders Act, 1905, the court may rescind or amend any such last-mentioned order, so as to secure that the said person do not pay twice for the maintenance of the same child.

(3) Any order made under this section may be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under Part II of the Infant Protection Act, 1904. And the court may issue a warrant for the arrest of any person absconding from the State with a view to evade compliance with any such order.

(4)

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(4) In this section "court" and "near relatives" have, respectively, the meanings given in the Neglected Children and Juvenile Offenders Act, 1905.

General penalty.

17. Any person guilty of an offence against this Act shall be liable to a penalty not exceeding twenty pounds.

Proceedings for penalties.

18. Proceedings for an offence against this Act or for a contravention of the regulations may be taken before a stipendiary or police magistrate or any two justices by a member of a local committee, a guardian, a member or an officer of the board, or member of the police force.

Inspection of aboriginal stations, &c.

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, may be inspected by any member of the board, or, on the authority of the board, by any member of a local committee, guardian, or by any member of the police force if such member is also authorised by the Inspector-General of Police. The person making such inspection shall report thereon to the board.

Regulations.

20. (1) The Governor may make regulations for all or any of the matters following:—

- (a) Prescribing the mode of transacting business and the duties generally of the board, local committees, guardians, and persons employed to carry out the provisions of this Act.
- (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.
- (c) Prescribing the mode of distribution and expenditure of moneys granted by Parliament for the 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, custody, and education of aborigines.
- (f) Prescribing the conditions on which certain children may be apprenticed under this Act.
- (g) Providing for the mode of supply to aborigines of rations, blankets, and other necessaries, or any medical or other relief or assistance.
- (h) Providing for the control of aborigines residing upon a reserve, and for the inspection of children 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) For carrying out the provisions of this Act.
- (l) Imposing any penalty not exceeding ten pounds for the breach of any regulation.

Industrial Disputes (Amendment).

- (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 days after publication if Parliament is in session, and, if not, then within fourteen days after the commencement of the next session. But if either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.

SCHEDULE.

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