

## ABORIGINES PROTECTION (AMENDMENT) ACT.

Act No. 13, 1943.

George VI.  
No. 13, 1943.

An Act to provide for the reconstitution of the Aborigines Welfare Board; to constitute the Aborigines Welfare Board a body corporate, and to extend its powers, authorities, duties and functions; for these and other purposes to amend the Aborigines Protection Act, 1909-1940; and for purposes connected therewith. [Assented to, 25th June, 1943.]

**B**E 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  
and citation.

**1.** (1) This Act may be cited as the "Aborigines Protection (Amendment) Act, 1943."

(2) The Aborigines Protection Act, 1909-1940, is in this Act referred to as the Principal Act.

(3) The Aborigines Protection Act, 1909, as amended by subsequent Acts and by this Act may be cited as the Aborigines Protection Act, 1909-1943.

Reconstitu-  
tion of  
Aborigines  
Welfare  
Board.

**2.** (1) Upon a day to be appointed by the Governor and notified by proclamation published in the Gazette (which day is in this Act referred to as the "appointed day") the Aborigines Welfare Board shall be reconstituted and shall consist of eleven members in accordance with the provisions of section four of the Principal Act, as amended by this section.

(2) (a) For the purposes only of the appointment of persons to be members of the Aborigines Welfare Board as reconstituted under this section, and of any matters necessary for or incidental to such appointment

OR

or reconstitution, the provisions of subsection three of this section shall commence on the day upon which the assent of His Majesty to this Act is signified. No. 13, 1943.

(b) The persons so appointed shall assume their offices as members of the Aborigines Welfare Board upon the appointed day; and on that day the provisions of subsection three of this section shall come into force for all purposes.

(c) Upon the appointed day the persons who immediately before such day held office as members of the Aborigines Welfare Board shall cease to hold office but shall, if otherwise qualified, be eligible for appointment in pursuance of the Principal Act as amended by this section.

(3) The Principal Act is amended—

(a) by omitting from subsection one of section four the word “ten” and by inserting in lieu thereof the word “eleven”;

(b) (i) by omitting from subparagraph (vii) of paragraph (b) of subsection two of the same section the word “three” and by inserting in lieu thereof the word “two”;

(ii) by inserting at the end of the same paragraph the following new subparagraph and paragraph:—

(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.

(c) The term of office of a member nominated pursuant to subparagraph (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;

Amendment  
of Act No. 25,  
1909.  
Sec. 4.  
(Aborigines  
Welfare  
Board.)

(c)

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- (c) by inserting next after subsection four of the same section the following new subsection:—

(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.

- (d) by inserting next after section four the following new section:—

Incorporation of board.

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.

Further amendment of Act No. 25, 1909. Sec. 7. (Duties of board.)

**3. The Principal Act is further amended—**

- (a) by inserting next after subsection one of section seven the following new subsection:—

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

- (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)

- (b) erect buildings on land so acquired; No. 13, 1943.
- (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 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.

- (b) by inserting next after section 18B the following new section:—

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

New sec.  
18c.

Exemption  
of  
aborigines  
from  
provisions  
of Act and  
regulations.

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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.

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.

4. The Principal Act is further amended—

- (a) by inserting in section three in appropriate alphabetical order the following new definitions:—

“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.

“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.

“Foster

Further  
amendment  
of Act No.  
25, 1909.  
Sec. 3.  
(Definitions.)

“Foster parent” means any person with whom any child is boarded-out or placed as an adopted boarder. No. 13, 1943.

(b) by inserting next after section 11c the following new sections:—

11d. (1) The board shall be the authority to New secs.  
11d-11g.  
  
Authority of  
board.  
cf. Act No. 17,  
1939, s. 23.

- (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 one of this section, board out any child to the person for the time being

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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

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, 1930, s. 24.

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.

Extension of period of supervision.  
cf. *Ibid.*, s. 25.

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.

Deductions from payments to foster parents.  
cf. *Ibid.*, s. 26.

