

ABORIGINES PROTECTION (AMENDMENT) ACT.

Act No. 32, 1936.

Edward VIII, An Act to make further provisions as to the protection and care of aborigines; to amend the Aborigines Protection Act, 1909, and certain other Acts, in certain respects; and for purposes connected therewith. [Assented to, 10th July, 1936.]
No. 32, 1936.

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. (1) This Act may be cited as the "Aborigines Protection (Amendment) Act, 1936."

(2) The Aborigines Protection Act, 1909, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Aborigines Protection Act, 1909-1936.

**Amendment
of Act No. 35,
1909.**

**Sec. 3.
(Interpreta-
tion.)**

2. (1) The Principal Act is amended—

(a) (i) by omitting from the definition of "Aborigine" in section three the words "New South Wales" and by inserting in lieu thereof the words "Australia and who is temporarily or permanently resident in New South Wales";

(ii) by inserting at the end of the definition of "Liquor" in the same section the words "and also includes methylated spirits";

(b)

Aborigines Protection (Amendment) Act.

193

- (b) by inserting in paragraph (e) of section seven after the word "care" the words "over all aborigines and";
- (c) by inserting next after section eight the following new sections:—

No. 22, 1930.

Sec. 7.
(Duties of board.)

New secs.
8A, 8B, 8C.

8A. (1) Where an aborigine or a person apparently having an admixture of aboriginal blood is, in the opinion of the board, living in insanitary or undesirable conditions, 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.

Removal to reserves, etc.

(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.

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.

Enticing aborigine to remove from reserve.

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.

Removing aborigine from New South Wales.

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

Aborigines Protection (Amendment) Act.**No. 32, 1936.**

(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.

Sec. 9.
(Liquor.)
(Revision.)

(d) by omitting from section nine the words and figures "Liquor (Amendment) Act, 1905," and by inserting in lieu thereof the words and figures "Liquor Act, 1912, as amended by subsequent Acts";

Sec. 11B.
(Children absconding.)
(Revision.)

(e) by omitting from section 11B the words and figures "Neglected Children and Juvenile Offenders Act, 1905," and by inserting in lieu thereof the words and figures "Child Welfare Act, 1923";

Sec. 12.
(Apprenticeship.)
(Revision.)

(f) by omitting from section twelve the words and figures "Neglected Children and Juvenile Offenders Act, 1905," and by inserting in lieu thereof the words and figures "Child Welfare Act, 1923";

Sec. 13.
(Enticing child to leave apprenticeship or school.)

(g) by inserting at the end of section thirteen the following new subsection:—

(2) Any person who takes away a child apprenticed as aforesaid from his lawful service or who, without the consent of the board, takes away the child of any aborigine from any school, home or institution, shall, whether such taking away was or was not with the consent of the child, be guilty of an offence against this Act.

Sec. 13A.
(Custody.)
(Revision.)

(h) by omitting from section 13A the words and figures "Neglected Children and Juvenile Offenders Act, 1905," and by inserting in lieu thereof the words and figures "Child Welfare Act, 1923";

(i)

Aborigines Protection (Amendment) Act.

195

- (i) by inserting next after section 13A the following new sections:—

No. 32, 1936.

New secs.
13B, 13C,
13D.

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.

In case of unfair treatment, board to remove aborigine.

13c. In any case where it appears to the board to be in the best interests of the aborigine concerned the board may direct employers or any employer to pay the wages of the aborigine to the secretary 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 an account kept of such expenditure.

Employer to pay wages to secretary in certain cases.

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.

Actions—by whom instituted.

- (j) by inserting next after section fourteen the following new section:—

New s. 14A.

14A. The board may authorise the medical examination of any aborigine or person having apparently

Medical examination and treatment.

No. 32, 1936.

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.

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.

Sec. 16.
(Maintenance.)
(Revision.)

- (k) (i) by omitting from subsection two of section sixteen the words and figures " Infant Protection Act, 1904, or the Neglected Children and Juvenile Offenders Act, 1905," and by inserting in lieu thereof the words and figures " Child Welfare Act, 1923 ";
- (ii) by omitting from subsection three of the same section the words and figures " Part II of the Infant Protection Act, 1904," and by inserting in lieu thereof the words and figures " Part X of the Child Welfare Act, 1923 ";
- (iii) by omitting from subsection four of the same section the words and figures " Neglected Children and Juvenile Offenders Act, 1905," and by inserting in lieu thereof the words and figures " Child Welfare Act, 1923 ";

New secs.
18A, 18B.

- (l) by inserting next after section eighteen the following new sections:—

Proof.

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.

18B.

Aborigines Protection (Amendment) Act.

197

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.

No. 82, 1936.
Tribunal
may
determine
whether
person is
aborigine
or not.

- (m) by inserting in section nineteen after the word " therein " the words " or any home or institution in which any aborigine is resident ";
- (n) (i) by inserting in subsection one of section twenty after the words " The Governor may " the words " 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 ";
- (ii) by omitting paragraph (k) of the same subsection;
- (iii) by inserting in paragraph (iii) of subsection two of the same section after the word " fourteen " wherever occurring the word " sitting ";
- (iv) by inserting in the same paragraph after the word " resolution " the words " notice whereof has been given ";
- (v) by inserting in the same paragraph after the word " regulation " where firstly occurring the words " or part thereof ";
- (vi) by inserting in the same paragraph after the word " regulation " where secondly occurring the words " or part."

Sec. 19.
(Inspection of
aboriginal
stations, etc.)

Sec. 20.
(Regula-
tions.)

(2) The Aborigines Protection Amending Act, 1915, is amended by omitting subsection two of section two.

**Amendment
of Act No.
2, 1915,
s. 2 (2).**
(Revision.)

COMPANIES