

# Aborigines Protection (Amendment) Bill.

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## EXPLANATORY NOTE.

THIS Bill is designed to enlarge the powers of the Aborigines Protection Board with respect to the protection and care of aborigines; and to amend the Aborigines Protection Act, 1909, in certain respects, the more important of which are:—

- (1) To bring within the operation of the Act aborigines who enter New South Wales from other States.
- (2) To extend the definition of "Liquor" so as to include methylated spirits.
- (3) To give the Aborigines Protection Board power—
  - (a) to apply to Court in certain circumstances for an order directing an aborigine to remove to a reserve or other place controlled by the Board;
  - (b) to terminate the engagement of an aborigine in cases where it is considered he is not receiving fair and proper treatment and is not being paid a reasonable wage, and to remove him to a reserve or such other place as it may consider desirable;
  - (c) to authorise medical examination of an aborigine and to take adequate steps to ensure that any such aborigine receives appropriate treatment.
- (4) To impose a penalty on any person who entices an aborigine to remove from a reserve, or who, without the written consent of the Board, removes an aborigine from New South Wales.
- (5) To make certain provisions relating to the payment of wages of aborigines, and to actions for the recovery of wages due to aborigines.
- (6) To provide that the averment in an information or complaint laid or made under the Act that any person therein named or referred to is an aborigine shall be sufficient evidence of the truth of such averment, unless the contrary is shown to the satisfaction of the Court.
- (7) To adopt the usual form conferring power to make regulations.

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1935.

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## A BILL

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.

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**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:—

**1.** (1) This Act may be cited as the "Aborigines Short title. Protection (Amendment) Act, 1935."

(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, 1909-1935.

2. (1) The Principal Act is amended—

Amendment of Act No. 25, 1909.

(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";

Sec. 3. (Interpretation.)

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

(b) by inserting in paragraph (e) of section seven after the word "care" the words "over all aborigines and";

Sec. 7. (Duties of board.)

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

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.

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.

(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.

- (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. 9.  
(Liquor.)  
(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. 11b.  
(Children absconding.)  
(Revision.)
- (f) by omitting from section twelve the words and figures "Neglected Children and Juvenile Offenders"; Sec. 12.  
(Apprenticeship.)  
(Revision.)

Offenders Act, 1905," and by inserting in lieu thereof the words and figures "Child Welfare Act, 1923";

(g) 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";

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

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

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

Actions—by whom instituted.

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.

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

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

Medical examination and treatment.

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.

- (j) (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 ";
- (k) by inserting next after section eighteen the following new sections:—

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

New secs. 18A, 18B.

18A. In any proceeding for an offence against this Act or upon a breach of a regulation made thereunder, the averment in the information

Proof.

or

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. 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.

Tribunal may determine whether person is aborigine or not.

- (l) by inserting in section nineteen after the word " therein " the words " or any home or institution in which any aborigine is resident " ; Sec. 19. (Inspection of aboriginal stations, etc.)
- (m) (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 " ; Sec. 20. (Regulations.)
- (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)

- (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."

(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.)

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