

Aborigines Protection (Amendment) Bill, 1942.

EXPLANATORY NOTE.

THIS Bill is designed—

- (1) to provide for the reconstitution of the Aborigines Welfare Board by increasing the number of members from ten to eleven and by the appointment of two aborigines as members;
- (2) to constitute the Aborigines Welfare Board a body corporate, and confer on it power to acquire land, erect buildings thereon and sell and lease such land and buildings on terms to aborigines;
- (3) to authorise the Aborigines Welfare Board to issue to any aborigine, or person apparently having an admixture of aboriginal blood, a certificate exempting such aborigine or person from the provisions of the Aborigines Protection Act or Regulations;
- (4) to confer on a court power to commit a neglected or uncontrollable aboriginal child to an institution within the meaning of the Child Welfare Act, 1939, in addition to its present power of committal of any such child to a home constituted and established under the Aborigines Protection Act, 1909.

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[CONFIDENTIAL.]
(Rough Draft for Consideration Only.)

No. , 1942.

A BILL

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.

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. (1) This Act may be cited as the "Aborigines Protection (Amendment) Act, 1942."

Short title
and citation.

Aborigines Protection (Amendment).

(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, 1909-1942.

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.

Reconstitu-
tion of
Aborigines
Welfare
Board.

(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 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.

(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 the same subsection the word "three" and by inserting in lieu thereof the word "two";

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

(ii)

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

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(viii) two shall be aborigines or persons apparently having an admixture of aboriginal blood nominated for appointment, in accordance with the regulations, by aborigines possessing the prescribed qualifications.

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(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;

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

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(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.

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

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4A. (1) The board shall be a body corporatē 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,

Incorporation of board.

Aborigines Protection (Amendment).

property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

5 (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
10 members.

3. The Principal Act is further amended—

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

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

15 (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;
- 20 (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;
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30 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)

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(b) (i) by inserting in subsection two of section 13A after the words "this Act" the words "or to an institution under the Child Welfare Act, 1939";

Sec. 13A.
(Neglected and uncontrollable children.)

5 (ii) by omitting from subsection seven of the same section the words "and where the court decides to exercise the power referred to in paragraph (e) of that section it shall commit the child to" and by inserting in lieu thereof the words "Provided further that an institution referred to in paragraph (e) of that section shall be deemed to include";

10 (iii) by inserting at the end of the same subsection the following new paragraph:—

15 Where a child is committed to an institution under the Child Welfare Act, 1939, by an order made pursuant to this section any determination by the Minister administering that Act as to the discharge of such child shall be made only with the concurrence of the Minister administering this Act.

20 (c) by inserting next after section 18B the following new section:—

New sec. 18C.

25 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

Exemption of aborigines from provisions of Act and regulations.

Aborigines Protection (Amendment).

5 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.

10 (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 cancel-
lation, 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.

15 (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
20 nominated or appointed as a member of the
board or from holding office as such.
