

The Aborigines Act, 1934-1939, including all amendments passed to the end of 1939 and notes of judicial decisions, is reprinted in the Annual Volume, 1939, at page 371.

ABORIGINES ACT, 1934.

No. 2154 of 1934.

An Act to consolidate certain Acts relating to the protection and control of the aboriginal and half-caste inhabitants of South Australia.

[Assented to 18th October, 1934.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short title and commencement.

1. This Act may be cited as the "Aborigines Act, 1934", and shall come into operation on a day to be fixed by proclamation.

Acts consolidated and repealed.

2. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed.

Interpretation.

Interpretation. 1048, 1911, s. 3.

3. In this Act, unless inconsistent with the context or subject matter—

"aboriginal institution" means any mission station, reformatory, orphanage, school, home, reserve, or other institution for the benefit, care, or protection of the aboriginal or half-caste inhabitants of the State :

"chief protector" means the Chief Protector of Aborigines under this Act :

"contagious disease" means venereal disease, including gonorrhoea :

"department" means the Aboriginal Department :

"district" means a district declared under this Act :

"half-caste" means any person who is the offspring of an aboriginal mother and other than an aboriginal father :
Provided that the term "half-caste," wherever it

Administration: The administration of this Act was by proclamation committed to the Commissioner of Public Works: *Gazette* 11th February, 1937, p. 285.

s. 1. This Act was proclaimed to commence on 1st April, 1937: *Gazette* 11th February, 1937, p. 285.

occurs in this Act, except in section 4, does not, unless the context requires such a construction, include a half-caste who, under the provisions of that section, is deemed to be an aboriginal :

“lock-hospital” means a hospital or other institution, or the part of a hospital or other institution, declared a lock-hospital for the purposes of this Act :

“protector” means a protector of aborigines appointed under this Act, and includes the chief protector :

“reserve” means a reserve for aborigines declared under this Act :

“superintendent” means a superintendent appointed under this Act for a reserve.

4. (1) Every person who is—

- (a) an aboriginal native of Australia or of any of the islands adjacent or belonging thereto ; or
- (b) a half-caste who lives with such an aboriginal native as wife or husband ; or
- (c) a half-caste who, otherwise than as wife or husband of such an aboriginal native, habitually lives or associates with such aboriginal natives ; or
- (d) a half-caste child whose age does not apparently exceed eighteen years,

Definition of
aborigines.
1048, 1911,
s. 4.
1565, 1923,
s. 4.

shall be deemed to be an aboriginal within the meaning of this Act and of every Act passed before or after this Act, unless a contrary intention appears.

(2) In this section the term “half-caste” includes any person either of whose parents is or was an aboriginal native of Australia or of any of the islands adjacent or belonging thereto, and any child of any such person.

Administration.

5. There shall be a department under the Minister, to be called the Aborigines Department, which shall be charged with the duty of controlling and promoting the welfare of the aborigines.

Department.
1048, 1911
s. 5.

6. The Treasurer of the State shall, in every year, place at the disposal of the department such sums as are provided by Parliament, to be applied to the purposes of the department.

Funds to be
provided by
Parliament.
Ibid., s. 6.

7. It shall be the duty of the department—

- (a) to apportion, distribute, and apply, as seems most fit, under the direction of the Minister, the moneys at the disposal of the department :

Duties of
department.
Ibid., s. 7.

- (b) in its discretion, with the approval of the Minister, to apply part of the moneys at its disposal in the purchase of stock and implements to be loaned to aboriginals to whom land has been allotted under section 18, and may supply the same accordingly either without payment or on such terms as are approved by the Minister, and no person shall, except with the approval of the Minister, acquire any title to any goods or chattels so loaned as aforesaid :
- (c) to distribute blankets, clothing, provisions, and other relief or assistance to the aboriginals :
- (d) to provide, as far as practicable, for the supply of food, medical attendance, medicines, and shelter for the sick, aged, and infirm aboriginals :
- (e) to provide, when possible, for the custody, maintenance and education of the children of aboriginals :
- (f) to manage and regulate the use of all reserves for aboriginals :
- (g) to exercise a general supervision and care over all matters affecting the welfare of the aboriginals, and to protect them against injustice, imposition, and fraud.

Chief Protectors.
1048, 1911,
s. 8.

8. (1) The Governor may from time to time appoint such person as he deems fit to be Chief Protector of Aboriginals.

(2) The Minister may from time to time appoint such persons as he deems proper to be protectors of aboriginals, who shall, within the districts respectively assigned to them, have and exercise the powers and duties prescribed.

Duties of chief protectors.
Ibid., s. 9.

9. The chief protector shall, under the Minister, be responsible for the administration of the department and the execution of this Act.

Legal guardian.
Ibid., s. 10.

10. (1) The chief protector shall be the legal guardian of every aboriginal and every half-caste child, notwithstanding that any such child has a parent or other relative living, until such child attains the age of twenty-one years, except whilst such child is a State child within the meaning of the Maintenance Act, 1926.

(2) Every protector shall, within his district, be the local guardian of every such child within his district.

(3) Such local guardian shall have and exercise the powers and duties prescribed.

11. The Governor may, by proclamation—

- (a) declare any portion of the State to be a district for the purposes of this Act, and shall by such proclamation assign a name to such district :
- (b) alter the boundaries of any district :
- (c) abolish any district.

Districts.
1048, 1911,
s. 11.

Removal of Aborigines.

12. (1) Any person who, without the authority in writing of a protector, removes or causes to be removed any aboriginal, or any female half-caste, or any half-caste child under the age of sixteen years from one district to another, or to any place beyond the State, shall be guilty of an offence against this Act.

Unlawfully
removing
aboriginal
from district.
Ibid., s. 12.

(2) This section shall not apply to the removal by any person of any child, of whatever age, of such person.

13. (1) Before authority is given under section 12 the person desiring the removal shall enter into a recognizance, with such surety or sureties as the protector approves, in a sum which the protector considers sufficient to defray the expense of the return of the aboriginal or half-caste to the place from which he is to be removed.

Recognizance
before
removal.
Ibid., s. 13.

(2) Every such recognizance shall be in the prescribed form and shall be taken in duplicate by a protector or member of the police force, who shall forthwith forward one part to the chief protector. A recognizance may be renewed from time to time, at the discretion of the chief protector.

(3) The protector may dispense with such recognizance, in his discretion, in any particular case, but in such an event the circumstances shall be reported to the chief protector.

Reserves and Institutions.

14. The Governor may, on a resolution of both Houses of Parliament, by proclamation—

- (a) declare any Crown lands to be a reserve for aboriginals :
- (b) alter the boundaries of any reserve :
- (c) abolish any reserve.

Reserves for
aboriginals.
Ibid., s. 14.

15. The Governor may appoint such person as he deems proper to be the superintendent of a reserve.

Superintendents of
reserves.
Ibid., s. 15.

16. (1) The Governor may, on a resolution of both Houses of Parliament, grant leases of any Crown lands to any mission or other aboriginal institution for any term not exceeding twenty-one years, at such rent and on such terms as he thinks fit, in blocks not exceeding in any case one thousand square miles.

Leases to
institutions.
Ibid., s. 16.

(2) Every such lease may grant a right of renewal : Provided it can be shown to the satisfaction of the Minister that the lands therein described are required for and applied to the use and entirely for the benefit of aboriginals or half-castes, or both.

Power to remove aboriginals to reserves.
1048, 1911,
s. 17.

17. (1) The chief protector may cause any aboriginal or half-caste to be kept within the boundaries of any reserve or aboriginal institution, or to be removed to and kept within the boundaries of any reserve or aboriginal institution, or to be removed from one reserve or aboriginal institution to another reserve or aboriginal institution, and to be kept therein.

(2) No aboriginal or half-caste shall be kept within the boundaries of an aboriginal institution or removed from any such institution without the consent of the governing body of the institution concerned.

(3) Any aboriginal or half-caste who refuses to be so removed, or resists such removal, or who refuses to remain within or attempts to depart from any reserve or institution to which he has been so removed, or within which he is being kept as aforesaid, shall be guilty of an offence against this Act.

Power of Minister to allot or purchase land.
Ibid., s. 18.

18. The Minister may on the recommendation of the chief protector and Surveyor-General allot to any aboriginal in a block not exceeding one hundred and sixty acres any Crown lands available for settlement, or may, on such recommendation as aforesaid, purchase land for occupation by aboriginals, and allot the same in such blocks as aforesaid, and any such allotment shall be upon such terms and subject to such conditions as may be prescribed by regulation.

Exemptions from liability to removal to reserve.
Ibid., s. 19.

19. Every aboriginal—

- (a) who is lawfully employed by any person ; or
- (b) who is the holder of a permit to be absent from the reserve in question ; or
- (c) who is a female lawfully married to and residing with a husband who is not himself an aboriginal ; or
- (d) for whom, in the opinion of the chief protector, satisfactory provision is otherwise made,

shall be exempt from the provisions of section 17.

Unlawfully entering reserve or institution.
Ibid., s. 20.

20. Any person, who, without valid and reasonable excuse, enters or remains or is within the boundaries of a reserve or aboriginal institution, unless he is—

- (a) an aboriginal ; or
- (b) the Minister ; or

- (c) a protector, or superintendent, or member of the police force ; or
- (d) a person authorised in that behalf by the Minister or by a protector, or by the superintendent of the reserve or institution in question ; or
- (e) a person authorised in that behalf by or under the regulations,

shall be guilty of an offence against this Act.

21. Any person who removes an aboriginal, or causes, assists, entices, or persuades an aboriginal to remove, from a reserve or aboriginal institution, unless such person is—

Unlawfully removing or enticing aboriginal from reserve. 1048, 1911, s. 21.

- (a) the Minister ; or
- (b) a protector ; or
- (c) the superintendent of such reserve or institution ; or
- (d) a person authorised in that behalf by the Minister or by a protector or by the superintendent of the reserve or institution in question ; or
- (e) a person authorised in that behalf by or under the regulations,

shall be guilty of an offence against this Act.

22. In any proceedings in respect of an offence under section 20 or section 21 the onus of proving that the person charged was authorised as mentioned in paragraphs (d) or (e) of either of the said sections shall be upon such person.

Onus of proof of authority. Ibid., s. 22. 1048, 1911, s. 3.

23. (1) Notwithstanding the provisions of The Mining on Private Property Act, 1909, and the Mining Act, 1930, or either of the said Acts, no holder of a miner's right shall be entitled to enter, or remain, or be within the limits of any reserve for aboriginals except under the written permit of a protector.

Mining on reserves. 1048, 1911, s. 23.

(2) In any case where such permit is refused or withdrawn the holder of the miner's right shall have the right to appeal to the Minister, who may confirm or reverse the decision of the protector.

(3) Any such holder who, without such permit, the proof of which shall lie upon him, is found on any such reserve shall be guilty of an offence against this Act.

Hospital Accommodation.

24. The Governor may establish and maintain hospitals in such places as he deems proper for the purpose of treating the sick, diseased, and infirm aboriginals and half-castes, and may

Power to establish hospitals for aboriginals. Ibid., s. 24.

appropriate any parts of any public hospitals for the said purpose, and may cause such aboriginals and half-castes to be treated therein.

Provisions for Treating Contagious Diseases.

Proclamation
of lock-
hospitals.
1048, 1911,
s. 25.

25. (1) The Governor may, by proclamation, declare that any public hospital or other institution, or any part of any public hospital or other institution, shall be a lock-hospital for the purposes of this Act.

(2) The Governor may, in like manner, vary any proclamation made under subsection (1) of this section, or close any lock-hospital; and may direct the removal of the patients in any lock-hospital so closed to any other lock-hospital, and the Governor's direction shall be sufficient authority for the removal of the patients as directed.

(3) The Governor may appoint any legally qualified medical practitioner to be the surgeon in charge of any lock-hospital: Provided that if it has been declared a lock-hospital for the purpose of any other Act, the surgeon in charge thereof under that Act shall also be the surgeon in charge thereof under this Act, unless some other person is appointed to that office under this Act.

Detention in
lock-hospitals
of aboriginals.
Ibid., s. 26.

26. (1) The chief protector may, by writing signed by him, authorise any legally qualified medical practitioner therein named to medically examine any aboriginal or half-caste.

(2) Such writing shall be sufficient authority to the practitioner to enter any premises where such aboriginal or half-caste is, or is suspected to be, and to medically examine such aboriginal or half-caste in such manner as the practitioner deems necessary.

(3) If the practitioner on such examination finds that the aboriginal or half-caste is suffering from a contagious disease he may, by order signed by him, direct that such aboriginal or half-caste be removed to and detained in a lock-hospital until discharged therefrom as hereinafter provided.

(4) Such order concerning any aboriginal or half-caste shall be sufficient authority for any protector or any member of the police force to take and remove such aboriginal or half-caste to any lock-hospital, and to the surgeon thereof to receive, detain, and treat such aboriginal or half-caste therein until discharged as hereinafter provided.

(5) It shall be the duty of the surgeon in charge of a lock-hospital, as soon as any aboriginal or half-caste detained therein under this section is free from contagious disease, to report

that fact to the chief protector, who may thereupon, by writing signed by him, discharge such aboriginal or half-caste from the lock-hospital.

(6) Any aboriginal or half-caste who refuses to be examined or to be taken or removed as aforesaid, or to enter, remain, or be treated in any lock-hospital after order made as aforesaid, or attempts to depart from any lock-hospital until discharged as aforesaid, shall be guilty of an offence against this Act.

Employment of Aborigines.

27. Every person shall allow any protector or member of the police force to have access to any aboriginal or half-caste employed by such person, and to enter any house, vessel, boat, or premises where such aboriginal or half-caste is or is employed, at all reasonable times, for the purposes of inspection and inquiry.

Inspection by protector, &c. 1048, 1911, s. 27.

28. Any person who entices or persuades any aboriginal or half-caste to leave his or her lawful employment shall be guilty of an offence against this Act.

Enticing to leave employment. Ibid., s. 28.

29. If an aboriginal or half-caste dies whilst in the service of any person, such person shall forthwith, after the death, or, if the deceased was employed on any vessel or boat, forthwith after the arrival of such vessel or boat at any port in the State, transmit to the nearest protector, if practicable, or, if not, then to the chief protector, notice of the death in writing signed by such person; and shall forward to such protector or to the chief protector any wages due to the deceased, and any moneys in the possession of the deceased at the time of his death.

Death in employment. Ibid., s. 29.

Blankets, &c., supplied to Aborigines.

30. (1) All blankets, bedding, clothing, and other articles or property issued by or under the direction of the department to any aboriginal or aborigines shall be and remain the property of His Majesty.

Property in blankets, &c., issued to aborigines. Ibid., s. 30.

(2) Any aboriginal receiving any such blanket or other article or property who sells or otherwise disposes of the same without the sanction of a protector, and any person who, without such sanction, takes, whether by purchase or otherwise, or is found in possession of, any such blanket or other article or property, shall be guilty of an offence against this Act.

Aboriginal Camps and Prohibited Areas.

31. (1) If at any time he thinks it necessary so to do, a protector may order and cause any aborigines or half-castes who are camped, or are about to camp, within the limits of or near

Aborigines camping in townships. Ibid., s. 31.

any municipality, town, or township, to remove their camp or proposed camp to such distance from such municipality, town, or township as he directs ; and all members of the police force shall assist the protector in carrying out the provision of this section.

(2) Any aboriginal or half-caste who neglects or refuses to obey such order shall be guilty of an offence against this Act.

Loitering in townships.
1048, 1911,
s. 32.

32. (1) Any justice or member of the police force may order any aboriginal or half-caste found loitering in any municipality, town, or township, or being therein and not decently clothed, forthwith to leave such municipality, town, or township.

(2) Any aboriginal or half-caste who neglects or refuses to obey such order shall be guilty of an offence against this Act.

Prohibited areas.
Ibid., s. 33.

33. (1) The Governor may, by proclamation, whenever in the interest of aboriginals he thinks fit, declare any municipality, town, township, or other place to be an area in which it shall not be lawful for aboriginals or half-castes, not in lawful employment, to be or remain.

(2) Every aboriginal or half-caste who, after warning, given in writing or verbally, enters or is found within such area without the permission in writing of a protector or member of the police force shall be guilty of an offence against this Act.

Female Aborigines in Male Attire.

Female aboriginals and half-castes in male attire.
Ibid., s. 34.

34. If any female aboriginal or female half-caste is found dressed in male attire and in the company of any male person other than an aboriginal or half-caste, she and the person in whose company she is so found shall each be guilty of an offence against this Act.

Curatorship of Aborigines' Estates.

Appointment of chief protector as curator of aboriginals' estates.
Ibid., s. 35.

35. (1) The chief protector may undertake the general care, protection, and management of the property of any aboriginal or half-caste, and may—

(a) take possession of, retain, sell, or dispose of any such property, whether real or personal, and on any sale or disposition as aforesaid a valid title to the property shall pass :

(b) in his own name sue for, recover, or receive any money or other property due or belonging to or held in trust for the benefit of any aboriginal or half-caste, or damages for any conversion of or injury to any such property :

- (c) exercise, in the name of any aboriginal or half-caste, any power which the aboriginal or half-caste might exercise for his own benefit :
- (d) in the name and on behalf of an aboriginal or half-caste, appoint any person to act as attorney or agent for any purpose connected with the property of such aboriginal or half-caste :

Provided that the powers conferred by this section shall not be exercised without the consent of the aboriginal or half-caste, except so far as may be necessary to provide for the due preservation of such property.

(2) The chief protector shall keep proper records and accounts of all moneys and other property, and the proceeds thereof, received or dealt with by him under the provisions of this section ; and such accounts shall be audited by the Auditor-General who shall have and exercise, in respect of such records, accounts, moneys, and other property, and the persons dealing therewith, the same powers as are vested in the Auditor-General in respect of the public revenue by the Audit Act, 1921.

Maintenance of Half-caste Children.

36. (1) Whenever a half-caste child whose age does not exceed eighteen years is being maintained at any aboriginal institution, or at the cost of the Government of the State, a protector may apply to a justice for a summons to be served on the alleged father of such child to show cause why he should not contribute towards the support of such child.

Contribution
to maintenance
of half-caste
child.
1048, 1911,
s. 36.

(2) On the return of such summons any court of summary jurisdiction shall proceed to hear the matter of the complaint, and, if the paternity of the defendant and his ability to contribute to the support of the child are proved to the satisfaction of the court, the court may order the defendant to pay such weekly sum, not exceeding ten shillings, for the maintenance of such child as the court think fit : Provided that no person shall be taken to be the father of such child unless the evidence of the mother be corroborated in some material particular.

(3) Any court of summary jurisdiction, on the complaint of any such father or of a protector, while the first or any subsequent order continues in force, may make further inquiry into such father's ability to contribute as aforesaid, and may remit or lessen the amount of the weekly payment that has been adjudged by the last preceding order, or may increase the same if they see cause to do so, but so that the amount shall not in any case exceed the weekly sum of ten shillings.

(4) Whenever, after the making of such order as aforesaid, it is made to appear to any justice, by a complaint in writing and upon oath, that any weekly sum or sums to be paid in pursuance of such order has or have not been paid, or that the father named in such order is about to leave the State, or to remove from his usual place of residence, without having first notified his intention to the protector for the district in which such usual place of residence is situated, or to the chief protector, or without having made due provision for the payment of such weekly sums, such justice may, by warrant under his hand, cause such father to be brought before a court of summary jurisdiction to answer the complaint.

(5) On the return of such warrant the court shall proceed to hear the matter of the complaint, and, if the same is to the satisfaction of the court shown to be true, shall proceed to levy or enforce payment of the weekly sums then due by distress or imprisonment for any term not exceeding three months, and may also order such father to make such provision for the payment of all such weekly sums thereafter to become due as the court deems sufficient.

(6) If after such order to make provision has been made such father leaves, or attempts to leave the State, or removes, or attempts to remove, from his usual place of residence, without having made such provision, he shall be guilty of an offence against this Act.

(7) All contributions and enforced payments under this section towards the support of a half-caste child shall be paid and expended as the Treasurer of the State directs.

Training and Control of Aboriginal Children.

37. (1) In the next three succeeding sections "aboriginal child" means every person who is under the age of eighteen years, and who is—

- (a) an aboriginal native of Australia or of any of the islands adjacent or belonging thereto; or
- (b) a half-caste.

(2) In this section the term "half-caste" includes any person any of whose progenitors (whether male or female) was an aboriginal and who in the opinion of the chief protector ought to be dealt with under the next succeeding three sections.

38. (1) The chief protector may, with the approval of the Children's Welfare and Public Relief Board constituted under the Maintenance Act, 1926, commit any aboriginal child to any institution within the meaning of the Maintenance Act,

Application of sections 38 to 40 to full-blooded aboriginals and others.
1565, 1923, s. 5.

Power of chief protector to place aboriginal child under control of Children's Welfare and Public Relief Board.
Ibid., s. 6.

1926, under the control of the said board, to be there detained or otherwise dealt with under the said Act until such child attains the age of eighteen years.

(2) Such approval and commitment shall be in writing in the form of the transfer of control contained in the Second Schedule, or in a form to the like effect.

39. (1) Upon the execution of the said transfer of control with respect to any aboriginal child, such child shall become a State child within the meaning of the Maintenance Act, 1926, and all the provisions of the said Act shall apply to and in respect of such child as if such child were a neglected child committed under the said Act to the institution specified in the said transfer, and as if the said transfer were the mandate issued under the said Act for the taking of such child to such institution and for the detention of such child until such child attains the age of eighteen years, subject to the said Act.

Effect of execution of transfer of control.

1565, 1923, s. 7.

(2) Nothing in this Act shall be so construed as to derogate from the power of the Governor, upon the recommendation of the said board, to order that the period of supervision of any female aboriginal child shall be extended until such child attains the age of twenty-one years, or for any shorter period.

40. Unless the Minister otherwise directs with respect to any particular aboriginal child, the provisions of sections 37, 38, and 39 shall apply only to—

Condition before transfer. Ibid., s. 8

(a) legitimate aboriginal children who have either—

(i.) obtained a qualifying certificate within the meaning of the Education Act, 1915 ; or

(ii.) attained the age of fourteen years ; and

(b) illegitimate aboriginal children who, irrespective of their age are, in the opinion of the chief protector and the Children's Welfare and Public Relief Board, neglected or otherwise proper persons to be dealt with under this Act.

Accounts of Department.

41 (1) The Minister shall cause accounts to be kept of all moneys received and expended by, and all assets and liabilities of the department, and such other accounts and records (if any) as are prescribed.

Accounts of the department and audit.

1048, 1911, s. 37.

(2) The accounts of the department shall once at least in every year, and also whenever the Governor directs, be audited by the Auditor-General.

(3) The Auditor-General shall, in respect of such accounts and audit, have all the powers conferred on him by the Audit Act, 1921.

Regulations.

Power of
Governor to
make regula-
tions.
1048, 1911,
s. 38.

42. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters and things which by this Act are contemplated, required, or permitted to be prescribed, or which may be necessary or convenient to be prescribed for the effectual carrying out of this Act, including regulations for the following, amongst other purposes :—

- I. Prescribing the duties of protectors and superintendents, and any other persons appointed or employed under this Act :
- II. Providing for the care, custody, and education of the children of aboriginals and half-castes :
- III. Enabling any aboriginal or half-caste child to be sent to and detained in an aboriginal institution or industrial school :
- IV. For the control, care, and education of aboriginals or half-castes in aboriginal institutions and for the supervision of such institutions :
- V. Prescribing the conditions on which aboriginal or half-caste children may be apprenticed to or placed in service with suitable people :
- VI. Prohibiting the apprenticing or placing in service of aboriginal or half-caste children to or with persons of specified trades, or businesses, or races :
- VII. Prescribing the conditions on which any aboriginal or half-caste prisoner may be placed under the custody of any officer or servant of the State, and for the employment of aboriginal or half-caste prisoners undergoing sentences of imprisonment, with or without hard labour :
- VIII. Providing for the control of aboriginals and half-castes residing upon a reserve, and for apportioning amongst them, or for their benefit, the net produce of their labour :
- IX. For the maintenance of discipline and good order upon a reserve :

s. 42. BRAY v. MILERA (1935) S.A.S.R. 210. Regulations empowering the chief protector, in certain cases, to prohibit an aborigine or half-caste from being within an institution held valid.

- x. Authorising entry upon a reserve by specified persons or classes of persons for specified objects, and the conditions under which such persons may enter or remain on a reserve, and providing for the revocation of such authority in any cases :
- xI. For the control of the receipt and payment of money, the keeping of accounts and records, expenditure of money, and all matters pertaining to the accounts and records of the department :
- xII. Regulating the exercise and discharge of all or any of the powers, duties, and functions of the department :
- xIII. Imposing, and authorising a protector to inflict, summary punishment by way of imprisonment, not exceeding fourteen days, upon aboriginals and half-castes living upon a reserve or within the district under his charge, who, in the judgment of such protector, are guilty of any crime, serious misconduct, neglect of duty, gross insubordination, or wilful breach of any regulation.

(2) Regulations so made may impose penalties for the breach of the same or other regulations, not exceeding for any one offence the sum of twenty-five pounds, or imprisonment for any term not exceeding three months.

Obstructing Officers.

43. Any person who obstructs or hinders any protector, superintendent, member of the police force, medical practitioner, surgeon in charge of a lock-hospital, or other person in the exercise or execution of any power or duty under this Act, or in carrying out any provision of this Act, shall be guilty of an offence against this Act.

Obstructing
officers.
1048, 1911,
s. 40.

Legal Proceedings and Penalties.

44. Any member of the police force may arrest without warrant any person whom he has just cause to suspect of having committed or being about to commit any offence against this Act.

Arrest
Ibid., s. 41.

45. It shall not be obligatory upon any member of the police force to serve any summons, or to execute any warrant of arrest, against an aboriginal or half-caste in respect of any offence against this Act beyond a distance of fifty miles from the place where such summons or warrant was issued, except when specially so directed by a special magistrate.

Service of
summons, &c.
Ibid., s. 42.

Person appearing on behalf of aborigines. 1048, 1911, s. 43.

46. At the hearing of any proceedings in respect of an offence against this Act the court may permit any person to address the court and examine and cross-examine witnesses on behalf of any aboriginal or half-caste.

Presumption as to person being aboriginal. Ibid., s. 44.

47. In any proceedings for an offence against this Act, the allegation in the complaint that any person named or referred to therein is an aboriginal or half-caste, or is of or under an age specified therein, or the reference in the complaint to such person as an aboriginal or half-caste, or as being of or under an age specified therein, shall be sufficient evidence of the truth of such allegation or reference, unless the contrary is shown to the satisfaction of the court.

Power of tribunal to determine on own opinion whether aboriginal, and as to age. Ibid., s. 45.

48. In any legal proceedings or inquiry, whether under this Act or otherwise, if the court, judge, coroner, special magistrate, justice, or justices do not consider that there is sufficient evidence to determine the question whether a person concerned in or in any way connected with the proceedings or inquiry is or is not an aboriginal or a half-caste, or whether, being or being determined to be an aboriginal or half-caste, such person is or is not of or under a specified age, such court, judge, coroner, special magistrate, justice, or justices, having seen such person, may determine the question according to his or their own opinion.

Penalty for offences against Act. Ibid., s. 46.

49. Any person who in any way contravenes any provision of this Act, whether by act or omission, shall be guilty of an offence against this Act, and any person convicted of an offence against this Act shall, except in cases where a different penalty is specifically provided, be liable to a penalty not exceeding fifty pounds, or to imprisonment for any period not exceeding six months.

Proceedings for offences. Ibid., s. 47.

50. All proceedings for offences against this Act shall be disposed of summarily.

Moneys to be provided by Parliament. Ibid., s. 50.

51. The moneys required for any purpose of this Act shall be paid out of moneys provided by Parliament for the purposes of this Act.

s. 48. AMESBURY v. COPELAND (1928) S.A.S.R. 485. Person determined by the court to be an aboriginal upon examination by the court.

THE FIRST SCHEDULE.

Section 2.

Acts Repealed.

Number of Act.	Short Title.
No. 1048 of 1911	The Aborigines Act, 1911
No. 1565 of 1923	Aborigines (Training of Children) Act, 1923

THE SECOND SCHEDULE.

Section 38.

TRANSFER OF CONTROL OF ABORIGINAL CHILD FROM THE CHIEF PROTECTOR OF
ABORIGINES TO THE CHILDREN'S WELFARE AND PUBLIC RELIEF BOARD.

To _____, Esquire, Commissioner of Police, and all constables in the State of South Australia, and to the Superintendent (*or Matron*) of the Industrial School at Magill [*or other institution, as the case may be*], in the said State :

Whereas the undersigned _____, Chief Protector of Aborigines, is desirous of committing _____, a _____ child of whom he is the legal guardian, to the institution hereafter mentioned, being an institution under the control of the Children's Welfare and Public Relief Board, constituted under the Maintenance Act, 1926, to be there detained or otherwise dealt with as a neglected child under the said Act, until the said child attains the age of eighteen years : And whereas the said board has approved of the said child being committed as aforesaid, and whereas the said child is of the age of _____ years and _____ months, and of the _____ religion : Now therefore I, the said Chief Protector of Aborigines, with the approval of the said Children's Welfare and Public Relief Board (which approval the said board hereby gives) do hereby commit the said child to the Industrial School at Magill [*or other institution*], to be there detained or otherwise dealt with as a neglected child under the Maintenance Act, 1926, until he (*or she*) attains the age of eighteen years :

These are therefore to require you, to whom this transfer of control is directed, to take the said child to the said institution and there to deliver him (*or her*) to the Superintendent (*or Matron*) thereof, together with the duplicate of this Transfer, and the said Superintendent (*or Matron*) is hereby required to receive the said child into the said school, there to be detained or otherwise dealt with as if such child were a neglected child under the Maintenance Act, 1926, until he (*or she*) attains the age of eighteen years, unless he (*or she*) shall in the meantime be discharged in due course of law.

In witness whereof the said Chief Protector of Aborigines has hereunto set his hand, and the seal of the Children's Welfare and Public Relief Board has been hereunto affixed.

Signed by the said Chief Protector of Aborigines on the

_____ day of _____ 193

in the presence of

}

.....

The seal of the Children's Welfare and Public Relief Board was hereunto affixed on the _____ day of _____ 193 in the presence of

} (L.S.)

.....Chairman.
.....Member of the Board.

Regulations.

The following regulations were in force under this Act on **8th March, 1937** :—

GENERAL REGULATIONS—

Gazette—10th May, 1917, p. 742.
21st August, 1919, p. 383.
12th October, 1922, p. 834.
22nd April, 1926, p. 1088.

REGULATIONS AS TO THE ADVISORY COUNCIL OF ABORIGINES—

Gazette—24th January, 1918, p. 141.
7th May, 1925, p. 839.
9th March, 1933, p. 372.

ABSCONDING DEBTORS

see Debtors ; Local Court ; Supreme Court.

ACCUMULATIONS

see Law of Property.

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