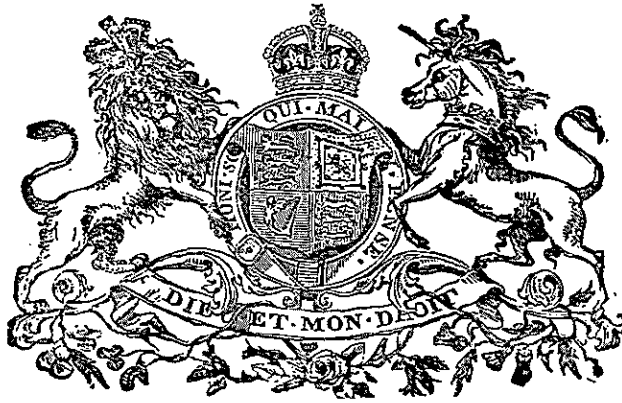


WESTERN AUSTRALIA.



ANNO QUINTO

EDWARDI SEPTIMI REGIS,

XIV.

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**No. 14 of 1905.**

AN ACT to make provision for the better protection and care of the Aboriginal inhabitants of Western Australia.

[*Reserved, 23rd December, 1905.*]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the *Aborigines Act, 1905*, and shall come into operation on a day to be fixed by proclamation. Short title.

2. In this Act, unless the context otherwise requires,— Interpretation.

“ Aboriginal institution ” means and includes any mission, reformatory, orphanage, school, home, station, reserve, or other institution for the benefit, protection, or care of the aboriginal or half-caste inhabitants of the State, and in receipt of any annual or other subsidy or grant from the Government.

“ Chief Protector ” means the Chief Protector of Aborigines appointed under this Act.

“ Department ” means the Aborigines Department.

Q., 1897, No. 17, s. 3.

“District” means a magisterial district.

“Half-caste” means any person being the offspring of an aboriginal mother and other than an aboriginal father: Provided that the term “half-caste,” wherever it occurs in this Act, elsewhere than in section three, shall, unless the context otherwise requires, be construed to exclude every half-caste who, under the provisions of the said section, is deemed to be an aboriginal, but shall not apply to quadroons.

“Minister” means the responsible Minister of the Crown charged with the administration of this Act.

“Police officer” means any constable or officer of police.

“Prescribed” means prescribed by this Act or regulations;

“Protector” means a protector of aborigines appointed under this Act, and includes the Chief Protector;

“Regulations” means the regulations for the time being in force under this Act.

“Reserve” means a reserve for aborigines proclaimed under this Act;

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

Persons deemed to be aborigines.

See Q., 1897, No. 17, s. 4.

Q., 1902, No. 1, s. 2.

**3.** Every person who is—

(a.) an aboriginal inhabitant of Australia; or

(b.) a half-caste who lives with an aboriginal as wife or husband; or

(c.) a half-caste who, otherwise than as wife or husband, habitually lives or associates with aborigines; or

(d.) a half-caste child whose age apparently does not exceed sixteen years,

shall be deemed an aboriginal within the meaning of this Act, and of every Act passed before or after this Act, unless the contrary is expressed.

In this section the term half-caste includes any person born of an aboriginal parent on either side, and the child of any such person.

The Aborigines Department.

61 Vict., No. 5, s. 5.

**4.** There shall be a department under the Minister to be called the Aborigines Department, and to be charged with the duty of promoting the welfare of the aborigines, providing them with food, clothing, medicine and medical attendance, when they would otherwise be destitute, providing for the education of aboriginal children, and generally assisting in the preservation and well-being of the aborigines.

Sum to be placed at the disposal of the department.

See 61 Vict., No. 5, s. 6.

**5.** The Colonial Treasurer shall, in every year, place at the disposal of the department, out of the Consolidated Revenue Fund, a sum of ten thousand pounds, and such further moneys as may be provided by Parliament, to be applied to the purposes of the department.

If in any year the whole of the said annual sum is not expended, the unexpended balance shall be retained by the department, and expended in the performance of the duties thereof in any subsequent year.

**6.** It shall be the duty of the department—

- (1.) To apportion, distribute, and apply, as may seem most fit, the moneys by this Act placed at its disposal ;
- (2.) To distribute blankets, clothes, and other relief to the aborigines, at the discretion of the department ;
- (3.) To provide for the custody, maintenance, and education of the children of aborigines ;
- (4.) To provide, as far as practicable, for the supply of medical attendance, medicines, rations, and shelter to sick, aged, and infirm aborigines ;
- (5.) To manage and regulate the use of all reserves set apart for the benefit of aborigines ;
- (6.) To exercise a general supervision and care over all matters affecting the interests and welfare of the aborigines, and to protect them against injustice, imposition, and fraud.

Duties of department.

See 61 Vict., No. 5, s. 7.

**7.** The Governor shall appoint a Chief Protector of Aborigines, and the Minister may from time to time appoint and dismiss fit and proper persons to be protectors, who shall, within the districts respectively assigned to them, have and exercise the powers and duties prescribed.

Protectors may be appointed.

See 61 Vict., No. 5, s. 4 ;

Q., 1897, No. 17, s. 6.

The Chief Protector shall, under the Minister, be responsible for the administration of the department and the execution of this Act throughout the State.

**8.** The Chief Protector shall be the legal guardian of every aboriginal and half-caste child until such child attains the age of sixteen years.

Chief Protector to be guardian.

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

Prohibition of removal of aborigines. See Q., 1897, No. 17, s. 17.

Before such authority is given the person desiring such removal shall enter into a recognisance with a surety or sureties, at the discretion of the protector, in a sum which the protector considers sufficient to defray the expense of the return of such aboriginal or half-caste to the place from which such aboriginal or half-caste is to be removed.

See Q. 1902, No. 1, s. 7.

Every such recognisance shall be in the prescribed form, and shall be taken in duplicate by a protector or police officer, who shall forthwith forward one of the duplicates to the Chief Protector.

A recognisance may be renewed from time to time at the discretion of the Chief Protector.

The protector may, in his discretion, dispense with such recognisance in any particular case.

Reserves.

See Q., 1897, No. 17,  
ss. 7 and 8.

**10.** The Governor may, by proclamation,—

- (1.) Declare any Crown lands to be reserves for aborigines, not exceeding in any one magisterial district an area of two thousand acres;
- (2.) Alter the boundaries of a reserve;
- (3.) Abolish a reserve.

Superintendents of reserves.

See Q., 1897, No. 17,  
s. 7.

**11.** The Governor may appoint fit and proper persons to be superintendents of reserves.

Aborigines may be removed to reserves.

See Q., 1897, No. 17,  
s. 9.

**12.** The Minister may cause any aboriginal to be removed to and kept within the boundaries of a reserve, or to be removed from one reserve or district to another reserve or district, and kept therein.

Any aboriginal who shall refuse to be so removed to or kept within such reserve or district shall be guilty of an offence against this Act.

In every prosecution under this section an averment contained in the complaint that the Minister directed the defendant to be removed to or kept within a reserve or district shall be deemed to be proved in the absence of proof to the contrary.

Exceptions.

See Q., 1897, No. 17,  
s. 10.

**13.** Every aboriginal—

- (a.) who is lawfully employed by any person; or
- (b.) who is the holder of a permit to be absent from a reserve;
- 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 Minister, satisfactory provision is otherwise made.

shall be exempted from the provisions of the last preceding section.

Persons who are prohibited from entering a reserve.

See Q., 1897, No. 17,  
s. 11.

**14.** It shall not be lawful for any person other than an aboriginal to enter or remain, or be within the boundaries of a reserve for any purpose whatsoever, unless he is a superintendent or a person acting under his direction, or a person authorised in that behalf under the regulations.

Penalty for unlawfully going upon or removing aboriginal from reserve.

See Q., 1897, No. 17,  
s. 11.

**15.** Any person who, without lawful authority or excuse,—

- (a.) goes or remains upon a reserve; or
- (b.) removes an aboriginal, or causes, assists, entices, or persuades an aboriginal to remove from a reserve;

shall be guilty of an offence against this Act.

The proof of such lawful authority or excuse shall be upon the person charged.

**16.** Every existing indenture of apprenticeship made under the provisions of the Aborigines Protection Act, 1886, shall, at the expiration of six months from the commencement of this Act, by force of this Act, become cancelled and annulled.

Existing apprenticeships determined.

**17.** It shall not be lawful to employ any aboriginal, or a male half-caste under the age of fourteen years, or a female half-caste, except under permit or permit and agreement.

Aborigines not to be employed without permit.

See Q., 1897, No. 17, ss. 12, 14.

**18.** Every permit—

- (1.) Shall be granted or refused by a protector ;
- (2.) May be granted for any period not exceeding twelve months for employment on land, or not exceeding eight months for employment on any ship or boat ;
- (3.) May from time to time be renewed ;
- (4.) May contain such conditions as the protector considers fit and proper ;
- (5.) May, if the protector thinks fit, be granted as a general permit to employ aborigines ;
- (6.) May be cancelled at any time by a protector.

Form and duration of permit.

See Q., 1897, No. 17, s. 13, and 1902, No. 1, s. 5.

Such cancellation shall not entitle any employer to claim or recover compensation for the loss of the service of any aboriginal, or to maintain any action in respect of any loss or damage that may be occasioned by such cancellation :

Provided that, on the death of a holder of a permit, the permit shall continue in force for four months thereafter, and shall be deemed to have been granted to his legal personal representative :

Provided also that, whenever a permit shall be granted to any person being the agent of any other person, and the agency shall determine, the permit shall continue in force for four months thereafter, and shall be deemed to be granted to the principal.

**19.** No permit shall be granted allowing any male aboriginal or half-caste under the age of sixteen years, or any female aboriginal or female half-caste to be employed on board of, or in connection with, any ship or boat ; and it shall not be lawful to suffer any such aboriginal or half-caste to be upon any ship or boat without the authority in writing of a protector.

Youths and females not allowed on ships.

See Q., 1902, No. 1, s. 10.

**20.** No permit shall be granted allowing any aboriginal or half-caste to be employed on board of or in connection with any ship trading with or voyaging to any place outside the State.

No permit for employment on ocean-going vessels.

**21.** Any person who, contrary to this Act, employs any aboriginal, or a male half-caste under the age of fourteen years, or a female half-caste, or permits or suffers any aboriginal, or a male half-caste under the age of fourteen years, or a female half-caste, to be upon any house, ship, boat, or premises in his occupation or under his control, shall be guilty of an offence against this Act.

Penalty for unlawfully employing or harbouring aborigines.

See Q., 1897, No. 17, s. 14 ; and Q., 1902, No. 1, s. 4.

Agreements.  
See 50 Vict., No. 25,  
s. 18, and Q., 1897,  
No. 17, s. 15.

**22.** (1.) No agreement with an aboriginal, or with a male half-caste under the age of sixteen years, or with a female half-caste, for any service or employment, shall be of any force or validity as against such aboriginal or half-caste unless such agreement—

- (a.) Is witnessed and truly dated by a justice of the peace, a protector, a police officer, or other person authorised by the Minister to attest agreements.
- (b.) Is indorsed by such witness with a certificate that the agreement was fully explained by him to the aboriginal or half-caste, and that he appeared fully to understand the same, to be a free and voluntary agent, and physically fit for the work specified;
- (c.) Is signed or marked by the employer and by the aboriginal or half-caste;
- (d.) Specifies the nature of the service or employment, the period of the service, and conforms in every respect with the particulars specified in the permit;
- (e.) Stipulates for the supply by the employer to the aboriginal or half-caste of substantial, good, and sufficient rations, clothing, and blankets, and also medicines and medical attendance when practicable and necessary; and
- (f.) When the employment is on or in connection with any ship or boat, stipulates that before the expiration of the service agreed upon, the employer shall convey the aboriginal or half-caste, or cause him to be conveyed, to the place or district to which he belongs, which shall be specified in the agreement.

(2.) Where an aboriginal or half-caste proposing to become party to such agreement has, within twelve months of the date of the agreement, been engaged in the pearl-shell fishery, or in any industry which necessitates the conveyance of the aboriginal or half-caste by sea to the scene of such industry, the witness shall satisfy himself, before attesting the agreement, that, during the currency of the engagement of such aboriginal or half-caste, the person who last employed him conveyed him back to the place or district to which he belonged.

Duplicate of agreement to be sent to protector.

**23.** Every agreement under this Act shall be made and indorsed in duplicate, and one of the duplicates shall be filed in the office of the protector. If a justice of the peace or police officer is the attesting witness, he shall forthwith forward one of the duplicates to the protector.

Penalty for false attestation.  
See 50 Vict., No. 25, s. 18.

**24.** Any justice of the peace, protector, or police officer who attests any agreement to which any aboriginal or half-caste purports to be a party contrary to the provisions of this Act, or untruly dates

any such agreement, or indorses thereon any such certificate as aforesaid contrary to the fact, shall forfeit and pay the sum of fifty pounds, together with full costs of suit, to any person who shall first sue for the same in any court of competent jurisdiction.

**25.** Any aboriginal who, without reasonable cause, shall neglect or refuse to enter upon or commence his service, or shall absent himself from his service, or shall refuse or neglect to work in the capacity in which he has been engaged, or shall desert or quit his work without the consent of his employer, or shall commit any other breach of his agreement, shall be guilty of an offence against this Act.

Penalty for breach of agreement by aboriginal.  
55 Vict., No. 25, s. 2.

**26.** Any employer of an aboriginal who shall commit any breach of an agreement under this Act shall be guilty of an offence against this Act.

Penalty for breach of agreement by employer.

**27.** Every aboriginal, every male half-caste under the age of sixteen years, and every female half-caste, employed by any person shall be under the supervision of a protector or police officer.

Aborigines in employment to be subject to supervision.  
See Q., 1897, No. 17, s. 16.

**28.** Every employer shall—

- (1.) Produce to a protector or police officer, on demand, the permit, or permit and agreement as the case may be, under which any aboriginal or half-caste is employed; and
- (2.) Allow a protector or police officer to have access to any aboriginal or half-caste employed, or to any house, ship, boat, or premises where such aboriginal or half-caste may happen to be, at all reasonable times, for such inspection and inquiry as he may deem necessary.

Permit to be produced and access to be given.  
See Q., 1897, No. 17, s. 16.

**29.** An agreement may be cancelled at any time by a protector; and such cancellation shall not entitle an employer to claim or recover compensation for the loss of service of the aboriginal or half-caste, or to maintain any action in respect of any loss or damage occasioned thereby.

Agreements may be cancelled.

**30.** The employer of any aboriginal or half-caste engaged under an agreement made under this Act shall grant to the aboriginal or half-caste, at his request, at some time during the term of service, leave to absent himself from his work or service under such agreement—

Leave of absence.  
50 Vict., No. 25, s. 22.

- (1.) For not less than fourteen days, if the agreement is for a term of three months and not exceeding six months;
- (2.) For not less than thirty days, if the agreement is for a term exceeding six months.

Penalty for neglect to convey aboriginal back to place agreed upon.

See 50 Vict., No. 25, s. 9.

**31.** Any master of a ship or vessel or other person who shall neglect or refuse to convey or cause to be conveyed any aboriginal or half-caste who has been party to any agreement with him back, before the expiration of such agreement, to the place or district to which such aboriginal or half-caste belongs, shall be guilty of an offence against this Act.

51 Vict., No. 18, s. 4.

Any person convicted of such offence may be ordered, at his own expense, to convey such aboriginal or half-caste back to the place or district to which he belongs, by such route as to the justices shall seem fit, or may be required to pay such sum as to the justices shall seem fit for the purpose of paying for the conveyance of such aboriginal or half-caste, and such sum shall, for all purposes, be and be deemed to be added to the fine imposed so as to become a part thereof.

Death of employed aborigines.

See Q., 1902, No. 1, s. 11.

**32.** If an aboriginal or half-caste dies during the period of his employment, the employer, forthwith after the death, or if the deceased was employed on board of any ship, vessel, or boat, forthwith after the arrival of such ship, vessel, or boat at any port in Western Australia, shall transmit to the Chief Protector notice in writing of such death under the hand of the employer, and containing such particulars as will enable the deceased to be identified.

Protector to manage property of aboriginals.

Q. 1902, No. 1, s. 13.

**33.** The Chief Protector may undertake the general care, protection, and management of the property of any aboriginal or half-caste, and may—

- (1.) Take possession of, retain, sell, or dispose of any such property, whether real or personal;
- (2.) 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 an aboriginal or half-caste, or damages for any conversion of or injury to any such property;
- (3.) Exercise in the name of an aboriginal or half-caste any power which the aboriginal or half-caste might exercise for his own benefit;
- (4.) 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 the 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.

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 shall, for such purpose, be deemed to be a public accountant within the meaning of the Audit Act, 1904.

**34.** (1.) Whenever a half-caste child whose age does not exceed fourteen years is being maintained in an aboriginal institution or at the cost of the Government, a protector may, with the approval of the Minister, apply to a justice of the peace for a summons to be served on the alleged father of such child for the purpose of obtaining contribution to the support of the child.

Father liable to contribute to support of half-caste child.  
See Q., 1902, No. 1, s. 19.

(2.) On the return of such summons, any two justices of the peace 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 such child are proved to the satisfaction of the justices, they may order the defendant to pay such weekly sum (not exceeding ten shillings) for the maintenance of the child as such justices think fit:

Provided that no man shall be taken to be the father of any such child upon the oath of the mother only.

(3.) Any two justices of the peace, 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 so to do, so that the amount shall not in any case exceed the weekly sum hereinbefore mentioned.

(4.) Whenever, after the making of any such order as aforesaid, it is made to appear to any justice of the peace, by a complaint in writing and upon oath, that any weekly sum to be paid in pursuance thereof has not been paid, or that any father named in such order is about to leave Western Australia, or remove from his usual place of residence, without having first notified his intention to the clerk of petty sessions at the court where the order was made, or without having made due provision for the payment of such weekly sum, such justice may, by warrant, cause such father to be brought before him or some other justice to answer the complaint.

(5.) On the return of such warrant the justice of the peace shall proceed to hear the matter of the complaint, and if the same is proved to be true, shall proceed to levy or enforce payment of the said weekly sums by distress or imprisonment for any period not exceeding three months.

(6.) All contributions and enforced payments under this section towards the support of a half-caste child shall be paid and expended as the Colonial Treasurer may direct.

**35.** (1.) Any aboriginal in custody under sentence of imprisonment may, by order of the Governor, be employed outside the limits of a prison in such suitable labour in the service of the

Aboriginal prisoners may be employed outside prison.

See 50 Vict., No. 25, s. 32. State as the Governor may direct; but no such prisoner who has not been sentenced to hard labour shall be set to any labour which is severe.

See 50 Vict., No. 25, s. 33. (2.) Any aboriginal, or any male half-caste under the age of sixteen years, or any female half-caste, in custody under sentence of imprisonment may, by order of the Governor, be placed under custody of any officer or servant of the State, who shall be responsible for the safe custody of such prisoner, and he shall thereupon, for all purposes, be deemed in legal custody, wherever he may be employed or detained.

See 50 Vict., No. 25, s. 34. (3.) The gaoler having the charge of the prison wherein such prisoner may be sentenced to imprisonment shall not be responsible for the safe custody of any such prisoner during the time he may be removed, under order as aforesaid, from such prison.

Persons prohibited from frequenting camps. Q., 1902, No. 1, s. 16. **36.** It shall not be lawful for any person, other than a superintendent or protector, or a person acting under the direction of a superintendent, or under a written permit of a protector, without lawful excuse, to enter or remain or be within or upon any place where aborigines or female half-castes are camped.

Any person, save as aforesaid, who, without lawful excuse, the proof whereof shall lie upon him, is found in or within five chains of any such camp shall be guilty of an offence against this Act; but no person shall be prosecuted for an offence under this section except by the direction of a protector.

Removal of camps near townships. See Q., 1902, No. 1, s. 17. **37.** If at any time he thinks it necessary so to do, a protector may cause any aborigines or half-castes who are camped or are about to camp within or near the limits of any town or municipal district to remove their camp, or proposed camp, at such distance from such town or municipality as he may direct; and all police officers shall assist the protector in carrying out the provisions of this section.

Any aboriginal or half-caste neglecting or refusing to obey such order shall be guilty of an offence against this Act.

Justices may order aborigines out of town. 50 Vict., No. 25, s. 43. **38.** Any justice of the peace or police officer may order any aboriginal found loitering in any town or municipal district, or being therein and not decently clothed, forthwith to leave such town or municipal district.

Any aboriginal neglecting or refusing to obey such order shall be guilty of an offence against this Act.

Prohibited areas. **39.** The Governor may, by proclamation, whenever in the interest of the aborigines he thinks fit, declare any municipal district or town or any other place to be an area in which it shall be unlawful for aborigines or half-castes, not in lawful employment, to be or remain:

and every such aboriginal or half-caste who, after warning, enters or is found within such area without the permission, in writing, of a protector or police officer, shall be guilty of an offence against this Act.

**40.** Any female aboriginal who, between sunset and sunrise, is found within two miles of any creek or inlet used by the boats of pearlers or other sea boats shall be guilty of an offence against this Act.

Females not to remain after sunset at creeks used by pearlers.

**41.** Any aboriginal who, being the parent or having the custody of any female child apparently under the age of sixteen years, allows that child to be within two miles of any creek or inlet used by the boats of pearlers or other sea boats shall be guilty of an offence against this Act.

Forbidding children to be brought to creeks used by pearlers.

**42.** No marriage of a female aboriginal with any person other than an aboriginal shall be celebrated without the permission, in writing, of the Chief Protector.

Marriage of female aborigines.

Q., 1902, No. 1, s. 9.

**43.** Every person other than an aboriginal who habitually lives with aborigines, and every male person other than an aboriginal who cohabits with any female aboriginal, not being his wife, shall be guilty of an offence against this Act.

Offence of cohabiting with aborigines.

Every male person, not being an aboriginal, who travels accompanied by a female aboriginal, shall be presumed, in the absence of proof to the contrary, to be cohabiting with her, and it shall be presumed, in the absence of proof to the contrary, that she is not his wife.

**44.** Any person who entices or persuades an aboriginal or half-caste girl under the age of sixteen years to leave any school or aboriginal institution without the consent of a protector, or to leave any lawful service without the like consent, shall be guilty of an offence against this Act.

Enticing girls from school or service.

See 8 Vict., No. 6, s. 1.

**45.** Any person who supplies, or causes or permits to be supplied, to an aboriginal or half-caste any fermented or spirituous liquor or opium shall be guilty of an offence against this Act, and shall be liable, on conviction, to a penalty of twenty pounds.

Penalty for supplying liquor to aborigines.

See Q., 1897, No. 17, s. 19; and Q., 1902, No. 1, s. 8.

**46.** All blankets, bedding, clothing, and other articles issued or distributed to the aborigines by or by the direction of the department shall remain the property of His Majesty; and it shall not be lawful for an aboriginal receiving such bedding, clothing, or other articles to sell or otherwise dispose of the same to any person other than an aboriginal, without the sanction of a protector.

Prohibition against disposal of articles issued to aborigines.

50 Vict., No. 25, ss. 40, 41.

Any person, not being an aboriginal, who, without such sanction, takes, whether by purchase or otherwise, or is found in possession of any goods or chattels issued or distributed to an aboriginal by or by the direction of the department shall be guilty of an offence against this Act.

Prohibition of use of guns by aboriginals without license.

**47.** Every aboriginal who uses or carries a gun without having in force a license, in writing, in the prescribed form granted to him by a protector shall be guilty of an offence against this Act.

Any justice of the peace may make such order as to the forfeiture or disposal of any gun found in the possession of an aboriginal contrary to this section as to such justice may seem fit.

In this and the four next following sections the term "gun" includes any firearm from which any shot, bullet, or other missile can be discharged.

License to be produced on demand.

**48.** It shall be lawful for any protector or police officer to demand from any aboriginal using or carrying a gun the production of his license.

If such aboriginal upon whom the demand is made shall not produce a license duly granted to him under this Act, and in force, and permit the protector or police officer demanding the production thereof to read such license, such aboriginal shall be guilty of an offence against this Act.

Power to take guns from aborigines.

**49.** It shall be lawful for any protector or police officer to take from any aboriginal any gun found in his possession, if such aboriginal shall not, on demand, produce a license duly granted to him, and in force, to carry such gun.

Prohibition of sale or delivery of guns to unlicensed aboriginals.

**50.** It shall be unlawful to sell or deliver a gun to any aboriginal unless at the time of the sale or delivery such aboriginal has in force a license granted to him by a protector permitting such aboriginal to carry a gun.

Any person who, contrary to this section, sells or delivers a gun to an aboriginal shall be guilty of an offence against this Act.

Proof of license on accused.

**51.** In any prosecution under sections forty-seven or fifty, the burden of proof that the aboriginal held a license in force to carry a gun shall lie on the defendant, and until the contrary is proved it shall be presumed that the aboriginal did not hold such license.

Presumption of person being an aboriginal.

**52.** In every prosecution for an offence against this Act or the regulations, the averment in the complaint that any person referred to therein is an aboriginal or half-caste shall be deemed to be proved in the absence of proof to the contrary.

**53.** At the hearing of any prosecution under this Act, the justices may decide, upon their own view and judgment, whether any aboriginal or half-caste child before them has attained any specified age; but nothing herein shall be construed so as to prevent the age of such aboriginal or half-caste child being proved.

Facilitating proof of age.

**54.** All actions and other proceedings against any person for the recovery of wages due to an aboriginal or half-caste who is, or has been, employed by such person, or for any breach of an agreement made with an aboriginal or half-caste, may be instituted and carried on by, or in the name of, a protector, or any other person authorised by the Minister.

Actions for recovery of wages may be brought in name of protector.

**55.** It shall be lawful to arrest without warrant any aboriginal or half-caste who offends against any of the provisions of this Act.

Arrest without warrant.

**56.** Any resident magistrate or, in his absence, any two justices of the peace may hear and determine any complaint for any offence against the provisions of this Act or the regulations thereunder, at any place within the State where the offender may be, or where any ship or boat connected with such offence may be found, or at any place appointed for the holding of courts of petty sessions, and may make orders for the detention of such ship, vessel, or boat as they think fit.

Jurisdiction of justices, etc.

See Q., 1902, No. 1, s. 18.

If any person appears to a protector, police officer, or other person acting under the authority of a protector, to have committed any such offence, the protector, police officer, or other person as aforesaid may, by written order under his hand, direct the offender, and if necessary the ship or boat to which he belongs, and the master and crew thereof, to proceed to the nearest convenient place at which a court of petty sessions is held, and the resident magistrate or justices may hear and determine the matter in a summary way. The protector may order the detention of such ship or boat until the alleged offence has been adjudicated upon.

Any person who disobeys any order made under the provisions of this section shall be guilty of an offence against this Act.

**57.** It shall not be obligatory upon any police officer to serve any summons, or execute any warrant of arrest against an aboriginal 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 directed by a resident magistrate.

Service of summons and execution of warrant limited.

See 55 Vict., No. 25, s. 4.

**58.** Every person convicted of an offence against this Act shall, except as is herein otherwise provided, be liable to imprisonment, with or without hard labour, for not exceeding six months, or to a fine not exceeding fifty pounds.

P-n

Offences to be prosecuted summarily.

**59.** (1.) All offences against this Act or the regulations may be prosecuted in a summary way before any resident magistrate or, in his absence, any two justices of the peace.

(2.) At the hearing of any prosecution under this Act against an aboriginal the resident magistrate or justices may permit any person to address him or them, and examine and cross-examine witnesses, on behalf of such aboriginal.

Regulations.

See Q. 1897, No. 17, s. 31.

**60.** The Governor may make regulations for all or any of the matters following (that is to say) :—

- (a.) Prescribing the duties of protectors and superintendents and any other persons employed to carry the provisions of this Act into effect:
- (b.) For the control of the receipt and payment of money, classification of accounts, authorisation of expenditure, and all matters pertaining to the management of the accounts of the department.
- (c.) Providing for the care, custody, and education of the children of aborigines and half-castes:
- (d.) Enabling any aboriginal or half-caste child to be sent to and detained in an aboriginal institution, industrial school, or orphanage:
- (e.) For the control, care, and education of aborigines and half-castes in aboriginal institutions, and for the supervision of aboriginal institutions:
- (f.) Prescribing the conditions on which any aboriginal or half-caste children may be apprenticed to or placed in service with suitable persons:
- (g.) 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.
- (h.) Regulating the payment of wages payable under agreements:
- (i.) Providing for the control of aborigines and half-castes residing upon a reserve, and for the inspection of aborigines and half-castes employed under the provisions of this Act; and
- (j.) For the maintenance of discipline and good order upon a reserve:
- (k.) 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 upon a reserve, and providing for the revocation of such authority in any case:
- (l.) For all other purposes relating to the administration of this Act.

**61.** All such regulations shall be published in the *Government Gazette*, and thereupon shall have the force of law; and shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is then in session, and if not, within fourteen days after the commencement of the next ensuing session.

Publication of regulations.

**62.** Such regulations may impose, for any breach hereof, a fine not exceeding twenty pounds, or imprisonment for any period not exceeding one month.

Penalties.

**63.** The Minister may issue to any aboriginal or half-caste who, in his opinion, ought not to be subject to this Act, a certificate in writing under his hand that such aboriginal or half-caste is exempt from the provisions of this Act, and from and after the issue of such certificate such aboriginal or half-caste shall be so exempt accordingly:

Power to exempt certain half-castes, from Act.  
See Q., 1897, No. 17, s. 33.  
Q., 1902, No. 1, s. 6.

But any such certificate may be revoked at any time by the Minister, and thereupon this Act shall apply to such aboriginal or half-caste as if no such certificate had been issued.

**64.** (1.) A separate account of the moneys placed at the disposal of the department shall be opened and kept at the Treasury as a trust account.

Accounts and audit.

The Colonial Treasurer shall, at the commencement of each financial year, pay into such trust account so much of the annual grant as shall be necessary for the requirements of the department, and thereafter from time to time during the said year such further sums as may be required, until the whole of the grant has been paid to the credit of such account.

(2.) The Chief Protector or such other officers as the Minister may appoint shall operate upon the trust account as in the case of an ordinary banking account.

(3.) The Minister shall cause accounts to be kept of all moneys received and expended by, and all assets and liabilities of, the department.

(4.) Within sixty days after the close of each financial year the Minister shall cause a balance-sheet for the year to be prepared, together with a statement of income and expenditure account, and such other statements as he may direct.

Such balance-sheet, income and expenditure account, and other statements shall be prepared to show fully the financial position of the department and the financial result of its operations for the year.

(5.) Within eighty days after the close of each financial year the Minister shall cause the balance-sheet, income and expenditure account, and other statements in connection with the accounts for

year to be submitted to the Audit Office for audit, and when so audited and reported upon by the Auditor General the same shall be published in the *Government Gazette*.

(6.) The balance sheet, income and expenditure account, and other statements as aforesaid, duly audited, together with a report by the Chief Protector on the condition and welfare of the aborigines, and of the transactions of the department for the year, shall be laid before both Houses of Parliament within fourteen days after the audit is completed, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

(7.) The Auditor General shall have all the powers conferred upon him by the Audit Act, 1904, and any amendment thereof, with respect to the audit of the accounts of the department.

Validation of appointments made and acts and things done under 61 Vict., No. 5.

**65.** Whereas a Bill intituled "An Act to further amend the Constitution Act of 1889, and for the better protection of the Aboriginal Race of Western Australia" having been duly passed by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia was, on the eleventh day of December, One thousand eight hundred and ninety-seven, reserved by the Governor for the signification of the pleasure of Her late Majesty thereon, and received the assent of Her late Majesty in Council on the third day of February, One thousand eight hundred and ninety-eight, and was proclaimed in Western Australia on the first day of April, One thousand eight hundred and ninety-eight, but the Royal assent was not signified by such proclamation as required by the Statute made and passed in the fifth and sixth years of the reign of Her late Majesty, and intituled "An Act for the Government of New South Wales and Van Diemen's Land":

And whereas the said Bill appears in the Statute Book of Western Australia as of the sixty-first year of Her late Majesty Queen Victoria, and purports to repeal the Act and parts of Acts mentioned in the First Schedule hereto, and to provide *inter alia* for the abolition of the Aborigines Protection Board, and for the establishment of the Aborigines Department, which should discharge the duties of the said Board so purported to be abolished, and for the annual appropriation of Five thousand pounds to be applied to the purposes of the said Department: And whereas, after the Proclamation in Western Australia of the said Bill (hereinafter called an Act) as a Statute, the said Aborigines Protection Board was in fact abolished, and the said Department was established: And whereas it is desirable to validate such abolition of the said Aborigines Protection Board and the establishment of the said Department and such repeal: Be it therefore further enacted as follows:—

The Act and parts of Acts mentioned in the First Schedule shall be deemed to have been repealed, the Aborigines Protection



Board shall be deemed to have been abolished, and the Aborigines Department shall be deemed to have been lawfully established on and from the date upon which the said Act intituled "An Act to further amend the Constitution Act of 1889, and for the better protection of the Aboriginal Race of Western Australia" was proclaimed as aforesaid; and all appointments made, and all acts and things done or purporting to have been done by the apparent sanction of the said Act by the Governor, the Minister appointed to administer the same, the Colonial Treasurer, the Aborigines Department, Protectors of Aborigines, and other officers respectively, are hereby validated and confirmed for all purposes whatsoever.

**66.** The Acts mentioned in the Second Schedule are hereby Repeal. repealed to the extent and in the manner therein stated.

## Section 65.

## The First Schedule.

Date.	Title.	Extent of Repeal.
50 Vict., No. 25	The Aborigines Protection Act, 1886 ...	Part I.
52 Vict., No. 23	The Constitution Act, 1889 ... ..	Section 70.
52 Vict., No. 24	The Aborigines Act, 1889 ... ..	The whole.

## Section 66.

## The Second Schedule.

Date.	Title.	Extent of Repeal.
8 Vict., No. 6	An Act to prevent the enticing away the Girls of the Aboriginal Race from School, or from any service in which they are employed	The whole.
37 Vict., No. 11	The Pearl Shell Fishery Regulation Act, 1873	The whole, except sections 11 and 12.
39 Vict., No. 13	The Pearl Shell Fishery Regulation Act, 1875	Section 5.
50 Vict., No. 25	The Aborigines Protection Act, 1886	Parts II., III., IV., and V.
51 Vict., No. 18	The Pearl Shell Fishery Regulation Acts Amendment Act, 1887	The whole, except section 5.
55 Vict., No. 25	The Aborigines Protection Act (Amendment), 1892	The whole.
61 Vict., No. 5	The Aborigines Act, 1897 ... ..	The whole.