

NATIVE ADMINISTRATION.

No. 14 of 1905.

(As amended by No. 42 of 1911,* No. 8 of 1931,† and No. 43 of 1936.‡)

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

Amended by
No. 43 of
1936, s. 3.

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

[*Royal assent proclaimed, 27th April, 1906.*]

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 *Native Administration Act, 1905-1936*, and shall come into operation on a day to be fixed by proclamation.§

Short title.
Amended by
No. 43 of
1936, s. 35.

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

Interpreta-
tion.

“Native institution” means and includes any mission, reformatory, orphanage, school, home, station, reserve, or other institution for the benefit, protection, or care of the native inhabitants of the State declared by proclamation to be a native institution for the purposes of this Act.

Amended by
No. 43 of
1936, s. 2
and s. 3.

“Commissioner” means the Commissioner of Native Affairs appointed under this Act.

Amended by
No. 43 of
1936, s. 3.

“Department” means the Department of Native Affairs.

Amended by
No. 43 of
1936, s. 3.

* Assented to 16th February, 1911. † “Firearms and Guns Act, 1931,”
proclaimed to commence 1st January, 1932. ‡ Assented to 11th December, 1936.
§ Proclaimed to commence 30th April, 1906. See *Government Gazette*, 27th April,
1906.

Amended by
No. 43 of
1936, s. 2.

“District” means any portion of the State declared by proclamation to be a district for the purpose of this Act.

Inserted by
No. 43 of
1936, s. 2.

“Inspector” means an inspector appointed under this Act.

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

Inserted by
No. 43 of
1936, s. 2.
Sec 14 of
1905, s. 3.

“Native” means—

(a) any person of the full blood descended from the original inhabitants of Australia;

(b) subject to the exceptions stated in this definition any person of less than full blood who is descended from the original inhabitants of Australia or from their full blood descendants, excepting however any person who is—

(i) a quadroon under twenty-one years of age who neither associates with or lives substantially after the manner of the class of persons mentioned in paragraph (a) in this definition unless such quadroon is ordered by a magistrate to be classed as a native under this Act;

(ii) a quadroon over twenty-one years of age, unless that person is by order of a magistrate ordered to be classed as a native under this Act, or requests that he be classed as a native under this Act; and

(iii) a person of less than quadroon blood who was born prior to the 31st day of December, 1936, unless such person expressly applies to be brought under this Act and the Minister consents.

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

“Prescribed” means prescribed by this Act or regulations.

Amended by
No. 43 of
1936, s. 3.

“Protector” means a protector of natives appointed under this Act, and includes the Commissioner.

“Quadroon” means a person who is descended from the full blood original inhabitants of Australia or their full blood descendants but who is only one-fourth of the original full blood.

Inserted by No. 43 of 1936, s. 2.

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

“Reserve” means a reserve for natives proclaimed under this Act.

Amended by No. 43 of 1936, s. 3.

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

3. (1.) Any quadroon over twenty-one years of age may—

(a) on application being made by the Commissioner in the prescribed manner to a magistrate be ordered to be classed as a native under this Act; or

(b) on his application and with the consent of the Minister be classed as a native under this Act.

Persons of quadroon or less than quadroon blood may in certain cases come under the Act.

New section inserted by No. 43 of 1936, s. 5.

See 14 of 1905, s. 3.

(2.) Any person who was born prior to the 31st day of December, 1936, and who is of less than quadroon blood may apply to the Minister to be classed as a native, and may be classed as a native if the Minister consents.

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

The Department of Native Affairs. 61 Vict., No. 5, s. 5.

Amended by No. 43 of 1936, s. 3.

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.

Sum to be placed at the disposal of the department.

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

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.

Duties of
department.
See 61 Vict.,
No. 5, s. 7.
Amended by
No. 48 of
1936, s. 3.

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 natives, at the discretion of the department;
 - (3) To provide for the custody, maintenance, and education of the children of natives;
 - (4) To provide, as far as practicable for the supply of medical attendance, medicines, rations, and shelter to sick, aged, and infirm natives;
 - (5) To manage and regulate the use of all reserves set apart for the benefit of natives;
 - (6) To exercise a general supervision and care over all matters affecting the interests and welfare of the natives, and to protect them against injustice, imposition, and fraud.

Protectors
may be
appointed.
See 61 Vict.,
No. 5, s. 4.
Q. 1897, No.
17, s. 6.
Amended by
No. 48 of
1936, s. 3.

7. The Governor shall appoint a Commissioner of Native Affairs, 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.

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

Added by No.
42 of 1911,
s. 2.
Amended by
No. 48 of
1936, s. 3.

The Governor may appoint any person to be the deputy of the Commissioner, and in that capacity to exercise and discharge all or any of the powers and functions of the Commissioner, whether that officer be absent from or present in the State. But such appointment shall not affect the exercise or discharge by the Commissioner himself of any power or function.

Travelling
inspectors.
Inserted by
No. 43 of
1936, s. 6.

The Governor may appoint such persons as he may think fit to be travelling inspectors, whose duty it shall be in regard to the territories assigned to them to inspect and report to the Commissioner on—

- (a) the condition of the natives generally; and
- (b) the management and conduct of native institutions periodically.

8. The Commissioner shall be the legal guardian of every native child notwithstanding that the child has a parent or other relative living, until such child attains the age of twenty-one years.

Commissioner to be guardian.
Amended by No. 42 of 1911, s. 3, and No. 43 of 1936, ss. 3 and 7.

9. Any person who without the authority, in writing, of a protector, removes or causes any native to be removed 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 natives.

Amended by No. 43 of 1936, ss. 3 and 8.

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

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

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 native to the place from which such native is to be removed.

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 Commissioner.

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

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

Provided that this section shall not apply to any male person over twenty-one years of age who is of half blood or less than half blood descent from the original full blood inhabitants of Australia or from their full blood descendants, where such person does not live after the manner of the original full blood inhabitants or their full blood descendants.

Inserted by No. 43 of 1936, s. 8.

10. The Governor may, by proclamation,—

(1) declare any Crown lands to be reserves for natives: provided that not more than two thousand acres of land held under lease or license from the Crown shall be the subject of proclamation hereunder in any one Magisterial district.

Reserves.

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

Amended by No. 42 of 1911, s. 4, and No. 43 of 1936, s. 8.

(2) alter the boundaries of a reserve;

(3) abolish a reserve.

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

Superintendents of reserves.

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

Natives may be removed to reserves.

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

Amended by No. 43 of 1936, ss. 3 and 9.

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

Any native who shall refuse to be so removed to or kept within such reserve, district, institution, or hospital 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, district, institution, or hospital shall be deemed to be proved in the absence of proof to the contrary.

Exceptions.

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

Amended by No. 43 of 1936, s. 3.

13. Every native—

- (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 a native; 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.

Amended by No. 43 of 1936, ss. 3 and 10.

14. It shall not be lawful for any person other than a native 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 an inspector or a protector or a person authorised in that behalf under the regulations.

Penalty for unlawfully going upon or removing native from reserve.

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

Amended by No. 43 of 1936, ss. 3 and 11.

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

- (a) goes or remains within the boundaries or confines of a reserve or native institution; or
- (b) removes a native, or causes, assists, entices, or persuades a native to remove from a reserve or native institution; or
- (c) transports or assists a native in or after his removal or escape therefrom,

shall be guilty of an offence against this Act.

Inserted by No. 43 of 1936, s. 11.

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

Any person guilty of an offence under the provisions of this section shall be liable—

Inserted by
No. 43 of
1936, s. 11.

- (a) in the case of a first offence, to a penalty not exceeding fifty pounds or to imprisonment with hard labour for six months, or both;
- (b) in the case of a second offence, to a penalty not exceeding one hundred pounds or to imprisonment with hard labour for twelve months, or both;
- (c) in the case of a third or subsequent offence, to a penalty not exceeding two hundred pounds or to imprisonment with hard labour for two years, or both.

16. (a) The Commissioner may authorise some suitable person or persons to examine any natives with a view to ascertaining if they are afflicted with disease.

Compulsory
examination
of diseased
natives, etc.

(b) Any person or persons so authorised may use such means as may be necessary to compel any native to undergo examination accordingly and to submit to such treatment as may be necessary in the circumstances.

Inserted by
No. 43 of
1936, s. 12.

(c) Any native who refuses to submit himself to examination or treatment, or who obstructs any person acting under any such authority commits an offence against this Act.

17. 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
apprentice-
ships deter-
mined.

Formerly s.
16, 1913 re-
print.

18. (1.) It shall not be lawful to employ any native, except under permit or permit and agreement:

Natives not to
be employed
without
permit.

Provided that this section shall not apply to any male person over twenty-one years of age who is of half blood or less than half blood descent from the original full blood inhabitants of Australia or from their full blood descendants, where such person does not live after the manner of the original full blood inhabitants or their full blood descendants.

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

Amended by
No. 43 of
1936, ss. 3
and 13.

Formerly s.
17, 1913 re-
print.

Inserted by
No. 43 of
1936, s. 13.

(2.) In this section "to employ" means not only to employ as a servant, but also includes the act of engagement under a contract to perform work or services, notwithstanding that the relationship is not that of master and servant.

Inserted by
No. 43 of
1936, s. 13.

(3.) Every agreement or permit and agreement shall be in accordance with the prescribed form.

Form and
duration of
permit.

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

Amended by
No. 43 of
1936, ss. 3
and 14.

Formerly s.
18, 1913 re-
print.

19. Every permit—

- (1) shall be granted or refused by a protector or inspector;
- (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 or inspector considers fit and proper;
- (5) may, if the protector or inspector thinks fit, be granted as a general permit to employ natives;
- (6) may be cancelled at any time by a protector or inspector.

Such cancellation shall not entitle any employer to claim or recover compensation for the loss of the service of any native, 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.

Added by No.
42 of 1911,
s. 3.

Provided also that no protector or inspector shall, without permission of the Commissioner, grant any permit to himself, or to any person who is his principal or agent, or by whom he is employed or whom he employs.

Provided also that no permit granted by the Commissioner shall be cancelled except by the Commissioner or the Minister.

Provided further, that any person aggrieved by the refusal to grant, or by a cancellation of a permit, may appeal to a magistrate in the magisterial district in which the permit was formerly exercised. Such appeal shall be in accordance with regulations, which may define the time for appealing and the procedure to be followed.

For the purpose of this proviso an application for a permit shall be deemed to have been refused unless it is granted within three months after the time when application is made for the permit to the Commissioner.

Inserted by
No. 43 of
1936, s. 14.

20. No permit shall be granted allowing any male native under the age of sixteen years or any female native to be employed on board of or in connection with any ship or boat.

Youths and females not allowed on ships.
See Q., 1902, No. 1, s. 10.
Amended by No. 42 of 1911, s. 6, and No. 43 of 1936, s. 15.
Formerly s. 19, 1913 reprint.

21. No permit shall be granted allowing any native 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.
Amended by No. 43 of 1936, s. 3.
Formerly s. 20, 1913 reprint.

22. Any person who without the authority in writing of a protector or inspector, or without the authority of a permit under this Act, permits or suffers any native to be upon or in any house, ship, boat, camp, or other place in his occupation shall be guilty of an offence under this Act:

Penalty for unlawfully employing or harbouring natives.
See Q., 1897, No. 17, s. 14; and Q., 1902, No. 1, s. 4.
Inserted by No. 42 of 1911, s. 7, and amended by No. 43 of 1936, s. 16.
Formerly s. 21, 1913 reprint.

Provided that this section shall not apply to any native who is a male person over twenty-one years of age who is of half blood or less than half blood descent from the original full blood inhabitants of Australia or from their full blood descendants, where such person does not live after the manner of the original full blood inhabitants or their full blood descendants.

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

Amended by
No. 43 of
1936, ss. 3
and 17.

Formerly s.
22, 1913 re-
print.

23. (1.) No agreement with a native for any service or employment shall be of any force or validity as against such native 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 native, 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 native;
- (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 native 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 native, or cause him to be conveyed, to the place or district to which he belongs, which shall be specified in the agreement.

(2.) Where a native 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 native 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 native, the person who last employed him conveyed him back to the place or district to which he belonged.

(3.) Provided that this section shall not apply to any male person over twenty-one years of age who is of half blood or less than half blood descent from the original

Inserted by
No. 45 of
1936, s. 17.

full blood inhabitants of Australia or from their full blood descendants, where such person does not live after the manner of the original full blood inhabitants or their full blood descendants.

24. 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.

Duplicate of agreement to be sent to protector.
Formerly s. 23, 1913 re-print.

25. Any justice of the peace, protector, or police officer who attests any agreement to which any native 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.

Penalty for false attestation.
See 50 Vict., No. 25, s. 18.
Amended by No. 43 of 1936, s. 3.
Formerly s. 24, 1913 re-print.

26. Any native 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 native.
55 Vict., No. 25, s. 2.
Amended by No. 43 of 1936, s. 3.
Formerly s. 25, 1913 re-print.

27. Any employer of a native 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.
Amended by No. 43 of 1936, s. 3.
Formerly s. 26, 1913 re-print.

28. Every native employed by any person shall be under the supervision of a protector or police officer.

Natives in employment to be subject to supervision.
See Q., 1897, No. 17, s. 16.
Amended by No. 43 of 1936, ss. 3 and 18.
Formerly s. 27, 1913 re-print.

Permit to be produced and access to be given.

See Q., 1897, No. 17, s. 16.

Amended by No. 43 of 1936, ss. 3 and 19.

Formerly s. 28, 1913 reprint.

29. Every employer shall—

- (1) produce to an inspector or a protector or police officer or officer appointed by the Commissioner on demand, the permit, or permit and agreement as the case may be, under which any native is employed; and
- (2) allow an inspector or a protector or police officer or officer appointed by the Commissioner to have access to any native employed, or to any house, ship, boat, or premises where such native may happen to be, at all reasonable times, for such inspection and inquiry as he may deem necessary.

Agreements may be cancelled.

Amended by No. 43 of 1936, s. 3.

Formerly s. 29, 1913 reprint.

30. 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 native, or to maintain any action in respect of any loss or damage occasioned thereby.

Leave of absence.

50 Vict., No. 25, s. 22.

Amended by No. 43 of 1936, s. 3.

Formerly s. 30, 1913 reprint.

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

- (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 native back to place agreed upon.

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

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

Amended by No. 43 of 1936, s. 3.

Formerly s. 31, 1913 reprint.

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

Any person convicted of such offence may be ordered, at his own expense, to convey such native 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 native, 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.

33. If a native 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 Commissioner notice in writing of such death under the hand of the employer, and containing such particulars as will enable the deceased to be identified.

Death of employed natives.
See Q., 1902, No. 1, s. 11.
Amended by No. 43 of 1936, s. 3.
Formerly s. 32, 1913 re-print.

34. The Commissioner may undertake the general care, protection, and management of the property of any native, and may—

Commissioner to manage property of natives.
Q., 1902, No. 1, s. 13.
Amended by No. 43 of 1936, s. 3.
Formerly s. 33, 1913 re-print.

- (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 a native, or damages for any conversion of or injury to any such property;
- (3) exercise in the name of a native any power which the native might exercise for his own benefit;
- (4) in the name and on behalf of a native, appoint any person to act as attorney or agent for any purpose connected with the property of the native;
- (5) require a statement in writing from any person who has had any contractual transaction or financial dealing or dealings in property with a native of any such transaction or dealing during the period of one year preceding such requisition:

Inserted by No. 43, of 1936, s. 20.

Provided that the powers conferred by this section shall not be exercised, except in the case of minors, without the consent of the native except so far as may be necessary to provide for the due preservation of such property.

Amended by No. 43 of 1936, s. 20.

Inserted by
No. 43 of
1936, s. 20.

Any person who fails to supply a statement when required by the Commissioner so to do, or who wilfully gives or supplies any false information in any such statement commits an offence against this Act.

The Commissioner 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.

Inserted by
No. 43 of
1936, s. 20.

The Commissioner may expend or apply any money in his possession or standing to the credit of any native for his maintenance, education, advancement or benefit.

Commissioner
may obtain
letters of ad-
ministration
with will
annexed.

35. (1.) The Commissioner may obtain letters of administration or letters of administration with the will annexed of the estate of any deceased native.

Compare
Queensland,
25 Geo. V,
No. 38, s. 26
(5).

New section
inserted by
No. 43 of
1936, s. 21.

(2.) Notwithstanding the provisions of any Act or law to the contrary regulating in the absence of a will any succession to and the administration of the estate of any deceased or missing native, all property and rights of property vested in any native other than a native exempted from the provisions of this Act who dies intestate shall vest in the Commissioner upon trust to pay the just debts of the deceased and to distribute the balance between the widow or husband of the deceased and/or the next of kin, if the same or some of them can be ascertained, according to the laws of the State, in accordance with and in the manner prescribed for the administration of the estates of persons dying intestate by the Administration Act, 1903, and if such widow, husband, and/or next of kin cannot be so ascertained, amongst those persons who may by regulation be prescribed as the persons entitled to succeed to the property of the deceased: Provided that, where there is no person entitled to succeed to such property under the regulations, the proceeds of the estate of the deceased shall be paid to a special trust account and be utilised by the Commissioner for the benefit of natives generally: Provided further, that a certificate under the hand of the Commissioner shall be conclusive evidence as to the person or persons entitled under the regulations to succeed to the estate of any deceased or missing native or that there is no such person or persons so entitled.

36. (1.) (a) Every holder of a permit to employ a native shall pay to the Commissioner as a contribution to a medical fund to be kept at the Treasury in the name of the Commissioner contributions on a prescribed scale.

Sickness and accident fund.

New section inserted by No. 43 of 1936, s. 21.

(b) Such fund shall, subject to the provisions of this section, be used to defray the medical and hospital expenses and the maintenance of natives who fall ill or become diseased or who suffer any injury or accident.

(2.) The holder of a permit shall as soon as possible notify in writing the nearest or most accessible protector when any native in his employ becomes sick or affected by any disease or suffers any injury.

(3.) Whenever any native is sick, affected by disease, or injured, and it is expedient in his interests that he should be removed to some place for medical attention or treatment, the holder of a permit under which he is employed shall as soon as is reasonably possible—

- (a) provide free transport for the native and send him to the nearest and most accessible hospital; or
- (b) at the option of a protector provide free transport for the native to the protector, and thence provide free transport for the native to the nearest and most accessible hospital.

(4.) The holder of a permit shall keep and use for the benefit of any native in his employ a reasonable supply of drugs, dressings, and instruments for rendering first aid.

(5.) The holder of a permit who complies with the provisions of this section shall not be under any liability for worker's compensation to an injured native in his employ or to the dependants of any such injured native under the provisions of the Workers' Compensation Act, 1912-1934.

37. (1.) Whenever a male child whose age does not exceed sixteen years or a female child whose age does not exceed eighteen years, and who in either case is the offspring of a native and some person other than a native is being maintained in a native 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 child.

See Q., 1902, No. 1, s. 19.

Amended by No. 43 of 1936, ss. 3 and 22.

Formerly s. 34, 1915 re-print.

(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 a reasonable sum for the confinement and hospital expenses of the mother and for the past maintenance of the child, not exceeding six months in the case of the child, and 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 evidence of the mother, unless her evidence is corroborated in some material particular.

(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 child shall be paid and expended as the Colonial Treasurer may direct.

38. (1.) Any native 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 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.

Native prisoners may be employed outside prison.

See 50 Vict., No. 25, s. 32.

Amended by No. 43 of 1936, s. 3.

(2.) Any native 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. 33.

Amended by No. 43 of 1936, ss. 3 and 23.

Formerly s. 35, 1913 re-print.

(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.

See 50 Vict., No. 25, s. 34.

39. 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 natives are camped or where any natives may be congregated or in the course of travelling in pursuance of any native custom.

Persons prohibited from frequenting camps.

Q., 1902, No. 1, s. 16.

Amended by No. 43 of 1936, ss. 3 and 24.

Formerly s. 26, 1913 re-print.

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.

40. If at any time he thinks it necessary so to do, a protector may cause any natives 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.

Removal of camps near townships.

See Q., 1902, No. 1, s. 17.

Amended by No. 43 of 1936, s. 3.

Formerly s. 37, 1913 re-print.

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

Justices may order natives out of town.

50 Vict. No. 25, s. 43.

Amended by No. 43 of 1936, s. 3.

Formerly s. 38, 1913 reprint.

41. Any justice of the peace or police officer may order any native found loitering in any town or municipal district, or being therein and not decently clothed, forthwith to leave such town or municipal district.

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

Prohibited areas.

Amended by No. 43 of 1936, s. 3.

Formerly s. 39, 1913 reprint.

42. The Governor may, by proclamation, whenever in the interest of the natives he thinks fit, declare any municipal district or town or any other place to be an area in which it shall be unlawful for natives, not in lawful employment, to be or remain; and every such native 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.

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

Amended by No. 43 of 1936, s. 3.

Formerly s. 40, 1913 reprint.

43. Any female native 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.

Forbidding female children to be brought to creeks used by pearlers.

Amended by No. 43 of 1936, s. 3.

Formerly s. 41, 1913 reprint.

44. Any native 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.

Amended by No. 43 of 1936, s. 25. For former provision see s. 42, 1913 reprint.

45. (1.) No marriage of a native according to the laws of the State shall be celebrated unless and until the prescribed notice in writing has been given to the Commissioner.

(2.) On receipt of any notification under the provisions of this section, the Commissioner may object to the marriage by notice in writing, to be given in the prescribed time and manner, on all or any of the following grounds:—

(a) that the marriage is inadvisable as being in contravention of tribal custom; or

- (b) that one of the parties is afflicted with any communicable or hereditary disease; or
- (c) that it is inadvisable that the marriage should take place owing to any gross disparity in the ages of the parties; or
- (d) that there are any other circumstances which render it advisable that the marriage should not take place.

Provided that any native who is aggrieved on account of any objection by the Commissioner under this section may appeal to a magistrate in the magisterial district in which he resides. Such appeal shall be in accordance with the regulations, which may prescribe the time for appealing and the procedure to be followed.

(3.) Any person who celebrates any marriage in respect of which the prescribed notice has not been given to the Commissioner, or which the Commissioner has objected to under the provisions of this section, or who falsely induces any native to believe that he is married, shall be guilty of an offence against this Act.

46. (1.) Any person (except a native)—

(a) who habitually lives with natives or with any native not his wife or her husband; or

(b) who cohabits with or has sexual intercourse with any native who is not his wife or her husband

shall be guilty of an offence against this Act, and shall be liable to imprisonment for a period not more than two years, or to a penalty not more than one hundred pounds.

Every person who is not a native and who without the permission in writing of a protector lives or resides with, either temporarily or continually, or who travels accompanied by a native of the opposite sex shall be presumed, in the absence of proof to the contrary, to be cohabiting with her or him, and it shall be presumed in the absence of proof to the contrary that she is not his wife or that he is not her husband.

(2.) Any person who persuades or solicits any native to cohabit with or have sexual intercourse with any person who is not a native, or who persuades or solicits any person who is not a native to cohabit with or have sexual intercourse with any native contrary to the provisions of

Offence of cohabiting with natives.

Amended by No. 43 of 1936, s. 26.

For former provision see s. 43, 1913 reprint.

this section commits an offence against this Act and shall be liable—

- (a) in the case of a first offence, to imprisonment for a period of not less than three months and not more than twelve months, or to a penalty not less than twenty-five pounds nor more than fifty pounds;
- (b) for a second offence, to imprisonment for a period not less than six months and not more than two years, or to a penalty not less than fifty pounds nor more than one hundred pounds.

(3.) All offences under this section shall be tried and determined by a Resident Magistrate.

(4.) No complaint shall be made under this section without the authority of the Commissioner.

Provided that an averment in the complaint that it is made with the authority of the Commissioner shall be deemed to be proved in the absence of proof to the contrary.

Added by No. 42 of 1911, s. 8.

Amended by No. 43 of 1936, s. 3.

Enticing aborigines from service.

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

Amended by No. 42 of 1911, s. 9, and No. 43 of 1936, s. 27.

Formerly s. 44, 1913 re-print.

47. Any person who entices or persuades a native to leave any lawful service without the consent of a protector shall be guilty of an offence against this Act.

Penalty for supplying liquor to natives.

Inserted by No. 42 of 1911, s. 10.

Amended by No. 43 of 1936, s. 3.

Formerly s. 45, 1913 re-print.

48. (1.) Any person who sells, supplies, or gives any fermented, spirituous, or other intoxicating liquor, in any quantity whatsoever, either alone or mixed with any other substance, or any opium, to any native shall be guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred pounds, or to any term of imprisonment not exceeding six months, or to both.

(2.) Any native who knowingly receives any such liquor or opium shall be guilty of an offence, and liable on summary conviction to a penalty not exceeding five pounds or to imprisonment not exceeding one month.

(3.) It is immaterial whether the liquor or opium was sold, supplied, or given to such native for himself or for any other person.

(4.) The minimum penalty, pecuniary or other, for an offence under this section shall be one-fifth the maximum, and such minimum penalty shall not be liable to reduction under any power of mitigation which would but for this subsection be possessed by the Court.

49. (1.) Any person being the holder of any license under the Licensing Act, 1911-1922, for the sale of spirituous or fermented liquors who shall permit or suffer any native not exempted from the provisions of this Act to remain in or loiter about his licensed premises shall be guilty of an offence against this Act.

Prohibition of natives on premises licensed for sale of liquor. New section inserted by No. 43 of 1936, s. 28.

(2.) Any native not exempted from the provisions of this Act who enters, remains on, or loiters about premises in respect of which any such license is held shall be guilty of an offence against this Act.

Provided that this section shall not apply to any native employed on the licensed premises under a permit granted by the Commissioner.

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

Prohibition against disposal of articles issued to natives. 50 Vict., No. 25, ss. 40, 41. Amended by No. 43 of 1936, s. 3. Formerly s. 46, 1913 reprint.

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

51. In every prosecution for an offence against this Act or the regulations, the averment in the complaint that any person referred to therein is a native shall be deemed to be proved in the absence of proof to the contrary.

Presumption of person being a native. Amended by No. 43 of 1936, s. 3. Formerly s. 52, 1913 reprint.

Facilitating
proof of age.
Amended by
No. 43 of
1936, s. 3.
Formerly s.
53, 1913 re-
print.

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

Actions for
recovery of
wages may be
brought in
name of pro-
tector.
Amended by
No. 43 of
1936, s. 3.
Formerly s.
52, 1913 re-
print.

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

Arrest with-
out warrant.
Amended by
No. 43 of
1936, s. 3.
Formerly s.
54, 1913 re-
print.

54. It shall be lawful to arrest without warrant any native who offends against any of the provisions of this Act.

Application
of provisions
of Child Wel-
fare Act.
Inserted by
No. 42 of
1911, s. 11.
Amended by
No. 43 of
1936, ss. 3
and 35.
Formerly s.
55a, 1913 re-
print.

55. The governing authority of a native institution shall have and may exercise, in respect of any native child sent to the institution, all the rights and powers conferred upon such governing authority in respect of wards under the provisions of the Child Welfare Act, 1907-1927.

Jurisdiction
of justices,
etc.
See Q., 1902,
No. 1, s. 18.

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.

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 neces-

sary 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 a native 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.

Services of
summons and
execution of
warrant
limited.

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

Amended by
No. 43 of
1936, s. 3.

58. Every person convicted of an offence against this Act shall, except as herein otherwise provided, be liable—

Penalties.

Amended by
No. 43 of
1936, s. 29.

- (a) in the case of a first offence, to imprisonment with or without hard labour for not exceeding six months or to a fine not exceeding fifty pounds;
- (b) in the case of a second offence, to imprisonment with or without hard labour for not exceeding twelve months or to a fine not exceeding one hundred pounds;
- (c) in the case of a third or subsequent offence, to imprisonment with or without hard labour for not exceeding two years or to a fine not exceeding two hundred pounds.

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.

Offences to be
prosecuted
summarily.

Amended by
No. 43 of
1936, s. 3.

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

Inserted by
No. 43 of
1936, s. 30.
Formerly s.
59a, 1913 re-
print.

60. (1.) No admission of guilt or confession before trial shall be sought or obtained from any native charged or suspected of any offence punishable by death or imprisonment in the first instance. If any such admission or confession is obtained it shall not be admissible or received in evidence.

No plea of
guilty to be
entered
except with
the approval
of a protec-
tor.

Inserted by
No. 42 of
1911, s. 12.

Amended by
No. 43 of
1936, s. 3.

(2.) Except as in the subsection next following provided no court, judge, magistrate, or justice of the peace shall accept or allow to be recorded or entered any plea of guilty when pleaded by or on behalf of a native to any indictment, complaint, or charge for or of any crime, misdemeanour, or offence, indictable or otherwise, preferred against such native; and in the event of a native pleading guilty to any such indictment, complaint or charge, the court, judge, magistrate, or justice before which or before whom the plea is pleaded, shall reject the same, and order a plea of not guilty to be recorded or entered, and thereupon the trial shall proceed as if the accused native had pleaded not guilty in the first instance, and no reference or comment shall be made or permitted during the course of the proceedings and trial to or upon the fact that the accused native originally pleaded to the indictment, complaint, or charge.

(3.) Notwithstanding the terms of the subsection last preceding, a plea of guilty by or on behalf of a native may, subject to a note in writing of the circumstances being made by the presiding judge, chairman, magistrate, or justice, be accepted and acted upon, provided the same is pleaded in the presence and hearing of a protector of natives, and that the protector satisfies the court, judge, magistrate, or justice before whom the plea is made that the accused native understands the nature of the accusation against him, and is aware of his right to trial, and without duress or pressure of any sort desires to plead guilty, and that the protector approves of such plea of guilty being pleaded.

(4.) No member of the police force, being a protector of natives, whose duties as a member of the police force connect him with the particular prosecution, shall be entitled to approve of or assent to any plea of guilty under subsection three of this section in such prosecution.

(5.) Any protector may, on behalf of a native indicted for or charged with any crime, misdemeanour, or offence, address the court or the jury, on behalf of the accused, and examine and cross-examine the witnesses.

61. (1.) Any native who having been at any time convicted of an offence under section three hundred and eighty-two or four hundred and fifty-two of the Criminal Code, is subsequently convicted of an offence under either of those sections and sentenced to imprisonment, may on the warrant of the Minister be released from his imprisonment, and conveyed into some part of the State defined in the warrant and prevented from passing outside the boundaries thereof during the Governor's pleasure or for such period as may be limited in that behalf by the warrant.

Power to remove certain convicted offenders from district.

Inserted by No. 42 of 1911, s. 12.

Amended by No. 43 of 1936, ss. 3 and 35.

Formerly s. 59b. 1913 reprint.

(2.) If the offender escape beyond the said boundaries he may at any time, and as often as necessary and without any additional warrant be arrested and taken back into such part of the State and compelled to remain therein in accordance with the said warrant.

62. Every person who is charged with assaulting a native shall be summarily tried by a stipendiary, police, or resident magistrate.

Charge of assaulting native to be dealt with summarily.

New section inserted by 43 of 1936, s. 31.

63. (1.) The Governor may by proclamation establish a court, to be called "a court of native affairs," in any district or districts, to be specified in such proclamation for the trial of any offence committed by a native against another native.

Establishment of native courts.

New section inserted by 43 of 1936, s. 31.

(2.) (a) Every such court shall be constituted by the Governor by commission in the prescribed form from time to time, as occasion requires.

(b) The court shall be constituted by a special magistrate, who shall be nominated by the Governor in the commission and who shall be chairman of the court, and the Commissioner or a protector nominated by the Commissioner.

(c) The court shall if practicable call to its assistance a headman of the tribe to which the accused person belongs.

(3.) Every such court shall have exclusive jurisdiction in connection with the trial of any native for any such offence and may, in considering any charge which is made against a native, take into account in mitigation of punishment any tribal custom which may be set up and proved as the reason for the commission of the offence.

(4.) Where it appears that any native has in pursuance of any tribal custom committed an offence against another native, then the court may, in the case of a charge which, under the Criminal Code, may involve punishment of death or imprisonment without the option of a fine for any period in excess of ten years, sentence the offender to any term of imprisonment not more than ten years with hard labour, or order that the offender be banished from his country and kept during the Governor's pleasure in prison or in some place reserved by the Governor for native prisoners under sentence of banishment. The proceedings of any such court shall be final and without appeal: Provided the wife of an accused native shall not be a compellable witness.

(5.) The Governor may make regulations prescribing the procedure to be followed by such courts in the trial of offenders.

64. (1.) Any wages due to or property known to belong to a native—

- (a) who absconds from service; or
- (b) who is deceased,

and any estate or other moneys to which a native is entitled, either as beneficiary or otherwise, shall forthwith be paid or delivered by the employer, trustee, debtor, or other person liable to pay or deliver the same to the Commissioner, and failure to do so shall be an offence against the Act.

(2.) The Commissioner may recover any such wages or property by action in his name in any court of competent jurisdiction.

(3.) On receipt of such wages or property the Commissioner shall, in the case of money, place the same to the credit of a special trust account, and where the property does not consist of money the Commissioner shall as soon as reasonably may be convert the same into money and place the same to the credit of such account.

(4) Subject to the provisions of this Act, the moneys placed to the credit of the said account as herein provided may in the case of a native who has absconded, and in the event of no claim for the money being made by the native within a period of three years, be applied by the Commissioner for the benefit of natives generally, and in the case of a native who has died intestate, shall be applied in accordance with regulations made under the provisions of section thirty-five.

65. Any person who defrauds any native by any artifice, trick, or misrepresentation shall be guilty of an offence against this Act.

Defrauding natives.
New section inserted by 43 of 1936, s. 31.

66. Whenever the Minister on the recommendation of the Commissioner is of the opinion that any tribal practice of the natives or any section of the natives in any district is injurious to the natives or any section of the natives, he may give all such instructions as in his opinion are calculated to minimise or stamp out the practice.

Minister may prohibit tribal practices in certain cases.
New section inserted by 43 of 1936, s. 31.

Any person who disobeys any instruction of the Minister under this section shall be guilty of an offence against this Act.

67. (1.) Any person who without a permit in writing from a protector supplies any native with or permits any native to have possession of any poison or noxious substance shall be guilty of an offence against this Act.

Penalty on supplying poison to natives.
New section inserted by No. 43 of 1936, s. 31.

(2.) A permit granted under this section may authorise any person to supply poison to a native or natives specified in the permit for a period not longer than six months from the date of the permit, or such shorter period as the protector thinks advisable, but a permit may be renewed by a protector in respect of any native or natives, provided that the period of renewal is never greater than six months.

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

Regulations.
See Q., 1897, No. 17, s. 31.
Amended by No. 43 of 1936, s. 3.
Formerly s. 60, 1913 reprint.

(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 natives:
- (d) Enabling any native child to be sent to and detained in a native institution, industrial school, or orphanage:
- (e) For the control, care, and education of natives in native institutions, and for the supervision of native institutions:
- (f) Prescribing the conditions on which any native children may be apprenticed to or placed in service with suitable persons:
- (g) Prescribing the conditions on which any native prisoner may be placed under the custody of any officer or servant of the State:
- (h) Regulating the payment of wages payable to natives under agreements:
- (i) Providing for contributions by natives whether in a native institution or elsewhere to a fund for the general welfare and relief of natives; and for the establishment, management, and control of such fund, including eligibility for and the amount of benefits therefrom and for the payment by natives for medical treatment and other relief, but so that no such regulation shall prevent any native inmate of such institution who is unable to pay for any such treatment or relief from obtaining same:
- (j) Providing for the control of natives residing upon a reserve, and for the inspection of natives employed under the provisions of this Act; and
- (k) For the maintenance of discipline and good order upon a reserve:
- (l) 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:

Amended by
No. 43 of
1936, s. 32.

Inserted by
No. 43 of
1936, s. 32.

- (m) Declaring any portion of the seaboard to be a place at which it shall be unlawful for any boat manned by persons of Asiatic race, and having a person of Asiatic race in charge thereof, to be or remain, and imposing a penalty on the person in charge of any such boat which is or remains in such place: Added by No. 42 of 1911, s. 13.
- (n) For exempting from the provisions of sections twenty-three, twenty-four, and twenty-five of this Act all or any agreements for service in any portion of the State defined in the regulation: Added by No. 42 of 1911, s. 13.
- (o) For the establishment of mission stations and the issue of permits to mission workers; Inserted by No. 43 of 1936, s. 32.
- (p) For all other purposes relating to the administration of this Act:
- (q) Prescribing the procedure to be followed in Courts of Native Affairs. Inserted by No. 43 of 1936, s. 32.

69. 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. Formerly s. 61, 1913 reprint.

70. Such regulations may impose for any breach thereof— Penalties. Amended by 43 of 1936, s. 33; formerly s. 62, 1913 reprint.

- (a) for a first offence, a fine not exceeding twenty pounds or imprisonment for any period not exceeding three months, or both;
- (b) for a second offence, a fine not exceeding fifty pounds or imprisonment not exceeding six months, or both.
- (c) for a third or subsequent offence, a fine not exceeding one hundred pounds or imprisonment for twelve months, or both.

71. The Minister may issue to any native who, in his opinion, ought not to be subject to this Act, a certificate in writing under his hand that such native is exempt from the provisions of this Act, and from and after the issue of such certificate such native shall be so exempt accordingly: Power to exempt certain natives from Act. See Q., 1897, No. 17, s. 33. Q., 1902, No. 1, s. 6. Amended by No. 43 of 1936, s. 3. Formerly s. 63, 1913 reprint.

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

Inserted by
No. 48 of
1936, s. 84.

Provided that any native who is aggrieved on account of the refusal by the Minister to grant such certificate, or of the revocation by the Minister of his certificate under this section may appeal to a magistrate in the magisterial district in which he resides. The magistrate may make such order regarding the issue or revocation of the certificate as in his opinion the justice of the case requires, and such order shall be given effect by the Minister. Such appeal shall be in accordance with the regulations, which may prescribe the time for appealing and the procedure to be followed.

Accounts and
audit.

Amended by
No. 42 of
1911, s. 14.
Formerly s.
64, 1913 re-
print.

Subsections
2-6 inserted
by No. 42 of
1911, s. 14.
Amended by
No. 43 of
1936, s. 8.

72. (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, in the manner prescribed by the Colonial Treasurer.

(2.) The Commissioner or such other officers as the Minister may appoint shall operate upon the trust account, in such manner as may be prescribed by the Colonial Treasurer.

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

(4.) Within sixty days after the close of each financial year the Minister shall cause a statement of receipts and payments for the year to be prepared, and such other statements as he may direct.

(5.) Within eighty days after the close of each financial year the Minister shall cause the statement of receipts and payments and other statements in connection with the accounts for the year to be submitted to the Auditor General for audit, and when so audited and reported upon by the Auditor General the same shall be published in the *Government Gazette*.

Amended by
No. 43 of
1936, s. 8.

(6.) The statement of receipts and payments and other statements as aforesaid, duly audited, together with a report by the Commissioner on the condition and welfare of the natives, and of the transactions of the department for the year, shall be laid before both Houses of Parliament within twenty-eight days after the audit is completed, if Parliament is then in session, and if not, then within twenty-eight 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 accounts of the department.

73. 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":

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

Formerly s. 65, 1913 reprint.

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.

Repeal.
Formerly s.
66, 1913 re-
print.

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

Section 73.

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 74.

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.