

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

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

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.

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.

Pen

59.

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.

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

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

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.

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