

# AUSTRALIAN CAPITAL TERRITORY.

No. 8 of 1954.

## AN ORDINANCE

### Relating to Aborigines.



**B**E it ordained by the Queen's Most Excellent Majesty, with the advice of the Federal Executive Council of the Commonwealth of Australia, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1947*, as follows:—

1. This Ordinance may be cited as the *Aborigines Welfare Ordinance 1954*.\* Short title and citation.
2. The Aborigines Protection Act, 1909, of the State of New South Wales shall cease to apply to the Territory. Repeal.
3. In this Ordinance, unless the contrary intention appears— Interpretation.
  - "aboriginal" means a person who is a full-blooded or half-caste aboriginal native of Australia and who is temporarily or permanently in the Territory;
  - "child" means an aboriginal under eighteen years of age;
  - "liquor" means any spirituous or fermented fluid capable of producing intoxication;
  - "reserve" means land declared in pursuance of this Ordinance to be a reserve for the use of aborigines;
  - "the Court" means the Court of Petty Sessions;
  - "the Territory" includes the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Territory Acceptance Act 1915*.
- 4.—(1.) The Minister may, by notice in the *Gazette*, delegate to any person or authority any of his powers and functions under this Ordinance and the regulations (except this power of delegation and the power conferred by paragraph (b) of subsection (1.) of the next succeeding section) in relation to a matter or class of matters. Delegation by Minister.
  - (2.) A power or function so delegated may be exercised or performed by the delegate with respect to the matter or to the matters included in the class of matters specified in the instrument of delegation.
  - (3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.

\* Notified in the *Commonwealth Gazette* on 16th February, 1954.

Powers of  
Minister.

5.—(1.) The Minister may, where he considers it necessary for the welfare of aborigines—

- (a) distribute blankets, clothing and relief to aborigines;
- (b) by notice in the *Gazette*, declare any unleased land belonging to the Commonwealth to be a reserve for the use of aborigines;
- (c) manage and regulate the use of reserves;
- (d) exercise a general supervision and care over all aborigines and over all matters affecting the interests and welfare of aborigines; and
- (e) on the application of a parent or guardian of a child admit the child to his control and provide for the maintenance, education and training of the child.

(2.) Where a person other than an aboriginal is residing on a reserve, the Minister may exercise such powers and functions with respect to the welfare of that person as he may exercise under the last preceding sub-section with respect to aborigines.

Reserves.

6.—(1.) The Minister may remove from a reserve a person who, in the opinion of the Minister, is guilty of any misconduct, or who, in the opinion of the Minister, should not be residing on, or be upon, the reserve.

(2.) A person shall not, without the consent of the Minister, return to a reserve after having been removed from that reserve in pursuance of this section.

Penalty: Twenty pounds or imprisonment for four weeks or both.

Removal to  
reserves, &c.

7.—(1.) The Minister may, if he is of opinion that an aboriginal or a person apparently having an admixture of aboriginal blood—

- (a) is living in insanitary or undesirable conditions; or
- (b) should be placed under control,

apply to the Court for an order directing the aboriginal or person to reside in a reserve or such other place as the Court directs.

(2.) On an application by the Minister under the last preceding sub-section the Court may, in its discretion, order the aboriginal or person to reside in the reserve or such other place as it directs.

(3.) Where an aboriginal or a person apparently having an admixture of aboriginal blood is temporarily resident in the Territory, the Minister may, if he is of opinion that the aboriginal or person—

- (a) is living in insanitary or undesirable conditions; or
- (b) should be placed under control,

apply to the Court for an order directing the aboriginal or person to return to the State or other place from which he came.

(4.) On an application by the Minister under the last preceding sub-section the Court may, in its discretion, order the aboriginal or person to return, within such time as the Court specifies in the order, to the State or other place from which he came.

(5.) Where an aboriginal or a person apparently having an admixture of aboriginal blood is named in an order made in pursuance of this section, he is, until that order is cancelled or he leaves the Territory, under the control of the Minister and he shall, during the pleasure of the Minister, remain at the place specified in the order.

(6.) An aboriginal or a person apparently having an admixture of aboriginal blood who is named in an order made in pursuance of this section shall not fail to comply with the order.

Penalty: Twenty pounds or imprisonment for four weeks or both.

8. A person shall not give, sell or supply, except in case of accident or on the prescription of a legally qualified medical practitioner, liquor to a person apparently having an admixture of aboriginal blood who resides on a reserve or to an aboriginal. Supply of liquor to aborigines.

Penalty: Twenty pounds or imprisonment for four weeks or both.

9.—(1.) Where an aboriginal is employed by another person and— Unfair treatment of aborigines.

(a) the Minister has reason to believe that the aboriginal is not receiving fair and proper treatment or is not being paid a reasonable wage; or

(b) the Minister is of opinion that the moral or physical well being of that aboriginal is likely to be impaired by continuance in that employment,

the Minister may, by notice in writing addressed to the person by whom the aboriginal is employed, terminate that employment.

(2.) A person to whom a notice is addressed by the Minister in pursuance of the last preceding sub-section shall not continue to employ the aboriginal or, without the consent of the Minister, again employ the aboriginal.

Penalty: Twenty pounds or imprisonment for four weeks or both.

10.—(1.) For the purposes of section seven of this Ordinance and the last preceding section, a member of the police force, or a person authorized in writing by the Minister, shall have access at all reasonable times to an aboriginal at any place in which he is residing or employed and may make such inspections and inquiries as that member or person thinks fit. Inspections and inquiries.

(2.) A person shall not refuse or neglect to afford all reasonable facilities to a member of the police force, or to a person authorized in writing by the Minister, for the performance of his duties under the last preceding sub-section.

Penalty: Twenty pounds or imprisonment for four weeks or both.

Payment of wages by employers.

**11.**—(1.) Where it appears to the Minister to be in the best interests of an aboriginal or the wife or the children of an aboriginal, the Minister may direct an employer of the aboriginal to pay the wages of the aboriginal to a person authorized in writing by the Minister.

(2.) The Minister or a person authorized in writing by the Minister may claim and receive from an employer of an aboriginal the amount of any wages directed by the Minister to be paid in accordance with directions given by him in pursuance of this section.

(3.) The wages paid in accordance with this section shall be expended by the Minister for the benefit of the aboriginal to whom they were due, his wife and his children.

(4.) An account shall be kept of the expenditure referred to in the last preceding sub-section.

(5.) All actions and other proceedings against a person for the recovery of wages due to an aboriginal who is, or has been, employed by that person or for any breach of an agreement made with an aboriginal by that person may be instituted by a person authorized in writing by the Minister.

Illegal possession of articles.

**12.**—(1.) An article issued by the Minister in pursuance of this Ordinance shall be deemed to be issued on loan.

(2.) A person not authorized by the Minister for that purpose shall not have in his possession or custody an article which reasonably appears to have been issued by the Minister in pursuance of this Ordinance.

Penalty: Twenty pounds or imprisonment for four weeks or both.

Proceedings.

**13.** A prosecution under this Ordinance or the regulations shall not be instituted except by a person authorized in writing by the Minister.

Proof.

**14.** In proceedings for an offence against this Ordinance, an averment in the information or complaint that a person named or referred to in the information or complaint is an aboriginal or a reference in the information or complaint to that person as an aboriginal is *prima facie* evidence of the truth of that averment or reference.

**15.** Where, in any proceedings before him, a Judge, magistrate or coroner considers that there is not sufficient evidence available to determine whether a person concerned in, or connected with, the proceedings—

- (a) is an aboriginal; or  
 (b) being an aboriginal, is a child,

the Judge, magistrate or coroner, having seen the person, may determine the question according to his own opinion.

**16.**—(1.) The Minister may, if he thinks fit, issue to an aboriginal or to a person apparently having an admixture of aboriginal blood a certificate exempting the aboriginal or person from such provisions of this Ordinance as are specified in that certificate.

Tribunal may determine whether person is aboriginal or not.  
 Exemption of certain persons from the provisions of Ordinance.

(2.) Upon the issue of a certificate in pursuance of the last preceding sub-section and while the certificate remains in force, the provisions specified in the certificate do not apply to or in respect of the aboriginal or person apparently having an admixture of aboriginal blood who is named in the certificate.

(3.) The Minister may at any time cancel a certificate issued under this section.

(4.) Upon being notified by the Minister of the cancellation of a certificate issued under this section, the person to whom the certificate was issued shall return the certificate to the Minister within such time as is specified in the notification.

Penalty: Ten pounds.

(5.) An aboriginal or a person apparently having an admixture of aboriginal blood who is exempt for the time being from provisions of the law of a State or Territory of the Commonwealth relating to the control of aborigines or persons apparently having an admixture of aboriginal blood is, while the exemption is in force, exempt from the provisions of this Ordinance corresponding to the provisions from which he is exempt in that State or Territory.

(6.) The Minister may at any time determine that the last preceding sub-section shall not apply to a person named in the determination and, upon that person being notified in writing by the Minister, that person shall be deemed to be a person to whom the sub-section does not apply so long as the determination remains in force.

**17.** The Minister may make regulations not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Ordinance and in particular for prescribing—

Regulations

- (a) for the care and custody of aborigines;

- (b) for the method of supply to aborigines and to other persons, when those other persons are residing on a reserve, of rations, blankets and other necessaries or any medical or other relief or assistance;
- (c) for the control of aborigines and other persons residing on a reserve;
- (d) for the maintenance of discipline and good order on a reserve;
- (e) for the allotment of land or premises on a reserve for occupation by an individual or by families; and
- (f) for penalties not exceeding Ten pounds for offences against the regulations.

Dated at Canberra this sixteenth day of February, 1954.

ELIZABETH R

By Her Majesty's Command,

W. S. KENT HUGHES  
Minister of State for the Interior.

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