

COMMONWEALTH OF AUSTRALIA.

*Departmental No. [269]*      ***Home and Territories Department,***

1st June, 1918.

*Executive Council No. [28.]*

**MINUTE PAPER FOR THE EXECUTIVE COUNCIL.**

SUBJECT.

**ABORIGINALS ORDINANCE 1918.**

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Recommended for the approval of his Excellency  
the Governor-General in Council that **assent by given to the  
attached Northern Territory Aboriginals Ordinance 1918.**

[P McM Glynn]

Approved in Council.  
[R C M Ferguson]  
*Governor-General.*

[12<sup>th</sup> June] 191[8]

Filed in the Records of  
the Council.

[George Steward]  
*Secretary to the Executive Council..*

THE NORTHERN TERRITORY OF AUSTRALIA

No. [9] of 1918.

**AN ORDINANCE**

**Relating to Aborigines.**

**B**E it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Northern Territory Acceptance Act* 1910 and the *Northern Territory (Administration) Act* 1910, as follows:-

PART I.- PRELIMINARY.

1. This Ordinance may be cited as the *Aborigines Ordinance* 1918. Short title.
2. This Ordinance is divided into Parts, as follows:- Parts
  - PART 1.-Preliminary.
  - PART 11.-Administration.
  - PART III.-Reserves and Institutions.
  - PART IV.-Employment of Aborigines.
  - PART V.-Firearms.
  - PART VI.-Miscellaneous.
3. In this Ordinance, unless the contrary intention appears— Definitions

“Aboriginal” means any person who is—

  - (a) an aboriginal native of Australia or of any of the islands adjacent or belonging thereto; or
  - (b) a half-caste who lives with an aboriginal native as wife or husband; or
  - (c) a half-caste, who, otherwise than as the wife or husband or husband of such an aboriginal native, habitually lives or associates with such aboriginal natives; or
  - (d) a half-caste male child whose age does not apparently exceed eighteen years; or
  - (e) a female half-caste not legally married to a person who is substantially of European origin or descent and living with her husband.

“Aboriginal Institution” means any mission station, reformatory, orphanage, school, home or other institution for the benefit, care or protection of the aboriginal or half-caste inhabitants of the Northern Territory, declared by the Administrator to be an aboriginal institution for the purposes of this Ordinance.

“Chief Protector” means the Chief Protector of Aborigines;

“Department” means the Staff under the control of the Chief Protector;

“District” means any portion of the Northern Territory declared by the Administrator to be a district for the purposes of this Ordinance;  
“Gun” includes any fire-arm from which any shot, bullet, or other missile can be discharged;  
“Half-caste” means any person who is the offspring of parents, one but not both of whom is an aboriginal and includes any person one of whose parents is a half-caste;  
“Justice” means a Justice of the Peace for the Northern Territory;  
“Police Officer” means any member of the Police Force;  
“Protector” means a Protector of Aboriginals appointed under this Ordinance and includes the Chief Protector;  
“Reserve” means a reserve declared by the Administrator to be a reserve for aboriginals for the purposes of this Ordinance;  
“Superintendent” means a superintendent of a reserve;  
“This Ordinance” includes any Regulations made thereunder.

PART II.—ADMINISTRATION

Chief  
Protector.

4.—(1.) There shall be a Chief Protector of Aboriginals, to be appointed by the Administrator, who shall under the Administrator be responsible for the administration and execution of this Ordinance.

(2.) The Administrator may from time to time appoint such persons as he deems proper to be Protectors of Aboriginals.

(3.) Each Protector shall have and exercise such powers and duties as are prescribed.

(4.) The Chief Protector may, in relation to any particular matters or class of matters, or to any particular district or part of the Northern Territory, by writing under his hand delegate all or any of his powers and functions under this Ordinance (except this power of delegation) so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters, or the district or part of the Northern Territory, specified in the instrument or delegation.

(5.) Every delegation under the last preceding sub-section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Chief Protector.

(6.) The officers holding office as Chief Protector and Protectors at the commencement of this Ordinance shall continue to hold office as if appointed under this Ordinance, until such time as a Chief Protector and Protectors are appointed under this Ordinance.

Duties of  
Protectors.

5.—(1.) It shall be the duty of the Chief Protector—

(a) to apportion, distribute, and apply, as seems most fit, under the direction of the Administrator, the moneys at his disposal for the purpose of carrying out this Ordinance;

(b) to distribute blankets, clothing, provisions, and other relief or assistance to the aboriginals;

- (c) to provide, as far as practicable, for the supply of food, medical attendance, medicines, and shelter for the sick, aged and infirm aboriginals;
- (d) to provide, when possible, for the custody, maintenance, and education of the children of aboriginals;
- (e) to manage and regulate the use of all reserves for aboriginals; and
- (f) to exercise a general supervision and care over all matters affecting the welfare of the aboriginals, and to protect them against immorality, injustice, imposition and fraud.

(2.) All blankets, bedding, clothing and other articles or property issued by or under direction of the Chief Protector to any aboriginal or aboriginals shall be and remain the property of the Commonwealth.

(3.) Any aboriginal who, without the permission of the Chief Protector, sells or otherwise disposes of any blanket or other article or property issued to him by the Chief Protector shall be guilty of an offence.

Penalty: Twenty pounds and the value of the articles; or imprisonment for three months.

(4.) Any person who, without the permission of a Protector, takes whether by purchase or otherwise, or is found in possession of, any blanket or other article or property issued by or under the direction of the Chief Protector shall be guilty of an offence against this Ordinance.

Penalty: Twenty pounds and the value of the articles; or imprisonment for three months.

6.—(1.) The Chief Protector shall be entitled at any time to undertake the care, custody, or control of any aboriginal or half-caste, if, in his opinion it is necessary or desirable in the interests of the aboriginal or half-caste for him to do so, and for that purpose may enter any premises where the aboriginal, or half-caste is or is supposed to be, and may take him into his custody.

Chief Protector to undertake care and control of aboriginals and half-castes.

(2.) Any person on whose premises any aboriginal or half-caste is, shall, on demand by the Chief Protector, or by anyone acting on behalf of the Chief protector on production of his authority, facilitate by all reasonable means in his power the taking into custody of the aboriginal or half-caste.

(3.) The powers of the Chief Protector under this section may be exercised whether the aboriginal or half-caste is under a contract of employment or not.

7.—(1.) The Chief Protector shall be the legal guardian of every aboriginal and of every half-caste child, notwithstanding that the child has a parent or other relative living, until the child attains the age of eighteen years, except while the child is a State child within the meaning of the Act of the State of South Australia in force in the Northern Territory entitled *The State Children Act 1895*, or any Act of that state or Ordinance amending or substituted for that Act.

Chief Protector be legal guardian of children.

(2.) Every Protector shall, within his district, be the local guardian of every such child within his district, and as such shall have and may exercise such powers and duties as are prescribed.

Districts.

**8.** For the purpose of this Ordinance the Northern Territory shall be divided into Town districts and Country Districts.

Administrator  
may proclaim  
districts.

**9.** The Administrator may, by notice in the *Gazette*—  
(a) declare any portion of the Northern Territory to be a town district or a country district, as the case may be, for the purpose of this Ordinance, and assign a name to each district;  
(b) alter the boundaries of any district; and  
(c) abolish any district.

**PART III.—RESERVES AND INSTITUTIONS.**

Reserves and  
Institutions.

**10.—(1.)** The Administrator may, by notice in the *Gazette*—  
(a) declare any Crown Lands to be a reserve for aboriginals;  
(b) alter the boundaries of any reserve; and  
(c) abolish any reserve.

2.) The Administrator may, in the manner and subject to the conditions prescribed by the Act of the State of South Australia entitled *The Northern Territory Crown Lands Act, 1890*, or by any Act of that State or Ordinance for the time being in force in that behalf, resume any leased Crown Lands for the purpose of declaring the same to be a reserve for aboriginals.

Prohibited  
areas.

**11.—(1.)** The Administrator may, by notice in the *Gazette*—  
(a) declare any place to be a prohibited area; or  
(b) declare that any prohibited area shall cease to be a prohibited area.

(2.) Any aboriginal, or half-caste, who is or remains within any prohibited area, except with the permission of a Protector issued in the prescribed form, shall be guilty of an offence against this Ordinance.

(3.) Any Protector or Police Officer may at any time remove any aboriginal or half-caste from a prohibited area.

Superintendent  
of Reserve

**12.** The Administrator may appoint such person as he deems proper to be the Superintendent of a reserve and may appoint such other officers of a reserve as he deems necessary.

Industrial  
Schools and  
Institutions

**13.—(1.)** The Administrator may, by notice in the *Gazette*, declare any mission station, reformatory, orphanage, school, home or other institution established by private contributions to be an aboriginal institution for the maintenance, custody, and care of aboriginal and half-caste children, and shall thereupon issue a licence to the institution.

(2.) Every such notice shall name some person as the Superintendent of the aboriginal institution.

(3.) The Administrator may by notice in the *Gazette* revoke any declaration made in pursuance of this section, and thereupon the institution shall cease to be an aboriginal institution, and the licence issued to it shall forthwith be returned to the Administrator for cancellation.

(4.) When from time to time the Superintendent of an aboriginal institution is changed the name of the new Superintendent shall be submitted to the Administrator for his approval.

(5.) Upon any change being made in the persons constituting the governing authority of an aboriginal institution, the particulars of the change shall be immediately notified to the Administrator.

(6.) Every aboriginal and half-caste child for the time being an inmate of any aboriginal institution shall be under the control and supervision of the Superintendent.

**14.—**(1.) The Administrator may grant to any aboriginal institution leases of any Crown Lands for any term not exceeding twenty-one years, at such rent and on such terms as he thinks fit.

Adminis-  
trator may  
grant leases  
of Crown  
Lands to  
aboriginal  
institution.

(2.) The lease may confer a right of renewal, providing it can be shown to the satisfaction of the Administrator that the lands therein described are required for and applied to the use and entirely for the benefit of aboriginals or half-castes, or both.

**15.—**(1.) A Protector may if he thinks fit give authority in writing to any person so desiring it for the removal of any aboriginal, or any female half-caste, or any half-caste male child under the age of eighteen years, from one district to another, or from any reserve or aboriginal institution to another reserve or aboriginal institution, or to any place beyond the Northern Territory, provided that before such authority is given the person enters into a recognizance, with such surety or sureties as the Protector approves, in a sum which the Protector considers sufficient to defray the expenses of the return of the aboriginal or half-caste to the place from which he is to be removed.

Removal  
from one  
district to  
another.

(2.) Every recognizance shall be in the prescribed form and shall be taken in duplicate by a Protector or Police Officer, who shall forthwith forward one part to the Chief Protector. A recognizance may be renewed from time to time at the discretion of the Protector.

(3.) The Protector may, in his discretion, dispense with the recognizance, in any particular case.

(4.) Any person who, without the authority in writing of a Protector, removes or causes to be removed any aboriginal or any female half-caste or any half-caste child under the age of eighteen years from one district to another, or to any place beyond the Northern Territory, shall be guilty of an offence against this Ordinance.

(5.) Sub-section 4.) of this section shall not apply to the removal by any parent of any child, of whatever age, of that parent.

Aboriginals  
may be  
removed to  
reserves.

**16.—**(1) The Chief Protector may cause any aboriginal or half-caste to be kept within the boundaries of any reserve or aboriginal institution or to be removed to and kept within the boundaries of any reserve or aboriginal institution, or to be removed from one reserve or aboriginal institution to another reserve or aboriginal institution, and to be kept therein.

(2.) Any aboriginal or half-caste who refuses to be removed or kept within the boundaries of any reserve or aboriginal institution when ordered by the Chief Protector, or resists removal, or who refuses to remain within or attempts to depart from any reserve or aboriginal institution to which he has been so removed, or within which he is being kept, shall be guilty of an offence against this Ordinance.

(3.) Sub-section (1) of this section shall not apply to any aboriginal or half-caste—

- (a) who is lawfully employed by any person ; or
- (b) who is the holder of a permit to be absent from the reserve or aboriginal institution in question ; or
- (c) who is a female lawfully married to and residing with a husband who is substantially of European origin or descent ; or
- (d) for whom, in the opinion of the Chief Protector, satisfactory provision is otherwise made.

Aboriginals  
camping in  
township.

**17.—**(1) If at any time he thinks it necessary to do so, a Protector may order and cause any aboriginals or half-castes who are camped, or are about to camp, within the limits of or near any municipality, town, township, public house, or wine and spirit store, to remove their camp or proposed camp to such distance from such municipality, town, township, public house or wine and spirit store, as he directs.

(2.) All Police Officers shall assist the Protector in carrying out the provisions of this section.

(3.) Any aboriginal or half-caste who refuses or fails to comply with any such order shall be guilty of an offence against this Ordinance.

Penalty : Imprisonment for three months.

Loitering in  
townships.

**18.—**(1) Any Justice, Protector or Police Officer may order any aboriginal or half-caste found loitering in any municipality, town, township, public house, or wine and spirit store, or being therein forthwith to leave, and may have him removed from the municipality, town, township, public house, or wine and spirit store.

(2.) An aboriginal or half-caste who refuses or fails to comply with any such order or refuses to be removed or resists removal from any municipality, town, township, public house, or wine and spirit store shall be guilty of an offence against this Ordinance.

Entering  
aboriginal  
reserve.

**19.** Any person (not being—

- (a) an aboriginal ; or
- (b) the Administrator ; or
- (c) the Chief Protector ; or

- (d) a Protector ; or
- (e) a Police officer ; or
- (f) an authorized officer)

who enters or remains on a reserve for aboriginals shall be guilty of an offence against this Ordinance, unless his action was authorized by a Protector or Police Officer, or was reasonably necessary for the protection of life or property.

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

- (a) the Administrator ; or
- (b) the Chief Protector ; or
- (c) a Protector ; or
- (d) the Superintendent of such reserve or institution ; or
- (e) a person authorized in that behalf by the Administrator or by a Protector, or by a Superintendent of a reserve on institution in question ; or
- (f) a person authorized in that behalf by or under the regulations,

shall be guilty of an offence against this Ordinance.

**21.—(1.)** Notwithstanding the provisions of any Act of the State of South Australia applying to the Northern Territory, or any Ordinance, the holder of a miner's right shall not without the written permit of a Protector, be entitled to enter, or remain, or be within the limits of any reserve.

(2.) The holder of a miner's right shall have the right to appeal to the Administrator against the refusal of a Protector to grant a permit in accordance with this section, or against the withdrawal of a permit as granted, and the Administrator may upon such an appeal confirm or reverse the decision of the Protector.

(3.) The holder of a miner's right, who without the written permit of a Protector (the proof whereof shall lie upon the person charged) enters or remains on any reserve for aboriginals shall be guilty of an offence against this Ordinance.

**PART IV.—EMPLOYMENT OF ABORIGINALS**

**22.—(1.)** A person shall not employ or continue to employ any aboriginal native or female half-caste unless he has a licence to employ aboriginals in the prescribed form for the time being in force.

Penalty : Twenty pounds or imprisonment for one month.

(2.) Nothing in this Ordinance shall be deemed to render unlawful the apprenticing of aboriginal or half-caste children in the manner and subject to the conditions prescribed.

**23.—(1.)** Any person desiring to obtain a licence to employ aboriginals may apply therefor to the Protector of the district within which, or nearest to which, the person resides.

Unlawfully removing or enticing aboriginal from reserve.

Mining not allowed on reserves.

Aboriginals not to be employed without licence.

Application for licence.



(2.) If the Protector is satisfied that the applicant is a fit person to be licensed, he may, upon payment of the prescribed fee, grant him a licence in the prescribed form.

(3.) If the application is refused, the applicant may appeal to the Chief Protector, who may, if he is satisfied that the applicant is a fit person to be licensed as aforesaid, and upon payment of the prescribed fee, grant to him a licence in the prescribed form, and shall in that case inform the Protector of the granting of the licence.

(4.) A licence to employ aboriginals may be granted entitling the grantee to employ male aboriginals only or female aboriginals only, or both male and female aboriginals.

(5.) No licence to employ aboriginals shall be granted to any male person of any Asiatic race or any race prohibited in that behalf by regulation.

Licence to be  
for one year.

**24.—**(1.) A licence to employ aboriginals shall be for a period of one year, but shall be subject to cancellation at any time by a Protector if he is satisfied that the holder is or has become an unfit person to employ aboriginals or has failed to comply with the Ordinance or the regulations thereunder.

(2.) A licence may be cancelled by serving on the holder a notice in writing cancelling the licence.

(3.) Any person whose licence has been cancelled by a Protector may, within one month of the date of cancellation, appeal in writing to the Chief Protector against the cancellation.

(4.) The Chief Protector may in his discretion refuse the appeal or allow the appeal and remove the cancellation or direct the issue to the applicant of a new licence.

(5.) The cancellation of a licence to employ aboriginals shall be deemed to cancel any agreement made between the holder of the licence and the aboriginals employed by him.

(6.) When a licence to employ aboriginals has been cancelled, the holder shall, on demand by a Protector or Police Officer, deliver up the licence to the Protector or Police Officer, and if he fails to do so without reasonable excuse, (proof whereof shall lie upon him), he shall be guilty of an offence against this Ordinance.

Penalty : Ten pounds.

(7.) Any person who knowingly makes use of or acts upon any cancelled licence as if it were in force, or knowingly represents any cancelled licence to be in force, shall be guilty of an offence against this Ordinance.

Penalty : Ten pounds.

Return of  
employees to  
be furnished.

**25.—**(1.) Every holder or past holder of a licence to employ aboriginals shall, within three months after the termination of each period of six months of the term for which the licence is granted, furnish a return in accordance with the prescribed form of the aboriginals employed by him.

(2.) Any holder or past holder of a licence to employ aboriginals who fails to make the return required by this section, or who wilfully makes an untrue return, shall be guilty of an offence against this Ordinance.

Penalty : Twenty-five pounds.

**26.—**(1.) Any person residing within any Town District, and desiring to employ any aboriginal within any Town District, shall, in addition to obtaining a licence to employ aboriginals, enter into an agreement with the aboriginal in the prescribed form.

Agreements  
with  
aboriginals

(2.) A copy of the agreement shall be lodged with the Chief Protector, who may at any time investigate any complaint as to any alleged breach of the agreement by the employer or the aboriginal.

**27.** Any employer or aboriginal who is guilty of a breach of an agreement made in pursuance of the last preceding section, shall be guilty of an offence against this Ordinance.

Breach of  
agreement.

Penalty: In the case of an employer, Twenty pounds ; and in the case of an aboriginal, forfeiture of wage and cancellation or suspension of permit to enter the Town District.

**28.** Any holder of a licence to employ male aboriginals only who employs any female aboriginal, or who suffers any female aboriginal to be upon or about his premises or camp, shall be guilty of an offence against this Ordinance.

Employ-  
ment of  
male or  
female  
aboriginals  
only

**29.—**(1.) Every employer shall—

(a.) produce to any Protector or Police officer, on demand, the licence or licence and agreement, as the case may be, under which any aboriginal or half-caste is employed by him ; and

Employer  
to produce  
licence.

(b.) allow any Protector or Police Officer, on demand, to have access at all reasonable times, to any aboriginal or half-caste employed by him, and to enter any house, ship, vessel, boat or premises where the aboriginal or half-caste is or is employed, for the purpose of inspection or inquiry.

(2.) Any employee who refuses or fails to comply with any demand made in pursuance of this section, or who obstructs any Protector in the exercise of any power conferred on him by this section, shall be guilty of an offence against this Ordinance.

**30.** If any aboriginal or half-caste employed on board of or in connexion with any ship, vessel or boat, dies or deserts his employment, all wages due to him up to the time of his death or desertion shall be paid to the Chief Protector at Darwin or to the nearest Protector at the port of discharge.

Employ-  
ment of  
aboriginals  
on ship..

**31.—**(1.) Any master of a ship, vessel or boat or any other person who neglects or refuses to convey, or to cause to be conveyed, any aboriginal or half-caste who has been a party to an agreement for

Neglect of  
master to  
convey  
aboriginal  
back to his  
place, or  
district.

employment with him, before the expiration of such agreement, to the place or district to which the aboriginal or half-caste belongs, shall be guilty of an offence against this Ordinance.

(2.) Any person convicted of an offence against this section may be ordered by the Magistrate, Justice, or Justices, at his own expense, to convey the aboriginal or half-caste back to the place or district to which he belongs, by such route as to the Magistrate, Justice, or Justices seems fit, or may be required to pay such sum as the Magistrates, Justice or Justices deem sufficient to pay for the conveyance of the aboriginal or half-caste to the place or district, and the sum shall, for all purposes, be and be deemed to be added to the penalty imposed for the offence so as to be recoverable as part thereof.

Employment on ships or boats.

**32.—**(1.) No male aboriginal or half-caste under the age of eighteen years and no female aboriginal or half-caste of whatever age shall be employed on or about any ship, vessel or boat, nor shall any person without the authority in writing of a Protector permit any such aboriginal or half-caste to be or remain upon his ship, vessel or boat.

(2.) No aboriginal or half-caste shall be employed on board of or about any ship, vessel or boat trading with or voyaging to any place outside the Northern Territory except with the consent of the Chief Protector :

Provided that this sub-section shall not apply to any ship, vessel or boat which is for the time being in the use of the British Imperial Government or of the Government of the Commonwealth of Australia or any State thereof.

Enticing to leave employment

**33.—**(1.) Any person who entices or persuades an aboriginal or half-caste to leave his lawful employment shall be guilty of an offence against this Ordinance.

(2.) In any prosecution for an offence against this section the averment of the prosecutor contained in the information or complaint that the defendant enticed or persuaded an aboriginal or half-caste to leave his lawful employment shall be deemed to be proved in the absence of proof to the contrary.

Death of aboriginal.

**34.** If an aboriginal or half-caste dies whilst in the service of any person, the person shall forthwith after his death, or, if the deceased was employed on any ship, vessel or boat, forthwith after the arrival of the vessel or boat at any port in the Northern Territory, transmit to the nearest Protector, if practicable, or if not, then to the Chief Protector, notice of the death in writing signed by the person, and containing such particulars as will enable the deceased to be identified ; and shall forward to the Protector or to the Chief protector any wages due to the deceased, and any money or property in the possession of the deceased at the time of his death.

#### PART V.—FIREARMS.

Licence to carry firearms.

**35.** A Protector may grant a licence in the prescribed form to any aboriginal to carry firearms, subject to such conditions and restrictions as are prescribed.

**36.—**(1.) A Protector or Police Officer may demand from an aboriginal carrying or using a gun the production of his licence to carry firearms.

Production of licence may be demanded.

(2.) A Protector or Police Officer may take from any aboriginal any gun found in his possession, if the aboriginal does not on demand produce a licence to carry firearms duly granted to him under this Ordinance and in force at the time.

(3.) Any aboriginal in possession of a gun who on demand being made by the Protector or Police Officer does not produce a licence to carry firearms duly granted to him under this Ordinance, and in force at the time, or does not permit the Protector or Police Officer to read the licence, shall be guilty of an offence.

Penalty : Imprisonment for two months.

**37.—**(1.) A Protector may at any time cancel a licence to carry firearms granted under this Ordinance to an aboriginal, if he deems the aboriginal an unfit person to carry a gun.

Licence may be cancelled.

(2.) Upon delivery to an aboriginal of a notice in writing cancelling his licence, the licence shall cease to be in force, and shall on demand be delivered by the aboriginal to a Protector or Police Officer.

(3.) An aboriginal, who refuses or fails to deliver upon demand a licence, notice of the cancellation of which has been delivered to him, shall be guilty of an offence against this Ordinance.

**38.** Any person who sells or delivers any gun to an aboriginal, unless the aboriginal has a licence in the prescribed form to carry firearms granted to him by a Protector, which is in force at the time of the sale or delivery, shall be guilty of an offence against this Ordinance.

Supplying firearms to aboriginals.

Penalty : Fifty pounds.

**39.** Any aboriginal who uses or carries a gun without having a licence in the prescribed form to carry firearms granted to him by a Protector, which is in force at the time of using or carrying the gun, shall be guilty of an offence against this Ordinance.

Aboriginal carrying firearms without licence.

**40.** Any Magistrate, Justice, or Justices may make such order as to the forfeiture or disposal of any gun found in the possession of any aboriginal contrary to this Ordinance as to him or them seems fit.

Forfeiture of gun.

**41.** This Part of this Ordinance shall not apply where—

Exemptions

- (a) an aboriginal is travelling under lawful employment and is not within two miles of any town or township, or any permanent dwelling house ; and
- (b) his employer has delivered the firearm to him only for purposes of protection ;

Provided that the exemptions allowed by this section shall not apply—

- (i) in the case of the aboriginal, unless upon coming within two miles of any town or township, or any permanent dwelling house, or as soon as practicable thereafter he delivers the firearm to his employer or his servant or to some Protector or Police Officer;
- (ii) in the case of the employer, unless the aboriginal so delivers the firearm, or in the case of his failure so to do, the employer as soon as practicable thereafter reports the failure to some Protector or Police Officer, and renders all assistance in his power to discover the whereabouts of the firearm.

Onus of proof.

42. In any prosecution under section thirty-eight or section thirty-nine the burden of proof that the aboriginal held as licence to carry firearms, which was in force at the time, shall lie on the defendant, and until the contrary is shown to the satisfaction of the Magistrate, Justice, or Justices, it shall be presumed that the aboriginal did not hold such licence.

PART VI.—MISCELLANEOUS

Chief Protector Curator of aboriginal's estates.

43.—(1.) The Chief Protector may undertake the general care, protection, and management of the property of any aboriginal or half-caste, and may—

- (a) take possession of, retain, sell, or dispose of and give a valid title to any of the property, whether real or personal;
- (b) in his own name sue for, recover, or receive any money or other property due or belonging to, or held in trust for the benefit of any aboriginal or half-caste, or damages for any conversion of or injury to any such property;
- (c) exercise, in the name of any aboriginal or half-caste, any power which the aboriginal or half-caste might exercise for his own benefit;
- (d) in the name and on behalf of the aboriginal or half-caste appoint any person to act as attorney or agent for any purpose connected with the property of the aboriginal or half-caste:

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

(2.) The Chief Protector shall keep proper records and accounts of all moneys and other properties and the proceeds thereof received or dealt with by him under the provisions of this section.

Contributions to maintenance of half-caste child.

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

(2.) On the return of the summons any two Justices may proceed to hear the matter of complaint, and if the paternity of the defendant and his ability to contribute towards the support are proved to the satisfaction of the Justices, they may order the defendant to pay such

weekly sum not exceeding fifteen shillings for the maintenance of the child as the Justices think fit :

Provided that no person shall be taken to be the father of the child unless the evidence of the mother is corroborated in some material particular.

(3.) Any two Justices, on the complaint of a father or of a Protector, while the first or any subsequent order continues in force, may made further inquiry into the father's ability to contribute under the order or orders in force, and may remit or lessen the amount of the weekly payment that has been adjudged by the last preceding order, or may increase it if they see cause to do so, but so that the amount shall not in any case exceed the weekly sum of fifteen shillings.

(4.) Whenever, after the making of an order in accordance with this section it is made to appear to any Justice, by a complaint in writing and upon oath, that any weekly sum or sums to be paid in pursuance of such order has or have not been paid, or that the father named in the order is about to leave the Territory or to remove from his usual place of residence, without having first notified his intention to the Protector for the district in which his usual place of residence is situated, or to the Chief Protector, or without having made due provision for the payment of the weekly sums, the Justice may, by warrant under his hand, cause the father to be brought before him or some other Justice to answer the complaint.

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

(6) Any person who, after an order to make provision for his half-caste child has been made against him under this section, removes or attempts to remove his usual place of residence, or leaves or attempts to leave the Northern Territory without having complied with the order, shall be guilty of an offence.

Penalty : One hundred pounds or imprisonment for six months.

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

**45.** —(1.) No marriage of a female aboriginal with any person other than an aboriginal shall be celebrated without the permission, in writing, of a Protector authorised by the Administrator to grant permission in such cases.

Marriage of  
female  
aboriginals.

(2.) Whenever a Protector grants permission, he shall, as soon as practicable, transmit a copy thereof to the Administrator.

(3.) If any such marriage is celebrated without the permission required by this section each of the parties to the marriage and the person who celebrated the marriage shall be guilty of an offence against this Ordinance.

Ill treatment of aboriginal and half-caste.

**46.**—(1.) Where any Protector or Police officer has reason to believe that any aboriginal or half-caste is not being treated properly by any person having the custody or control of the aboriginal (whether employer or otherwise) he may remove the aboriginal or half-caste from the custody or control of that person.

(2.) The Protector or Police Officer removing an aboriginal or half caste in pursuance of this section shall forthwith give notice in writing, to the person from whose custody or control the removal is made, of the reason of the removal, and shall report to the Chief Protector the fact of the removal and the reasons therefor.

(3.) The Chief Protector may, if he thinks that the aboriginal or half-caste was removed for insufficient cause, direct that the aboriginal or half-caste be returned to the custody or control of the person from whose custody or control he was removed.

Person having custody of aboriginal, half-caste to deliver up to Chief Protector on demand.

**47.** Any person having the custody or control of any aboriginal or half-caste or on whose premises any aboriginal or half-caste is living shall on demand in writing by the Chief Protector deliver the aboriginal or half-caste, or take all reasonable steps in his power to facilitate the delivery of the aboriginal or half-caste into the custody of the Chief Protector or into the custody of a Protector or Police officer authorized by the Chief Protector to receive the aboriginal or half-caste into his custody, and if he fails to do so he shall be guilty of an offence against this Ordinance.

No aboriginals, except employees to be on hotel premises.

**48.** No aboriginal or half-caste, except those employed by the Manager, shall visit or remain in or about any hotel or hotel premises within a Town District.

Penalty : Cancellation of permit to enter any Town District.

Selling or giving liquor or opium to aboriginal or half-caste.

**49.**—(1.) Any person who sells or gives any intoxicating liquor or opium to any aboriginal or half-caste shall be guilty of an offence against this Ordinance.

Penalty : Twenty pounds or imprisonment for three months for the first offence and imprisonment for twelve months for any subsequent offence.

(2.) This section shall not apply to a person selling or giving intoxicating liquor or opium for purely medical purposes, proof of which shall lie on the person charged.

Aboriginals camping grounds may be declared.

**50.**—(1.) The Administrator may, by notice in the *Gazette*, declare any place within a Town District to be a camping ground for aboriginals.

(2.) Any aboriginal camping within any Town District at any place other than a place declared by notice in the *Gazette* to be a camping ground for aboriginals, shall be guilty of an offence against this Ordinance.

**51.**—(1.) Any person other than a Superintendent, Protector, or a person acting under the direction of a Superintendent, or under the permission in writing of a Protector, who, without lawful excuse (proof whereof shall lie upon him) enters or remains, or is within or upon or within five chains of any place where aboriginals or female half-castes are camped, shall be guilty of an offence.

Frequenting camps prohibited.

Penalty : Twenty pounds.

(2.) a person shall not be prosecuted for an offence against this section except by or by the direction of a Protector.

(3.) For the purpose of this section any aboriginal or half-caste shall be deemed to be camped where he for the time being has his sleeping place.

**52.** Any aboriginal or half-caste who neglects or refuses to obey any order lawfully given under this Ordinance shall be guilty of an offence against this Ordinance.

Aboriginal neglecting or refusing to obey lawful orders.

**53.**—(1.) Any person (except an aboriginal or a half-caste not living with his wife) who—

Offence against females.

- (a) habitually consorts with a female aboriginal or half-caste ; or
- (b) keeps a female aboriginal or half-caste as his mistress ; or
- (c) unlawfully has carnal knowledge of a female aboriginal or half-caste,

shall be guilty of an offence.

Penalty : One hundred pounds or three months' imprisonment or both.

(2.) Where a person who has been convicted of an offence against this section is the holder of a licence to employ aboriginals, the Court shall, in addition to inflicting a penalty for the offence, order that the licence shall be cancelled.

(3.) In any proceedings against a person for an offence against paragraphs (a) or (b) of sub-section (1) of this section, the averment of the prosecutor contained in the information or complaint that the defendant habitually consorts with a female aboriginal or half-caste or keeps a female aboriginal or half-caste as his mistress (as the case may be) shall be deemed to be proved in the absence of proof to the contrary.

**54.** Any person who obstructs or hinders, or in any way refuses when called upon to assist any Protector, Superintendent, Police officer, or other person in the exercise or execution of any power or duty under this Ordinance shall be guilty of an offence.

Obstructing Officers.

Penalty : Fifty pounds.



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| Arrest.   | <p><b>55.</b> Any Protector or Police Officer may arrest without warrant any person whom he has just cause to suspect of having committed or being about to commit any offence against this Ordinance.</p>   |
| Service of summons.   | <p><b>56.</b> It shall not be obligatory upon any Protector or Police Officer, unless specially directed so to do by a Special Magistrate, to serve any summons upon, or to execute any warrant of arrest against, an aboriginal or half-caste in respect of any offence against this Ordinance beyond a distance of fifty miles from the place where such summons or warrant was issued.</p>  |
| Proceedings in certain cases in name of Protector.                            | <p><b>57.</b> Any action or other proceedings against any person for the recovery of wages due to an aboriginal or half-caste, who is or has been employed by that person, or for the breach of an agreement made with an aboriginal or half-caste, may be instituted and carried on by, or in the name of, any Protector authorized in that behalf by the Administrator.</p>  |
| Persons appearing on behalf of aboriginals.                                   | <p><b>58.</b> At the hearing of any proceedings in respect of an offence against this Ordinance, the Magistrate or Justices may permit any person to address him or them and examine and cross examine witnesses on behalf of any aboriginal or half-caste, and no aboriginal or half-caste shall be allowed to plead guilty except with the consent of a Protector.</p>   |
| Presumption as to person being an aboriginal.                                 | <p><b>59.</b> In any proceedings for an offence against this Ordinance, the allegation that any person named or referred to therein is an aboriginal or half-caste, or is of any sex of or under any age therein mentioned, or the reference in the information to the person as an aboriginal or half-caste, or as being of any sex or under any age therein mentioned, shall be sufficient evidence of the truth of the allegation or reference, unless the contrary is shown to the satisfaction of the Magistrate or Justice.</p>  |
| Tribunal may determine on an opinion whether aboriginal and as to sex or age. | <p><b>60.</b> In any legal proceedings or inquiry, whether under this Ordinance or otherwise, if the Court, Judge, Coroner, Magistrate, Justice, or Justices do not consider there is sufficient evidence to determine the question whether a person concerned in or in any way connected with the proceedings or inquiry is or is not an aboriginal or a half-caste, or whether, being or being determined to be an aboriginal or half-caste, the person is or is not of any specified sex, or is or is not of or under any specified age, the Court, Judge, Coroner, Magistrate, Justice, or Justices, having seen the person, may determine the question.</p> |
| Offences.   | <p><b>61.</b> Any person convicted of an offence against this Ordinance shall, where no other penalty is provided, be liable to a penalty not exceeding One hundred pounds, or to imprisonment with or without hard labour for any period not exceeding six months.</p>  |
| Aiding and abetting.  | <p><b>62.</b> Any person who aids, abets, counsels, or procures, or by act or omission is in any way, directly or indirectly, knowingly concerned.</p>   |

in, or party to, the commission of any offence against this Ordinance, shall be deemed to have committed that offence, and shall be punishable accordingly.

**63.**—(1.) If any person appears to a Protector or Police officer or to any other person acting under the authority of a Protector, to have committed an offence against this Ordinance, the Protector, Police Officer, or other person—

Supposed offender and vessel may be ordered to place of trial.

(a) may by order signed by him and delivered to the supposed offender, direct the supposed offender to proceed to a place mentioned in the order, being the nearest convenient place at which a Special Magistrate or a Justice may probably be found ; and

(b) may also, if he deems it necessary for the purpose of any contemplated proceedings in respect of the alleged offence, by order signed by him and delivered to the master or other person in charge of any ship, vessel, or boat to which the supposed offender belongs, or on or about which the alleged offence appears to have been committed, direct that the ship, vessel, or boat and the master or other person in charge thereof and all or any of the crew or passengers thereof, shall proceed to the place mentioned, in the said order delivered under paragraph (a) hereof ; and

(c) may, if he deems it necessary for the purposes aforesaid by the order delivered under paragraph (b) or by another order signed by him and delivered to the master or other person in charge, direct that the ship, vessel or boat be detained at the said place, or at any other place mentioned in the order, until the alleged offence has been adjudicated upon.

(2.) Any person who disobeys any direction in any order made and delivered in pursuance of this section shall be guilty of an offence against this Ordinance.

**64.**—(1.) All proceedings, in respect of offences against this Ordinance, shall be by information, and shall be heard and determined in a summary way before a Special Magistrate, or any Justice or Justices, under the Ordinance of the State of South Australia No. 6 of 1850 or any Act or Ordinance for the time being in force relating to the duties of Justices of the Peace as to summary proceedings.

Procedure for offences.

(2.) The Magistrates or Justice or Justices may make any order as to costs which he or they think fit.

(3.) All convictions and orders made by a Magistrate, or Justice or Justices may be enforced as provided by the said Ordinance or any Act or Ordinance.

**65.**—(1.) Subject to this Ordinance there shall be an appeal from the Special Magistrate or Justice or Justices with respect to any

Appeal to Local Court.

conviction under this Ordinance, or any order dismissing any information for an offence against this Ordinance or any other order made on any such information.

(2.) The appeal shall be made to the Local Court of Full Jurisdiction nearest to the place where the conviction or order was made.

(3.) Such appeal shall be regulated by the said Ordinance No.6 of 1850 and the Act of South Australia entitled *The Justices Procedure Amendment Act 1883-4*, or any other Act or Ordinance for the time being in force regulating appeals to Local Courts :

Provided that the Court on such appeal may make any order as to costs which it thinks fit, although such costs exceed Ten pounds.

Special case for  
opinion of  
Supreme Court.

**66.**—(1.) The Local Court may state a special case for the opinion of the Supreme Court.

(2.) The Supreme Court shall deal with such special case according to the practice of the Supreme Court on special cases, and may make such order therein, including any order as to costs of the proceedings in that Court, as to the said Supreme Court appears just.

Regulations.

**67.**—(1.) The Administrator may make regulations, not inconsistent with this Ordinance, prescribing all matters and things which by this Ordinance are required or permitted to be prescribed, or which may be necessary or convenient to be prescribed for the effectual carrying out of this Ordinance, and in particular—

- (a) prescribing the duties of Protectors and Superintendents, and other persons appointed or employed under this Ordinance ;
- (b) providing for the care, custody and education of the children of aboriginals and half-castes ;
- (c) enabling any aboriginal or half-caste child to be sent to and detained in an Aboriginal Institution or Industrial School ;
- (d) providing for the control, care and education of aboriginals or half-castes in aboriginal institutions and for the supervision of such institutions ;
- (e) providing for the control and prevention of communicable diseases amongst aboriginals or half-castes ;
- (f) prescribing the conditions on which aboriginal and half-caste children may be apprenticed to or placed in the service of suitable people ;
- (g) regulating the granting of licences to employ aboriginals, and the fees to be paid for such licences ;
- (h) prohibiting the granting of licences to employ aboriginals to persons of specified races ;
- (i) prescribing the conditions on which any aboriginal or half-caste prisoner may be placed under the custody of any officer or servant of the Territory and for the employment of aboriginal or half-caste prisoners undergoing sentences of imprisonment with or without hard labour ;

- (j) providing for the control of aboriginals or half-castes residing upon a reserve and for apportioning amongst them, or for their benefit, the net produce of their labour;
- (k) providing for the maintenance of discipline and good order upon a reserve ;
- (l) authorizing entry upon a reserve by specified persons or classes of persons for specified objects and the condition under which those persons may enter or remain on a reserve, and providing for the revocation of the authority;
- (m) regulating the granting of licences to carry firearms, and limiting the persons or classes of persons to whom licences may be granted ;
- (n) for the control of receipts and payment of money, the keeping of accounts and records, expenditure of money, and all matters pertaining to the accounts and records of the Chief Protector ;
- (o) regulating the exercise and discharge of all or any of the powers, duties and functions of the Chief Protector, and all officers appointed under this Ordinance ; and
- (p) prescribing penalties not exceeding for any one offence the sum of Fifty pounds, or imprisonment, with or without hard labour, for any term not exceeding three months, for any breach of any regulation.

(2.) All regulations made by the Administrator under this ordinance shall be notified in the *Gazette*, and copies thereof shall forthwith be forwarded to the Minister.

(3.) The Minister may by notice in the *Gazette* disallow any regulation and the regulation shall thereupon cease to have effect.

(4.) The regulations in force immediately prior to the passing of this Ordinance shall continue in force as if made under this Ordinance until such time as they are repealed by regulations made under this Ordinance.

**68.**—(1.) *The Aboriginals Ordinance* 1911 is hereby repealed.

Repeal.

(2) *The Northern Territory Aboriginals Act* 1910 of the State of South Australia shall cease to apply to the Northern Territory.

Dated the [twelfth] day of [June] 1918.

[RCM Ferguson]

Governor-General.

By His Excellency's Command.

[P McM Glynn]

Minister of State for Home and Territories.

COMMONWEALTH OF AUSTRALIA.

*Departmental No. [269]:*      ***Home and Territories Department,***

1st June, 1918.

*Executive Council No. [28.]*

**MINUTE PAPER FOR THE EXECUTIVE COUNCIL.**

SUBJECT.

**ABORIGINALS ORDINANCE 1918.**

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Recommended for the approval of his Excellency  
the Governor-General in Council that **assent by given to the  
attached Northern Territory Aboriginals Ordinance 1918.**

[P McM Glynn]

Approved in Council.  
[R C M Ferguson]  
*Governor-General.*

[12<sup>th</sup> June] 191[8]

Filed in the Records of  
the Council.

[George Steward]  
*Secretary to the Executive Council..*