

## NATIVE WELFARE.

3° Elizabeth II. No. LXIV.

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No. 64 of 1954.

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### **AN ACT to amend the Native Administration Act, 1905-1947.**

[Assented to 30th December, 1954.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Native Welfare Act, 1954*.

(2) In this Act the Native Administration Act, 1905-1947—

Act No. 14 of 1905 as reprinted with amendments to and including Act No. 4 of 1941 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, and further amended by Act No. 42 of 1947,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Native Welfare Act, 1905-1954.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. The long title to the principal Act is amended by substituting for the words, "better protection and care", the word, "welfare". Long title amended.

4. Section two of the principal Act is amended— S. 2 amended.

- (a) by substituting for the words, "and includes any" in line one of the interpretation, "Native institution", the indefinite article, "a";
- (b) by substituting for the word, "Affairs" in line two of the interpretation, "Commissioner" the word "Welfare";
- (c) by substituting for the word "Affairs" in line two of the interpretation, "Department" the word, "Welfare";
- (d) by deleting the interpretation, "District";
- (e) by deleting the interpretation, "Inspector";
- (f) by deleting the interpretation, "Minister";
- (g) by deleting the interpretation, "Police officer";
- (h) by deleting the interpretation, "Prescribed";
- (i) by deleting the interpretation, "Regulations"; and
- (j) by substituting for the capital letter, "R" in the word, "Reserve" in the interpretation, "Reserve" the small letter, "r".

S. 4  
amended.

5. Section four of the principal Act is amended by substituting for the word, "Affairs" in line two the word, "Welfare".

"Depart-  
ment" and  
"Protector."

6. The principal Act is amended by substituting for the small letter, "d" wherever it appears in the word, "department", the capital letter, "D", and by substituting for the small letter "p" wherever it appears in the word, "protector", the capital letter, "P".

S. 5  
amended.  
Cf. No. 8 of  
1925.

7. Section five of the principal Act is amended by substituting for the words, "Colonial Treasurer" in line one the words, "Treasurer of the State".

S. 6  
amended.

8. Section six of the principal Act is amended by—

- (a) substituting for the indefinite article, "a" in line one of paragraph (6) the word, "such";
- (b) inserting in paragraph (6) after the word "natives" the words, "as the Minister in his discretion considers most fit to assist in their economic and social assimilation by the community of the State"; and
- (c) substituting for the paragraph designations (1) to (6) both inclusive the paragraph designations, (a), (b), (c), (d), (e) and (f) respectively.

S 6A  
added.

9. The principal Act is amended by adding after section six the following section:—

Authority to  
acquire,  
improve, and  
dispose of  
land to  
natives.  
Cf. No. 13 of  
1943, N.S.W.,  
s. 3 (a).

6A. (1) The Minister,

- (a) may acquire land with or without improvements mentioned in paragraph (b) of this subsection, whether by purchase, exchange, lease, or otherwise, for the purpose of sale or lease in accordance with the provisions of this section;

- (b) may effect to or upon the land such improvements, including clearing, drainage, fencing, sowing, and the provision of live stock, machinery, houses, and buildings, and, until sold or leased, the maintenance and repair of the improvements including those already effected to or upon the land at the time of the acquisition, as the Minister thinks fit; and
- (c) may lease the land with the improvements to a native, at such rental for such term and upon such covenants and conditions as the Minister thinks fit; or
- (d) may sell the land with the improvements to a native
- (i) for cash; or
  - (ii) under contract of sale upon such terms and conditions as the Minister thinks fit, including, if the Minister thinks fit, a condition that upon payment by the purchaser of a sum specified in the contract in part payment of the purchase price and upon execution by the purchaser of such securities as the Minister thinks fit to secure the payment of the balance of the purchase price and interest on that balance remaining unpaid from time to time, at such rate as the Minister thinks fit, the Minister shall cause the fee simple in the land to be transferred or conveyed, and the ownership of such of the improvements as comprise live stock, machinery, or other chattels, to be vested in the purchaser, subject to the securities.

*Cf. No. 68  
of 1948.*

(2) The provisions of the Land Act, 1933, and the regulations under that Act, capable of being applied with or without adaptation for the purpose of giving effect to subsection (1) of this section, may be applied with or without adaptation for that purpose.

(3) Notwithstanding the provisions of subsection (2) of this section, the Governor may make such regulations as he thinks necessary or convenient for the purpose of giving effect to subsection (1) of this section.

10. Section seven of the principal Act is amended by—

S. 7  
amended.

- (a) adding before the words, "The Governor" in line one the figure, "1" in brackets thus—(1);
- (b) substituting for the word, "Affairs" in line two the word, "Welfare";
- (c) substituting for the word "districts" in line four the words, "parts of the State";
- (d) adding after the word, "them" in line five the words, "by the Minister";
- (e) adding after the word, "prescribed" in line six the words, "and the Governor may appoint such other persons to such other offices as he considers necessary or convenient for effectually carrying out the provisions of this Act";
- (f) adding before the words, "The Commissioner" in line seven the figure, "2" in brackets thus—(2);
- (g) deleting the words in lines ten to twenty-three both inclusive; and

(h) adding the following subsections:—

(3) (a) The Commissioner may, in relation to a matter or class of matter, delegate, in accordance with the regulations, all or any of his powers and functions under this Act, except this power of delegation, so that the powers and functions delegated may be exercised by the delegate in the whole or a part of the State in accordance with the delegation.

(b) A delegation under this subsection is revokable at the will of the Commissioner and does not prevent the exercise by the Commissioner or the Minister of their respective powers and functions under this Act.

(c) Where, by the provisions of this Act,

the exercise of a power, or the discharge of a function by the Commissioner; or

the effective operation of a provision of this Act,

is dependent

upon the Commissioner being of a certain state of mind, whether it be that he thinks certain matters fit, or is of a certain opinion, or is satisfied as to certain matters, or otherwise

and the Commissioner has, under this subsection, delegated the exercise of the power or the discharge of the function to a delegate, the delegate, if he is of that state of mind, may exercise the power or discharge the function, and the provision of the Act becomes effectively operative, as if his state of mind were that of the Commissioner.

(4) The occupant of the office under the Native Administration Act, 1905-1947, of Commissioner of Native Affairs when the Native Welfare Act, 1954, comes into operation becomes the occupant of the office of Commissioner of Native Welfare; and the occupants under the former Act of offices of inspector when the latter Act comes into operation become occupants of offices of Protector.

(5) The provisions of this section do not render the provisions of the Public Service Act, 1904, the Superannuation and Family Benefits Act, 1938, or the Government Employees (Promotions Appeal Board) Act, 1945, applicable to a person, if they did not apply to him on the coming into operation of the Native Welfare Act, 1954, nor affect the application of those provisions or any of them to him if they applied to him before the coming into operation of that Act.

S. 8  
amended

11. Section eight of the principal Act is amended by adding after the word, "years" in line four the words, "except while the child is a ward according to the interpretation given to that expression by section four of the Child Welfare Act, 1947; and the Commissioner may, from time to time direct what person is to have the custody of a native child of whom he is the legal guardian, and his direction has effect according to its tenor".

Cf. No. 66 of  
1947, as  
amended.  
S. 4.

S. 9  
amended.

12. Section nine of the principal Act is amended by—

- (a) deleting the words, "from one district to another, or" in line three; and
- (b) deleting the words in lines twenty to twenty-six both inclusive.