

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

but the powers conferred by this subsection shall not be exercised, except in the case of minors, without the consent of the native.

(2) A person who fails to supply a statement when required by the Commissioner to do so pursuant to paragraph (e) of subsection (1) of this section, or who wilfully gives or supplies any false information in any such statement, commits an offence against this Act.

(3) The Commissioner shall keep proper records and accounts of all moneys and other property, and the proceeds thereof, received and dealt with by him under the provisions of this section, and for such purpose shall be deemed to be a public accountant within the meaning of the Audit Act, 1904.

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

Establishment of "Natives' Trading Fund."

24. (1) For the purpose of enabling and assisting natives to engage in the production and sale of artifacts and any other articles, or to undertake, engage in and carry out any contract or other work when working as a group or by community effort for the benefit generally of that group or

community, the Minister may establish and cause to be kept in the Treasury an account to be called the "Natives' Trading Fund" which shall be controlled by the Commissioner and which may be administered and operated upon in such manner as from time to time the Treasurer approves and is hereby authorised to approve.

(2) The fund shall consist of—

- (a) all moneys received by or for the Commissioner in respect of the sale of artifacts and other articles acquired from natives;
- (b) all moneys received from the Treasurer under the authority of section twenty-five of this Act; and
- (c) any other moneys paid to the Commissioner for payment to the fund.

(3) The Commissioner shall cause to be kept proper records relating to operations on the fund in such manner and form as the Treasurer approves.

(4) Subject to this Act, the moneys in the fund shall be applied in payment to natives for artifacts and other articles, and in the purchase of materials to enable natives to produce for sale artifacts and other articles, and in the purchase of vehicles, plant, machinery and tools to enable natives working as a group or by community effort to undertake, engage in and carry out contract or other work.

25. (1) The Treasurer shall establish the Natives' Trading Fund by advancing from the Public Account and crediting to the fund such sum as the Governor approves and is hereby authorised to approve, and thereafter if at any time the moneys standing to the credit of the fund are insufficient for the purposes of section twenty-four of this Act, the Treasurer may with the approval of the Governor advance to the fund from the Public Account moneys sufficient for the time being to make up the deficiency.

Treasurer
to make
advances
to Fund.

(2) The amounts of any advances made under this section shall subsequently be repaid to the Treasurer from the fund by the Commissioner as and when moneys are available to make the repayment, and until so repaid are a charge on the fund.

(3) Any moneys in the fund until required for the purposes of section twenty-four of this Act may with the approval of the Minister be dealt with by the Commissioner in such manner as the Treasurer may authorise and is hereby empowered to authorise.

Distribution
of estate of
intestate
native.

26. (1) All property and rights of property vested in any native who dies intestate shall, notwithstanding the provisions of any Act or law to the contrary regulating in the absence of a will any succession to and the administration of the estate of any deceased or missing native, vest in the Public Trustee under and subject to the provisions of the Public Trustee Act, 1941, upon trust to pay the just debts of the deceased and to distribute the balance amongst the persons entitled thereto according to the laws of the State relating to the administration of estates of persons dying intestate, if any of the persons so entitled can be ascertained, otherwise amongst those persons who may by regulation be prescribed as the persons entitled to succeed to the property of the deceased.

(2) Where there is no person entitled to succeed to the property of the deceased native under the regulations, and no valid claim is made to the proceeds of the estate of the deceased within two years after the date of his death, the Governor may, on an application being made in that behalf and notwithstanding the provisions of any other Act, order that the whole or any part of the proceeds be paid in such proportions and manner and upon such terms and conditions to such person or persons having a moral but no legal or equitable claim thereto, to be held by that person or persons for his or their own use, as the Governor may in each case deem advisable; but where no such order is made,

the Public Trustee shall pay the proceeds of the estate to the Commissioner who may thereupon utilise such proceeds for the benefit of any native or for the benefit of natives generally.

(3) A certificate under the hand of the Commissioner shall be conclusive evidence as to the person or persons entitled under the regulations to succeed to the estate of any deceased or missing native or that there is no person so entitled.

(4) After an order is made by the Governor pursuant to the provisions of subsection (2) of this section, a person shall not make a claim against the Public Trustee, the Treasurer, the Commissioner, or any person in whose favour the order is made, for or in respect of the proceeds that are the subject of the order or any property from which those proceeds were obtained, and any such claim that the person may have against all or any of the persons referred to in this subsection shall be deemed on and from the date of the order to be extinguished and forever determined.

27. (1) In this section—

“employee” means a native who is employed as an employee, or who is engaged as an independent contractor, by an employer; and includes a native who ordinarily lives on the property of the employer and is wholly or partially dependent upon the earnings of the employee, or who would but for the receipt of a pension, be so dependent;

“employer” means a person who employs a native as an employee, or who engages a native as an independent contractor.

(2) Where an employee becomes sick, or affected by disease, or suffers an injury, his employer shall, as soon as possible after he becomes aware of the sickness, disease or injury, if it is expedient in the interest of the native that he be removed to a hospital for attention, provide free transport and send him to the nearest or most accessible hospital.

Duties of
employer
of sick or
injured
native
employee.

(3) Every employer shall keep and use for the benefit of his employees such drugs, dressings, and instruments for rendering first aid, as are prescribed by the regulations.

(4) The provisions of this section do not relieve an employer of any of his obligations under the Workers' Compensation Act, 1912.

**Presumption
of proof.**

28. (1) Where in a complaint made under the Justices Act, 1902, or in an indictment or information presented under the Criminal Code, 1913, for an offence, there is an averment that a person referred to in the complaint, indictment or information is a native, courts and persons acting judicially shall presume the averment proved in the absence of proof to the contrary.

(2) Where in a complaint made under the Justices Act, 1902, there is an averment that the complaint is made with the authority of the Commissioner, courts and persons acting judicially shall presume the averment proved in the absence of proof to the contrary.

Penalties.

29. Any person who commits an offence against this Act is, except as otherwise provided in this Act, liable upon conviction—

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

30. (1) All offences against this Act may be prosecuted in a summary way before any magistrate or, in his absence, any two justices of the peace.

Offences to be prosecuted summarily.

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

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

Admission of guilt before trial not admissible.

(2) Nothing in this section shall apply to natives living or domiciled in that portion of the State bounded on the north by the twenty-sixth parallel of south latitude reaching from the coast to the one hundred and twenty-third meridian of east longitude, thence by that meridian to the Southern Ocean.

32. Any officer of the Department or any representative, authorised by the Minister for the purpose, may on behalf of a native who is a party in any legal proceedings in any court, or who is indicted for or charged with any crime, misdemeanour or offence, address the court or the jury on behalf of the native, and examine and cross-examine witnesses.

Departmental officer or representative may address Court on natives' behalf.

33. (1) Any wages due to or property known to belong to a native who cannot be found, and any estate or other moneys to which a native is entitled, either as a beneficiary or otherwise, shall forthwith be paid or delivered by the employer, trustee, debtor, or other person liable to pay or deliver the same to the Commissioner, and failure to do so is an offence against this Act.

Payment of moneys to trust account for natives.

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

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

(4) Subject to the provisions of this Act, the moneys placed to the credit of the special trust account referred to in subsection (3) of this section may in the case of a native who cannot be found, and in the event of no claim for the money being made by the native within a period of three years, be applied by the Commissioner for the benefit of any native or for the benefit of natives generally.

Property of deceased native to be paid and delivered to executor or administrator.

34. (1) Any wages due to or property known to belong to a native who is deceased, and any estate or other moneys to which such native was entitled howsoever, shall forthwith, be paid or delivered by the employer, trustee, debtor or other person liable to pay or deliver the same to the executor of the will or the administrator of the estate of the deceased native, and failure to do so is an offence against this Act.

(2) The estate of the deceased native, if he died testate, shall be distributed in accordance with the terms of his will, and if he died intestate, shall be distributed in accordance with the provisions of section twenty-six of this Act.

Accounts of Department to be prepared and audited annually.

35. (1) A separate accounts of the moneys placed at the disposal of the Department shall be opened and kept at the Treasury as a Trust Account, in the manner prescribed by the Treasurer, and the Commissioner or such other officers as the Minister may

appoint from time to time shall operate upon that account, in such manner as the Treasurer may prescribe.

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

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

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

(5) The statement of receipts and payments and other statements, referred to in this section, duly audited, together with a report by the Commissioner on the condition and welfare of the natives, and of the transactions of the Department for the year, shall be laid before both Houses of Parliament within twenty-eight days after completion of the audit if Parliament is then in session, otherwise within twenty-eight days after the commencement of the session next following.

36. The Auditor General has and may exercise, with respect to the audit of accounts of the Department, all the powers that are conferred upon him by the Audit Act, 1904.

Powers of
Auditor
General.

37. (1) The Governor may make regulations prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

Regulations.

(2) Without limiting the generality of the powers conferred by subsection (1) of this section, the Governor may make regulations for or with respect to—

- (a) prescribing the duties of officers of the Department, representatives, managers, and any other persons employed to carry into effect the provisions of this Act;
- (b) prescribing the manner in which the Commissioner may delegate under subsection (1) of section fifteen of this Act, and the manner in which the delegation may be proved;
- (c) providing 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;
- (d) providing for the care, custody and education of the children of natives;
- (e) providing for the control, care and education of natives in native institutions, and for the supervision of native institutions;
- (f) regulating a fund for the general welfare and relief of natives; and for the establishment, management and control of that fund, including eligibility for and the amount and method of, payment of benefits from that fund;
- (g) regulating the use, management and control of the Natives' Trading Fund established under section twenty-four of this Act;
- (h) providing for the inspection of natives employed as employees or engaged as independent contractors, and their conditions of service;

- (i) providing for the control of reserves and the supervision of natives on reserves;
- (j) authorising entry upon a reserve by specified persons or classes of persons for specified objects, and the conditions under which those persons may enter or remain upon a reserve, and providing for the revocation of such authority in any case;
- (k) the establishment of mission stations and the issue of permits to mission workers;
- (l) prescribing fees payable for the purposes of this Act;
- (m) prescribing the form of recognisance referred to in section seventeen of this Act;
- (n) for all other purposes relating to the administration of this Act.

38. Regulations made pursuant to the powers conferred by section thirty-seven of this Act may impose for any breach thereof—

Penalties
for breach of
regulations.

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

THE SCHEDULE.

No. of Act.	Title of Act.	Extent of Repeal.
No. 14 of 1905	Aborigines Act, 1905	The whole.
No. 42 of 1911	Aborigines Act Amendment Act, 1911	The whole.
No. 43 of 1936	Aborigines Act Amendment Act, 1936	The whole.
No. 37 of 1940	Native Administration Act Amendment Act, 1940	The whole.
No. 4 of 1941	Native Administration Act Amendment Act, 1941	The whole.
No. 42 of 1947	Native Administration Act Amendment Act, 1947	The whole.
No. 60 of 1954	Native Administration Act Amendment Act, 1954	The whole.
No. 64 of 1954	Native Welfare Act, 1954	The whole.
No. 3 of 1960	Native Welfare Act Amendment Act 1960.	The whole.

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