

ABORIGINALS.

No. 16 of 1911.

AN ORDINANCE

Relating to Aboriginals.

[Notified in *Gazette*, 8th January, 1912.]

BE 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 :—

1. This Ordinance may be cited as the *Aboriginals Ordinance* Short title. 1911.

2.—(1.) This Ordinance shall be incorporated and read as one with the *Northern Territory Aboriginals Act 1910* ^(a), an Act of the State of South Australia in force in the Northern Territory as a law of that Territory. Incorporation

(2.) In this Ordinance the expression “the Act” has reference to the *Northern Territory Aboriginals Act 1910* as incorporated with this Ordinance.

3.—(1.) Without limiting or affecting any other powers conferred upon him by the Act, 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. General power of custody and control of aboriginals vested in Chief Protector.

(2.) The powers of the Chief Protector under this section and the two next succeeding sections may be exercised whether the aboriginal or half-caste is under a contract of employment or not.

(a) *Infra*, p. 465.

Delivery of control or custody of aboriginals or half-castes.

4. 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 shall be guilty of an offence against the Act.

Authority to police officer to take aboriginal or half-caste into his custody.

5.—(1.) The Chief Protector may by writing authorize any police officer to take into his custody any aboriginal or half-caste.

(2.) The police officer so authorized may enter any premises where the aboriginal or half-caste is or is supposed to be and may take him into his custody.

(3.) A police officer who has taken any aboriginal or half-caste into his custody in pursuance of this section shall deal with the aboriginal or half-caste in accordance with the instructions of the Chief Protector.

(4.) Any person on whose premises any aboriginal or half-caste is shall, on demand by a police officer acting under this section and on production of his authority, facilitate, by all reasonable means in his power, the police officer in taking the aboriginal or half-caste into his custody.

Removal of aboriginal or half-caste from control where not properly treated.

6.—(1.) Where any Protector or police officer has reason to believe that any aboriginal or half-caste is not being properly treated by any person having the custody or control of such aboriginal (whether as employer or otherwise), he may remove such aboriginal or half-caste from the custody or control of such 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 for the removal, and 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.

Unlawful entry on reserves.

7.—(1.) Any person (not being an aboriginal, a Protector, a police officer, or an authorized official) who enters or remains on a reserve for aboriginals shall be guilty of an offence, unless his action was authorized by a Protector or a police officer, or was reasonably necessary for the protection of life or property.

(2.) In any prosecution under this section, proof that his action was authorized or reasonably necessary shall lie on the defendant.

8.—(1.) A licence to employ aboriginals shall be for a period of one year, and may be renewed from time to time for a further period of one year, but shall be subject to be cancelled 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 Act or regulations. Cancellation of licences.

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

(3.) When a licence 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 the Act and shall be liable to a penalty not exceeding Ten pounds.

(4.) 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 the Act and shall be liable to a penalty not exceeding Ten pounds.

(5.) Any person whose licence has been cancelled by a Protector may, within one month from the date of cancellation, appeal in writing to the Chief Protector, and in the event of any appeal being made the Chief Protector may, in his discretion, refuse the appeal or allow the appeal and remove the cancellation or direct the issue to the appellant of a new licence.

9.—(1.) The Administrator may by proclamation published in the *Gazette*— Prohibited areas.

(a) declare any place to be a prohibited area ; or

(b) declare that any prohibited area shall cease to be a prohibited area.

(2.) It shall not be lawful for any aboriginal or half-caste to be or remain within any prohibited area, unless with the express permission of a Protector or police officer.

(3.) Any person who, without authority (proof whereof shall lie upon him), induces any aboriginal or half-caste to come within any prohibited area, or suffers any aboriginal or half-caste to be on his premises in a prohibited area, or conceals or harbors any aboriginal or half-caste within a prohibited area, shall be guilty of an offence against the Act.

(4.) Any Protector or police officer may at any time remove any aboriginal or half-caste from a prohibited area.

10. Sections twenty-five and forty-five of the *Northern Territory Aboriginals Act* 1910 are hereby repealed. Repeal of ss. 25 and 45 of the Act.

11.—(1.) The Regulations set out in the Schedule to this Ordinance shall have effect as regulations under the Act, but may be altered or repealed by regulations made in pursuance of the Act.

(2.) The Regulations made under the Act and published in the *Gazette* on the 16th day of September, 1911, are repealed save as to anything lawfully done thereunder.

THE SCHEDULE.

REGULATIONS FOR THE LICENSING OF PERSONS TO EMPLOY ABORIGINALS IN THE NORTHERN TERRITORY.

Application for Licence.

1. (1) Every person who desires to obtain a licence to employ aboriginals may make application in writing to a Protector of Aboriginals for a licence.

(2) The application must set out—

(a) The name in full, place of residence and occupation of the applicant;

(b) The nature of the employment in which aboriginals are proposed to be employed; and

(c) The conditions of employment and the remuneration to be given.

(3) The applicant must forward with the application a certificate, in writing, by a police officer, police constable, mining warden, justice of the peace, or Government officer that he knows the applicant, and that he is a fit and proper person to be licensed to employ aboriginals:

Provided that the Chief Protector may dispense with the certificate in cases where he is satisfied that no person is available to grant such certificate, and he is satisfied by such evidence as he thinks fit to accept that the applicant is a fit and proper person to be so licensed.

(4) The application may be forwarded to the Chief Protector or to the nearest Protector, or to any police officer authorized by the Chief Protector to receive applications for licences.

Remuneration and Conditions.

2. A Protector may refuse to grant any licence unless he is satisfied that the remuneration and conditions of employment are reasonable and just.

Form of Licence.

3. A licence to employ aboriginals shall be in accordance with the following form:—

THE NORTHERN TERRITORY OF AUSTRALIA.

The Northern Territory Aboriginals Act 1910.

The Aboriginals Ordinance 1911.

Licence to Employ Aboriginals.

WHEREAS (*here insert name and address and occupation of licensee*) has applied to me for a licence to employ aboriginals, and I am satisfied that he is a fit and proper person to be so licensed:

Now therefore, in pursuance of the *Northern Territory Aboriginals Act 1910*, the *Aboriginals Ordinance 1911*, and the regulations thereunder, I, the undersigned Protector of Aboriginals, do hereby license the said _____ to employ aboriginals within the Northern Territory of Australia:

This licence shall remain in force for one year from the date thereof, but may be cancelled at any time by a Protector of Aboriginals, by notice in writing, if he deems the licensee to be an unfit person to be so licensed or that the licensee has failed to comply with the Act or regulations.

This licence is granted under and subject to compliance on the part of the licensee with the said Act and the regulations for the time being in force thereunder, and may, subject to the regulations, be renewed from time to time by indorsement thereon for a further period of one year.

Dated the day of One thousand nine hundred and

.....
Protector of Aboriginals.

Endorsements.

Endorsements of Licence.

Renewed for a further period of one year from
to

.....
Protector of Aboriginals

Renewed for a further period of one year from
to

.....
Protector of Aboriginals.

Application for Renewal of Licence.

4. Every licensee who desires to have his licence renewed must, before the expiration of his licence, forward it to a Protector of Aboriginals with a request, in writing, for its renewal.

Power to Renew Licence.

5. The Protector may, if he thinks fit, from time to time, renew any licence to employ aboriginals for a further period of one year.

Time within which Renewal may be Granted.

6. The renewal may be granted at any time within one month before the expiry of the licence, or one month after the expiry thereof, but not later, and shall in each case be dated as from the day immediately following the date of the expiry of the licence.

Wages to be Paid in Money.

7. (1) Where a contract of employment provides for any wages being paid to an aboriginal in respect of his employment the wages so payable shall be paid in money, and if a Protector so directs shall, instead of being paid personally to the aboriginal, be paid to the Protector who so directs or to any person nominated by him.

(2) No deduction shall, without approval of the Protector, be made from the amount of wages payable to any aboriginal on account of goods supplied to the aboriginal, or on any other account or ground whatsoever.

Licensee to Furnish Return.

8. The holder of a licence to employ aboriginals shall, whenever a Protector by a general or special notice requires, furnish a report, in writing, to such Protector specifying—

- (a) The names of all aboriginals employed by him in pursuance of the licence;
- (b) The work on which the aboriginals were employed; and
- (c) The remuneration actually given to each aboriginal in respect of his employment or the amount of wages actually paid, and the amount of wages owing to each aboriginal in respect of his employment.

Cancellation of Licence.

9. (1) If a Protector has reason to believe that the holder of a licence to employ aboriginals is not a fit person to be so licensed, or has failed to comply with any condition of the licence, he may, by notice in writing, call upon the licensee to show cause, within such time as the Protector thinks fit to allow, why his licence should not be cancelled.

(2) If within the time allowed, or such further time as the Protector thinks fit to grant, the licensee fails to show cause why the licence should not be cancelled, or the Protector is not satisfied with the cause shown, he may by notice, in writing, cancel the licence.

(3) Nothing in this regulation shall take away or lessen the power of a Protector, under the *Aboriginals Ordinance 1911*, to cancel a licence at any time without first calling on the holder to show cause why it should not be cancelled.

PART I.—NORTHERN TERRITORY—

Form of Notice of Cancellation of a Licence

10. The notice by a Protector of the cancellation of a licence may be in accordance with the following form :—

THE NORTHERN TERRITORY OF AUSTRALIA.

Notice of Cancellation of Licence to Employ Aboriginals.

To

.....

.....

Whereas I am satisfied that (*here insert*, “ You are an unfit person to be licensed under the *Northern Territory Aboriginals Act 1910* to employ aboriginals” or “ You have failed to comply with the conditions of your licence to employ aboriginals”):

Now therefore I do hereby cancel your licence under the said Act to employ aboriginals as from the date of the delivery to you of this notice :

And I require you upon demand by a Protector or a police officer to deliver the licence hereby cancelled to him :

And I warn you that in default of compliance with this requirement you will be guilty of an offence against the said Act, and liable to a penalty not exceeding Ten pounds.

Dated the day of 19

Protector of Aboriginals.

Dated this 5th day of January, One thousand nine hundred and twelve.

DENMAN,
Governor-General.

By His Excellency's Command.

JOSIAH THOMAS,
Minister of State for External Affairs.

Ordinances [electronic resource]

Corporate Author: Northern Territory

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