

**ABORIGINES ACT.**

**New South Wales**



ANNO OCTAVO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 7, 1969.**

An Act to make provisions with respect to matters concerning Aborigines; to repeal the Aborigines Protection Act, 1909, and certain other Acts; to amend the Attachment of Wages Limitation Act, 1957; and for purposes connected therewith. [Assented to, 20th March, 1969.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Aborigines Act, 1969".

Short title,  
citation  
and com-  
mencement.  
(2)

No. 7, 1969

(2) The provisions of this Act shall commence upon such day or days as may be appointed and notified under subsection three of this section.

(3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any provision of this Act specified in the proclamation shall commence and may appoint different days for different provisions, and the provision specified in the proclamation shall commence accordingly.

Interpretation.

2. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Aboriginal” means a person who is a descendant of an aboriginal native of Australia; and “Aborigines” has a corresponding meaning;

“appointed day” means the day on which section three of this Act commences;

“Australia” means the area comprised within the States of the Commonwealth of Australia, the Australian Capital Territory and the Northern Territory;

“Board” means the Aborigines Welfare Board constituted under the Acts repealed by this Act;

“building” includes any structure and any part thereof;

“Council” means the Aborigines Advisory Council constituted under this Act;

“descendant” includes a person who, but for his illegitimacy or that of an ancestor, would be a descendant;

“Director” means the Director of Aboriginal Welfare appointed under section five of this Act;

“land” includes any estate or interest in land;

“member” means a member of the Council;

“prescribed” means prescribed by this Act or the regulations;

“regulations” means regulations made under this Act;

“reserve”

*Aborigines.*

“reserve” means an area of land that is land reserved under the Crown Lands Acts for the use of Aborigines; **No. 7, 1969**

“the corporation” means the corporation sole constituted by section six of this Act.

(2) In this Act, section twenty-four and the Schedule excepted, a reference to an Act includes all amendments of that Act, whether by subsequent Acts or otherwise, and an Act passed in substitution for the Act referred to, or incorporating any of its provisions.

3. The Acts specified in the Schedule to this Act are hereby repealed.

4. The Board is hereby dissolved and a person who, immediately before the appointed day, held office as a member of the Board shall, on and from that day, cease to hold that office.

5. The Governor may, under and subject to the Public Service Act, 1902, appoint and employ a Director of Aboriginal Welfare and such other officers and employees as may be necessary for bringing into operation, and administering, this Act.

6. (1) There is hereby constituted under the corporate name of “The Minister, Aborigines Act, 1969” a corporation sole which shall represent the Crown and shall be for the time being administering this Act.

(2) The corporation constituted by subsection one of this section shall have perpetual succession and an official seal and shall be capable in its corporate name of suing and being sued and, subject to this Act, of purchasing, holding, granting, demising,

*Aborigines.*

**No. 7, 1969** demising, disposing of and alienating real and personal property and doing and suffering all such other things as a body corporate may by law do and suffer.

(3) The official seal of the corporation constituted by subsection one of this section shall not be affixed to any instrument or writing except in the presence of the Minister in person, and he shall attest by his signature the fact and date of the official seal being so affixed.

Transfer  
of assets,  
liabilities,  
&c., of the  
Board.

**7.** (1) Subject to this Act, on and from the appointed day—

- (a) all lands (other than reserves within the meaning of this Act) that, immediately before that day, were vested in the Board shall be divested from the Board and, to the extent that they were vested in the Board, shall vest in the corporation;
- (b) all reserves shall, to the extent that, immediately before that day, they were vested in the Board, be divested from the Board and shall be Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, reserved from sale or lease generally for the use of Aborigines, and all leases of reserves (being reserves within the meaning of the Acts repealed by this Act) granted by the Board and in force immediately before that day shall be deemed to be leases granted by the corporation under the powers conferred upon it by this Act;
- (c) all personal property and all right and interest therein, and all management and control of any land or thing that, immediately before that day, was or were vested in or belonged to the Board shall vest in and belong to the corporation;
- (d) all moneys, or liquidated or unliquidated claims that, immediately before that day, were payable to or recoverable by the Board shall be moneys, liquidated and unliquidated claims payable to or recoverable by the corporation;

(e)

*Aborigines.*

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- (e) all suits, actions and proceedings pending, No. 7, 1969  
immediately before that day, at the suit of the Board  
or against the Board at the suit of any person shall  
respectively be suits, actions and proceedings  
pending at the suit of the corporation, or at the suit  
of that other person against the corporation ;
- (f) all contracts, agreements and undertakings entered  
into with the Board and in force immediately before  
that day, and all securities lawfully given to or by  
the Board and so in force shall respectively be  
deemed to be contracts, agreements and under-  
takings entered into with, and securities lawfully  
given to or by, the corporation ;
- (g) the corporation may, in addition to pursuing any  
other remedies, or exercising any other powers,  
that may be available to it, pursue the same remedies  
for the recovery of moneys and claims referred to  
in this subsection, and for the prosecution of suits,  
actions and proceedings so referred to, as the Board  
might have done but for the repeals effected by this  
Act ;
- (h) the corporation may enforce and realise any security  
or charge existing, immediately before that day, in  
favour of the Board, and may exercise any powers  
thereby conferred on the Board, as if the security  
or charge were a security or charge in favour of the  
corporation ;
- (i) all debts, moneys and claims, liquidated or unliqui-  
dated, that, immediately before that day were due  
or payable by or recoverable against, the Board  
shall be debts due and moneys payable by, and  
claims recoverable against, the corporation ;
- (j) all liquidated and unliquidated claims for which the  
Board would, but for the repeals effected by this  
Act, have been liable shall be liquidated and  
unliquidated claims for which the corporation shall  
be liable;
- (k)

*Aborigines.*No. 7, 1969

- (k) all wards under the Acts repealed by this Act shall be wards admitted to State control by the Minister for the time being administering the Child Welfare Act, 1939;
- (l) a ward under the Acts repealed by this Act who, immediately before that day, was a ward placed-out, or placed as an adopted boarder, with a foster-parent under those Acts shall be a ward boarded-out or, as the case may require, placed as an adopted boarder, with that foster-parent under the Child Welfare Act, 1939;
- (m) a ward under the Acts repealed by this Act who, immediately before that day was a ward placed for employment with an employer under the Acts repealed by this Act shall be a ward placed-out with that employer under the Child Welfare Act, 1939;
- (n) an agreement relating to a ward under the Acts repealed by this Act, being an agreement entered into under those Acts and in force immediately before that day, shall be an agreement entered into under the Child Welfare Act, 1939;
- (o) a home constituted and established under the Acts repealed by this Act for the reception, maintenance, education and training of wards shall, until the Minister for the time being administering the Child Welfare Act, 1939—
- (i) is of the opinion that other arrangements for the care of wards therein can be made;  
and
- (ii) has removed the wards therefrom,
- be deemed to be a depot duly established under section twenty-one of the Child Welfare Act, 1939;
- (p) the liabilities imposed upon a near relative of a ward under the Acts repealed by this Act shall be liabilities imposed upon him or her under the Child Welfare Act, 1939;

(q)

*Aborigines.*

- (q) a reference to the Board in any other Act, or in any by-law, regulation or other statutory instrument, or in any testamentary instrument, or in any other document whatsoever, shall be read and construed as a reference to the corporation. No. 7, 1969

(2) No attornment to the corporation by any lessee from the Board shall be required.

8. (1) There shall be an Aborigines Advisory Council consisting of ten members who shall be— Aborigines  
Advisory  
Council.

- (a) the Director; and  
(b) nine Aborigines appointed by the Governor, being persons resident in New South Wales.

(2) Of the members appointed by the Governor—

- (a) three, of whom one shall be a woman, shall be nominated by the Minister;  
(b) six shall be the persons named in the certificate given under section ten of this Act as the persons elected as prescribed.

(3) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment by the Governor of a member referred to in paragraph (b) of subsection one of this section and any such member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

(4) The term of office of a member referred to in paragraph (b) of subsection one of this section shall be three years and, on the expiration of his term of office he shall, subject to this section, be eligible for reappointment.

(5)

*Aborigines.***No. 7, 1969**

(5) A member referred to in paragraph (b) of subsection one of this section shall, in respect of his services as a member, be paid such fees and allowances as the Governor may from time to time determine.

(6) A member of the Council shall be deemed to have vacated his office as a member if, being the Director, he ceases to hold office as Director or, in the case of any other member, if he—

- (a) dies;
- (b) resigns his office by writing under his hand directed to the **Minister**;
- (c) ceases to reside in New South Wales;
- (d) becomes bankrupt, compounds with his creditors or makes an assignment of any salary, remuneration or allowance payable to him, or of his estate, for their benefit;
- (e) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (f) is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or a misdemeanour which is punishable as aforesaid;
- (g) absents himself, without leave of the Council, from three consecutive ordinary meetings of the Council;
- (h) is removed from office by the Governor.

(7) If the office of a member referred to in paragraph (b) of subsection one of this section is vacated otherwise than by reason of the expiration of his term of office, the Governor may, on the nomination of the **Minister** appoint an Aboriginal resident in New South Wales to the vacant office for the residue



*Aborigines.*

residue of the term of office of his predecessor and, on the expiration of his term of office, a person so appointed shall, subject to this section, be eligible for reappointment. No. 7, 1969

A male person shall not be nominated for appointment under this subsection unless the Council, as constituted immediately before his nomination, includes a woman.

(8) No act or proceeding of the Council shall be invalidated or prejudiced by reason only of the fact that at the time the act or proceeding was done, taken or commenced, there was a vacancy in the office of a member of the Council.

(9) Five members of the Council (other than the Director) shall constitute a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Council.

(10) At any duly convened meeting of the Council at which a quorum is present a decision of the majority of those present and entitled to vote shall be the decision of the Council.

(11) The Director or, during the absence or illness of the Director, the person for the time being acting in that office, shall be the Chairman of the Council and shall preside at all meetings of the Council but, at a meeting of the Council, shall have neither a deliberative nor a casting vote.

**9. The Council shall—**

- (a) report to the Minister on such matters relating to Aborigines as may be referred to it by him;
- (b) advise the Minister on matters relating to Aborigines.

Duties and  
functions  
of Council.

**10. (1)** In this section "prescribed person" means the person for the time being holding the office of Electoral Commissioner for New South Wales under the Parliamentary Electorates and Elections Act, 1912. or his nominee. Election of  
Aboriginal  
members.

(2)