



ANNO QUARTO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 27 of 1965

**An Act to Promote the Well-being and Progressive
Development of the Aboriginal Inhabitants of the
State and of the Torres Strait Islanders**

[ASSENTED TO 10TH MAY, 1965]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. (1) **Short title.** This Act may be cited as "*The Aborigines' and Torres Strait Islanders' Affairs Act of 1965.*"

(2) **Commencement of Act.** This Act shall commence on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

2. **Severability.** This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment or provision of this Act would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

3. Arrangement of Act. This Act is divided into Parts as follows:—

- PART I—PRELIMINARY;
- PART II—ADMINISTRATION;
- PART III—ADMISSION OF PERSONS TO THE APPLICATION OF THE ACT;
- PART IV—PROVISIONS COMMON TO BOTH ABORIGINES' AND ISLANDERS' AFFAIRS;
- PART V—ABORIGINES' AFFAIRS;
- PART VI—ISLANDERS' AFFAIRS;
- PART VII—ISLAND INDUSTRIES BOARD;
- PART VIII—REGULATIONS AND SPECIAL RULES;
- PART IX—GENERAL PROVISIONS.

4. Repeals and savings. (1) "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" and "*The Torres Strait Islanders Acts, 1939 to 1946*" are repealed.

(2) Notwithstanding such repeal and without in any way limiting the operation of "*The Acts Interpretation Acts, 1954 to 1962*",—

(a) Unless otherwise provided by this Act—

- (i) every district within the meaning of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*," and every district continued in existence by virtue of those Acts and existing at the commencement of this Act, is abolished;
- (ii) every reserve within the meaning of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" or of "*The Torres Strait Islanders Acts, 1939 to 1946*" and existing at the commencement of this Act shall continue as such and be deemed to be a reserve under and for the purposes of this Act;
- (iii) every settlement for Aborigines existing at the commencement of this Act shall continue as a community under this Act;
- (iv) every institution for Aborigines existing at the commencement of this Act shall continue to be such under this Act;
- (v) every area set apart and reserved pursuant to section eleven of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" or to section five of "*The Torres Strait Islanders Acts, 1939 to 1946*" and so subsisting at the commencement of this Act shall continue to be so set apart and reserved and shall be deemed to have been so set apart and reserved for the purposes of this Act;
- (vi) every order for maintenance made by a Magistrates Court pursuant to section seventeen of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" or pursuant to that section as applied by section twenty-one of "*The Torres Strait Islanders Acts, 1939 to 1946*" shall continue to be of full force and effect and shall be complied with and may be enforced as if those sections had not been repealed;

(b) unless otherwise provided by this Act—

- (i) every person who at the commencement of this Act is a protector within the meaning of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" or "*The Torres Strait Islanders Acts, 1939 to 1946*" and the person who at the

- commencement of this Act is Deputy Protector of Islanders under such last-mentioned Acts shall, upon the commencement of this Act, cease to be such protector or, as the case may be, Deputy Protector of Islanders;
- (ii) every person who at the commencement of this Act is a superintendent of a reserve or settlement under and for the purposes of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" shall be deemed to have been appointed, under and for the purposes of this Act, manager of every community which, at the commencement of this Act, resides upon such reserve or comprises such settlement;
 - (iii) every person who at the commencement of this Act is a manager of an institution for the purposes of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" shall be deemed to have been appointed to that position under and for the purposes of this Act;
 - (iv) every person who at the commencement of this Act is an officer for the purposes of "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" or "*The Torres Strait Islanders Acts, 1939 to 1946*" shall be deemed to have been appointed to that office or, as the case may require, the corresponding office under and for the purposes of this Act;
 - (v) every reserve which at the commencement of this Act was under the management of a religious organization shall be deemed to have been placed under that management pursuant to this Act;
 - (vi) every contract, agreement, permit and removal order entered into, granted or issued pursuant to "*The Aborigines Preservation and Protection Acts, 1939 to 1946*" or "*The Torres Strait Islanders Acts, 1939 to 1946*" shall continue to be valid and of full force and effect and shall be deemed to be respectively a contract, agreement, permit and an order of transfer entered into, granted or, as the case may be, issued pursuant to this Act.

5. Meaning of terms. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

- "Aborigine"—A person within one of the categories specified in relation to that term in section six of this Act;
- "Board"—The Island Industries Board preserved, continued in being and constituted under and for the purposes of this Act;
- "Certificate of entitlement"—A certificate issued pursuant to this Act of the admission of a person to the application of this Act;
- "Child"—Includes an illegitimate child;
- "Director"—The Director of Aboriginal and Island Affairs; the term includes any person who, for the time being, is acting in the position of Director;
- "District"—A district appointed by this Act for the purposes of this Act;
- "District officer"—A person appointed by or pursuant to this Act and charged for the time being with the well-being of Aborigines or, as the case may be, Islanders within the district for which he is so appointed; the term includes the Director,

- Deputy Director, a regional district officer and an assistant district officer appointed pursuant to this Act and a person for the time being acting as district officer;
- “Instrument”—Any document, be it a testamentary instrument or any other document, whereby property or any interest therein is disposed of or agreed so to be;
- “Islander”—A person within one of the categories specified in relation to that term in section seven of this Act;
- “Justice”—A justice of the peace for the State;
- “Magistrates Court”—A Magistrates Court constituted under and for the purposes of “*The Justices Acts, 1886 to 1964*”;
- “Magistrates Courts District”—A Magistrates Courts District appointed under “*The Justices Acts, 1886 to 1964*” for the purposes of Magistrates Courts;
- “Manager”—The person appointed as manager of any community of Aborigines or Islanders established under this Act; the term includes a person for the time being acting as such a manager;
- “Minister”—The Minister for Education of Queensland or other Minister of the Crown for the time being charged with the administration of this Act; the term includes a person temporarily performing the duties of the Minister charged with the administration of this Act;
- “Officer”—A person appointed by the Governor in Council to any office or position for the purposes of this Act;
- “Part-Aborigine”—A person within one of the categories specified in relation to that term in section six of this Act;
- “Premises”—Any land and any building and any part thereof;
- “Property”—Includes both real and personal property of every description;
- “Reserve”—Any land reserved or set apart by the Governor in Council for the benefit of Aborigines or Islanders under the provisions of any law in force in the State relating to Crown Lands;
- “Reserve for Aborigines”—Includes a reserve for both Aborigines and Islanders;
- “Torres Strait Island”—Any island north of eleven degrees South latitude which is part of the State;
- “Vessel”—Any ship, boat or other craft used or constructed for use on or in water;
- “Vessel trading in Queensland waters”—Any vessel sailing from any port in Queensland and engaged in fishing or trading between Queensland ports or between any Queensland port and any island within the territorial jurisdiction of or dependent upon Queensland.

- 6. (1) Categories of Aborigines.** A person who comes within any of the following categories is an Aborigine for the purposes of this Act:—
- (a) a full-blood descendant of the indigenous inhabitants of the Commonwealth;
 - (b) a person who has a preponderance of the blood of an Aborigine within category (a) aforesaid;

- (c) a part-Aborigine who lives as spouse with an Aborigine within either of categories (a) or (b) aforesaid;
- (d) a resident of a reserve for Aborigines other than an officer or other person (having no strain of Aboriginal blood) authorized to so reside by the district officer:

Provided that an Islander shall not be deemed to be an Aborigine unless he is residing upon a reserve for Aborigines otherwise than as a member of a community comprised exclusively or predominantly of Islanders.

(2) Categories of part-Aborigines. A person—

- (a) one of whose parents is an Aborigine within category (a) specified in the preceding subsection and the other of whose parents has no strain of the blood of the indigenous inhabitants of the Commonwealth; or
- (b) both of whose parents have a strain of the blood of the indigenous inhabitants of the Commonwealth other than a Torres Strait Island and who himself has a strain of more than twenty-five per centum of such blood but who has not a preponderance of such blood,

is a part-Aborigine for the purposes of this Act.

7. Categories of Islanders. A person who comes within any of the following categories is an Islander for the purposes of this Act:—

- (a) a full-blood descendant of the indigenous inhabitants of the Torres Strait Islands;
- (b) a descendant of the indigenous inhabitants of any of the Torres Strait Islands, other than a full-blood descendant thereof, who habitually associates with Islanders within category (a) aforesaid;
- (c) a descendant of the indigenous inhabitants of the Torres Strait Islands who lives as spouse with an Islander within either of categories (a) or (b) aforesaid;
- (d) a resident of a reserve for Islanders or of a reserve for Aborigines under such circumstances that he is not, pursuant to this Act, deemed to be an Aborigine such resident being other than an officer or other person (having no strain of Island blood) authorized to so reside by the district officer.

8. (1) Categories of assisted Aborigines. A person within any of the following categories, namely:—

- (a) an Aborigine who at the commencement of this Act is a resident of or is usually resident upon a reserve for Aborigines;
- (b) an Aborigine, part-Aborigine or person having a strain of Aboriginal blood declared by the Director pursuant to this Act to be an assisted Aborigine and every child of such an Aborigine, part-Aborigine or person who, pursuant to section nineteen of this Act, is named in such declaration;
- (c) an Aborigine, part-Aborigine or person having a strain of Aboriginal blood declared by a Magistrates Court pursuant to this Act to be in need of care under this Act and every child of such an Aborigine, part-Aborigine or person who, pursuant to section twenty of this Act, is named in such declaration;

(d) an Aborigine or part-Aborigine in respect of whom a Judge or Stipendiary Magistrate orders pursuant to this Act that care under this Act be provided;

(e) a child born by or to an assisted Aborigine which child is declared by the Director pursuant to this Act to be an assisted Aborigine,

is an assisted Aborigine for the purposes of this Act and shall remain such until he ceases to be such in accordance with this Act.

(2) Categories of assisted Islanders. A person within any of the following categories, namely:—

(a) an Islander who at the commencement of this Act is a resident of or is usually resident upon a reserve for Islanders or in a community of Islanders upon a reserve for Aborigines;

(b) an Islander declared by the Director pursuant to this Act to be an assisted Islander and every child of such an Islander who, pursuant to section nineteen of this Act is named in such declaration;

(c) an Islander or person having a strain of Island blood declared by a Magistrates Court pursuant to this Act to be in need of care under this Act and every child of such an Islander or person who, pursuant to section twenty of this Act is named in such declaration;

(d) an Islander in respect of whom a Judge or Stipendiary Magistrate orders pursuant to this Act that care under this Act be provided;

(e) a child born by or to an assisted Islander which child is declared by the Director pursuant to this Act to be an assisted Islander,

is an assisted Islander for the purposes of this Act and shall remain such until he ceases to be such in accordance with this Act.

PART II—ADMINISTRATION

9. Administration of Act. This Act shall be administered by the Minister and, subject to him, by the Director, Deputy Director, district officers and such other officers as may from time to time be appointed by the Governor in Council for the purposes of this Act.

10. Director of Aboriginal and Island Affairs. (1) The Governor in Council may from time to time appoint a person to be the Director of Aboriginal and Island Affairs.

(2) The person who, at the commencement of this Act, occupies the position of Director of Native Affairs shall, without further appointment, be the Director of Aboriginal and Island Affairs for the purposes of this Act.

(3) The Director—

(a) shall have and may exercise, perform and discharge all such powers, authorities, duties and functions as may be conferred upon him by this Act or as may be necessary or desirable to effect the objects of this Act;

(b) may make or cause to be made all such inspections, investigations and inquiries as he thinks fit in relation to any matter affecting the administration of this Act and shall make or cause to be made such inspections, investigations and inquiries affecting such administration as the Minister may from time to time direct to be made;

(c) shall, at least once in each year, inspect every mission conducted by a Church, religious body or secular organization for the benefit of Aborigines or Islanders and report thereon to the Minister.

(4) For the purpose of making any such inspection, investigation or inquiry the Director or, when such an inspection, investigation or inquiry is made by some other person at the direction of the Director, that person—

(a) shall have and may exercise all the powers, authorities, protection and jurisdiction of a commission under "*The Commissions of Inquiry Acts, 1950 to 1954*," except such as are by those Acts confined to a chairman of such a commission who is a Judge of the Supreme Court;

(b) may enter and inspect any premises.

The exercise by the Director or any other person of a power, authority or jurisdiction conferred on him by this subsection shall be subject to section 4A of "*The Commissions of Inquiry Acts, 1950 to 1954*."

(5) (a) When an inspection, investigation or inquiry is made pursuant to this Act by a person at the direction of the Director that person shall as soon as practicable after completion thereof make a full report thereon to the Director.

(b) The Director shall make a full report to the Minister on every inspection, investigation or inquiry made pursuant to this Act.

(6) As soon as practicable after the completion of each year the Director shall report in writing concerning the administration of this Act during the last preceding year to the Minister who shall lay such report before the Legislative Assembly.

11. Deputy Director of Aboriginal and Island Affairs. (1) The Governor in Council may from time to time, appoint a person to be the Deputy Director of Aboriginal and Island Affairs.

(2) The person who, at the commencement of this Act, occupies the position of Deputy Director of Native Affairs shall, without further appointment, be the Deputy Director of Aboriginal and Island Affairs for the purposes of this Act.

(3) The Deputy Director of Aboriginal and Island Affairs shall have and may exercise, perform and discharge all such powers, authorities, duties, and functions as the Director may from time to time direct and, in the absence of the Director, may exercise, perform and discharge all the powers, authorities, duties and functions of the Director.

12. Districts and district officers. (1) Every Magistrates Courts District appointed under "*The Justices Acts, 1886 to 1964*," or deemed so to be, shall, upon the commencement of this Act, without further or other appointment, be a district called by the same name for the purposes of this Act.

(2) The Governor in Council may from time to time appoint, in relation to any district, any person to be district officer.

(3) (a) Unless and until the Governor in Council otherwise appoints, every clerk of the court appointed under "*The Justices Acts, 1886 to 1964*," or deemed so to be, except such a clerk appointed in relation to the Magistrates Courts District of Somerset shall upon the commencement of this Act, without further appointment, be district officer in relation to the district for which he is such clerk.

(b) In relation to the Magistrates Courts District of Somerset, unless and until the Governor in Council otherwise appoints, the Deputy Director of Aboriginal and Island Affairs shall be district officer and the person who, at the commencement of this Act, held the position of Deputy Protector of Islanders shall be assistant district officer.

(4) The Governor in Council may from time to time appoint any person to be a regional district officer or an assistant district officer.

Such a person may be appointed in relation to one or more districts.

(5) Every district officer, regional district officer and assistant district officer shall, in relation to his district or districts, have and may exercise such powers, authorities, duties and functions as may be provided for by this Act or as the Director may, from time to time, direct and, subject to the Director, shall be responsible for the administration of this Act within his district or districts.

13. (1) Reserves. The conduct of every reserve shall be subject to this Act.

(2) **Managers.** The Governor in Council may from time to time appoint a manager of a reserve and may place any reserve under the management of a religious organization.

Every such manager or, when a reserve is placed under the management of a religious organization, the person in charge of that organization within such reserve shall without further or other appointment be an assistant district officer in relation to that reserve.

A person who is an assistant district officer by virtue of this subsection shall not be subject in the administration of this Act to the district officer of the district in which such reserve is situated.

14. Communities. The Governor in Council may from time to time establish on any reserve a community for Aborigines or Islanders or both and may appoint, in relation to such a community, such officers (either resident or visiting) as he may think necessary for the well-being of the persons constituting such a community:

Provided that a community for Aborigines shall not be established on any Torres Strait Island.

15. Visiting justices. (1) The Governor in Council may appoint a justice to be a visiting justice in relation to any one or more reserves.

(2) At least once in every period of three months the visiting justice shall visit every reserve in relation to which he is so appointed and shall—

(a) inspect all premises in such reserve in which Aborigines or Islanders are accommodated;

(b) investigate any complaints by Aborigines or Islanders on such reserve;

- (c) inspect the record of punishment inflicted upon Aborigines or Islanders on such reserve by any court functioning on such reserve or by the district officer;
- (d) hear and determine summarily complaints against Aborigines or Islanders on such reserve in cases where a court does not function on such reserve;
- (e) report to the Director as soon as practicable after the completion of his inspection on—
 - (i) the conditions of all premises inspected by him on such reserve;
 - (ii) sanitation on such reserve;
 - (iii) the discipline and general condition of Aborigines or Islanders on such reserve;
 - (iv) the conduct of all persons concerned in the management of such reserve;
 - (v) such other matters as the Director may direct.

PART III—ADMISSION OF PERSONS TO THE APPLICATION OF THE ACT

16. Certificates relating to residents of reserves. (1) As soon as practicable after the commencement of this Act the Director shall compile—

- (a) in relation to each reserve for Aborigines a certificate which shall contain the name of each Aborigine who at the commencement of this Act was a resident of or was usually resident upon such reserve;
- (b) in relation to each reserve for Islanders and to each community of Islanders upon a reserve for Aborigines a certificate which shall contain the name of each Islander who at the commencement of this Act was a resident of or was usually resident upon such reserve or in such a community.

(2) The Director shall retain the original of every such certificate and shall send a duplicate thereof to the district officer of the district in which is situated the reserve in relation to which such certificate was compiled.

The district officer from time to time of such district shall retain such duplicate in such district.

17. Declarations relating to non-residents of reserves. (1) For a period of twelve months commencing on the date of commencement of this Act the Director may, in the prescribed form, declare any Aborigine, part-Aborigine or person having a strain of Aboriginal blood to be an assisted Aborigine and shall cause such person to be informed of such declaration as soon as possible after the making thereof.

18. Admission to Act upon application. Upon application made to the Director by or on behalf of any Aborigine or Islander that he be admitted to the application of this Act as an assisted Aborigine or assisted Islander and upon proof to the satisfaction of the Director that the best interests of such Aborigine or Islander require that he be so admitted to the application of this Act, the Director may, in his discretion, in the prescribed form, declare such Aborigine or Islander to be an assisted

Aborigine or, as the case may be, assisted Islander and thereupon such Aborigine or Islander shall become and be an assisted Aborigine or, as the case may be, assisted Islander until he ceases to be such in accordance with this Act.

Any number of persons may join or be joined in an application to the Director under this section.

19. Power to include children in declaration. The Director may include within a declaration made pursuant to sections seventeen or eighteen of this Act and, if he does so, shall name therein every child of a person in relation to whom such declaration is made who—

- (a) at the date of such declaration has not attained or has not apparently attained the age of seventeen years; and
- (b) has habitually resided with such person prior to the making of such declaration.

20. Admission of persons otherwise than upon application. (1) The Director or any officer authorized in writing by the Director in that behalf may make complaint before a justice that the person named in such complaint—

- (a) has a strain of Aboriginal or, as the case may be, Island blood; and
- (b) should in his best interests, be declared to be in need of care under this Act.

Such a complaint may include any number of persons who comprise or are included in one family unit.

Upon such a complaint such justice may issue his summons directed to every person named in such complaint requiring him to appear at a certain time before a Magistrates Court in the district wherein such person resides or was last known to the complainant to reside to answer the complaint and to be further dealt with according to law.

Every proceeding taken in relation to such complaint and summons shall be subject to and in accordance with "*The Justices Acts, 1886 to 1964.*"

(2) Upon proof to the satisfaction of the Magistrates Court that the best interests of a person named in such complaint require that he should be declared to be in need of care under this Act such court shall declare accordingly.

Such a declaration shall be deemed to be an order within "*The Justices Acts, 1886 to 1964.*"

(3) A court may include in a declaration made pursuant to the last preceding subsection and, if it does so, shall name therein every child of the person in relation to whom such declaration is made who—

- (a) at the date of such declaration has not attained or has not apparently attained the age of seventeen years; and
- (b) has habitually resided with such person prior to the making of such declaration.

(4) Upon the making of a declaration pursuant to this section the Director shall issue, in the prescribed form, a certificate of entitlement in relation to the persons so declared or included in such declaration.

(5) For the purposes of this section an Aborigine and a part-Aborigine are included among persons who have a strain of Aboriginal blood and an Islander is included among persons who have a strain of Island blood.