

Safe custody  
of books.

**13.** The chairman shall be responsible for the safe custody of the minute-books and other books, papers, correspondence, and writings belonging to or relating to the business of the council.

Correspondence with the council shall be addressed to the chairman.

Clerk of  
the council.

**14.** The council shall appoint a suitable islander to be clerk of the council :

Provided that the protector may direct the teacher or such other officer to assist the council and/or the clerk appointed by the council as he deems necessary.

In the event of the council failing to appoint a clerk the protector shall appoint the teacher or some other officer to be the clerk.

Public  
office of  
council.

**15.** The council shall hold its meetings in the court house or in such other building on the reserve as may be approved by the protector.

Island Fund.

**16.** The protector shall establish a fund, to be called the "Island Fund," which shall consist of all moneys received in respect of the island tax and all moneys received in respect of fees, charges, fares, rents, dues, fines imposed by the island court, and grants (if any) and be applied to expenditure incurred by the council in the exercise and performance of the functions of island government under this Act.

Budget :  
annual  
budget to be  
prepared.

**17.** (i.) On or before a date to be fixed by the protector or such extended date thereafter as he may permit in special circumstances, the council shall cause to be framed the budget for the Island Fund for the year in the form and manner prescribed. The protector may appoint the teacher or some other person to assist the council in framing the budget.

Framing  
the budget.

(ii.) In framing the budget the council shall estimate for the current year :—

(a) The amounts to be disbursed upon the several works, matters, and things to which the Island Fund may be applied as hereinbefore directed ;

(b) The moneys expected to be received from the island tax, fees, charges, fares, rents, dues, fines, and grants (if any) hereinbefore directed to be paid into the Island Fund.

1939.

*Torres Strait Islanders Act.*PART III.—  
ISLAND  
LOCAL  
GOVERNMENT.

(iii.) The budget shall be adopted by the council at the first meeting after the date fixed for the framing of the budget or before such later date as the protector may permit in special circumstances.

(iv.) The council shall have power to make and levy a tax (herein referred to as the "island tax") upon such basis as may be prescribed by the by-laws or in so far as not so prescribed, determined by the council and to impose fees, charges, fares, rents, and dues in respect of any property service matter, and thing for the purpose of enabling it to exercise and perform its functions.

(v.) The island tax shall be founded on the budget and shall be made and levied by the council by resolution and shall be collected by the council: Provided, however, that the protector shall, if required by the council, as far as practicable collect the island tax by deductions from the earnings of islanders.

(vi.) The council shall not make any disbursement in any year from the Island Fund which has not been provided for in the budget except in emergent or extraordinary circumstances approved by the protector.

### *Functions and Powers of Council.*

**18.** (1.) The council shall have delegated to it the <sup>General</sup> functions of local government of the reserve, and shall <sup>powers.</sup> be charged with the good rule and government of the reserve in accordance with island customs and practices, and shall have power to make by-laws for such good rule and government and to cause all such by-laws to be observed and carried out.

(2.) The council shall in addition have power to make by-laws for promoting, maintaining, regulating, and controlling the peace, comfort, health, moral safety, convenience, food supply, housing, and welfare of the inhabitants of the reserve, and for the planning, development, and embellishment of the reserve, and for the direction, administration, and control of the working and business of the local government of the reserve, and shall cause all such by-laws to be carried out.

(3.) Without limiting the generality of its powers and authorities, the council shall have and possess and may exercise and perform express powers and authorities including the power to make by-laws in relation to the

following matters: The undertaking, provision, construction, maintenance, management, execution, control, regulation, and/or regulation of the use of roads, bridges, viaducts, and culverts, baths, and bathing-places, health, sanitation, cleansing, and scavenging, drainage, removal, suppression and abatement of nuisances, public conveniences, water conservation, disposal of the dead, village planning, subdivision of land and use and occupation of land, buildings and use and occupation of buildings, protection from fire, boundaries and fences, eradication and destruction of noxious weeds, animals, agricultural drainage and reclamation of land, and generally all works, matters, and things in its opinion necessary or conducive to the good rule and government of the reserve and the well-being of its inhabitants.

(4.) The power to control and regulate shall include power to license or permit or refuse to license or permit or prevent or prohibit by by-laws in that behalf.

By-laws.

(5.) Fees, charges, fares, rents, and/or dues may be imposed by by-law but this subsection shall not prejudice the power of the council to impose same or any of them by resolution.

(6.) A by-law may be amended or repealed at any time by another by-law.

(7.) The council shall cause printed copies of all by-laws to be kept at the office of the council.

(8.) A by-law shall have no force or effect until it is approved by the Director, but every by-law approved by the Director shall come into operation on the day of such approval or such later date as the Director shall fix.

(9.) A by-law may prescribe a penalty for the breach thereof or of any other by-law, but no pecuniary penalty prescribed shall exceed five pounds and no term of imprisonment prescribed shall exceed three months.

Appoint-  
ment and  
duties of  
island police.

19. (1.) The council may, subject to the approval of the protector, appoint island police.

(2.) The island police shall have and exercise such powers and duties as are directed by the protector or, in so far as not directed, prescribed by the by-laws.

1939.

*Torres Strait Islanders Act.*PART IV.—  
ISLAND  
COURT.

## PART IV.—ISLAND COURT.

20. (1.) The island council may at any time constitute the island court for the purpose of exercising the jurisdiction of such court within its reserve. Council to constitute court.

The island court shall be duly constituted at any time by a majority of the whole number of members of the council.

No councillor shall sit as a member of the island court constituted for the purpose of hearing and determining any offence alleged to have been committed by him.

(2.) The island court shall adjudicate on all offences committed by islanders on the reserve against the by-laws of the reserve. Offence and penalties.

(3.) (i.) The clerk of the council shall be clerk of the court.

(ii.) The teacher or such officer as the protector may direct shall attend the sittings of the court to assist the court in any matter upon which the court desires to be advised or assisted: Moreover, it shall be the duty of the teacher or such officer to assist the clerk of the court in the execution of his office.

(4.) The records of the court shall be entered in a book to be called the "court book." The particulars to be entered therein shall be as prescribed by the by-laws. The council shall have the custody of the court book, which shall be open to the inspection of the protector at any time. Custody of court book.

(5.) Any person against whom a complaint is made shall be notified of the day and hour at which he is required to attend the court. If he fails to attend the court may order the police to bring him before them; if he then fails to give a satisfactory explanation of his non-attendance he may be fined two shillings and six pence or imprisonment for twenty-four hours, in addition to any other penalty to which he may be liable on conviction of the offence with which he is charged. Issue of summons.

(6.) Any witness failing to attend the court after having been notified to do so may be fined two shillings and six pence or imprisonment for twenty-four hours. Witnesses.

(7.) All offenders shall be charged in open court and the nature of their offence clearly explained to them and their plea of guilty or not guilty shall be recorded in the court book before any statement is made or evidence is taken. Charge in open court.

PART IV.—  
ISLAND  
COURT.*Torres Strait Islanders Act.* 3 GEO. VI. No. 7,Reduction of  
punishment.

(8.) The protector may remit or reduce any penalty or term of imprisonment imposed by the island court. The protector shall, however, first hear the court.

Time to pay  
fines.

(9.) If any person who on conviction is ordered to pay a fine or sum of money is unable to do so at once, the court may allow such fine or sum of money to be paid by instalments on specified dates. If default is made in payment of the first or any subsequent instalment the term of imprisonment ordered may then be enforced for the whole term or for a term proportionate to the sum remaining unpaid.

(10.) The council shall collect and recover fines imposed by the island court, and pay them into the Island Fund.

Appeals.

(11.) Any person dissatisfied with the decision of the island court may, within one month after the pronouncement of the decision, appeal to the protector, who, after hearing the island court, may affirm, vary, or set aside the decision appealed against on such terms as he considers reasonable.

PART V.—  
PRESERVATION  
AND  
PROTECTION.

## PART V.—PRESERVATION AND PROTECTION.

Application  
of "*The  
Aboriginals  
Preservation  
and  
Protection  
Act of 1939.*"

21. Subsections two and three of section six, sections fourteen to seventeen, both inclusive, subsection one of section eighteen, paragraphs (a) and (d) of subsection one of section nineteen, section twenty, sections twenty-three to twenty-eight, both inclusive, subsections one and two of section twenty-nine, and sections thirty-one to thirty-eight, both inclusive, of \*"*The Aboriginals Preservation and Protection Act of 1939*" shall, subject as hereinafter provided, be read and construed with this Act and shall, *mutatis mutandis*, apply and extend for the purposes of this Act.

For the purpose of so reading, construing, applying, and extending any such enactment of \*"*The Aboriginals Preservation and Protection Act of 1939,*" but without limiting the generality of this section, the terms hereunder set forth shall be read and construed as having the meanings respectively assigned to them, that is to say :—

Aboriginal.

" Aboriginal "—Islander ;

Aboriginal  
court.

" Aboriginal court"—Island court ;

\* 3 Geo. VI. No. 6, *supra*, page 17455.

1939.

*Torres Strait Islanders Act.*PART V.—  
PRESERVATION  
AND  
PROTECTION.

- “ Director ”—The Director of Native Affairs Director.  
except in subsection five of section fourteen,  
subsections two and three of section sixteen,  
section seventeen, and section thirty-three,  
when this term shall be read and construed as  
meaning the Protector of Islanders ;
- “ District ”—The islands north of eleven degrees District.  
south latitude which are part of the State  
of Queensland ;
- “ Protector ” or “ Protector of Aborigines ”— Protector or  
Protector of  
Aborigines.  
Protector of Islanders ;
- “ Reserve ”—A reserve for islanders ; Reserve.
- “ Superintendent ”—In section thirty-three means Super-  
intendent.  
the island council ;
- “ This Act ”—\*“ *The Torres Strait Islanders Act* This Act.  
*of 1939.* ”

Subsection fourteen of section fourteen of †“ *The Aborigines Preservation and Protection Act of 1939* ” shall be so read and construed and applied and extended by reading therein the words “ from the district constituted by the Torres Strait islands to another place within the territorial jurisdiction of Queensland ” in lieu of the words “ from one district to another district. ”

**22.** The Director may by writing under his hand from time to time cause any islander to be removed from any reserve to any other reserve (or to a reserve under †“ *The Aborigines Preservation and Protection Act of 1939* ”) and kept there : Removal of  
islanders.

Provided that no such removal shall be effected without the recommendation of the island court.

Any person so removed shall not be released by the Director without the recommendation of the island court.

Subsection five of section twenty-two of †“ *The Aborigines Preservation and Protection Act of 1939,* ” shall, *mutatis mutandis*, apply and extend for the purposes of this section.

**23.** (1.) Notwithstanding anything contained in this Act or any other Act or law, any vessel or other plant the property of any islander or islanders used by such islander or islanders for the purpose of engaging in Protector to  
be trustee  
of island  
vessels,  
plant, and  
produce.

\* This Act.

† 3 Geo. VI. No. 6, *supra*, page 17455.

any industry shall be deemed to be vested in the protector as trustee for the islander or islanders concerned upon the following trusts, namely :—

- (i.) To direct the working of such vessel or plant by such islander or islanders in the manner deemed by him to be to the best advantage of such islander or islanders ; and
- (ii.) To sell or authorise the sale on behalf of such islander or islanders of such vessel, plant, or the produce of such vessel or plant.

(2.) The protector may repudiate any contract of sale of any such vessel, plant, or produce which has been made without his authority and may recover by action in any court of competent jurisdiction any vessel, plant, or produce delivered to the purchaser pursuant to such repudiated contract or, at the discretion of the adjudicating court, the fair market value thereof.

If the whole or any part of the stipulated purchase price is proved to have been paid to the islander or islanders entitled to the beneficial interest in the vessel, plant, or produce concerned, the amount thereof may be set off against the protector's claim.

(3.) The purchase price of any vessel, plant, or produce sold by or with the authority of the protector shall be paid to him and, if not so paid, may be recovered by him as the seller thereof.

The protector shall pay out of the purchase price all expenses properly incurred in respect of the sale of the vessel, plant, or produce concerned, all debts properly incurred with respect thereto, and the moneys due to the islanders entitled to the beneficial interest therein according to their respective shares, and shall at the time of payment to them account in the prescribed manner to the islanders concerned for such purchase price.

## PART VI.—ISLAND INDUSTRIES BOARD.

24. The repeal of \**The Aboriginals Protection and Restriction of the Sale of Opium Acts Amendment Act of 1934*," shall not abolish the Corporation of "The Aboriginal Industries Board" established under that Act, but such Corporation shall, subject to this Act, continue in operation under the changed name of "The Island Industries Board," and neither the repeal of the abovementioned Act nor such change of name

\* 25 Geo. V. No. 38, *supra*, page 14883.

1939.

*Torres Strait Islanders Act.*PART VI.—  
ISLAND  
INDUSTRIES  
BOARD.

shall affect any rights or obligations of the said Corporation, or render defective any legal proceedings by or against the said Corporation, and any legal proceedings that might have been commenced or continued against such Corporation by its former name may be commenced or continued against it by its new name.

The members, officers, and employees of such Corporation in office or employed at the commencement of this Act shall be deemed to be duly appointed or employed, as the case may be, under this Act and shall continue in their respective offices or employments accordingly.

**25.** (1.) In this Part of this Act, unless the context otherwise requires, the following terms shall have the meanings set against them respectively, that is to say :—

“ Board ”—The Island Industries Board  
hereinbefore mentioned ;

“ Prescribed ”—Prescribed by this Part of this Act ;

“ Regulations ”—Regulations made under the authority of this Part of this Act,

and for the purposes of this Part the terms “ islander,” “ Minister,” “ Director,” “ protector,” and any other terms shall have the meanings respectively assigned to them by this Act.

(2.) (i.) In this Part of this Act the Corporation renamed “ The Island Industries Board ” is referred to as the “ Board.”

(ii.) Such Board shall consist of three members, and such members shall be appointed by the Governor in Council by notification in the *Gazette*, and shall be appointed for such time as the Governor in Council shall deem fit and proper, and shall hold office at the pleasure of the Governor in Council.

(iii.) The members shall be eligible for reappointment for such period as the Governor in Council thinks fit and proper, and when so reappointed shall continue to hold office at the pleasure of the Governor in Council.

(iv.) One of the members of the Board shall be the protector of islanders for the time being who shall act as chairman of the Board.

(v.) At any meeting two members of the Board shall be required to form a quorum.

Board to  
be a  
corporation.

(3.) The Board shall be a corporation by the name of "The Island Industries Board," and by that name shall have perpetual succession and an official seal which shall be judicially noticed, and shall be capable in law of suing and being sued, and shall have power to take, purchase, sell, exchange, lease, and hold land, goods, chattels, wharves, boats, and other property.

Vacancies.

(4.) In the event of any vacancy arising at any time upon the Board, either through the effluxion of time or by reason of the death, disqualification, or removal of any member, such vacancy shall be filled by the appointment by the Governor in Council of another member to such vacancy.

Any member appointed to any such vacancy shall be appointed and shall be eligible for reappointment for such period as the Governor in Council thinks fit and proper, and shall when so appointed or reappointed, as the case may be, hold office at the pleasure of the Governor in Council.

Appoint-  
ment of  
officers.

**26.** (1.) The Board, subject to the direction of the Minister, shall appoint a secretary, and may appoint such administrative and technical officers, clerks, and other officers as may be considered necessary for the due administration of this Part of this Act.

Secretary  
may affix  
seal.

(2.) The secretary shall have power to execute documents on behalf of the Board and affix the official seal thereto, and also shall have such other powers and perform such other duties as are from time to time appointed by the Board.

Employment  
of other  
employees  
and agents.

(3.) The Board may employ such employees and/or agents as may be necessary for carrying out the provisions of this Part of this Act.

Employee  
to hold office  
during  
pleasure.

(4.) Every officer, agent, or employee other than an officer of the Public Service shall hold office during pleasure only, and shall be paid such salary or other remuneration as may be fixed by the Board, and the Board may dismiss any such agent or employee, and may discontinue the offices of or appoint other persons in the place of agents and employees who are dismissed, or die, or resign, or otherwise vacate their employment.

Acquisition  
of land and  
property.

**27.** (1.) The Board may acquire by purchase, lease, grant, or otherwise and hold land for carrying out any of the purposes of this Part of this Act, and may also purchase, construct, maintain, and alter such buildings,

1939.

*Torres Strait Islanders Act.*PART VI.—  
ISLAND  
INDUSTRIES  
BOARD.

warehouses, ships, vessels, boats, wharves, tramways, plant, machinery, and other works, improvements, and things as it shall deem necessary or advisable for the purposes of this Part of this Act.

(2.) The Board shall, with respect to any of its real or personal property and any estate or interest therein, have the power—

Powers with respect to property.

- (a) To sell, lease, exchange, or make partition ;
- (b) To accept or make surrender of leases ;
- (c) To assign, reconvey, or discharge mortgages, securities, or other obligations, either wholly or in part ;
- (d) To enter into, modify, or alter any contract or agreement with any person for all or any of the purposes of this Part of this Act ; and
- (e) Generally to exercise all other rights, powers, functions, and authorities thereover.

(3.) Any such property may from time to time be sold or disposed of upon such terms and conditions in all respects as the Board thinks proper.

28. Subject to this Part of this Act and to the provisions contained in the Schedule hereto, the Board shall have and may exercise all of the rights, powers, duties, and obligations set out in the schedule hereto.

Other powers of the Board.

29. The Board shall at the end of each year furnish to the Minister a full report of its operations.

Annual report of Board.

In this section the term " year " means the period of time from and including the first day of April in any calendar year to and including the last day of March in the next succeeding calendar year.

30. The books and accounts of the Board shall be audited by the Auditor-General.

Audit.

31. The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Part of this Act, or that may be necessary or convenient to carry out the objects and purposes of this Part of this Act, and where there may be in this Part of this Act no provision or no sufficient provision in respect of any matter or thing adequate, necessary, or expedient to give effect to this Part of this Act, providing for and supplying such omission or insufficiency.

Regulation-making power.

Without limiting the generality of the foregoing power to make regulations, regulations may be made prescribing—

- (a) The times of holding and the conduct of business at meetings of the Board.
- (b) Forms of records, books, documents, and accounts to be kept by the Board either generally or in connection with any particular business, trade, or occupation; and specifying, where necessary, what officers, employees, or agents of the Board shall be responsible for the keeping of any such records, books, documents, and/or accounts.
- (c) The manner in which the Board may do any act, matter, or thing authorised or permitted to be done by it under this Part of this Act; and more particularly the manner in which the Board may conduct any business, trade, or occupation (and whether in person or by or through any agent).
- (d) The conduct of officers, employees, and agents of the Board and of other persons who are in, about, or upon the property of the Board; and for preventing trespass, damage, or injury to any such property.
- (e) Penalties for the breach of any regulation, which may be recovered by complaint in a summary way under \**The Justices Acts, 1886 to 1932*”:

Provided that no such penalty shall exceed twenty pounds.

Section seven of this Act shall, *mutatis mutandis*, apply and be observed in respect of these regulations.

## SCHEDULE.

## SCHEDULE.

## 1. The Board may—

- (1) Carry on the business, trade, or occupation, as the case may be, of banker, blacksmith, builder, carpenter, commission agent, common carrier (whether by land or water), dealer (wholesale or retail), engineer, exporter, factor, farmer, fisherman (including fishing for pearl-shell, trochus-shell, and bêche-de-mer), forwarding agent, freight contractor, general merchant, grazier, importer, iron-worker, joiner, labour agent, lighterman, manufacturer,

\* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

1939.

*Torres Strait Islanders Act.*

SCHEDULE.

mineowner, money-lender, plumber, shipping agent, ship's chandler, shipbroker, shipbuilder, shipowner, shopkeeper, stevedore, storekeeper, timber merchant, tinsmith, trustee, warehouseman, wharfinger, or any other trade or business incidental or ancillary to any such business, trade, or occupation as aforesaid, or which in the opinion of the Board can be effectually carried on in connection with any such business, trade, or occupation.

- (2) Acquire from time to time and at all times and either by construction, purchase, lease, or otherwise all such buildings, premises, plant, machinery, equipment, and stock as may in the opinion of the Board be necessary or desirable for the carrying on by the Board of any such business, trade, or occupation as aforesaid.
- (3) Acquire and distribute information relating to or as to the best manner of carrying on any such business, trade, or occupation as aforesaid; and undertake the education, instruction, and training of islanders or other persons in any such business, trade, or occupation, and for that purpose establish, maintain, and conduct all such schools and classes as the Board may deem necessary; and enter into contracts of apprenticeship with any such person as aforesaid.
- (4) For the purpose of carrying on any such business, trade, or occupation as aforesaid, have and exercise all such powers, authorities, and discretions, and do all such acts and things as a private person carrying on business in Queensland might have or exercise or do.
- (5) Cause investigations to be made, and from time to time report and make recommendations to the Director, upon all or any of the following matters:—
  - (a) Any question relating to any trade, commerce, or business carried on by or in which islanders are interested or engaged;
  - (b) Markets for goods produced or manufactured by islanders, and trade with other countries in, and the method of marketing, such goods;
  - (c) Generally as to how the trade, industries, and commerce of islanders can be best encouraged, developed, and protected.
- (6) Finance any such business, trade, or occupation as aforesaid, and for that purpose raise money on loan from the Governor in Council, the Treasurer, the Director, the Corporation of the Bureau of Rural Development, or any bank or financial institution or person, and mortgage or assign property of the Board (including contracts between the Board and islanders or other persons relating to or arising out of any such business, trade, or occupation as aforesaid).

2. Any surplus profits of the Board shall be allocated or appropriated for the general welfare of islanders and in such manner as the Governor in Council shall from time to time determine.