

Queensland



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Aborigines Preservation and Protection Acts, 1939 to 1946*" and "*The Torres Strait Islanders Acts, 1939 to 1946*" are repealed.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.

21. Declaration of Aborigine, part-Aborigine or Islander to be in need of care. (1) When an Aborigine, part-Aborigine or Islander has been tried or sentenced before or by a Judge of the Supreme Court, a Circuit Court or a District Court or before or by a Magistrates Court constituted by a Stipendiary Magistrate such Judge or Magistrate may, whether or not such person was convicted of the offence with which he was charged, if he is satisfied that such person is in need of care under this Act, order that such care be provided.

(2) When an order is made pursuant to the preceding subsection the registrar or clerk of the court wherein such order was made shall forthwith furnish to the Director at Brisbane notice of the making of such order and the identity and usual place of residence (so far as it is known to such registrar or, as the case may be, clerk) of the Aborigine, part-Aborigine or Islander concerned.

(3) Upon receiving notice pursuant to the last preceding subsection the Director shall issue in the prescribed form a certificate of entitlement in relation to the person in respect of whom the order was made pursuant to this section.

22. Admission of children of assisted Aborigine or assisted Islander. A child who is born by or to an assisted Aborigine or assisted Islander shall not by virtue of the fact of its birth or parentage be or be deemed to be an assisted Aborigine or, as the case may be, assisted Islander but the Director may, in the prescribed form under his hand, declare such a child—

(a) who has not attained or has not apparently attained the age of seventeen years; and

(b) at least one of whose parents is, at the time of such declaration, an assisted Aborigine or assisted Islander,

to be an assisted Aborigine or, as the case may be, assisted Islander:

Provided that the Director shall not exercise the power by this section conferred upon him in relation to such a child who is habitually residing with his parent who is not, at the time, an assisted Aborigine or, as the case may be, assisted Islander.

23. Certificates of entitlement. (1) Every certificate compiled pursuant to section sixteen of this Act and the form of every declaration made pursuant to sections seventeen, eighteen or twenty-two of this Act shall be deemed to be, in relation to every person named therein, a certificate of entitlement.

(2) The Director shall retain the original of every certificate of entitlement and shall, from time to time, send written notice of the existence of such certificate to the district officer of the district in which the person or persons named therein, from time to time, habitually resides or reside.

24. Cancellation of certificate of entitlement. (1) Upon his own motion or upon application in that behalf made by or on behalf of an assisted Aborigine or assisted Islander the Director may, if he is satisfied that the best interests of such person no longer require that he be subject to the application of this Act as an assisted Aborigine or assisted Islander, cancel in relation to such person the certificate of entitlement issued in relation to or including such person.

(2) If the Director cancels a certificate of entitlement pursuant to the preceding subsection he shall, at the same time, cancel the certificate of entitlement (be it the same or another such certificate) issued in relation to every child of the person in relation to whom such first-mentioned certificate of entitlement is cancelled who—

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

(3) Upon cancellation of a certificate of entitlement the person in relation to whom such cancellation is effected shall thereby cease to be an assisted Aborigine or, as the case may be, assisted Islander.

(4) When the Director has cancelled a certificate of entitlement in relation to any person he shall forthwith endorse or annex a suitable endorsement on or to such certificate to evidence such cancellation and shall, as soon as possible,—

- (a) inform, in writing, the person in relation to whom such certificate has been cancelled of such cancellation; and
- (b) send written notice of such cancellation to the district officer of the district in which such person last habitually resided prior to such cancellation.

25. Reference from decision of Director. (1) Any person—

- (a) who having applied to the Director that he be admitted to the application of this Act as an assisted Aborigine or assisted Islander has had such application refused;
- (b) who has been declared by the Director to be an assisted Aborigine or assisted Islander or has been included in such a declaration otherwise than upon his own application;
- (c) who, having applied to the Director that a certificate of entitlement issued in relation to him or in which he is included be cancelled in relation to him, has had such application refused;
- (d) in relation to whom the Director has cancelled a certificate of entitlement otherwise than upon his own application,

may institute a reference from the decision of the Director in that behalf by way of application to a Stipendiary Magistrate who constitutes the Magistrates Court in the district in which such person resides at the date of the application whereby such reference is instituted.

Any such reference shall be instituted within twenty-eight days after the Director's decision is made known to such person by lodging such application signed by the applicant with the clerk of the court in such district.

(2) (a) The institution of a reference pursuant to this section shall suspend the operation of the Director's decision in issue and of any certificate of entitlement issued as a consequence thereof until such reference is determined or otherwise disposed of in accordance with this section.

(b) The Director may at any time after the institution of a reference pursuant to this section apply to the Stipendiary Magistrate to whom the application concerned has been made that such reference be struck out for want of prosecution.

If such Stipendiary Magistrate is satisfied that such reference has not been prosecuted by the applicant without adequate reason for such default he shall strike out and thereby dispose of such reference and thereupon the Director's decision in issue and any certificate issued as a consequence thereof shall be restored to its full force and effect.

(3) If such Stipendiary Magistrate allows such a reference, in whole or in part, he shall order the Director to do all things which the Director may lawfully do under this Act to give effect to his decision and the Director shall comply accordingly.

(4) Neither the institution of a reference pursuant to this section nor the decision of a Stipendiary Magistrate allowing such a reference shall render unlawful any action taken prior to the institution of such reference in reliance upon the Director's decision from which such reference was instituted or upon a certificate of entitlement issued in consequence of such decision.

PART IV—PROVISIONS COMMON TO BOTH ABORIGINES' AND ISLANDERS' AFFAIRS

26. Grant of aid. Subject to appropriation by Parliament of money for the purpose, the Director may, from time to time, grant aid, in money or in kind—

- (a) to any assisted Aborigine or any assisted Islander; and
 - (b) to any person who, though not an assisted Aborigine or assisted Islander, is descended from an Aborigine or an Islander,
- subject to and in accordance with regulations made under this Act.

27. Management of property. (1) A district officer may,—

- (a) upon request in that behalf made to him by the assisted Aborigine or, as the case may be, assisted Islander concerned; or
- (b) if such district officer is satisfied that the best interests of the assisted Aborigine or, as the case may be, assisted Islander concerned, or of any member of the family of such assisted Aborigine or assisted Islander who should be supported by him, require it,

undertake and maintain the management of the property of any assisted Aborigine or assisted Islander who usually resides within the district of such district officer.

(2) If an assisted Aborigine or assisted Islander whose property is being managed by a district officer takes up residence of a permanent nature in another district the district officer of that other district shall undertake and maintain management of the property of such assisted Aborigine or, as the case may be, assisted Islander.

(3) A district officer shall cease to manage the property of an assisted Aborigine or, as the case may be, assisted Islander if,—

- (a) he is satisfied that the best interests of such assisted Aborigine or, as the case may be, assisted Islander, or of any member of the family of such assisted Aborigine or assisted Islander who should be supported by him, no longer require that he should manage such property and, where such district officer is a person other than the Director, the Director approves that he cease to manage such property;

- (b) being a person other than the Director, he is directed by the Director to relinquish such management; or
- (c) he is directed by a Stipendiary Magistrate pursuant to section twenty-nine of this Act to cease such management.

28. Powers incident to management of property. (1) Subject to the next succeeding subsection, a district officer who is maintaining the management of the property of an assisted Aborigine or assisted Islander may, if he is satisfied that the best interests of such assisted Aborigine or, as the case may be, assisted Islander, or of any member of the family of such assisted Aborigine or assisted Islander who should be supported by him, require it,—

- (a) take possession of, retain, sell or otherwise dispose of any of such property;
- (b) in his own name sue for and recover or receive any property to which such assisted Aborigine or, as the case may be, assisted Islander is entitled;
- (c) in his own name sue for and recover or receive any damages for conversion of or injury to such property;
- (d) exercise in the name of such assisted Aborigine or, as the case may be, assisted Islander any power which such assisted Aborigine or, as the case may be, assisted Islander may exercise for his benefit;
- (e) in the name of such assisted Aborigine or, as the case may be, assisted Islander appoint any person to act as attorney or agent of such assisted Aborigine or, as the case may be, assisted Islander for any purpose connected with such property;
- (f) require any person who, within twelve months last preceding the date of such requisition, had contractual, financial or property dealings with such assisted Aborigine or, as the case may be, assisted Islander to furnish to such district officer a statement containing such details of those dealings as such district officer requires.

(2) When a district officer who is maintaining the management of the property of an assisted Aborigine or an assisted Islander is a person other than the Director he may exercise any of the powers conferred upon him by the preceding subsection only with the approval of the Director first had and obtained.

(3) Any person who when required by a district officer to furnish a statement pursuant to paragraph (f) of subsection (1) of this section fails to furnish to the district officer a statement containing such details as the district officer requires commits an offence against this Act.

(4) A district officer who is maintaining the management of the property of an assisted Aborigine or, an assisted Islander shall keep proper and accurate records and accounts of all such property and the proceeds of the sale or disposal of any such property received or dealt with by him pursuant to this Act and shall, for this purpose, be deemed to be a public accountant within the meaning of "*The Audit Acts, 1874 to 1963.*"

29. (1) Reference from action of district officer. Any person of whose property a district officer has undertaken the management pursuant to paragraph (b) of subsection (1) of section twenty-seven of this Act may

apply to the Stipendiary Magistrate who constitutes the Magistrates Court in the district in which such person resides at the date of such application for an order that such district officer cease such management.

Any such application shall be made within twenty-eight days after such person's becoming aware that such district officer has undertaken the management of his property by lodging such application signed by the applicant with the clerk of the court in such district.

(2) **Application for cessation of management.** Any person of whose property a district officer is maintaining the management pursuant to section twenty-seven of this Act may request such district officer to cease such management and, if his request be refused, may apply to the Stipendiary Magistrate who constitutes the Magistrates Court in the district in which such person resides at the date of such application for an order that such district officer cease such management.

Any such application shall be made within twenty-eight days after such refusal is made known to such person by lodging such application signed by the applicant with the clerk of the court in such district.

(3) (a) Until an application duly made under subsections (1) or (2) of this section is determined or otherwise disposed of in accordance with this section, a district officer who has undertaken or is maintaining the management of the property of the applicant may only exercise in relation to such property a power the exercise of which is reasonably required to prevent waste of or to preserve such property.

(b) The district officer concerned in an application under subsections (1) or (2) of this section may at any time apply to the Stipendiary Magistrate to whom such first-mentioned application has been made that such first-mentioned application be struck out for want of prosecution.

If such Stipendiary Magistrate is satisfied that such first-mentioned application has not been prosecuted by the applicant without adequate reason for such default he shall strike out and thereby dispose of such first-mentioned application.

(4) If the Stipendiary Magistrate to whom an application under subsections (1) or (2) of this section is made allows such application he shall order the district officer concerned to cease the management of the property of the applicant either forthwith or on and from a later date to be specified by him and such district officer shall comply accordingly.

(5) A Stipendiary Magistrate shall not deal with any application purporting to be made under subsection (2) of this section which application is made within six months after an application by the same applicant under subsections (1) or (2) of this section has been determined or otherwise disposed of in accordance with this section and such an application so made shall be deemed not to be duly made under subsection (2) of this section.

(6) Neither the making of an application under subsections (1) or (2) of this section nor the decision of a Stipendiary Magistrate allowing such an application shall render unlawful any act of a district officer taken in relation to the property of the applicant prior to the making of such application.

30. Execution of instruments. (1) Notwithstanding any provision of any Act or rule of law to the contrary an instrument executed by an assisted Aborigine or an assisted Islander shall be of no validity or effect unless such execution has been approved of and witnessed by the district officer or other officer authorized in that behalf by the Director.

(2) Any person who knowingly causes or induces an assisted Aborigine or an assisted Islander to execute an instrument without the approval of and witnessing by the district officer or other officer referred to in the preceding subsection commits an offence against this Act.

31. Administration of estates. (1) Notwithstanding any provision of any Act or rule of law or practice to the contrary the Director—

- (a) shall administer the estate of a deceased or missing assisted Aborigine or assisted Islander and shall, if the value or nature of such estate require it, be entitled to a grant of probate or, as the case may require, letters of administration in relation to that estate:

Provided that the Director may, if he thinks it desirable, renounce the rights by this paragraph conferred on him in favour of The Public Curator of Queensland who shall thereupon be entitled to an order to administer such estate or, as the case may require, to file an election to administer such estate and shall administer such estate; and

- (b) whether or not he is administering such estate, in the absence of a testamentary instrument lawfully made and in accordance with this Act and if it should prove impracticable to ascertain the person or persons entitled in law to succeed to such estate or any part thereof, may determine which person or persons shall be entitled to succeed to such estate or part or any part thereof.

The persons so determined shall succeed to such estate or part in such order and proportions as the Director so determines.

(2) A certificate purporting to be under the hand of the Director that the person or persons named therein is or are entitled to succeed to the estate or any part of the estate of an assisted Aborigine or assisted Islander or that there is no person so entitled shall be conclusive evidence of the fact certified.

(3) When there is no person entitled to succeed to the estate or any part of the estate of a deceased or missing assisted Aborigine or assisted Islander such estate or part shall vest in the Director who shall pay the same as follows:—

- (a) when the estate or part thereof is that of an assisted Aborigine, into the Aborigines' Welfare Fund for the benefit of assisted Aborigines generally;

- (b) when the estate or part thereof is that of an assisted Islander, into the Island Fund preserved under this Act.

(4) For the purposes of this section, the estate of a person who at the date of his death or disappearance was, for the purposes of this Act, an Aborigine or, as the case may be, an Islander because of his residence upon a reserve and who was at such date an assisted Aborigine or assisted Islander shall be deemed to be the estate of an assisted Aborigine or, as the case may be, assisted Islander notwithstanding such person's ceasing to be a resident of such reserve.

32. Restriction on creditors' rights. No person shall have any right to or remedy against any property held by a district officer or any other person on behalf of an assisted Aborigine or assisted Islander or on

behalf of the estate of the same on account of any money lent or goods supplied on credit to an assisted Aborigine or assisted Islander unless such money or goods have been so lent or supplied with the consent of a district officer.

This section applies in relation to any property held by a district officer or any other person on behalf of a person who has ceased to be an assisted Aborigine or, as the case may be, assisted Islander in accordance with this Act or on behalf of the estate of any such person.

33. Disposal of unclaimed money. When a person ceases to be an assisted Aborigine or assisted Islander in accordance with this Act a district officer shall, as soon as practicable, pay all moneys which he is then holding on behalf of that person or which subsequently come into his hands for that person to the credit of the Aboriginal Protection of Property Account to be held for such person or, as the case may require, disposed of at his direction.

34. Transfer to and from reserves. The Director may from time to time by writing under his hand—

- (a) order an assisted Aborigine who is not residing on a reserve or an assisted Islander who is not residing on a reserve to be transferred from any district to a reserve and to reside on such reserve for such period as the Director by such writing specifies or until the Director in like manner otherwise orders;
- (b) upon the recommendation of an Aboriginal court of a reserve on which the assisted Aborigine concerned is residing, order the assisted Aborigine against whom such recommendation is made to be transferred from such reserve to another reserve for Aborigines and to reside on such other reserve until the Director, in like manner, otherwise orders;
- (c) upon the recommendation of an island court of a reserve on which the assisted Islander concerned is residing, order the assisted Islander against whom such recommendation is made to be transferred from such reserve to another reserve (whether it be a reserve for Aborigines or for Islanders) and to reside on such other reserve until the Director, in like manner, otherwise orders.

35. Reference from order of Director. (1) Any person in relation to whom the Director makes an order pursuant to the last preceding section may institute a reference from such order by way of application to a Stipendiary Magistrate who constitutes the Magistrates Court in the district in which such person resides at the date of the application whereby such reference is instituted.

Any such reference shall be instituted within twenty-eight days after the Director's order is made known to such person by lodging such application signed by the applicant with the clerk of the court in such district.

(2) (a) The institution of a reference under this section shall suspend the operation of the Director's order in issue until such reference is determined or otherwise disposed of in accordance with this section.

(b) The Director may at any time after the institution of a reference under this section apply to the Stipendiary Magistrate to whom the application concerned has been made that such reference be struck out for want of prosecution.

If such Stipendiary Magistrate is satisfied that such reference has not been prosecuted by the applicant without adequate reason for such default he shall strike out and thereby dispose of such reference and thereupon the Director's order in issue shall be restored to its full force and effect.

(3) If such Stipendiary Magistrate allows such a reference he shall order the Director to do all things which the Director may lawfully do under this Act to give effect to his decision and the Director shall comply accordingly.

(4) Neither the institution of a reference pursuant to this section nor the decision of a Stipendiary Magistrate allowing such a reference shall render unlawful any action taken prior to the institution of such reference in reliance upon the Director's order from which such reference was instituted.

36. Unauthorized mining on reserves. (1) Notwithstanding any provision of "*The Mining Acts, 1898 to 1955*," a holder of a miner's right shall not thereby be entitled to enter or be within the limits of a reserve unless—

(a) in the case of a reserve other than a reserve on a Torres Strait Island he has the written permission of the manager of that reserve; or

(b) in the case of a reserve on a Torres Strait Island he has the written permission of the district officer.

(2) The manager of a reserve or the district officer may at any time revoke his permission granted under the preceding subsection.

(3) If the manager of a reserve refuses his permission or revokes his permission the holder of a miner's right who applied for such permission may renew his application to the Director who may grant or refuse his permission.

If the Director grants his permission such permission shall, for the purposes of this section, be deemed to be the permission of the manager of the reserve concerned:

Provided that such manager shall not revoke the permission of the Director granted pursuant to this subsection.

(4) A holder of a miner's right who enters or is within the limits of a reserve otherwise than in accordance with this section commits an offence against this Act.

It is a defence to a charge of an offence against this section to prove that there was lawful authority for the defendant's entering or being within the limits of such reserve.

(5) Notwithstanding the provisions of any other Act a mining lease over an area within a reserve shall not be granted until the application therefor has been approved by the Director.

37. Trading on reserves. (1) Unless—

(a) in relation to a reserve for Aborigines, he has first obtained the written authority of the manager of such reserve or of the Director; or

- (b) in relation to a reserve for Islanders, he has first obtained the written authority of the district officer,
- a person shall not—
- (i) remove from any reserve any natural, primary or manufactured product of such reserve; or
 - (ii) on any reserve purchase, lease, hire, rent, acquire or receive by barter or otherwise any such product of such reserve or any property situated on such reserve; or
 - (iii) on any reserve sell, lease, hire, rent, supply to or place under the control of an assisted Aborigine resident on such reserve or an assisted Islander so resident any property.

(2) It is a defence to a charge of an offence against this section to prove that the defendant was at the time of the alleged offence an assisted Aborigine resident on the reserve concerned or an assisted Islander so resident.

38. Confession of offence. (1) When an assisted Aborigine or an assisted Islander is charged with an offence, indictable or otherwise, and it appears that he has made an admission of guilt or confession before trial any district officer may appear before the presiding judge or justice constituting the court by which the accused is to be tried either of his own motion or at the request of the accused and inform such judge or justice by evidence whether, in his opinion, it is likely that the accused did not understand such admission of guilt or confession having regard to his stage of development.

(2) If such district officer testifies that, in his opinion, it is likely that the accused did not understand such admission of guilt or confession the same shall not be admitted as evidence in the trial until the presiding judge or, as the case may be, justice is satisfied upon a *voir dire* or thereafter during the trial that the accused understood such admission of guilt or confession at the time it was made.

(3) The provisions of this section shall not prejudice or in any way limit the rights of the accused to challenge the admissibility or the reception into evidence of an admission of guilt or confession in any manner in which any accused might exercise such rights according to law.

39. Plea of guilty. (1) When an assisted Aborigine or an assisted Islander is before a court charged with an offence, indictable or otherwise, and it appears that he desires to plead guilty to such charge any district officer may, of his own motion or at the request of such accused, appear before such court to inform such court by evidence of the probability of the accused's understanding the nature and consequences of his pleading guilty to such charge having regard to his stage of development.

Such evidence may be rebutted by evidence called by or on behalf of any party to the proceeding.

If the district officer so appearing satisfies the court that it is probable that the accused does not understand the nature or consequences of his pleading guilty to such charge the court shall not accept or allow to be recorded or entered a plea of guilty by or on behalf of the accused but

shall, if the accused does not plead any other plea, cause a plea of not guilty to be recorded or entered on behalf of the accused the provisions of any other Act notwithstanding.

A plea of not guilty so recorded or entered shall have the same effect as if it had been actually pleaded by the accused.

(2) If the district officer so appearing does not satisfy the court as specified in the preceding subsection or, if a district officer does not appear pursuant to such subsection, the court may accept a plea of guilty made by or on behalf of an assisted Aborigine or an assisted Islander as in any other case:

Provided that before it accepts such a plea of guilty by virtue of the fact that a district officer has not so appeared a court shall be satisfied that a notice has been given to the Director or to a district officer of—

- (a) the name of the accused;
- (b) the substance of the offence charged or to be charged against the accused; and
- (c) the desire of the accused to plead guilty to such charge or to a charge of any other specified offence established by the evidence,

a sufficient time before the date of the hearing.

(3) (a) A notice required by the last preceding subsection may be—

- (i) served upon the Director or the district officer to whom it is addressed personally or by leaving it at his usual place of business; or
- (ii) sent by prepaid post letter addressed to the Director or such district officer at his usual place of business.

(b) In any proceeding a document appearing to be a duplicate of such a notice and purporting to comply with the provisions of the last preceding subsection and to be addressed to the Director or, as the case may be, district officer at his usual place of business shall be accepted as sufficient evidence of the sending of the original of such notice and that such original was sent on the date appearing on such duplicate as the date of such notice.

(c) A court may adjourn a hearing from time to time to allow such a notice to be given and in the meantime may remand the accused in custody or on bail on his own recognizance with such surety or sureties or without any surety as the court thinks fit.

40. (1) Hearsay evidence admissible. When a district officer appears before a court, judge, or justice pursuant to section thirty-eight or thirty-nine of this Act his evidence concerning the matters referred to in those sections shall be admissible notwithstanding that it is in the nature of hearsay evidence.

(2) **Acceptance of plea of guilty conclusive.** A plea of guilty accepted by a court in accordance with section thirty-nine of this Act shall not thereafter be challenged or questioned in any proceeding on the ground that, having regard to his stage of development, the accused did not understand the nature or consequences of such plea.

(3) **District officer's opinion not evidence before tribunal of fact.** No provision of section thirty-eight of this Act shall be construed to render admissible before a jury or, as the case may require, a justice as a tribunal of fact determining a charge against an assisted Aborigine or an assisted Islander the opinion of a district officer in relation to the matter referred to in subsection (1) of section thirty-eight of this Act.

(4) **Appearance for assisted persons.** Any district officer or, in the case of an assisted Aborigine being the accused, the manager of the reserve whereon such accused usually resides, may appear for an assisted Aborigine or an assisted Islander charged with any offence, may examine and cross-examine witnesses called in relation to such charge and may address the court (including the jury) on behalf of such accused any provision of any other Act or rule of practice notwithstanding.

(5) **Definition of "accused".** In this section and in sections thirty-eight and thirty-nine of this Act the term "accused" includes a defendant being dealt with summarily for any offence.

41. When female not a compellable witness. (1) When a male assisted Aborigine or assisted Islander and a female assisted Aborigine or assisted Islander are living together as man and wife otherwise than in lawful marriage at the time when, according to the charge relevant thereto, the male assisted Aborigine or assisted Islander commits an offence and it appears—

- (a) in the case of a charge against a male assisted Aborigine, to the district officer of the district wherein such assisted Aborigine usually resides or to the manager of the reserve whereon such assisted Aborigine usually resides; or
- (b) in the case of a charge against a male assisted Islander, to the district officer or, where such assisted Islander usually resides on a reserve for Aborigines, the manager of such reserve,

that they would be likely to continue in that relationship, the female assisted Aborigine or, as the case may be, assisted Islander shall not be a compellable witness against such male assisted Aborigine or, as the case may be, assisted Islander.

(2) No provision of the preceding subsection or of sections thirty-eight, thirty-nine or forty of this Act applies in relation to proceedings before an Island court or an Aboriginal court.

42. Minister for Education may take charge of mission school aided by State. The Governor in Council may, by Order in Council, authorize the Minister for Education of Queensland to take charge of and administer any school situated on a mission conducted by any Church, religious body or secular organization for the benefit of Aborigines or Islanders in respect of which school moneys of the State have been expended by way of aid or endowment either before or after the commencement of this Act.

The Governor in Council may, by such Order in Council, specify conditions upon which the Minister for Education of Queensland may so take charge of and administer such a school.

The Minister for Education of Queensland, authorized as aforesaid, may take charge of and administer such a school in accordance with such Order in Council.

PART V—ABORIGINES' AFFAIRS

43. Consequences of tribal union. (1) When a male Aborigine or a female Aborigine has lived in a connubial relationship with another person in accordance with recognized tribal practice the children of such a union, whether born before or after the commencement of this Act, shall be deemed to be legitimate and the fact that such union was not created in any way required by a law of the State or Commonwealth to create a lawful marriage or was not at any material time registered in accordance with law shall not prejudice the claim of the surviving partner of such union or of any child of such union to succeed to the estate of the deceased partner of such union or to the benefit of any damages or any right of action therefor, or of workers' compensation which would be payable in respect of the death of the deceased partner of such union to the surviving partner of such union or to any child of such union were such union a lawful marriage.

(2) A certificate purporting to be under the hand of the Director that any male Aborigine or any female Aborigine has lived with another person in accordance with recognized tribal practice shall be conclusive evidence of the fact certified.

44. (1) Aboriginal courts. The Governor in Council may, by regulation, establish for a reserve or community of Aborigines a court which shall be called an Aboriginal court.

In relation to the Aborigines in the reserve or community for which it is established an Aboriginal court shall have and may exercise such powers, duties, functions and jurisdictions as are, from time to time, prescribed pursuant to this Act.

(2) Aboriginal councils. The Governor in Council may, by regulation, establish for a reserve or community of Aborigines a council which shall be called an Aboriginal council.

In relation to the assisted Aborigines in the reserve or community for which it is established an Aboriginal council shall have and may exercise such powers, duties and functions of local government as are, from time to time, prescribed pursuant to this Act.

PART VI—ISLANDERS' AFFAIRS

45. Local Government of reserves for Islanders. (1) (a) Every reserve for Islanders and the Islander community situated at Bamaga on the Northern Peninsula reserve shall be governed by an Island council (in this Part called a "council") comprising such number of members not exceeding five (including the chairman) as the district officer may, from time to time, fix.

The chairman of a council shall be called, and in this Act is called, "chairman".

The other members of a council shall be called, and in this Act are called, "councillors".

(b) Every council constituted pursuant to "*The Torres Strait Islanders Acts, 1939 to 1946*," and existing at the commencement of this Act shall, unless it is previously dissolved in accordance with this Act,

continue in existence until the first triennial election of chairman and councillors held pursuant to this Act and shall be deemed to have been constituted pursuant to this Act.

(c) Every by-law, resolution and order lawfully made by a council pursuant to "*The Torres Strait Islanders Acts, 1939 to 1946*," shall be deemed to have been made by such council pursuant to this Act and to be of force and effect accordingly.

(2) Every Islander who has attained the age of twenty-one years and who resides or is entitled to reside on the reserve or, in the case of the Islander community at Bamaga aforesaid, within that community and who consents to be so nominated and who is not otherwise rendered incapable by this section shall be qualified to be nominated as a candidate for and to be elected and to act as chairman or a councillor.

Every person nominated as a candidate shall pay to the district officer the sum of five pounds to be by him retained until the result of the election is known.

A person who fails to pay such sum at least seven days before the date fixed for the election as in this section prescribed shall not be a candidate at that election.

The district officer shall, upon the result of the election being known, pay to each candidate who is elected and to each other candidate who received at least one-fifth of the number of votes received by the candidate who received most votes the sum of five pounds paid to him by such candidate and shall pay the sum of five pounds paid to him by any other candidate to Consolidated Revenue.

(3) A person who—

(a) is undergoing a sentence imposed upon him by a court, other than an Island court, consequent upon his conviction of any offence; or

(b) has been convicted before an Island court of an offence against this Act or any by-law of a council within the period of two years last preceding his nomination; or

(c) holds an appointment as policeman on a reserve for Islanders or within the Islander community at Bamaga aforesaid,

shall not be capable of being nominated as a candidate for or of being elected or of acting as chairman or a councillor.

(4) (a) The chairman and the whole number of councillors shall be elected by the electors and for this purpose a triennial election shall be held.

(b) The first triennial election of a council shall be held pursuant to this Act in the third year after the date of the last triennial election of such council held prior to the commencement of this Act but if there be no such date then upon a date to be fixed in the manner provided by subsection (6) of this section.

(5) (a) Subject to this subsection, the office of chairman or councillor shall—

(i) commence on the day of his election; and

(ii) become vacant at the conclusion of the next triennial election under this Act unless sooner vacated in accordance with this Act.

(b) The office of chairman or of councillor shall be deemed to have been vacated if the holder of such office—

- (i) dies or resigns;
- (ii) is convicted of an indictable offence before any court other than an Island court;
- (iii) is convicted of an offence before an Island court;
- (iv) accepts an appointment as policeman on a reserve for Islanders or within the Islander community at Bamaga aforesaid;
- (v) otherwise becomes disqualified to act as chairman or, as the case may be, councillor.

(6) At any election of a council the voting shall be by secret ballot and each elector shall be entitled to one vote.

The election shall be held on a date to be fixed by the three group representatives (in this Part provided for) or, in the event of their failing to do so, by the district officer, during the year of the triennial election and shall be conducted in one public building on the reserve or within the community for which such election is being held.

In this subsection the term "public building" means a school, community hall, an Island council meeting place and any other building approved by the district officer.

(7) Every Islander who has attained the age of twenty-one years and who resides on the reserve or, in the case of the Islander community at Bamaga aforesaid, within the community shall be qualified to vote unless he is undergoing a sentence imposed upon him by a court other than an Island court consequent upon his conviction of any offence.

(8) A chairman or any councillor may resign his office by notice (oral or written) to the district officer and such resignation shall take effect from the time it is received by such officer.

(9) (a) When a vacancy arises in the office of chairman or councillor prior to the conclusion of the next triennial election an election may be held to fill such office on a date to be fixed by the three group representatives or, in the event of their failing to do so, by the district officer.

(b) A person elected under this subsection to fill any vacancy shall in relation to that election hold office for the remainder of the term for which his predecessor in that office was elected.

Any such person may at the triennial election next ensuing after his election or at any subsequent time be elected or re-elected to the office of chairman or councillor if he is then capable of acting as such.

(c) If sufficient vacancies occur to prevent a quorum of members of a council from being obtained the district officer may make such arrangements as he considers necessary for the carrying on of the essential services of the reserve until such vacancies are filled.

(10) Every election of a council shall be conducted in accordance with such rules, forms and directions as are prescribed.

(11) (a) At the first meeting of a council after the conclusion of an election of chairman and councillors, or at some adjournment of such meeting, the members present shall elect one of their number to be deputy chairman of the council who shall, subject to this subsection, hold office until the conclusion of the next triennial election.

The office of deputy chairman shall—

- (i) commence on the day of his election thereto; and
- (ii) become vacant at the conclusion of the next triennial election under this Act unless sooner vacated.

(b) The office of deputy chairman shall be deemed to have been vacated if the holder of such office—

- (i) dies or resigns;
- (ii) is convicted of an indictable offence before any court other than an Island court;
- (iii) is convicted of an offence before an Island court;
- (iv) accepts an appointment as policeman on a reserve for Islanders or within the Islander community at Bamaga aforesaid;
- (v) otherwise becomes disqualified to act as a councillor.

(c) A deputy chairman may resign his office by notice (oral or written) to the district officer and such resignation shall take effect from the time it is received by such officer.

(12) In this section the term "sentence" includes a suspended sentence and a probation order and, notwithstanding the provisions of section nineteen of "*The Offenders Probation and Parole Act of 1959*," the term "conviction" includes a conviction in respect of which a probation order is made.

46. Functions and powers of council. (1) A council shall have and may exercise the functions of local government of the reserve or, in the case of the Islander community at Bamaga aforesaid, of that community and shall be charged with the good rule and government of the reserve or, as the case may require, the community 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) A 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, a 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.

(5) Fees, charges, fares, rents, and dues may be imposed by by-law but this subsection shall not prejudice the power of a 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) A 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, and 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 twenty pounds and no term of imprisonment prescribed shall exceed three months.

(10) When a by-law has been approved by the Director the council which made it shall cause it to be exhibited for a reasonable time in a prominent place on the reserve or, as the case may be, within the area of the community.

(11) The district officer may at any time by notice in writing suspend any resolution or order of a council either for an indefinite period or for such a period as he may specify.

If the district officer suspends a resolution or order of a council the chairman of that council may institute a reference from the decision in that behalf by way of application to the Stipendiary Magistrate or Acting Stipendiary Magistrate who constitutes the Magistrates Court in the Magistrates Courts District of Somerset.

Any such reference shall be instituted within twenty-eight days after such decision is made known to the chairman of the council concerned by lodging such application signed by the applicant with the clerk of the court in such district.

The institution of a reference pursuant to this subsection shall suspend the operation of the district officer's decision until such reference is determined or otherwise disposed of in accordance with this subsection.

The district officer may at any time after the institution of such a reference apply to the Stipendiary Magistrate or Acting Stipendiary Magistrate to whom the application concerned has been made that such reference be struck out for want of prosecution.

If such Stipendiary Magistrate or Acting Stipendiary Magistrate is satisfied that such reference has not been prosecuted by the applicant without adequate reason for such default he shall strike out and thereby dispose of such reference and thereupon the district officer's decision in issue shall be restored to its full force and effect.

If such Stipendiary Magistrate or Acting Stipendiary Magistrate allows such reference or varies the district officer's decision in issue such decision shall not have any force or effect or, as the case may be, shall have force and effect only as so varied.

47. Island rate. A council may make and levy a rate (in this Act called the "Island rate") upon such basis as may be prescribed by the by-laws of the council or, in so far as it is not so prescribed, as may be determined by the council.

A council may impose fees, charges, fares, rents and dues in respect of any property, service, matter or thing for the purpose of enabling it to exercise and perform its functions.

48. Island police. (1) A council may, subject to the approval of the district officer, appoint policemen for the reserve or, in the case of the Islander community at Bamaga aforesaid, for that community.

(2) Such policemen shall have such powers and duties as are prescribed by the by-laws of the council concerned and in so far as they are not so prescribed, as are determined by the three group representatives or, in so far as they do not so determine, by the district officer.

49. Dissolution of council. (1) The Director may upon the petition of at least two-thirds of the electors of a reserve, if in his opinion it is necessary so to do, by notice in writing dissolve a council whereupon—

(a) the chairman and councillors shall forthwith vacate their respective offices;

(b) a fresh election of the chairman and the whole number of councillors shall be held at such time as the district officer appoints.

(2) Within the period between the dissolution of a council and the election of another council the district officer may make such arrangements as he considers necessary for carrying on the essential services of the reserve.

50. Island Fund. (1) The Island Fund established under "*The Torres Strait Islanders Act of 1939*" is hereby preserved and continued and the same shall be maintained and administered, subject to the Minister and the Director, by the district officer of the district of Somerset.

(2) There shall be paid into the Island Fund—

(a) all moneys prescribed by this Act or any other Act to be so paid;

(b) all moneys paid in respect of rates, fees, charges, fares, rent and dues imposed by a council;

(c) all moneys paid in respect of fines imposed by an Island court; and

(d) all moneys paid by way of grants to such fund.

(3) (a) Moneys specified in paragraph (a) of the last preceding subsection and paid into the Island Fund shall be held for and applied to the purpose prescribed by the Act pursuant to which they were so paid.

(b) Moneys paid into the Island Fund pursuant to paragraphs (b), (c) or (d) of the last preceding subsection shall be applied, from time to time, towards expenditure incurred or to be incurred by the councils in the exercise and performance by them of the functions of local government.

(c) A disbursement shall not be made from the Island Fund unless the district officer approves.

(4) If, in pursuance of a resolution or order of a council or otherwise, a disbursement from the Island Fund has been made to any person which the district officer considers to be unnecessary, extravagant or not

authorized by this Act, the district officer may order such person to repay such disbursement to the Island Fund either forthwith or within such time as the district officer may allow.

The amount of any such disbursement may be recovered by the district officer as a debt due to him in any court of competent jurisdiction.

Any person who fails to comply with an order of the district officer issued under this subsection commits an offence against this Act.

51. Group representatives. (1) For the purposes of this section the reserves for Islanders are divided into three groups as follows:—

- (a) Eastern group comprising those reserves set forth under that heading in Schedule II to this Act;
- (b) Central group comprising those reserves set forth under that heading in Schedule II to this Act;
- (c) Western group comprising those reserves set forth under that heading in Schedule II to this Act and the Islander community at Bamaga on the Northern Peninsula reserve.

(2) The Governor in Council may, from time to time by Order in Council, declare any reserve for Islanders or community of Islanders to be within one of the three groups aforesaid and thereupon such reserve or, as the case may be, community shall be a reserve or, as the case may be, a community within the group as declared.

(3) The members of the councils within each such group shall, as soon as practicable after each triennial election of such councils, elect by majority vote of those so voting a person who is capable as provided by this Act to be the representative of such group.

A person shall be capable of being a group representative if he is also capable of acting as a chairman or councillor at the time of his election.

(4) (a) A group representative shall, subject to this section, hold his office until the next election of a group representative of the group concerned.

(b) The office of a group representative shall become vacant if the holder of that office—

- (i) dies or resigns;
- (ii) is convicted of an indictable offence before any court other than an Island court;
- (iii) is convicted of an offence before an Island court;
- (iv) accepts an appointment as policeman on a reserve for Islanders or within the Islander community at Bamaga aforesaid;
- (v) otherwise becomes disqualified to act as a group representative.

(c) A group representative may resign his office by notice (oral or written) to the district officer and such resignation shall take effect from the time it is received by such officer.

(d) If the office of a group representative becomes vacant before his successor is elected following the next ensuing triennial election of councils the councils in the group concerned may elect another person capable under this Act of being a group representative who shall, subject to this Act, hold such office for the remainder of the term of his predecessor in such office.

(5) Each group representative shall be entitled to attend at every meeting of a council within the group in relation to which he is representative and to advise the council in the exercise of its powers and performance of its functions under this Act.

Unless a group representative is also a member of the council a meeting of which he is attending he shall not be entitled to vote in relation to the business before such meeting.

(6) The three group representatives shall meet at least twice in each year at such places and at such times as they may determine for the purpose of promoting the well-being of Islanders.

(7) For the purposes of this section a person convicted of an indictable offence in respect of which a probation order has been made under "*The Offenders Probation and Parole Act of 1959*" shall be deemed convicted of an indictable offence notwithstanding the provisions of section nineteen of that Act.

52. (1) Island court. A council may at any time constitute itself into a court (in this Act called an "Island court") and exercise in relation to Islanders within its reserve, or in the case of the Islander community at Bamaga aforesaid, within that community, the jurisdiction from time to time conferred upon such court by this Act.

An Island court shall be constituted by a majority of the whole number of members of the council.

A person shall not sit as a member of an Island court constituted for the purpose of hearing and determining any matter in which he has an interest.

(2) **Appeals from Island court.** (a) Any person who feels aggrieved by a decision of an Island court may, within twenty-eight days after the pronouncement of such decision, appeal from such decision to the group representative of the group of reserves which includes the reserve or community for which such Island court is constituted.

Such group representative, after hearing the appellant and a representative of the Island court concerned, or such of them as desires to be heard, may pronounce the decision which in his opinion such court should have pronounced in the first instance.

(b) Any person who feels aggrieved by a decision of a group representative given upon an appeal instituted pursuant to paragraph (a) of this subsection may, within twenty-eight days after the pronouncement of such decision, appeal from such decision to the district officer who, after hearing the appellant and a representative of the Island court concerned or such of them as desires to be heard, may pronounce the decision which in his opinion such court should have pronounced in the first instance.

(c) The decision of a group representative given on an appeal instituted pursuant to paragraph (a) of this subsection shall, unless and until the district officer pronounces a decision upon an appeal therefrom instituted pursuant to paragraph (b) of this subsection, be deemed to be the decision of the Island court concerned.

The decision of the district officer given on an appeal instituted pursuant to paragraph (b) of this subsection shall be deemed to be the decision of the Island court concerned.

(3) **Saving of Island courts' orders and decisions.** Every order and decision made by an Island court constituted pursuant to "*The Torres Strait Islanders Acts, 1939 to 1946,*" and subsisting at the commencement of this Act shall continue to be of full force and effect as if made by an Island court constituted pursuant to this Act.

53. District officer trustee of vessels, plant and produce. (1) The interest of an assisted Islander in a vessel or item of plant which but for this section would be the property wholly or partly of an assisted Islander

and which is used or intended to be used by such assisted Islander for the purpose of engaging in any industry and his interest in the produce of any such engagement shall be deemed to be vested in the district officer of the district of Somerset as trustee for such assisted Islander upon the following trusts:—

- (a) to direct or join with others in directing the working of such vessel or plant by such assisted Islander in the manner considered by such district officer to be in the best interests of such assisted Islander;
- (b) to sell or cause to be sold, on behalf of such assisted Islander, his interest in such produce.

Such district officer may, upon request in that behalf by such assisted Islander or if, in his own opinion, the interests of such assisted Islander require it, sell or cause to be sold a vessel or item of plant or an interest therein held by him pursuant to this subsection.

(2) Such district officer may—

- (a) repudiate any contract of sale lease or hire of any such vessel, plant or produce which contract has been made without his authority;
- (b) recover by action in his own name in any court of competent jurisdiction any such vessel, plant or produce delivered to any person pursuant to such a contract or damages in lieu thereof.

There may be set off against a claim by such district officer made pursuant to this subsection any amount of consideration proved to have been paid under the contract concerned to any assisted Islander entitled to the beneficial interest in such vessel, plant or produce.

(3) The purchase price of the interest of an assisted Islander in any such vessel, plant or produce sold by or with the authority of such district officer shall be paid to him and, if not so paid, may be recovered by him by action in his own name in any court of competent jurisdiction.

Such district officer, out of such purchase price, shall—

- (a) pay the expenses properly incurred on behalf of the assisted Islander in respect of such sale;
- (b) pay all debts properly incurred on behalf of the assisted Islander in relation to such vessel, plant or produce;
- (c) pay the balance of such purchase price to the assisted Islander beneficially entitled thereto and, if there be more than one such assisted Islander, according to their respective shares and at the time of such payment account to him or them for the disbursement of such purchase price.

PART VII—ISLAND INDUSTRIES BOARD

54. Island Industries Board. (1) The corporation known as “The Island Industries Board” continued in being under “*The Torres Strait Islanders Acts, 1939 to 1946,*” is hereby preserved, continued in being and constituted under and for the purposes of this Act and in this Act is called the “Board”.

(2) Notwithstanding the repeal of “*The Torres Strait Islanders Acts, 1939 to 1946,*” or any provision of this Act—

- (a) every right and every obligation of the Board subsisting at the commencement of this Act may be enforced by or, as the case may be, against the Board as if this Act had not been passed; and

(b) every legal proceeding commenced by or against the Board and subsisting at the commencement of this Act may be continued as if this Act had not been passed.

(3) The members, officers and employees of the Board at the commencement of this Act shall be deemed to have been appointed under and for the purposes of this Act.

(4) (a) The Board shall be composed of—

(i) the district officer for the time being of the district of Somerset who shall be chairman of the Board;

(ii) two persons appointed by the Governor in Council by notification published in the *Gazette*; and

(iii) the three group representatives from time to time elected pursuant to this Act.

The members of the Board appointed by the Governor in Council shall hold office at the pleasure of the Governor in Council.

(b) At any meeting of the Board the chairman thereof and one other member thereof shall constitute a quorum.

The chairman of the Board shall preside at every meeting of the Board.

(c) In the event of a vacancy occurring in the office of a member of the Board appointed by him the Governor in Council shall appoint another person who shall hold office at the pleasure of the Governor in Council.

(5) The Board shall be a corporation under the name of "The Island Industries Board" and by that name shall have perpetual succession and an official seal which shall be judicially noticed.

The Board shall be capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts or sums of money due to it, of acquiring, holding, alienating, conveying and otherwise dealing with property within and outside the State and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

55. Appointment of officers and employees of Board. (1) Subject to the direction of the Minister in that behalf the Board—

(a) shall appoint a secretary to the Board; and

(b) may appoint such administrative and technical officers, clerks and other officers as the Board considers necessary for the proper administration of this Part.

(2) The Board may employ such employees or agents as it considers necessary for carrying into effect this Part.

(3) The secretary to the Board may execute documents on behalf of the Board and may affix the official seal of the Board to any document requiring the same to be affixed and shall exercise such other powers and perform such duties as the Board from time to time appoints.

(4) Unless he has been appointed to his position pursuant to "The Public Service Acts, 1922 to 1963," every secretary to the Board and every officer, clerk, agent or employee of the Board shall hold office or be so employed at the pleasure of the Board.

56. (1) Acquisition of land and property. The Board may acquire by purchase, lease, grant, or otherwise and hold land for carrying out any of the purposes of this Part and Schedule I to this Act, and may also purchase, construct, maintain, and alter such buildings, warehouses, vessels, wharves, tramways, plant, machinery, and other works, improvements, and things as it shall consider necessary or desirable for the purposes of this Part and Schedule I to this Act.

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

- (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 and Schedule I to 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.

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

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

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.

59. Audit of Board's accounts. At least once in each year the accounts of the Board shall be audited by the Auditor-General who shall have, with respect to such audit and accounts, all the powers and authorities conferred upon him by “*The Audit Acts, 1874 to 1963,*” and who shall report thereon.

PART VIII—REGULATIONS AND SPECIAL RULES

60. Power to make regulations. The Governor in Council may from time to time make regulations not inconsistent with this Act which are necessary, desirable or convenient for carrying this Act into effect or for achieving or for better achieving the objects and purposes of this Act, and without in any way limiting the generality of the foregoing powers may make such regulations conferring, providing for, and regulating in relation to all or any of the following matters:—

- (1) The powers, authorities, duties and functions of the Director, district officers and other officers appointed for the purposes of this Act and the exercise or performance of such powers, authorities, duties and functions;
- (2) The establishment of Aboriginal courts, the constitution, jurisdiction, powers, authorities, duties and procedures of such courts, the carrying out of sentences imposed by such courts,

the enforcement and appropriation of penalties imposed by such courts and the institution of appeals from decisions of such courts;

- (3) The jurisdiction, powers, authorities, duties and procedures of Island courts, the carrying out of sentences imposed by such courts, the enforcement and appropriation of penalties imposed by such courts, appeals from decisions of such courts and the review of sentences and penalties imposed by such courts;
- (4) The preservation, development, assimilation, integration, education, training and employment of assisted Aborigines and assisted Islanders;
- (5) Matters relating to the health and medical treatment, both preventive and curative, of assisted Aborigines and assisted Islanders;
- (6) The discipline and good order of reserves and the control of assisted Aborigines and assisted Islanders on reserves;
- (7) The establishment on reserves for Aborigines of Aboriginal councils, the composition of such councils, the method by which such councils are to be constituted, the powers, duties and functions of such councils and the rules pertaining to the conduct of meetings of such councils;
- (8) The inspection of reserves;
- (9) The establishment of police on reserves for Aborigines, the composition of and terms of service in such police and the powers, authorities, duties and functions of such police;
- (10) The establishment of Aboriginal gaols and Island gaols on reserves, the discipline and control of such gaols and the serving therein of sentences imposed on assisted Aborigines and assisted Islanders;
- (11) The employment of assisted Aborigines and assisted Islanders on vessels and elsewhere;
- (12) The granting of aid (in money or in kind) to assisted Aborigines and assisted Islanders and descendants of Aborigines or Islanders, the conditions upon which such aid may be granted and the liabilities to be incurred by any person to whom such aid is granted;
- (13) The care of children of assisted Aborigines or assisted Islanders other than such children who are in the care, protection or control of the Director of the State Children Department;
- (14) The employment and apprenticeship of children of assisted Aborigines or assisted Islanders other than such children who are in the care, protection or control of the Director of the State Children Department;
- (15) The establishment and maintenance of a welfare fund to be known as the Aborigines' Welfare Fund for the general benefit of persons having a strain of Aboriginal blood, the payments into and disbursements from such fund and the management and control of such fund;
- (16) The establishment of such trust funds as may be necessary or desirable for the management and control of property of assisted Aborigines or assisted Islanders and the estates of deceased or missing assisted Aborigines or assisted Islanders and unclaimed moneys;

- (17) The powers, authorities and duties of the Director in relation to the administration of estates of deceased or missing assisted Aborigines or assisted Islanders;
- (18) The classes of persons who should succeed to the estates of deceased or missing assisted Aborigines or assisted Islanders where it proves impracticable to ascertain the person or persons entitled in law to so succeed and the order and proportions in which members of such classes shall so succeed;
- (19) The management and control of the Island Fund and the payments into and disbursements from such fund;
- (20) The customs and practices of assisted Aborigines and assisted Islanders which, in the opinion of the Director, are likely to be injurious to the health or well-being of any person;
- (21) The harbouring of assisted Aborigines or assisted Islanders in or upon premises or vessels;
- (22) Trading in or parting with possession of property of the State on issue to an assisted Aborigine or assisted Islander;
- (23) The entry upon reserves by persons other than assisted Aborigines or assisted Islanders resident upon such reserves and the visiting of camps of Aborigines by persons other than Aborigines;
- (24) The framing of an annual budget by an Island council or any community council, the form in which such budget shall be framed, the books of account to be kept by an Island council or any community council and the operation of such a council under an annual budget;
- (25) The establishment and the management and control of insurance funds to indemnify assisted Islanders against loss or damage to vessels or plant and to compensate assisted Islanders and their dependants in respect of death or personal injury suffered by any person in the course of his employment in cases where compensation therefor is not payable under "*The Workers' Compensation Acts, 1916 to 1964*," the basis on which such indemnity or compensation is to be paid and the manner in which such funds shall be maintained;
- (26) The procedure and form of election of chairman, deputy chairman, councillors and group representatives held pursuant to this Act and the appointment of returning officers in respect of such elections;
- (27) The procedure and rules to govern the meetings of Island councils or of group representatives;
- (28) The appointment of a clerk of an Island council and other officers of an Island council;
- (29) The furnishing by an Island council of returns and information touching any matter within the jurisdiction of such a council and the inspection of the records of an Island council by or on behalf of the district officer;
- (30) The holding and conduct of meetings of the Board;
- (31) The keeping of books of account and records by the Board either generally or in relation to any business, trade or occupation, the manner in which and the persons by whom such books and records are to be kept;
- (32) The manner in which the Board may perform its activities under this Act;

- (33) The powers, authorities and duties of officers, employees and agents of the Board and the conduct of such persons and all other persons in, on and about the property of the Board;
- (34) Trespass, or damage to property of the Board;
- (35) Penalties for breaches of regulations made under this Act and the court before which any such penalty may be recovered;
- (36) The forms to be used in or for the purpose of any application, reference, appeal or other proceeding made or instituted pursuant to this Act and the procedures to be followed therein;
- (37) Fees to be paid under this Act and the purposes for which such fees shall be payable;
- (38) All matters and things which are by this Act required or permitted to be prescribed and in respect of which the method by which they are to be prescribed is not otherwise provided.

For the purposes of this Act the power to regulate includes the power to prohibit.

61. Special rules. The Governor in Council may from time to time make special rules not inconsistent with this Act which are necessary, desirable or convenient for carrying this Act into effect or for achieving or for better achieving the objects and purposes of this Act and without in any way limiting the generality of the foregoing powers may make such special rules in relation to all or any of the matters and purposes set forth in the last preceding section as subject-matter for regulations.

62. (1) Application of regulations. Regulations may be made under this Act so as to apply to all assisted Aborigines or all assisted Islanders or both or in relation to all reserves for Aborigines or all reserves for Islanders or both.

(2) Application of special rules. Special rules may be made under this Act so as to apply to one or some assisted Aborigines or one or some assisted Islanders or both or in relation to one or some reserves for Aborigines or one or some reserves for Islanders or both.

A special rule may be made under this Act so as to exclude the application of a regulation in the case or cases specified in such rule.

(3) Regulations and rules made on passing of Act. Regulations and special rules may be made upon the passing of this Act.

63. Publication of Orders in Council, regulations and special rules.

(1) Every Order in Council, regulation and special rule made under this Act shall—

- (a) be published in the *Gazette*;
- (b) upon such publication be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect on and from the date of such publication unless a later date is specified in such Order in Council, regulation or special rule for its commencement when in such event, it shall take effect on and from that later date; and
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session and, if not, then within fourteen sitting days after the commencement of the next session of the Legislative Assembly.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after an Order in Council, regulation or special rule has been laid before it disallowing

such Order in Council, regulation or special rule or any part thereof, that Order in Council, regulation or special rule or, as the case may require, part shall thereupon cease to have effect but without prejudice to the validity of anything done or omitted to be done in the meantime or to the making of a further Order in Council, regulation or special rule as the case may be.

PART IX—GENERAL PROVISIONS

64. Offences. Any person who—

- (a) does or omits to do or attempts to do or to omit to do any act for the purpose of enabling or aiding an assisted Aborigine or an assisted Islander to commit an offence against this Act; or
- (b) does any act or attempts to do any act for the purpose of counselling or procuring an assisted Aborigine or an assisted Islander to commit an offence against this Act; or
- (c) assaults, resists, intimidates or wilfully obstructs any district officer or other officer appointed under or for the purposes of this Act or any other person in the exercise of his powers or in the discharge of his duties under this Act, or who attempts so to do, commits an offence against this Act.

65. Institution of proceedings. All actions and proceedings against any person for the recovery of wages alleged to be due to an assisted Aborigine or an assisted Islander or for any breach of an agreement entered into by such person pursuant to this Act may be instituted and carried on by and in the name of a district officer or any person authorized in writing in that behalf by the Director.

66. Evidentiary aids. (1) In any proceeding to enforce a penalty under this Act—

- (a) the averment in a complaint that any person named therein is an assisted Aborigine or, as the case may require, an assisted Islander shall be evidence of the fact averred until the contrary be proved;
- (b) the averment in a complaint that an assisted Aborigine or, as the case may be, an assisted Islander was transferred to or is or was, at the time referred to therein, residing on a reserve pursuant to this Act, shall be evidence of the fact or facts averred until the contrary be proved;
- (c) it shall not be necessary to prove the signature of the Director or that any person is a district officer, regional district officer or assistant district officer;
- (d) it shall not be necessary to prove the limits of any reserve.

(2) A certificate purporting to be signed by the Director that any person named therein is, or was at the time specified therein, an assisted Aborigine or assisted Islander or that in relation to any such person a certificate of entitlement has been and remains cancelled shall for all purposes be sufficient evidence of the fact so certified until the contrary be proved.

67. Powers of Stipendiary Magistrate upon an application or reference.

(1) A Stipendiary Magistrate to whom any application or reference is made pursuant to this Act, otherwise than as a Magistrates Court—

- (a) subject to the next succeeding subsection, may determine who should be permitted to be present at any hearing of such application or reference;

- (b) shall not be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct the proceedings before him and inform himself on any matter in such manner as he thinks proper;
- (c) shall receive such evidence relevant to such application or reference as may be offered before him;
- (d) 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 confined to a chairman of such a commission who is a Judge of the Supreme Court.

(2) Upon such an application or reference, the Director and every person likely to be directly affected by any order or decision made therein shall be entitled to appear and may appear in person or by counsel or solicitor or any other representative approved by such Stipendiary Magistrate.

(3) Any provision of this Act authorizing such an application or reference and the power of a Stipendiary Magistrate to hear such an application or reference shall be read and exercised subject to section 4A of "*The Commissions of Inquiry Acts, 1950 to 1954*."

68. Authority of order, &c., of Director. An order, declaration or certificate made or granted by the Director pursuant to this Act shall, while it continues to operate, be sufficient and lawful authority for any officer appointed under or for the purposes of this Act and any member of the Police Force to take into custody any person in relation to whom such order or declaration was made or certificate was granted and to convey such person to any place named in such order, declaration or certificate or to remove such person from any such place or from any place wherein, upon the making of such order or declaration or the grant of such certificate, he has no lawful authority to be.

69. Proceedings for offences. (1) Any person who contravenes or fails to comply with any provision of this Act or of the special rules made from time to time under this Act commits an offence against this Act.

(2) Except as is otherwise in this subsection provided a proceeding to enforce a penalty under this Act shall be by way of summary proceeding under "*The Justices Acts, 1886 to 1964*," on the complaint of a district officer or any person authorized in writing in that behalf by the Director.

Where it is prescribed that an assisted Aborigine or an assisted Islander who is alleged to have committed an offence against this Act shall be proceeded against in respect of that offence in an Aboriginal court or, as the case may be, an Island court, a proceeding in respect of such offence shall not be cognizable by a Magistrates Court.

(3) Any person who commits an offence against this Act is liable, where a penalty is not otherwise provided, to a penalty of one hundred pounds or to imprisonment for six months or to both such penalty and imprisonment.

(4) In any proceeding before a Magistrates Court in respect of an offence alleged to have been committed by an assisted Aborigine or an assisted Islander it shall be a defence to prove that the defendant has already been dealt with, pursuant to this Act, for that offence before an Aboriginal court or, as the case may be, an Island court of competent jurisdiction.

(5) Notwithstanding the provisions of "*The Justices Acts, 1886 to 1964*," a complaint for an offence against this Act may be heard and determined by a Magistrates Court at any place appointed for holding such a court:

Provided that a court having jurisdiction to hear and determine such a complaint solely by virtue of this subsection shall not exercise that jurisdiction when it appears to the court to be unreasonable to cause the defendant to appear before that court at the place where it is then sitting.

The Magistrates Court which hears and determines such a complaint may make orders for the safe-keeping, detention, seizure or sale of any vessel concerned in the offence and of all things found thereon as such court considers just.

SCHEDULE I

[Section 57]

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 beche-de-mer), forwarding agent, freight contractor, general merchant, grazier, importer, ironworker, joiner, labour agent, lighterman, manufacturer, 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 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 Treasurer, the Director, the Corporation of the Agricultural Bank, 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 by the Governor in Council for the general welfare of Islanders or in such manner as the Governor in Council shall from time to time determine:

Provided that no portion of any such surplus profits shall be paid into the Consolidated Revenue.

SCHEDULE II

[Section 51]

Eastern Group

Murray Islands (Mer, Dauar, Waier)	Nepean Island (Edgor)
Darnley Island (Erub)	Merad Cay
Stephen Island (Ugar)	Bramble Cay
Campbell Island (Zapker)	East Cay

Central Group

Yorke Island (Massig)	Bourke Island
Cap Island (Mukar)	Kebiken Island
Yam Island (Turtle Backed)	Auken Island
Coconut Island (Parremar)	Momay Island
Sue Island (Warraber)	Keats Island (Homogar)
Bet Island (Burrar)	Saddle Island (Ulu)
Poll Island (Guijar)	Dungeness Island (Jeaka)
Two Brothers Island (Gabar)	Long Island (Sassie)
Rennel Island (Mauar)	Village Island (Yarpar)
Aureed Island (Aurid)	Dalrymple Island (Damuth)
Halfway Island	Marsden Island (Egabu)
Layoak Island	

Western Group

Mulgrave Island (Badu)	Quoin Rock
Banks Island (Moa)	Burke Island (Suaraji)
Jervis Island (Mabuiag)	Tree Island (Tuwin)
Saibai Island	Hawkesbury Island
Talbot Island (Boigu)	Tuesday Island
Cornwallis Island (Dauan)	Yoran Island
Mount Ernest Island (Naghir)	Takupai Island
Red Island	Matu Island
Albany Island (Pabaju)	Maitak Island
Bamaga Community	Kanig Island
Portlock Island (Kulbi)	West Island
Pole Island (Getullai)	Nur Island
Mount Adolphus Island (Mori)	Bond Island (Sarbi)
North Brother Island	Possession Island (Bisinti)
Mid Brother Island	Zurat Island
South Brother Island	Kulbai-Kulbai Island
Wednesday Island (Maururra)	Sanswit Island
Green Island (Elap)	Deliverance Island
High Island	Kiss Island
Clarke Island	Turn again (Buru)
Barney Island	Barn Island
Brown Island	Dayman Island