



ELIZABETHAE SECUNDAE REGINAE

No. 60 of 1971

An Act to Provide for the conduct of reserves for Torres Strait Islanders and for the admission thereto of persons who wish to reside there; for the grant of assistance to Torres Strait Islanders who seek it; and for related purposes.

[ASSENTED TO 16TH DECEMBER, 1971]

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. Short title and commencement. (1) This Act may be cited as the *Torres Strait Islanders Act 1971*.

(2) This Act shall come into operation on a date appointed by the Governor by Proclamation published in the Gazette.

2. Duration of Act. (1) Save where this Act otherwise expressly provides, this Act shall cease to be in force upon the expiration of five years from the date of its commencement unless it is continued in force as prescribed by this section.

(2) The Governor in Council may from time to time, during the continuance in force of this Act, by Proclamation continue the Act or any provision thereof in force for a further period specified therein but not exceeding five years from the date on which the Act or the provision would otherwise have ceased to be in force pursuant to the preceding subsection or, as the case may be, pursuant to a Proclamation made for the purposes of this subsection, and in such case this Act or the provision shall cease to be in force upon the expiration of the period specified in the Proclamation last duly made.

(3) A Proclamation made for the purposes of subsection (2) of this section shall be published in the Gazette and shall, as soon as practicable thereafter, be tabled by the Minister in the Legislative Assembly.

3. Arrangement of Act. This Act is arranged in Parts and a Schedule as follows:—

PART I—PRELIMINARY (ss. 1-6);

PART II—ADMINISTRATION (ss. 7-14);

PART III—RESERVES (ss. 15-49)—

Division I—General Regulation of Reserves;

Division II—Island Councils;

Division III—Island Court;

Division IV—Group Representatives;

PART IV—ISLAND INDUSTRIES BOARD (ss. 50-59);

PART V—ASSISTANCE SOUGHT BY ISLANDERS (ss. 60-71);

PART VI—GENERAL PROVISIONS (ss. 72-79);

SCHEDULE.

4. Savings. (1) An area that, at the date of commencement of this Act, is a reserve or is an area set apart and reserved for Islanders for the purposes of *The Aborigines' and Torres Strait Islanders' Affairs Acts 1965 to 1967* shall be deemed to have been so reserved for the purposes of this Act.

(2) A community for Islanders under *The Aborigines' and Torres Strait Islanders' Affairs Acts 1965 to 1967* that exists at the date of commencement of this Act shall be deemed to have been established under this Act.

(3) Every Island Council constituted pursuant to *The Aborigines' and Torres Strait Islanders' Affairs Acts 1965 to 1967* and existing at the date of commencement of this Act shall, unless it is sooner dissolved in accordance with this Act, continue in existence for the purposes of this Act until the first triennial election of chairman and councillors held pursuant to this Act.

(4) Every by-law, resolution and order lawfully made by an Island Council prior to the date of commencement of this Act that subsists at that date shall continue to have force and effect as if it had been made pursuant to this Act.

(5) Every order and decision made by an Island Court prior to the date of commencement of this Act and that has any operation at that date shall continue to have force and effect as if it were made by that court constituted pursuant to this Act.

(6) An agreement made by the Director as a condition precedent to or otherwise in connexion with his granting a permit under section 36 of *The Aborigines' and Torres Strait Islanders' Affairs Act of 1965* shall be enforceable by and against any party thereto according to its terms and the making by the Director of such an agreement that provides for participation by the Director or any other person in the profits of a mining venture or mining ventures carried on in a reserve is hereby declared to be and shall be deemed to have always been a valid exercise by the Director of his powers and authorities, notwithstanding the provisions of *The Mining Acts 1898 to 1967* or of any Act passed in amendment thereof or in substitution therefor or of any other Act relating to mining.

The provisions of this subsection, as subsequently amended, shall continue in force until they are repealed.

(7) A person who, at the date of commencement of this Act, holds an appointment for the purposes of *The Aborigines' and Torres Strait Islanders' Affairs Acts 1965 to 1967*, if the appointment is material to the purposes of this Act, shall, subject to the conditions of his appointment thereto, continue to hold the appointment for the purposes of this Act.

(8) A management of property of an assisted Islander undertaken under *The Aborigines' and Torres Strait Islanders' Affairs Acts 1965 to 1967* and maintained at the date of commencement of this Act shall be deemed to be a management of property under section 61 of this Act and, unless it is terminated in accordance with this Act, shall be maintained in accordance with this Act.

5. Meaning of terms. Save where the contrary appears—

- “ Board ” means The Island Industries Board preserved, continued in existence and constituted under this Act;
- “ child ” includes any person to whom another stands in *loco parentis*;
- “ Corporation ” means the corporation sole preserved, continued in existence and constituted under the *Aborigines Act 1971* by the name and style The Corporation of the Director of Aboriginal and Island Affairs;
- “ Director ” means the person who holds the appointment of Director of Aboriginal and Island Affairs under the *Aborigines Act 1971* and includes a person temporarily discharging the functions of the Director;
- “ district officer ” includes the Director, the Deputy Director, an assistant district officer, and any person duly acting as district officer;
- “ instrument ” means any document of a testamentary nature or otherwise, whereby property or any interest therein is disposed of or charged or is agreed so to be;
- “ Islander ” means a person who is a descendant of an indigenous inhabitant of the Torres Strait Islands;

- “Minister” means the Minister for Conservation, Marine and Aboriginal Affairs or other Minister of the Crown charged with the administration of this Act and includes a person temporarily performing the duties of the Minister;
- “premises” means any land and any building or part thereof;
- “reserve” means any land reserved and set apart by the Governor in Council for the benefit of Islanders under the provisions of law relating to Crown lands and includes that part of a reserve within the meaning of the *Aborigines Act 1971* appropriated for the use of a community for Islanders if there is established on that reserve a community for Islanders;
- “Stipendiary Magistrate” includes a person duly acting as a Stipendiary Magistrate;
- “Torres Strait Island” means an island lying north of 11 degrees South latitude that is part of the State of Queensland.

6. Abolition of status “assisted Islander”. On and from the date of commencement of this Act a person who immediately before that date was an assisted Islander shall cease to be an assisted Islander.

PART II—ADMINISTRATION

7. Functions of Director. The Director—

- (a) may exercise such powers and perform such functions and duties as are conferred or imposed on him by this Act or as are necessary or expedient to effect the purposes of this Act;
- (b) may of his own motion and shall at the direction of the Minister make or cause to be made such inspections, investigations and inquiries as touch upon matters material to the administration of this Act;
- (c) shall, at least once in each year, inspect every mission conducted by a church, religious body, or secular organization for the benefit of Islanders;
- (d) shall report fully to the Minister on every inspection, investigation, or inquiry made for the purposes of this Act.

8. Corporation may function for purposes of this Act. The Corporation may exercise for the purposes of this Act all or any of the powers conferred on it by the *Aborigines Act 1971* in addition to any further powers conferred on it by this Act.

The provisions of this section, as subsequently amended, shall continue in force until they are repealed.

9. Deputy Director. The Deputy Director of Aboriginal and Island Affairs under the *Aborigines Act 1971* may exercise for the purposes of this Act such powers and shall for those purposes perform such functions and duties as the Director from time to time directs and, when there is no Director or the Director is not available to exercise and perform his powers and functions, may exercise the powers and shall perform the functions and duties of the Director.

10. Districts and district officers. (1) A part of the State that is a Magistrates Courts District for the purposes of *The Justices Acts 1886 to 1968* shall, on and from the date of 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 appoint a person to be a district officer or an assistant district officer.

A district officer or an assistant district officer may be appointed in relation to one or more districts.

(3) On and from the date of commencement of this Act, unless and until the Governor in Council otherwise appoints—

(a) in relation to the Magistrates Courts District of Somerset, the manager of the Department of Aboriginal and Island Affairs at Thursday Island shall be district officer and each of the persons who hold the appointments Assistant Manager of that department at Thursday Island shall be assistant district officer;

(b) in relation to every other Magistrates Courts District, the person who is clerk of the court for the purposes of *The Justices Acts 1886 to 1968* shall be district officer in relation to the district for which he is such clerk.

(4) A district officer, in respect of his district, may exercise such powers and shall perform such functions and duties as are conferred or imposed on him by this Act or as the Director directs and, subject to the Director, shall be responsible for the administration of this Act within his district.

11. Visiting justices. (1) The Governor in Council may appoint a justice to be a visiting justice in relation to 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 the reserve in which Islanders are accommodated;

(b) investigate any complaints by Islanders resident on the reserve concerning the conduct of the reserve;

(c) inspect the record of punishment inflicted on Islanders on the reserve by any court that functions on the reserve;

(d) hear and determine summarily complaints against Islanders on the reserve in cases where a court does not function on the reserve;

(e) report to the Director, as soon as practicable after the completion of his inspection, on—

(i) the condition of all premises inspected by him on the reserve;

(ii) sanitation on the reserve;

(iii) the discipline and general condition of Islanders on the reserve;

- (iv) the conduct of all persons concerned in the management of the reserve;
- (v) such other matters as the Director directs.

12. Power of delegation. (1) The Director may, either generally or otherwise as provided by the instrument of delegation, by writing delegate to any person all or any of his powers, functions and duties except this power of delegation.

(2) A power, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms and limitations as the Director thinks fit including a requirement that the delegate shall report to the Director upon his exercise or performance of the delegated power, function or duty.

(4) Where pursuant to this Act the exercise or performance of any power, function or duty, the subject of a delegation, is made to depend upon the opinion or belief of the Director in relation to any matter, that power, function or duty may be exercised or performed upon the opinion or belief of the delegate who is considering the exercise or performance of that power, function or duty.

(5) The Director may make such and so many delegations of the same power, function or duty and to such number of persons as he considers necessary or desirable.

(6) A delegation is revocable at the will of the Director and does not prevent the exercise of a power or the performance of a function or duty by him.

13. Conduct of inspections, etc., by Director or his delegate. (1) For the purpose of making an inspection, investigation or inquiry for the purposes of this Act the Director, his delegate, and any person whom the Director causes to make such an inspection, investigation or inquiry—

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

(2) When the Director causes another person to make an inspection, investigation, or inquiry for the purposes of this Act that person shall, as soon as practicable after its completion, make a full report thereon to the Director.

14. Annual report by Director. As soon as practicable after the completion of each year the Director shall report in writing on the administration of this Act during the preceding year to the Minister who shall lay the report before the Legislative Assembly.

PART III—RESERVES

Division I—General Regulation of Reserves

15. Reserves and managers. (1) Every reserve shall be conducted and regulated in accordance with this Act.

(2) The Governor in Council—

(a) may appoint a manager of a reserve;

(b) may place a reserve under the management of a religious organization.

(3) A manager of a reserve or, in the case of a reserve placed under the management of a religious organization, the person in charge of that organization within the reserve shall, without further or other appointment be an assistant district officer in relation to the reserve.

A person who is an assistant district officer by virtue of this subsection shall be subject in the administration of this Act to the Minister and the Director but to no other person concerned in the administration of this Act.

16. Communities. (1) The Governor in Council may establish on a reserve a community for Islanders and may appoint such officers, resident or visiting, as he thinks necessary for the well-being of the persons within the community.

(2) A community for Islanders may be established under this section in any part of the State that is a reserve within the meaning of the *Aborigines Act 1971*.

17. Presence on reserve restricted. (1) A person shall not be on a reserve unless he is entitled under this Act so to be.

Penalty: \$500.

(2) A person who contravenes the preceding subsection, irrespective of whether he is prosecuted in respect thereof, may be ejected (together with his belongings) from the reserve in question by or at the direction of the Island Council established for that reserve or of the Director, with such force as is reasonably necessary to effect the purpose.

(3) A person who, having been convicted of an offence against subsection (1) of this section, persists in or again commits the contravention in respect of the same reserve commits a continuing offence against this Act, may be prosecuted therefor from time to time for as long as his contravention continues, and is liable to a penalty of \$10 for each day during which his contravention continues.

18. Person entitled to be on reserve without further authority. (1) The following persons are entitled to be on a reserve for as long as the proper administration of this Act requires their presence thereon—

(a) the Minister;

(b) the Director and the Deputy-Director;

(c) a person who is acting in the exercise of a power or the discharge of a function or duty conferred or imposed on him by or under this Act;

(d) a person who is a member of the household of a person who is for the time being entitled to be on a reserve pursuant to the preceding provision (c).

(2) A person who is empowered or required by or under any law to exercise a power or perform a function or duty and any member of the household of that person is entitled to be on a reserve for as long as the proper exercise or performance of that power, function or duty requires his presence thereon.

19. Entitlement to be on reserve under authority of permit. A person specified in a permit duly granted by an Island Council or the Director under this Act or a person who belongs to a class of children specified in such a permit is entitled to be on the reserve to which the permit relates—

(a) for the limited time specified in the permit or, if no time is specified, indefinitely; or

(b) until the permit is revoked in respect of that person, whichever is the shorter period.

20. Application for authority to reside on reserve. (1) Any Islander who desires to reside on a reserve for a period exceeding one month may make application to the chairman of the Island Council established for that reserve.

(2) The chairman of the Island Council to whom application is made under this section shall notify the Director or the district officer in relation to the reserve concerned of the application.

(3) An application may include the applicant's spouse and children under the age of seventeen years and future children but otherwise shall relate to one person only.

21. Determination of application under s. 20. (1) A permit to reside on a reserve shall be granted to an applicant if and only if the Island Council for the reserve to which the application relates and the Director are satisfied—

(a) that residence on the reserve is in the best interests of the applicant or, as the case may be, the applicant and the other persons included in the application; and

(b) that such residence by the applicant or, as the case may be, the applicant and of such other persons will not be detrimental to other residents of the reserve or to the reserve itself,

and in all other cases shall be withheld.

(2) A permit to reside on a reserve granted otherwise than in accordance with subsection (1) of this section shall be of no force or effect.

22. Scope and authority of permit to reside. A permit to reside on a reserve—

(a) may include within its scope not only the applicant but all or any of the persons properly included in his application;

(b) may be granted, according as the application therefor seeks, for a limited time specified in the permit or for an indefinite period;

(c) shall be deemed to have been granted to each person specified in the permit or belonging to a class of children specified therein.

23. Permit to visit reserve. (1) Any person whether an Islander or not, who desires to be on a reserve for a period not exceeding one month may make application to the chairman of the Island Council established for that reserve or to the Director for a permit to visit the reserve.

(2) An application may include any number of persons particularized therein as seeking the permit.

24. Determination of application under s. 23. (1) A permit to visit a reserve may be granted to an applicant if the Island Council for the reserve to which the application relates or, where the application is made to the Director, the Director is satisfied that the presence on the reserve of the applicant and of the other persons (if any) included in the application will not be detrimental to the residents of the reserve or to the reserve itself.

(2) In no case shall it be obligatory on an Island Council or the Director to grant a permit to visit a reserve.

(3) A permit, if granted—

- (a) may be granted in respect of all or any of the persons particularized in the application therefor as seeking the permit;
- (b) shall be of force and effect for the limited time specified therein in relation to the reserve specified therein unless it is sooner revoked as prescribed;
- (c) shall be deemed to have been granted to each of the persons in respect of whom it is granted.

25. Summary revocation of permit. (1) The Island Council established for the reserve to which the permit relates or the Director may—

- (a) of its or his own motion, revoke a permit granted under section 24 of this Act in respect of all or any of the persons to whom it was granted;
- (b) at the request of a person to whom a permit is granted under section 21 or 24 of this Act, revoke that permit in respect of the person who makes the request and in respect of all or any other persons to whom that permit is granted and the request relates.

For the purpose of exercising the power conferred by this subsection it is immaterial that the permit in question was not granted by an Island Council or, as the case may be, the Director.

(2) A revocation of permit under this section shall be by way of written notice given to the person or persons affected by the revocation.

26. Revocation of permit by "show cause" procedure. (1) An Island Council established for a reserve to which the permit relates or the Director may in accordance with this section revoke a permit granted under section 21 of this Act.

For the purpose of exercising the powers conferred by this section it is immaterial that the permit in question was not granted by an Island Council or, as the case may be, the Director.

(2) The Chairman of the Island Council concerned or the Director shall cause to be given to each person in respect of whom the council or, as the case may be, the Director seeks to revoke the permit a notice in writing requiring him to show cause at the time and place therein appointed why the permit should not be revoked in respect of him.

A copy of a notice given by the Chairman of an Island Council shall be given to the Director and a copy of a notice given by the Director shall be given to the chairman of the Island Council established for the reserve to which the permit relates.

(3) If at the time and place appointed in the notice to show cause or at any other time or place to which the matter is adjourned, cause is not shown to the satisfaction of the Island Council or, as the case may be, the Director why the permit should not be revoked in respect of any person or persons to whom the notice relates the council or, as the case may be, the Director may revoke the permit in respect of that person or those persons.

(4) A revocation of permit under this section shall be in writing and a copy thereof shall be given to the person or persons affected by the revocation.

27. Reference from refusal or revocation of permit. (1) An Islander aggrieved by—

- (a) the withholding by an Island Council of a permit applied for under section 20 of this Act; or
- (b) the revocation by an Island Council or by the Director under section 26 of this Act of a permit granted under section 21 of this Act,

may institute a reference therefrom to the Island Advisory Council.

A reference shall be instituted within twenty-eight days after the decision of the Island Council or, as the case may be, the Director is furnished to the person thereby aggrieved by making application (written or oral) to the Group Representative (in this Part provided for) of the group of reserves that includes the reserve for which the permit was sought or, as the case may be, to which the permit relates.

(2) The due institution of a reference against revocation of a permit shall have the effect of suspending the revocation until the reference is determined or otherwise disposed of.

If the Island Advisory Council is at any time satisfied that a reference against revocation of a permit is not being prosecuted by the person who instituted it, without sufficient reason for such default, it shall strike out and thereby dispose of the reference and thereupon the revocation of the permit shall be restored to full force and effect.

(3) If upon hearing the person aggrieved and a representative of the Island Council concerned or, as the case may require, the Director or his representative, or such of them as desires to be heard, the Island Advisory Council is satisfied, having regard to the provisions of this Part of this Act, that a permit should have been granted or, as the case may be, should not have been revoked it shall, as the case requires, order the Island Council concerned or the Director to take all steps necessary to grant the permit that in its opinion should have been granted or to restore the permit that in its opinion should not have been revoked and its order shall be given effect to accordingly but otherwise the Island Advisory Council shall dismiss the reference.

(4) Neither the institution of a reference nor the decision of the Island Advisory Council therein shall render unlawful any action taken prior to the institution of the reference in reliance on the absence or revocation of a permit.

28. Further reference concerning refusal or revocation of permit.

(1) A person aggrieved by the decision of the Island Advisory Council given pursuant to subsection (3) of section 27 of this Act may institute

a further reference therefrom to a Stipendiary Magistrate who constitutes the Magistrates Court in the district in which is situated the reserve for residence on which the permit was sought or, as the case may be, to which the permit related when it was revoked.

A reference shall be instituted within twenty-eight days after the decision of the Island Advisory Council is furnished to the person thereby aggrieved by making application signed by the applicant to the clerk of the court in such district.

(2) The due institution of a reference from a decision that confirms a revocation of a permit shall have the effect of further suspending the revocation until the reference is determined or otherwise disposed of.

If the Stipendiary Magistrate who has jurisdiction to determine the reference is at any time satisfied that a reference from a decision that confirms a revocation is not being prosecuted by the person who instituted it without sufficient reason for such default he shall strike out and thereby dispose of the reference and thereupon the revocation of the permit shall be restored to full force and effect.

(3) The provisions of subsections (3) and (4) of section 27 of this Act apply in respect of a reference instituted under this section and for that purpose shall be construed as if a reference therein to the Island Advisory Council were a reference to the Stipendiary Magistrate who has jurisdiction under this section and the reference therein mentioned were the further reference provided for in this section.

29. Presence on reserves voluntary. A person who is on a reserve pursuant to a permit granted under section 21 or 24 of this Act may depart the reserve at any time, save where he is being lawfully detained for any reason, but—

- (a) where a person who resides on a reserve pursuant to a permit granted under section 21 of this Act departs the reserve the permit shall thereupon cease to be of further force or effect in relation to him unless his departure is at all times for the purpose of a temporary absence from the reserve;
- (b) where a person who is on a reserve pursuant to a permit granted under section 24 of this Act departs the reserve the permit shall thereupon cease to be of further force or effect in relation to him unless it shows on its face in respect of that person that his departure from the reserve shall not have the consequence prescribed by this paragraph (b).

30. Regulation of mining in reserves. (1) Notwithstanding the provisions of *The Mining Acts 1898 to 1967* or of any Act passed in amendment thereof or in substitution therefor or of any other Act relating to mining—

- (a) a lease that would entitle the lessee to a mining tenement situated on a reserve shall not be granted unless the trustee of the reserve or the Minister has approved;
- (b) a person who holds a miner's right or to whom an authority to prospect or other mining entitlement, other than a mining lease, is granted, whether before or after the date of commencement of this Act, is not thereby entitled to be on a reserve for any purpose of prospecting or mining, and such a right, authority or entitlement shall be construed as including a condition that it is granted subject to this section.

(2) A person who seeks to enter on a reserve for any purpose of prospecting or mining may make application to the trustee of the reserve for a permit in that behalf.

(3) The trustee of a reserve to whom application is made may grant or refuse a permit and at any time may revoke a permit granted by him.

(4) If the trustee of a reserve refuses a permit or revokes a permit the applicant or, as the case may be, permittee may apply to the Minister for a permit to enter on the reserve concerned for any purpose of prospecting or mining.

Upon application made to him the Minister may grant or refuse a permit and he may at any time revoke a permit granted by him.

(5) A person shall not be entitled to be on a reserve for any purpose of prospecting or mining unless—

(a) he is the lessee under a lease, duly granted, that entitles him to a mining tenement situated on that reserve, or he is there bona fide as agent (authorized for that purpose) of such a lessee; or

(b) he is authorised so to be by a subsisting permit granted by the trustee of the reserve or, as prescribed by this section, the Minister, or he is there bona fide as agent (authorized for that purpose) of a person so authorized.

31. Agreements concerning mining on reserves. (1) The trustee of a reserve to whom application for a permit is made under section 30 of this Act or the Minister may, as a condition precedent to his granting a permit or otherwise in connexion with his granting a permit, enter into and require the applicant and any other persons to enter into such agreement as the trustee or, as the case may be, the Minister thinks fit.

(2) An agreement shall provide for such terms and conditions as the parties thereto agree upon, and may include provision for participation by the trustee or any other persons in the profits of the mining venture or ventures to be carried on in the reserve, if the permit is granted, for the benefit of Islanders resident on the reserve, or other Islanders as the agreement provides.

32. This Act paramount in relation to Islanders. The provisions of section 20 or 23 of the *Aborigines Act* 1971 shall not apply in respect of a person who seeks to reside within or to visit with a community of Islanders established on a reserve within the meaning of that Act.

33. Supply of beer on reserves. (1) The Director acting in conjunction with the Island Council established for the reserve may cause to be established and maintained in a reserve premises for the sale and supply of beer to persons lawfully on the reserve.

(2) If the business of selling and supplying beer is conducted at premises established on a reserve it shall be conducted by the Director and his servants and the Director may at any time discontinue such business.

(3) The business of selling and supplying beer from premises established on a reserve and the consumption of beer so sold or supplied shall be in accordance with regulations made under this Act.

(4) The provisions of the *Liquor Act* 1912–1970, other than section 81 thereof, shall not apply in respect of the sale, supply or consumption in a reserve of beer that is sold, supplied or, as the case may be, consumed in accordance with this Act.

34. Police jurisdiction and power in reserves. (1) Members of the Police Force of Queensland have and may exercise in any part of the State that is a reserve and in respect of persons therein the functions, duties, and powers imposed or conferred on them by law as if that part were not a reserve and in relation to the performance or exercise therein of any function, duty, or power have the protection accorded by law to a member of the Police Force in the performance or exercise by him of that function, duty, or power elsewhere in the State.

(2) Members of the Police Force of Queensland are authorized to perform such acts and do such things in a reserve as may be authorized or required to be done by Island police under the by-laws of the Island Council established for the reserve as if such by-laws were part of the law of the State and, in relation thereto, have the protection accorded by law to a member of the Police Force of Queensland in the performance or exercise by him of his functions, duties and powers elsewhere in the State.

(3) A member of the Police Force is entitled to enter on and to be in a reserve for the purpose of performing a function or duty or of exercising a power imposed or conferred on him by law or which by this Act he is authorized to perform or exercise under a by-law of an Island Council.

(4) Right of access to or use of any place in a reserve by the general mass of persons resident on a reserve shall be deemed to be right of access or use by the public and where any place would, but for its being in a reserve, be taken to be in law a public place, road, park, or place of any other status or description it shall be taken so to be notwithstanding that it is in a reserve.

Division II—Island Councils

35. Local Government by Island Councils. (1) Every reserve, and the community for Islanders at Bamaga on the Northern Peninsula reserve, and every other community for Islanders established in any part of the State shall be governed by an Island Council.

(2) Where a community for Islanders exists on a reserve within the meaning of the *Aborigines Act* 1971 the Island Council that governs the community has jurisdiction only within that part of the reserve appropriated for the use of the community.

36. Local Government vested in Island Council. (1) An Island Council, whether established or constituted before or after the date of commencement of this Act, has and may exercise the functions of local government of the reserve or community for which it is established, and is hereby charged with the good rule and government thereof in accordance with the customs and practices of the Islanders concerned, and, for that purpose, may make by-laws and may cause by-laws lawfully made by it to be observed and enforced.

(2) Without limiting the powers and functions of an Island Council, the council may make by-laws for promoting, maintaining, regulating and controlling the peace, order, discipline, comfort, health, moral safety, convenience, food supply, housing and welfare of the reserve or community for which it is established, for the planning, development and embellishment of the area of the reserve or community, and for the control of the business and working of the local government of the reserve or community.

(3) Matters with respect to which an Island Council may exercise its powers and perform its functions include—

- (a) the provision, construction, maintenance, management, and control of roads, bridges, viaducts, culverts, baths and bathing places; the undertaking and execution of work in connexion therewith; the regulation of the user thereof;
- (b) health, sanitation, cleansing, scavenging and drainage, the removal, suppression and abatement of nuisances, public conveniences, water conservation, agricultural drainage, village planning, subdivision of land, the usage and occupation of land, buildings, the usage and occupation of buildings, protection from fire, boundaries and fences, disposal of the dead, the destruction of weeds and animals;
- (c) works, matters and things that, in its opinion, are necessary or conducive to the good rule and government of the reserve or community for which the council is established or to the well-being of its inhabitants.

(4) The power conferred on an Island Council to regulate or control includes power to license or permit or to refuse to license or permit and to prohibit by by-law made in that behalf.

(5) Fees, charges, fares, rents, and dues may be imposed by by-law or resolution of an Island Council.

37. Provisions touching making of by-laws of Island Council. (1) A by-law of an Island Council has no force or effect until it is approved by the Minister whereupon it shall have force and effect on and from the date of the approval or a later date appointed by the Minister until it is repealed or another by-law is made in its stead.

(2) An Island Council shall cause a copy of a by-law made by it and approved by the Minister to be exhibited for a reasonable time in a prominent place within the area of the reserve or community for which it is made.

(3) An Island Council shall cause printed copies of all by-laws having force and effect within the reserve or community for which they are made to be kept at the council's office.

(4) A by-law may prescribe a penalty for a breach of itself or of another by-law, but a pecuniary penalty shall not exceed \$40 and a term of imprisonment shall not exceed three months.

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

38. Suspension of Island Council's resolutions and orders. The Island Advisory Council may at any time, by notice in writing directed to the chairman of the Island Council concerned, suspend the operation of a resolution or order of an Island Council either for an indefinite period or for a limited period specified by it in the notice.

39. Reference from suspension to Stipendiary Magistrate. (1) The chairman of an Island Council whose resolution or order is suspended in its operation by the Island Advisory Council may institute a reference from the suspension by way of application, where the Island Council is established for a reserve or community in the Magistrates Courts District of Somerset, to the Stipendiary Magistrate who constitutes the Magistrates Court in that district or, where the Island Council is established for a reserve or community in a Magistrates Courts District other than Somerset, to the Stipendiary Magistrate who constitutes the Magistrates Court in that other district.

A reference shall be instituted within twenty-eight days after the decision to suspend is made known to the chairman of the Island Council concerned by lodging the application therefor, signed by the applicant, with the clerk of the court in the material district.

(2) The due institution of a reference under subsection (1) of this section shall have the effect of suspending the operation of the suspension by the Island Advisory Council until the reference is determined or otherwise disposed of in accordance with this section.

If the Stipendiary Magistrate who has jurisdiction to determine the reference is at any time satisfied upon the application made on behalf of the Island Advisory Council that the reference is not being prosecuted without sufficient reason for the default, he shall strike out and thereby dispose of the reference and the suspension of the resolution or order shall thereupon be restored to full force and effect.

- (3) If upon the hearing of a reference the Stipendiary Magistrate—
- (a) dismisses the reference, the suspension by the Island Advisory Council shall thereupon be restored to full force and effect;
 - (b) allows the reference or varies the decision of the Island Advisory Council in issue, the suspension by the Island Advisory Council shall not have any force or effect or, as the case may be, shall have force and effect only as so varied.

40. Island rate. An Island Council may make and levy a rate, called an Island rate, upon such basis as is prescribed by by-law of the council or as is otherwise determined by the council.

An Island Council may impose, demand and recover 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 powers and functions.

An Island Council shall in each year cause to be prepared a true financial statement relating to its affairs for the year then last past and shall keep a copy of the statement at its premises on the reserve available for inspection by the persons who reside on the reserve.

41. Island police. (1) An Island Council may appoint policemen for the reserve or community for which it is established.

(2) A policeman appointed under subsection (1) of this section has such powers and functions as are prescribed by by-law of the council that appointed him and, in addition, such powers and functions as are determined by the Group Representative or by the trustee of the reserve.

Division III—Island Court

42. Constitution of Island Court. (1) An Island Council may constitute itself into a court, called an Island Court, and as such court shall have and may exercise such jurisdiction, powers and authorities in respect of Islanders within the reserve or community for which the council is established as are conferred upon it by this Act or the by-laws of the council.

(2) An Island Court shall be duly constituted if there is present a majority of the persons who at the material time are members of the Island Council and who are entitled under this Act to sit as members of the court.

(3) A member of an Island Council is not entitled to sit as a member of the Island Court constituted to hear and determine a matter in which he has an interest.

43. Appeals concerning Island Court decisions. (1) A person aggrieved by a decision of an Island Court or of any person or other body referred to in this section may institute an appeal from that decision as follows:—

- (a) where the decision is that of an Island Court, to the Group Representative of the group of reserves that includes the reserve for which the court is constituted;
- (b) where the decision is that of a Group Representative, to the Island Advisory Council;
- (c) where the decision is that of the Island Advisory Council, to a Stipendiary Magistrate who constitutes the Magistrates Court in the district in which is situated the reserve for which was constituted the Island Court that gave the material decision at first instance.

(2) An appeal shall be instituted within twenty-eight days after the pronouncement of the decision that aggrieves by—

- (a) where the appeal is from a decision of an Island Court, making application (written or oral) to the Group Representative to whom the appeal lies;
- (b) where the appeal is from a decision of a Group Representative, giving him notice (written or oral) that the person aggrieved requires him to submit the matter to the Island Advisory Council;
- (c) where the appeal is from a decision of the Island Advisory Council, lodging an application signed by the applicant with the clerk of the court in the district specified in paragraph (c) of the preceding subsection.

44. Determination of appeals. Upon hearing the appellant and a representative of the Island Court concerned, or such of them as desires to be heard the person or body to whom the appeal is instituted may pronounce the decision that, in his or its opinion, the Island Court should have pronounced at first instance whereupon that decision shall be deemed to be the decision of the Island Court, and shall have force and effect accordingly.

Where more than one appeal is duly instituted the decision last so pronounced on appeal shall be so deemed in lieu of any decision previously pronounced on appeal, and shall have force and effect accordingly.

45. Effect of appeal. The due institution of an appeal under section 43 of this Act shall take effect as a stay of proceedings on the decision the subject of the appeal until the appeal is determined.

Division IV—Group Representatives

46. Grouping of reserves. (1) For the purposes of this Act the reserves are divided into three groups as follows:—

- (a) Eastern group comprising those reserves specified under that heading in the schedule to this Act;
- (b) Central group comprising those reserves specified under that heading in the schedule to this Act;
- (c) Western group comprising those reserves specified under that heading in the schedule to this Act and the community for Islanders at Bamaga on the Northern Peninsula reserve.

(2) The Governor in Council, may by Order in Council, declare a reserve or a community for Islanders to be within one of the three groups defined in this section and the reserve or community shall be taken to be within the group so declared.

47. Appointment of Group Representatives. The members of Island Councils established for the reserves and communities within each group defined in section 46 of this Act shall, as soon as practicable after each constitution by election of all the councils in the group, elect by majority vote of those voting a person who is qualified as prescribed to be the Group Representative of the group.

48. Group Representatives may attend council meetings. (1) A Group Representative is entitled to attend at meetings of every Island Council established for a reserve or community within the group for which he is Group Representative and may advise each such council in relation to the exercise of its powers and the performance of its functions under this Act.

(2) A Group Representative shall not be entitled to vote in relation to the business before a meeting of an Island Council if he is not a member of that council.

49. Island Advisory Council. (1) There shall be established and maintained an Island Advisory Council, which shall be constituted by the persons who, at the material time, are the Group Representatives.

(2) The functions of the Island Advisory Council are—

- (a) to consider and advise the Minister and the Director on matters affecting the progress, development and well-being of Islanders, which matters are referred to the Council by the Minister or by the Director;

- (b) to make recommendations to the Minister and the Director concerning matters affecting the progress, development and well-being of Islanders and the administration of this Act;
- (c) to attend to such other matters as are prescribed.

(3) The members of the Island Advisory Council shall meet at such times and places as are approved by the Minister and may meet at such other times and places as they determine.

PART IV—ISLAND INDUSTRIES BOARD

50. Duration of this Part and of regulations made for purposes thereof. (1) The provisions of this Part, as subsequently amended, shall continue in force until this Part is repealed.

(2) The power of the Governor in Council under section 78 of this Act to make regulations with respect to matters specified in subparagraph 23 of that section and with respect to matters specified in subparagraphs 28 and 29 of that section so far as they are matters to which this Part pertains shall continue and may be exercised by the Governor in Council notwithstanding that that section has, pursuant to section 2 of this Act, ceased to be in force.

(3) Regulations made under section 78 of this Act with respect to matters referred to in subsection (2) of this section shall continue in force until they are revoked.

51. The Board. (1) The body corporate called "The Island Industries Board" continued in being under *The Aborigines' and Torres Strait Islanders' Affairs Act of 1965* 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) The Board is a body corporate under the name "The Island Industries Board" and by that name has perpetual succession and an official seal, which shall be judicially noticed.

(3) The Board consists of—

- (a) the district officer of the district of Somerset who shall be chairman of the Board;
- (b) two persons appointed by the Governor in Council by notification published in the Gazette; and
- (c) the Group Representatives elected under this Act.

The persons appointed to the Board by the Governor in Council shall hold office at his pleasure.

52. Existing members and officers. The persons who are members, officers or employees of the Board at the date of commencement of this Act shall be deemed to have been appointed for the purposes of this Act and shall continue as such according to the respective terms of their appointments.

53. Casual vacancy in appointed members of Board. 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 to hold the office at the pleasure of the Governor in Council.

54. Quorum for Board's meeting. (1) The chairman and one other member of the Board shall constitute a quorum of members of the Board.

(2) The chairman of the Board shall preside at every meeting of the Board.

55. Officers and employees of Board. (1) Subject to the Minister's direction (if any) in that behalf the Board—

(a) shall appoint a secretary to the Board;

(b) may appoint such administrative and technical officers and clerks and employ such employees and agents as it considers necessary to the proper exercise of its powers and performance of its functions.

(2) 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 that requires the same and shall perform such duties as are assigned to him by the Board.

(3) Unless he is appointed to his position under the *Public Service Act 1922-1968* the secretary to the Board and every officer, clerk, employee and agent of the Board shall hold his office or be so employed at the pleasure of the Board.

(4) The chairman of the Board shall be its executive officer and is charged with control of and shall control the affairs of the Board and of any business conducted by the Board.

56. Powers of Board. (1) The Board is capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts and sums of money due to it, of acquiring, holding, alienating, leasing, conveying, surrendering, charging and otherwise dealing with property within or outside the State, and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(2) The Board may—

(a) carry on the business of banker, blacksmith, builder, carpenter, commission agent, common carrier (by land or water), dealer (wholesale or retail), engineer, exporter, factor, farmer, fisherman (including the gathering of pearl-shell, trochus-shell, and Beche-de-mer), forwarding agent, freight contractor, general merchant, grazier, importer, ironworker, joiner, labour agent, lighterman, manufacturer, mining, money-lender, plumber, shipping agent, ships' chandler, shipbroker, shipbuilder, shipowner, shopkeeper, stevedore, storekeeper, timber merchant, tinsmith, trustee, warehouseman, wharfinger, and any other business incidental or ancillary to any of the

- businesses specified or which, in the Board's opinion can be profitably or effectually carried on in connexion with any of the businesses specified;
- (b) acquire, lease, erect, maintain and renovate such buildings, wharves, vessels, tramways, plant and machinery, and undertake such works as, in the Board's opinion, are necessary or desirable for the proper exercise of the powers conferred on it by this Act;
 - (c) obtain and disseminate information with respect to the best manner of carrying on any business specified or referred to in paragraph (a) of this subsection, undertake the instruction of Islanders and other persons in any such business and, for that purpose, establish, maintain and conduct such schools and classes as the Board considers necessary or desirable and enter into contracts of apprenticeship;
 - (d) for the purpose of carrying on any business specified or referred to in paragraph (a) of this subsection, exercise all such powers, authorities and discretions and do all such acts and things as a natural person conducting such a business in the State might exercise;
 - (e) cause investigations to be made and, from time to time, report and recommend to the Director concerning—
 - (i) any question touching trade, commerce or business carried on by Islanders or in which they are interested or engaged;
 - (ii) markets for the produce of Islanders, trade in and methods of marketing such produce;
 - (iii) the encouragement, development and protection of the trade, commerce and industries of Islanders;
 - (f) finance any business specified or referred to in paragraph (a) of this subsection and, for that purpose, raise money on loan from the Treasurer of Queensland, the Director, the Corporation of the Agricultural Bank, or any bank, financial institution, or person and mortgage or assign by way of security property of the Board (including the rights of the Board under contracts made with Islanders or other persons in connexion with any such business).

57. Profits of Board. No part of the profits of the Board shall be paid into Consolidated Revenue but shall be applied for the general welfare of Islanders in such manner as the Governor in Council from time to time directs.

58. 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 on him by the *Audit Act* 1874–1968 and who shall report thereon.

59. Annual report by Board. As soon as practicable after the first day of February in each year the Board shall furnish to the Minister a full report of its operations during the twelve months period that expired on the last day of January then last past.

PART V—ASSISTANCE SOUGHT BY ISLANDERS

60. Grant of aid. (1) Subject to and in accordance with any regulations made under this Act and applicable to the grant in question, the Director may grant aid to any Islander who applies to him therefor and, where necessary, may apply therein money appropriated by Parliament for the purpose or money held by him for the benefit of Islanders generally.

(2) Subject as prescribed by the preceding subsection, aid granted under that subsection may be of such a type (in money, in kind, or by way of services) and may be granted in such circumstances, on such terms and conditions and, where granted by way of secured loan, on such security as the Director thinks fit.

61. Management of property. (1) Upon application made to him by an Islander who usually resides in the district of the district officer to whom application is made the district officer may, if he is satisfied that the circumstances of the applicant or of any member of his family who should be supported by him warrant it, undertake and maintain the management of the property of the applicant.

(2) If a person whose property is being managed by a district officer takes up residence of a permanent nature in another district and does not seek to terminate the management of his property the district officer of that other district shall undertake and maintain management of his property.

62. Powers and duties incidental to management of property. (1) Subject to subsection (2) of this section, a district officer who is maintaining the management of the property of any person, having regard to the best interests of that person and of any member of his family who should be supported by him, may—

- (a) take possession of, retain, invest, sell, or otherwise dispose of any of such property;
- (b) in his own name, sue for and recover, or receive any property to which that person is or becomes entitled;
- (c) in his own name, sue for and recover, settle for, and receive damages for conversion of or injury to any of the property of that person;
- (d) in the name of that person, exercise any power that that person might exercise for his benefit;
- (e) use and apply such property in connexion with the conduct by or on behalf of that person of any business;
- (f) in the name of that person, appoint any person to act as attorney or agent of that person for any purpose connected with the property of that person;
- (g) require any person who, within twelve months last preceding the date of such requisition, had any contractual, financial, or property dealing with that person to furnish to the district officer such details of the dealing or dealings as the district officer requires.

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

(3) A district officer who is maintaining the management of the property of any person shall keep proper and accurate records and accounts of all such property and of the proceeds of the sale or disposal of any of such property received or dealt with by him in the course of such management and for this purpose shall be deemed to be a public accountant within the meaning of the *Audit Act 1874-1968*.

63. Offence to fail to supply true details. A person who, when required by a district officer to furnish details pursuant to paragraph (g) of subsection (1) of section 62 of this Act—

- (a) fails to furnish the details so required; or
- (b) furnishes details that are false in a material particular,

commits an offence against this Act save where he shows, in relation to the furnishing of false details, that he did not know of, and could not by the exercise of reasonable diligence have discovered, the falsity in question.

64. Administration of certain estates. (1) Notwithstanding the provisions of any Act, or rule of law or practice to the contrary the Director—

- (a) shall administer the estate of a deceased or missing Islander whose property was, at the time of his death or disappearance, being managed by a district officer and, if the nature or value of the estate requires a grant of probate or of letters of administration to be made, shall be entitled to that grant in priority to all other persons:

Provided that the Director may renounce the rights conferred on him by this paragraph 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 be, to file an election to administer such estate, to the exclusion of all other persons, and shall administer such estate; and

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

The persons determined by the Director to be entitled to succeed to such estate or to any part of it shall succeed to the estate or, as the case may be, part in the order and proportions determined by the Director.

(2) A certificate purporting to be signed by 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 the person named therein (being a person to whose estate subsection (1) of this section applies), or that there is no person so entitled shall be conclusive evidence of the matters contained therein.

(3) Where there is no person entitled to succeed to the estate or part of the estate of a person to whose estate subsection (1) of this section applies the estate or, as the case may be, part shall vest in the Director who shall pay the same into the Island Fund for the benefit of Islanders pursuant to section 60 of this Act.

65. Validity of certain instruments affected. (1) Notwithstanding the provision of any Act or rule of law or practice to the contrary an instrument executed after the date of commencement of this Act by an Islander at a time when his property is being managed under section 61 of this Act is of no validity or effect unless the execution thereof has been approved of and witnessed by a district officer or by another officer authorized in that behalf by the Director.

(2) A person who knowingly causes or induces an Islander whose property is at the time being managed under section 61 of this Act to execute an instrument without the approval of and witnessing by a district officer or other officer referred to in the preceding subsection commits an offence against this Act.

66. Restriction on creditors' rights. No right or remedy shall be had by any person to or against the property or the estate of an Islander on account of money lent or goods supplied to or to the order of that Islander at a time when his property was being managed under section 61 of this Act unless the loan or supply was made with the consent of a district officer or of another officer authorized in that behalf by the Director.

67. Supervision over certain agreements. (1) The terms of an agreement made by an Islander other than at a time when his property is being managed under section 61 of this Act may be submitted to the Director.

(2) If the Director is of the opinion—

- (a) that any term or terms of an agreement duly submitted to him is or are, as against the Islander, harsh and unreasonable, having regard to his circumstances at the time the agreement was made;
- (b) that the Islander did not understand the meaning or effect of the term or terms at that time; and
- (c) that the parties can be restored substantially to the positions they respectively held before the agreement was made,

he may, by notice in writing given to the other party or parties to the agreement call upon him or them to show cause at a time and place therein specified why the agreement should not be cancelled or varied.

Where the Islander on whose behalf an agreement is submitted under this section is resident on a reserve the Director shall act in conjunction with the Island Council established for that reserve in forming his opinion for the purpose of this subsection.

(3) If at the time and place so specified or to which the hearing is adjourned it is shown to the satisfaction of the Director that—

(a) the term or terms in issue of the agreement is or are not, as against the Islander, harsh or unreasonable having regard to his circumstances at the time the agreement was made or that the Islander did understand the meaning or effect thereof at that time; or

(b) the parties cannot be restored substantially to the positions they respectively held before the agreement was made,

the Director shall take no further action in respect of the agreement but otherwise he may, if he is satisfied that the agreement is one that may properly be submitted to him under this section and of the matters referred to in paragraphs (a), (b) and (c) of subsection (2) of this section, by his order in writing cancel or, as the case requires in his opinion, vary the agreement in such manner as he thinks fit and require such restitution and other adjustments to be made as in his opinion are calculated to render his making the order just and equitable.

(4) An order made by the Director under this section—

(a) shall be directed to the parties to the agreement in question, and a copy of the order shall be given to each such party;

(b) shall be given effect to by each party to the agreement in question and by all courts.

68. Breach of Director's order concerning agreement. A person, being a party to an agreement cancelled or varied by the order of the Director under section 67 of this Act or an assignee or successor to such a party in respect of the agreement or of property the subject of the agreement, who fails to comply with any requirement of the order commits an offence against this Act, which shall be a continuing offence, and may be prosecuted in respect thereof from time to time for as long as his failure continues.

In addition to any other penalty to which he is liable as for an offence against this Act a person who commits the offence defined in this section is liable to a penalty of \$10 for each day during which his failure to comply continues.

69. Termination of management of property. (1) An Islander who wishes to terminate the management of his property under section 61 of this Act may make application to the district officer who then is maintaining the management of the property that the management be terminated.

(2) The district officer to whom the application is made shall forthwith refer the matter of the application together with his recommendation thereon to the Director who shall grant the application if he is satisfied

that termination of the management will not be detrimental to the best interests of the applicant or of any member of his family who should be supported by him but, if he is not so satisfied, shall proceed as prescribed by section 70 of this Act.

(3) As soon as practicable after the application is granted the Director and a district officer in whose hands the property then is shall take all necessary steps to transfer, deliver and secure to the Islander that property and all other property of the Islander that may subsequently come into his hands on behalf of the Islander if—

- (a) the Islander is competent in law to give to the Director a valid discharge therefor; and
- (b) the Islander's interest therein consists of an estate or interest in possession other than a limited estate or interest.

70. Magisterial hearing re termination of management. (1) If the Director does not grant an application made under section 69 of this Act he shall, within 28 days after the date of his decision in that behalf, institute a reference to a Stipendiary Magistrate who constitutes the Magistrates Court in the district wherein the management of the applicant's property was being maintained at the date of his application, for the purpose of that magistrate determining the matter of the application.

The reference shall be instituted by lodging an application for a determination signed by or on behalf of the Director with the clerk of the court in such district.

(2) Upon the hearing of a reference any member of the family of the Islander, the applicant for termination of management, who should be supported by him is entitled to be present thereat and to be heard.

(3) Upon the hearing of a reference the Stipendiary Magistrate—

- (a) shall grant the application for termination of management if he is satisfied that termination of management will not be detrimental to the best interests of the applicant for such termination or of any member of his family who should be supported by him;
- (b) shall refuse the application for termination of management if he is not satisfied of the matters specified in the preceding paragraph (a),

and, if he grants the application, the provisions of subsection (3) of section 69 of this Act shall apply accordingly.

(4) The Director shall not institute a reference under this section in relation to an application for termination of management made within six months after a like reference in respect of the same applicant but may, in lieu thereof, if he does not grant the application, refuse it.

71. Management once terminated not to be resumed. The management of property of an Islander who has terminated management of his property shall not be again undertaken pursuant to section 61 of this Act unless the Director is satisfied that there is special cause for so doing, and directs that the management be undertaken accordingly.

PART VI—GENERAL PROVISIONS

72. Court appearance on behalf of certain Islanders. Notwithstanding the provisions of any other Act or rule of practice where an Islander who usually resides on a reserve or whose property is being managed under section 61 of this Act is charged with any offence or is otherwise a party to proceedings before any court or tribunal the manager of the reserve or, if there be no manager or the Islander does not usually reside on a reserve, the district officer of the district wherein the Islander usually resides or of the district wherein he is before the court or Tribunal, or any officer of the Department of Aboriginal and Island Affairs authorized in writing by the Director, may appear on behalf of the Islander and may examine and cross-examine witnesses in the proceeding and may address the court (including the jury) or tribunal on behalf of the Islander.

73. Obstruction, intimidation, assault prohibited. A person shall not wilfully obstruct, or intimidate, or assault, or attempt so to do, another in the exercise or performance by that other of his powers, duties or functions under this Act.

74. General offence. A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where another penalty is expressly provided, is liable to a penalty of \$200 or to imprisonment for six months or to both such penalty and imprisonment.

75. Proceedings for offences. (1) Save as it is otherwise in this section provided a proceeding to enforce a penalty for an offence against this Act shall be by way of summary proceeding under *The Justices Acts 1886 to 1968* on the complaint of a district officer or a person authorized in writing in that behalf by the Director.

(2) Where it is prescribed that proceedings in respect of a particular offence against this Act shall be taken before an Island Court a proceeding against a person who is subject to the jurisdiction of an Island Court in respect of that offence shall not be cognizable by a Magistrates Court.

(3) In any proceeding before a Magistrates Court in respect of an offence alleged to have been committed by a person who in respect of that offence is subject to the jurisdiction of an Island Court it shall be a defence to prove that the defendant has already been dealt with by an Island Court of competent jurisdiction for the act or omission that constitutes the offence.

76. Evidentiary aids. (1) In any proceeding to enforce a penalty for an offence against this Act—

- (a) the averment in the complaint that a person named therein usually resides on a reserve specified therein, or is on a reserve specified therein pursuant to a permit granted under section 21 of this Act shall be conclusive evidence of the matter averred until the contrary is proved;
- (b) it shall not be necessary to prove the signature of the Director or the appointment of any person as a district officer or assistant district officer;
- (c) it shall not be necessary to prove the limits of any reserve.

(2) A certificate purporting to be that of the Director—

- (a) that a person named therein is, or was at the time specified therein, one who usually resides or resided on a reserve specified therein, or whose property is or was being managed under section 61 of this Act; or
- (b) that a permit granted under this Act to or in relation to a person named therein was revoked on the date specified therein,

shall for all purposes be conclusive evidence of the matter contained therein until the contrary is proved.

77. Powers of magistrate on reference. (1) A Stipendiary Magistrate to whom is instituted a reference under this Act—

- (a) may, subject to the next succeeding subsection, determine who should be permitted to be present at the hearing of the reference;
- (b) shall not be bound by rules of evidence or practice of any court, but may conduct the proceedings and inform himself on any matter relevant thereto as he thinks fit; and
- (c) shall receive such evidence relevant to the reference as may be adduced before him.

(2) The Director and every person likely to be directly affected by the decision of a magistrate in a reference instituted to him under this Act shall be entitled to be present at the hearing of the reference and every person entitled to be so present may appear in person or by counsel or solicitor, or by any agent acceptable to the magistrate.

78. Power to make regulations. The Governor in Council may make regulations not inconsistent with this Act providing with respect to—

- (1) the powers, duties and functions of the Director, district officers, and other officers appointed for the purposes of this Act and the manner of exercising and performing such powers, duties and functions;
- (2) the jurisdiction, powers, authorities, duties and procedures of Island Courts; the execution of sentences imposed by those courts, the enforcement and appropriation of penalties imposed by those courts, appeals from decisions of those courts and from decisions of Group Representatives in relation thereto; the review of sentences and penalties imposed by those courts;
- (3) the development, assimilation, integration, education, training and preservation of Islanders;
- (4) the employment of and serving of apprenticeships by Islanders;
- (5) the health and medical treatment (preventive and curative) of Islanders who usually reside on reserves;
- (6) the care of children (being Islanders) other than those who are in the care and protection or control of the Director of Children's Services;
- (7) the peace, order and proper discipline of reserves;

- (8) the composition of Island Councils; the qualification of candidates for membership of those councils; the franchise for elections of those councils; the conduct of elections of members of those councils and of deputy chairman; the appointment, powers and duties of returning officers in connexion with elections of members of those councils or of deputy chairman; rules for conducting meetings of those councils; term of office of members of Island Councils; the filling of casual vacancies therein and resignation from office by any member of those councils; the dissolution of Island Councils;
- (9) the qualification of candidates for election as Group Representative; the conduct of such elections and the franchise thereat; the appointment, powers and duties of returning officers in connexion with those elections; rules for conducting meetings of Group Representatives; term of office of Group Representatives; the filling of casual vacancies therein and resignation from office by Group Representatives;
- (10) the appointment of clerk of an Island Council and other officers of an Island Council; their respective functions, powers and duties;
- (11) the furnishing by an Island Council of returns and information touching matters within the jurisdiction of the council; the inspection of records of an Island Council by or on behalf of the district officer;
- (12) the framing of an annual budget by an Island Council; the form of the budget; the accounts to be kept by an Island Council; the operation of an Island Council under such a budget;
- (13) the establishment of police on reserves; the composition of and conditions of service in such police; the powers, duties and functions of such police;
- (14) the establishment of gaols on reserves and the conduct and control of such gaols;
- (15) the establishment on reserves of premises from which beer may be sold or supplied; the sale, supply and consumption of beer on reserves; the conduct of such premises;
- (16) the inspecting of reserves;
- (17) the grant of aid to Islanders; the conditions of such grant and the obligations of those to whom aid is granted;
- (18) the management and control of the Island Fund; the payments into and disbursements from that fund;
- (19) the establishment, maintenance, management and control of such trust funds as may be necessary or desirable for the management of property of Islanders or for the administration of the estates of Islanders and of unclaimed moneys;
- (20) the powers, duties and functions of the Director in relation to the administration of estates of Islanders;

- (21) the classes of persons who should succeed to the estates of 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;
- (22) the establishment, maintenance, management and control of funds to indemnify Islanders against loss of or damage to vessels, equipment or machinery, and to compensate Islanders and their dependants for death or personal injury suffered by any person in the course of his employment in cases where compensation is not payable under *The Workers' Compensation Acts 1916 to 1966*; the basis on which such indemnity or compensation is payable;
- (23) meetings of the Island Industries Board; the accounts and records to be kept by the Board, either generally or in relation to a particular business of the Board; the manner of keeping such accounts and records and of the performance of the Board's activities; the functions, powers and duties of the Board's officers, clerks and employees; the security and protection of the Board's property;
- (24) the forms to be used for the purposes of this Act and the purposes for which they are to be used;
- (25) the procedure to be adopted in relation to any application or reference made or proceeding taken under this Act;
- (26) the fees to be paid for the purposes of this Act and the purposes for which they are to be paid;
- (27) penalties for breaches of the regulations not exceeding in any case \$50;
- (28) all matters required or permitted by this Act to be prescribed and in respect of which the manner of prescription is not otherwise provided for; and
- (29) all matters and things for which it is necessary or convenient to provide for the proper administration of this Act or for achieving the objects and purposes of this Act.

Regulations may be made so as to apply throughout the whole of the State or within such part or parts of the State as are therein specified.

Where any regulation made or deemed to have been made under and for the purposes of this Act with respect to the employment of or the serving of apprenticeships by Islanders is inconsistent in any respect with a provision of *The Industrial Conciliation and Arbitration Acts 1961 to 1964* or of an Award made under those Acts by The Industrial Conciliation and Arbitration Commission, or continued in force by those Acts, the regulation shall, to the extent of the inconsistency, prevail.

79. Publication of regulations. (1) Every regulation—

- (a) shall be published in the Gazette;
- (b) shall, upon its publication, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;

- (c) shall take effect on and from the date of such publication unless a later date is therein specified for its commencement when in such event it shall take effect on and from that later date; and
- (d) shall be laid before the Legislative Assembly within fourteen sitting days after such publication if it is in session and, if not, then within fourteen sitting days after the commencement of its next session.

(2) If the Legislative Assembly disallows a regulation or any part thereof by resolution of which notice has been given at any time within fourteen sitting days after the regulation has been laid before it that regulation or part shall thereupon cease to have effect but without prejudice to the validity of anything done or omitted thereunder in the meantime or to the making of a further regulation.

SCHEDULE

[s. 46]

EASTERN GROUP

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

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