

Aborigines Act 1905, Western Australia

1906 – 1964

URL: https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_9579_homepage.html

Details

The Aborigines Act 1905 (Act no. 1905/014 (5 Edw. VII No.14) was reserved for Royal assent on 23 December 1905 and commenced in April 1906. It was ‘An Act to make provision for the better protection and care of the Aboriginal inhabitants of Western Australia.’ It governed the lives of all Aboriginal people in Western Australia for nearly 60 years. The Act created the position of Chief Protector of Aborigines who became the legal guardian of every Aboriginal child to the age of 16 years, and permitted authorities to ‘send and detain’ Aboriginal children in institutions and in ‘service’ (work). The Aborigines Act 1905 was repealed by the Native Welfare Act 1963 on 1 July 1964.

The *Aborigines Act 1905* remained in force as the key piece of legislation governing matters relating to Aboriginal people for nearly 60 years in Western Australia. It was described by Tilbrook in *Nyungar Tradition* (p.5) as placing all people of Aboriginal descent in Western Australia in a ‘rejected section of Australian society’. The Act (s.65) validated most of the provisions contained in the *Aborigines Act 1897*, which authorities had found in 1904 to have been invalid, and extended the reach of the state into almost every aspect of the life of an Aboriginal person in Western Australia.

Its effects on children and families were particularly intrusive. As outlined by the *To Remove and Protect* website, the *Aborigines Act 1905*:

established the position of Chief Protector who was the legal guardian of ‘every aboriginal and half-caste child’ to the age of 16 years. Regional protectors to be appointed with power to grant permits for employment of Aboriginal males less than 14 years and Aboriginal females. No person to remove any ‘aboriginal’, any male ‘half-caste’ under 16, or any female ‘half-caste’ without the written authority of a protector. The Minister for Aboriginal Affairs may remove ‘aboriginals’ from one reserve or district to another reserve or district. The marriage of an ‘aboriginal’ woman and a non-Aboriginal man requires the permission of the Chief Protector. Minister may exempt ‘aboriginals’ from the Act but an exemption could be cancelled at any time. Regulations may be made for ‘the care, custody and education of the children of aborigines and half-castes’ and ‘enabling any aboriginal or half-caste child to be sent to and detained in an aboriginal institution, industrial school or orphanage’.

In making the Chief Protector the guardian of Aboriginal children throughout the State, legislators had relied on findings by Dr WE Roth in the Royal Commission to Enquire into and Report Upon [inter alia] the Administration of the Aborigines Department and the Condition of the Natives (1904-1905). Roth’s investigations were confined to the northern regions of the State, where he found the local Aboriginal people, including children, were being exploited and mistreated by settlers. According to the ‘Bringing them home’ report (1997, p.90), children fathered by settlers (‘half-caste’ children) were not educated nor supported by their fathers. The Chief Protector, Henry Prinsep was concerned that this was also a growing issue in the southern part of the State. Authorities chose to respond by legislating to prevent ‘mixed marriages’ and sexual relations between settlers and Aboriginal people;

and to actively pursue a policy of assimilation whereby 'half-caste' children were removed from their families and placed in institutions to assimilate them into a European style of life.

Tilbrook, in *Nyungar Tradition* (p.55) described how the Act impacted on the lives of Aboriginal children in WA: while the legislation was 'designed initially to protect them', in practice it 'separated them from the group which accepted them and offered them love, while at the same time they were categorized as members of it'.

The *Aborigines Act 1905* was eventually repealed by the *Native Welfare Act 1963*.

More info

Chronology

- Aborigines Act 1897, Western Australia (1898 - 1906)
- Aborigines Protection Act 1886, Western Australia (1887 - 1906)
- Aboriginal Girls Protection 1844, Western Australia (1844 - 1906)
 - **Aborigines Act 1905, Western Australia (1906 – 1964)**
 - Native Welfare Act 1963, Western Australia (1963 - 1972)
 - Aboriginal Affairs Planning Authority Act 1972, Western Australia (1972 - current)

Related Entries

Related Events

- [Royal Commission to Enquire into and Report Upon \[inter alia\] the Administration of the Aborigines Department and the Condition of the Natives, State of Western Australia \(1904? - 1905\)](#)
Recommendations from the Royal Commission to Enquire into and report upon the Administration of the Aborigines Department and the Condition of the Natives (Roth Report) were incorporated into the *Aborigines Act 1905*.
Date: 1905 -

Related Glossary Terms

- [Commissioner for Native Affairs \(WA\) \(1936 - 1954\)](#)
The Commissioner continued the legal authority granted by the *Aborigines Act 1905*.
- [Commissioner of Native Welfare \(WA\) \(1954 - 1972\)](#)
The Commissioner continued the legal authority granted by the *Aborigines Act 1905* until the Act was repealed in 1963.
Date: 1954 - 1963

Related Organisations

- [Department of Native Welfare, State of Western Australia \(1955 - 1972\)](#)
The Department of Native Welfare administered the *Aborigines Act 1905* until it was repealed in 1963.
Date: 1955 - 1963
- [Department of Native Affairs, State of Western Australia \(1936 - 1954\)](#)
The Department of Native Affairs administered the *Aborigines Act 1905*.
- [Chief Protector of Aborigines \(1898 - 1936\)](#)
The *Aborigines Act 1905* created the role of the Chief Protector.
- [Aborigines Department, State of Western Australia \(1 April 1898 - 31 December 1908\)](#)
The Aborigines Department administered the *Aborigines Act 1905*.
Date: 1906 - 1908
- [Department of Aborigines and Fisheries, State of Western Australia \(1 January 1909 - 1 January 1920\)](#)
The Department of Aborigines and Fisheries administered the *Aborigines Act 1905*.
Date: 1909 - 1920

- [Fisheries Department, State of Western Australia \(1920 - 1964\)](#)
The Fisheries Department administered the *Aborigines Act 1905* in the southern regions of Western Australia.
Date: 1920 - 1926
- [Department of the North West, State of Western Australia \(1 January 1920 - 1 January 1926\)](#)
The Department of the North West administered the *Aborigines Act 1905* in the northern regions of Western Australia.
Date: 1920 - 1926
- [Aborigines Department, State of Western Australia \(1926 - 1936\)](#)
The Aborigines Department administered the *Aborigines Act 1905*.
Date: 1926 - 1936

Is amended by

- [Aborigines Act Amendment Act 1911, Western Australia \(1911 - 1964\)](#)
- [Aborigines Act Amendment Act 1936, Western Australia \(1936 - 1964\)](#)
The *Aborigines Act Amendment Act 1936* amended the *Aborigines Act 1905*, which remained the principal Act.
- [Native Administration Act Amendment Act 1941, Western Australia \(1941 - 1963\)](#)
- [Native Welfare Act 1954, Western Australia \(1955 - 1964\)](#)

Related Legislation

- [Industrial and Reformatory Schools Act 1893, Western Australia \(1893 - 1907\)](#)
In debating the *Industrial and Reformatory Schools Act 1893* before it was passed, the Legislative Council struck out a sub-section of Clause 7 which would have made 'any child born of an aboriginal or half-caste mother a neglected child'. This concept later became part of the *Aborigines Act 1905* (s.8) when the Chief Protector of Aborigines was made the legal guardian of these children.

Related Concepts

- [Aboriginal Protection in Western Australia \(c. 1832 - c. 1972\)](#)

Resources

- [AU WA A67 - Aborigines Department \[1\]](#), State Records Office of Western Australia - Organisations & People, 2015
- [Aboriginal History](#), State Records Office of Western Australia website, 2012
- [Parliament](#), The West Australian, 16 December 1905
- [The Aborigines Bill](#), The West Australian, 20 December 1905

You can view this page online by visiting <https://www.findandconnect.gov.au/entity/aborigines-act-1905/>