

# Aborigines Protection (Amendment) Act 1940, New South Wales

1940 – 1969

URL: <https://www.legislation.nsw.gov.au/view/pdf/asmade/act-1940-12>

## Details

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The Aborigines Protection (Amendment) Act 1940 was 'An Act to provide for the dissolution of The Board for the Protection of Aborigines and for the constitution of an Aborigines Welfare Board; to amend the Aborigines Protection Act, 1909-1936, in certain respects'. It replaced the Aborigines Protection Board with the Aborigines Welfare Board. This was a major 'reform', by which Aboriginal people were no longer to be sheltered ('protection') but 'assimilated' into the general community. The Act provided for Aboriginal children who were found to be neglected under the Child Welfare Act 1939 to be committed to the Aborigines Protection Board as a 'ward of the Board'. It became an offence for any person to try to communicate with a ward in a home or enter any such home without the consent of the Board. The Act was amended in 1943 and repealed in 1969 by the Aborigines Act.

The 1940 Amendment to the *Aborigines Protection Act 1909* was highly paternalistic. Its goal was for Aboriginal people to 'become assimilated into the general life of the community'. This was a break from past beliefs that Aboriginal people should be 'protected' on reserves and stations. The Act specified the new Aboriginal Welfare Board had to include ex-police, anthropologists, and experts in agriculture.

Duties of the Board were to include 'assisting aborigines in obtaining employment' and 'maintaining or assisting to maintain them whilst so employed, or otherwise for the purpose of assisting aborigines to become assimilated into the general life of the community'. Although the Protection Board was abolished, most of its practices and all of its staff were carried over to the new Welfare Board.

The Act removed the Board's responsibility to provide for the education of Aboriginal children, but gave them custody and maintenance. Under this Act, where the Children's Court found that an Aboriginal child was 'neglected' or 'uncontrollable' under the *Child Welfare Act 1939*, and decided to admit the child to state control, the child was to be committed to the care of the Board as a ward. Where the Court decides to commit the child to an institution, the child shall be committed to an institution established under the Act.

## More info

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### Related Entries

#### Amends

- [Aborigines Protection Act 1909, New South Wales \(1909 - 1969\)](#)

#### Related Legislation

- [Child Welfare Act 1939, New South Wales \(1939 - 1987\)](#)

The *Aborigines Protection (Amendment) Act of 1940* enabled Aboriginal children to be removed under the *Child Welfare Act 1939*.

### Related Organisations

- [Cootamundra Training Home \(1911 - 1969\)](#)
- [Aborigines Welfare Board, State Government of New South Wales \(1940 - 1969\)](#)
- [Aborigines Protection Board, State Government of New South Wales \(1883 - 1940\)](#)
- [Kinchela Training Home for Aboriginal Boys \(1923 - 1970\)](#)

## Resources

- Department of Justice, [History](#), Children's Court of New South Wales, 2012
  - Parliamentary Counsel's Office, [NSW legislation](#), No date
  - McCorquodale, John, [The legal classification of race in Australia](#), Aboriginal History, 1986
  - Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), [To Remove and Protect](#), 2014
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