

## 8.

## Victoria

## The laws

Decade	Laws applying specifically to Aboriginal children	General child welfare laws/adoption laws
1860s	<p><b>Aborigines Protection Act 1869</b></p> <p>Established the Board for the Protection of Aborigines.</p> <p><i>Definitions</i></p> <p><i>Aboriginals</i> – ‘every aboriginal native of Australia and every aboriginal half-caste or child of a half-caste, such half-caste or child habitually associating or living with aboriginals’</p> <p><i>Key provisions</i></p> <p>Local committees and local guardians may be appointed to perform functions under the Act. Governor may make regulations for prescribing the place where ‘aboriginal tribes’ may live or reside; employment of ‘aboriginals’; and for the ‘care, custody and education of the children of aborigines’.</p> <p><i>Regulations</i></p> <p><i>Aborigines Protection Regulations 1871</i> – relate to declaration of reserves (places of residence); wages to be paid directly to the local guardian; Governor may order the removal of any child neglected by its parents or left unprotected to any of the places of residence or to an industrial or reformatory school.</p> <p><i>Aborigines Protection Regulations 1880</i> – relate to compulsory schooling and residence of children on stations.</p> <p><i>Repealed by Aborigines Act 1890</i></p>	<p><b>Neglected and Criminal Children’s Act 1864</b></p> <p>Established and regulated industrial and reformatory schools for ‘neglected’ children.</p> <p><i>Definitions</i></p> <p><i>child</i> – boy or girl under 15 years</p> <p><i>neglected child</i> – a child found begging, wandering about or frequenting any thoroughfare or tavern, sleeping in the open air and who has no settled place of abode or means of subsistence; residing in any brothel or associating or dwelling with any person, known or reputed to be a thief, prostitute or drunkard or a person convicted of vagrancy; a child having committed an offence and who, in the opinion of the Justices, ought to be sent to an industrial school; an inmate of an immigrants’ home or a child whose parent cannot control him/her and want him/her to be placed in an industrial school</p> <p><i>Key provisions</i></p> <p>Police may apprehend a child suspected of being neglected who must be brought immediately before two or more Justices. Justices may order child to be put out to service on conditions or detained in an industrial school for between one and seven years. Parents liable to contribute to support of inmates of schools.</p> <p><i>Amended by</i></p> <p><i>Neglected and Criminal Children’s Amendment Act 1874</i> – children under 6 years may be detained in an industrial school; ‘immoral or depraved’ child may be sent to a reformatory school; neglected children may be detained up to the age of 16 years; child may be boarded out or apprenticed.</p> <p><i>Neglected and Criminal Children’s Amendment Act 1878</i> – neglected children may be transferred from industrial to reformatory schools; a child may be detained until the age of 18 years.</p> <p><i>Repealed by Juvenile Offenders Act 1887</i></p>

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1880s	<p><b>Aborigines Protection Act 1886</b></p> <p>Extended application of the 1869 Act but provided that ‘half-castes’ were to be treated differently from ‘aboriginals’.</p> <p><i>Definitions</i></p> <p><i>half-caste</i> – includes as well as ‘half-castes’, all other persons whatever of ‘mixed aboriginal blood’ but excluding those deemed ‘aboriginals’</p> <p><i>aboriginal</i> – ‘every aboriginal native of Victoria, every half-caste who habitually associates or lives with an aborigine having completed the thirty-fourth year of his or her age’; ‘every female half-caste who has been married to an aboriginal and living with such aboriginal’; ‘every infant unable to earn his or her own living’ who is ‘the child of an aboriginal living with an aboriginal’; and ‘any half-caste who holds a license to reside with aboriginals’</p> <p><i>Key provisions</i></p> <p>A ‘half-caste’ may be supplied by the Board with rations (3yrs), money (3yrs), clothing (5yrs) and blankets (7yrs) for up to the period specified after commencement of this Act. A ‘half-caste’ may be licensed to reside with Aborigines and be maintained in a place of residence. Regulations may be made concerning the conditions under which ‘half-caste’ children may be apprenticed or licensed, the transfer of any ‘half-caste’ child (being an orphan) to the care of the Department for Neglected Children or any institution.</p> <p><i>Repealed by Aborigines Act 1890</i></p>	<p><b>Neglected Children’s Act 1887</b></p> <p>Maintained general provisions of 1864 Act regarding apprehension and committal of neglected children. Introduced system of guardianship for children committed to care on ground of neglect.</p> <p><i>Repealed by Neglected Children’s Act 1890</i></p>
1890s	<p><b>Aborigines Act 1890</b></p> <p>Consolidation Act only.</p> <p><i>Regulations</i></p> <p><i>Aborigines Regulation 1899</i> – Governor may, for the better care, custody and education of any ‘aboriginal’ child, order that child be transferred to the care of the Department for Neglected Children or the Department for Reformatory Schools.</p>	<p><b>Neglected Children’s Act 1890</b></p> <p>Consolidation of 1887 Act.</p>

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	<p><i>Aborigines Regulation 1908</i> – orphan ‘half-caste’ children who are not required by the station manager may be transferred to an orphanage.</p> <p><i>Repealed by Aborigines Act 1915</i></p>	
		<p><b>Infant Life Protection Act 1890</b></p> <p>Established a system of regulation of non-parental carers of young children.</p> <p><i>Repealed by Neglected Children’s Act 1915</i></p>
1900s		<p><b>Children’s Court Act 1906</b></p> <p>Created a separate court system to deal with children under the age of 17 years charged with neglect.</p> <p><i>Repealed by Neglected Children’s Act 1915</i></p>
1910s	<p><b>Aborigines Act 1910</b></p> <p><i>Key provisions</i></p> <p>The powers of the Board with respect to ‘aboriginals’ extended to ‘half-castes’.</p> <p><i>Repealed by Aborigines Act 1915</i></p>	<p><b>Neglected Children’s Act 1915</b></p> <p>Consolidation of 1890 Act.</p> <p><i>Repealed by Child Welfare Act 1928</i></p>
	<p><b>Aborigines Act 1915</b></p> <p>Consolidation Act only.</p> <p><i>Regulations</i></p> <p><i>Aborigines Regulation 1916</i> – Similar to 1899 Regulations.</p> <p>‘All quadroon, octoroon and half-caste lads over 18 on the Board Stations shall leave and shall not be allowed on the Station or reserve again except for brief visits to family at the discretion of the Station manager’.</p> <p><i>Repealed by Aborigines Act 1928</i></p>	<p><b>Infant Life Protection Act 1915</b></p> <p>Consolidation of 1890 Act.</p> <p><i>Repealed by Child Welfare Act 1928</i></p> <p><b>Children’s Maintenance Act 1919</b></p> <p>Prior to this Act mothers in this position would have to arrange for a court to declare their children to be ‘neglected’ and committed to the care of the Department. The Department would then ‘board them back’ with their mothers who would receive the boarding out allowance from the Department.</p> <p><i>Definitions</i></p> <p><i>child</i> – under 14 years.</p> <p><i>Key provisions</i></p> <p>The mother of a child may apply to the Secretary of the Department for Neglected Children for weekly financial support to assist her to care for the child.</p> <p><i>Repealed by Children’s Welfare Act 1928</i></p>

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1920	<p><b>Aborigines Act 1928</b></p> <p>Consolidation Act only.</p> <p><i>Regulations</i></p> <p><i>Aborigines Regulation 1931</i> – similar to 1916 regulation.</p> <p><i>Repealed by Aborigines Act 1957</i></p>	<p><b>Children’s Welfare Act 1928</b></p> <p>Consolidation.</p> <p><i>Repealed by Children’s Welfare Act 1954</i></p> <p><b>Adoption of Children Act 1928</b></p> <p>Provided for legal adoption of children in Victoria for the first time.</p> <p><i>Repealed by Adoption of Children Act 1958</i></p>
1930s		<p><b>Children’s Welfare Amendment Act 1933</b></p> <p>Definition of ‘neglected’ altered to include a child living under conditions that means he/she is likely to lapse into a career of vice or crime; the child’s guardian is unfit by reason of his conduct or habits, or (if female) is soliciting or behaving in an indecent manner; a child wandering about the streets at night without lawful cause after a member of the police force has warned the child to cease; or a child engaged in street trading’.</p> <p><i>Repealed by Children’s Welfare Act 1954</i></p>
1950s	<p><b>Aborigines Act 1957</b></p> <p>Established Aborigines Welfare Board. Its function is ‘to promote the moral, intellectual and physical welfare of aborigines (full blood and half-caste) with a view to their assimilation in the general community’.</p> <p><i>Key provisions</i></p> <p>Board given powers to distribute money, clothing, bedding, rations relief and medical or other attention of a similar nature, manage and regulate reserves, make regulations concerning the control of ‘aborigines’ and reserves. (No specific power in relation to children).</p> <p><i>Regulations</i></p> <p>Board may issue a permit to an Aborigine to reside on reserve (wife and children under 18 years included).</p>	<p><b>Children’s Welfare Act 1954</b></p> <p>Introduced a system of regulation for non-government children’s institutions.</p> <p><i>Definitions</i></p> <p><i>in need of care</i> – replaces the definition of neglected child and adds to previous definition ‘takes part in any public exhibition or performance which is likely to endanger life or limb, is exposed to moral danger or who habitually truant’s’</p> <p><i>Key provisions</i></p> <p>Children’s Court to determine whether a child or young person is in need of care. Police can arrest without warrant any child or young person suspected of being in need of care and bring the child before a Children’s Court to be committed to the care of the Department. Director can make a range of placements including institutions, private homes, employment or service etc.</p>

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	<p>Police can remove people without a permit. Permission of Board required to employ Aborigines.</p> <p><i>Repealed by Aborigines Act 1958</i></p>	<p>Non-government children's institutions must be registered with the Department and are known as 'approved children's homes'. An agency may apply for a child in its custody to be admitted to State guardianship once agreed maintenance contributions fall into 6 months arrears.</p> <p><i>Regulations</i></p> <p><i>Children's Welfare Regulation 1955</i> – specifies the duties of Honorary Welfare Officers, regulates visits to children, boarding out wards and applications for the establishment of juvenile schools.</p> <p><i>Repealed by Children's Welfare Act 1958</i></p>
		<p><b>Children's Welfare Act 1958</b></p> <p>Consolidation of 1954 Act.</p> <p><i>Repealed by Social Welfare Act 1970</i></p>

After *Aborigines Act 1957*, the Board had no specific power in relation to Aboriginal children. Aboriginal children were removed under the *Child Welfare Act 1954* and subsequent child welfare legislation.

1960s	<p><b>Social Welfare Act 1960</b></p> <p>The 'welfare of the child shall be the first and paramount consideration' in placing a child.</p> <p><i>Repealed by Social Welfare Act 1970.</i></p> <p><b>Adoption of Children Act 1964</b></p> <p>Replaced 1928 Act. Established a stricter procedure for selecting adoptive parents.</p> <p><i>Amended by</i></p> <p><i>Adoption of Children (Information) Act 1980</i> – Relates to access to records of public and private adoption agencies.</p> <p><i>Repealed by Adoption Act 1984</i></p>
1970s	<p><b>Social Welfare Act 1970</b> [also known as <b>Community Welfare Services Act 1970</b> and <b>Community Services Act 1970</b>].</p> <p>Consolidation of <i>Children's Welfare Act 1958</i>, <i>Social Welfare Act 1960</i> and amendments.</p> <p><i>Amended by</i></p> <p><i>Community Welfare Services (Amendment) Act 1979</i> – minor changes to definition of 'child in need of care' includes emotional abuse and being ill-treated, exposed or neglected.</p> <p><i>Not repealed but substantially amended by Children and Young Persons Act 1989</i></p>

1980s	<p><b>Adoption Act 1984</b></p> <p>Introduced Aboriginal Child Placement Principle. Placement of an Aboriginal child must be in accordance with the Principle. Consent to adoption may only be dispensed with in special cases such as where child has been seriously and persistently ill-treated.</p> <p><b>Children (Guardianship &amp; Custody) Act 1984</b></p> <p>Concerns duties of guardians and disputes between them. Gives effect to the <i>Family Law Act 1975</i> (Cth).</p> <p>Court shall not make a guardianship or custody order with respect to an Aboriginal child unless a report has been received from an Aboriginal Agency.</p> <p><i>Repealed by Children and Young Persons Act 1989</i></p> <p><b>Children and Young Persons Act 1989</b></p> <p>Includes Aboriginal Child Placement Principle. Sets out procedures for removing a child 'in need of protection'.</p>
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