

THE ISLAND OF NAURU.

No. 4 of 1956.

A N O R D I N A N C E

For the Interpretation of Ordinances, and for
other purposes.

BE it ordained by the Administrator of the Island
of Nauru, acting in pursuance of the powers conferred
by Article 1 of the Agreement dated the second day of
July, 1919, between the Government of the United
Kingdom, the Government of the Commonwealth of Australia
and the Government of the Dominion of New Zealand, as
follows:-

PART I. - PRELIMINARY.

Short title.

1. This Ordinance may be cited as the Interpretation
Ordinance 1956.

Repeal.

2. The Ordinances Revision Ordinance 1947 is
repealed.

Parts.

3. This Ordinance is divided into Parts, as
follows:-

- Part I. - Preliminary (Sections 1-4).
- Part II. - Words and References (Sections 5-10).
- Part III. - Time and Distance (Sections 11-13).
- Part IV. - Offences and Penalties (Sections 14-20).
- Part V. - Operation of Ordinances (Sections 21-28).
- Part VI. - Powers conferred and Duties imposed by
Ordinances (Sections 29-35).
- Part VII. - Regulations and other Subordinate
Legislation (Sections 36-38).
- Part VIII. - The Numbering and Citation of Ordinances
and Regulations (Sections 39-41).
- Part IX. - Repeal and Expiration of Ordinances
(Sections 42-49).

Application of
Ordinance.

4.-(1.) Except as otherwise expressly provided by
this Ordinance, this Ordinance applies to every Ordinance,
including this Ordinance, whether made before or after the
commencement of this Ordinance.

(2.) This Ordinance binds the Administration.

PART II. - WORDS AND REFERENCES

Interpretation
of terms.

5. In an Ordinance, unless the contrary intention appears -

"commencement", in relation to an Ordinance, means the time at which the Ordinance comes into operation;

"Councillor" means a Councillor of the Nauru Local Government Council;

"estate" includes any estate or interest, charge, right, title, claim, demand, lien or encumbrance in or in respect of land, at law or in equity;

"financial year" means a period of twelve months ending on the thirtieth day of June;

"land" includes messuages, buildings, tenements and hereditaments corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein;

"month" means calendar month;

"native" means an aboriginal native of an island in the Pacific Ocean, the East Indian Islands or Malaysia, and includes a person wholly or partly descended from such an aboriginal native;

"Nauru" means the Island of Nauru;

"Nauruan" means a person included in one of the classes of persons who, under the Nauruan Community Ordinance 1956, constitute the Nauruan community;

"oath" and "affidavit", in the case of persons allowed by law to affirm, declare or promise instead of swearing, include affirmation, declaration and promise, and "swear", in the like case, includes affirm, declare and promise;

"Ordinance" includes -

- (a) an Ordinance of the Island;
- (b) an Ordinance of the Territory of Papua adopted as a law of the Island; and
- (c) an Act of the Parliament of the Commonwealth, the State of Queensland or the United Kingdom adopted as a law of the Island;

"Ordinance of the Island" means an Ordinance made by the Administrator;

"person" and "party" include a corporation sole and a body politic or corporate as well as an individual;

"prescribed" means prescribed by the Ordinance or by rules or regulations made under the Ordinance;

"proclamation" means proclamation by the Administrator published in the Gazette;

"rules" includes rules of court;

"rules of court", in relation to a court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of that court;

"sign", and its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes "mark", and its grammatical variations and cognate expressions;

"solicitor" means a barrister and solicitor of the Central Court;

"statutory declaration" means a declaration made by virtue of a law of the Island authorizing a declaration to be made otherwise than in the course of a judicial proceeding;

"the Administration" means the Administration or Government of the Island;

"the Administrator" means the Administrator of the Island;

"the Central Court" means the Central Court of the Island of Nauru;

"the Commonwealth" means the Commonwealth of Australia;

"the Council" or "the Nauru Local Government Council" means the Nauru Local Government Council established under the Nauru Local Government Council Ordinance 1951-1955;

"the District Court" means the District Court of the Island of Nauru;

"the Gazette" means the Nauru Government Gazette;

"the Head Chief" means the Councillor elected to be Head Chief under the Nauru Local Government Council Ordinance 1951-1955;

"the Island" means the Island of Nauru;

"the Nauru Lands Committee" means the Nauru Lands Committee established under the Nauru Lands Committee Ordinance 1956;

"will" includes codicil;

"writing" and expressions referring to writing include printing, painting, engraving, typewriting, lithography, photography and all other modes of representing or reproducing words in a visible form.

Reference in other laws to the Nauruan people.

6. A reference in a law in force in the Island at the commencement of this Ordinance to the Nauruan people shall, notwithstanding anything contained in that law, be read as a reference to the persons included in the classes of persons who, by virtue of the Nauruan Community Ordinance 1956, constitute the Nauruan community.

Meaning of
service by post.

7. Where an Ordinance authorizes or requires a document to be served by post, whether the expression "serve" or the expression "give" or "send" or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying (except where under a law of the Island the document may be sent by post free of charge) and posting the document as a letter and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Gender and
number.

8. In an Ordinance, unless the contrary intention appears -

- (a) words importing the masculine gender include females; and
- (b) words in the singular include the plural and words in the plural include the singular.

Office, etc.
means office,
etc. of the
Island.

9. In an Ordinance, unless the contrary intention appears -

- (a) reference to an officer or office shall be construed as references to that officer or office in and for the Island; and
- (b) references to localities, jurisdictions and other matters and things shall be construed as references to those localities, jurisdictions and other matters and things in and of the Island.

Deviation
from forms.

10. Where forms are prescribed by an Ordinance, unless the contrary intention appears, substantial compliance with those forms is sufficient.

PART III. - TIME AND DISTANCE

Computation
of time.

11.--(1.) In computing time for the purposes of an Ordinance, unless the contrary intention appears, a period of time from a certain day or the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the certain day or the day on which the event happens or the act or thing is done.

(2.) If the last day of a period prescribed or allowed by an Ordinance for the doing of an act falls on a Sunday or a public holiday, the act may be done on the first day following which is not a Sunday or public holiday.

(3.) When an act or proceeding is, by an Ordinance, directed or allowed to be done or taken on a certain day, then if that day happens to be a Sunday or public holiday, the act or proceeding shall be deemed to be done or taken in due time if it is done or taken on the first day following which is not a Sunday or public holiday.

(4.) When an act or proceeding is, by an Ordinance, directed or allowed to be done or taken within a period not exceeding eight days, Sundays and public holidays shall not be reckoned in the computation of the period.

Provisions where
no time pre-
scribed.

12. Where no time is prescribed or allowed within which an act required by an Ordinance shall be done, that act shall be done with all convenient speed and as often as the prescribed occasion arises.

Measurement of
distances.

13. In the measurement of a distance for the purposes of an Ordinance, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

PART IV. - OFFENCES AND PENALTIES.

Penalties prescribed to be maximum penalties.

14. Where in an Ordinance a penalty is provided for an offence against the Ordinance, the provision means, unless the contrary intention appears, that the offence is punishable by a penalty not exceeding the penalty so provided.

Penalties at foot of sections or sub-sections.

15.-(1.) Subject to the next succeeding sub-section, the penalty, whether pecuniary or not, set out -

(a) at the foot of a section of an Ordinance; or

(b) at the foot of a sub-section of a section of

an Ordinance, but not at the foot of the section, means that a contravention of the section or of the sub-section, respectively, whether by act or omission, is an offence against the Ordinance punishable upon conviction by a penalty not exceeding the penalty so set out.

(2.) Where the penalty is expressed to apply to a part only of the section or sub-section, it applies to that part only.

Imprisonment.

16. Where under an Ordinance imprisonment may be awarded for an offence, it may, unless the contrary intention appears, be awarded with or without hard labour.

Fines, etc., to be paid to Administrator.

17. Where an Ordinance imposes or authorizes the imposition of a fine, penalty or forfeiture, that Ordinance, unless it otherwise directs, shall be deemed to provide that that fine, penalty or forfeiture, when recovered, shall be paid to the Administrator to defray the expenditure of the Island.

Corporations
liable to, and
may sue for,
penalties.

18.-(1.) Every provision of an Ordinance relating to offences shall, unless the contrary intention appears, be deemed to refer to bodies corporate as well as to persons, but where the penalty prescribed in respect of an offence is a term of imprisonment only, the court before which the offence is tried may, if it thinks fit, in the case of a body corporate, impose a pecuniary penalty not exceeding -

- (a) where the term of imprisonment does not exceed six months - One hundred pounds;
- (b) where the term of imprisonment exceeds six months but does not exceed one year - Two hundred pounds;
- (c) where the term of imprisonment exceeds one year but does not exceed two years - Five hundred pounds; and
- (d) where the term of imprisonment exceeds two years - One thousand pounds.

(2.) Where under an Ordinance a forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate where the body corporate is the party aggrieved.

Provisions as to
offences under
two or more
laws.

19. Where an act or omission constitutes an offence under two or more Ordinances, or both under an Ordinance and under another law of the Island, the offender is, unless the contrary intention appears, liable to be prosecuted and punished under either or any of those Ordinances, or either under that Ordinance or under that other law, but is not liable to be punished twice for the same offence.

Attempt to
commit an
offence to be
deemed an
offence.

20. A person who attempts to commit an offence against a law of the Island is guilty of an offence and is, unless the contrary intention appears, liable to trial and punishment as if the attempted offence had been committed.

PART V. - OPERATION OF ORDINANCES.

Ordinances to be judicially noticed.

21. All Courts and persons acting judicially shall take judicial notice of every Ordinance, whether made, or adopted as a law of the Island, before or after the commencement of this Ordinance.

Sections to be substantive enactments.

22. Every section of an Ordinance has effect as a substantive enactment without introductory words.

Headings, schedules, marginal notes and footnotes.

23.-(1.) The headings of the Parts and Divisions into which an Ordinance is divided shall be deemed to be part of the Ordinance.

(2.) Every Schedule to an Ordinance shall be deemed to form part of the Ordinance.

(3.) Neither the marginal notes nor the footnotes to an Ordinance shall be deemed to be part of the Ordinance.

Amending Ordinance to be construed with amended Ordinance.

24. Every Ordinance amending another Ordinance shall, unless the contrary intention appears, be construed with, and as part of, the amended Ordinance.

Rights of the Administration.

25. An Ordinance shall not in any manner adversely affect the rights of the Administration or bind the Administration unless it is expressly provided in the Ordinance, or unless it appears by necessary implication, that the Administration is bound by the Ordinance.

Commencement of Ordinance.

26. An Ordinance made after the commencement of this Ordinance shall, unless the contrary intention appears in the Ordinance, come into operation on the day on which notice of the making of the Ordinance is published in the Gazette.

Time when Ordinance or instrument comes into operation.

27. Where an Ordinance or part of an Ordinance, or an instrument (including rules or regulations) made under an Ordinance, is expressed to come into operation on a

particular day, it shall come into operation immediately on the expiration of the day next preceding that day.

Exercise of statutory power between making and commencement.

28.--(1.) Subject to this section, where an Ordinance or a part of an Ordinance which is not to come into operation immediately on the making of the Ordinance confers power to make an appointment, or to make, grant or issue an instrument (including rules or regulations) or to give notices, or to do any other act for the purposes of the Ordinance, that power may, unless the contrary intention appears, be exercised at any time after the making of the Ordinance for the purpose of bringing the Ordinance or part of the Ordinance into operation at the commencement thereof.

(2.) Any such instrument, notice or act made, granted, issued or done shall not, unless the contrary intention appears in the Ordinance, or the instrument, notice or act is necessary for bringing the Ordinance or part of the Ordinance into operation, have any effect until the Ordinance or part comes into operation.

PART VI. - POWERS CONFERRED AND DUTIES IMPOSED BY ORDINANCES.

Exercise of powers and performance of duties.

29.--(1.) Where an Ordinance confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2.) Where an Ordinance confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

(3.) Where an Ordinance confers a power to make or issue an instrument (including rules or regulations)

the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

(4.) Subject to the next succeeding sub-section, where an Ordinance confers upon a person or authority a power to make appointments to an office or place, the power shall, unless the contrary intention appears, be construed as including a power to remove or suspend a person appointed, and to appoint another person temporarily in the place of a person so removed or suspended or in the place of a sick or absent holder of that office or place.

(5.) Where the power of a person or authority to make any such appointment is exercisable only upon the recommendation, or subject to the approval or consent, of some other person or authority, the power of removal or the power of suspension shall, unless the contrary intention appears, be exercisable only upon the recommendation, or subject to the approval or consent, of that other person or authority.

(6.) Where an Ordinance confers power on a person or authority to make rules or regulations for a general purpose, and also for special purposes incidental to the general purpose or included in the general purpose, the enumeration of the special purposes shall be deemed not to derogate from the generality of the powers conferred with reference to the general purpose.

Exercise of powers and duties of Administrator during absence, etc.

30. Where in an Ordinance a power or function is vested in, or a duty or obligation is imposed on, the Administrator, then unless the contrary intention appears, that power or function may be exercised, and that duty

or obligation shall be performed or discharged, when the Administrator is absent from the Island or unable by reason of illness or incapacity to perform his duties, by a person authorized in writing by the Administrator to act as senior Administration Officer.

Power to determine includes authority to administer oath.

31. A court, judge, magistrate, officer, commissioner, arbitrator or other person authorized by law or by consent of parties to hear and determine a matter has authority to receive evidence and examine witnesses and to administer an oath to all witnesses legally called before them respectively.

Appointment of officers by name or office.

32. Where, by or under an Ordinance, the Administrator or an officer or authority is empowered to appoint or name a person to have and exercise powers or perform duties, the Administrator or the officer or authority may either appoint a person by name or direct the person for the time being holding the office designated by the Administrator or by the officer or authority, to have and exercise those powers and perform those duties and thereupon, or from the date specified by the Administrator or by the officer or authority, the person appointed by name or the person for the time being holding the office designated shall have and may exercise those powers and perform those duties accordingly.

Acts done under regulations etc. to be deemed done under Ordinance by which regulation, etc., authorized.

33. An act shall be deemed to be done under an Ordinance or by virtue of the powers conferred by an Ordinance or in pursuance or execution of the powers of or under the authority of an Ordinance if it is done under or by virtue of or in pursuance of a rule, regulation, proclamation, order or notice made or issued under any power contained in the Ordinance.

Power of majority of more than two persons.

34. Unless the contrary intention appears in an Ordinance, where an Ordinance requires or permits an act or thing to be done by more than two persons, a majority of them may do it.

Exercise of powers and functions by delegate.

35. Where under an Ordinance the exercise of a power or function by a person is dependant upon the opinion, belief or state of mind of that person in relation to a matter and that power or function has been delegated in pursuance of that Ordinance, that power or function may be exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

PART VII. - REGULATIONS AND OTHER SUBORDINATE LEGISLATION.

Publication of regulations, etc.

36.-(1.) Where an Ordinance confers power to make rules or regulations, unless the contrary intention appears -

- (a) notice of the making of rules or regulations made accordingly and of the place where copies of those rules or regulations may be purchased shall be published in the Gazette; and
- (b) subject to this section, rules or regulations made accordingly take effect from the date of publication of the notice referred to in the last preceding paragraph or, where another date is specified in the rules or regulations, from the date so specified.

(2.) Rules or regulations shall not be expressed to take effect from a date before the date of publication of the notice referred to in the last preceding sub-section in a case where, if they so took effect -

(a) the rights of a person (other than the Administration or an authority of the Administration) existing at that date would be affected in a manner prejudicial to that person; or

(b) liabilities would be imposed on a person (other than the Administration or an authority of the Administration) in respect of anything done or omitted to be done before that date,

and where in any rule or regulation a provision is made in contravention of this sub-section, that provision is void and of no effect.

Expressions in instruments under Ordinance.

37. Where an Ordinance confers power to make, grant or issue an instrument (including rules or regulations) -

(a) unless the contrary intention appears,

expressions used in an instrument so made, granted or issued have the same meanings as in the Ordinance conferring the power; and

(b) this Ordinance applies to any instrument so

made, granted or issued as if it were an Ordinance and, in the case of rules or regulations, as if each rule or regulation were a section of an Ordinance.

Construction of instruments.

38. Where an Ordinance confers upon an authority power to make, grant or issue an instrument (including rules or regulations), an instrument so made, granted or issued (whether before or after the commencement of this Ordinance) shall be read and construed subject to the Ordinance under which it was made, granted or issued and so as not to exceed the power of that authority, to the intent that where any such instrument would, but for this section, have been construed as being in excess of the power conferred upon that authority, it shall nevertheless be a valid instrument

to the extent to which it is not in excess of that power.

PART VIII. - THE NUMBERING AND CITATION OF ORDINANCES AND REGULATIONS.

Numbering of Ordinances.

39. The Ordinances of the Island made in each secular year shall be numbered in regular arithmetical series, beginning with the number one, in the order in which they are made.

Numbering of regulations.

40.-(1.) The rules and regulations made under Ordinances in each secular year shall be numbered in regular arithmetical series, beginning with the number one, in the order in which notice of their making is published in the Gazette.

(2.) Rules or regulations may, without prejudice to any other mode of citation, be cited by reference to the secular year in which they were made and the number given under the last preceding sub-section.

Citation of Ordinances.

41.-(1.) In an Ordinance, instrument (including rules or regulations) or document, an Ordinance may be cited by its short title or by reference to the secular year in which it was made and its number.

(2.) An enactment may be cited by reference to the Part, section, sub-section or other division of the Ordinance in which the enactment is contained.

PART IX. - REPEAL AND EXPIRATION OF ORDINANCES.

Effect of repeal of repealing Ordinance.

42. The repeal of an Ordinance or part of an Ordinance by which a previous Ordinance or part of an Ordinance was repealed does not, without express words, have the effect of reviving the last-mentioned Ordinance or part of an Ordinance.

Effect of Repeal.

43. Where an Ordinance repeals in the whole or in part a former Ordinance, then, unless the contrary intention appears, the repeal does not -

- (a) revive anything not in force or existing at the time at which the repeal takes effect;

- (b) affect the previous operation of the Ordinance so repealed, or anything duly done or suffered under the Ordinance so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Ordinance so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of an offence committed against the Ordinance so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and that penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been made.

Repealed Ordinances in force until substituted provisions operate.

44. Where an Ordinance repeals in the whole or in part a former Ordinance and substitutes provisions in the place of that Ordinance or that part of that Ordinance, the repealed provisions remain in force until the substituted provisions come into operation.

References to repealed provision.

45. Where an Ordinance repeals and re-enacts, with or without modification, any provision of a former Ordinance, references in another Ordinance to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted.

Effect of adopted laws ceasing to apply.

46. Where an Ordinance of the Island repeals in the whole or in part a law of the Commonwealth, the State of Queensland, the Territory of Papua or of the United Kingdom adopted as a law of the Island, or provides that such a law shall cease, in the whole or in part, to apply, or be in force, in the Island, the

provisions of this part apply as if that law were an Ordinance of the Island and as if a provision that the law shall cease, in the whole or in part, to apply, or be in force, in the Island were a repeal.

References to amended Ordinances.

47. Where in an Ordinance reference is made to another Ordinance and that other Ordinance is subsequently amended or an Ordinance is made in substitution for that Ordinance then, unless the contrary intention appears, the reference shall, from the date of the amendment or substitution, be deemed to be to the amended or substituted Ordinance.

Expiration of Ordinance.

48. The expiration of an Ordinance does not affect any civil or criminal proceeding previously commenced under the Ordinance, but every such proceeding may be continued and everything in relation to the proceeding be done in all respects as if the Ordinance continued in force.

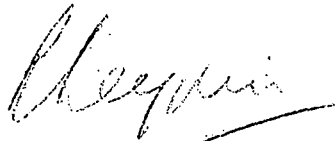
Effect of repeal of rules or regulations.

49. Where an Ordinance confers power to make rules or regulations, the repeal of any rules or regulations which have been made under the Ordinance does not, unless the contrary intention appears in the Ordinance, rules or regulations effecting the repeal -

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any rules or regulations so repealed, or anything duly done or suffered under any rules or regulations so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rules or regulations so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of an offence committed against any rules or regulations so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance, rules or regulations had not been made.

Dated this thirtieth day of August , 1956



Administrator of the Island of
Nauru.