

ROYAL PAPUAN CONSTABULARY ORDINANCE, 1939-1940.⁽¹⁾

An Ordinance relating to the Royal Papuan Constabulary.

WHEREAS it has pleased His Majesty the King most graciously to confer upon the Force hitherto known as the Armed Constabulary the prefix "Royal": And whereas it is desirable to Consolidate and Amend the provisions relating to the establishment and maintenance of the said Force: Be it ordained by the Legislative Council for the Territory of Papua, in pursuance of the powers conferred by the *Papua Act*, 1905-1934, as follows:—

Preamble.

1. This Ordinance may be cited as the *Royal Papuan Constabulary Ordinance*, 1939-1940.⁽¹⁾

Short title.
Amended by
No. 2 of 1930,
s. 2.

2. The *Constabulary Ordinance*, 1908-1932, is hereby repealed.

Repeal.

3. The Force known as the Armed Constabulary existing at the commencement of this Ordinance is continued hereunder in the name and style "Royal Papuan Constabulary."

Savings.

4. In this Ordinance unless a contrary intention appears:—
"the Force" shall mean the Royal Papuan Constabulary established under this Ordinance.

Interpretation.

5. The Force shall subject to the provisions of this Ordinance and the regulations consist of such commissioned officers warrant officers non-commissioned officers and constables as were at the commencement of this Ordinance members of the Armed Con-

Composition of
Force.

(1) The *Royal Papuan Constabulary Ordinance*, 1939-1940, comprises the *Royal Papuan Constabulary Ordinance*, 1939, as amended by the other Ordinance referred to in the following Table:

ORDINANCES OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Royal Papuan Constabulary Ordinance</i> , 1939 (No. 11 of 1939)	22.8.1939	(a)	22.8.1939 (<i>Ordinances etc. of Papua</i> , 1939, p. 31)
<i>Royal Papuan Constabulary Ordinance</i> , 1940 (No. 8 of 1940)	15.8.1940	6.11.1940	15.8.1940 (<i>Ordinances etc. of Papua</i> , 1940, p. 19)

(a) No notice of non-disallowance has been published in *Papua Govt. Gaz.*

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stabulary and as may be appointed in the manner hereinafter provided. The pay of members of the Force and the allowances (if any) and the periods of service shall be such as shall be fixed by regulation⁽²⁾ under this Ordinance; until so fixed they shall remain as they were before this Ordinance was passed.⁽³⁾

The Force shall not exceed in the whole such number as may from time to time be determined by the Lieutenant-Governor in Council.⁽⁴⁾

Commandant.

6. The Lieutenant-Governor⁽⁴⁾ shall be the Commandant of the Royal Papuan Constabulary.

Declaration on enlistment.

7.—(1.) Every person appointed to be or enlisting as a member of the Royal Papuan Constabulary shall make and subscribe the following Declaration:—

“I [A.B.] do most solemnly and sincerely declare and promise that I will be faithful and bear true allegiance to His Majesty the King his heirs and successors as an Officer of the Royal Papuan Constabulary a member of the European Company of the Royal Papuan Constabulary or Constable of the Royal Papuan Constabulary (as the case may be) for a period of [] years and for such other period as I may re-engage to serve or as my period of service may be prolonged and will obey all orders of His Majesty and of the officers placed over me and subject myself to all Ordinances rules and regulations relating to the Royal Papuan Constabulary now in force or which may from time to time be in force within the said period or periods.”

Signature

Declared at this day of 19
Before me

(2.) Such declaration may be signed before a Magistrate, a Justice of the Peace or an Officer of the Royal Papuan Constabulary of commissioned rank.

Appointment of officers.

8.—(1.) The Lieutenant-Governor⁽⁴⁾ may appoint by commission or notice in the *Gazette* or by both methods Officers of the Royal Papuan Constabulary.

(2.) All persons appointed to be Officers of Armed Constabulary under the *Constabulary Ordinance*, 1908-1932 shall be deemed to have been appointed under this Ordinance.

(2) No regulations have been made.

(3) No previous Ordinance or regulation itself fixed the details of these matters, and no instrument made under any former Ordinance has been published in British N.G. *Govt. Gaz.* or Papua *Govt. Gaz.* specifying them. Section 3 of *The Armed Constabulary Ordinance* of 1890 authorised the Administrator to fix these matters subject to confirmation by resolution of the Legislative Council. Publication of the details was not required. *The Armed Constabulary Ordinance* of 1890 was repealed by *The Constabulary Ordinance* of 1907, which was in turn repealed by the *Constabulary Ordinance*, 1908-1932; and the *Constabulary Ordinance*, 1908-1932, was repealed by the *Royal Papuan Constabulary Ordinance*, 1939-1940. Each of the repealing Ordinances, however, provided that the pay, allowances, and periods of service should remain as they were at the commencement thereof, unless altered by regulation. No such regulation has been made.

(4) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

Royal Papuan Constabulary Ordinance, 1939-1940.

(3.) Officers shall take rank in order of seniority according to the date of their appointment unless otherwise determined by the Lieutenant-Governor.⁽⁴⁾

9. The Officers and members of the Armed Constabulary at the commencement of this Ordinance shall without any re-appointment re-enlistment or re-enrolment or the taking of any fresh declaration be subject to the provisions of this Ordinance.

Officers and members of Armed Constabulary to continue.

10. Any member of the Force who—

- (1) assists or connives at the escape of any person lawfully in custody or under arrest or at any attempt or preparation to escape by any such person; or
- (2) attempts to escape when in custody or under arrest; or
- (3) levies blackmail; is guilty of extortion; or accepts a bribe; or
- (4) deserts his post; or
- (5) assaults his superior officer; or
- (6) attempts to leave the Force before the expiration of his time unless with the consent of the Lieutenant-Governor;⁽⁴⁾

Offences by members of the Force.

commits an indictable offence punishable with imprisonment with hard labour for a period not exceeding Three years.

11. Any member of the Force who—

- (1) disobeys the lawful commands of his superior officer; or
- (2) absents himself from duty; or
- (3) without reasonable cause or excuse fails to report to his superior officer when a person has been committed to his charge; or
- (4) malingers or feigns or wilfully produces in himself any disease or infirmity;

Minor offences by members of the Force.

shall be liable on summary conviction to imprisonment for a period not exceeding Six months with hard labour.

12. Any European officer may suspend a warrant officer a non-commissioned officer or constable for misconduct of any kind. The suspension shall be reported at the earliest opportunity to the Lieutenant-Governor⁽⁴⁾ who may confirm the suspension and dismiss the non-commissioned officer or constable or direct his prosecution under the Ordinance or the regulations. No pay shall be allowed during the period of suspension unless the Lieutenant-Governor⁽⁴⁾ otherwise orders.

Suspension.

(4) See Section 19 (2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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Discharge.

13. Any warrant officer non-commissioned officer or constable may be discharged at any time by order of the Lieutenant-Governor.⁽⁴⁾ The Lieutenant-Governor⁽⁴⁾ need not assign any reason for the discharge.

Petty breaches of discipline.

14. In cases of petty breaches of discipline a European officer for the time being in charge of any station or any portion of the Force may inflict a penalty not exceeding Twenty shillings or Two months imprisonment with hard labour.

Non-commissioned officer or constable may be dismissed if convicted of an offence punishable with imprisonment.

15. Any warrant officer non-commissioned officer or constable who is convicted of an offence which is punishable with imprisonment may by order of the Lieutenant-Governor⁽⁴⁾ be dismissed from the Force or in the case of a non-commissioned officer be reduced to a lower grade or to the ranks.

No pay while in prison.

16. A member of the Force shall not receive pay for any period during which he is in prison under a sentence unless the Court that convicts him orders otherwise.

Member of Force to make good loss occasioned by his neglect.

17. In addition to any punishment that may be imposed under this Ordinance upon any member of the Force the Court may order that a portion of the offender's pay shall be stopped and forfeited to make good any loss or damage to any property whatever occasioned by the act or neglect constituting the offence of which he has been convicted or any expense incurred by reason of such act or neglect.

Fines may be deducted from pay.

18. All fines and penalties imposed upon any member of the Force under this Ordinance may in addition to any mode of recovery allowed by law be deducted from his pay.

Rewards, etc. may be granted.

19. The Lieutenant-Governor⁽⁴⁾ may grant rewards and gratuities to any member of the Force whom he may deem deserving thereof or in the event of his death to his relatives and any money so granted shall be paid out of the funds of the Territory.

Members of Force to execute process of Courts.

20. The members of the Force shall execute all process and serve all summonses and warrants that may be sent to them to be executed or served by any Court of the Territory.

Persons inducing members of the Force to neglect their duty.

21. Any person who induces or attempts to induce any member of the Force to neglect or omit to perform any duty shall on conviction in a summary manner be liable to a penalty not exceeding Twenty pounds or in the alternative to be imprisoned with or without hard labour for any period not exceeding Three months.

(4) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

22. Any person not being a member of the Force who without a proper excuse has in his possession any arm or accoutrement badge or any uniform or part of a uniform of any member of the Force or assumes the description or designation of or falsely pretends or represents himself to be a member of the Force shall on conviction in a summary manner be liable to a penalty not exceeding Twenty pounds or in the alternative to be imprisoned for any period not exceeding Three months with or without hard labour.

Unauthorized person possessing arms, etc., of members of Force.

23. Any person who not being a member of the Force wears any uniform of the Force or any colourable imitation thereof shall be liable to a penalty not exceeding Ten pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding Three months.

Wearing uniforms or imitations.

24. Any person who—

(a) sells or supplies to any other person; or

(b) employs or induces any person not being a member of the Force to wear

Supplying or inducing to wear uniforms.

any uniform of the Force or any colourable imitation thereof shall be liable to a penalty not exceeding Fifty pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding Six months.

25. In the event of the number of men determined by the Lieutenant-Governor in Council⁽⁴⁾ as the number of the Force not being obtained by voluntary engagement every male aboriginal native of the Territory who is of sound bodily constitution and who so far as can be ascertained by the person appointed to enroll such native is between the ages of seventeen and forty both ages inclusive and unmarried shall be liable to be enrolled as a member of the Force. Due regard shall in compelling enrolment as aforesaid be had that not more than a reasonable proportion of men be enrolled from any one district: Provided always that the Lieutenant-Governor⁽⁴⁾ may from time to time exempt the inhabitants of any specified portion of the Territory or any person engaged in any specified occupation or specified calling from the operation of this section.

Certain natives obliged to serve in Force.

26. Every person enrolled in the Force under the last preceding section shall be enrolled for not more than three years nor for less than one year and shall unless legally discharged or dismissed from the Force be obliged to serve as a member of the Force for the period for which he has been enrolled and no person so enrolled shall be liable to a second term of service.

Periods of service in the Force.

(4) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

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Manner of enrolment.

27. The manner of voluntary enrolment⁽⁵⁾ in the Force shall continue as at the commencement of this Ordinance until altered by regulation.⁽⁶⁾

Badge.

28. A badge or other distinguishing mark or article may be provided for members of the Force. And any person that shall wear or bear about him such distinguishing badge mark or article shall until the contrary be proved be deemed a member of the Force and be treated and obeyed by all persons accordingly.

For protection of officers and constables.

29.—(1.) If any action is brought against any officer or constable of police for any act done in obedience to the warrant of any Magistrate he shall not be responsible for any irregularity in the issue of the warrant or for any want of jurisdiction in the Magistrate who issued it.

(2.) Upon production of the warrant and proof that the signature thereto is in the handwriting of the person whose name appears subscribed thereto and that that person is reputed to be and acts as a Magistrate possessing jurisdiction in the case and that the act complained of was done in obedience to the warrant a verdict shall be returned for the officer or constable and he shall recover his costs of suit.

Duties, rights and liabilities of officers and constables.

30. Officers and constables under this Ordinance shall have the same duties the same rights and the same liabilities as constables at common law except so far as they are modified by this or any other Ordinance relating to constables of police.

(5) Section 25 of *The Armed Constabulary Ordinance of 1890* provided that, "Every enrolment whether voluntary or compulsory shall be conducted in such manner as the Administrator may from time to time direct." No such directions were published in *British N.G. Govt. Gaz.* or *Papua Govt. Gaz.*, although publication was not required. *The Armed Constabulary Ordinance of 1890* was repealed by *The Constabulary Ordinance of 1907*, which was in turn repealed by the *Constabulary Ordinance, 1908-1932*; and the *Constabulary Ordinance, 1908-1932* was repealed by the *Royal Papuan Constabulary Ordinance, 1939-1940*. Each of the repealing Ordinances provided that the manner of voluntary enrolment should continue as at the commencement thereof, until altered by regulation. *The Armed Constabulary Regulations, 1922* (impliedly repealed by the present Ordinance) contained the following regulations relating to recruiting:

"Recruits.

3. There shall be no standard of height or of chest measurement for enrolment in the Constabulary, but no man shall be enrolled (except by special order of the Lieutenant-Governor) who is not, in the opinion of the officer who enrolls him, sufficiently active and vigorous to perform the duties usually performed by a Constable.
4. Recruits shall, if possible before enrolment, and in any case as soon after enrolment as may be practicable, be examined by a Government Medical Officer. A recruit who, in the opinion of the Government Medical Officer who examines him, is not physically fit for duty shall not be enrolled except by special order of the Lieutenant-Governor, or if already enrolled, shall be suspended pending the decision of the Lieutenant-Governor.
5. An Oath of Allegiance to His Majesty shall be administered to all recruits on enrolment provided that they can understand it. The enrolling officer shall make all reasonable endeavour to explain the meaning of the oath to the recruits, but it shall not be administered unless the officer administering it can certify that the recruit understood the contents thereof. The Oath of Allegiance shall not be considered essential to the validity of the enrolment."

(6) No regulations have been made under the present Ordinance.

Royal Papuan Constabulary Ordinance, 1939-1940.

31. The Lieutenant-Governor⁽⁴⁾ with the advice of the Executive Council may make regulations⁽⁷⁾ for such matters concerning enrolment in the Force whether voluntary or compulsory and its discipline and internal management as are not already dealt with in this Ordinance. The books⁽⁸⁾ in use at the passing of this Ordinance shall continue in force until superseded by regulation.⁽⁹⁾ A regulation may provide for breach a penalty not exceeding Ten pounds or Three months imprisonment with hard labour.

Regulations.

Regulations shall have the force of law so soon as they are published in the *Gazette* but if they are disapproved by the Legislative Council the fact that they have been disapproved shall be published in the *Gazette* and they shall thereupon cease to have effect.

32. Where punishment is provided both by this Ordinance or by the regulations and also by the Criminal Code for the same offence the punishments shall be alternative and not cumulative.

Punishment under this Ordinance alternative and not cumulative.

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Sections 33 and 34 repealed by No. 8 of 1940, s. 2.

35. Any Officer or member of the Royal Papuan Constabulary whose period of service expires during a state of war may be detained and his service prolonged for such further period not exceeding Twelve months as the Lieutenant-Governor⁽⁴⁾ may direct.

Prolongation of service in case of war.

Amended by No. 8 of 1940, s. 3.

36. The uniform of the Royal Papuan Constabulary shall be of such nature as may from time to time be approved by the Lieutenant-Governor⁽⁴⁾ or as may be prescribed.

Uniforms.

37.—(1.) Subject to the provisions of this Ordinance European companies of Armed Constabulary may from time to time be raised and maintained by the Lieutenant-Governor.⁽⁴⁾

European companies.

(4) See Section 19 (2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(7) No regulations have been made.

(8) Only one book has been prescribed specifically by former Ordinances and regulations—namely, the "*Roll Book of the Armed Constabulary*," prescribed by *The Armed Constabulary Ordinance* of 1890. Section 26 of that Ordinance read as follows: "A book to be called the '*Roll Book of the Armed Constabulary*' shall be provided and kept in the custody of the Commandant. The name of every Member of the Force and such other particulars as the Administrator shall from time to time direct shall be inserted in such book and each Member of the Force shall be bound to sign by signature or mark his name in such book in that place in the book in which he shall be required to do so and every such signature or mark shall be witnessed by some person that can read and write English. The production of such book or an extract therefrom certified under the hand of a Resident Magistrate shall be *prima facie* evidence of the truth of the contents of such book or extract as the case may be."

The Armed Constabulary Ordinance of 1890 was repealed by *The Constabulary Ordinance* of 1907, which was in turn repealed by the *Constabulary Ordinance*, 1908-1932; and the *Constabulary Ordinance*, 1908-1932, was repealed by the *Royal Papuan Constabulary Ordinance*, 1939-1940. Each of the repealing Ordinances, however, provided for the continuation of the books in use at the commencement thereof, unless superseded by regulation. No such regulation has been published in British N.G. *Govt. Gaz.* or Papua *Govt. Gaz.*

(9) No regulations have been made.

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(2.) Such companies shall be raised and kept up by voluntary enlistment only and shall consist of male Europeans who are British Subjects and between the ages of twenty and forty years or with the special permission of the Lieutenant-Governor⁽⁴⁾ without any age limit.

Regulations.

38. The Lieutenant-Governor⁽⁴⁾ may make regulations⁽¹⁰⁾ not inconsistent with this Ordinance prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for securing the discipline and good government of the Royal Papuan Constabulary or for carrying out or giving effect to this Ordinance.

(4) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(10) No regulations have been made.