

TERRITORY OF NAURU

No. 7 of 1939

AN ORDINANCE

To provide for the Defence of the Territory in case of
Emergency.

BE it ordained by the Administrator of the Island of Nauru in pursuance of the powers conferred by Article 1 of the Agreement dated the second day of July, 1919, between His Majesty's Government in London, His Majesty's Government of the Commonwealth of Australia and His Majesty's Government of the Dominion of New Zealand, as follows:

Short
Title.

1. This Ordinance may be cited as the Defence Ordinance 1939.

Date of
coming in-
to opera-
tion.

2. This Ordinance shall have effect in the Territory from time to time in case of any public emergency touching the public safety and defence of His Majesty's Empire or of the Territory on being proclaimed by the Administrator, and shall come into operation at such times as it shall be so proclaimed by the Administrator and shall continue in operation therein until the Administrator shall by Proclamation declare that it has ceased to be in operation.

Defini-
tions.

3. In this Ordinance -

- (1) The term "Administrator" includes every person for the time being administering the Government of the Territory.
- (2) The term "enemy" includes all armed mutineers, and armed rebels, armed rioters and pirates.
- (3) The term "personal property" shall include all property not the property of the Administration of the Territory.

4. So long as this Ordinance shall from time to time be in operation the following provisions shall have effect -

Power to
make Re-
gulations.

- (1) The Administrator may make Regulations for securing the public safety and the defence of the Territory and as to the powers and duties for that purpose of the Administrator and the Officers of any of

His Majesty's Naval, Military or Air Forces and other persons acting in their behalf, and in particular may by such Regulations make provision with regard to all matters coming within the classes of subjects hereinafter enumerated, that is to say:-

Censorship and control of publications.

(a) Censorship, and the control and suppression of publications, writings, maps, plans, photographs, communications, and means of communications;

Arrest and deportation.

(b) Arrest, detention, exclusion, and deportation;

Control of harbours and vessels.

(c) Control of harbours, ports, and territorial waters of the Territory, and the movements of vessels;

Control of aerodromes and aircraft

(d) Control of aerodromes, landing grounds, seaplane stations, seaplane anchorages and movement of aircraft, as well as of all installations connected with the navigation and fuelling of aircraft;

Control of transport.

(e) Transportation by land, air, or water, and the control of the transport of persons and things;

Control of trading.

(f) Trading, exportation, importation, production and manufacture;

Control of property.

(g) Appropriation, control, forfeiture, and disposition of property, and of the use thereof;

Offences

and may by such Regulations authorise the trial by Courts Martial or Civil Courts, or in the case of minor offences by Courts of Summary Jurisdiction, of persons committing offences against the Regulations, and the infliction by such Civil Courts of the following punishments, that is to say:-

Punishments.

(i) In the case of Courts of Summary Jurisdiction imprisonment with or without hard labour for a term not exceeding 6 months, or a fine not exceeding \$A100, or both such imprisonment and fine; and

(ii) In the case of other Courts, penal servitude for life or any less punishment or, in the case of offences where intention of assisting the enemy is proved, death or any less punishment.

Proviso.

Provided that no such Regulation shall have the effect of diminishing any powers exercisable by officers of any of His Majesty's Naval, Military, or Air Forces or other persons acting in their behalf, and that nothing shall be done under any such Regulation which shall be prejudicial to the action of His Majesty's Naval, Military or Air Force.

Court Martial.

(2) For the purpose of the trial of a person for an offence against such Regulations by Court Martial and the punishment thereof, the person may be proceeded against and dealt with as if he were a person subject to Military or Air Force Law and had on active service committed an offence under Section 5 of the Army Act or Section 5 of the Air Force Act.

Sentence of death.

Provided that where it is proved that the offence is committed with the intention of assisting the enemy a person convicted of such an offence by a Court Martial shall be liable to suffer death.

Summary Jurisdiction.

(3) For the purpose of the trial of a person for an offence against such Regulations by a Court of Summary Jurisdiction and the punishment thereof, the offence shall be deemed to have been committed either at the place in which the same actually was committed or in any place in which the accused person may be.

Appropriation of property.

(4) The Administrator may make Regulations prescribing

(i) The manner in which compensation payable under Section 5 (10) of this Ordinance is to be determined and

(ii) The price or the manner of determining the price at which, and the conditions under which, any property taken under Section 5(7) may be sold.

(5) Any provision of any Law of the Territory which may be inconsistent with any Regulation made by the Administrator under this Section shall be suspended and of no effect during the continuance of such Regulation.

5. So long as this Ordinance shall from time to time be in operation the following provisions shall have effect:-

Application of Army Act and Air Force Act.

(1) Any declaration made by the Administrator under Section 189 of the Army Act shall be deemed to apply to every Military Force raised in the Territory, and any declaration made by the Administrator under Section 189 of the Air Force Act shall be deemed to apply to every Air Force raised in the Territory.

Deportation.

(2) The Administrator may order any persons to quit the Territory, or any part of, or place in the Territory to be specified in such Order and if any person shall refuse to obey any Order the Administrator may cause him to be arrested and removed from the Territory, or from such part thereof, or place therein, and for that purpose to be placed on board of any ship or boat or of any vehicle for transport by land or air.

Conscription.

(3) The Administrator may require any person to do any work or render any personal service which the Administrator may think necessary to order in aid of or in connection with the defence of the Territory.

Seizure of property.

(4) The Administrator may require any person to supply any animals, vehicles, ships, boats, aircraft, explosives, or other personal property belonging to or under the control of such person to the Government, if such property be required in aid of or in connection with the defence of the Territory and in default of the person supplying the same,

may seize and take possession of and retain any such animals, vehicles, ships, boats, aircraft, explosives, or other personal property, for such purposes.

**Appropriation
of Land and
Buildings.**

- (5) The Administrator may take and retain for such period as he may think necessary possession for public purposes of any land or building or other property, including gas-works, and works for the supply of electric light, water-works, wells and springs of water, tanks and other receptacles for water, and in particular, but without prejudice to the generality of the foregoing, may take possession of any land or building for the accommodation of His Majesty's Naval, Military or Air Forces or of the Territory Defence Force or Native Armed Constabulary or of any other persons in the service of His Majesty or of the Government of the Territory and may, if he think it necessary for the purposes of the defence of the Territory, cause any buildings to be pulled down and removed, and any property to be removed from one place to another, or to be destroyed.

**Destruction
of Property
and Buildings.**

**Shipping
Services.**

- (6) The Administrator may direct that all resources of any shipping service in the Territory shall be placed at his disposal for any purpose which he considers necessary in connection with the defence of the Territory including the evacuation of non-combatants and any other persons he may consider it desirable to evacuate and no liability whatever shall be incurred on account of any interference with the regular service which may thus be occasioned.

**Confiscation
of fuel and
food supplies.**

- (7) The Administrator may prohibit the export from the Territory of any article or may seize and take possession of any grain, article of goods, coal or other fuel and mineral oils, within the limits of the Territory, and may sell at such price and under such conditions as he may by Regulations prescribe, any grain, article of food, coal, fuel and oils, so

collected and taken. The moneys to be received for such sales shall be paid into the Territory Treasury.

Control of food prices.

(8) The Administrator, may, by Proclamation prescribe the maximum price for which any article of food may be sold by retail, and any person who, after such Proclamation, and until it shall have ceased to be in operation, shall sell any article of food at a higher price than the price so prescribed shall be deemed guilty of an offence against this Section, and shall, on conviction thereof, be liable to a fine not exceeding £25, or to imprisonment for a term not exceeding 3 months.

Control of Liquor.

(9) The Administrator may take any steps he may consider necessary in the interests of the defence of the Territory for controlling the trade in beer, wine or spirits.

Compensation for appropriation of property.

(10) Every person who shall be required to do any personal service, and every person whose property or goods are taken possession of (whether temporarily or otherwise) or removed or destroyed by virtue of this Ordinance, shall be entitled to receive by way of compensation, out of the public funds of the Territory, such sum only as may be determined in accordance with Regulations to be made by the Administrator.

Power of entry.

(11) Any person authorized by the Administrator in writing in that behalf may enter upon and into any ship or vessel, land, house, or other building, in the Territory, and examine and inspect such ship or vessel and its cargo and contents whatsoever or such land or building and every or any part thereof, and, in case of opposition or obstruction, may use force to effect such entry, examination, and inspection, and shall not be liable for any damage directly or indirectly occasioned by such forcible entry.

**Penalty for
non-compliance.**

(12) Every person who refuses or neglects to obey or comply with any order or requisition made under this Section or does anything whereby the execution of any such order or requisition is prevented or hindered, or with intent to prevent or hinder the execution of any such order or requisition, shall be guilty of an offence against this Section, and shall, on summary conviction thereof, be liable to a fine not less than \$A2, and not more than \$A10, or to imprisonment for a term not exceeding one month.

**Suspension of
contracts.**

(13) If any person shall, by obeying any order or requisition made under this Section, be prevented from fulfilling any contract, such person shall not be deemed to have thereby committed a breach of contract, but such contract shall be deemed to be suspended by such order or requisition so far as its fulfilment is thereby rendered impossible.

**Postponement
of payments.**

(14) The Administrator may by Proclamation postpone for such period as he may think necessary or just and expedient, the time at which any rent or other moneys shall become due and payable, and particularly may so extend the period of maturity of bills or other negotiable instruments payable in the Territory, and may suspend for such time as he may think right the execution of the judgment of any Court of Civil Jurisdiction, and the enforcement of any process of eviction or other process for the recovery of the possession of property in default of payment of rent, if he shall consider that, owing to circumstances arising out of the State of War or the immediate apprehension of War, the immediate execution of such judgments or enforcement of such process would be inequitable or inexpedient.

**Suspension of
Judgments.**

Delegation
of Powers.

(15) The Administrator may, if he thinks fit, delegate to the Naval, Military or Air Authorities in the Territory any of his powers under this Section.

Limitation
of Ordinance.

6. Sub-sections (2), (3) and (4) of Section 5 of this Ordinance shall not apply to any person in His Majesty's Naval, Military or Air Service, nor shall sub-sections (4), (5), (6), (7) or (11) apply to ships or vessels belonging to or operated by, or to any other property belonging to or in possession or control of, any Department of any of His Majesty's Governments.

Power to
amend or
revoke.

7. The Administrator may from time to time revoke, alter, add to or amend this Ordinance.

GIVEN under my hand at Administration Headquarters,
Nauru, Central Pacific, this third day of
September in the year One thousand nine hundred
and thirtynine.

F. R. Chalmers
Administrator.