

# NATIVE CONSTABULARY ORDINANCE 1940.\*

1705

## An Ordinance to provide for the Constitution and Regulation of a Native Constabulary.

- 1 This Ordinance may be cited as the *Native Constabulary Ordinance 1940*.\* Short title.
2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *Gazette*.† Commencement.
3. In this Ordinance, unless the contrary intention appears— Definitions.
- “aboriginal” means any person who is an aboriginal within the meaning of section three of the *Aboriginals Ordinance 1918-1939*;
- “authorized Protector” means a Protector who has received a written authority signed by the Director to give orders and instructions to members of the Native Constabulary, and includes the Director;
- “Director” means the Director of Native Affairs appointed under the *Aboriginals Ordinance 1918-1939*;
- “Native Constabulary” means the Native Constabulary constituted under this Ordinance;
- “Police Force” means the Police Force of the Territory constituted under the *Police and Police Offences Ordinance 1923-1938*;
- “Protector” means a Protector of Aboriginals appointed under the *Aboriginals Ordinance 1918-1939*, and includes the Director.
4. There shall be a Native Constabulary for the Territory, which shall consist of aboriginals appointed under this Ordinance as non-commissioned officers and constables. Constitution of Native Constabulary
- 5.—(1.) The Minister may appoint such commissioned officers as he deems necessary for the maintenance of the Native Constabulary in an efficient condition. Appointment of commissioned officers.
- (2.) All such commissioned officers shall be Europeans.
- (3.) A commissioned officer shall not be deemed to be a member of the Native Constabulary.

\* No. 3, 1940; notified in *Commonwealth Gazette* on 15th February, 1940.

† No date had been fixed up to 1st January, 1961.

Oath of office to be taken.

6.—(1.) A person appointed to be a commissioned officer of the Native Constabulary shall not be capable of holding that office or of acting in any way therein until he has taken and subscribed an oath in the following form:—

I, A.B., do swear that I will well and truly serve Our Sovereign Lord the King as a commissioned officer of the Native Constabulary of the Northern Territory without favour or affection, malice or ill-will, from this date until I am discharged from that office; that I will seek and cause His Majesty's peace to be kept and preserved, and that I will prevent to the best of my power, all offences against the same, and that, while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law—  
So help me God!

Taken and subscribed at  
this                      day of  
19

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Before me

(2.) The oath shall be taken before a Stipendiary Magistrate or Special Magistrate or Justice of the Peace.

Minister to determine number of Native Constabulary.

7. The Minister may from time to time determine the number of non-commissioned officers and the number of constables which may be appointed under this Ordinance.

Appointment of members of Native Constabulary.

8. Subject to the last preceding section, the Director may appoint aboriginals to be non-commissioned officers or constables.

Powers and duties of members of Native Constabulary.

9. Members of the Native Constabulary shall have, in respect of aboriginals, all the powers and duties of members of the Police Force, but members of the Native Constabulary shall not have any powers or duties in respect of persons who are not aboriginals.

Members of Native Constabulary to carry out instructions of Director or authorized Protectors.

10. Members of the Native Constabulary shall be subject to, and shall carry out, all lawful orders and instructions given by the Director or an authorized Protector.

Authorized Protectors deemed to be commissioned officers of Native Constabulary.

11. Any authorized Protector shall, by virtue of his office and while holding his office, be deemed for the purposes of this Ordinance and the regulations thereunder to be a commissioned officer of the Native Constabulary as if he had been appointed under section five of this Ordinance.

Pay and allowances.

12. The pay and allowances and the pensions (if any) of members of the Native Constabulary shall be as prescribed.

Period of service.

13.—(1.) Every aboriginal appointed to the Native Constabulary shall be enrolled for a period not exceeding five years, and shall, unless legally discharged or dismissed from the Native Constabulary, serve as a member of the Native Constabulary for the period for which he has been enrolled.

(2.) On completion of any term of service a member of the Native Constabulary may be enrolled for any further period not exceeding five years.

14. Members of the Native Constabulary may be granted such leave of absence as is prescribed. Leave of absence.

15. Any member of the Native Constabulary who— Offences.

- (a) commits any breach of the provisions of this Ordinance or the regulations;
- (b) wilfully disobeys or disregards any lawful order made or given by any person having authority to make or give the order;
- (c) is negligent or careless in the discharge of his duties;
- (d) is inefficient or incompetent from causes within his control;
- (e) is guilty of any conduct which is to the prejudice of the good order and discipline of the Native Constabulary; or
- (f) is guilty of disgraceful or improper conduct in his official capacity or otherwise,

shall be guilty of a disciplinary offence.

16.—(1.) An authorized Protector may impose any of the following penalties on any member of the Native Constabulary who is guilty of any disciplinary offence referred to in the last preceding section:— Punishments.

- (a) Admonishment or reprimand;
- (b) Confinement to barracks for a period not exceeding twenty-eight days;
- (c) Forfeiture of not more than one month's pay;
- (d) A fine not exceeding Twenty shillings.

(2.) Any penalty imposed under sub-section (1.) of this section, other than an admonishment or reprimand, shall not be enforced unless and until it has been confirmed by the Director.

17.—(1.) An authorized Protector may, in lieu of imposing a penalty under section sixteen of this Ordinance, suspend a member of the Native Constabulary who is guilty of a disciplinary offence. Suspension.

(2.) The authorized Protector shall immediately report the suspension to the Director who may confirm the suspension and impose any penalty prescribed by section sixteen of this Ordinance or, if the member suspended is a non-commissioned officer, reduce him to a lower grade or to the ranks or may annul the suspension.

(3.) A member of the Native Constabulary shall not, unless the Director otherwise orders, be entitled to receive any pay in respect of any period during which he is suspended under this section.

Reduction for certain offences.

**18.** The Director may reduce to a lower grade or to the ranks a non-commissioned officer of the Native Constabulary who is convicted of any offence which is punishable by imprisonment.

Discharge.

**19.** Notwithstanding anything contained in this Ordinance, the Director may at any time discharge a member of the Native Constabulary.

No pay while in prison.

**20.** A member of the Native Constabulary shall not receive pay in respect of any period during which he is in prison under the sentence of a Court unless the Court which convicts him otherwise orders.

Member of Native Constabulary to make good loss occasioned by his neglect.

**21.** In addition to any punishment that may be imposed under this Ordinance or the regulations thereunder upon any member of the Native Constabulary, the Director may order that portion of the member'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 or disciplinary offence or any expense incurred by reason of that act or neglect.

Fines or penalties may be deducted from pay.

**22.** A fine or penalty imposed on any member of the Native Constabulary under this Ordinance or the regulations thereunder may, in addition to any other mode of recovery allowed by law, be deducted from his pay.

Rewards, &c., may be granted.

**23.** The Administrator may, upon the recommendation of the Director, grant rewards and gratuities to any member of the Native Constabulary or, in the event of his death, to such of his relatives as the Administrator determines.

Persons inducing members of Native Constabulary to neglect their duty.

**24.** Any person who induces or attempts to induce any member of the Native Constabulary to neglect or omit to perform any duty shall be guilty of an offence.

Penalty: Twenty pounds or imprisonment for three months.

Inciting member of the Native Constabulary to mutiny.

**25.** Any person who—

(a) incites any member of the Native Constabulary to make or endeavour to make a mutinous assembly;  
or

(b) incites any member of the Native Constabulary to commit any act of mutiny,

shall be guilty of an indictable offence.

Penalty: Imprisonment for ten years.

**26** Any member of the Native Constabulary who commits an act of mutiny, or takes part in a mutiny, or incites any members to make or endeavour to make a mutinous assembly, or incites any member to commit an act of mutiny, shall be guilty of an indictable offence.

Offences by members of the Native Constabulary.

Penalty: Imprisonment for ten years.

**27.** Any person who, not being a commissioned officer or member of the Native Constabulary, without proper excuse, has in his possession any arm, accoutrement or badge or any uniform or part of a uniform of a commissioned officer or member of the Native Constabulary or who assumes the description or designation of, or falsely pretends or represents himself to be, a commissioned officer or member of the Native Constabulary, shall be guilty of an offence.

Unauthorized persons possessing arms, &c., of members of the Native Constabulary.

Penalty: Twenty pounds or imprisonment for three months.

**28.** Any person who, not being a commissioned officer or a member of the Native Constabulary, wears any uniform of the Native Constabulary or any colourable imitation thereof shall be guilty of an offence.

Wearing uniforms or imitations.

Penalty: Ten pounds or imprisonment for three months.

**29.** Any person who—

- (a) sells or supplies to any other person; or
- (b) employs or induces any person not being a commissioned officer or member of the Native Constabulary to wear,

Supplying or inducing to wear uniforms.

any uniform or part of a uniform of a commissioned officer or member of the Native Constabulary or any colourable imitation thereof shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for six months.

**30.** The Administrator may make regulations 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 carrying out or giving effect to this Ordinance, and in particular for providing for—

Regulations.

- (a) enrolment in the Native Constabulary;
- (b) the ranks to be held by non-commissioned officers of the Native Constabulary;
- (c) discipline, conditions of service and of pay and of leave of absence and internal management of the Native Constabulary;
- (d) the duties of commissioned officers and members of the Native Constabulary; and
- (e) the uniform and badge to be worn by commissioned officers and members of the Native Constabulary.