

THE NORTHERN TERRITORY OF AUSTRALIA.

No. 31 of 1964.

AN ORDINANCE

[Reserved 5th August, 1964.]

[Assented to 20th August, 1964*.]

To Provide for the Care and Assistance of Certain Persons.

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act 1910-1962*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Social Welfare Ordinance 1964*. Short title.

2. This Ordinance shall come into operation on a date to be fixed by the Administrator in Council by notice in the *Gazette*. Commencement.

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

Part I.—Preliminary (Sections 1-7).

Part II.—Administration (Sections 8-11).

Part III.—Assistance to Certain Persons (Sections 12-16).

Part IV.—Miscellaneous (Sections 17-22).

4. The Ordinances specified in the Schedule to this Ordinance are repealed. Repeal.

5.—(1.) Notwithstanding the repeal effected by the last preceding section, a recognizance entered into under the *Welfare Ordinance 1953* or that Ordinance as amended from time to time before the commencement of this Ordinance shall continue in force and be enforceable as if the Ordinances specified in the Schedule to this Ordinance were not repealed. Savings.

(2.) An authorization that was, immediately before the commencement of this Ordinance, in force under section forty-four of the *Welfare Ordinance 1953* or that Ordinance as amended from time to time before the commencement of this Ordinance shall, for the purposes of this Ordinance, be deemed to be an authorization made under section seventeen of this Ordinance.

* Assent notified in the *Government Gazette of the Northern Territory* dated 26th August, 1964.

Reserves.

6.—(1.) Where land was, at any time prior to the commencement of this Ordinance, proclaimed or declared under a law in force at that time in the Territory—

- (a) to be reserved for the use and benefit of the aboriginal inhabitants of the Territory;
- (b) to be reserved for the use and benefit of the aboriginal native inhabitants of the Territory;
- (c) to be a reserve for aboriginals; or
- (d) to be reserved for the use and benefit of wards,

that land is a reserve for the purposes of this Ordinance unless it has ceased to be so reserved or to be such a reserve by virtue of a later proclamation or declaration made under a law in force in the Territory when the later proclamation or declaration was made.

(2.) The last preceding sub-section applies whether or not the law under which the land was proclaimed or declared to be reserved or to be a reserve was repealed or had expired before the commencement of this Ordinance, unless that law was repealed by an Ordinance which expressly repealed or revoked the reservation of that land.

Definitions.

7. In this Ordinance, unless the contrary intention appears—

“reserve” means land which, in accordance with the provisions of a law of the Territory is proclaimed to be a reserve for the purposes of this Ordinance and includes land declared by section six of this Ordinance to be a reserve for the purposes of this Ordinance and any land within the boundaries of a reserve which is leased to a person;

“the Director” means the Director of Social Welfare appointed under this Ordinance and includes an Acting Director;

“welfare officer” means the Director of Social Welfare or a person appointed under this Ordinance to be a welfare officer.

PART II.—ADMINISTRATION.

Appointment of Director.

8.—(1.) The Minister shall appoint a Director of Social Welfare, who, subject to the directions of the Administrator, shall be responsible for the administration of this Ordinance.

(2.) In the event of—

- (a) the illness of the Director;

(b) the temporary inability of the Director to perform the duties of his office; or

(c) the absence of the Director from the Territory,

the Minister may appoint a person to be the Acting Director of Social Welfare during the illness, temporary inability, or absence of the Director.

(3.) An Acting Director while acting in the office of Director has all the powers and shall perform all the duties and functions of the Director.

9.—(1.) The Director may, either generally or in relation to a matter or class of matters and either in relation to the whole or a part of the Territory, by writing under his hand, delegate all or any of his powers and functions under this Ordinance or the regulations, except this power of delegation. Delegation.

(2.) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Director.

10. It is the duty of the Director—

(a) in relation to persons who in the opinion of the Director are socially or economically in need of assistance, to provide, upon such conditions as he thinks fit, such relief from poverty or hunger or both, and such other assistance, including legal assistance, as may in the opinion of the Director be necessary or appropriate and, in particular— Duties of Director.

(i) to arrange as far as practicable for their education, including vocational training;

(ii) to promote their physical well-being;

(iii) to inculcate in them proper habits of hygiene and sanitation;

(iv) to improve their standards of nutrition and housing;

(v) to assist them to obtain suitable employment;

(vi) to exercise a general care in matters affecting their welfare; and

(vii) to take (where possible, in collaboration with the Commonwealth Department of Health) such steps as in the opinion of the Director are necessary or appropriate to ensure the establishment on reserves of facilities and staff for safeguarding and improving the health of any such persons who are living on reserves; and

(b) to supervise and regulate the use and management of reserves.

Welfare officers.

11.—(1.) The Administrator may appoint such welfare officers as he considers necessary for the purposes of this Ordinance.

(2.) A welfare officer shall exercise such powers and perform such duties and functions as he is directed by the Administrator to exercise or perform or as are prescribed.

PART III.—ASSISTANCE TO CERTAIN PERSONS.

Director may provide assistance.

12.—(1.) Subject to this Ordinance and subject to the directions of the Administrator in Council, the Director may apply any moneys made available for the purposes of this Ordinance for the benefit of a person to whom he owes a duty under this Ordinance.

(2.) Without limiting the generality of the last preceding sub-section the Director may, in relation to persons to whom he owes a duty under this Ordinance, apply any such moneys for any or all of the following purposes:—

- (a) to provide food or clothing, medicine, medical requisites or surgical appliances;
- (b) to pay for fees for medical attention, hospitalization or legal assistance;
- (c) to provide furniture;
- (d) to pay for rents or charges for accommodation;
- (e) to provide tools of trade or machinery, plant, equipment, materials or livestock for the purpose of carrying on any trade, business, calling, profession or undertaking;
- (f) to pay to a person a sum of money;
- (g) to pay for fees and allowances for the education, training or maintenance of a person;
- (h) to effect a purpose ancillary to any of the above purposes.

13.—(1.) Where the Director provides a person with any article (not being an article supplied for consumption) the article does not become the property of that person but remains the property of the Commonwealth until that person has paid to the Commonwealth the cost or value of the article, whichever is the lesser.

Articles to remain the property of the Commonwealth.

(2.) A person shall not without the consent of the Director sell or dispose of any article that remains the property of the Commonwealth by virtue of the last preceding sub-section.

Penalty: One hundred pounds or imprisonment for six months.

14. Where the Director provides a person with an article in pursuance of this Ordinance the cost of the article shall, unless the Director otherwise specifies, be a debt due to the Commonwealth by that person and recoverable in any court of competent jurisdiction.

Cost of article to be a debt.

15. Where a person to whom the Director owes a duty under this Ordinance is provided with an article or advanced a sum of money by the Director, the Director may take such security as he thinks fit for the payment to the Commonwealth of the cost of the article or for the repayment to the Commonwealth of the money.

Security may be obtained.

16. Except with the approval of the Minister, the Director shall not provide a person with any articles or pay any sums of money to or for the benefit of a person to a total value in excess of One thousand pounds.

Limitation of advances.

PART IV.—MISCELLANEOUS.

17.—(1.) The Administrator, the Director and a welfare officer may enter and remain on a reserve and may authorize a person, subject to such conditions, if any, as are specified in the authorization, to enter and remain on a reserve.

Entry on reserves.

(2.) Where land included in a reserve is held under a lease, a right conferred by or under this section to enter and remain on the reserve does not authorize a person to enter or remain without the consent of the lessee on a portion of the reserve that is included in the lease.

(3.) A person shall not enter or remain on a reserve unless—

- (a) he is an aboriginal native of Australia;
- (b) he is member of the police force;
- (c) he is acting in the course of his duty as an officer of the Commonwealth Public Service;

- (d) he enters and remains on the reserve in accordance with an authorization under sub-section (1.) of this section;
- (e) it is necessary for the protection of life or property that he enter or remain on the reserve;
- (f) he is the member, or a candidate for election as the member, of the Legislative Council for the Northern Territory elected for the electorate in which the reserve or a part of the reserve is situated;
- (g) he is a member, or a candidate for election as a member, of the Parliament of the Commonwealth of Australia elected for the Northern Territory; or
- (h) he is authorized by a law of the Territory to enter and remain on the reserve.

Penalty: For a first offence—One hundred pounds or imprisonment for six months or both. For a second or subsequent offence—Five hundred pounds or imprisonment for two years.

Suspension of
right to enter or
remain on
reserve.

18.—(1.) The Administrator may, by writing under his hand, authorize a welfare officer to suspend the right of a person to enter and remain on a reserve.

(2.) Where a welfare officer who is so authorized is satisfied that the behaviour of a person who has such a right and is on a reserve is such that it is desirable for the maintenance of order on the reserve that the person should not be on the reserve or a part of the reserve, he may declare to the person that the person's right to enter or remain on the reserve, or on such part of the reserve as the welfare officer specifies, is suspended for such period not exceeding thirty days as the welfare officer specifies.

(3.) Upon the application of the Director, a court of summary jurisdiction may, if it is satisfied that it is desirable to do so for the maintenance of order on a reserve, order that the right of a person to enter or remain on a reserve or part of a reserve shall be, for the period specified in the order, suspended.

(4.) A person whose right to enter or remain on a reserve or a specified part of a reserve has been declared or ordered to be suspended under sub-section (2.) or (3.) of this section shall not enter or remain on the reserve or the specified part of the reserve while the declaration or order is in force.

Penalty: For a first offence—One hundred pounds or imprisonment for six months or both. For a second or subsequent offence—Five hundred pounds or imprisonment for two years.

(5.) A power to authorize a person to enter and remain on a reserve or to declare or order that the right of a person to enter or remain on a reserve or part of a reserve is or shall be suspended includes a power to revoke the authorization, declaration or order.

(6.) An authorization under sub-section (1.) of the last preceding section and a declaration under sub-section (2.) of this section may be given or made orally or in writing.

(7.) A person who is on a reserve otherwise than in accordance with a right conferred by the last preceding section to enter and remain on the reserve may be removed from the reserve by a welfare officer.

(8.) Where a welfare officer, under sub-section (2.) of this section, declares to a person that the person's right to enter or remain on a reserve or on such part of a reserve as the welfare officer specifies is suspended he shall within forty-eight hours report to a Stipendiary Magistrate that he has so declared.

(9.) A report made under the last preceding sub-section shall describe the behaviour which caused the welfare officer to exercise his power under sub-section (2.) of this section.

(10.) A person as to whom a welfare officer has declared under sub-section (2.) of this section that his right to enter or remain on a reserve or part of a reserve is suspended may object in writing to the declaration.

(11.) An objection under the last preceding sub-section shall state the facts and grounds upon which the objection is based and shall be forwarded within forty-eight hours to a Stipendiary Magistrate.

(12.) A Stipendiary Magistrate who receives an objection made under sub-section (10.) of this section shall consider the objection and the terms of any report made under sub-section (8.) relating to the declaration to which the objection is made and may, by order, confirm, cancel or vary the declaration.

(13.) A report under sub-section (8.) of this section, an objection under sub-section (10.) of this section or an order under sub-section (12.) of this section may be communicated by telegram or telephone.

(14.) A person referred to in any of paragraphs (a) to (h), inclusive, of sub-section (3.) of the last preceding section is **entitled** to enter and remain on a reserve or part of a reserve unless his right to do so is **suspended, cancelled or affected** by this Ordinance or some other law in force in the Territory.

Certificate
that land is
in reserve.

19. The production of a certificate under the hand of the Director certifying that land described in the certificate is, or is part of, a reserve shall in the absence of evidence to the contrary be evidence that that land is, or is part of, a reserve, as the case may be.

Summary
prosecution.

20. Proceedings for the contravention of, or failure to comply with, a provision of this Ordinance or the regulations may be instituted in a court of summary jurisdiction.

Appearance of
officers in
courts.

21. Where a person is charged with an offence against a law of the Territory, if the court before which he is charged is satisfied that the person charged is a person to whom the Director owes a duty under this Ordinance, the Court may permit the Director or a welfare officer to appear on behalf of the person.

Regulations.

22. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which 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—

- (a) prescribing the duties and regulating the exercise and discharge of all or any of the powers or functions of the Director and other officers appointed or employed under this Ordinance;
- (b) providing for the control and management of reserves and the maintenance of discipline and good order on reserves;
- (c) prescribing offences in relation to the disposal or possession of articles with which a person is provided under this Ordinance; and
- (d) prescribing penalties not exceeding One hundred pounds or imprisonment for a term not exceeding six months for offences against the regulations.

THE SCHEDULE.

Section 4.

Welfare Ordinance 1953.
Welfare Ordinance 1955.
Welfare Ordinance 1957.
Welfare Ordinance (No. 2) 1957.
Welfare Ordinance 1959.
Welfare Ordinance 1960.
Welfare Ordinance 1961.
Welfare Ordinance 1963.

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