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CHAPTER 58.

AMERINDIAN.

22 of 1951.

An Ordinance to make provision for the good Government of the Amerindian Communities of the Colony.

[1ST SEPTEMBER, 1953.]

Short title.

1. This Ordinance may be cited as the Amerindian Ordinance, 1951.

Interpretation.

2. In this Ordinance—

“ Amerindian ” means—

(a) any Indian of a tribe indigenous to the Colony or to neighbouring countries ;

(b) any descendant of an Amerindian within the meaning of paragraph (a) of this definition to whom, in the opinion of the Commissioner, the provisions of this Ordinance should apply ;

“ district commissioner ” means the district commissioner in charge of a district declared and established under the District Government Ordinance and includes an assistant district commissioner and includes any officer authorised to perform the functions of a district commissioner for the purposes of any of the provisions of this Ordinance ;

Cap. 56.

“ intoxicating liquor ” means any distilled, fermented or spirituous liquor of an intoxicating nature, and includes any liquor containing intoxicating liquor ;

“ officer ” means any Government officer and includes any person authorised by the Commissioner to perform any duties under this Ordinance ;

“ the Commissioner ” means the Commissioner of the Interior, and includes any officer authorised in writing by the Chief Secretary to perform any of the functions of the Commissioner for the purposes of any of the provisions of this Ordinance.

PART I.—AMERINDIAN DISTRICTS, AREAS AND VILLAGES.

3. The Governor in Council may by order—

Establishment of Amerindian Districts, Areas and Villages.

(a) declare any portion of the Colony to be an Amerindian District, an Amerindian Area or an Amerindian Village (hereinafter referred to as a “ District,” “ Area ” or “ Village ” as the case may be) ;

(b) declare that any such District, Area or Village shall cease to be a District, Area or Village ; or

(c) vary the boundaries of any such District, Area or Village.

4. Every Amerindian registered under the provisions of this Ordinance shall be entitled to reside in a District, Area or Village.

Registered Amerindians entitled to reside in District, Area or Village.

5. (1) No person other than an Amerindian shall enter or remain within any District, Area or Village or any Amerindian settlement or encampment without lawful excuse or without the permission in writing of the Commissioner.

Restriction on entry into District, Area or Village.

(2) Any person aggrieved by the refusal of the Commissioner to grant such permission may appeal to the Governor in Council, whose decision shall be final.

6. Any person who enters any District, Area, Village, settlement or encampment as aforesaid otherwise than in accordance with the permission in writing of the Commissioner

Offence.

and without lawful excuse shall be liable on summary conviction to a penalty of fifty dollars.

PART II.—REGISTRATION.

Registration
Officers.

7. The Governor shall appoint a fit and proper person to be the Registration Officer of Amerindians, and may appoint such assistant registration officers for such parts of the Colony as he may think fit.

Registration
of
Amerindians.

8. (1) Every Amerindian who has attained the age of twelve years shall be registered by the assistant registration officer appointed for that part of the Colony in which he resides.

(2) Any person whose application for registration as an Amerindian is refused or who is aggrieved by the registration of any other person as an Amerindian, may appeal to the Commissioner, and any person as aforesaid who is dissatisfied with the decision of the Commissioner may appeal to the Governor in Council whose decision shall be final.

Manner of
registration.

9. Upon the registration of any Amerindian, the assistant registration officer shall enter in a book to be kept by him for such purpose, the particulars of the Amerindian, and shall deliver to the Amerindian a certificate in the like form, and shall send a copy thereof to the Registration Officer.

Production
of certificate.

10. Every Amerindian registered as aforesaid, shall produce his certificate of registration within a reasonable time when requested to do so by any officer.

Offences.

11. Any Amerindian who, without reasonable excuse,—

(a) lends or gives his certificate to any other Amerindian ;
or

(b) is found in possession of the certificate of any other Amerindian,

shall be liable on summary conviction to a penalty not exceeding twenty-five dollars.

PART III.—PROTECTION OF PROPERTY AND LEGAL PROCEEDINGS ON BEHALF OF AMERINDIANS.

Protection
of property.

12. (1) The Commissioner shall undertake the care, protection and management of the property of the Amerindians, and may—

(a) take possession of, retain, sell or dispose of the property of an Amerindian ;

(b) in his own name sue for, recover or receive money or other property due to or belonging to an Amerindian, or damages for any conversion of or injury to such property ;

(c) exercise in the name of an Amerindian any power which the Amerindian may exercise for his own benefit ;

(d) in the name and on behalf of an Amerindian appoint any person to act as an attorney or agent of an Amerindian for any purpose connected with his property :

Provided that the powers conferred by this section shall not be exercised by the Commissioner without the consent of the Amerindian, except in so far as may be necessary for the preservation of his property.

(2) The Commissioner shall keep proper records and accounts of all moneys and other property received or dealt with by him under the provisions of this section.

13. (1) The Commissioner, a district commissioner, or any member of the police force may lay an information or complaint in his own name on behalf of any Amerindian residing in a District, Area or Village against any person in the magistrate's court having jurisdiction to hear and determine the offence or other matter alleged against that person.

Information
and
complaints.

(2) The Commissioner, the district commissioner or an officer shall watch the proceedings on behalf of the Amerindian, and may, if necessary, appeal against any decision to the Full Court of the Supreme Court, and may in that Court retain the services of counsel, and in all respects take such steps on behalf of the Amerindian as he may think fit.

PART IV.—APPOINTMENT OF CAPTAINS.

14. (1) The Commissioner may, with the approval of the Governor, appoint in writing any Amerindian he may think fit to be the captain of any District, Area or Village, and may at any time in like manner revoke any such appointment. Every such appointment or revocation thereof shall be published in the Gazette.

Captains.

(2) Every captain shall have all the powers and immunities of a rural constable, and, subject to the provisions of this Ordinance, shall be subject to the control of the Commissioner.

(3) Every captain shall be supplied at the public expense with a staff of office, a uniform and a short manual of the powers and duties of a rural constable.

Duties of
captain.

15. It shall be the duty of every captain to carry out such instructions as may be issued to him by the Commissioner or the district commissioner, to maintain order within the District, Area or Village in respect of which he has been appointed, and to report to the district commissioner any Amerindian who has not been registered under the provisions of section 9 of this Ordinance.

Surrender
of equip-
ment.

16. Every captain shall, on ceasing to hold office, surrender to the district commissioner his uniform and staff of office within four weeks, and on failure to do so, shall be liable on summary conviction to a penalty not exceeding twenty-four dollars.

PART V.—LOCAL GOVERNMENT.

District and
Area
Councils.

17. (1) The Governor in Council may in his discretion, by order published in the Gazette, establish a District Council or an Area Council for any District or Area as the case may be.

(2) A District Council and an Area Council shall consist of—

(a) the district commissioner ;

(b) a district officer ;

(c) the captains within the District or Area ; and

(d) such other persons as the Commissioner, with the approval of the Governor, may appoint.

(3) In appointing any Amerindian to be a member of a District Council or Area Council, the Commissioner shall pay due regard to the wishes of the inhabitants of the District or Area.

(4) Every person appointed to be a member of a District Council or Area Council shall hold office for a period of two years, but shall be eligible for re-appointment from time to time.

(5) At every meeting of a District Council or Area Council, the district commissioner shall be Chairman. In the absence of the district commissioner from any meeting, the district officer shall be Chairman for the purposes of that meeting.

(6) The Commissioner with the approval of the Governor in Council may revoke the appointment of any member of a Council at any time, and may in like manner appoint another person in place of the member whose appointment is revoked.

Village
Councils.

18. (1) The Commissioner may establish a Village Council for any Village.

(2) A Village Council shall consist of the captain of the Village, and such other persons as the Commissioner, having due regard to the wishes of the inhabitants of the Village, may appoint.

(3) Every person appointed to be a member of a Village Council shall hold office for a period of two years, but shall be eligible for re-appointment from time to time.

(4) At every meeting of a Village Council, the captain shall be the Chairman.

(5) The Commissioner may revoke the appointment of any member of the Council at any time, and may appoint another person in place of the member whose appointment is revoked.

19. The Commissioner, with the approval of the Governor in Council, may make rules prescribing the number to form a quorum and the procedure to be followed in the conduct of business by District, Area and Village Councils.

Power of Commissioner to make rules governing the procedure of Councils.

20. (1) A District Council, an Area Council or a Village Council may levy taxes upon the Amerindians resident in the District, Area or Village as the case may be.

Taxes.

(2) Any such tax shall be submitted for the approval of the Governor who may, either as regards the tax or the means proposed for the assessment or recovery thereof, allow or disallow the same, or make any variation, alteration or amendment thereto, except any increase of the tax, as he may think fit.

(3) The proceeds of any such tax shall be paid to the district commissioner and shall be utilised by him exclusively for the benefit of the District, Area or Village in respect of which it has been levied and raised, and for such purposes and in such manner as the Commissioner may approve.

21. (1) A District, Area or Village Council may, with the approval of the Governor in Council, make rules for any of the following purposes—

Power of District, etc., Councils to make rules.

(a) the provision, maintenance and regulation of food and water supplies ;

(b) the prohibition of the poisoning or pollution of the waters of any river or stream ;

(c) the improvement of sanitation ;

(d) the establishment and regulation of markets ;

(e) the development of agriculture and livestock ;

(f) the felling of timber, and the fees to be paid in respect thereof ;

(g) prescribing or prohibiting certain methods of trapping ;

(h) the preservation of roads, buildings, culverts or airstrips ;

(i) the prevention of grass or bush fires ;

(j) the prevention of soil erosion ;

(k) the restriction of the manufacture or possession of *piwarri* or any similar intoxicating liquor ;

(l) prescribing the method of assessing any taxes, and prescribing means for the recovery thereof by the seizure and sale by public auction of the movable property of a defaulting Amerindian ;

(m) regulating and prescribing the manner in which lands under the control of the Council may be used ; and

(n) for such other purposes as the Governor in Council may, from time to time approve.

(2) Any such rules shall, if approved, be published in the Gazette, and shall come into force on such day as the Governor in Council may appoint.

(3) The Governor in Council may at any time cancel or annul any rule made or in force under the provisions of this section.

Power of District, etc., Councils to investigate breaches of rules and to impose penalties.

22. (1) A District Council, an Area Council or a Village Council may direct any captain to require any Amerindian within the District, Area or Village, who is alleged to have failed to comply with any rules made under section 21 of this Ordinance, to appear before the Council.

(2) Upon the appearance of any Amerindian as aforesaid before the Council, the Council shall proceed to investigate the matter in the presence of such Amerindian, and if satisfied that the Amerindian has failed to comply with the requirements of the rule without reasonable excuse, the Council may impose upon the Amerindian a penalty not exceeding ten dollars : Provided that the Council shall not hold any investigation or impose any penalty under this section in the absence of the district commissioner or an officer.

(3) Every investigation by a Council under the provisions of this section shall be conducted in a summary manner without regard to matters of form, and it shall be the duty of such Council to do substantial justice in all such questions coming before them.

(4) The district commissioner or officer, as the case may be, shall take notes of the evidence given at any proceedings under this section.

23. Any Amerindian who refuses to appear before a Council when required so to do under subsection (1) of section 22 of this Ordinance, or who, although possessed of sufficient means so to do, fails to pay any penalty lawfully imposed by a Council under the provisions of subsection (2) of section 22 of this Ordinance, shall be liable on summary conviction to a penalty not exceeding twenty-five dollars.

Offences.

24. Where any penalty has been imposed on any Amerindian under the provisions of subsection (2) of section 22 of this Ordinance, the district commissioner or officer as the case may be shall submit the notes of the evidence to the Commissioner who may confirm, vary or remit such penalty as he may think fit.

Notes of evidence to be submitted to the Commissioner.

25. All penalties recovered under the provisions of sections 22 and 23 of this Ordinance shall be paid to the district commissioner, and shall be deposited by him in a Bank and shall be utilized by him, for the benefit of the District, Area or Village in respect of which the penalty has been imposed for such purpose and in such manner as the Commissioner may approve.

Provisions relating to penalties recovered under sections 22 and 23.

PART VI.—THE AMERINDIAN PURPOSES FUND.

26. There shall be established a Fund to be styled the Amerindian Purposes Fund (hereinafter referred to as "the Fund") into which shall be paid all moneys lying to the credit of the fund known as the Aboriginal Indian Reservation Fund.

The Amerindian Purposes Fund.

27. The Fund shall be deposited with the Financial Secretary who may invest the Fund or any part thereof in such securities as the Governor may from time to time approve and the interest thereon shall form part of the Fund.

Investment of Fund.

28. The Fund shall be expended by the Commissioner solely for the benefit of the Amerindians of the Colony in such manner as the Governor may from time to time direct, but no expenditure for which provision has been made in the annual estimates of the Colony shall be borne by the Fund.

Expenditure of Fund.

29. The accounts of the Fund shall be kept by the Commissioner who shall prepare an annual account of the receipts and payments of the Fund made up to the 31st December in each

Accounts.

year, together with a statement showing the investments and the cash balance of the fund as certified by the Financial Secretary, and of any other assets of the Fund. Such annual account and statement shall, after approval by the Financial Secretary, be submitted to the Director of Audit, and when audited shall be laid before the Governor in Council.

PART VII.—EMPLOYMENT OF AMERINDIANS.

Employment
of
Amerindians.

30. (1) Any person who at the commencement of this Ordinance has in his employ any Amerindian may, with the consent of the district commissioner, continue to employ such Amerindian on such terms and conditions as the district commissioner may approve.

(2) Subject to the provisions of subsection (1) of this section, no person shall employ any Amerindian otherwise than by way of casual labour without the permission in writing of the district commissioner first had and obtained, and on such terms and conditions as the district commissioner may approve.

(3) Any person may employ an Amerindian by way of casual labour for a period not exceeding fourteen days at such rates of pay and subject to such conditions of service as shall have been approved by the district commissioner. These conditions may be altered from time to time by the district commissioner.

(4) Any permission granted under this section may be revoked by the district commissioner at any time, and the Amerindian may thereupon be removed, by order of the district commissioner, to a District, Area or Village or may be permitted to enter the employ of some fit and proper person.

(5) Notwithstanding anything contained in this section, the district commissioner may give permission in writing to any fit and proper person to employ Amerindians for any specified period not exceeding six months, without specifying the Amerindians to be so employed, on such person depositing with him the sum of one hundred and fifty dollars for every Amerindian so employed, or upon entering into a bond in such sum and with such sureties as may be approved, as security for the payment of the wages of the Amerindians. Such permission may be revoked at any time by the district commissioner.

Contract to
be in writing
and to be
made in the
presence of
certain
persons

31. (1) Every person who desires to employ an Amerindian otherwise than in the manner specified in subsection (3) of section 30 of this Ordinance shall enter into a written agreement with such Amerindian in the presence of an officer or a justice of the peace.

(2) The agreement shall contain—

- (a) the names of the parties thereto ;
- (b) the nature of the services to be performed ;
- (c) the duration of the employment ;
- (d) the remuneration to be paid by the employer ;
- (e) a description of the living accommodation, if any, to be provided by the employer ; and
- (f) the conditions on which the agreement may be determined by either party.

(3) The agreement shall be in duplicate, and shall be attested by an officer or a justice of the peace, or a member of the Police Force and a copy of the agreement shall be forwarded by the attesting party to the district commissioner.

32. The provisions of sections 19 to 24 inclusive of the Labour Ordinance, shall apply to every contract of employment entered into under the provisions of this Ordinance.

Sections 19 to 24 inclusive of Cap. 103 to apply to agreements.

33. If any Amerindian employed under the provisions of this Ordinance dies during his period of employment, the employer shall, within fourteen days, forward to the district commissioner a notice of the death of such Amerindian, together with such particulars as will enable the deceased Amerindian to be identified.

Death of Amerindian during employment to be reported to the Commissioner.

34. Any person who—

- (a) employs any Amerindian otherwise than in accordance with the provisions of this Part of this Ordinance ; or
- (b) without the approval of the Commissioner or an officer suffers any Amerindian to be or remain upon any premises in his occupation or under his control without reasonable cause or excuse,

Offences.

shall be liable on summary conviction to a penalty not exceeding one hundred dollars :

Provided that no person shall be convicted under this section where he satisfies the court that he did not know that the person employed or on the premises, as the case may be, was an Amerindian.

PART VIII.—INTOXICATING LIQUOR.

35. (1) No person shall sell, barter, supply or give intoxicating liquor to any Amerindian, or to any person for consumption by an Amerindian.

Supply of intoxicating liquor to Amerindians prohibited.

Offence.

(2) Any person who sells, barter, supplies or gives to any person any intoxicating liquor in contravention of the provisions of subsection (1) of this section shall be liable on summary conviction to a penalty not exceeding fifty dollars.

Penalty for possession of intoxicating liquor by Amerindians.

36. Any Amerindian in any Area, District or Village who is found in possession of intoxicating liquor otherwise than in accordance with the terms and conditions of a licence granted to him in that behalf by the district commissioner shall be liable on summary conviction to a penalty not exceeding twenty-five dollars.

Exemptions.

37. This Part of this Ordinance shall not apply to—

(a) the sale, barter, supply or gift of intoxicating liquor to be used in case of illness by the direction of a registered medical practitioner or sicknurse and dispenser, or where such intoxicating liquor is supplied with the permission of a district commissioner or an officer, or by a minister of religion ; or

(b) the manufacture and consumption by Amerindians of the intoxicating liquor known as *piwarri*, or any similar intoxicating liquor in accordance with any custom prevailing among Amerindians.

PART IX.—MISCELLANEOUS.

Averment in complaint that any person is an Amerindian sufficient evidence of that fact.

38. In every prosecution for an offence against any of the provisions of this Ordinance, an averment in the complaint that any person named therein is an Amerindian shall be sufficient evidence of that fact unless the contrary is proved.

Regulations.

39. (1) The Governor in Council may make regulations for the proper administration of Districts, Areas and Villages and generally for any of the purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing, the Governor in Council may make regulations—

(a) prescribing the mode of removing Amerindians to a District, Area or Village, or from one District, Area or Village to another ;

(b) prescribing the manner of keeping accounts of any moneys received under the provisions of this Ordinance ;

(c) providing for the care, custody and education of children of Amerindians ;

(d) prescribing the conditions under which the children of Amerindians may be apprenticed to or placed in service with suitable persons ;

(e) maintaining discipline and good order in Districts, Areas and Villages ; and

(f) prohibiting any rites and customs which, in the opinion of the Governor in Council, are injurious to the welfare of Amerindians.

40. Every person, other than an Amerindian, who entices away or cohabits with the wife of any Amerindian shall be liable on summary conviction to a penalty not exceeding two hundred and fifty dollars :

Enticing wife of Amerindian.

Provided that no person shall be convicted under this section where it is established to the satisfaction of the Court that the wife was deserted by her husband and/or compelled to leave his home.

41. (1) The Commissioner may, where he thinks it desirable so to do, grant a certificate to any Amerindian exempting such Amerindian from the provisions of this Ordinance, and thereupon such Amerindian shall, while such certificate remains in force, for the purposes of any of the provisions of any Ordinance or regulations relating to Amerindians, be deemed not to be an Amerindian.

Power of Commissioner to exempt Amerindians from the Ordinance.

(2) Any such certificate as aforesaid may, with the consent of the Amerindian, be revoked by the Commissioner where he considers it desirable so to do.

42. Where the provisions of any Ordinance or regulation enacted or made prior to the commencement of this Ordinance contain references to Aboriginal Indians, every such reference shall be deemed to be a reference to Amerindians within the meaning of this Ordinance.

Amendment of prior enactments relating to Aboriginal Indians.

43. (1) Subject to the provisions of this section, the Governor in Council may from time to time, by order published in the Gazette, declare that this Ordinance shall not apply to such parts of the Colony as may be specified in such order, and this Ordinance shall thereupon have effect accordingly.

Power of Governor in Council to restrict the operation and extent of the Ordinance.

(2) Orders made under this section may from time to time be published with respect to such of the provisions of this Ordinance as may be specified in such orders, and with respect to such provisions this Ordinance shall have effect accordingly.

(3) The Governor in Council may, from time to time, revoke, alter or vary any order made under the provisions of this section.