

THE ISLAND OF NAURU

NAURUAN COMMUNITY ORDINANCE 1956-1962*

An Ordinance to define the Persons who constitute the Nauruan Community, to provide for the Admission of other Persons to the Nauruan Community and the Circumstances in which Persons cease to be Nauruans.

1. This Ordinance may be cited as the *Nauruan Community Ordinance 1956-1962*.*

Short title.
Short title
amended:
No. 6, 1965,
s. 4.

2.—(1.) In this Ordinance, unless the contrary intention appears—

Interpretation.

“Nauru Gazette” means the *Government Gazette* published by the Administration of Nauru;

“Nauruan” means a person included in one of the classes of persons who constitute the Nauruan community;

“Pacific Islander” means a person ordinarily resident in the Island of Nauru who is a descendant of the aboriginal natives of an island or archipelago in the Pacific Ocean other than—

(a) the Island of Nauru;

(b) an island or archipelago which appertains geographically to Asia, the Americas, Australia, New Zealand, Indonesia or Japan,

and includes a person partly descended from those aboriginal natives who, before residing in the Island of Nauru, followed, adhered to, or adopted

* The *Nauruan Community Ordinance 1956-1962* comprises the *Nauruan Community Ordinance 1956* as amended. Particulars of the Principal Ordinance and of the amending Ordinance are set out in the following table:—

| Ordinance. | Year and Number. | Date made. | Date notified in Nauru Government Gazette. | Date of Commencement. |
|---|------------------|--------------------|--|-----------------------|
| <i>Nauruan Community Ordinance 1956</i> | 1956, No. 2 | 18th August, 1956 | 18th August, 1956 | (See s. 3 above) |
| <i>Nauruan Community Ordinance 1962</i> | 1962, No. 5 | 7th December, 1962 | 12th December, 1962 | (See note below) |

Note.—Section 2 of the *Nauruan Community Ordinance 1962* reads as follows:—

“2. This Ordinance shall come into operation on the date of commencement of the Principal Ordinance.”

the customs, or lived after the manner, of those aboriginal natives, but does not include a Nauruan;

"the Administering Authorities" means the Government of the Commonwealth of Australia, the Government of the United Kingdom and the Government of the Dominion of New Zealand;

"the Council" means the Nauru Local Government Council established under the *Nauru Local Government Council Ordinance 1951-1955*;

"the Court" means the Central Court of the Island of Nauru.

(2.) For the purposes of this Ordinance, a person shall be deemed to be ordinarily resident in the Island of Nauru if he satisfies the Council—

- (a) that he has his home in the Island of Nauru; and
- (b) that the Island of Nauru is his permanent abode notwithstanding that he is temporarily absent from the Island of Nauru.

3. This Ordinance shall come into operation on a day fixed by the Administrator by notice in the *Nauru Gazette*.^{*}

Commencement.

4. For the purposes of the laws in force in the Island of Nauru, the following persons constitute the Nauruan community:—

Nauruan community.

- (a) persons who, immediately before the commencement of this Ordinance, were, or were deemed to be, aboriginal natives of the Island of Nauru by virtue of the institutions, customs and usages of the aboriginal natives of the Island of Nauru;
- (b) except as provided in section six of this Ordinance, Pacific Islanders married, before the first day of January, One thousand nine hundred and fifty-four, to persons who were, or were deemed to be, aboriginal natives of the Island of Nauru by virtue of the institutions, customs and usages of the aboriginal natives of the Island of Nauru;
- (c) Pacific Islanders who are admitted to the Nauruan community in pursuance of the next succeeding section;
- (d) children born after the commencement of this Ordinance whose parents are included in any of the classes of persons who constitute the Nauruan community; and

^{*} The date fixed was 31st December, 1962—see *Nauruan Government Gazette* No. 50 of 17th December, 1962.

- (e) except as provided in section seven of this Ordinance, children born in the Island of Nauru after the commencement of this Ordinance of a marriage between a person included in one of the classes of persons who constitute the Nauruan community and a Pacific Islander.

5.—(1.) A Pacific Islander who—

- (a) has attained the age of twenty-one years;
- (b) has entered the Island of Nauru with the approval of the Council or on the sponsorship of a Nauruan included in the class of persons referred to in paragraph (a) of the last preceding section;
- (ba) has been ordinarily resident in the Island of Nauru for at least ten years;
- (c) follows, adheres to or adopts the customs or lives after the manner, of the aboriginal natives of the Island of Nauru; and
- (d) is a person of good character,

is eligible to apply for admission to the Nauruan community.

(2.) An application for admission to the Nauruan community shall be made in writing to the Council and shall—

- (a) set out the full name, address and age of the applicant;
- (b) set out the facts which the applicant claims make him eligible for admission;
- (c) specify the period for which he has been ordinarily resident in the Island of Nauru; and
- (d) contain a declaration that the applicant agrees to conform to the institutions, customs and usages of the aboriginal natives of the Island of Nauru and to observe the laws of the Island from time to time in force.

(3.) If the Council is satisfied that an applicant is eligible for admission to the Nauruan community, the Council shall admit the applicant to the Nauruan community, but, if the Council is not satisfied, the Council shall—

- (a) refuse the application; or
- (b) defer consideration of the question of the admission of the applicant for a period of six months.

Pacific Islanders to be admitted to the Nauruan community on application.

Sub-section (1.) amended by No. 5, 1962, s. 3.

(4.) Where the Council has deferred consideration of the question of the admission of the applicant under the last preceding sub-section, the Council may—

- (a) require the applicant to furnish such information relating to his eligibility for admission to the Nauruan community as it specifies;
- (b) make such inquiries in relation to the eligibility of the applicant as it considers necessary; and
- (c) require the applicant to report to the Council at such times as the Council determines.

(5.) If, after the expiration of the period of six months, the Council is satisfied that the applicant is eligible for admission to the Nauruan community, the Council shall admit the applicant to the Nauruan community, but, if not so satisfied, the Council shall refuse the application.

6. A Pacific Islander married, before the first day of January, One thousand nine hundred and fifty-four, to a person who was, or was deemed to be, an aboriginal native of the Island of Nauru by virtue of the institutions, customs and usages of the aboriginal natives of the Island of Nauru may, within thirty days after the commencement of this Ordinance, lodge a notice in writing with the Council notifying that he does not wish to be included in the class of persons referred to in paragraph (b) of section four of this Ordinance, and, upon the lodging of the notice, that Pacific Islander shall be deemed not to be included in that class of persons.

Exclusion of Pacific Islanders married to Nauruans before 1st January, 1954, by notice to Council.

7.—(1.) Where a child is born in the Island of Nauru after the commencement of this Ordinance of a marriage between a Nauruan and a Pacific Islander, the parents of the child or, if only one parent is alive, that parent, may, by notice in writing lodged with the Council within seven days after the birth of the child, notify the Council that they do not wish the child to be included in the class of persons referred to in paragraph (e) of section four of this Ordinance, and, upon the lodging of the notice, that child shall be deemed not to be included in that class of persons.

Child of Nauruan and Pacific Islander not a Nauruan in certain cases.

(2.) Where both parents of a child referred to in the last preceding sub-section are alive and they do not agree on the question whether or not to lodge a notice under the last preceding sub-section, the parent who is a Pacific Islander may apply to the Court to determine the question.

(3.) Where the Court is satisfied that, by reason of the rights and benefits which may be conferred on a child by the laws of the Island of Nauru, it is in the interests of the child

that he be included in the class of persons referred to in paragraph (e) of section four of this Ordinance, the Court shall direct that the child be included in that class, but, where the Court is not so satisfied, the Court shall direct that the child be excluded from that class.

8. A Nauruan who—

(a) acquires the nationality of another country by some voluntary and formal act, other than marriage; or

(b) became a Nauruan otherwise than by reason of his birth in the Island of Nauru and ceases to be ordinarily resident in the Island of Nauru within ten years after the date of his admission to the Nauruan community,

ceases to be a Nauruan.

Ceasing to be a Nauruan by formal act or by residence outside Nauru.

9.—(1.) Where the Council is satisfied that a person who became a Nauruan otherwise than by reason of his birth in the Island of Nauru—

(a) has shown himself by act or speech to be disaffected towards any one of the Administering Authorities;

(b) has, during any war or warlike operations in which any one of the Administering Authorities is or has been involved, traded or communicated with an enemy of any one of the Administering Authorities or has been engaged on or associated with a business which was, to his knowledge, carried on in such a manner as to assist such an enemy in the war or warlike operations;

(ba) has by his conduct or speech shown that he no longer conforms to the institutions, customs and usages of the aboriginal natives of the Island of Nauru;

(c) became a Nauruan by means of fraud, false representation or the concealment of some material circumstances;

(d) was not, at the date at which he became a Nauruan, of good character; or

(e) has, within ten years after the date on which he became a Nauruan, been sentenced in the Island of Nauru or in another country to imprisonment for a term of six months or more,

Ceasing to be a Nauruan by order of the Council.

Sub-section (1.) amended by No. 5, 1962, s. 4.

the Council may order that that person shall cease to be a Nauruan and thereupon that person shall, subject to this section, cease to be a Nauruan.

(2.) Before making an order on any of the grounds specified in the last preceding sub-section, the Council—

(a) shall give to the person in respect of whom the order is proposed to be made a notice in writing informing him—

(i) of the ground on which the order is proposed to be made; and

(ii) that he may within the time specified in the notice show cause why the order shall not be made; and

(b) if the person shows cause, shall give the person an opportunity to be heard.

(3.) Where the Council has made an order that a person shall cease to be a Nauruan, the person may appeal to the Court against the order and, pending the determination of the appeal, the operation of the order is suspended.

(4.) The appeal shall be in the nature of a rehearing, but the Court may have regard to the material before the Council.

10. The Court has jurisdiction to hear and determine applications under sub-section (2.) of section seven of this Ordinance and appeals under the last preceding section.

Jurisdiction of the Court.

10A. At the hearing by the Court of an application under section seven of this Ordinance or of an appeal under section nine of this Ordinance, a person authorized for the purpose by the Council is entitled to appear and be heard on behalf of the Council.

The Council entitled to be represented in proceedings before the Court.

Inserted by No. 5, 1962, s. 5.

11. The Administrator may make regulations, not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

Regulations.