

PAPUA.



No. IX. of 1919.

AN ORDINANCE

To Amend the Law relating to Native Labour.

[RESERVED 11TH SEPTEMBER, 1918;

ASSENTED TO 13TH AUGUST, 1919.] ^(a)

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. (1) This Ordinance may be cited as the *Native Labour Ordinance, 1918.* Short title and citation.

(2) The *Native Labour Ordinance, 1911-1916*, is in this Ordinance referred to as the Principal Ordinance.

(3) The Principal Ordinance as amended by this Ordinance may be cited as the *Native Labour Ordinance, 1911-1918.*

2. This Ordinance shall commence on a day to be fixed by the Lieutenant-Governor by Proclamation published in the *Gazette.* Commencement.

3. Section 14 of the Principal Ordinance is amended by inserting at the end thereof the following new paragraph:—

“A recruiter’s licence may be issued in respect of the whole or any part of the Territory and if Scope of licence.

(a) Date assented to by the Governor-General. Assent notified in *Gazette* No. 16 of 3rd September, 1919.

issued in respect of a part of the Territory shall authorize the licensee to recruit natives in that part only."

Amendment of
s. 19.

4. Section 19 of the Principal Ordinance is amended by omitting from the first paragraph thereof the words " by the person who removed him from his home."

Amendment of
s. 20.

5. Section 20 of the Principal Ordinance is amended by omitting therefrom the words " The recruiter or employer who removes a native shall personally take charge of and be responsible for the native until " and inserting in their stead the words "Any licensed recruiter or employer or European overseer in the regular service of an employer who personally or by using the services of a native assistant or a local native recruits a native shall personally take charge of and shall be responsible for the native so recruited until "

6. After Section 20 of the Principal Ordinance the following new section is inserted :—

Relaxation of
certain
provisions.

"20A. The provisions of Section 20 of this Ordinance so far as they impose any duty upon an employer or an European overseer in his regular service to personally take charge of a native from the time that he is recruited until the native is duly engaged under this Ordinance may be relaxed by regulation subject to such conditions and in respect of such portions of the Territory as may be prescribed."

Amendment of
s. 24.

7. Section 24 of the Principal Ordinance is amended—

(a) by omitting from Subsection (2) the words "such licensed recruiter or by the employer." and inserting in their stead the words "the licensed recruiter or by the employer or European overseer in his regular service who made use of the services of such native assistant or other native."

(b) by omitting from the same subsection the words "took the native from his home." and inserting in their stead the words "recruited the native."

(c) by omitting Subsection (4) and inserting the following new subsection in its stead :—

“(4) When such statement is made by an European overseer he shall produce to the magistrate inspector or qualified officer if required so to do by him a written authority signed by his employer authorizing the overseer to recruit natives for him.”

8. Section 25 of the Principal Ordinance is amended Amendment of s. 25. by inserting at the end of paragraph (a) of Subsection (2) the following words:—“Provided that in the case of a native engaged for mining the contract of service may specify any one or more existing goldfields or mineral fields by name and in the case of a native engaged for domestic service only may specify the whole or any part of the Territory as the place at which the native is to serve.”

9. Section 25A of the Principal Ordinance is amended Amendment of s. 25A. by adding at the end thereof the following proviso:—

“Provided that in the case of a native for domestic service only if the contract of service specifies the whole of the Territory as the place where the native is to serve it shall not be necessary to send a note of contract in accordance with paragraph (b) of this section.”

10. After Section 25A of the Principal Ordinance the following new section is inserted:—

“25B. If a contract of service is varied in respect of the place where a native is to serve or may be paid wages thereunder and such place is not within any division or district in which he was engaged or to which a note of such contract of service has been sent under the provisions of the last preceding section the Commissioner or magistrate who varies the contract of service shall send a note of the contract of service with a copy of all endorsements made thereon to the native labour office or office of the magistrate of the division or district in which such place is situated.” Note of contract when contract varied.

11. After Section 28 of the Principal Ordinance the following new section is inserted:—

“28A. The employer or his agent when seeking to engage a native may (subject to such conditions as may be prescribed) be permitted When employer to prepare contract, etc.

to prepare and present to the proper officer in respect of such native the statement in writing referred to in Section 24 the contract of service in duplicate and the requisite number of notes of contract."

Amendment
of s. 33.

12. Subsection (1) of Section 33 of the Principal Ordinance is repealed and the following subsections are inserted in its stead:—

Magistrate
may cancel
contract on
enquiry or
vary by
consent.

"(1) A contract of service may be cancelled by a magistrate—

- (a) after enquiry held by him upon due notice thereof to the parties concerned; or
- (b) upon and after the dismissal of any complaint for an offence under this Ordinance or the regulations made by an employer against any native under the contract of service to him without notice to the parties concerned; or
- (c) upon and after the conviction of an employer or any European employee of his upon a complaint for an offence under this Ordinance or the regulations made by a native under contract of service with the employer.

When considering the question of cancellation of a contract of service in the circumstances set out in paragraph (b) or (c) of this subsection the magistrate may act upon the evidence taken at the hearing of the complaint alone or upon that evidence together with such other information that may be placed before him at any adjournment of the question of cancellation granted by him.

(1A) The magistrate shall by the first opportunity report such cancellation to the Commissioner."

Amendment
of s. 37.

13. Section 37 of the Principal Ordinance is amended by omitting therefrom the words "unless accompanied by her husband or other natural protector and" and by inserting in their stead the word "except."

14. Section 47 of the Principal Ordinance is amended by inserting after Subsection (1) thereof the following new subsection :—

“1A. When a native is recruited and taken away from any place by—

Obligations shifted in certain cases.

(a) a native assistant or a local native under the provisions of Section 82 of this Ordinance ; or

(b) any unlicensed person who is a native under the provisions of Subsection (2) of Section 16 of this Ordinance

the native so taken away shall for the purposes of Subsection (1) of this section be deemed to have been taken away from the place he was so recruited by the employer the European overseer in the regular service of the employer or the licensed recruiter as the case may be who made use of the services of such native assistant local native or unlicensed person.”

15. Section 51 of the Principal Ordinance is amended by omitting therefrom all the words commencing “ If during the term ” to the end of the section and by inserting in their stead the following new paragraph :—

Amendment of s. 51.

“No wages shall be payable to a native for any time that he is the inmate of a Government hospital unless his admission thereto is due to an injury or illness caused by the act or default of his employer or his European employee or arises out of and in the course of the employment of the native.”

Wages when native in Government hospital.

16. Section 73 of the Principal Ordinance is amended by omitting therefrom the words “ be imprisoned with or without hard labour for a period not exceeding three months ” and by inserting in lieu thereof the words “ a fine not exceeding Ten shillings or to imprisonment with or without hard labour not exceeding three months or to both such fine and imprisonment.”

Amendment of s. 73.

17. Section 82 of the Principal Ordinance is amended by omitting from Subsection (1) and Subsection (2) all the words from the commencement of those subsections respectively down to the words “ for his own service only ” and by inserting in their stead in each of such subsections

Amendment of s. 82 (1) (2).

the words "An employer or an European overseer in his regular service in recruiting a native for the employer's service only"

Amendment
of s. 97.

18. After Section 97 of the Principal Ordinance the following new sections are inserted:—

Medical care,
etc., of
natives.

"97A. Every native under contract of service who shall require medical care or treatment shall be provided therewith by his employer or in such cases as may be prescribed by regulation shall be sent by his employer to a Government hospital for treatment.

Hospital
fees, when
payable.

97B. An employer shall pay such hospital fees as may be prescribed by regulation in respect of any native in his employ who is admitted for treatment into or who is an out-patient of any Government hospital.

Enquiries may
be ordered.

97C. (1) The Lieutenant-Governor may order an enquiry to be held before him or before any public officer named in the order in regard to any matter which in the opinion of the Lieutenant-Governor affects or relates to the recruiting engagement or the contract of service of a native or the welfare of a native under any contract of service.

Attendance of
natives at
enquiry.

(2) Upon any such order being made the Commissioner or Chief Inspector of Native Affairs or (if the enquiry is to be held before a public officer) the public officer may by notice in writing under his hand require the employer or other person for the time being having the charge or care of any native to procure the attendance of the native at the enquiry in accordance with the notice or to deliver such native into the custody of any person named therein for that purpose and such employer or other person shall comply with such notice.

Expenses of
attendance.

(3) Any reasonable expenses that an employer may be put to in complying with such notice by reason of wages maintenance and transport of any such native shall be borne by the Government or paid by the Government to the employer unless the Lieutenant-Governor shall otherwise order."

19. Schedule M of the Principal Ordinance is amended Amendment of
Schedule M. by adding at the end thereof the following words:—

“ For every copy of Contract of Service in lieu of employer’s copy s. d.
lost or destroyed 2 0.”

Passed in Council this eleventh day of September,
in the year of Our Lord One thousand nine
hundred and eighteen.

*Assented to by His Excellency the Governor-General, with
the advice of the Executive Council of the Common-
wealth of Australia, on the Thirteenth day of August,
One thousand nine hundred and nineteen.*