

PAPUA.



No. 2 of 1921.

AN ORDINANCE

To Amend the "Native Labour Ordinance, 1911-1918."

[RESERVED 12TH NOVEMBER, 1920;

ASSENTED TO 21ST APRIL, 1921.]^(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, 1920.* Short title and citation.

(2) The *Native Labour Ordinance, 1911-1918*, 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, 1911-1920.*

(a) Assent notified in *Gazette* of 3rd August, 1921.

Amendment of
s. 3 of
Principal
Ordinance.

2. Section three of the Principal Ordinance is amended by inserting therein after the definition of "Native" the following:—

"Proclamation" means Proclamation by the Lieutenant-Governor published in the *Gazette*.

Amendment of
s. 19 of
Principal
Ordinance.

3. Section nineteen of the Principal Ordinance is amended by adding at the end thereof the following words:—

"Provided that the Lieutenant-Governor may by Proclamation declare that notwithstanding any of the provisions of this section all natives who may be recruited in any district specified in the Proclamation after a date to be specified therein shall for the purpose of entering into a contract of service be taken without unnecessary delay before a magistrate inspector or qualified officer stationed within the division of the Territory within which such district is situated and before no other magistrate inspector or qualified officer."

4. After Section twenty-two of the Principal Ordinance the following new section is inserted:—

Engagement
of child under
fourteen.

"22A. No native child male or female who is under the age or apparent age of fourteen years shall be recruited or employed under this Ordinance or otherwise unless—

- (a) the parents of the child or the person who by native custom has control of the child consents thereto; and
- (b) there is no school within a mile of the home of the child which he is required to attend by any regulation made under *The Native Regulation Ordinance of 1908*."

5. Section twenty-six of the Principal Ordinance is amended—

- (a) by inserting therein after the words "three years unless" the words "he has been returned to his village at the end of the first period and";

(b) by adding at the end of the section the following words:—“Except with the consent of the Commissioner no native shall be engaged or re-engaged under successive contracts of service for a longer aggregate period than four years computed from the time he was last in his village not being then under contract of service: Provided that such last-mentioned consent shall not be withheld in the case of the re-engagement of a native as a household-servant or artisan unless it appears to the Commissioner that there is a special reason why it should be withheld.”

6. After Section twenty-nine in the Principal Ordinance the following new section is inserted:—

“29A. (1) A surety named in any guarantee taken in pursuance of the last preceding section may upon application to such magistrate and in such manner as may be prescribed be relieved by the order of the magistrate from his liability under the guarantee. An order under this subsection shall be made only upon the grounds and subject to the conditions prescribed. Relief of surety to a guarantee.

(2) When a surety is so relieved from his liability the employer named in the contract of service referred to in the guarantee shall forthwith enter into and file with the magistrate a fresh guarantee with at least one sufficient surety in such sum as the magistrate shall consider reasonable that the employer will carry out the then unfulfilled terms of the contract of service and will comply with the provisions of this Ordinance.

(3) Such fresh guarantee may be in the form of Form 1 of Schedule G to this Ordinance or to the like effect.

(4) The failure of the employer to give such fresh guarantee shall be a sufficient ground for the cancellation of the contract of service and the same may be cancelled by the magistrate without any further or other proceeding under this Ordinance.”

7. Section thirty of the Principal Ordinance is repealed and the following section is substituted therefor:—

Re-engagement of native.

“30. (1) If a native after serving the term of his contract of service wishes to re-engage he may subject to the provisions of Subsection (2) of this section enter into a fresh contract of service before a magistrate inspector or qualified officer with the same or another employer.

Re-engagement when forbidden.

(2) The Lieutenant-Governor may by Proclamation forbid the re-engagement of any native—

(a) recruited in or belonging to any district specified in the Order; or

(b) for work in any district specified in the Order

either absolutely or except under such conditions as are specified in the Proclamation; and thereupon no such native shall re-engage or be re-engaged contrary to such Proclamation.”

Amendment of s. 33 of Principal Ordinance.

8. Subsection (1) of Section thirty-three of the Principal Ordinance is amended—

(1) by inserting therein after paragraph (c) thereof the following new paragraph:—

“(d) Upon and after the conviction of the employer or any European employee of his upon a complaint for assault by him upon the native engaged under the contract of service.”

(2) by omitting therefrom the words “paragraph (b) or (c)” and inserting in lieu thereof the words “paragraph (b) (c) or (d)”.

Amendment of s. 37 of Principal Ordinance.

9. Section thirty-seven of the Principal Ordinance is amended by inserting at the beginning thereof the words “Subject to this Ordinance and the regulations”.

10. After Section fifty-four of the Principal Ordinance the following new section is inserted:—

Retention of wages by magistrate, etc.

“54A. The magistrate inspector or qualified officer in whose presence the wages due to a native at the expiration or other determination of his con-

tract of service have been paid may if he thinks necessary for the protection of the native take the wages into his custody and if he does so he shall inform the Commissioner for Native Affairs and shall deal with the wages in the manner prescribed."

11. Section fifty-five of the Principal Ordinance is repealed and the following section is substituted therefor:—

"55. (1) Wages due to a native may be proceeded for and recovered—

Wages how recoverable. Cf. N.L.O., 1911-1918, s. 55.

(a) by the native ; or

(b) in the name of the native by the Commissioner a labour inspector or qualified officer acting on behalf of the native

in any court of competent jurisdiction.

(2) No court fees shall be payable by a plaintiff in any such proceeding."

12. Section 55A of the Principal Ordinance is amended by adding at the end of Subsection (2) of that section the words "but the preferential charge shall not attach to personal chattels in the hands of *bona fide* purchasers without notice."

Amendment of s. 55A of Principal Ordinance.

13. After Section 55A of the Principal Ordinance the following new section is inserted:—

"55B. (1) All moneys due by an employer to his surety in respect of moneys paid by the surety under a guarantee given under this Ordinance shall be a preferential charge on the property of the employer and shall rank over and above all mortgages encumbrances charges and liens and any other debts however secured except debts due by the employer for wages in respect of a native under a contract of service.

Certain debts of employer to his surety to be a preferential charge.

(2) The provisions of Subsections (2) and (3) of the last preceding section shall apply to the preferential charge created by Subsection (1) of this section."

14. Section eighty-five of the Principal Ordinance is amended by inserting therein after the words "provisions of this Ordinance" the words "or of any Proclamation made and published under the authority thereof".

Amendment of s. 85 of Principal Ordinance.

15. After Section 97c of the Principal Ordinance the following new section is inserted :—

Service of
summons on
complaint in
certain cases.

“ 97d. Service of a summons issued upon a complaint for an offence against the provisions of this Ordinance or of the regulations thereunder in which a company is a defendant or of a notice of any enquiry which may be held under this Ordinance in which a company is concerned shall be deemed good service if it is effected—

- (a) in the manner required by the *Companies Ordinance, 1912*; or
- (b) upon the manager or person in charge of the plantation mine or place of business of the company or upon the master of the vessel of the company at or upon which the offence is alleged to have occurred.”

16. Section ninety-eight of the Principal Ordinance is repealed and the following section substituted therefor :—

Regulations.
Cf. N.L.O.,
1911-1918, s. 98.

“ 98. In addition to and without limiting any power hereinbefore conferred upon the Lieutenant-Governor to make regulations as to any special matter (which power shall in every case be implied for the purposes of any section of this Ordinance in which regulations are referred to) the Lieutenant-Governor may make regulations—

- (1) prescribing—
 - (a) the water food shelter sleeping quarters clothing and bedding;
 - (b) the cooking eating washing and sanitary accommodation and arrangements;
 - (c) the hospital accommodation and equipment medical care medicines medical appliances and accessories;
 - (d) the rations and articles other than of food and medicine

to be allowed to and provided for natives by—

- (i.) the employers of natives;
- (ii.) those who took natives from their homes;

- (iii.) those who expressly or by implication accepted the charge or care of natives ;
 - (iv.) those who return natives to their homes ; and
 - (v.) owners and masters of vessels used for carrying natives.
- (2) Requiring the licensing of vessels used in the carriage or transport of natives.
 - (3) For securing the notification by any persons of the existence of any infectious disease among natives ; and for preventing the spread of such disease and for controlling restricting or prohibiting the removal or transport of such natives and of natives who have been in contact with them.
 - (4) Prescribing the treatment to be applied to natives by their employers and by those who expressly or by implication accepted the charge or care of them for the prevention or cure or as a precaution against the spread of hookworm (*ankylostomiasis*).
 - (5) Restricting to specified hours of the day the presence in towns or outside their dwellings or sleeping quarters in towns of all natives or any class of natives.
 - (6) Prescribing the conditions upon which the wife or wife and children of a recruited native or native under contract of service will be permitted to accompany him.
 - (7) Prescribing—
 - (a) the time natives are to work ;
 - (b) the loads natives are to carry ;
 - (c) the books and registers to be kept and the returns to be made by the employers of natives and by owners and masters of vessels used in the transport or carriage of natives ;
 - (d) the medical examination of native labourers and the fees to be paid by employers therefor ;

- (e) all matters which the Lieutenant-Governor may deem necessary regarding the treatment of natives; and
 - (f) all matters which are necessary and convenient to be prescribed for giving effect to the provisions of this Ordinance.
- (8) varying the form of any of the schedules to this Ordinance.

Unless the context otherwise indicates or requires the word 'natives' in this section includes natives who have been recruited natives who are under contract of service natives who are awaiting return or in the course of being returned to their homes on the expiration of their contracts of service and the wives and children (if any) of such natives who accompany them."

Amendment of
Sch. M of
Principal
Ordinance.

17. Schedule M of the Principal Ordinance is amended by omitting therefrom the words—

“ For every native signed on contract	....	s.	d.	
		2	6	
For every native paid off on expiration of contract or otherwise	....	2	6	”

and by inserting in lieu thereof the words—

“ For every native paid off on the expiration or other determination of a Contract of Service entered into before the commencement of the <i>Native Labour Ordinance, 1920</i>	....	....	2	6
For every native on entering into a Contract of Service	....	....	5	0

Passed in Council this twelfth day of November, in the year of Our Lord One thousand nine hundred and twenty.

Assented to by His Excellency the Governor-General, with the advice of the Executive Council of the Commonwealth of Australia, on the Twenty-first day of April, One thousand nine hundred and twenty-one.