

NATIVE LABOUR ORDINANCE 1950.<sup>(1)</sup>

## No. 48 of 1950.

## An Ordinance relating to the Employment of Natives.

**B**E it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949*, as follows:—

## PART I.—PRELIMINARY.

- Short title.**      **1.** This Ordinance may be cited as the *Native Labour Ordinance 1950*.<sup>(1)</sup>
- Commencement.**      **2.** This Ordinance shall come into operation on the first day of January, One thousand nine hundred and fifty-one.
- Repeal and saving.**      **3.**—(1.) The *Native Labour Ordinance 1946*<sup>(2)</sup> of the Territory of Papua-New Guinea is repealed.
- (2.) Any contract of service made under the repealed Ordinance and in force immediately before the commencement of this Ordinance shall continue in force, and the provisions of the repealed Ordinance shall, in relation to any such contract, be deemed to continue in force notwithstanding the repeal thereof.
- (3.) Any regulations,<sup>(3)</sup> proclamation,<sup>(3)</sup> notification,<sup>(3)</sup> document, notice,<sup>(3)</sup> certificate or authority made, given or granted under the repealed Ordinance and in force immediately before the commencement of this Ordinance shall continue in force in relation to contracts of service made under the repealed Ordinance.
- Parts.**                **4.** This Ordinance is divided into parts, as follows:—
- Part     I.—Preliminary (Sections 1-12).
- Part     II.—Engagement of Employees (Sections 13-28).
- Part     III.—Agreements (Sections 29-36).
- Part     IV.—General Conditions of Employment relating to Employees (Sections 37-46).

(1) Particulars of this Ordinance are as follows:—

Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cweth. Gaz.</i>	Date on which took effect.
19.12.1950	21.12.1950	1.1.1951 (Sec. 2, <i>Native Labour Ordinance 1950</i> )

(2) Printed in *The Laws of the Territory of Papua-New Guinea 1945-1949 (Annotated)*, on pp. 204-246.

(3) For particulars of relevant Regulations, Proclamations, notifications and notices in force at the date of commencement of this Ordinance see the Supplementary Table printed in this Volume on p. 1971.

- Part V.—Cancellation of Agreements (Sections 47-50).  
Part VI.—Variation of Agreements (Sections 51-53).  
Part VII.—Transfer of Agreements (Sections 54-57).  
Part VIII.—Termination of Agreements (Sections 58-62).  
Part IX.—Employment of Casual Workers (Sections 63-72).  
Part X.—Health (Sections 73-80).  
Part XI.—Death of Employees and Casual Workers (Sections 81-82).  
Part XII.—Workers' Compensation (Sections 83-84).  
Part XIII.—Removal of Employees or Casual Workers from the Territory (Sections 85-88).  
Part XIV.—Offences (Sections 89-98).  
Part XV.—Miscellaneous (Sections 99-116).

5. In this Ordinance, unless the contrary intention appears:— Definitions.

- “agreement” means an agreement in writing entered into under the provisions of this Ordinance;
- “Assistant Director” means any officer who is for the time being performing the duties of an Assistant Director of the Department of District Services and Native Affairs;
- “authorized officer” means a District Officer or a person appointed to be an authorized officer for the purposes of this Ordinance;
- “casual worker” means a native employed under Part IX. of this Ordinance;
- “Court” means, in relation to the Territory of Papua, a Court of Petty Sessions established under the *Justices Ordinance, 1912-1950*,<sup>(4)</sup> or the *Small Debts Ordinance, 1912-1947*,<sup>(5)</sup> as is appropriate, of that Territory, and, in relation to the Territory of New Guinea, a District Court established under the *District Courts Ordinance 1924-1947*<sup>(6)</sup> of that Territory;
- “District of employment” means the District in which the native is or has been employed as an employee or in which it is intended that he should be so employed;
- “domestic service” means employment wholly in household duties or as a personal attendant;
- “employee” means a native who executes an agreement under the provisions of this Ordinance;

(4) The *Justices Ordinance, 1912-1940* is printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. I., on pp. 885-955; as to subsequent amendments see the Supplementary Table printed in Part B of Volume II.

(5) The *Small Debts Ordinance, 1912* is printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. I., on pp. 999-1027; as to subsequent amendments see the footnotes to that Ordinance.

(6) The *District Courts Ordinance 1924-1938* is printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)* Vol. I., on pp. 1071-1149; as to subsequent amendments see the footnotes to that Ordinance.

PART A : NATIVES—

“employer” means a person by whom an employee or a casual worker is employed under this Ordinance and includes—

(a) where an agreement has been transferred, the person to whom the agreement has been transferred;

(b) the owner or proprietor of, or the managing agent or other person having the chief authority at, any place of employment at which any employee or casual worker is employed; and

(c) the owner or master of a ship or the owner or pilot of an aircraft on which any employee or casual worker is employed;

“home”, in relation to a native, means the village which is his home according to native custom or, if he does not reside at that village, the place which he has adopted for the purpose of his residence;

“injury” means a personal injury and includes a disease;

“Inspector” means a person appointed to be an Inspector for the purposes of this Ordinance;

“medical assistant” means an officer appointed under the *Papua and New Guinea Act 1949*<sup>(7)</sup> to be a medical assistant;

“medical officer” means a legally qualified medical practitioner appointed under the *Papua and New Guinea Act 1949*<sup>(7)</sup> to be a medical officer;

“native representative of the Administration” means, in relation to the Territory of New Guinea, a Paramount Chief, Iluai, kukurai, tultul, medical tultul or patrol medical tultul, and in relation to the Territory of Papua, a village constable and, either throughout the Territory or in any specified part thereof, a member of any other class of native declared by the Administrator by notice<sup>(8)</sup> in the *Gazette* to be a class of native representative of the Administration;

“Part” means Part of this Ordinance;

“registered employer” means an employer registered in accordance with this Ordinance;

“ship” includes every vessel used in navigation not ordinarily propelled by oars only, but does not include a canoe except a canoe propelled by an engine;

“the Director” means the officer holding the office of Director of District Services and Native Affairs and includes any officer for the time being performing the duties of that office;

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(7) Now the *Papua and New Guinea Act 1949-1950* printed in this Volume on pp 52-76.

(8) No notice has been published in *Papua and N.G. Govt. Gaz.* before 1.1.1952.



“the repealed Ordinance” means the Ordinance repealed by this Ordinance;

“this Ordinance” includes the regulations made thereunder;

“town” means any town from time to time established in the Territory of New Guinea under the *Town Boundaries Ordinance 1924-1927*<sup>(9)</sup> of that Territory and any place, whether in the Territory of New Guinea or in the Territory of Papua, from time to time declared by the Administrator by notice<sup>(8)</sup> in the *Gazette*, to be a town for the purposes of this Ordinance.

6. Subject to section eleven of this Ordinance, this Ordinance shall apply to the employment of natives in the service of the Administration or a Department or authority of the Commonwealth.

Ordinance to bind the Administration and Commonwealth Departments.

7. Where in any law of the Territory there is a reference to a contract of service, that reference shall, unless the contrary intention appears, be read as including an agreement entered into under the provisions of this Ordinance.

References to “contract of service”.

8. The Director shall, subject to the directions of the Administrator, be charged with the administration of this Ordinance.

Powers of Director.

9.—(1.) The Director may, from time to time, by writing under his hand, delegate to an Assistant Director all or any of his powers and functions under this Ordinance (except this power of delegation), and may from time to time revoke or vary any such delegation.

Delegation of powers to Assistant Director.

(2.) Any power or function delegated to an Assistant Director in any delegation under this section may by the terms thereof be limited as to the period or area within which it may be exercised and performed.

(3.) Each delegation so made, and each variation and revocation thereof, shall take effect from the date it is made, varied or revoked.

(4.) Nothing in this section shall affect the exercise or performance of any power or function by the Director.

10. The Administrator may by writing under his hand appoint such authorized officers and Inspectors as are necessary for the purpose of carrying out this Ordinance.

Appointment of authorized officers and Inspectors.

11. Unless the contrary intention appears, this Ordinance shall not apply to the employment of a native—

Exemption from Ordinance.

(a) for the purpose of carrying in the vicinity of his village from day to day;

(8) No notice has been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

(9) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. IV., on p. 4485. Repealed and replaced by the *Town Boundaries Ordinance 1951* printed in this Volume on p. 1218.



## PART A: NATIVES—

- (b) who is a pupil of an Administration or Mission School in work necessary for, or incidental to, the cleaning of the School and the grounds, and if the pupil is a boarder at the School, for the growing of food for the sustenance of the teachers and pupils of the School;
- (c) who is a pupil of an Administration or Mission School, in agriculture, carpentry, plumbing or other trade, art, craft or occupation in which he is being trained;
- (d) who is a native missionary or a native student receiving instruction with a view to becoming a native missionary;
- (e) who is enrolled in any Police Force of the Territory or in any force for the defence of the Territory; or
- (f) who is employed under a job contract in pursuance of the *Natives' Contracts Protection Ordinance* 1921-1947<sup>(10)</sup> of the Territory of New Guinea or the *Transactions with Natives Ordinance*, 1893-1935<sup>(11)</sup> of the Territory of Papua.

Prohibition of employment except in accordance with Ordinance.

12. A person shall not employ any native except in accordance with this Ordinance or any Ordinance relating to special forms of employment in which natives may be employed.

## PART II.—ENGAGEMENT OF EMPLOYEES.

Permits to engage employees.

13.—(1.) A District Officer may issue Permits to Engage Employees, authorizing the permittee to engage natives for employment on his own behalf or, with the written authority of a registered employer, on behalf of that employer.

(2.) A Permit to Engage Employees—

- (a) shall be in the prescribed form;
- (b) shall, subject to this Ordinance, remain in force for one year from the date thereof; and
- (c) may, subject to this Ordinance, be renewed annually.

(3.) Before a Permit to Engage Employees is issued to any person, he shall, if so required by the District Officer, give security for the due observance of the provisions of this Ordinance.

(4.) The security referred to in the last preceding sub-section shall consist of a guarantee in accordance with the prescribed form with at least one surety approved by the District Officer in the sum of Fifty pounds.

(10) The *Natives' Contracts Protection Ordinance* 1921-1936 is printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. IV., on pp. 3913-3916; as to subsequent amendments, see the footnotes to that Ordinance.

(11) Printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. IV., on pp. 3543-3547.

(5.) Where a District Officer is satisfied that a Permit to Engage Employees has been lost or destroyed, he may issue a duplicate permit to the holder of the permit on payment of the prescribed fee.

14.—(1.) Subject to this Ordinance, a person shall not solicit or engage a native as an employee unless he holds a Permit to Engage Employees.

No person to engage employees unless he holds a Permit.

(2.) Notwithstanding anything contained in the last preceding sub-section, an employer may, without a permit, on his own behalf—

- (a) at his place of business, engage as an employee in any capacity a native who offers for employment; or
- (b) at any place, engage a native as an employee in the capacity of a domestic servant.

(3.) In any prosecution for a breach of this section, a certificate of the Director, in writing, stating that the defendant is not the holder of a Permit to Engage Employees shall be *prima facie* evidence of the fact stated in the certificate.

15.—(1.) A District Officer may issue to a native a Native Assistant's Permit in accordance with the prescribed form.

Native Assistant's Permit.

(2.) A Native Assistant's Permit shall authorize the permittee to engage employees on behalf of the employer and in the District specified in the permit.

16. The holder of any permit issued under this Ordinance shall on demand produce his permit to an authorized officer or an Inspector.

Permit holders to produce permits on demand.

17.—(1.) Subject to this section, a person shall not engage employees in a District either personally or by the holder of a Native Assistant's Permit unless he first sends to the District Officer administering that District a notice in writing or by radiogram or telegram of his intention to engage employees in that District.

Notice of intended engagement of natives to be given to District Officer.

(2.) A notice under this section shall not be required from a person engaging employees for employment by himself in the District in which he is engaging employees.

18.—(1.) A Permit to Engage Employees or a Native Assistant's Permit may be suspended at any time by a District Officer or revoked by the Director.

Suspension or revocation of permits.

(2.) Any person whose Permit to Engage Employees or Native Assistant's Permit has been revoked, shall not be again granted a permit within a period of two years from the date on which the Permit was revoked.

19. Any person who, in respect of the engagement of any native as an employee, gives, offers or accepts any fee, bonus, commission or consideration of any kind, other than salary, wages and expenses, shall be guilty of an offence.

Prohibition relating to fees, bonuses, commissions, &c.

## PART A : NATIVES—

When native deemed to be engaged for employment as an employee.

**20.** A native shall be deemed to be engaged for employment as an employee when he is solicited and consents or he offers and his offer is accepted to—

- (a) be employed under an agreement; or
- (b) leave any place where he may then be with a view to his being so employed.

Natives who may not be engaged.

**21.** A person shall not knowingly engage or attempt to engage a native for employment under an agreement who—

- (a) is not in good health;
- (b) is a native in relation to whom an order for removal made by the Administrator under any law of the Territory is in force, unless the consent of the Administrator has first been obtained;
- (c) is under or apparently under the age of sixteen years;
- (d) is a native representative of the Administration;
- (e) is already employed under a contract of service under the repealed Ordinance or an agreement or is engaged for employment as an employee;
- (f) is a female; or
- (g) is a native the employment of whom is prohibited under any law of the Territory.

Engagement by holder of Native Assistant's Permit.

**22.** Where a native is engaged for employment as an employee by the holder of a Native Assistant's Permit, the native so engaged shall, for the purposes of this Ordinance, be deemed to have been engaged by the employer of the holder of the Native Assistant's Permit.

Supply of rations before agreement entered into.

**23.** A native who has been engaged for employment as an employee under this Ordinance shall be supplied with the prescribed rations by the person who engaged him from the time he leaves the place where he was engaged until he enters into an agreement or refuses to enter into an agreement, as the case may be.

Cost of return of native who refuses to enter into agreement.

**24.** Where a native who has left any place with a view to his being employed under an agreement refuses to enter into an agreement, the person engaging him shall not be liable to pay for his return home unless that person or his agent has committed an act of fraud or wilful or grossly careless misrepresentation, intimidation or coercion.

Engaged natives to be taken before authorized officer without delay.

**25.** A native who has been engaged for employment as an employee shall for the purpose of entering into an agreement be taken without unnecessary delay at the expense of the person engaging him before the authorized officer who is either nearest to the place of engagement or nearest to the place of engagement along or in proximity to the route usually travelled towards the place of the proposed employment of that native.



**26.** An employer shall bear the cost of transport of a native who has entered into an agreement from the place where the agreement was made to the place where he is to be employed.

Cost of transport of native who enters into agreement.

**27.** A person, when endeavouring to engage natives for employment under an agreement, shall not—

Restriction of persons who may accompany person endeavouring to engage natives.

(a) be accompanied or assisted by a person to or in respect of whom a Permit to Engage Employees or a Native Assistant's Permit has been refused, suspended or revoked, and has not been re-issued; or

(b) take with him or use in any manner for the purpose of engaging natives, any native representative of the Administration.

Penalty: Fifty pounds.

**28.** A permit to Engage Employees or a Native Assistant's Permit shall not be transferred from one person to another.

Permits may not be transferred.

### PART III.—AGREEMENTS.

**29.—(1.)** Subject to this Ordinance, any person may employ a native as an employee under an agreement.

Employment under agreement.

(2.) An agreement shall be in writing, in quadruplicate and in the prescribed form.

**30.—(1.)** An agreement shall not be made for any period exceeding eighteen months, but may, subject to this section, be extended by the parties thereto.

Term of agreement.

(2.) The total term of an agreement and any extension thereof shall not exceed two years.

(3.) The term of an agreement shall commence on the day on which the agreement is sanctioned and attested by an authorized officer in accordance with this Ordinance.

(4.) An agreement may be terminated during the period of its extension by either party by one month's notice to the other.

(5.) Where an agreement is extended under the provisions of this section, the employer shall, as soon as practicable, give written notice of the extension to an authorized officer in the District of employment.

**31.—(1.)** A native who has entered into an agreement shall not enter into another agreement until three months after the termination of the agreement originally entered into by him:

Restriction on employment under further agreement.

Provided that this section shall not apply to a native who resides with his wife or children, or both, at the place of employment and desires to enter into another agreement with the same employer.

## PART A : NATIVES—

(2.) An agreement entered into by a native contrary to this section shall be void, but the native shall be entitled to receive wages for any work actually done under the void contract and shall return any articles received by him in relation to his services under the void contract.

Agreement.

### 32.—(1.) An agreement shall—

- (a) specify the nature of the work the employee is to perform, the place, vessel or aircraft at or on which he is to be employed, and the place where he is to be paid off:

Provided that the agreement may specify, as the place of employment—

- (i) where the employee is to be employed on a vessel or aircraft—a particular vessel or aircraft, or the fleet of vessels or the aircraft belonging to, or chartered by, his employer;
  - (ii) where the employee is to be employed on a plantation—a particular plantation, or any one or more specified plantations owned or managed by his employer in a specified District;
  - (iii) where the employee is to be employed in mining—any one or more goldfields or mineral fields by name;
  - (iv) where the employee is to be employed upon work connected with prospecting or testing for oil or gold or other minerals—the whole or any part of the Territory; or
  - (v) where the employee is to be employed in domestic service only—the whole or any part of the Territory;
- (b) contain an undertaking by the employee that he will at all times and to the best of his ability perform the duties allotted to him under the agreement; and
- (c) be signed by the employer or his agent and by the employee in the presence of an authorized officer.

(2.) Subject to the prescribed conditions, an employee employed on a plantation may, with the approval of a District Officer, be employed in loading or discharging any ship's cargo at any place within the District in which the plantation on which he is employed is situated.

Agreement to  
be sanctioned  
by authorized  
officer.

33.—(1.) An agreement shall not have any force or effect until it is sanctioned and attested by an authorized officer.

(2.) An authorized officer may refuse to sanction the employment of any native brought before him for the purpose of entering into an agreement, and, if he so refuses, shall report the grounds of his refusal to the District Officer administering the District, the person who engaged him for employment, and, where the person who engaged him for employment is not the proposed employer, the proposed employer.

(3.) Where an authorized officer refuses to sanction the employment of any native in pursuance of the last preceding sub-section, and the native desires to return home, the native shall be returned home at the first opportunity by, and at the expense of, the person who engaged him or is under this Ordinance deemed to have engaged for him for employment.

(4.) Subject to this section, before any agreement is sanctioned by an authorized officer any person proposing to employ an employee shall either—

(a) lodge with the authorized officer a guarantee, in accordance with the prescribed form with at least one surety approved by a District Officer in such sum as that officer requires, that the person will carry out the terms of the agreement and will comply with the provisions of this Ordinance; or

(b) deposit with the authorized officer in the District of employment, an amount equal to the deferred wages payable to the employee in accordance with section thirty-eight of this Ordinance.

(5.) A District Officer administering a District may exempt any person from the provisions of the last preceding sub-section.

**34.—**(1.) Subject to this section, an authorized officer, shall not sanction an agreement except upon the production of a medical certificate in the prescribed form, signed by a medical officer or a medical assistant, that the native is fit to perform the class of work specified in the agreement. Medical examination of proposed employees.

(2.) Where a native is presented for medical examination under the provisions of this section, and the medical officer or medical assistant is of the opinion that the native requires medical or hospital treatment but that he will be fit for employment within a reasonable time, any such treatment shall be provided at the expense of the Administration.

(3.) A native who is presented for medical examination under the provisions of this section and who, in the opinion of a medical officer or medical assistant, is not likely to be fit for employment within a reasonable time shall, after having received at the expense of the Administration any medical treatment that is necessary be returned to his home at the expense of the Administration.



## PART A: NATIVES—

Duties of  
authorized  
officer.

**35.** The authorized officer who sanctions an agreement shall attest the agreement and shall—

- (a) file one copy in his office, or, if that office is not in the District of employment, forward it to the District Officer of that District;
- (b) hand one copy to the employer or his agent;
- (c) send one copy to the Director; and
- (d) send one copy to the authorized officer at the place at which the employee is to be paid off under the agreement.

Employer to  
keep copy of  
agreement.

**36.** The employer or his agent shall at all times keep the employer's copy of the agreement at the place where the employee is actually employed, and shall produce that copy when required to do so by an authorized officer or an Inspector.

## PART IV.—GENERAL CONDITIONS OF EMPLOYMENT RELATING TO EMPLOYEES.

Minimum  
wages.

**37.** The monthly cash wages for an employee shall not be less than the minimum prescribed and shall be in addition to the cost of accommodation, medical attention, food, clothing, cooking utensils and such other articles as are prescribed.

Payment of  
wages.

**38.—(1.)** The wages of an employee shall commence on and from the date he executes an agreement, and shall accrue due from day to day.

(2.) A day's cash wages shall be one-thirtieth part of the monthly cash wage rate.

(3.) A proportion of an employee's cash wages shall be paid to him not later than the last day of each calendar month at the rate specified in the agreement, but the rate so specified shall not exceed one-half of his monthly cash wages.

(4.) The balance of the employee's cash wages shall be deferred wages payable to him at the termination of the agreement at the place where the employee is to be paid off under the agreement.

(5.) The cash wages shall be paid to an employee in coin or notes which are legal tender in the Territory.

Advances from  
deferred wages.

**39.—(1.)** An advance of the deferred wages of an employee not exceeding one-third of the deferred wages accrued may be made to him by the employer at the employee's request and with the consent and in the presence of an authorized officer, who shall endorse the fact of the payment on the employer's copy of the agreement.

(2.) An advance of more than one-third of the deferred wages may be authorized by a District Officer.

**40.—(1.)** Where an employee is absent from work owing to illness or injury for a period of more than one month at any one time the employer shall not be liable to pay wages to the employee in respect of that portion of the period which exceeds one month.

No liability for wages in certain cases.

(2.) An employer shall not be liable to pay wages to any employee in respect of any period during which he is absent from his employment for any of the following causes:—

- (a) absence without leave or reasonable excuse;
- (b) imprisonment; or
- (c) detention in an Administration hospital whilst receiving treatment for venereal disease.

**41.** The working hours of an employee shall be as prescribed.

Working hours.

**42.** An employer shall issue free of charge to each employee rations, clothing and other articles as are prescribed.

Rations, clothing, &c.

**43.—(1.)** The wife and children of an employee may, with the consent of the employer, accompany or join him at his place of employment.

Wife and children of employee.

(2.) Where the wife and children accompany or join an employee in accordance with this section, the employer shall pay the cost of their transport from their home to the place of employment and provide them with such housing and medical attention, and such clothing, rations and other articles, as are prescribed.

**44.—(1.)** Any article, other than rations and clothing, issued in accordance with the provisions of the two last preceding sections to an employee, and his wife and children, shall remain the property of the employer until the expiration of twelve months from the date of issue, after which time they shall become the property of the employee or his wife or children, as the case may be.

Property in articles issued by employer.

(2.) Any such articles shall, until they become the property of the employee or his wife or children, be produced by the employee to an Inspector on demand.

(3.) Upon failure to produce any article in accordance with the provisions of this section, the Inspector may, after investigation, order the employer to issue in its stead to the employee or his wife or children a similar article and may order that the article be issued at the expense of the employer or of the employee.

**45.—(1.)** Subject to this section, an employer shall provide for an employee and his wife and children residing with him at the place of employment such housing, cooking facilities and ablution and sanitary conveniences as are prescribed.

Provision of housing, &c.

(2.) Where an employee resides in his village, it shall not be necessary to provide housing for him.

## PART A : NATIVES—

(3.) The married quarters for employees accompanied by their wives and children shall be constructed in the manner prescribed and apart from the houses of other employees unless an Inspector gives permission in writing for the married quarters to be a separate room in a house occupied by other employees.

Action when  
wife ceases to  
reside with  
husband.

46. Where the wife of an employee ceases to reside with him at his place of employment, a District Officer may at the request of the wife return the wife and children (if any) home at the expense of the employer.

## PART V.—CANCELLATION OF AGREEMENTS.

Cancellation on  
application of  
employer.

47.—(1.) A Court may, at any time, on the application of an employer, cancel an agreement.

(2.) Where an agreement is so cancelled the Court shall determine what proportion of the wages, including deferred wages, held on behalf of the employee shall be paid to the employee, and what proportion, if any, of wages shall be paid to the employer by way of liquidated damages, and whether the employer shall be under any obligation to return the employee to his home.

(3.) Without in any way limiting the grounds on which a Court may cancel an agreement under this section, the following shall be deemed to be sufficient grounds for such cancellation:—

- (a) ill-health of the employee;
- (b) that the employee is exerting a bad influence upon his fellow-workers;
- (c) that the employee has absented himself from work for a period exceeding seven days; or
- (d) that the employee is imprisoned for a period exceeding seven days.

(4.) Where an agreement is cancelled on the grounds specified in paragraph (c) or (d) of the last preceding sub-section, and the employee cannot be found or is still in prison, the employer shall deposit with an authorized officer at the place where the agreement is cancelled an amount equal to the wages (if any) ordered by the Court to be paid by the employer to the employee, and the authorized officer shall deal with the amount so deposited in the prescribed manner.

Cancellation on  
application of  
employee.

48.—(1.) A Court may, at any time, on the application of an employee or of an Inspector on behalf of an employee, cancel an agreement.

(2.) Where an agreement is so cancelled the Court shall determine what sum, if any, the employer shall pay to the employee by way of liquidated damages.



(3.) Without in any way limiting the grounds on which a Court may cancel an agreement under this section, the following shall be deemed to be sufficient grounds for such cancellation:—

- (a) ill-health of the employee;
- (b) a breach of the agreement on the part of the employer;
- or
- (c) that the employee has been assaulted by the employer or an overseer or foreman in the employment of the employer.

(4.) Any sum ordered by the Court to be paid to an employee under sub-section (2.) of this section shall be paid by the employer to an authorized officer at the place where the agreement is cancelled, and the authorized officer shall forthwith pay the sum received by him to the employee.

(5.) Where an agreement is cancelled under the provisions of this section, the employer shall deposit with an authorized officer the value of the fares of the employee and his wife and children if they resided with him at the place of employment to his or their home, and if he or they do not desire to return home immediately, the money shall be held in trust until such time as he or they desire to do so.

**49.** An employer and an employee may, with the approval of and subject to such conditions as are specified by a District Officer, cancel an agreement by mutual consent. Cancellation by mutual consent.

**50.** Where an agreement is cancelled by a Court or with the approval of a District Officer in accordance with this Part, the Court or District Officer shall— Notice of cancellation of agreement.

- (a) cause written notice thereof in the prescribed form to be given to the employer or his agent, unless the cancellation is by mutual consent; and
- (b) cause a like notice to be sent to an authorized officer at the place where the employee is to be paid off under the agreement, and to the Director.

#### PART VI.—VARIATION OF AGREEMENTS.

**51.—(1.)** A Court may, at any time, on the application of an employer, order that an agreement be varied by relieving the employer of his obligations to pay such part of an employee's deferred wages as the Court directs by way of liquidated damages. Variation by Court on breach of agreement by employee.

(2.) Without in any way limiting the grounds on which a Court may order an agreement to be varied under this section, the following shall be deemed to be sufficient grounds for any such order:—

- (a) absence of the employee without permission;
- (b) refusal by the employee to perform work lawfully allotted;

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- (c) failure by the employee to show ordinary diligence;
- (d) any other breach of the agreement on the part of the employee; or
- (e) negligence on the part of an employee resulting in the loss of the employer's property.

Variation by  
Court with  
consent of  
parties.

**52.** A District Officer may at any time, with the consent of the parties thereto, vary an agreement with respect to—

- (a) the place where the employee may be paid off;
- (b) the nature of employment;
- (c) the place of employment;
- (d) the reduction of the period of employment; or
- (e) subject to this Ordinance, the proportion of cash wages due to be received by the employee on each pay day.

Notice of  
variation of  
agreement.

**53.** When an agreement is varied by a Court or a District Officer in accordance with this Part, the Court or District Officer shall—

- (a) cause written notice thereof in the prescribed form to be given to the employer or his agent, unless the variation is made with the consent of the parties; and
- (b) cause a like notice to be sent to an authorized officer at the place where the employee is to be paid off under the agreement, and to the Director.

## PART VII.—TRANSFER OF AGREEMENTS.

Death of  
employer.

**54.** An agreement shall not be terminated by reason of the death of the employer, but the rights and obligations under the agreement shall accrue to and devolve upon the legal representative of the deceased employer:

Provided that a District Officer may terminate the agreement of any employee on the death of his employer.

Transfer of  
agreement.

**55.—(1.)** Where an employer sells, transfers or leases a plantation, business or other property, he may, with the consent of the employee and with the approval of a District Officer, transfer the agreement of any employee employed on, at or in connexion with the plantation, business or other property, to the person to whom the plantation, business or other property is sold, transferred or leased.

(2.) Before the approval of a District Officer is given under this section to the transfer of an agreement, he may require the transferee to—

- (a) lodge with the District Officer a guarantee, in accordance with the prescribed form, with at least one surety approved by the District Officer in such sum as the District Officer requires, that the transferee will carry out the terms of the agreement, and will comply with the provisions of this Ordinance; or

- (b) deposit with the District Officer an amount equal to the deferred wages payable to the employee in accordance with section thirty-eight of this Ordinance.

(3.) The transferee of an agreement shall be entitled to the same rights and privileges, and shall be subject to the same liabilities and obligations (including liability for all wages, both current and deferred, accrued under the agreement at the date of the transfer thereof) as the original employer.

**56.** The District Officer who approves a transfer under this Part shall prepare a written notice thereof in the prescribed form and shall—

Notice of transfer of agreement.

- (a) file one copy in his office;
- (b) hand one copy to the transferee or his agent;
- (c) send one copy to the Director; and
- (d) send one copy to an authorized officer at the place where the employee is to be paid off under the agreement.

**57.** A transfer of an agreement made otherwise than in accordance with this Ordinance shall be void and of no effect.

Transfer otherwise than in accordance with Ordinance void.

#### PART VIII.—TERMINATION OF AGREEMENTS.

**58.—(1.)** Subject to this Ordinance, when an agreement has expired or is terminated the employer shall, without unreasonable delay, present the employee together with the agreement to a medical officer or a medical assistant, who shall—

Medical examination of employees.

- (a) make a medical examination of the employee;
- (b) certify on the agreement whether or not the employee is fit to be returned home; and
- (c) return the agreement to the employer.

(2.) Where the agreement bears a certificate that the employee is not fit to be returned home—

- (a) the employer shall without unreasonable delay, deposit with an authorized officer at the place where the employee is to be paid off under the agreement—
  - (i) an amount equal to the fares of the employee and his wife and children, if they resided with him at the place of employment, to his or their home; and
  - (ii) the wages due to the employee under the agreement; and
- (b) he shall receive medical treatment at the expense of the Administration until such time as he is certified fit to be returned home.

(3.) Where an employee is certified as fit to be returned home the employer shall, without unreasonable delay, pay off the employee in the presence of an authorized officer at the place where the employee is to be paid off under the agreement.



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(4.) The authorized officer witnessing the payment or deposit under this section shall certify on the employer's copy of the agreement the fact and date of the payment or deposit.

Notice of  
paying off.

**59.** The authorized officer witnessing the payment or deposit referred to in the last preceding section shall prepare a written notice thereof in the prescribed form and shall—

- (a) file one copy in his office;
- (b) send one copy to the Director; and
- (c) where the place of paying-off has been varied, send one copy to an authorized officer at the place of paying-off originally named in the agreement.

Employer to  
return employee  
and family to  
their home on  
termination of  
agreement.

**60.**—(1.) Subject to this section, when an employee has been paid off under an agreement in pursuance of this Part, the employer shall, without unnecessary delay, return the employee and his wife and children if they resided with him at the place of employment, to his or their home, together with his or their effects, unless the employee desires to enter into another agreement with the same employer as provided for in section thirty-one of this Ordinance.

(2.) An employee, who has been paid off under an agreement may, in lieu of returning home as provided in the last preceding sub-section, elect to work as a casual worker for the same or another employer, and in any such case the employer shall deposit with an authorized officer the value of the fares of the employee and his wife and children if they resided with him at the place of employment to his or their home, and the money shall be held in trust until such time as he or they desire to return home.

(3.) Notwithstanding anything contained in this section, an employer shall not be liable to pay for any baggage in excess of the ordinary amount allowed to a passenger on a ship or, if the employee or his wife and children are travelling by aircraft, for any baggage in excess of forty pounds weight for each adult person.

Termination by  
Administrator  
in grave  
emergency.

**61.**—(1.) Notwithstanding anything contained in this Ordinance, where the Administrator declares, by notice<sup>(12)</sup> in the *Gazette*, that a state of emergency exists, he may, by the same or any subsequent notice, terminate all or any agreements in any District or area without compensation to either party to any such agreement.

(2.) Where an agreement is terminated under the provisions of this section the employer shall return the employee to his home without unnecessary delay at the expense of the employer:

Provided that where the employee has served the employer under the terminated agreement for a period of less than twelve months, the employee shall be returned to his home at the expense of the Administration.

(12) No notice has been published in Papua and N.G. *Gort. Gaz.* before 1.1.1952

**62.** If the return of an employee to his home is delayed owing to lack of transport the employer shall be liable only for the prescribed rations, accommodation and medical attention unless the employee elects to work as a casual worker for the same or another employer.

*Delay in returning employee to his home due to lack of transport.*

**PART IX.—EMPLOYMENT OF CASUAL WORKERS.**

**63.** Notwithstanding anything contained in this Ordinance, any person who is not under any law of the Territory prohibited from employing or being in charge of natives may without an agreement, employ as a casual worker any native willing to be so employed who—

*Employment not under agreement.*

- (a) is not apparently under the age of sixteen years;
- (b) is not already employed under a contract of service under the repealed Ordinance or an agreement; and
- (c) is in good health.

**64.** A native may be employed under this Part at any place in the Territory.

*Where casual workers may be employed.*

**65.** The employment of a casual worker may be terminated by either employer or casual worker at any time without notice, and any agreement between them to the contrary, whether expressed or implied, shall not have any force or effect.

*Termination of employment.*

**66.** The wages of a casual worker shall—

*Wages.*

- (a) be payable at not less than the minimum monthly rate prescribed for an employee, and at intervals not greater than one month; and
- (b) be deemed to accrue from day to day.

**67.—(1.)** Subject to the next succeeding section, an employer shall issue to a casual worker free of charge such rations, clothing and other articles as are prescribed.

*Rations, housing and facilities.*

(2.) Any article issued under this section, other than rations and clothing, shall remain the property of the employer:

Provided that where a casual worker has completed twelve months' continuous service with an employer, any articles issued to him under this section shall become the property of the casual worker.

(3.) The housing, cooking facilities, ablution facilities, cooking utensils, medical treatment and sanitary conveniences provided for a casual worker shall be the same as those prescribed for an employee, but where the casual worker resides in his village it shall not be necessary to provide housing.

**68.—(1.)** Subject to this section, an employer may pay his casual workers weekly a monetary allowance in lieu of the prescribed rations.

*Monetary allowance in lieu of rations.*

## PART A : NATIVES—

(2.) Each District Officer administering a District shall—

(a) fix the amount of the monetary allowance which may be paid under this section; and

(b) notify the amount so fixed by public notice in the District in which the casual workers are employed.

(3.) A monetary allowance in lieu of rations shall not be paid to casual workers until the amount thereof has been fixed and notified in accordance with the last preceding sub-section.

(4.) A District Officer administering a District may, by notice in writing to any employer, prohibit the payment of a monetary allowance in lieu of rations to any casual worker or workers named in the notice.

Wife and  
children of  
casual worker.

**69.—**(1.) The wife and children of a casual worker may, with the consent of the employer accompany or join the casual worker at his place of employment.

(2.) Where the wife and children accompany or join a casual worker in accordance with this section, the employer shall provide them with such housing and medical attention, and such clothing, rations and other articles as are prescribed.

Working hours.

**70.** The working hours of casual workers shall be the same as those prescribed for employees.

Casual workers'  
Engagement  
Register.

**71.** Upon employing any casual worker under this Part, the employer shall keep a record known as the "Casual Workers' Engagement Register" and shall enter therein such particulars in relation to the casual worker as are prescribed.

District Officer  
may terminate  
employment.

**72.** A District Officer administering a District may for any reason which he considers sufficient by notice in writing to an employer stating his reasons, order him to cease employing any casual worker specified in the notice and the employer shall thereupon cease to employ that casual worker.

## PART X.—HEALTH.

Physically  
unfit employees  
or casual  
workers.

**73.** An employee or casual worker shall not be required to perform work for which he is physically unfit.

Employer to  
provide medical  
treatment.

**74.—**(1.) An employer shall at his own expense and to the satisfaction of a medical officer or, in the absence of a medical officer, of a medical assistant or an Inspector provide, at the place of employment, medical treatment as prescribed for his employees and casual workers and such wives and children of his employees or casual workers as reside with them and away from their homes and shall take all reasonable precautionary measures to safeguard their health.

Penalty: Fifty pounds.



(2.) An employer shall whenever possible, without delay, send to an Administration hospital or a hospital regularly visited by a medical officer any sick employee or casual worker or any sick wife or child of an employee or casual worker, if living with him away from home, whose case appears either to the employer or an Inspector to be such as requires treatment by a medical officer or whose health is not showing signs of steady improvement.

(3.) If, during the period of his employment, an employee or casual worker is known by his employer to have contracted venereal disease, his employer shall at the first opportunity send him to the nearest Administration hospital or hospital approved by the Director of Public Health for treatment.

(4.) Except as otherwise prescribed, an employer shall be liable to pay the cost of any treatment of an employee in an Administration hospital during the period of his employment:

Provided that an employer shall not be liable to pay the charges of an Administration hospital in respect of any treatment of any employee extending beyond one month and consequent upon any injury not arising out of and in the course of his employment.

(5.) An employer shall not be liable to pay any charges of an Administration hospital in respect of:—

(a) a casual worker; or

(b) the treatment of an employee for venereal disease.

**75.—**(1.) An Inspector or a medical officer or medical assistant may declare any premises or place a prohibited area, if he has reasonable ground for believing that it would be dangerous or prejudicial to the health of employees or casual workers for them to work or reside on the premises or place.

Prohibited  
Areas.

(2.) A declaration under this section shall be made by a notice, which is clearly legible, and posted in a conspicuous position within or on the premises or place, and thereupon an employee or casual worker shall not be permitted to work, remain or reside there.

(3.) A declaration under this section may be immediately operative or operative from a date or time specified in the notice.

(4.) If an employee or casual worker is permitted to work, remain or reside in a prohibited area after the posting of the notice referred to in this section, his employer shall be guilty of an offence.

**76.—**(1.) In the case of an existing or apprehended epidemic the Administrator may, by notice<sup>(13)</sup> in the *Gazette*, declare that the agreements of all or any of the employees or the employment of all or any of the casual workers in the area specified in the notice

Agreements  
may be  
suspended in  
case of  
existing or  
apprehended  
epidemic.

(13) No notice has been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

## PART A : NATIVES—

shall be suspended for a fixed period stated therein, or until such time as the Administrator, by notice in the *Gazette*, otherwise orders.

(2.) The period during which employment is suspended in accordance with the last preceding sub-section is in this Part referred to as “the period of suspension”.

Rights and liabilities of parties during the period of suspension.

**77.**—(1.) An employer shall not be required to pay wages during the period of suspension and, subject to this Ordinance, all other rights and liabilities of the parties to an agreement to which the suspension applies shall cease.

Provided that the period of suspension shall be regarded as part of the period of service under the agreement.

(2.) When the period of suspension expires whether by effluxion of time or otherwise, the rights and liabilities of the parties to the agreement shall revive but so that the total term of the agreement is not extended beyond two years.

Appointment and powers of superintendent.

**78.**—(1.) During the period of suspension all employees and casual workers whose employment has been suspended by the notice shall be under the control of a superintendent whose appointment shall be notified in the notice given in pursuance of section seventy-six of this Ordinance.

(2.) The superintendent may, subject to this section, for the purpose of controlling or preventing any existing or apprehended epidemic, require all or any persons within the area specified in the notice to proceed to any place or places within or without that area, or to remain in any place or places within that area, or to do or refrain from doing any act or acts specified by the superintendent.

(3.) The superintendent shall not have any powers or authority over any medical officer or medical assistant.

(4.) A person shall not—

(a) hinder or obstruct a superintendent in the performance of his duties under this Ordinance; or

(b) when so required under sub-section (2.) of this section refuse or fail to proceed to any place, or to remain in any place, or to do or refrain from doing any act.

Penalty: Fifty pounds.

Employees or casual workers may be required by the superintendent to perform certain works.

**79.**—(1.) The superintendent may require the employees or casual workers in any area specified in the notice referred to in section seventy-six of this Ordinance to perform such work as the superintendent deems necessary for their welfare.

(2.) The employees or casual workers shall receive from the Administration such rations as are specified by a medical officer.

(3.) Any employee or casual worker who is required by the superintendent to perform any work shall receive from the Administration wages being not less than the minimum wages prescribed for employees.

80. The superintendent may, at any time during the period of suspension, permit an employee to return to his employer to complete his agreement subject to such conditions as the superintendent imposes, and thereupon the period of suspension shall, in relation to that employee and his employer, be deemed to have expired.

*Return of  
employee to  
employer.*

**PART XI.—DEATH OF EMPLOYEES AND CASUAL WORKERS.**

81.—(1.) An employer shall, by notice in writing in the prescribed form, report the death of any employee or casual worker to the nearest authorized officer as soon as practicable.

*Employer to  
report death  
of employee or  
casual worker.*

(2.) Where practicable, the notice of death shall be accompanied by a death certificate signed by a medical officer or by a medical assistant.

(3.) The employer shall, when reporting the death of an employee or casual worker, deposit with the authorized officer all wages due to the deceased employee or casual worker together with any moneys and personal effects belonging to him and a statement of accounts and inventory of goods.

(4.) A copy of the notice of death referred to in sub-section (1.) of this section shall be forwarded by the authorized officer to—

- (a) the Director;
- (b) the District Officer of the District in which the home of the deceased employee or casual worker is situated;
- (c) the authorized officer at the place where the employee is to be paid off under the agreement.

82.—(1.) Subject to this section, the authorized officer shall sell the personal effects deposited with him in pursuance of the last preceding section and shall transmit the proceeds of the sale thereof to the District Officer of the District in which the home of the deceased employee or casual worker is situated, together with all other moneys belonging to the deceased.

*Sale of personal  
effects.*

(2.) The District Officer shall distribute the moneys received to the persons entitled thereto by native custom.

(3.) Where the authorized officer is unable to sell the personal effects within a reasonable time, he shall forward them at the expense of the employer to the District Officer for distribution to the persons entitled thereto by native custom.

(4.) Where the authorized officer is of opinion that any personal effects are unsaleable by reason of their nature or condition he may cause them to be destroyed.



PART A : NATIVES—

PART XII.—WORKERS' COMPENSATION.

Compensation  
for injury.

83.—(1.) Where an employee or a casual worker sustains any injury—

- (a) arising out of and in the course of his employment; or
- (b) as the result of—

- (i) any defect or want of repair in the ways, works, machinery or plant connected with, or used in, the business of his employer which was known to, or could by the exercise of reasonable care have been discovered by, the employer;
- (ii) the failure of his employer to take reasonable precautions for the safety of the employee or casual worker, or to comply with any duty imposed upon him by any law of the Territory; or
- (iii) the negligence of his employer or of any person in the service of the employer whilst that person is exercising any superintendence over the work of the employee or casual worker, or over any plant or machinery, or the negligence of any person under whose orders or directions the employee or casual worker was working at the time of the injury;

and the injury is of such a nature as to cause his death or to cause him, or be likely to cause him, loss or diminution of the capacity to earn wages in the employment in which he was, at the time of the injury, engaged, the employee or casual worker, or, in the case of death so caused, his dependants shall, subject to this section, be entitled to receive compensation from the employer which compensation shall be assessed by the Court subject to the maximum amount prescribed in respect of the injury, whether resulting in death or otherwise, and if the injury has not caused death, the employee or casual worker shall be entitled to receive from the employer on such conditions as the Court so orders, any surgical appliance which the Court, on the recommendation of a medical officer, orders the employer to provide.

(2.) Contributory negligence by the employee or casual worker shall not be a defence to a claim for compensation under this section, but in assessing the amount of compensation, regard shall be had to any such contributory negligence.

(3.) Disobedience to a lawful order or wilful misconduct, resulting in the injury, shall be a defence to a claim for compensation under this section.

(4.) The voluntary acceptance by the employee or casual worker of the risk or danger which gave rise to the injury shall not be a defence to a claim for compensation under this section.

(5.) The Court awarding the compensation under this section may, if it thinks fit, order the compensation to be paid into Court, and may give directions for its application for the benefit of the employee or casual worker or his dependants by instalments or otherwise in such manner as the Court considers expedient.

**84.—(1.)** If any employee or casual worker suffers any injury (other than an injury of such a trivial nature as to require no medical attention by a medical officer, a medical practitioner or a medical assistant) arising out of and in the course of, or at the place of, his employment, the employer shall, as soon as practicable, give notice in writing in the prescribed form to the District Officer of the District of employment who shall—

Notice of injury and claim for compensation.

(a) require a medical officer to examine the employee or casual worker and to report upon the injury; and

(b) in a proper case, take all necessary steps on behalf of the employee or casual worker to claim and to commence and maintain proceedings for the assessment of compensation in accordance with this Part.

(2.) An employer who fails to give notice as required by this section shall be guilty of an offence.

Penalty: Twenty-five pounds.

### PART XIII.—REMOVAL OF EMPLOYEES AND CASUAL WORKERS FROM THE TERRITORY.

**85.—(1.)** Except as provided by this Ordinance or any other law of the Territory, a person shall not remove any employee or casual worker out of the Territory.

Prohibition of removal of employees and casual workers from Territory.

(2.) Nothing in this section shall prevent an employer from removing an employee or casual worker out of the Territory for the purpose of taking him to his place of employment within the Territory or of bringing him back from that place.

**86.—(1.)** The Director may grant a permit to allow any person to remove beyond the territorial limits of the Territory any employee or casual worker employed by that person for any of the following purposes:—

Permits to remove employees and casual workers beyond Territory.

(a) for fishing in the Gulf of Papua;

(b) to proceed to any place outside the Territory as a personal attendant or for the purpose of his education;

(c) to proceed as a seaman to one or more ports in the following places and thence back again to the Territory—

(i) Australia;

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- (ii) Dutch New Guinea;
- (iii) British Solomon Islands; or
- (iv) any other place which the Administrator specifies by notice<sup>(14)</sup> in the *Gazette*.

(2.) The Administrator may, by notice<sup>(15)</sup> in the *Gazette*, add to, cancel, reduce or vary the places or purposes mentioned in this section to or for which an employee or casual worker may be removed under a permit.

(3.) A permit shall be in accordance with the prescribed form and shall contain such conditions as the Director considers necessary.

(4.) A permit shall not be issued unless the applicant lodges with a District Officer administering a District a guarantee in accordance with the prescribed form with at least one surety approved by the District Officer in the sum of One hundred pounds in respect of each employee or casual worker to be removed from the Territory, for the performance of the conditions specified in the permit.

Employer to  
report return.

87. An employer who has removed an employee or casual worker from the Territory under the provisions of this Part shall, immediately after the return of the employee or worker to the Territory, report the return to the District Officer nearest to the place of return.

Revocation of  
permit.

88. The Director may, by notice in writing, at any time revoke any permit issued under this Part and thereupon the person to whom the permit was issued shall, at his own expense, return the employee or casual worker to his home at the first opportunity.

## PART XIV.—OFFENCES.

Employer  
inducing  
employee to  
spend wages.

89. An employer shall not use any undue influence to induce an employee or casual worker to spend his wages in the purchase of goods from any person.

Dangerous  
use of fire.

90. Any employee or casual worker who carries or uses fire or a naked light so as to endanger the property of his employer shall be guilty of an offence.

Penalty: Five pounds.

Inducing  
engagement  
by fraud, &c.

91. Any person who commits any act of fraud or wilful or grossly careless misrepresentation, intimidation or coercion towards a native, for the purposes of—

- (a) inducing the native to enter into an agreement;

(14) No notice has been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

(15) In pursuance of Section 86 the Administrator, by notice dated 14.11.1951 and published in Papua and N.G. *Govt. Gaz.* of 22.11.1951, directed " that the Director of District Services and Native Affairs may permit any person to remove beyond the Territorial limits of the Territory any employee or casual worker employed by him for a purpose, and on such terms and conditions, as the Director may prescribe ".



(b) employing him without an agreement; or  
(c) causing him to be engaged for employment or employed by any other person under or without an agreement, shall be guilty of an offence.

Penalty: One hundred pounds.

**92.** Any person who knowingly makes a false entry or makes an unauthorized alteration or erasure in any agreement, return, report or other document made under this Ordinance shall be guilty of an offence. False returns.

Penalty: Twenty-five pounds.

**93.** A person shall not engage or attempt to engage for employment under an agreement, or as a casual worker, any native— Prohibition of engagement on private property or ships.

- (a) on any private property (other than in a native village or on native land) not being his own or his employer's property; or  
(b) on any ship.

Penalty: Fifty pounds.

**94.** The service upon any company registered under the *Companies Ordinance, 1912-1947* <sup>(16)</sup> of the Territory of Papua, or under the *Companies Ordinance, 1912-1926* of the Territory of Papua in its application to the Territory of New Guinea, <sup>(17)</sup> of any notice, summons or other process under the provisions of this Ordinance shall be effected by serving it— Service of process upon a company.

- (a) in the manner respectively prescribed by those Ordinances; or  
(b) personally upon the manager, or other person in charge of the company's plantation, mine or place of business or upon the master of the company's ship at or upon which any offence against this Ordinance is alleged to have been committed.

**95.** Fees shall not be payable for any process issued in respect of any offence against this Ordinance. Fees for process for offences.

**96.** Where a juristic person by its members, employees, or agents, does or omits to do any act whereby the juristic person, if a natural person, would have become liable to a penalty under this Ordinance, then notwithstanding any law to the contrary, the juristic person may be prosecuted for the act or omission under its juristic style or name, and the amount of any fine imposed shall be recoverable by execution upon the assets of the juristic person. Liability of juristic person.

(16) The *Companies Ordinance 1912-1926* is printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. I., on pp. 353-477; as to subsequent amendments, see the footnotes to that Ordinance.

(17) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. I., on pp. 291-405.

## PART A : NATIVES—

Laying  
complaint or  
information.

**97.** An Inspector or authorized officer may lay a complaint or information of an offence against the provisions of this Ordinance and may appear in Court to prosecute on any such complaint or information.

Penalties.

**98.** Any person who contravenes or fails to comply with any provision of this Ordinance shall be guilty of an offence, and shall, where no other penalty is prescribed, be liable on conviction—

(a) where the offender is not a native or is a native who is an employer—to a fine not exceeding Twenty-five pounds; and

(b) where the offender is a native other than a native employer—to a fine not exceeding Three pounds.

## PART XV.—MISCELLANEOUS.

Employers to  
register.

**99.** A person shall, before employing any native under this Ordinance, register as an employer within the District in which the native is to be employed.

Natives  
available for  
each industry.

**100.—(1.)** The Administrator may from time to time determine and declare by notice<sup>(18)</sup> in the *Gazette* the maximum number of natives who may be employed in any industry in the Territory.

(2.) Where the Administrator has declared the maximum number of natives who may be employed in an industry under this section, the Director may determine the maximum number of employees or casual workers who may be employed by any person in that industry.

(3.) Where the Director determines the maximum number of employees and casual workers who may be employed by any specified person, the Director shall, by notice in writing, inform that person of the number so determined, and thereafter that person shall not employ any employees or casual workers in excess of that number.

Natives not  
to be removed  
from certain  
villages or  
areas.

**101.—(1.)** Notwithstanding anything contained in this Ordinance, the Administrator may by notice<sup>(19)</sup> in the *Gazette* prohibit for a specified time or until further notice, and either absolutely or subject to conditions or exceptions, the employment under an agreement or as a casual worker of any native or natives from any village or area specified in the notice.

(2.) Any person who employs any native in contravention of this section shall be guilty of an offence.

Penalty: One hundred pounds.

(18) No notice has been published in Papua and N.G. *Gost. Gaz.* before 1.1.1952.

(19) A Table containing particulars of notices made in pursuance of Section 101 prohibiting the employment of natives is printed in this Volume on p. 894, and the notices are printed immediately after the Table.

**102.—(1.)** If at any time it appears to the Administrator that, in the interests of natives, any person should be prohibited from employing or having charge of employees or casual workers, the Administrator may by order prohibit that person from employing, or having charge of, any employees or casual workers, and a copy of the order shall be served upon that person and notified in the *Gazette*. Prohibition of employment of natives by certain persons.

(2.) The order may be in general terms applying to all employees or casual workers and all occupations or may be limited to employees or casual workers of any class or to any particular occupation.

(3.) Where any order has been so made, served and notified, any person who contravenes the terms of the order shall be guilty of an offence.

Penalty: One hundred pounds.

(4.) Before making any order in pursuance of sub-section (1.) of this section, the Administrator shall, by notice in writing, call upon the person to show cause why the order should not be made and shall not make the order until after the Administrator has considered any submissions made by that person within such period as is specified in the notice.

**103.—(1.)** An employer shall, at least once in each year, cause all boilers in use at or near any place where natives are employed to be certified as in good order and in safe condition by a person approved in that behalf by the Director. Certification of boilers.

(2.) In addition to the certification provided for in the last preceding sub-section, the Director may at any time require the employer to obtain a special certification at<sup>(19A)</sup> any such boiler.

(3.) An employer who does not comply with the requirements of this section shall be guilty of an offence.

Penalty: One hundred pounds.

**104.—(1.)** An employer shall install, maintain and operate any machinery, driving belts and fittings to be used at or in any premises in which employees or casual workers are employed in a manner adequate to safeguard and protect them from injury. Operation of machinery, &c.

(2.) An employee or casual worker whilst employed in feeding machinery shall not wear a long-sleeved shirt or garment or any protection to the hand except a glove.

(3.) An employer who knowingly permits an employee or casual worker to commit a breach of the last preceding sub-section shall be guilty of an offence.

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(19A) The word "at" appeared in the original Ordinance. *Semle*, "of" was intended.



PART A : NATIVES—

Tools of trade.

**105.**—(1.) An employee or a casual worker may, with the consent of the employer, provide his own tools of trade and if he does so an authorized officer shall assess the amount to be paid to him by the employer for the use of the tools.

(2.) Tools of trade supplied by an employer shall be renewed and repaired at the employer's expense.

Maximum load for carriers.

**106.** An employee or casual worker employed in carrying shall not be required to carry any load greater than forty pounds in weight or any load for any distance exceeding twelve miles in any one day.

Power to inspect premises, natives, &c.

**107.**—(1.) For the purpose of securing observance of this Ordinance, a District Officer, an Inspector, a medical officer, a medical assistant authorized in writing by the Director of Public Health, or other officer authorized in writing in that behalf by the Director may, at all reasonable times, enter upon or into and inspect any premises, land, place, building, mine, ship or aircraft on, at or in which any employee or casual worker is employed, or on, at or in which he has reasonable grounds for suspecting that any employee or casual worker is employed, or which is used, or has recently been occupied by, any employee or casual worker.

(2.) Any officer specified in the last preceding sub-section may at all reasonable hours examine any employee or casual worker employed on, at or in any such premises, land, place, building, mine, ship or aircraft and may question the employee or casual worker and his employer or the occupier of the property in regard to any matter which, in the opinion of the officer, affects the employment or welfare of the employee or casual worker.

(3.) A person shall not hinder or obstruct any officer in the performance of his duty under this section.

Penalty: Fifty pounds.

(4.) Every employer shall, on demand by any officer referred to in sub-section (1.) of this section, produce all books of account or documents relating to the employment of any employee or casual worker employed by him and any rations or other articles of any description whatsoever issued to or kept for the purpose of issue to employees or casual workers employed by him.

Power of Administration to incur expense for which employer is liable.

**108.**—(1.) The Administration may incur any expenditure on account of any employer in respect of any employee or casual worker for wages, goods, maintenance, medical treatment or any other matter, for which the employer is liable under this Ordinance.

(2.) Where, for any reason, any expenditure is incurred by the Administration on account of any employer in respect of any employee or casual worker for wages, goods, maintenance, medical treatment or any other matter for which the employer is liable

under this Ordinance, the expenditure shall be a debt due to the Administration by the employer and shall, any law to the contrary notwithstanding, be a first charge upon the real and personal property of the employer.

(3.) In any proceedings for the recovery of the debt, the production of an account of the debt supported by a certificate of an authorized officer, stating that it is true and correct and relates to the expenditure actually incurred shall be *prima facie* evidence of the debt.

(4.) Where any employer is adjudicated as insolvent, the debt, whether incurred before or after the adjudication, shall, any law to the contrary notwithstanding, be a first charge upon the property divisible among his creditors.

(5.) Notwithstanding anything contained in this section or in any law of the Territory to the contrary, any guarantor who has, under the provisions of this Ordinance, paid a sum of money to the Administration in full or partial satisfaction of any expenditure referred to in sub-section (2.) of this section, shall—

- (a) in respect of that sum, be preferred to the Administration and all other creditors; and
- (b) in respect of any part of the expenditure which he has not satisfied, rank after the Administration.

**109.**—(1.) Every guarantee given under this Ordinance shall bind its subscribers jointly and severally. Effect of  
guarantee.

(2.) Wherever any guarantee under this Ordinance is put in suit by the Administration, the production thereof without further proof shall entitle the Administration to judgment for their stated liability, against the persons appearing to have executed the guarantee, unless the defendants prove compliance with the condition of the guarantee or that the guarantee was not executed by them, or release, or satisfaction.

(3.) If it appears to the Court that a non-compliance with a guarantee under this Ordinance has occurred, the guarantee shall not be deemed to have been discharged or invalidated and the guarantors shall not be deemed to have been released or discharged from liability by reason of—

- (a) an extension of time or other concession;
- (b) the consent to, or acquiescence in, a previous non-compliance with the conditions of the guarantee; or
- (c) the failure to bring suit against the guarantors upon the occurrence of any previous non-compliance with the condition of the guarantee.

(4.) Notwithstanding any law to the contrary, any variation of an agreement made under Part VI. of this Ordinance shall not

PART A : NATIVES—

discharge or invalidate any guarantee given under this Ordinance and the guarantors shall not be released or discharged from liability by reason of the variation.

Agreement by  
employee under  
agreement void.

**110.**—(1.) An agreement made by an employee who is still bound by a contract of service under the repealed Ordinance or an agreement to another person shall be void, but the employee shall be entitled to receive from his employer under the void agreement wages for any work actually done under that agreement.

(2.) If the employee has knowingly misrepresented himself to be free to make an agreement, he shall be guilty of an offence.

(3.) In addition to any penalty that may be imposed under this section, the Court may—

(a) order an employee found guilty of an offence against this section to return to his employer under the void agreement any articles received by him in relation to his services under that agreement; and

(b) order that the employer, in default of their return, may retain out of any moneys to which the employee would otherwise be entitled in respect of the void agreement an amount determined by the Court as equivalent to the value of the articles.

Gazette proof of  
certain  
appointments.

**111.** In any proceedings taken under this Ordinance in any Court, the appointment of an Inspector or other officer in the service of the Administration may be proved by the production of the *Gazette* containing the notice of the appointment.

Court in which  
proceedings  
may be taken.

**112.** All proceedings in respect of any offence against this Ordinance, or in respect of any claim for compensation for injury under the provisions of Part XII. of this Ordinance shall—

(a) where the offence is committed, or the injury is sustained, in the Territory of Papua, be taken in a Court of Petty Sessions established under the *Justices Ordinance, 1912-1950*,<sup>(4)</sup> or the *Small Debts Ordinance, 1912-1947*,<sup>(5)</sup> as is appropriate; and

(b) where the offence is committed, or the injury is sustained in the Territory of New Guinea, be taken in a District Court established under the *District Courts Ordinance 1924-1947*.<sup>(6)</sup>

Representation  
of natives in  
proceedings.

**113.** In any proceedings under this Ordinance in any Court any native who is a party, whether as complainant, claimant or defendant may be represented by a District Officer or an officer authorized by a District Officer in writing.

(4) See footnote (4) printed in this volume on p. 835.

(5) See footnote (5) printed in this Volume on p. 835.

(6) See footnote (6) printed in this volume on p. 835.



**114.** The Administrator may, by notice<sup>(20)</sup> in the *Gazette*, direct that—

Administrator may prohibit employees from residing in town, &c.

- (a) the employees or casual workers specified in the notice shall not be housed or reside within the boundaries of any town or area specified in the notice; and
- (b) all employers within any town or area so specified whose employees or casual workers are precluded by the notice from being housed or residing therein, shall provide housing and sanitary accommodation for those employees or casual workers on such site, outside the town or area, as the Administrator specifies in the notice.

**115.** A copy of this Ordinance and all regulations made thereunder and all amendments thereof shall be kept by all employers at the place of employment and shall be produced to an Inspector on demand.

Copy of Ordinance and regulations to be kept by employers.

Penalty: Five pounds.

**116.—(1.)** The Administrator in Council may make regulations<sup>(21)</sup>, 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, and in particular for prescribing matters providing for and in relation to—

Regulations.

- (a) the provision of food, clothing, beds, bedding, boxes or substitutes for boxes, cooking utensils, mosquito nets, medicine, and other articles for employees or casual workers;
- (b) the housing of employees and casual workers;
- (c) the hospital accommodation and medical treatment for employees or casual workers;
- (d) the hours and conditions of work of employees or casual workers;
- (e) the transport of employees or casual workers in ships;
- (f) the minimum rates of wages for employees or casual workers;
- (g) the returns and reports to be furnished by employers and other persons;
- (h) the fees, if any, which shall be payable with respect to any matter under this Ordinance;
- (i) the manner of doing or performing anything by this Ordinance required to be done or performed;
- (j) prescribing the form of any permit, notice or other document issued or used under, or for the purpose of, this Ordinance;
- (k) the well-being of employees or casual workers;

(20) No notice has been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

(21) See the *Native Labour Regulations*, printed in this Volume on pp. 867-892.

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- (l) the entry of ordained clergy to places of employment for the purpose of holding religious services;
- (m) the provision and control of recreation facilities and playing fields;
- (n) the provision and control of education facilities;
- (o) the compensation payable to employees or casual workers in respect of injuries arising out of and in the course of their employment;
- (p) the conditions of employment of skilled employees;
- (q) the keeping of time sheets for the purpose of overtime and their production for inspection; and
- (r) the imposition of penalties not exceeding Twenty-five pounds for any offence against the Regulations.

(2.) The Regulations may be of general application, or may be limited to a particular area or restricted in their operation to employees or casual workers or to any class of employees or casual workers.