

NATIVE PLANTATIONS ORDINANCE, 1925-1934. ⁽¹⁾

An Ordinance to Provide for Native Plantations and to further the Welfare of Natives of Papua.

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. This Ordinance may be cited as the *Native Plantations Ordinance*, 1925-1934. ⁽¹⁾

Short title.
Amended by
No. 2 of 1930,
s. 2.

2.—(1.) The *Native Plantations Ordinance*, 1918-1922, is repealed.

Repeal.

(2.) All Orders in Council ⁽²⁾ and regulations ⁽³⁾ made all *Gazette* notices ⁽²⁾ published and native plantations ⁽²⁾ established under the Ordinance hereby repealed and in force or established at the commencement of this Ordinance shall continue in force or established as if they had been made published or established under the provisions of this Ordinance.

Saving.

3. In this Ordinance unless the context otherwise requires—

Interpretation.

“Lieutenant-Governor” ⁽⁴⁾ means the Lieutenant-Governor in Council; ⁽⁴⁾

“Native” means an aboriginal native of the Territory;

(1) The *Native Plantations Ordinance*, 1925-1934, comprises the *Native Plantations Ordinance*, 1925, as amended by the other Ordinance referred to in the following Table:—

ORDINANCES OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of reservation by Lieut.-Gov.	Date on which assent of Gov.-Gen. in Council published in Papua <i>Govt. Gaz.</i>	Date on which came into operation.
<i>Native Plantations Ordinance</i> , 1925 (No. 16 of 1925)	4.9.1925	31.12.1925	31.12.1925 (Papua <i>Govt. Gaz.</i> of 31.12.1925)
<i>Native Plantations Ordinance</i> , 1934 (No. 13 of 1934)	10.7.1934	7.11.1934	7.11.1934 (Papua <i>Govt. Gaz.</i> of 7.11.1934)

(2) Particulars of Orders in Council and *Gazette* notices continued in force and native plantations continued by Section 2(2) are included in the relevant footnotes and Tables to this Ordinance.

(3) No regulations were made under the repealed *Native Plantations Ordinance*, 1918-1922.

(4) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

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“Native plantation” means a native plantation established or deemed to have been established under this Ordinance;

“Controller” means a controller of native plantations appointed pursuant to this Ordinance;

“Cultivation” means the clearing fencing planting and cultivating with prescribed plants of native plantations and keeping the same so cleared fenced planted and cultivated and the harvesting gathering and delivery of the produce thereof;

“Villagers” means in connection with a native plantation the native inhabitants of a village situate within five miles or such other distance as may be prescribed from such native plantation;

“Statutory worker” means in connection with a native plantation every able-bodied male villager between the ages of sixteen and thirty-six years but does not include—

- (a) a native employee of the Government;
- (b) a native under contract of service under any Ordinance relating to native labour;
- (c) a native who has at any time within the preceding three months completed such a contract of service; or
- (d) a native employed as a Mission teacher or who is working for and receiving regular religious instruction from one of the Christian Missions;

“Voluntary worker” means in connection with a native plantation any villager (other than a statutory worker) who voluntarily works on such native plantation.

Establishment
of native
plantations.

4.—(1.) The Lieutenant-Governor⁽⁴⁾ may by notice⁽⁵⁾ in the *Gazette* direct that any land acquired or resumed under the provisions of the *Land Ordinance, 1911-1924*,⁽⁶⁾ for the purpose of a native reserve shall be a native plantation and thereupon the land described in any such notice shall be deemed to be established as a native plantation.

(4) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

(5) A Table, containing particulars of an Order in Council (made pursuant to Section 4(1)) establishing Native Plantations, and of Orders in Council (made pursuant to Section 3 of the repealed *Native Plantations Ordinance, 1918-1922*, which was in similar terms to the present Section 4(1)) continued in force by the present Section 2(2), is printed on p. 3485. The Orders in Council still in force are printed immediately after the Table.

(6) Now the *Land Ordinance, 1911-1940*.

Native Plantations Ordinance, 1925-1934.

(2.) The Lieutenant-Governor⁽⁴⁾ with the consent of the native owners thereof may by notice⁽⁷⁾ in the *Gazette* direct that any land shall be a native plantation and thereupon such land shall be deemed to be established as a native plantation and shall remain so until the Lieutenant-Governor⁽⁴⁾ otherwise orders but the land shall remain the property of the native owners.

4A. The Lieutenant-Governor⁽⁴⁾ may appoint officers to carry out the provisions of this Ordinance. Such officers shall be known as controllers of native plantations and shall possess such powers and discharge such duties as are set out in this Ordinance and the regulations hereunder.

Appointment of controllers.
Inserted by No. 13 of 1934, s. 3.

4B. A statutory worker shall perform his work with reasonable diligence at such times as the controller may direct unless he has a valid excuse for omitting so to do.

Work of statutory worker, when to be performed.
Inserted by No. 13 of 1934, s. 3.

4C. A statutory worker shall carry out the particular class of cultivation which the controller may direct him to carry out.

Class of cultivation to be performed by statutory worker.
Inserted by No. 13 of 1934, s. 3.

5.—(1.) Statutory workers shall work for such number of days each year as may be prescribed in the cultivation of the native plantation.

Cultivation by statutory workers.

(2.) For cultivation work done by statutory workers the Lieutenant-Governor⁽⁴⁾ may by Order⁽⁸⁾ remit the whole or such part of the tax payable by them under the *Native Taxes Ordinance, 1917-1924*,⁽⁹⁾ as to him seems just.

Remission of native tax.

6. Voluntary workers may work and shall be encouraged to work in the cultivation of native plantations.

Cultivation by voluntary workers.

7. The establishment and cultivation of native plantations and the dealing with the produce thereof authorized by this Ordinance have for their purposes the technical education of natives in agriculture and the direct benefit of natives and shall be deemed to be included in the purposes and objects referred to in Subsection (2.)

Application of s. 15 (2) of the *Native Taxes Ordinance, 1917-1924*.

(4) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940*.

(7) A Table, containing particulars of Orders in Council (made pursuant to Section 4(2)) establishing Native Plantations, and of Orders in Council (made pursuant to Section 3(2) of the repealed *Native Plantations Ordinance, 1918-1922*, which was in similar terms to the present Section 4(2)) continued in force by the present Section 2(2), is printed on p. 3495. The Orders in Council still in force are printed immediately after the Table.

(8) Pursuant to Section 4(3) of the repealed *Native Plantations Ordinance 1918-1922* (which was in similar terms to the present Section 5(2)), the Lieutenant-Governor by Order in Council dated 24.6.1924 and published in *Papua Govt. Gaz. of 2.7.1924* (continued in force by the present Section 2(2)) ordered, "That under Section 4(3) of the *Native Plantations Ordinance, 1918-1922*, the whole of the tax payable by a native villager shall be remitted if he does two months work on a native plantation".

(9) Now the *Native Taxes Ordinance, 1917-1936*.

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of Section 15 of the *Native Taxes Ordinance*, 1917-1924,⁽⁹⁾ for which moneys under that subsection may be expended.

Application of
portion of
annual produce.

8.—(1.) Of the total annual produce of each native plantation one half or such other proportion as the Lieutenant-Governor⁽⁴⁾ may order⁽¹⁰⁾ either generally or in any particular case shall be the property of the villagers either generally or of some villagers to the exclusion of others and in such proportions as may be respectively ordered⁽¹¹⁾ by the Lieutenant-Governor⁽⁴⁾ and—

- (a) may be distributed in kind by the Government among the villagers entitled thereto; or
- (b) may be sold by the Government on account of the villagers entitled thereto; or
- (c) may be purchased by the Government from the villagers entitled thereto.⁽¹²⁾

(2.) In estimating the proportion of the total annual produce of a native plantation which is to be the property of the villagers account shall be taken of the fact (if such it be) that the land has not been acquired or resumed and is not the property of the Crown.

Application of
balance of
annual produce.

9. The remainder of the annual produce of each native plantation together with all such produce as may be purchased by the Government from villagers under the provisions of Paragraph (c) of the last preceding section shall be the property of the Crown and shall be made marketable and marketed out of moneys prescribed by regulations under the *Native Taxes Ordinance*, 1917-1924,⁽⁹⁾ to be expended for that purpose out of the Native Education Fund and the gross sum arising from such realization shall be paid into the said Native Education Fund or into such account in connection therewith as may be prescribed by regulation under the last-mentioned Ordinance.

Regulations.

10. The Lieutenant-Governor⁽⁴⁾ may make regulations⁽¹³⁾ not inconsistent with this Ordinance prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Ordinance and in particular for all or any of the following matters:—

(4) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(9) Now the *Native Taxes Ordinance*, 1917-1936.

(10) No order specifying any other proportion has been published in *Papua Govt. Gaz.*

(11) See the Order in Council, dated 20.9.1926 and published in *Papua Govt. Gaz.* of 6.10.1926, printed on p. 3522.

(12) See Regulation 19 of the *Native Taxes (Funds) Regulations*, 1936, printed on p. 3437.

(13) See the *Native Plantations Regulations*, 1926, printed on p. 3480, and the *Native Plantations (Northern Division Carrying) Regulations*, 1928, printed on p. 3482.

Native Plantations Ordinance, 1925-1934.

- (a) The mode of supply of seeds or plants;
- (b) The supervision and regulating of native plantations and the cultivation thereof;
- (c) The method of division and distribution of the annual produce or the proceeds thereof of native plantations among villagers entitled thereto;
- (d) The method time and place for delivery to the Government of such produce as is the property of the Government or as may be sold by the Government on account of villagers.

11. In any proceeding for any offence under this Ordinance it shall not be necessary to produce strict proof of age of any native but a Magistrate for Native Matters may decide the age of any native brought before him to be such as in his opinion is the probable age of such native. Proof of age.

12. If any statutory worker refuses or neglects to comply with the provisions of this Ordinance or any of them or of any regulation he shall on proof thereof to the satisfaction of a Magistrate for Native Matters be liable to a fine not exceeding Two pounds or in default to imprisonment with hard labour for any period not exceeding three months or to imprisonment in the first instance for any period not exceeding three months with hard labour. Offences.

13. Proceedings for any offence under this Ordinance or for any breach of the regulations shall be taken heard and determined in Courts for Native Matters established under *The Native Regulation Ordinance of 1908.*⁽¹⁴⁾ Procedure.

(14) Now the *Native Regulation Ordinance, 1908-1930.*