

NATIVE REGULATION ORDINANCE, 1908-1930.⁽¹⁾

An Ordinance to Provide for the Better Regulation of Native Matters.

BE it enacted by the Administrator of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. For the purposes of this Ordinance the term “native” shall include any aboriginal native of New Guinea or any island adjacent thereto or of any part of the Territory of Papua;

Interpretation
of the term
“native.”

and also every aboriginal native—

- (1) of Australia or any island adjacent thereto; or
- (2) of any island of the Pacific Ocean; or
- (3) of any of the East Indian islands; or
- (4) of Malaysia;

who lives after the manner of the aboriginal natives of Papua or of the islands adjacent.

It also includes every person who is wholly or partly descended from any aboriginal natives or native aforesaid and who lives after the manner of the aboriginal natives of Papua or of the islands adjacent.

2. It shall be lawful for the Lieutenant-Governor⁽²⁾ to appoint any person to be a magistrate for native matters. The duties powers and jurisdiction of such magistrates shall be as defined and prescribed by regulations made as herein provided.

Magistrates for
native matters.

(1) The *Native Regulation Ordinance, 1908-1930*, comprises *The Native Regulation Ordinance of 1908*, 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 assent by Lieut.-Gov.	Date of reservation by Administrator.	Date on which assent of Gov.-Gen. in Council published in Papua Govt. Gaz.	Date on which came into operation.
<i>The Native Regulation Ordinance of 1908</i> (No. 25 of 1909)	—	9.12.1908	6.10.1909	6.10.1909 (<i>Papua Govt. Gaz.</i> of 6.10.1909)
<i>Native Regulation Ordinance, 1930</i> (No. 10 of 1930)	11.12.1930 ^(a)	—	—	11.12.1930 (<i>Ordinances etc. of Papua, 1930, p. 27</i>)

(a) Notified in *Papua Govt. Gaz.* of 6.5.1931 as not disallowed by Gov.-Gen. in Council.

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

NATIVES—

Courts for native matters.

3. It shall be lawful for the Lieutenant-Governor in Council⁽²⁾ to establish courts for native matters⁽³⁾ to be composed of at least one magistrate for native matters and to appoint all such officers as may be necessary to enable such courts to be efficiently conducted and their authority enforced and to appoint times and places at which such courts shall be held. The composition of such courts their jurisdiction practice and procedure and the extent of punishment that they shall be entitled to impose for any offence shall subject to the provisions of this Ordinance be as defined and prescribed by regulations under the Ordinance.

Appeal.

4. It shall be lawful for the Lieutenant-Governor in Council⁽²⁾ to constitute the Central Court⁽²⁾ a court of appeal⁽⁴⁾ from the courts for native matters. The cases in which an appeal may be brought the grounds upon which an appeal will lie the practice and procedure in appeals and all other matters relating thereto shall be as defined and prescribed by rules⁽⁵⁾ of the Central Court.⁽²⁾

The Central Court⁽²⁾ shall have full power to order any amendment to be made at any stage of the proceedings and no appeal shall be allowed unless it appears to the court that some substantial injustice and hardship will otherwise be caused to the appellant.

Power to make regulations dealing with native matters.

5. It shall be lawful for the Lieutenant-Governor in Council⁽²⁾ to make regulations⁽⁶⁾ affecting the affairs of natives with regard to—

- (1) marriage and divorce;
- (2) the succession to property in case of intestacy;
- (3) the testamentary disposition of property;
- (4) the disposal of the dead;
- (5) the jurisdiction powers and procedure of courts for native matters in civil and criminal matters;
- (6) the rights to real and personal property;
- (7) the observance of native customs;
- (8) the cultivation of the soil;

and with regard to matters other than those before set out but bearing upon or affecting the good government and well being of the natives.

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

(3) A Table containing particulars of Orders in Council establishing Courts for Native Matters within districts pursuant to Section 3, and defining and establishing the limits of such districts pursuant to Regulation 6 of the *Native Regulations, 1939*, is printed on p. 3345, and the only Order in Council still in force is printed immediately after the Table.

(4) The Central Court was constituted a "Court of Appeal from Courts for Native Matters" by Order in Council dated 14.7.1924 and published in *Papua Govt. Gaz.* of 6.8.1924.

(5) No rules of the Central Court providing for these matters have been published in *Papua Govt. Gaz.*

(6) See the *Native Regulations, 1939*, printed on p. 3292.

Native Regulation Ordinance, 1908-1930.

The regulations may provide penalties for a breach thereof not exceeding in any case a fine of Twenty-five pounds and in default of payment imprisonment with or without hard labour for any period not exceeding six months or imprisonment in the first instance with or without hard labour for any period not exceeding six months.

Provided that the Regulations may provide that the aforesaid fine for a breach thereof may be paid in kind or partly in kind.

Proviso
added by
No. 10 of 1930,
s. 2.

6. All such regulations shall be subject to the disallowance of⁽⁷⁾ Governor-General of the Commonwealth of Australia and any such regulation shall cease to have force from the date of publication of its disallowance in the *Government Gazette*: Provided that nothing done in accordance with any such regulation when in force shall be invalidated by the disallowance of such regulation.

Regulations
subject to
disallowance by
Governor-General

Nothing in this Ordinance or in the regulations made hereunder shall be taken to confer upon any court for native matters any authority except as between natives and over natives.

7. *The Native Board Ordinance of 1889* is hereby repealed.

Repeal.

8. This Ordinance shall be known and may be cited as the *Native Regulation Ordinance, 1908-1930.*⁽¹⁾

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

(1) See footnote (1) printed on p. 3289.

(7) The words "of Governor-General" appeared in the original Ordinance. *Seemle*, "of the Governor-General" was intended.