

# NATIVE TAXES ORDINANCE, 1917-1936. <sup>(1)</sup>

## An Ordinance to Impose a Tax upon Natives for Certain Purposes.

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

1.—(1.) This Ordinance may be cited as the *Native Taxes Ordinance, 1917-1936.* <sup>(1)</sup>

Citation and commencement.  
Sub-section (1) amended by No. 2 of 1930, s. 2.

(2.) This Ordinance shall commence on a day to be fixed by the Lieutenant-Governor by Proclamation published in the *Gazette.* <sup>(1)</sup>

2. In this Ordinance unless the contrary intention appears—

Interpretation.

“Lieutenant-Governor” <sup>(2)</sup> means the Lieutenant-Governor in Council. <sup>(2)</sup>

“District” means any District established under this Ordinance or any village or group of villages.

Amended by No. 11 of 1919, s. 2.

“Native” means any aboriginal native of that part of New Guinea known as the Territory of Papua but does not include any person who is only partly descended from any aboriginal natives or native aforesaid.

(1) The *Native Taxes Ordinance, 1917-1936*, comprises the *Native Taxes Ordinance, 1917*, as amended by the other Ordinances 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 Govt. Gaz.	Date on which came into operation.
<i>Native Taxes Ordinance, 1917</i> (No. 11 of 1918)	1.9.1917	7.8.1918	15.1.1919 (Papua Govt. Gaz. of 14.1.1919)
<i>Native Taxes Ordinance, 1919</i> (No. 11 of 1919)	30.6.1919	3.3.1920	3.3.1920 (Papua Govt. Gaz. of 3.3.1920)
<i>Native Taxes Ordinance, 1921</i> (No. 2 of 1922)	23.9.1921	5.4.1922	5.4.1922 (Papua Govt. Gaz. of 5.4.1922)
<i>Native Taxes Ordinance, 1922</i> (No. 1 of 1923)	15.11.1922	4.4.1923	4.4.1923 (Papua Govt. Gaz. of 4.4.1923)
<i>Native Taxes Ordinance, 1924</i> (No. 9 of 1924)	6.11.1924	24.12.1924	24.12.1924 (Papua Govt. Gaz. of 24.12.1924)
<i>Native Taxes Ordinance, 1932</i> (No. 7 of 1932)	13.7.1932	2.11.1932	2.11.1932 (Papua Govt. Gaz. of 2.11.1932)
<i>Native Taxes Ordinance, 1936</i> (No. 17 of 1936)	20.7.1936	2.12.1936	2.12.1936 (Papua Govt. Gaz. of 2.12.1936)

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

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Amended by  
No. 2 of 1922,  
s. 2.

“Native Labourer” means any taxable native who under any Contract of Service or agreement made under the provisions of the *Native Labour Ordinance, 1911-1916*,<sup>(3)</sup> or of *The Native Crown Servants Ordinance of 1897*,<sup>(4)</sup> is under engagement to serve for the whole of any financial year for which a tax is imposed or whose period of engagement under any such contract or agreement commences before and expires during any such financial year.

“Taxable Native” means a male native between the ages of sixteen and thirty-six years and not especially exempted from taxation under this Ordinance.

Administration  
of Ordinance.

3. The administration of this Ordinance shall be allotted to such officer as the Lieutenant-Governor<sup>(2)</sup> may direct.<sup>(5)</sup>

Districts.

4. The Lieutenant-Governor<sup>(2)</sup> may from time to time establish Districts<sup>(6)</sup> under this Ordinance.

Certain natives  
to pay tax.

Sub-section (1)  
amended by  
No. 11 of 1919,  
s. 3.

5.—(1.) Except as hereinafter provided a tax shall be paid in and for each financial year commencing from the first day of July One thousand nine hundred and nineteen by every taxable native.

(2.) It shall not be necessary to give strict proof of age but a native shall be taken to be of the age which he appears to be in the opinion of the officer collecting the tax or in case of a disputed liability to the payment of a tax by a native then in the opinion of the Court investigating the question of such liability.

Sub-section (3)  
added by  
No. 1 of 1923,  
s. 2.

(3.) The tax may be recovered by proceedings taken in the name of the Government Secretary or a Resident or Assistant Resident Magistrate in any Court of competent jurisdiction at any time within three years of the date on which the tax became due and payable.

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

(3) Repealed and replaced by the *Native Labour Ordinance, 1941*.

(4) Repealed and replaced by the *Native Crown Servants Ordinance, 1941*.

(5) By Order in Council dated 24.6.1919 and published in *Papua Govt. Gaz.* of 2.7.1919, the Lieutenant-Governor ordered: “That the administration of the *Native Taxes Ordinance, 1917*, be allotted to the Government Secretary.”

(6) Taxable Districts under the *Native Taxes Ordinance, 1917-1936*, were first established—and the rates of tax for such districts were fixed—by Order in Council dated 24.6.1919 and published in *Papua Govt. Gaz.* of 2.7.1919. Numerous Orders in Council published in *Papua Govt. Gaz.* from time to time thereafter established further districts, altered the districts already established, and fixed the rates of tax therein. An annual Order in Council fixed the rate of tax for each year, as, “the same in each district established under the Ordinance, as fixed for the same respective districts for the previous financial year”. A Table, containing particulars of an Order in Council dated 27.3.1939 and published in *Papua Govt. Gaz.* of 5.4.1939 establishing Taxable Districts and fixing the rate of tax for the year beginning 1.7.1939, and of subsequent Orders in Council affecting this Order in Council as to the amount of tax payable, is printed on p. 3451; and certain of the Orders in Council are printed immediately after the Table. The Orders in Council subsequent to the Order in Council dated 27.3.1939 and published in *Papua Govt. Gaz.* of 5.4.1939 referred to particular villages and Districts only. No instrument was published in *Papua Govt. Gaz.* fixing the rates of tax for all the Taxable Districts for the years beginning 1.7.1940 and 1.7.1941.

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6. Except in the case of native labourers the tax shall be collected in such districts only as may be ordered<sup>(6)</sup> by the Lieutenant-Governor<sup>(2)</sup> from the taxable natives whose usual place of residence is therein.

Districts in which the tax is to be collected.

7.—(1.) The amount of the tax shall be fixed<sup>(6)</sup> from time to time by the Lieutenant-Governor.<sup>(2)</sup>

Amount of tax.

(2.) The amount of the tax may vary in different Districts.

(3.) The amount of the tax to be paid by native labourers<sup>(7)</sup> shall not exceed Ten shillings in any financial year and shall be paid in such manner as may be prescribed.

(4.) In the case of taxable natives other than native labourers the amount of the tax shall not exceed One pound sterling in any financial year.

8. The amount of the tax shall when practicable be fixed<sup>(6)</sup><sup>(7)</sup> before the close of the month of June preceding the financial year for which the tax is imposed but a tax shall not be invalid if it is fixed<sup>(6)</sup><sup>(7)</sup> at any time during the first six months of any such financial year.

Time of assessment.

9. Unless otherwise permitted under the provisions hereinafter contained the tax shall be paid in money.

Tax primarily payable in cash.

10. The Lieutenant-Governor<sup>(2)</sup> in any case where it appears to be desirable so to do may by order<sup>(8)</sup> permit any tax to be paid in kind instead of money and by the same or another order may declare the quantity and description of produce which will be required and accepted in kind under any such permit as the equivalent of the money payable under the tax.

When tax may be paid in kind.

11.—(1.) With the consent of the officer administering this Ordinance or by order<sup>(9)</sup> of the Lieutenant-Governor<sup>(2)</sup> the amount

When tax may be paid by labour.

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

(6) See footnote (6) printed on p. 3422.

(7) From time to time by Order in Council published in *Papua Govt. Gaz.* the Lieutenant-Governor ordered that the tax to be paid by native labourers for the year specified therein should be fixed at ten shillings. The last of such Orders in Council was dated 27.3.1939 and published in *Papua Govt. Gaz.* of 5.4.1939. It provided that "The tax for the year commencing 1st July 1939 shall be fixed at Ten shillings." No instrument has been published in *Papua Govt. Gaz.* fixing rates of tax to be paid by native labourers for the years beginning 1.7.1940 and 1.7.1941.

(8) No Order in Council permitting any tax to be paid in kind has been published in *Papua Govt. Gaz.*

(9) Section 5(2) of the *Native Plantations Ordinance, 1925-1934*, provides that "For cultivation work done by statutory workers the Lieutenant-Governor may by Order remit the whole or such part of the tax payable by them under the *Native Taxes Ordinance, 1917-1924*, as to him seems just." The Lieutenant-Governor, by Order in Council (made pursuant to Section 4(3) of the repealed *Native Plantations Ordinance, 1918-1922*, which was in similar terms to the present Section 5(2)), dated 24.6.1924 and published in *Papua Govt. Gaz.* of 2.7.1924 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."

This Order in Council was continued in force by Section 2(2) of the *Native Plantations Ordinance, 1925-1934.*

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of any tax may be permitted to be paid for by the labour of the native (not being a native labourer) liable for the payment of the tax or in the case of a communal tax by the labour of the taxable natives (other than native labourers) in the village community or district concerned.

Scale of labour to be fixed.

(2.) The amount of such labour shall bear relation to the tax according to a scale to be fixed<sup>(9)</sup> from time to time by the Lieutenant-Governor.<sup>(2)</sup>

Option of cash payment preserved.

(3.) Notwithstanding that permission under Subsection (1.) of this section may have been given the persons to whom it is given shall have the option of paying the tax in money.

Communal tax.

**12.—(1.)** The Lieutenant-Governor<sup>(2)</sup> may order<sup>(10)</sup> that the tax in any district shall be a communal tax to be levied not upon the individual but upon a village community or district.

(2.) The amount of such communal tax shall not exceed the amount of One pound sterling a head upon each taxable native (other than native labourers) in the village community or district upon which the communal tax is so imposed.

Collection of tax.

**13.—(1.)** The tax whether as primarily payable in money or as permissibly payable in kind or by labour and whether individual or communal in its nature shall be raised and collected in such manner and at such times as may be ordered<sup>(11)</sup> by the Lieutenant-Governor.<sup>(2)</sup>

(2.) The method and time of raising and collecting the tax may be so ordered as to vary in different districts and in relation to different natives or classes of natives.

Exemptions.

**14.** The following persons are exempt from taxation under this Ordinance:—

- (a) Members of the Armed Constabulary;
- (b) Village Constables;
- (c) Natives who in the opinion of the officer collecting the tax are unfit for work;
- (d) A native who is supporting four children of any wife of his: Provided that this exemption shall not apply to a native who has more than one wife unless each wife has four children whom the native is supporting;

Paragraph (d) substituted by No. 2 of 1922, s. 3.

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(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.  
(9) See footnote (9) printed on p. 3423.  
(10) No Order in Council, ordering that the tax in any district shall be a communal tax, has been published in *Papua Govt. Gaz.*  
(11) No Order in Council has been published in *Papua Govt. Gaz.*

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(e) Mission teachers and mission students;

Paragraph (e) amended by No. 2 of 1922, s. 3.

(f) Any native or class of natives exempted by the order<sup>(12)</sup> of the Lieutenant-Governor.<sup>(2)</sup>

Paragraph (f) added by No. 2 of 1922, s. 3.

15.—(1.) The money raised by the tax shall be paid into a separate account at the Treasury and there shall be deducted therefrom the cost and expenses of and incidental to the collection of the tax the amount of which deduction shall be paid into the Papua Public Account.<sup>(13)</sup>

Application of proceeds of tax.

(2.) The balance remaining to the credit of the separate account in the Treasury shall be expended as follows:—

FIRSTLY—In the establishment of a Fund to be called the “Native Education Fund” which shall be applied for the purposes of the general and technical education of the natives of Papua in such manner as may be prescribed;<sup>(14)</sup>

SECONDLY—For such purposes<sup>(14)</sup> having for their object the direct benefit of the natives of Papua as may be prescribed.

16. The amount of the tax shall be payable by each taxable native at such time as may be ordered by the Lieutenant-Governor<sup>(2)</sup> or as may be prescribed. Such time may be different in different districts and in relation to different natives or classes of natives.

Time of payment of tax.

17.—(1.) Any taxable native who fails to pay the tax in money or in kind or by labour as required or permitted under the provisions of this Ordinance shall be liable on conviction thereof before a Magistrate to imprisonment with hard labour for any period not exceeding six months unless the tax due is sooner paid. Pro-

Penalty for non-payment of tax.

Sub-section (1) amended by No. 1 of 1923, s. 3, and by No. 7 of 1932, s. 2.

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

(12) Particulars of the Orders in Council, exempting any native or class of natives from taxation, which are still in force, are set out in the following Table:—

Date on which Order in Council made.	Date on which published in Papua Govt. Gaz.	Contents of Orders in Council.
14.7.1919	6.8.1919	“Prison warders exempted from the payment of the tax.”
9.9.1941	25.9.1941	“That members of the Papuan Infantry Battalion exempt from taxation from 1st July 1941. Unpaid taxes for any period before that date also remitted.”
18.11.1941	3.12.1941	“Native members of Papuan Military Forces to be exempt from Native Taxation. Any outstanding taxes remitted.”

(13) Annual Statements of Account with explanatory details have been published in *Papua Govt. Gaz.* The last of these Statements of Account was for the year ending 30.6.1941, and was published in *Papua Govt. Gaz.* of 7.1.1942.

(14) See also Section 7 of the *Native Plantations Ordinance, 1925-1934*, which provides that the native plantations thereunder “have for their purpose 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” Section 15(2) of the *Native Taxes Ordinance, 1917-1936.*

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ceedings under this section may be taken at any time within three years from the date on which the matter of complaint arose. Conviction and imprisonment under this section shall not operate as a discharge from the liability to pay the tax.

(2.) Notwithstanding the provisions of Section 80 of the *Native Labour Ordinance*, 1911-1916,<sup>(3)</sup> the period during which any native is in prison consequent upon any such conviction shall be counted in reckoning the time which he must serve under his Contract of Service.

Magistrate may himself institute prosecution.  
Inserted by No. 9 of 1924, s. 2.

17A. A magistrate may of his own accord summon and try any native whom he has reasonable grounds for suspecting to be a taxable native who has failed to pay the tax as required or permitted under the provisions of this Ordinance notwithstanding that no complaint has been made by any person against such native.

Compelling attendance at trial.  
Inserted by No. 9 of 1924, s. 2.

17B. A native so summoned as aforesaid shall be informed of the time and place fixed for trial and if the native fails to appear before the magistrate at the time and place so fixed the magistrate may if he sees fit have such native arrested and brought by force before him.

Proof in proceedings.  
Inserted by No. 17 of 1936, s. 2.

17c. A certificate under the hand of the Director of Native Taxation shall in all proceedings for the non-payment of tax be prima facie proof of the particulars therein contained.

Remission of tax.

18. The Lieutenant-Governor<sup>(2)</sup> may by order<sup>(15)</sup> remit the whole or any part of the tax in any financial year and such power of remission may be exercised either in favour of individuals or Districts.

Regulations.  
Substituted by No. 2 of 1922, s. 4.

19. The Lieutenant-Governor<sup>(2)</sup> may make regulations<sup>(16)</sup> prescribing all matters which by this Ordinance are required to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and in particular for any of the following matters:—

(a) For taking a census at any time and from time to time of the natives in any district and prescribing the measures to be taken therefor the duties of natives

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

(3) Repealed and replaced by the *Native Labour Ordinance*, 1941.

(15) By Orders in Council, published in *Papua Govt. Gaz.*, the Lieutenant-Governor remitted the taxation of particular individuals and Districts. These remissions were made in respect of specified years only, the last of which was for the year ending 30th June, 1941. By an Order in Council dated 28.5.1920 and published in *Papua Govt. Gaz.* of 2.6.1920 the Lieutenant-Governor ordered that, "In the case of deceased labourers tax is not to be collected; but if already paid, before death, not to be refunded".

(16) See the *Native Taxes Regulations*, 1919, printed on p. 3429, the *Native Taxes (Family Bonus) Regulations*, 1923, printed on p. 3432, the *Native Education (Primary) Regulations*, 1931, printed on p. 3446, and the *Native Taxes (Funds) Regulations*, 1936, printed on p. 3434.

with respect thereto and the information and particulars to be supplied by natives to the persons taking the census;

- (b) For the compilation of records of taxable and non-taxable natives from the census;
- (c) Providing the extent to which a census or record and any copies thereof shall be prima facie evidence in any proceedings under this Ordinance or the regulations of the facts therein stated;
- (d) For imposing for the breach of any regulation a penalty not exceeding Ten pounds and in default of payment thereof imprisonment with or without hard labour for any period not exceeding six months.

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