

VAGRANCY ORDINANCE, 1912.⁽¹⁾

An Ordinance to consolidate the Enactments for the Prevention of Vagrancy.

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

PRELIMINARY AND INTERPRETATION.

1. This Ordinance may be cited as the *Vagrancy Ordinance*, 1912.⁽¹⁾ Short title.

It shall commence on a day to be fixed by the Lieutenant-Governor by Proclamation published in the *Gazette*.⁽¹⁾ Commencement.

2. The enactments mentioned in the schedule to this Ordinance are repealed. Repeal.

3. In this Ordinance unless the context or subject-matter otherwise indicates or requires— Interpretation.

“Idle or Disorderly Person” means every person who commits any offence mentioned in Subsection (1) of Section 4;

“Incorrigible Rogue” means every person who commits any offence mentioned in Subsection (3) of Section 4;

“Justice” means justice of the peace and includes a magistrate;

“Rogue and Vagabond” means every person who commits any offence mentioned in Subsection (2) of Section 4.

(1) The *Vagrancy Ordinance*, 1912, comprises the original *Vagrancy Ordinance*, 1912, 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 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>Vagrancy Ordinance</i> , 1912 (No. 43 of 1912)	16.7.1912	—	—	23.12.1912 (Papua <i>Govt. Gaz.</i> of 23.12.1912)
<i>Ordinances Revision Ordinance</i> , 1913 (No. 3 of 1914)	—	14.8.1913	4.2.1914	4.2.1914 (Papua <i>Govt. Gaz.</i> of 4.2.1914)

CRIMINAL LAW—

OFFENCES.

Punishment of
idle and
disorderly
persons.

Q. 15 Vic.
No. 4, s. 2.

Q. 27 Vic.
No. 10, s. 1.

S.A. 15 of
1869-70, s. 62.

4.—(1.) Whosoever—

- (a) having no visible lawful means of support or insufficient lawful means does not on being required by or summoned to appear or brought before a justice in pursuance of the provisions of this Ordinance give a good account of his means of support to the satisfaction of the justice;
- (b) not being a native lodges or wanders in company with any native and does not on being required by a justice give to his satisfaction a good account that he has a lawful fixed place of residence in the Territory and lawful means of support and that he so lodged or wandered for some temporary and lawful occasion only and did not continue so to do beyond such occasion;
- (c) being a common prostitute wanders in any street or public highway or is in any place of public resort and in either case behaves in a riotous or indecent manner;
- (d) being a habitual drunkard thrice convicted of drunkenness within the preceding twelve months behaves in a riotous or indecent manner in any street public highway or place of public resort;
- (e) is the holder of a house frequented by reputed thieves or persons who have no visible lawful means of support;
- (f) is found in a house frequented by reputed thieves or persons who have no visible lawful means of support in company with reputed thieves or such persons and does not on being required by a justice give to his satisfaction a good account of his lawful means of support and of his being in such house on a lawful occasion;
- (g) wanders abroad or places himself in a public place street highway court or passage to beg or gather alms;
- (h) causes procures or encourages any child to wander abroad or place himself in a public place street highway court or passage to beg or gather alms

shall on conviction before any justice by his own view or otherwise be liable to imprisonment with hard labour for a term not exceeding two months.

(2.) Whosoever—

- (a) having been convicted under this or any former Ordinance of any such offence as is mentioned in the last

Punishment of
rogues and
vagabonds.

Q. 1b, s. 3.

Q. 24 Vic.
No. 25.

S.A. 1b, s. 63.

- preceding subsection afterwards commits any offence in the said subsection mentioned;
- (b) goes about gathering alms under false pretences of loss by fire or other casualty or as collector under any false pretence;
 - (c) imposes or endeavours to impose upon any charitable institution or private individual by false or fraudulent representations with a view to obtain money or other benefit or advantage;
 - (d) wilfully exposes to view in any street road thoroughfare highway or public place or exposes or causes to be exposed to public view in the windows or other part of any shop or building situate in any street road thoroughfare highway or public place any obscene book print picture drawing painting or other indecent exhibition or representation;
 - (e) wilfully and obscenely exposes his person in or in view of any street road or public highway or in any place of public resort;
 - (f) plays or bets at any unlawful game;
 - (g) plays or bets in any street road highway or other open and public place at or with any table or instrument of gaming at any game or pretended game of chance;
 - (h) has in his custody or possession any implement with intent feloniously to break into any dwelling-house warehouse coach-house stable or outbuilding;
 - (i) is armed with any offensive weapon or has upon him any instrument with intent to commit any felonious act;
 - (j) having any unlawful purpose is found in any dwelling-house warehouse coach-house stable or outhouse or in any enclosed yard garden or area or on board any ship or vessel in any port harbour or place within the Territory;
 - (k) being a suspected person or reputed thief frequents any river canal or navigable stream dock or basin or any quay wharf or warehouse near or adjoining thereto or any street highway or avenue leading thereto or any place of public resort or any avenue leading thereto or any street highway or place adjacent with intent to commit felony;
 - (l) on being apprehended as an idle and disorderly person violently resists the constable or peace officer appre-

hending him and is subsequently convicted of the offence for which he was apprehended shall on conviction before any justice be liable to imprisonment with hard labour for a term not exceeding four months and every such implement offensive weapon and instrument as aforesaid shall by the conviction of the offender become forfeited to the King.

(3.) Whosoever—

- (a) breaks or escapes out of any place of legal confinement before the expiration of the term for which he was committed or ordered to be confined by virtue of this Ordinance;
- (b) having been convicted under this or any former Ordinance of any such offence as is mentioned in the last preceding subsection afterwards commits any offence in the said subsection mentioned;
- (c) on being apprehended as a rogue and vagabond violently resists the constable apprehending him and is subsequently convicted of the offence for which he was apprehended

shall on conviction before any justice be liable to be committed to prison with hard labour for a term not exceeding six months.

5. Whosoever in any public street thoroughfare or place or within the view or hearing of a person passing therein—

- (a) sings any obscene song or ballad;
- (b) writes or draws any indecent or obscene word or figure or representation;
- (c) uses any profane indecent or obscene language

shall be liable on conviction before a justice to a penalty not exceeding Five pounds and in default of payment thereof to imprisonment with or without hard labour for any term not exceeding six months.

6. Whosoever in any public street thoroughfare or place uses any threatening abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned shall on conviction before a justice be liable to a penalty not exceeding Five pounds and in default of payment thereof to imprisonment with or without hard labour for any term not exceeding six months.

7. When an offender is punishable under the provisions of this Ordinance and also under the provisions of the Criminal Code⁽²⁾ he may be prosecuted and convicted under the provisions either of this Ordinance or of the Criminal Code⁽²⁾ so that he is not punished twice for the same offence.

Punishment of incorrigible rogues.

Q. 15 Vic. No. 4, s. 4.

S.A. 15 of 1869-70, s. 64.

Obscene language or writing in a public street.

Q. *Ib.* s. 5.

Section 5 amended by No. 3 of 1914, s. 3 and Second Schedule.

Abusive or threatening words or behaviour in a public street.

Q. *Ib.* s. 6.

Amended by No. 3 of 1914, s. 3 and Second Schedule.

Offender may be prosecuted under this Ordinance or the Criminal Code.

(2) See *The Criminal Code* (Queensland, adopted), printed on p. 1031.

APPREHENSION OF OFFENDERS AND SUSPECTED PERSONS.

8.—(1.) Any person found offending against this Ordinance may be apprehended by a European constable or other European and forthwith taken before a justice to be dealt with as directed by this Ordinance.

Constable or other person may apprehend offender.

Q. 15 Vic. No. 4, s. 7.

(2.) Whenever a person other than a constable apprehends an offender he may deliver him to a European constable to be taken before a justice.

Offender may be handed over to constable.

Q. *Ib.* s. 7.

(3.) Every constable who refuses or wilfully neglects to take into his custody or take before a justice a person so delivered to him or does not use his best endeavours to apprehend and convey before a justice any person whom he finds offending against this Ordinance shall be deemed to have neglected his duty within the meaning of Section 12 hereof.

Constable to take offender before a justice.

Q. *Ib.* s. 7.

9. Any justice upon information on oath before him made that an idle and disorderly person a rogue and vagabond or an incorrigible rogue is or is reasonably suspected to be harboured or concealed in any house kept or purporting to be kept for the reception lodging or entertainment of travellers or others may by warrant under his hand and seal authorize any European constable or other European to enter at any time into such house and apprehend and bring before him or some other justice every idle and disorderly person rogue and vagabond or incorrigible rogue found therein to be dealt with in the manner directed by this Ordinance.

Lodging-houses may be entered and offenders found therein apprehended.

Q. *Ib.* s. 13.

10. Any justice upon oath being made before him that any person has committed or is suspected to have committed any offence against this Ordinance may issue his warrant to apprehend and bring before him or some other justice the person so charged to be dealt with as directed by this Ordinance.

Warrant to apprehend.

Q. *Ib.* s. 8.

SEIZURE AND DISPOSAL OF PROPERTY OF OFFENDERS.

11. Any constable or other person apprehending a person charged with being an idle and disorderly person rogue and vagabond or incorrigible rogue may take any horse cattle vehicle or goods in the possession or use of the person apprehended and convey them before a justice.

Powers to seize goods found in possession of offender.

Q. *Ib.* s. 9.

12. Whenever a person is adjudged to be an idle and disorderly person or a rogue and vagabond or an incorrigible rogue the convicting justice may order—

Powers to search offender.

Q. *Ib.* s. 9.

- (a) the offender to be searched; and
- (b) his trunks boxes bundles parcels or packages to be inspected in the presence of the justice and the offender; and
- (c) any vehicle found in the offender's possession or use to be searched in the offender's presence; and

Application of money found.

Q. 15 Vic. No. 4, s. 9.

(d) any money which is then found with or upon the offender to be paid and applied towards the expenses of apprehending the offender and conveying him to prison and maintaining him during the term for which he is committed and the overplus of such money to be returned to the offender; and

Sale of effects where sufficient money not found.

Q. *Ib.* s. 9.

(e) in the event of sufficient money for the purposes aforesaid not being found upon such search that the part or if necessary the whole of the offender's other effects then found be sold and the produce of the sale paid and applied as aforesaid and the overplus of such effects returned to the offender after deducting the charges for the sale.

NEGLECT OF DUTY BY CONSTABLE.

Penalty.

Q. *Ib.* s. 12.

13. Every constable who neglects his duty in anything required of him by this Ordinance shall on conviction before one or more justices be liable to a penalty not exceeding Five pounds.

HINDERING CONSTABLE IN EXECUTION OF DUTY.

Penalty.

Q. *Ib.* s. 12.

Amended by No. 3 of 1914, s. 3 and Second Schedule.

14. Every person who disturbs or hinders any constable or other person in the execution of this Ordinance or aids abets or assists in so doing shall on conviction before one or more justices be liable to a penalty not exceeding Five pounds and in default of payment thereof to imprisonment with or without hard labour for any term not exceeding six months.

ACTIONS AGAINST JUSTICES AND OTHERS.

Limitation of actions.

Q. *Ib.* s. 18.

15.—(1.) Every action brought against a justice constable or other person for any matter or thing done or committed by him or in execution of his duty or office under this Ordinance shall be commenced within three months after the cause of action or complaint arose and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action.

(2.) If any person is sued for any matter or thing done in the execution of this Ordinance he may plead the general issue and give the special matter in evidence.

Successful defendant to have treble costs.

Q. *Ib.* s. 17.

(3.) The defendant in any such action shall if judgment be given in his favour have treble costs awarded to him by the court unless the judge certifies that there was a reasonable cause for such action.

APPLICATION OF PENALTIES.

Application of penalties.

Q. *Ib.* s. 19.

16. All penalties and forfeitures imposed by this Ordinance shall when recovered be paid into the Public Revenue Account of the Territory.

Vagrancy Ordinance, 1912.

SCHEDULE.

Schedule.

Reference to Enactment.	Title or Short Title.	Extent of Repeal.
15 Vic. No. 4 (Queensland adopted)	An Act for the more effectual prevention of Vagrancy and for the punishment of idle and disorderly persons, rogues and vagabonds and incorrigible rogues in the Colony of New South Wales	The whole enactment.
27 Vic. No. 10 (Queensland adopted)	The " <i>Vagrant Act (of 15 Victoria No. 4) Amendment Act of 1863</i> "	The whole enactment.

CRIMINAL LAW—