

NATIVE CROWN SERVANTS ORDINANCE, 1941. ⁽¹⁾

No. 10 of 1941.

An Ordinance to amend and consolidate the Law regulating the Duties of Native Servants of the Crown.

BE it ordained by the Legislative Council for the Territory of Papua, in pursuance of the powers conferred by the *Papua Act, 1905-1940*, as follows:—

1. This Ordinance may be cited as the *Native Crown Servants Ordinance, 1941.* ⁽¹⁾ Short title.

2. The *Native Crown Servants Ordinance, 1897-1917*, is hereby Repeal. repealed.

3. In this Ordinance unless a contrary intention appears— Definitions.

“Agreement” means an agreement to serve the Crown made pursuant to the provisions of this Ordinance.

“Crown” means the Crown in the right of the Government of the Territory or in the right of any Department of the Government of the Commonwealth of Australia not including a private contractor.

“Native” means a male native of the age of fourteen years or upwards.

4. The Crown may by agreement in writing executed in the presence of a Magistrate engage a native to serve the Crown for any period not exceeding three years. Agreement.

The Magistrate shall at the time of the execution of the agreement satisfy himself that the native understands the nature thereof and his obligations thereunder.

5. No proceedings for a breach of an agreement under this Ordinance shall be taken unless a copy of the agreement has been Limitation on proceedings.

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

| Date of reservation by Administrator. | Date on which assent of Gov.-Gen. in Council published in Papua <i>Govt. Gaz.</i> | Date on which came into operation. |
|---------------------------------------|---|--|
| 15.7.1941 | 5.11.1941 | 5.11.1941 (Papua <i>Govt. Gaz.</i> of 5.11.1941) |

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lodged with the nearest Resident Magistrate within one month of its execution.

Penalty for breach of agreement to serve.

6. If a native who either before or after the commencement of this Ordinance has entered or shall duly engage to serve the Crown under an agreement shall without reasonable cause (proof whereof shall lie upon him)—

(1) Neglect to enter into the service of the Crown; or

(2) After he has under such agreement entered into the service of the Crown—

(a) desert from such service; or

(b) neglect to perform any work which under such agreement it is his duty to perform

such native shall be liable upon summary conviction to a penalty not exceeding Two pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding three months or to such imprisonment without being fined.

Resumption of service may be compelled.

7. When a native has been convicted of deserting from the service of the Crown the Court that convicts him may for the purpose of compelling him to complete the remainder of the period of service make an order then and there that such servant shall forthwith or after he has served any term of imprisonment that such Court may have imposed upon him be taken into custody and handed over to some officer of the Crown at some place within the Territory specified in such order.

If an order aforesaid is to be executed forthwith no sentence of imprisonment shall be imposed upon the native to whom the order applies under the conviction upon which the order is based.

Every order aforesaid shall be carried out under a warrant signed by a Justice of the Peace which may be in the form set out in the Schedule to this Ordinance.

Arrest.

8. If a native is charged with having committed an offence under this Ordinance he may be arrested upon warrant and kept in custody and shall be brought before a Justice of the Peace as soon as practicable.

Forfeiture of wages.

9. If a native is convicted of an offence against this Ordinance or the regulations thereunder he shall not be entitled to any wages for the portion of the period of his term of service which is lost to the Crown by reason of such native having committed such offence.

Inducing desertion.

10. When any native has engaged under this Ordinance to serve the Crown any person who knowingly induces or assists such

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native to desert from such service or to fail to enter into the service of the Crown in accordance with his agreement shall upon summary conviction be liable to a penalty not exceeding Five pounds and in default of payment shall be liable to imprisonment for any period with or without hard labour not exceeding one month.

11. No action shall be brought upon any contract express or implied made by a servant of the Crown engaged under this Ordinance during the period of his service and all such contracts shall be absolutely void. Void contracts.

12.—(1.) The Administrator in Council may make regulations⁽²⁾ for the due and effectual execution of the provisions of this Ordinance and for regulating the duties and obligations of servants of the Crown thereunder. Regulations.

(2.) Any servant of the Crown who is guilty of a breach of the provisions of any such regulation shall be liable to a penalty not exceeding Two pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months or to such imprisonment without being fined.

13. The provisions of this Ordinance shall not affect the provisions of any other Ordinances regulating the employment of persons in the service of the Crown. Savings.

14. When in any proceedings under this Ordinance or the regulations thereunder it shall be necessary to prove that a native is or was under an agreement production of the copy certified by the Resident Magistrate as lodged with him pursuant to this Ordinance shall be admitted in evidence as prima facie proof that the native therein mentioned was or is under the engagement therein stated. Evidence.

SCHEDULE.

Warrant under the *Native Crown Servants Ordinance, 1941.*

In the Court of Petty Sessions for the _____ District.
To all Gaolers Police Officers and Constables.
Whereas _____ did on the _____ day of _____, 19____, enter into the service of the Crown for the period of _____.
And whereas the said _____ was on the _____ day of _____, 19____, convicted of deserting from such service: You are therefore hereby ordered to take the said _____ into custody and to convey him in custody to _____ and there hand him over to _____.
Dated this _____ day of _____, 19____.
J.P.

(2) No regulations have been made.