

# NATIVES' CONTRACTS PROTECTION ORDINANCE 1921-1936.<sup>(1)</sup>

## An Ordinance for Protecting the Interests of Natives Engaging in Certain Contracts.

**B**E it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920*, as follows:—

1. This Ordinance may be cited as the *Natives' Contracts Protection Ordinance 1921-1936*.<sup>(1)</sup>

Short title.  
Amended by  
No. 3 of 1934,  
s. 50.

2. This Ordinance shall commence on a day to be fixed by the Minister<sup>(2)</sup> by notice in the *Gazette*.<sup>(1)</sup>

Commencement.

(1) The *Natives' Contracts Protection Ordinance 1921-1936* comprises the *Natives' Contracts Protection Ordinance 1921*, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwltth. Gaz.</i>	Date on which took effect.
<i>Natives' Contracts Protection Ordinance 1921</i> (No. 5 of 1921)	6.5.1921	6.5.1921	9.5.1921 ( <i>Cwltth. Gaz.</i> of 6.5.1921)
<i>Natives' Contracts Protection Ordinance 1922</i> (No. 24 of 1922)	13.7.1922	27.7.1922	27.7.1922 ( <i>Cwltth. Gaz.</i> of 27.7.1922)
<i>Natives' Contracts Protection Ordinance 1927</i> (No. 25 of 1927)	13.7.1927	14.7.1927	The whole except Sec. 4 on 14.7.1927 ( <i>Cwltth. Gaz.</i> of 14.7.1927). Sec. 4 on 2.5.1928 ( <i>N.G. Gaz.</i> of 30.4.1928)
<i>Natives' Contracts Protection Ordinance 1928</i> (No. 25 of 1928)	5.11.1928	8.11.1928	8.11.1928 ( <i>Cwltth. Gaz.</i> of 8.11.1928)
<i>Natives' Contracts Protection Ordinance 1931</i> (No. 25 of 1931)	23.9.1931	24.9.1931	24.9.1931 ( <i>Cwltth. Gaz.</i> of 24.9.1931)

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Natives' Contracts Protection Ordinance 1935</i> (No. 39 of 1935)	31.7.1935	15.2.1936	31.7.1935 ( <i>Laws of T.N.G.</i> , Vol. XIII, p. 348)
<i>Natives' Contracts Protection Ordinance 1936</i> (No. 38 of 1936)	5.8.1936	14.11.1936	5.8.1936 ( <i>Laws of T.N.G.</i> , Vol. XIII, p. 521)

(2) Section 4 of the *Ordinances Interpretation Ordinance 1934-1941* provides that in any Ordinance "unless the contrary intention appears—'Minister' means the Minister of State for the time being administering the *New Guinea Act 1920-1932*."

## NATIVES—

Certain contracts with natives to be void unless certain requirements fulfilled.

3. Every contract of the kind specified in this section, to which a native is a party, shall be illegal and void as against a native unless the said contract is in writing and contains the express terms of performance and the name and place of residence of each party thereto and unless the said contract has been approved by a District Officer or by some other officer duly authorized in that behalf under this Ordinance—

- (1) contracts for the sale or purchase of vessels or boats except native canoes;
- (2) job contracts for the performance of a piece of work by a native—
  - (a) where the work is to be performed at a place distant more than twenty-five miles in a straight line from the usual place of residence of the said native; or
  - (b) where the performance of the contract must necessarily extend to a period of at least one year; or
  - (c) where the consideration or remuneration to be paid under the contract to any individual native is of the value of over Ten pounds;
  - (d) contracts which the Administrator may from time to time by Proclamation or notice<sup>(3)</sup> published in the *New Guinea Gazette* declare to be illegal unless the provisions of this section are complied with;<sup>(4)</sup>

(3)<sup>(4)</sup> all other contracts the consideration for which either in money or goods exceeds Twenty pounds in value.

Paragraph (3) inserted by No. 24 of 1922, s. 2.

Entering into illegal contracts with natives an offence.

Inserted by No. 25 of 1927, s. 3.

3A. Any person, other than a native, who enters into a contract with a native which is illegal and void as against the native under the provisions of the last preceding section shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for three months.

4. If upon any contract which is illegal or void as against a native any action is brought by a native who is a party to such contract against a person not a native who is a party to such contract, the Court before which the said action is brought may, whether the contract has been completely performed by all the parties thereto or not, ignore the terms of such contract and give such a verdict as the Court considers equitable in accordance with the merits of the case.

(3) No proclamation or notice has been published in *N.G. Gaz.*

(4) Sub-paragraph (d) has now been omitted and the following paragraph inserted in its stead by the First Schedule of the *Ordinances Reprint and Revision Ordinance 1947* of the Territory of Papua-New Guinea: "(3) contracts which the Administrator from time to time by notice published in the *New Guinea Gazette* declares to be illegal unless the provisions of this section are complied with."

The former paragraph (3) has now been re-numbered (4) by the same Schedule.

Court may decide case on merits.

*Natives' Contracts Protection Ordinance 1921-1936.*

5.—(1.) Every contract of the kind specified in section three of this Ordinance shall, when submitted for the approval of the District Officer or other duly authorized officer, be in triplicate.

Contract to be submitted in triplicate.

Sub-section (1) amended by No. 24 of 1922, s. 3.

(2.) If the officer approves a contract he shall have each of the copies signed in his presence by those of the parties to the contract who are not natives or by their agents and then he shall on each copy write the word "Approved" and add his name and office and the date of such approval.

(3.) If the officer disapproves a contract he shall on each copy write the word "Disapproved" and add his name and office and the date of such disapproval.

(4.) Whether the officer approves or disapproves a contract he shall return one copy thereof to the person who presented the copies to him, send one copy to the Director of District Services and Native Affairs of the Territory, and keep one copy as an office record.

Sub-section (4) amended by No. 25 of 1928, s. 2, and by No. 39 of 1935, s. 2.

6. If a native who is a party to a contract is brought before the District Officer or other duly authorized officer for the purpose of signing a contract the officer shall witness the signature or mark of the native but it shall not be incumbent upon the officer to see that any native does sign or make his mark to any contract.

Officer if required to witness signing of contract by native.

7. It shall be entirely in the discretion of a District Officer or other duly authorized officer to approve or disapprove a contract, unless he has been directed by the Administrator to approve or disapprove the contract.

Discretion of officer to approve or disapprove of contract.

8. The Administrator may from time to time by Proclamation<sup>(5)</sup> published in the *New Guinea Gazette* forbid the acquisition from any native of any article specified in the said Proclamation except in such manner as may be provided, and upon the publication of any such Proclamation it shall be an offence against this Ordinance for any person to contravene the provisions of the said Proclamation.

Administrator may prohibit certain articles being acquired from natives.

Penalty: Fifty pounds or imprisonment for three months.

9.—(1.) Any person other than a native who, without the consent in writing of a District Officer—

Payment to natives.

Section 9 inserted by No. 25 of 1927, s. 4.

(a) gives to a native any goods or commodities in lieu of payment or tender in money for services rendered or to be rendered, or any goods or commodities in exchange for any goods or commodities supplied by the natives;

Sub-section (1) amended by No. 25 of 1928, s. 3; substituted by No. 25 of 1931, s. 2.

(5) Pursuant to Section 8, the Administrator, by Proclamation dated 27.4.1931 and published in *N.G. Gaz.* of 30.4.1931, forbade "the acquisition from any native of gold, platinum, or osmiridium except with the approval in writing of a District Officer."

NATIVES—

(b) pays or gives to a native any money, goods or commodities in advance for goods or commodities to be supplied by the native; or

(c) sells or gives to a native any goods or commodities on credit,

shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for three months.

(2.) This section does not apply where the amount due to the native for any commodity or otherwise does not exceed One shilling.

Sub-section (3)  
amended by  
No. 38 of 1936,  
s. 2.

(3.) The Administrator may, by Proclamation<sup>(6)</sup> published in the *New Guinea Gazette*, suspend the operation of this section or of any sub-section of this section with regard to any area.

---

(6) A proclamation made pursuant to Section 9, dated 24.4.1928 and published in *N.G. Gaz.* of 30.4.1928, is printed on p. 3917.