

IMMIGRATION RESTRICTION ORDINANCE, 1907-1935.⁽¹⁾

An Ordinance to Place Certain Restrictions on Immigrants and to provide for the Removal from the Territory of Prohibited Immigrants.

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

1. This Ordinance may be cited as the *Immigration Restriction Ordinance, 1907-1935.*⁽¹⁾

Short title.

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

“Executive Authority” means any officer appointed⁽²⁾ by the Lieutenant-Governor⁽³⁾ to administer the Ordinance.

“Vessel” includes any aeroplane seaplane airship balloon or any other means of aerial locomotion.

Added by
No. 13 of 1935,
s. 2.

(1) The *Immigration Restriction Ordinance, 1907-1935*, comprises *The Immigration Restriction Ordinance of 1907*, 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 assent by Lieut.-Gov.	Date of reservation by Lieut.-Gov. or Administrator.	Date on which assent of Gov.-Gen. in Council published in Papua Govt. Gaz.	Date on which came into operation.
<i>The Immigration Restriction Ordinance of 1907</i> (No. 2 of 1908)	—	6.12.1907	26.5.1908	26.5.1908 (Papua Govt. Gaz. of 26.5.1908)
<i>Immigration Restriction Ordinance, 1925</i> (No. 14 of 1925)	—	31.8.1925	31.12.1925	31.12.1925 (Papua Govt. Gaz. of 31.12.1925)
<i>Immigration Restriction Ordinance</i> (No. 2), 1933 (No. 9 of 1933)	17.10.1933 ^(a)	—	—	17.10.1933 (<i>Ordinances etc. of Papua, 1933, p. 21</i>)
<i>Immigration Restriction Ordinance, 1933</i> (No. 12 of 1933)	—	20.7.1933	18.12.1933	18.12.1933 (Papua Govt. Gaz. of 18.12.1933)
<i>Immigration Restriction Ordinance, 1935</i> (No. 13 of 1935)	—	25.3.1935	7.8.1935	7.8.1935 (Papua Govt. Gaz. of 7.8.1935)

(a) Notified in Papua Govt. Gaz. of 6.6.1934 as not disallowed by the Lieut.-Gov. in Council.

(2) By notice dated 1.9.1908 and published in Papua Govt. Gaz. of 2.9.1908, the Treasurer was appointed to be the “Executive Authority” to take effect from 16.4.1908.

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

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Prohibited
immigrants.

2. The immigration into the Territory of Papua of persons described in any of the following paragraphs of this section (hereinafter called "prohibited immigrants") is prohibited namely:—

- (1) Any person who fails to pass the dictation test that is to say who when an officer dictates to him not less than fifty words in any prescribed language⁽⁴⁾ fails to write them out in that language in the presence of the officer;
- (2) Any person in the opinion of the Executive Authority likely to become a charge upon the public or upon any public or charitable institution;
- (3) Any idiot or insane person;
- (4) Any person suffering from an infectious or contagious disease of a loathsome or dangerous character;
- (5) Any person who has been convicted of an offence not being a mere political offence and has been sentenced to imprisonment for one year or longer therefor and has not received a pardon;
- (6) Any prostitute or person living on the prostitution of others.

Paragraph 5
amended by
No. 13 of 1935,
s. 3.

Exemptions.

But the following are excepted—

- (7) Any person possessed of a certificate of exemption in force for the time being in the form in the Schedule signed by the Executive Authority or by any officer appointed under this Ordinance whether within or without the Territory;
- (8) Members of the King's regular land or sea forces;
- (9) The master and crew of any public vessel of any Government;
- (10) The master and crew of any other vessel landing during the stay of the vessel in any port in the Territory of Papua: Provided that the master shall upon being so required by any officer and before being permitted to clear out from or leave the port muster the crew in the presence of an officer; and if it is found that any person who according to the vessel's articles was one of the crew when she arrived at the port and who would in the opinion of the officer be a prohibited immigrant but for the exception contained in this

(4) By notice dated 30.7.1908 and published in *Papua Govt. Gaz.* of 5.8.1908 it was notified that "in accordance with the terms of an Order in Council made on the 28th July, 1908, the following shall be, and now are, the prescribed languages under 'The Immigration Restriction Ordinance of 1907':—ENGLISH and MOTUAN."

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paragraph is not present then such person shall not be exempted by this paragraph and until the contrary is proved shall be deemed to be a prohibited immigrant and to have entered the Territory contrary to this Ordinance;

- (11) Any person duly accredited to the Government of the Territory or of the Commonwealth by the Imperial or any other Government or sent by any Government on any special mission;
- (12) Persons employed as teachers by any of the Christian Missions.

It shall be lawful for the Lieutenant-Governor⁽³⁾ upon application by the owner or manager of a plantation to grant a certificate exempting from the dictation test any labourers of special skill whom the owner or manager may desire to bring into the Territory to act as overseers or foremen. The certificate shall remain in force for such time as may be expressed therein.

3. A certificate of exemption shall be expressed to be in force for a specified period only and may at any time be cancelled by the Executive Authority by writing under his hand.

Certificates of exemption.

Upon the expiration or cancellation of any such certificate the person named therein shall if found within the Territory be deemed to be a prohibited immigrant offending against this Ordinance and may be deported from the Territory pursuant to an order of the Executive Authority: Provided that in the case of a person entering the Territory from any vessel under this section no penalty shall attach to the vessel or its master owners agents or charterers.

4. If a notice has appeared in the Commonwealth *Gazette* that an arrangement has been made with the Government of any country regulating the admission to the Commonwealth of the subjects or citizens of that country the subjects or citizens of that country shall while the notice continues to have effect be admitted into the Territory upon the same terms as into the Commonwealth. A notice to that effect shall be inserted in the *Papua Gazette*.⁽⁵⁾

Exemption of subjects or citizens of a country with which the Commonwealth has made an arrangement.

5.—(1.) Any person who has resided in the Territory for a period or periods in the aggregate of not less than five years and who is about to depart from the Territory may in manner prescribed apply to the Executive Authority or an officer authorized in that behalf for a certificate in the prescribed form exempting him if he returns to the Territory within the period limited in the certificate from the provisions of paragraph (1) of Section 2 of this Ordinance.

Certificate exempting from dictation test.

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

(5) No notice has been published in *Papua Govt. Gaz.*

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(2.) The officer may in his discretion give the certificate on payment of the prescribed fee or without assigning any reason withhold it.

(3.) Where the Executive Authority is satisfied that a certificate given under this section has been obtained by any untrue statement of fact or intention he may revoke the certificate which shall thereupon be taken to be of no effect and shall on demand be delivered up to him.

(4.) A person to whom a certificate under this section has been issued shall not on his return to the Territory within the time limited by the certificate be required to pass the dictation test if the certificate has not been revoked and he produces and delivers it to an officer.

Immigrants evading the officers or found within the Territory.

6. Any immigrant who evades an officer or who enters the Territory at any place where no officer is stationed may if at any time thereafter he is found within the Territory be required to pass the dictation test and shall if he fails to do so be deemed to be a prohibited immigrant offending against this Ordinance.

(2.) Any immigrant may at any time within one year after he has entered the Territory be required to pass the dictation test and shall if he fails to do so be deemed to be a prohibited immigrant offending against this Ordinance.

(3.) In any prosecution under the last preceding sub-section the averment of the prosecutor contained in the information that the defendant has entered the Territory within one year before his failing to pass the dictation test shall be deemed to be proved in the absence of proof to the contrary.

Entry permitted on certain conditions.

7. Any prohibited immigrant within the meaning of sub-section (1.) of Section 2 may if thought fit by an officer be allowed to enter the Territory or to remain within the Territory upon the following conditions:—

(1) He shall on entering the Territory or on failing to pass the dictation test deposit with an officer the sum of One Hundred pounds;

(2) He shall within thirty days after depositing such sum obtain from the Executive Authority a certificate of exemption in the form of the Schedule or depart from the Territory and thereupon the deposit shall be returned; but otherwise the deposit or any part thereof may be forfeited and he shall be deemed to be a prohibited immigrant offending against this Ordinance:

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Provided that in the case of any person entering the Territory from any vessel under this section no penalty shall attach to the vessel or its master owners agents or charterers.

7A.—(1.) Any prohibited immigrant within the meaning of Sub-section (2.) of Section Two may be permitted to enter and remain within the Territory upon such terms and conditions as the Lieutenant-Governor⁽³⁾ may by regulations published in the *Gazette* prescribe.

Permission to prohibited immigrant within Section 2 (2) to enter Territory.
Section 7A inserted by No. 12 of 1933, s. 2.

Such regulations shall be laid before the Legislative Council at the next session after such publication.

(2.) Upon a breach of any of the prescribed terms and conditions any prohibited immigrant who has entered the Territory pursuant to this section shall be deemed a prohibited immigrant found within the Territory in contravention of the Ordinance.

8. Any prohibited immigrant within the meaning of paragraph (1) only of Section 2 may by written permission of the Lieutenant-Governor⁽³⁾ subject to such conditions as he may approve be allowed to enter the Territory or to remain within the Territory.

Entry permitted on certain conditions.

9. Every prohibited immigrant entering or found within the Territory in contravention or evasion of this Ordinance shall be guilty of an offence against this Ordinance and shall be liable upon summary conviction to imprisonment for not more than six months and in addition to or substitution for such imprisonment shall be liable pursuant to any order of the Executive Authority to be deported from the Territory:

Unlawful entry of prohibited immigrants.

Provided that the imprisonment shall cease for the purpose of deportation or if the offender finds two approved sureties each in the sum of Fifty pounds for his leaving the Territory within one month.

10. Any person who is not a British subject either natural born or naturalized under a law of the United Kingdom or of the Commonwealth or of a State or of the Territory and who is convicted of any crime of violence against the person shall be liable upon the expiration of any term of imprisonment imposed on him therefor to be required to pass the dictation test and if he fails to do so shall be deemed to be a prohibited immigrant and shall be deported from the Territory pursuant to any order of the Lieutenant-Governor.⁽³⁾

Certain persons may be deported.

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

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Power to order certain persons to leave Territory.

Cf. Imp. 5 Edw. 7, Ch. 13, s. 3.

Cf. Cwlth. *Immigration Act*, 1901-1924, s. 8A.

Section 10A inserted by No. 14 of 1925, s. 2.

10A.—(1.) Where the Lieutenant-Governor⁽³⁾ is satisfied that within five years of the arrival in the Territory of a person who was not born in the Territory that person—

- (a) has been convicted in the Territory of a criminal offence punishable by imprisonment for one year or longer;
- (b) is a danger to the peace order or good government of the Territory; or
- (c) repeatedly acts in a manner which is inimical to the best interests of natives;

he may in the case of a person to whom he is satisfied that the provisions of Paragraph (a) apply make an order requiring him to leave the Territory within a time fixed by the order and thereafter to remain out of the Territory and in the case of a person to whom he is satisfied that the provisions of Paragraphs (b) or (c) apply he may by notice in writing summon the person to appear before a Resident Magistrate named in the summons at the time and place specified therein and in the manner prescribed to show cause why an order should not be made requiring such person to leave the Territory and thereafter to remain out of the Territory.

(2.) The Resident Magistrate named in the summons shall be furnished with a copy thereof and shall attend for the purpose of hearing the same at the time and place mentioned therein.

(3.)—

- (a) If the person fails to appear at the time specified in the summons to show cause; or
- (b) the Resident Magistrate recommends that an order be made requiring such person to leave the Territory and thereafter to remain out of the Territory

the Lieutenant-Governor⁽³⁾ may with the concurrence of the Minister for the time being administering the Commonwealth Act entitled the *Papua Act*, 1905-1924,⁽⁶⁾ make an order requiring such person to leave the Territory within a time fixed by the order and thereafter to remain out of the Territory.

- (3A.) (a) Any order or copy of an order purporting to be made by the Lieutenant-Governor⁽³⁾ in a case to which the provisions of paragraph (a) of Sub-section (1.) of Section Ten A of this Ordinance apply shall be a sufficient warrant to any officer of police or member of constabulary to arrest the person named in the order and to hold him in custody either in one of His Majesty's Prisons or elsewhere or to convey him and hold him in custody on board any vessel about to leave the Territory until the order is complied with.

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

(6) Now the *Papua Act* 1905-1940.

Sub-section (3A) inserted by No. 9 of 1933, s. 2.

- (b) The person named in the order aforesaid shall be regarded as a prohibited immigrant.
- (c) No action shall lie against the Lieutenant-Governor⁽³⁾ or against any other person for anything done or purporting to be done in good faith under the provisions of this Ordinance.

(4.) If any person in whose case the Lieutenant-Governor⁽³⁾ has made an order under any of the provisions of this section is at any time found within the Territory in contravention of the order he shall be guilty of an offence and shall be liable on conviction in a summary way to be imprisoned with or without hard labour for any period not exceeding one year.

(5.) No conviction and imprisonment of any person under the provisions of Sub-section (4.) of this section shall operate as a discharge from compliance with the order and if at any time after any such conviction and imprisonment such person be found within the Territory in contravention of the order he shall be guilty of an offence and shall be liable on conviction in a summary way to be imprisoned with or without hard labour for any period not exceeding one year.

10B.—(1.) Where an order has been made in pursuance of any of the provisions of the last preceding section the Lieutenant-Governor⁽³⁾ may if he thinks fit cause to be paid the whole or any part of the expenses of or incidental to the departure from the Territory and maintenance until departure of the person named in the order and his dependents (if any).

Expenses of departure under order.
Cf. Imp. 5 Edw. 7, Ch. 13, s. 4 (1).
Section 10B inserted by No. 14 of 1925, s. 2.

(2.) The master owners agents and charterers of any vessel when required so to do by the Lieutenant-Governor⁽³⁾ or any person thereto authorized in writing by the Lieutenant-Governor⁽³⁾ shall provide at the usual rates a passage to any port to which the vessel is bound and any accommodation as the Lieutenant-Governor⁽³⁾ or any person authorized in writing by the Lieutenant-Governor⁽³⁾ thinks fit for any person in whose case an order has been made under any of the provisions of the last preceding section.

(3.) If the master owners agents or charterers fails or fail without reasonable excuse the proof of which shall be upon him or them to comply with the provisions of the last preceding sub-section he or they shall be liable on summary conviction to a penalty not exceeding One hundred pounds.

11. The master owner and charterers of any vessel from which any prohibited immigrant enters the Territory contrary to this Ordinance shall be guilty of an offence against this Ordinance and

Penalty on masters and owners of ships.

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

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be jointly and severally liable to a penalty not exceeding One hundred pounds for each prohibited immigrant so entering the Territory.

Detention of vessel.

12.—(1.) The Executive Authority or any officer specially authorised by him may by writing under his hand authorise any officer to detain any vessel from which any prohibited immigrant has in the opinion of the officer entered the Territory contrary to this Ordinance and the vessel may then be detained either at the place where she is found or at any place to which the Executive Authority or officer may order her to be brought. The Executive Authority or authorised officer shall forthwith give notice to the owner or agent of the vessel of the detention of such vessel.

Powers of detaining officer.

(2.) For the purposes of the detention and other lawful dealing with the vessel the officer so authorized shall be entitled to obtain such writ of assistance or other aid as is provided under any law relating to the Customs with respect to the seizure of vessels or goods.

Detention to cease if bond given.

(3.) The detention shall be for safe custody only and shall cease if a bond with two sufficient sureties to the satisfaction of the Executive Authority or the officer be given by the master owners agents or charterers of the vessel for the payment of any penalty which may be adjudged under this Ordinance to be paid for the offence or default.

Sale of vessel on default.

(4.) If default is made in payment of any such penalty the officer may seize the vessel; and the like proceedings shall thereupon be taken for forfeiting and condemning the vessel as in the case of a vessel seized for breach of any law relating to the Customs and the vessel shall be sold.

Application of proceeds.

(5.) The proceeds of the sale shall be applied first in payment of the penalty and of all costs incurred in and about the sale and the proceedings leading thereto and the balance shall be paid to the owners of or other persons lawfully entitled to the vessel before condemnation and sale.

Bringing idiots or insane persons into the Territory.

13. Any person who is wilfully instrumental in bringing or attempting to bring into the Territory any prohibited immigrant within the meaning of Sub-sections (2.) (3.) (4.) or (6.) of Section 2, contrary to this Ordinance shall in addition to any other penalty be liable to the Territory for any expense in respect of the maintenance of the prohibited immigrant whilst within the Territory.

Duty of master, &c., of vessel bringing prohibited immigrants to provide return passage.

14. The master owners agents or charterers of a vessel in which a prohibited immigrant or a person who under Section 2 or 6 of this Ordinance becomes a prohibited immigrant comes to the

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Territory shall on being required by any Collector of Customs to do so without charge to the Territory provide a passage for the prohibited immigrant to the place whence he came and shall also be liable to pay to the Territory the cost of maintaining the prohibited immigrant while awaiting his deportation from the Territory.

15. The master of a vessel on which a prohibited immigrant or a person reasonably supposed to be a prohibited immigrant is may with the necessary assistance prevent the prohibited immigrant from entering the Territory from the vessel in contravention of this Ordinance.

Power of master to prevent prohibited immigrant from landing.

16. Every member of the police force and every officer may with any necessary assistance prevent any prohibited immigrant or person reasonably supposed to be a prohibited immigrant from entering the Territory and may take all legal proceedings necessary for the enforcement of this Ordinance.

Powers to enforce Ordinance.

17. Every member of the police force and every officer may without warrant arrest any person reasonably supposed to be a prohibited immigrant offending against this Ordinance and no person shall resist or prevent such arrest.

Power to arrest prohibited immigrant.

18. Subject to any Ordinance relating to the Public Service the Lieutenant-Governor⁽³⁾ may appoint⁽⁷⁾ officers for carrying out this Ordinance and may prescribe their duties.

Appointment of officers.

19.—(1.) The Lieutenant-Governor⁽³⁾ may make Regulations⁽⁸⁾ for carrying out this Ordinance and for empowering officers to determine whether any person is a prohibited immigrant.

Regulations.

(2.) All such Regulations shall be notified in the *Gazette* and shall thereupon have the force of law.

(3.) All such Regulations shall be laid before the Legislative Council at the next session after notification in the *Gazette*.

20. The Lieutenant-Governor⁽³⁾ shall cause to be made annually and laid before the Legislative Council a return showing the number of persons refused permission into the Territory on the ground of being prohibited immigrants the nations to which they belong and whence they came and the grounds on which admission was refused; the number of persons who passed the test prescribed by

Annual return showing persons refused admission.

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

(7) By notice dated 30.7.1908 and published in *Papua Govt. Gaz.* of 5.8.1908 the "Officers of H.M. Customs and European officers of the Armed Constabulary" were appointed officers for carrying out this Ordinance.

(8) See the *Immigration Restriction Regulations*, printed on p. 2215.

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paragraph (1) of Section 2 the nations to which they belong and whence they came; the number of persons admitted to the Territory without being asked to pass the test the nations to which they belong and whence they came.

Penalties.

21. Where no higher penalty is expressly imposed a person guilty of any offence against this Ordinance or against any Regulation made thereunder shall be liable on summary conviction to a penalty not exceeding Fifty pounds and in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

SCHEDULE.

TERRITORY OF PAPUA.

The Immigration Restriction Ordinance of 1907.

This is to certify that _____ of _____ aged _____ years,
a [*insert trade calling or other description*] is exempted for a period of _____
from the date hereof from the provisions of *The Immigration Restriction Ordinance of 1907.*

Dated at _____ this _____ day of _____, 19 _____

Executive Authority
(*or other officer as the case may be*).