

PAPUA.

No. 47 of 1940.

An Act to amend the *Papua Act 1905-1934.*

[Assented to 21st August, 1940.]

[Date of commencement 18th September, 1940.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Papua Act 1940.*

(2.) The *Papua Act 1905-1934** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Papua Act 1905-1940.*

General
amendments.

2. The Principal Act is amended by omitting the word "Lieutenant-Governor" (wherever occurring) and inserting in its stead the word "Administrator".

3. Section four of the Principal Act is repealed and the following section inserted in its stead:—

Definitions.

"4. In this Act, unless the contrary intention appears—

'Ordinance' means an Ordinance made by the Legislative Council;

'the Administrator' means the Administrator of the Territory, and includes any person for the time being administering the government of the Territory;

'the Executive Council' means the Executive Council for the Territory;

'the Legislative Council' means the Legislative Council for the Territory;

'the Territory' means the Territory of Papua."

4. Section ten of the Principal Act is repealed and the following section inserted in its stead:—

Office of
Administrator.

"10. There shall be an Administrator of the Territory, who shall be charged with the duty of administering the government thereof on behalf of the Commonwealth."

5. Section thirteen of the Principal Act is repealed and the following section inserted in its stead:—

Acting
Administrator.

"13.—(1.) The Governor-General may, by Commission under the seal of the Commonwealth, appoint a person to act in the office of Administrator, and to administer the Government of the Territory,

* Act No. 9, 1905, as amended by No. 32, 1920; No. 25, 1924; and No. 45, 1934.

during any vacancy in the office of Administrator, or when the Administrator is absent from the Territory or unable by reason of illness or incapacity to perform his duties; and such person who so administers shall have and may exercise and perform all the powers and functions of the Administrator.

“(2.) In default of such appointment, or in the event of the absence or inability of the person so appointed, the senior official member of the Executive Council present in the Territory shall have and may exercise and perform all the powers and functions of the Administrator.

“(3.) The exercise and performance of the powers and functions of the Administrator, during his absence from the Territory, by any person appointed under sub-section (1.) of this section, or by the senior official member of the Executive Council, acting under sub-section (2.) of this section, shall not affect the exercise or performance by the Administrator himself of any power or function.”.

6. Section fourteen of the Principal Act is amended by inserting, after the word “within”, the words “the Territory or”. Deputy
Administrator.

7.—(1.) Section seventeen of the Principal Act is repealed and the following section inserted in its stead:—

“17. The Governor-General may appoint, or may delegate to the Minister or to the Administrator power to appoint, such officers as are necessary for the administration of this Act and for the proper government of the Territory.”. Appointment
of officers.

(2.) This section shall not commence until a date to be fixed by Proclamation.

8.—(1.) Section eighteen of the Principal Act is repealed.

(2.) This section shall not commence until a date to be fixed by Proclamation. Suspension
of officers.

9. Section twenty-two of the Principal Act is amended—

(a) by omitting from sub-section (2.) the word “nine” and inserting in its stead the words “not more than nine and not less than five”;

(b) by omitting sub-section (3.) and inserting in its stead the following sub-section:—

“(3.) One member of the Executive Council shall be chosen by and from the non-official members of the Legislative Council and the other members (in this Act referred to as the ‘official members’) shall be officers of the Territory.”; and The Executive
Council.

(c) by inserting after sub-section (5.) the following sub-sections :—

“ (6.) Where on account of absence from the Territory or illness any official member is unable to perform his duties as a member of the Executive Council, the Governor-General may appoint some other officer of the Territory to act as a member of the Executive Council in his stead, and the officer so appointed shall during such absence from the Territory or illness, exercise and perform all the powers and functions of a member of the Executive Council.

“ (7.) The non-official members of the Legislative Council may choose one of their number to act as the deputy of the non-official member of the Executive Council and forward to the Administrator a notification in writing of the name of the member chosen.

“ (8.) The Governor-General may appoint—

- (a) the non-official member chosen in pursuance of the last preceding sub-section ; or
- (b) if the Administrator has not received a notification in pursuance of that sub-section, any non-official member of the Legislative Council or any other person not being an officer of the Territory,

to be the deputy of the non-official member of the Executive Council.

“ (9.) Whenever, on account of absence from the Territory or illness, the non-official member of the Executive Council is unable to perform his duties as a member of the Executive Council, or when the non-official member has been exempted by the Administrator from attendance at any meeting of the Executive Council, the deputy of the non-official member may act as a member of the Executive Council in the place of the non-official member, and may, during such absence from the Territory or illness of the non-official member or in respect of any meeting from attendance at which he has been exempted, exercise and perform all the powers and functions of a member of the Executive Council.”.

10. Section twenty-six of the Principal Act is repealed and the following section inserted in its stead :—

“ 26. Minutes of the proceedings at all meetings of the Executive Council shall be kept, and copies of the minutes relating to each meeting shall be transmitted by the Administrator to the Minister as soon as practicable after the meeting is held.”.

11.—(1.) Section twenty-nine of the Principal Act is amended— The
Legislative
Council.

(a) by inserting in paragraph (b) of sub-section (2.) after the word "Council" the words "(including any officer appointed to act in place of an official member in pursuance of sub-section (6.) of section twenty-two of this Act)";

(b) by omitting from sub-section (4.) the word "six" and inserting in its stead the word "four"; and

(c) by adding at the end thereof the following sub-sections:—

"(5.) Whenever the Administrator wishes to obtain the views of any person within the Territory touching any matters about to be brought before the Council, he may, by writing under his hand, appoint that person to be an extraordinary member of the Council for the period or periods during which the Council is dealing with those matters.

"(6.) An extraordinary member of the Council shall not be entitled to vote or be counted in any quorum."

(2.) The amendment effected by paragraph (b) of the last preceding sub-section shall not apply to appointments made prior to the commencement of this Act.

12. After section twenty-nine of the Principal Act the following section is inserted:—

"29A. The Administrator may, by notice published in the *Government Gazette* of the Territory, appoint such times for holding the sessions of the Legislative Council as he thinks fit, and may also, from time to time, in a similar manner, prorogue the Council." Sessions and
prorogation of
Legislative
Council.

13. Section thirty-three A of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:— Minutes of
Legislative
Council
meetings.

"(2.) As soon as practicable after each meeting of the Legislative Council, the Administrator shall forward to the Minister a copy of the minutes relating to that meeting."

14. Section thirty-nine of the Principal Act is amended by omitting the word "Lieutenant-Governor's" and inserting in its stead the word "Administrator's". Disallowance of
Ordinances
assented to.

15. Section forty-three of the Principal Act is amended by omitting from sub-section (1.) the word "Central" and inserting in its stead the word "Supreme". Appeal to
High Court.

16. Section forty nine of the Principal Act is repealed.

Civil list.