

CHAPTER 78.

TRIBAL ADMINISTRATION (COLONY).

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CHAPTER 78.

TRIBAL ADMINISTRATION (COLONY).

An Ordinance to promote a system of administration by tribal authority among the tribes settled in Freetown and in other places within the Colony.

48 of 1932.
32 of 1933.
(Fifth
Sched.).
21 of 1935.

[1ST JANUARY, 1933.]

1. This Ordinance may be cited as the Tribal Administration (Colony) Ordinance. Short title.

Power of Governor to recognise Headman of tribes resident in Freetown.

2. (1) Whenever it shall be represented to the Governor by petition or other means, that the members of any tribe resident in Freetown possess a recognised Headman, who endeavours to enforce a system of tribal administration for the well-being of members of the tribe resident in, or temporarily staying in Freetown, it shall be lawful for the Governor to recognise such Headman as the headman of the members of such tribe resident in Freetown for the purposes of this Ordinance:

Provided that whenever such representation shall be made by or in respect of the members of a tribe who have not previously had any recognised Tribal Headman, the Governor shall not recognise any person as the Headman thereof unless or until—

(a) the matter has been referred to the City Council of Freetown for their report as to whether or not, in their opinion it is for the benefit of the City of Freetown and of the members of the tribe resident in Freetown that a Headman should be recognised, and

(b) a non-adverse report has been received from the City Council or, in the event of no report being received from the City Council, three months have elapsed from the date on which the matter was referred to the City Council.

Appointment of Headman without representation.

(2) The Governor may, in his discretion, recognise any person as the Headman of any members of a tribe resident in or temporarily staying in Freetown, who have previously had a recognised Tribal Headman. This power shall be exercisable notwithstanding that no representation may have been made or that a representation may have been made in favour of some other person.

Notification of recognition of Headman.

(3) When any Headman is recognised by the Governor, such recognition shall be announced by a notice published in the *Gazette* and may be revoked in the same manner.

Commission of Inquiry as to Tribal Headman.

3. If there is any doubt as to the person who is recognised as Headman by the members of any tribe to which the provisions of this Ordinance would otherwise apply, or if there is no person so recognised, the Governor may appoint a Commissioner (or Commissioners), under the Commissions of Inquiry Ordinance, to inquire and report to him what person, according to the customs and desires of the members of the tribe concerned, is deemed suitable, by the majority of such members, to be the Headman of the members of such tribe, and the report returned as the result of such inquiry shall be deemed a representation, otherwise than by petition, by such members, as to the person mentioned in such report, and such person may be recognised

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as Tribal Headman by the Governor, in accordance with the provisions of this Ordinance.

4. Every member of a tribe resident or temporarily staying in Freetown shall be subject to the recognised Tribal Headman of his tribe: Subjection to Tribal Headman.

Provided that nothing in this section contained shall affect the rights acquired by any member of a tribe before the commencement of this Ordinance.

5. (1) The Governor in Council may, if he thinks fit, make rules for the carrying out of the provisions of this Ordinance, and in particular and without prejudice to the generality of the foregoing power, for any of the following purposes— Power of Governor in Council to make rules.

(a) relief of the poor and sick among the members of the tribe;

(b) the burial of deceased members of the tribe and the administration of the estates of such members, the gross value of which does not exceed five pounds, and in so far as such administration does not affect the rights or claims of persons who are not members of the tribe:

Provided that nothing herein contained shall prevent a creditor of the deceased, not being a member of the tribe, from enforcing payment of his debt by action, administration proceedings, or application to the Official Administrator;

(c) the education of the children of members of the tribe;

(d) the contributions to be made by the members of the tribe towards the expenses of administration by the Tribal Headman, the relief of the poor and sick, the improvement of dwellings in Freetown belonging to members of the tribe, the burial of members, and any other matters with respect to which the Governor has authorised, or may authorise, contributions to be obtained from the members of the tribe;

(e) registration of births and deaths amongst members of the tribe;

(f) registration of members of the tribe resident in or temporarily staying in Freetown;

(g) the remuneration to be received by the Tribal Headman for his services;

(h) the constitution of a committee to advise the Tribal Headman;

(i) the custody and disbursements of moneys vested in or received by Tribal Headmen under this Ordinance, and the audit of accounts respecting the same; and

(j) any other purpose whatsoever, which, in the opinion of the Governor in Council, is for the benefit of the members of the tribe resident in Freetown generally or any section of them.

Application
of rules.

(2) All such rules when made shall apply generally to the members of every tribe who are, or may be, resident or staying in Freetown or any other part of the Colony to which the provisions of this Ordinance have been or may be applied under section 13, unless the application of the same or any part thereof is limited expressly therein to any particular tribe or class of person. Until such rules are made the rules prescribed in the Schedule shall be in force.

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(3) (a) Any person who acts in contravention of or fails to comply with any of the rules prescribed in the Schedule or made by the Governor in Council shall be guilty of an offence against this Ordinance. It shall be lawful for the Tribal Headman to summon such person before a Police Magistrate and such person shall on conviction be liable to a fine not exceeding five pounds, and in default of payment to a period of imprisonment with or without hard labour not exceeding two months.

(b) Every summons, warrant or other process or document applied for by a Tribal Headman in any case in respect whereof fees of court are payable shall be issued free of charge.

(4) Nothing in this Ordinance shall prevent a prosecution under any other law, provided that no person shall be punished twice for the same offence.

Inclusion of
number of
similar
offences in
same in-
formation.

6. (1) Notwithstanding the provisions of any law to the contrary it shall be lawful for a Tribal Headman to charge a member of a tribe with two or more offences committed at any time during the preceding twelve months in the same information or summons where such offences are solely the non-payment of any contributions to be made by him by virtue of any rules made under section 5 of this Ordinance, but when those offences are charged together the person charged shall not be liable to a separate penalty for each offence.

Power to
convict
although
every offence
not proved.

(2) A person may be convicted of an offence under section 5 (3) of this Ordinance notwithstanding that the Tribal Headman may have failed to prove to the satisfaction of the Magistrate

* The Schedule is printed in the volume containing the subsidiary legislation of this chapter.

one or more offences out of a number of similar offences charged in the same information or summons in accordance with sub-section (1) hereof.

(3) The imposition of any fine or any sentence of imprisonment in default of payment of such fine shall not relieve any member from payment of any contributions due and payable by him.

Infliction of penalty not to extinguish liability.

(4) When a member of a tribe has been convicted of failure to pay any contributions due and payable by him the amount of any such unpaid contributions may, at any time, be levied by the attachment and sale, under the orders of the Magistrate of the goods and chattels of the member in like manner as if the same were payable under a judgment of a civil court, and the Magistrate is hereby empowered to issue such order either on his own motion or on the application of any Tribal Headman.

Unpaid contributions leviable by attachment and sale of goods and chattels.

7. If the office of Tribal Headman shall be vacant at any time any contributions which, if the said office were not vacant would be payable to the Tribal Headman by any rules made under section 5 of this Ordinance, shall be paid to the person appointed to act as Tribal Headman, and in default of any such appointment to the person next recognised as Tribal Headman by the Governor.

Contributions payable although vacancy in the office of Tribal Headman.

8. Every Tribal Headman shall, subject to the provisions of section 9 of this Ordinance, be recognised for a period of five years:

Term of office of Tribal Headman.

Provided that a Tribal Headman shall, nevertheless, continue to be recognised as such after the expiration of such period of five years until the recognition by the Governor of some other person as Tribal Headman in his place is notified under section 2 of this Ordinance.

9. It shall be lawful for the Governor to revoke the recognition or to cancel all or any of the powers of any Tribal Headman, and from the date of the publication of such revocation or cancellation the Tribal Headman shall cease to act as Tribal Headman or to exercise such cancelled powers as the case may be.

Revocation of recognition and cancellation of power of recognised Tribal Headman.

10. It shall be the duty of the Tribal Headman and of every member of the tribe to assist the Police and every Justice of the Peace in the discharge of their duties.

Duty of Tribal Headman.

Misuse of
power by
Tribal
Headman.

11. (1) Any person recognised as a Tribal Headman by virtue of this Ordinance, who uses the power and authority thereby conferred on him so as to impede, restrain, divert, or interfere with the free course of trade, shall be liable, on conviction thereof, to a fine not exceeding one hundred pounds, to be levied by distress; and, in default, to imprisonment, with or without hard labour, for a period not exceeding twelve months.

Bribery of
Tribal
Headman.

(2) Any person who bribes, or attempts to bribe, any Tribal Headman to act in contravention of all or any of the provisions of this section, or to abuse or utilise his position as a Tribal Headman for his own benefit, or for any improper purpose, and every Tribal Headman who seeks to obtain, or who agrees to take, or who takes any such bribe, shall be liable to a fine not exceeding one hundred pounds, and, in default, to imprisonment, with or without hard labour, for any period not exceeding twelve months.

No Tribal
Headman to
exercise
judicial
functions.

12. No Tribal Headman shall exercise any jurisdiction, civil or criminal, of any nature whatsoever in respect of the members of his tribe and any Tribal Headman who acts in contravention of this section shall be liable to a fine not exceeding one hundred pounds, or to imprisonment, with or without hard labour, for a period not exceeding twelve months, or to both such fine and imprisonment.

Appointment
of acting
Tribal
Headman in
certain
events.

13. Whenever—

(a) the recognition of a Tribal Headman has been revoked,
OR

(b) a Tribal Headman has died, or

(c) a Tribal Headman is for any reason temporarily unable to discharge the duties of his office,

* the Governor may appoint some person to act as Tribal Headman and such acting Tribal Headman shall have all the powers, rights, duties and obligations of a Tribal Headman. All appointments under this section shall be published in the *Gazette*.

Extension of
provisions of
Ordinance to
places other
than
Freetown.

14. (1) It shall be lawful for the Governor in Council, by Order to be approved by the House of Representatives, to extend to any place or places in the Colony outside Freetown, all or any of the provisions of this Ordinance:

* The Governor has delegated his powers under this section to the Minister of Internal Affairs. (P.N. 83 of 1957.)

Provided that such provisions thereof as appear from the context to be applicable only to Freetown shall not apply to such place or places.

(2) Any Order made in pursuance of a similar provision under any Ordinance hereby repealed shall continue in force and, so far as it could have been made under this Ordinance, shall have effect as if made or granted under this Ordinance. Saving.

15. On the coming into operation of this Ordinance—

(a) any person duly recognised as a Tribal Ruler under the Tribal Administration (Colony) Ordinance, 1924, immediately before the commencement of this Ordinance, may, notwithstanding anything in this Ordinance contained, be recognised by the Governor as the Headman of the members of the tribe resident in Freetown and shall exercise the functions and powers of a Tribal Headman as if he had been appointed under this Ordinance:

Transfer of functions and obligations of Tribal Rulers to Tribal Headman.

Provided that the original period of his term of office shall not be increased or diminished by such recognition;

(b) all and every property, estate, and effects and funds and moneys belonging to a tribe whether held in the name of a Tribal Ruler or in the name of a Tribal Ruler and any other persons in trust or otherwise immediately before the commencement of this Ordinance under the provisions of the Tribal Administration (Colony) Ordinance, 1924, shall be and the same are hereby vested in the recognised Headmen of the respective tribes and such other persons as are hereby placed in a fiduciary capacity under the provisions of this Ordinance, and the same, together with all after acquired property, and all subscriptions, contributions, donations, and any other additions thereto received or to be received, shall be held for the said tribes for the uses, ends and purposes in this Ordinance provided and declared;

(c) where at the time of the transfer of any powers or duties by or under this Ordinance any legal proceeding has commenced or is pending to which a Tribal Ruler is a party and such proceeding has reference to the powers and duties transferred by or under this Ordinance, the Tribal Headman shall be substituted in such proceeding for the Tribal Ruler and such proceeding shall not abate by reason of the substitution;

(d) the Governor in Council may, by order, make such incidental consequential and supplementary provisions as may be necessary or expedient for the purpose of giving full effect to any transfer of powers or duties by or under this Ordinance including provisions for the transfer of any property, rights and liabilities held, enjoyed, or incurred by any Tribal Ruler in connection with any powers or duties transferred, and may make such orders as may be necessary to make exercisable by a Tribal Headman the powers and duties so transferred.
