

ORDINANCE No. 48 of 1952

Assented to in Her Majesty's name this fifth day of November, 1952.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE MUNICIPALITIES AND TOWNSHIPS (PRIVATE STREETS) ORDINANCE, 1951

Date of commencement.

5th November, 1952

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

Short title.

1. This Ordinance may be cited as the Municipalities and Townships (Private Streets) (Amendment) Ordinance, 1952, and shall be read and construed as one with the Municipalities and Townships (Private Streets) Ordinance, 1951, hereinafter referred to as the principal Ordinance.

No. 17 of 1951.

Amendment of section 2 of the principal Ordinance.

2. Section 2 of the principal Ordinance is amended in the following respects—

(a) by deleting the definition of the expression "public street", appearing therein;

(b) by inserting the following definitions in their appropriate alphabetical positions in the section—

"appropriate date" means, in relation to the area of any local authority—

Cap. 135.

(a) where, at any time, any of the provisions of the Townships (Private Streets) Ordinance (hereby repealed) have been applied to the area or any part thereof, the date upon which any such provisions were first so applied;

Cap. 135.

(b) where none of the provisions of the Townships (Private Streets) Ordinance (hereby repealed) have at any time been applied to the area, or any part thereof, the date upon which any of the provisions of this Ordinance were first applied to the area or any part thereof;

“private street” means any street which is not a public street;

“public street” means, in relation to the area of any local authority—

(a) any street which was, at the appropriate date, being ordinarily repaired or maintained wholly by the local authority;

(b) any street which has been, or is, by virtue of the provisions of this Ordinance, deemed to have been, declared by the local authority, under the provisions of this Ordinance or the Townships (Private Streets) Ordinance (hereby repealed) to be a public street: Cap. 135.

Provided that—

(i) where a portion only of a street was, at the appropriate date, being so repaired or maintained, the remainder of such street shall, unless it has been, or is, by virtue of the provisions of this Ordinance, deemed to have been declared to be a public street in manner aforesaid, be deemed to be a private street for the purposes of this Ordinance; and

(ii) a street shall be deemed to be a private street for the purposes of this Ordinance notwithstanding that it, or any portion thereof, has been or been deemed to be a public street, under any law in force at any time after the appropriate date and before the commencement of the Municipalities and Townships (Private Streets) (Amendment) Ordinance, 1952, unless such street has been, or is, by virtue of the provisions of this Ordinance, deemed to have been, declared to be a public street in manner aforesaid. No. 48 of 1952.

No. 48

Municipalities and Townships (Private Streets) 1952

Repeal and replacement of section 7 of the principal Ordinance.

Private street when properly paved, etc., to be declared public street.

No. 48 of 1952.

3. There shall be substituted for section 7 of the principal Ordinance the following—

7. (1) Where any private street or part thereof has been levelled, paved or metalled, kerbed, channelled, lighted, sewered and drained, or otherwise made good in a permanent manner by or to the satisfaction of the local authority, the local authority shall forthwith declare the same to be a public street, and thereupon such street or part thereof shall cease to be a private street and shall become a public street.

(2) Where prior to the commencement of the Municipalities and Townships (Private Streets) (Amendment) Ordinance, 1952, any private street or part thereof had been levelled, paved or metalled, kerbed, channelled, lighted, sewered and drained or otherwise made good in a permanent manner by or to the satisfaction of the local authority, the local authority shall be deemed to have thereupon declared the same to be a public street and such street or part thereof shall, for the purposes of this Ordinance, be deemed to be a public street.

ORDINANCE No. 49 of 1952

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ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title.
- 2—Interpretation.
- 3—Establishment of the Fund.
- 4—Establishment and incorporation of the Board.
- 5—Documents and proceedings of the Board.
- 6—Revenue and expenditure of the Fund.
- 7—Administration of the Fund.

SECTION

- 8—Conditions for grant of loans.
- 9—General provisions as to loans.
- 10—Audit and submission of accounts and report.
- 11—Investments.
- 12—Recall of excess funds.
- 13—Regulations.
- 14—Secrecy and offences.

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT AND MANAGEMENT OF A FUND TO BE USED FOR MAKING LOANS TO ASSIST STUDENTS TO OBTAIN HIGHER EDUCATION AT INSTITUTIONS WITHIN AND WITHOUT THE COLONY AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH

5th November, 1952

Date of commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Higher Education Loans Fund Ordinance, 1952. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.

“Board” means the Higher Education Loans Management Board established and incorporated under section 4 of this Ordinance;

“Fund” means the Higher Education Loans Fund established under section 3 of this Ordinance;

“higher education” means any course of education, above the standard of the School Certificate or any equivalent examination approved by the Board;

“Member” means the Member of the Executive Council of the Colony for the time being responsible for Education;

“student” means any person undertaking or proposing to undertake higher education with assistance from the Fund.

Establishment
of the Fund.

3. There is hereby established a Fund to be known as the Higher Education Loans Fund. The Fund shall be managed and administered by the Board.

Establishment
and incorpora-
tion of the
Board.

4. (1) There is hereby established a Board which shall consist of a Chairman, a Deputy Chairman and not more than eight other members who shall be appointed by the Governor in Council and who shall hold office during his pleasure:

Provided that in case of the temporary absence or inability to act of any member of the Board the Member may appoint a person to act temporarily in the place of the member so absent or unable to act.

(2) The Board shall be a body corporate in the name of the Higher Education Loans Management Board having perpetual succession and a common seal and shall have the powers and perform the duties and functions imposed upon it or arising under this Ordinance, including the power to hold and dispose of and otherwise deal with land and to sue and be sued in its corporate name.

(3) The seal of the Board shall be authenticated by the signature of the Chairman or Deputy Chairman or one member authorized in that behalf and the secretary, and such seal shall be officially and judicially noticed.

Documents and
proceedings
of the Board.

5. (1) All documents issued by the Board or to which the Board is a party, other than those required by law to be under seal, and all decisions of the Board may be executed or signified by the hand of the Chairman or the secretary or by any other member of the Board generally or specially authorized in that behalf.

(2) The Chairman or, in the case of his temporary absence, the Deputy Chairman shall convene and preside at all meetings of the Board.

(3) A quorum of the Board shall be three.

(4) The decisions of the Board shall be by a majority of votes and the chairman of any meeting shall have an original and a casting vote.

Revenue and
expenditure
of the Fund.

6. (1) There shall be credited to the Fund—

(a) such sums of money as may from time to time be voted for the purpose by the Legislative Council;

- (b) such sums as represent the repayment of the capital and interest of any loan made by the Board;
- (c) the income from any investments made by the Board;
- (d) any gifts of money made to the Fund by any person.

(2) Expenditure approved by the Board in connexion with the administration of the Fund according to the provisions of this Ordinance may be met from the revenues of the Fund.

7. (1) The Board shall, subject to the provisions of this Ordinance, out of the Fund make loans, either with or without security, as it may in every case in its absolute discretion think fit, to any person to enable or assist students to meet the cost of higher education.

Administration
of the Fund.

(2) Every application for a loan shall be made in writing in such form as the Board may prescribe.

(3) No loan shall be made by the Board except pursuant to a resolution of the Board made at a meeting thereof convened for the purpose of considering applications for loans:

Provided that no loan shall be made pursuant to any such resolution until any security required by the Board has been furnished to and accepted by it.

8. (1) The Board may in its absolute discretion—

Conditions for
grant of loans.

- (a) grant or refuse any application for a loan;
- (b) in granting any loan impose such conditions, demand such security and require repayment in such instalments and at such times and within such period, as it may think fit:

Provided that, with the approval of the Member and subject to the provisions of this section, the Board may upon the application of any person to whom a loan has been made at any time vary—

- (i) the conditions subject to which the loan was made;
- (ii) any security given in relation to the loan; or
- (iii) any of the terms of repayment of the loan.

(2) In every case where the Board has resolved to make a loan it shall notify the applicant therefor in writing and shall require him, within such period not exceeding six months as it

may specify, to comply with any conditions and provide any security which it may have imposed or demanded, and to execute and lodge with the Board any documents which the Board may consider to be requisite thereto.

(3) If any person fails to comply with any requirement of the Board notified to him under the provisions of sub-section (2) of this section within the time prescribed the application shall be deemed to have lapsed.

General provisions as to loans.

9. (1) If in the opinion of the Board there has been or is likely to be any breach of or failure to comply with any condition or term of repayment respecting any loan the Board may, in its absolute discretion forthwith—

(a) recover from the person to whom the loan was made or his personal representatives, as a civil debt, the amount of such loan or the amount thereof then remaining unpaid, together with interest thereon;

(b) enforce or realize any security relating thereto.

(2) The Board may exercise the powers conferred by paragraph (a) and paragraph (b) of sub-section (1) of this section either singly or together.

(3) Where any action has been taken by the Board under the foregoing provisions of this section, then, from the date of commencement of such action, the obligations of the Board in respect of the loan which is the subject of such action shall be deemed to have been cancelled, and no claim or right of action shall lie against the Board in respect thereof or, in the case of a loan to be advanced by instalments, in respect of any instalment then remaining unadvanced.

Audit and submission of accounts and report.

10. (1) Appropriate accounts relating to the Fund shall be kept by the Board, and such accounts together with a balance sheet shall be audited annually by the Director of Audit.

(2) The Board shall submit to the Member as soon as may be practicable after the 31st day of December in every year a full report upon the administration of the affairs of the Board and the working of the Fund together with the accounts and balance sheet duly audited in accordance with the provisions of sub-section (1) of this section.

(3) Every report and all such accounts and balance sheets furnished to the Member under sub-section (2) of this section shall be laid by the Member upon the table of the Legislative Council as soon as possible after they have been furnished to him.

11. The revenues of the Fund shall, in so far as they are not currently required for loans and for the current expenses of the Board, be invested at the discretion of the Board in any investment authorized by law for the investment of trust funds, with power from time to time to vary or realize such investments. Investments.

12. If and whenever the cash and investments of the Fund at any time exceed one hundred thousand pounds the Member for Finance of the Colony may require the Board to pay the amount of such excess into the general revenues of the Colony. Recall of excess funds.

13. The Governor in Council may make regulations generally for better carrying out the provisions of this Ordinance. Regulations.

14. (1) Any person having any official duty or being employed in, or in connexion with, the administration of this Ordinance shall regard and deal with all documents, information, returns and forms relating to applications for advances or to the making of advances under this Ordinance as secret and confidential. Secrecy and offences.

(2) Any person having possession of, or control over, or access to any documents; information, returns or forms relating to any matter referred to in sub-section (1) of this section who communicates anything contained therein—

(a) to any person other than a person to whom he is authorized by the Board to communicate it; or
(b) otherwise than for the purposes of this Ordinance, shall be guilty of an offence.

(3) Any person applying for a loan who knowingly fails to disclose to the Board any information or makes any false statement to the Board relating thereto shall be guilty of an offence.

(4) Any person guilty of an offence under this Ordinance shall be liable upon conviction by a subordinate court of the first class to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

“registered society” means any society for the time being registered under this Ordinance;

“society” includes any club, company, partnership or association of ten or more persons, whatever its nature or object, but does not include—

- (a) any company as defined by the Companies Ordinance, Cap. 288.
or any existing company as so defined, or any company registered under Part XI of the Companies Ordinance, Cap. 288.
or any company to which Part XIII of the Companies Ordinance applies which has complied with the requirements of section 327 of that Ordinance; Cap. 288.
- (b) any company or association constituted under Royal Charter, or Royal Letters Patent, or any Imperial Act, or any law for the time being in force in the Colony;
- (c) any Lodge of Freemasons regularly constituted under any of the registered governing bodies of Freemasons in the United Kingdom of Great Britain and Northern Ireland;
- (d) any registered trade union or probationary trade union as defined by the Trade Unions Ordinance, 1952, No. 23 of 1952. and any employees’ association, employees’ organization or staff association as defined, respectively, by that Ordinance;
- (e) any company, association or partnership consisting of not more than twenty persons, formed for the sole purpose of carrying on any lawful business;
- (f) any co-operative society, registered as such under any law for the time being in force in the Colony;
- (g) any Advisory Council, Regional Education Board, Board of Governors, District Education Board, School Committee, School Area Committee or similar organization established under and in accordance with the provisions of any Ordinance for the time being in force in the Colony relating to Education.

3. (1) The Governor may appoint a Registrar of Societies Appointment of Registrars. for the Colony, and such number of Deputy Registrars of Societies and Assistant Registrars of Societies as he may consider necessary for the purposes of this Ordinance.

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- (d) any registered trade union or probationary trade union as defined by the Trade Unions Ordinance, 1952, and any employees' association, employees' organization or staff association as defined, respectively, by that Ordinance; No. 23 of 1952.
- (e) any company, association or partnership consisting of not more than twenty persons, formed for the sole purpose of carrying on any lawful business;
- (f) any co-operative society, registered as such under any law for the time being in force in the Colony;
- (g) any Advisory Council, Regional Education Board, Board of Governors, District Education Board, School Committee, School Area Committee or similar organization established under and in accordance with the provisions of any Ordinance for the time being in force in the Colony relating to Education.

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(2) No suit shall lie against any public officer for anything done or omitted to be done by him in good faith without negligence and in intended exercise of any power or performance of any duty conferred or imposed on him by this Ordinance.

Societies deemed to be established in the Colony.

4. A Society shall be deemed to be established in the Colony, although it is organized and has its headquarters or chief place of business outside the Colony, if any of its office-bearers or members resides in the Colony or is present therein, or if any person in the Colony manages or assists in the management of such society or solicits or collects money or subscription in its behalf:

Provided that no society shall be deemed to be so established, if and so long as—

- (i) it is organized and is operating wholly outside the Colony; and
- (ii) no office, place of business or place of meeting is maintained or used in the Colony by such society or by any person in its behalf; and
- (iii) no register of all or any of the members of such society is kept in the Colony; and
- (iv) no subscriptions are collected or solicited in the Colony by the society or by any person in its behalf.

Registration of societies.

5. (1) Every local society shall, in manner prescribed, make application to the Registrar for registration under this Ordinance.

(2) Upon application being made in that behalf the Registrar shall, subject to the provisions of sub-sections (3) and (4) of this section, register any local society or exempt from registration under this Ordinance any society not being a society which was immediately before the commencement of this Ordinance, an unlawful society within the meaning of paragraph (ii) of sub-section (2) of section 69 of the Penal Code; on registering, or exempting from registration, a society the Registrar shall issue to the society a certificate in the prescribed form which shall be prima facie evidence of registration or exemption, as the case may be.

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(3) The Registrar may refuse to register a local society where he is satisfied that such local society is a branch of, or is affiliated to or connected with, any organization or group

of a political nature established outside the Colony; such local society may within the period of twenty-one days of such refusal re-apply for registration if it claims to have ceased to be a branch of, or affiliated to or connected with, any such organization or group as aforesaid and where it does so, it shall not, pending a refusal of such re-application, be deemed to be an unlawful society, notwithstanding the provisions of section 9 of this Ordinance.

(4) The Registrar shall refuse to register a local society where—

(a) the society was, immediately before the commencement of this Ordinance, an unlawful society within the meaning of paragraph (ii) of sub-section (2) of section 69 of the Penal Code; or

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(b) it appears to him that such local society is likely to be used for unlawful purposes or for any purpose prejudicial to or incompatible with peace, welfare or good order in the Colony; or

(c) that he is satisfied that the application does not comply with the provisions of this Ordinance or of any rules made thereunder; or

(d) he is satisfied that the society does not exist; or

(e) the name under which the society is to be registered—

(i) is identical to that of any other existing local society; or

(ii) so nearly resembles the name of such other local society as, in the opinion of the Registrar, is likely to deceive the public or the members of either society; or

(iii) is, in the opinion of the Registrar, undesirable.

(5) The Registrar shall effect registration of a local society by entering in a register kept for the purpose the particulars given in the application form and the date of such entry. Subject to the payment of the prescribed fee the register may be searched and examined by any person during the usual office hours on application being made to the Registrar.

(6) The Registrar may, with the approval of the Governor in Council, rescind at any time any exemption granted by him under sub-section (2) of this section if he is satisfied that it is expedient so to do on the ground that the society concerned is affiliated or connected with any organization or group of a

political nature established outside the Colony or on the ground that such society is being used, or is likely to be used, for unlawful purposes or for any purpose prejudicial to or incompatible with peace, welfare or good order in the Colony or if such society has altered its objects or pursues objects other than the objects declared by it at the time in the application for exemption from registration:

Provided that the society concerned may within the period of twenty-one days from the date of the receipt of such notification apply for registration under this Ordinance and where the society does so it shall not, pending a refusal of such application, be deemed to be an unlawful society notwithstanding the provisions of section 9 of this Ordinance.

(7) The Registrar may, in his discretion cancel at any time, the registration of any society effected under sub-section (5) of this section if he is satisfied that it is expedient so to do on any of the grounds mentioned in sub-section (6) of this section:

Provided that, prior to cancelling any registration, the Registrar shall notify his intention to the society concerned and shall give it an opportunity to submit reasons (if any) why the registration should not be cancelled.

(8) Any society which is aggrieved by the Registrar's refusal to register such society or his decision to cancel the registration thereof may, within twenty-one days or such extended period as the Governor may allow, from the date of such refusal or cancellation, appeal against such refusal or decision to the Governor in Council and where the society does so it shall not, pending the decision of the Governor in Council on the appeal, be deemed to be an unlawful society, notwithstanding the provisions of section 9 of this Ordinance.

(9) Where the Registrar refuses to register a society pursuant to paragraphs (b), (c), (d) or (e) of sub-section (4) or cancels the registration of a society pursuant to sub-section (7) of this section such society may within twenty-one days of such refusal or cancellation re-apply for registration and where it does so, it shall not, pending a refusal of such re-application, be deemed to be an unlawful society notwithstanding the provisions of section 9 of this Ordinance:

Provided that no society may make more than one such re-application.

6. (1) If the Registrar has reason to believe that any registered or exempted society has ceased to exist, he may publish in the Gazette a notification calling upon such society to furnish him with proof of its existence within three months from the date of such notification.

Cessation of
existence of a
society.

(2) If at the expiration of such three months the Registrar is satisfied that the society has ceased to exist, a notification to that effect shall be published in the Gazette, and the society shall thereupon cease to be a registered or exempted society, as the case may be.

7. (1) The Registrar may, at any time, by notice under his hand, order any exempted society or registered society to furnish him in writing with—

Information to
be furnished by
societies.

- (a) a true and complete copy of the constitution and rules of any such society in force at the date of such order;
- (b) a true and complete list of office-bearers and members of any such society residing in the Colony or present therein at the date of such order;
- (c) a true and complete return of the number of meetings held by such society in the Colony within the period of six months immediately preceding such order, stating the place or places at which such meetings were held;
- (d) such accounts, returns and other information as may be prescribed.

(2) An order given under sub-section (1) of this section shall specify the time (not being less than twenty-one days) within which the information shall be supplied:

Provided that the Registrar may, on application made to him and on good cause being shown, grant an extension of time at his discretion.

8. (1) Any order made by the Registrar in relation to any exempted society or registered society under section 7 of this Ordinance shall be binding upon every office-bearer and upon every person managing or assisting in the management of any such society in the Colony:

Persons
responsible for
supplying
information.

Provided always that any such office-bearer or other person as aforesaid shall not be so bound unless he has been served with the order given by the Registrar.

(2) If any exempted society or registered society fails to comply with the whole or part of any order given under section 7 of this Ordinance, each of the persons mentioned in subsection (1) of this section who has been served as aforementioned shall be liable, on conviction to a fine not exceeding two thousand shillings unless he establishes to the satisfaction of the court that he has exercised due diligence and has failed to comply with the order for reasons beyond his control.

(3) If any information supplied to the Registrar in compliance with an order given under section 7 of this Ordinance is false, incorrect or incomplete in any material particular, the person who has supplied such information shall be liable, on conviction, to a fine not exceeding two thousand shillings unless he establishes to the satisfaction of the court that he had good reason to believe that the information was true, correct and complete.

Unlawful societies.

9. Every local society, not being a registered society or an exempted society, shall be deemed to be an unlawful society:

Provided that where a society has made an application for exemption for registration under this Ordinance it shall not be deemed to be an unlawful society pending a refusal of such application.

Penalties on office-bearer, etc., of unlawful society.

10. Any office-bearer and any person managing or assisting in the management of any unlawful society shall be guilty of a felony and liable, on conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

Penalties on member of unlawful society.

11. Any person who is or acts as a member of an unlawful society or attends a meeting of an unlawful society shall be guilty of a felony and liable, on conviction, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Person allowing unlawful society on premises.

12. Any person who knowingly allows a meeting of an unlawful society or of members of an unlawful society, to be held in any house, building or place belonging to or occupied by him, or over which he has control, shall be guilty of a felony and liable, on conviction, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

13. In any proceedings under this Ordinance—

Presumptions.

- (a) where it is proved that a club, company, partnership, or association is in existence, it shall be presumed that such club, company, partnership or association is a society within the meaning of this Ordinance unless the contrary is proved;
- (b) it shall not be necessary for the prosecution to prove that a society possesses a name, or that it has been constituted or is usually known under a particular name;
- (c) where it is alleged that a society is an unlawful society the burden of proving that it is a registered society, or an exempted society, or that it is not a local society, shall lie on the person charged.

14. (1) Where any books, accounts, writing, lists of members, seals, banners or insignia of, or relating to, or purporting to relate to, any society are found in possession of any person, it shall be presumed, until the contrary is proved, that such person is a member of such society, and such society shall be presumed, until the contrary is proved, to be in existence at the time such books, accounts, writings, lists of members, seals, banners or insignia are so found.

Presumption of membership, etc., of society.

(2) Where any books, accounts, writings, lists of members, seals, banners or insignia of, or relating to, any society are found in the possession of any person, it shall be further presumed, until the contrary is proved, that such person assists in the management of such society.

15. (1) The Governor in Council may order that the property, moveable and immovable, of an unlawful society shall vest in an officer specified in such order and thereupon such officer shall proceed to wind up the affairs of the society, and after satisfying and providing for all debts and liabilities of the society and the cost of winding up, if there shall then be any surplus assets shall prepare and submit to the Governor in Council a scheme for the application of such surplus assets.

Order for winding up affairs of unlawful society and distribution of surplus assets.

(2) An order made under sub-section (1) of this section shall be registered by the officer concerned with the registration of the title to any immovable property affected by the order, without payment of any registration fee, and no stamp duty shall be payable on any such order.

(3) A scheme submitted to the Governor in Council under sub-section (1) of this section may be amended by the Governor in Council in such way as he shall think proper in the circumstances of the case and the approval of the Governor in Council to such scheme shall be denoted by the endorsement thereon of a memorandum of such approval signed by the Governor in Council, and, upon this being done, the surplus assets, the subject of the scheme, shall be held by such officer upon the terms and to the purposes thereby prescribed.

(4) For the purpose of the winding up of the affairs of a society under this section the officer specified in the order shall have all the powers vested in the Official Receiver for the purpose of the discovering of the property of a debtor and the realization thereof.

(5) The Governor in Council may, for the purpose of enabling a society to wind up its own affairs, suspend the operation of any order made under this section for such period as to him shall seem expedient.

(6) The provisions of this section shall not apply to any property ordered to be forfeited under section 20 of this Ordinance.

Search warrants.

16. (1) Whenever it is represented on oath or affidavit to a Judge or magistrate that in fact or according to reasonable suspicion any registered society or an exempted society is being or has been used for purposes prejudicial to public peace, or to welfare or good order in the Colony, such Judge or magistrate may by warrant (called a search warrant) authorize any administrative officer or any police officer of or above the rank of Assistant Inspector to enter, if necessary using force for that purpose, into any place which is so represented to be or have been used as a place of meeting or place of business of such society and to search such place and any person found therein or escaping therefrom for evidence that such society is being used for such purposes as aforesaid.

(2) Whenever it is represented on oath or affidavit to a Judge or magistrate that in fact or according to reasonable suspicion any dwelling-house, or other building or any place is or is about to be used as a place of meeting of any unlawful society, or of persons who are members of any unlawful society, or for the concealment, custody or deposit of any books, account, writings, lists of members, banners, seals, insignia, arms or other articles belonging to any unlawful society,

such Judge or magistrate may by warrant (called a search warrant) authorize any administrative officer or any police officer of or above the rank of Assistant Inspector to enter, if necessary using force for that purpose, into and search such dwelling-house, building or place and seize or cause to be seized all books, accounts, writings, banners, lists of members, seals, insignia, arms and other articles which he has reasonable cause to believe to belong to any unlawful society or to be in any way connected therewith, and to arrest or cause to be arrested any person found in such dwelling-house, building or place or escaping therefrom whom such officer has reason to believe is a member of any unlawful society.

17. The provisions of sections 102 (1) and (3), 104, 106, 119, 120 and 121 of the Criminal Procedure Code shall apply to search warrants issued under section 16 of this Ordinance and any magistrate issuing a search warrant under that section shall be deemed to have jurisdiction throughout the Colony.

Supplementary provisions as to search warrants. Cap. 27.

18. (1) Any administrative officer or any police officer of or above the rank of Assistant Inspector may, in writing, summon before him any person who he believes, is able to give any information as to the existence or operations of any unlawful society, or suspected unlawful society, or as to the operations of any registered society or exempted society.

Powers of police and administrative officers to summon witnesses.

(2) The person so summoned shall attend at the hour and place in the summons so specified, and produce all documents in his custody, possession, or power relating to such society or suspected society, and answer truthfully all questions which such officer may put to him; any person who fails to comply with the provisions of this sub-section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings.

(3) If any person summoned by an officer under this section shall without lawful excuse fail to comply with any obligations imposed upon him by sub-section (2) of this section and to answer truthfully any question put to him under that sub-section or shall give information which the officer believes to be false, the officer may, if he considers it advisable to provide for the future identification of such person, order that a photograph and impressions of fingerprints of such person be taken at such time and in such place and manner as the officer may think fit.

(4) Any person who refuses to comply with such order or who obstructs compliance with such order may be arrested and detained in custody and shall be liable on conviction to a fine not exceeding one thousand shillings.

(5) No statement made by a person summoned before an officer under the provisions of this section shall subject him to any arrest or criminal prosecution, or be proved against him in any criminal proceeding, except a prosecution for failing to answer truthfully under this section.

Consent to prosecution.

19. Except in the case of persons arrested under the provisions of section 16 and sub-section (4) of section 18 of this Ordinance, no person shall be charged with an offence under this Ordinance or any rule made thereunder unless the prior consent in writing of the Attorney-General has been obtained.

Forfeiture.

20. Any books, accounts, writings, banners, insignia, or other property belonging to any unlawful society shall, upon the order of a Judge or magistrate, be forfeited and given to the Registrar for disposal in such manner as he may see fit.

Registered office.

21. (1) Every registered or exempted society shall have a registered office and postal address to which all communications and notices may be addressed.

(2) Notice of the situation of such registered office and of any change thereof or of such postal address shall be given to the Registrar and shall be registered by him, and the registered society or exempted society shall not be deemed to have complied with the provisions of this Ordinance until such notice has been given.

(3) If any registered society or exempted society—

(a) operates without having a registered office, or without giving notice of the situation of its registered office as hereinbefore required; or

(b) operates at any place to which its registered office may have been removed without having given notice of the change in the situation thereof to the Registrar; or

(c) fails to give notice of any change of its postal address, then such registered society or exempted society and every office-bearer thereof shall be liable to a fine not exceeding twenty shillings for every day during which such society operates.

22. (1) Every order, notice, summons or other document issued under this Ordinance, or under any rule hereunder, shall be deemed to have been validly and effectually served on the person to whom it is addressed if it is personally served on him, or is left with him, or is sent to him by prepaid registered post addressed to him at the registered office of the society with which he is concerned.

Service of
summons, etc

(2) Every order, notice or other document issued under this Ordinance or under any rule made hereunder, shall be deemed to have been validly served on a society if it is sent by prepaid registered post addressed to the society at its registered office.

(3) Any document served by being sent by registered post shall be deemed to have reached the person or society to whom or to which it is addressed within ninety-six hours of posting.

23. Every offence against the provisions of sections 11 and 12 of this Ordinance shall be a cognizable offence within the meaning of the Criminal Procedure Code.

Certain offences
cognizable.
Cap. 27.

24. In any prosecution under this Ordinance, it shall be no objection to the admissibility of evidence as to the constitution, objects or activities of any society that the witness tendering such evidence is not or has not been a member of any unlawful society.

Evidence.

25. (1) Every local society in existence at the date of the commencement of this Ordinance shall make application for registration in accordance with section 5 of this Ordinance within sixty days of such date, or within such extended period as the Registrar may allow, and, subject to the provisions of sub-section (2) of this section, no such society (not being a society to which paragraph (a) of sub-section (4) of section 5 of this Ordinance refers) shall be deemed to be an unlawful society until such period or extended period has elapsed.

Transitional
provisions.

(2) Where application for registration has been made by a local society within such period of sixty days or extended period, such society (not being a society to which paragraph (a) of sub-section (4) of section 5 of this Ordinance refers) shall, notwithstanding the provisions of section 9 of this Ordinance, not be deemed to be an unlawful society until registration (or exemption thereof) has been refused.

Rules.

26. (1) The Governor in Council may, from time to time, make rules for the purposes following or any of them—

- (a) prescribing the manner of exemption and registration of societies under this Ordinance;
- (b) regulating or restricting changes of the name or objects of exempted societies or of registered societies;
- (c) prescribing the forms which may be used for carrying out the provisions of this Ordinance;
- (d) for securing the submission to the Registrar of accounts relating to the assets and liabilities, income and expenditure, of exempted or registered societies, in such form and at such time or times and in respect of such period or periods as may be prescribed;
- (e) prescribing the fees which may be levied under this Ordinance;
- (f) securing the submission to the Registrar of annual or other periodical returns relating to the constitution, objects, membership and management of exempted or registered societies in such form as may be prescribed;
- (g) generally for carrying into effect the provisions of this Ordinance in relation to any matters, whether similar or not to those in this sub-section mentioned, as to which he may deem it expedient to make rules.

(2) A contravention of any rule under this Ordinance shall be an offence and a person guilty thereof shall be liable on conviction, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment unless a lesser penalty is prescribed.

(3) All rules made under the provisions of this section shall be laid before the Legislative Council as soon as may be after they are made, and if, within forty days of their being so laid, the Legislative Council resolves that any such rule be revoked, or amended in any manner, such rule shall thenceforward be void, or have effect as if it were so amended, as the case may be, but without prejudice to the validity of anything previously done thereunder, or to the making of any new rule.

Repeal.
Cap. 24.

27. Sections 69 to 75 of the Penal Code inclusive are hereby repealed.

ORDINANCE No. 53 of 1952

Assented to in Her Majesty's name this eleventh day of
December, 1952.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE PENAL CODE

11th December, 1952

Date of
commencement.

ENACTED by the Governor of the Colony of Kenya,
with the advice and consent of the Legislative Council thereof,
as follows:—

1. This Ordinance may be cited as the Penal Code
(Amendment No. 2) Ordinance, 1952, and shall be read and
construed as one with the Penal Code, hereinafter referred to
as the principal Ordinance.

Short title.

Cap. 24.

2. Sub-section (2) of section 26 of the principal Ordinance is amended by substituting for the words "against any person who in the opinion of the court is under eighteen years of age" appearing therein the words "against any person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of eighteen years".

Amendment of
section 26 of
the principal
Ordinance.

3. Section 79 of the principal Ordinance is amended by substituting for the words "of the Colony" appearing therein the words "in the Colony".

Amendment of
section 79 of
the principal
Ordinance.

4. Section 112 of the principal Ordinance is amended as follows—

Amendment of
section 112 of
the principal
Ordinance.

(a) by deleting the words "commits a misdemeanour" appearing therein; and

(b) by adding at the end thereof the words "is guilty of an offence, and is liable to imprisonment for five years".

5. Section 124 of the principal Ordinance is amended by substituting for the words "and shall be liable to imprisonment for six months or to a fine of three thousand shillings or to both such fine and such imprisonment" appearing therein the words "and shall be liable to imprisonment for three years".

Amendment of
section 124 of
the principal
Ordinance.

Amendment of section 329 of the principal Ordinance.

6. Section 329 of the principal Ordinance is amended by substituting for the words "sets fire to" appearing therein the words "sets fire to, cuts down, destroys or seriously or permanently injures".

Amendment of section 330 of the principal Ordinance.

7. Section 330 of the principal Ordinance is amended by substituting for the words "to set fire to" appearing in paragraph (1) thereof the words "to set fire to, cut down, destroy or seriously or permanently injure".

Amendment of section 333 of the principal Ordinance.

8. Section 333 of the principal Ordinance is amended by substituting for the words "is guilty of a misdemeanour" appearing therein the words "is guilty of a felony, and is liable, if the animal is an animal such as is referred to in section 273 of this Code, to imprisonment for fourteen years, and, in any other case, to imprisonment for three years.

Scheduled amendments of the principal Ordinance.

9. The sections of the principal Ordinance enumerated in the first column of the Schedule to this Ordinance are amended to the extent shown in the second column of the said Schedule.

SCHEDULE

(Section 9)

(1) <i>Section and Offence</i>	(2) <i>Extent of Amendment</i>
62.—Unlawful oaths to commit offences.	Substitute for the words "for seven years" the words "for ten years".
62A (1).—Compelling another person to take an oath.	Substitute for the words "for seven years" the words "for ten years".
62A (2).—Being present at and consenting to the administration of an oath.	Substitute for the words "for three years" the words "for seven years".
70.—Managing unlawful society.	Substitute for the words "is liable to imprisonment for seven years" the words "is liable to imprisonment for fourteen years".
71.—Being member of unlawful society.	Substitute for the words "is liable to imprisonment for three years" the words "is liable to imprisonment for seven years".
81.—Rioting after Proclamation.	Substitute for the words "for five years" the words "for life".
82.—Preventing or obstructing Proclamation.	Substitute— (a) for the words "for ten years" the words "for life"; and (b) for the words "for five years" the words "for life".

(1) <i>Section and Offence</i>	(2) <i>Extent of Amendment</i>
91 (2).—Threatening violence	Substitute— (a) for the words “for one year” the words “for three years”; and (b) for the words “for two years” the words “for four years”.
116 (1).—Offences relating to judicial proceedings.	Substitute for the words “for three months” the words “for three years”.
218.—Accessory after the fact to murder.	Substitute for the words “for seven years” the words “for life”.
230.—Grievous harm . . .	Substitute for the words “for seven years” the words “for life”.
233.—Unlawful wounding and similar acts.	Substitute for the words “for three years” the words “for five years”.
273.—Stealing stock	Substitute for the words “for ten years” the words “for fourteen years”.
274.—Stealing from the per- son, stealing goods in transit, etc.	Substitute for the words “for seven years” the words “for fourteen years”.
293.—Assault with intent to steal.	Substitute for the words “for three years” the words “for five years”.
297.—Demanding property with menaces.	Substitute for the words “for five years” the words “for ten years”.
303.—Persons found armed, etc., with intent to com- mit felony.	Substitute— (a) for the words “for three years” the words “for five years”; and (b) for the words “for seven years” the words “for ten years”.
334 (1).—Malicious injuries (to property) in general.	Substitute for the words “for two years” the words “for five years”.
334 (7).—Malicious injuries to things of special value.	Substitute for the words “for seven years” the words “for ten years”.
334 (8).—Malicious injuries to deeds and records.	Substitute for the words “for seven years” the words “for ten years”.

ORDINANCE No. 54 of 1952

Assented to in Her Majesty's name this eleventh day of December, 1952.

E. BARING,
Governor.

**AN ORDINANCE TO ALLOW AND CONFIRM
CERTAIN EXPENDITURE INCURRED IN THE
FINANCIAL YEAR, 1951**

11th December, 1952

Date of
commencement.

WHEREAS the expenditure of sixteen million four hundred and thirty-six thousand eight hundred and one pounds, nine shillings and forty-three cents was necessarily incurred during the Financial Year 1951, on certain services, of which the sum of twelve million eight hundred and twenty-four thousand five hundred and nineteen pounds was provided in the 1951 Appropriation Ordinance, 1950:

No. 52 of 1950.

AND WHEREAS it is now necessary to provide a further sum of three million six hundred and sixty-six thousand four hundred and seven pounds, eighteen shillings and twelve cents:

IT IS, THEREFORE, ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

Short title.

1. This Ordinance may be cited as the Supplementary Appropriation (1951) Ordinance, 1952.

Further
expenditure
for the
financial
year 1951
authorized.

2. The expenditure during the Financial Year 1951 to the amount of three million six hundred and sixty-six thousand four hundred and seven pounds, eighteen shillings and twelve cents, on the several services specified in the Schedule to this Ordinance and not provided for or not fully provided for by the 1951 Appropriation Ordinance, 1950, is hereby allowed and confirmed.

No. 52 of 1950.

1952

Supplementary Appropriation (1951)

No. 54

SCHEDULE

<i>Head</i>		<i>Amount</i>	
<i>No.</i>	<i>Head</i>	<i>£</i>	<i>s. cts.</i>
1—1	The Governor	5,231	4 12
1—2	Judicial Department (Kenya Expenditure)	18,269	1 27
1—3	Legislative Council	6,585	16 39
1—4	Audit Department	6,203	2 54
2—1	Central Administration—Secretariat	5,699	12 87
2—2	Administration	81,903	2 88
2—4	Public Works Department	493,447	2 60
2—5	Public Works Recurrent	37,469	11 02
2—6	Public Works Non-Recurrent	150,875	19 73
3—1	Office of the Member for Law and Order	417	12 37
3—2	Immigration Department	4,185	13 33
3—3	Legal Department	722	3 23
3—4	Police	47,533	8 91
3—5	Prisons	55,861	10 33
3—6	Registrar General's Department	433	19 79
4—1	Accountant General's Department	24,814	8 84
4—2	Loans from Revenue	90,216	7 14
4—3	Inland Revenue Department	3,832	11 93
4—4	Miscellaneous Services	1,317,640	14 23
4—6	Public Debt (Kenya Share)	569	12 99
4—7	Rent and Interest to H.H. the Sultan of Zanzibar ..	4,000	0 00
4—8	Subventions	94,787	9 19
5—1	Office of the Member for Agriculture, Animal Husbandry and Natural Resources	1,854	1 46
5—3	Agricultural Department	880	10 92
5—4	Forest Department	6,353	0 62
5—5	Game Department	2,816	8 21
5—6	Veterinary Services	7,877	16 76
6—1	Coast Agency	1,700	2 65
6—3	Lands Department	30,105	1 61
6—4	Survey Department	8,392	11 10
6—5	Military	41,812	11 31
6—6	Miscellaneous Services	36,814	14 41
6—7	Printing and Stationery	40,317	17 85
6—8	Registrar of Co-operative Societies	681	2 71
7—1	Office of the Member for Education, Health and Local Government	305	0 12

<i>Head No.</i>	<i>Head</i>	<i>Amount</i>	
		<i>£</i>	<i>s. cts.</i>
7—2	Services under the authority of the Member for Education, Health and Local Government	2,713	2 96
7—3	Local Government Department	963	17 07
7—4	Education Department	93,535	4 63
7—5	Government Chemist's Department	330	13 32
7—6	Local Government Contributions	154,350	19 97
7—7	Medical Department	118,974	14 54
8—1	Office of the Member for Commerce and Industry ..	2,144	14 74
8—2	Services under the authority of the Member for Commerce and Industry	316	8 59
Part B—Contributions to the cost of High Commission Services		247,916	8 00
Part C—War expenditure—Civil		411,649	11 71
Other Governments' Share of Joint Services Expendi- ture, Judicial Department		2,900	17 16
		<u>£3,666,407</u>	<u>18 12</u>

ORDINANCE No. 55 of 1952

Assented to in Her Majesty's name this eleventh day of December, 1952.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE ADVOCATES
ORDINANCE, 1949**

1st January, 1953

Date of commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. (1) This Ordinance may be cited as the Advocates (Amendment No. 2) Ordinance, 1952, and shall be read and construed as one with the Advocates Ordinance, 1949, hereinafter referred to as the principal Ordinance.

Short title and commencement.
No. 55 of 1949.

(2) This Ordinance, with the exception of section 4 thereof, shall come into force on the 1st day of January, 1953, and the said section 4 shall come into force on such date as the Governor may, by notice in the Gazette, appoint.

2. Section 4 of the principal Ordinance is amended by adding at the end thereof a new sub-section as follows—

Amendment of section 4 of the principal Ordinance.

(7) The Secretary of the Law Society of Kenya shall be the Secretary to the Committee, and his remuneration, if any, as such shall be paid by the said Law Society:

Provided that the Committee may, in the case of absence or inability to act of the Secretary of the said Law Society, appoint any person to act as Secretary to the Committee during the period of such absence or inability to act, and in such case the remuneration, if any, of the person so appointed shall be paid by the said Law Society.

3. The principal Ordinance is amended by substituting for section 22 thereof a new section as follows—

Replacement of section 22 of the principal Ordinance.

22. (1) Every advocate applying for a practising certificate shall—

Application for and issue of practising certificates.

(a) deliver to the Registrar a written declaration in the prescribed form stating the name and place of business of the applicant and the date of his admission and signed by the applicant or his partner; and

(b) at the same time produce to the Registrar a duly signed duplicate of the declaration.

(2) The Registrar shall cause all the particulars contained in the declaration to be entered in a register kept for that purpose, and any person may inspect such register during office hours without payment.

(3) On the issue of a practising certificate to an advocate, he shall pay to the Registrar—

(a) such fee in respect of such certificate as may be prescribed by regulation made under section 74 of this Ordinance; and

(b) the annual subscription payable for the time being by members of the Society,

No 10 of 1949.

and he shall thereupon, notwithstanding anything in the Law Society of Kenya Ordinance, 1949, or in any regulation thereunder, become, by virtue of this Ordinance and without election, admission, or appointment, a member of the Society and be subject to any provision of law for the time being affecting such member:

Provided that every advocate to whom a practising certificate is issued before the 1st day of February in any year shall, if he was an advocate on the 1st day of January of that year, be deemed, on payment of the said annual subscription, to have become a member of the Society on the said 1st day of January.

(4) The Registrar shall withhold the issue of a practising certificate until the fee therefor and the aforesaid annual subscription are paid.

(5) Every advocate who shall become a member of the Society under sub-section (3) of this section shall, subject to the provisions of sub-section (6) of this section, remain a member until the end of the current year.

(6) When an advocate who is a member of the Society by reason of the provisions of sub-section (3) of this section has his name, whether at his own request or otherwise, removed or struck off the Roll by an order of the Court or of the Committee, he shall thereupon cease to be a member of the Society.

(7) An advocate who is a member of the Society by reason of the provisions of sub-section (3) of this section and who is suspended from practice shall not be entitled during the period of such suspension to any of the rights or privileges of such membership.

(8) If in any case, not being a case to which sub-section (4) of this section or section 23 of this Ordinance applies, the Registrar, on application duly made to him, refuses or neglects to issue a practising certificate, the applicant may apply to the Court or any Judge thereof or the Chief Justice, which or who may make such order in the matter, including an order for payment of costs by or to either the Registrar or the applicant, as shall be just.

(9) Subject to the foregoing provisions of this section and to the provisions of section 23 of this Ordinance, the Registrar, if satisfied that the name of an applicant is on the Roll, shall, after the expiration of six days from the delivery to him of the declaration referred to in sub-section (1) of this section, deliver to the applicant or his agent on demand a practising certificate in such form as may be prescribed.

(10) In this section, "the Society" means the Law Society of Kenya established by the Law Society of Kenya Ordinance, 1949. No. 10 of 1949.

4. The principal Ordinance is amended by inserting therein immediately following section 27 thereof a new section as follows— New section 27A of the principal Ordinance.

27A. Notwithstanding anything contained in this Ordinance, no advocate who has the rank of Queen's Counsel shall perform any of the functions which, in England, are performed by a solicitor and are not performed by a barrister; but an advocate who has the rank of Queen's Counsel shall not be precluded from continuing or engaging in partnership with another advocate by reason only that such last-mentioned advocate performs any functions as aforesaid. Queen's Counsel debarred from performing certain functions.

New section
72A of the
principal
Ordinance.

Payment of
fees, etc., to the
Law Society of
Kenya.

5. The principal Ordinance is amended by inserting therein immediately following section 72 thereof a new section as follows—

72A. All admission fees received by the Registrar under sub-section (4) of section 7 of this Ordinance, and all fees for practising certificates, and all annual subscriptions to the Law Society of Kenya, received by the Registrar under section 22 of this Ordinance, shall be paid to the Law Society of Kenya and may be applied by the Society to all or any of the objects of the Society.

ORDINANCE No. 56 of 1952

Assented to in Her Majesty's name this eleventh day of December, 1952.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE LAW SOCIETY OF
KENYA ORDINANCE, 1949**

1st January, 1953

Date of
commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. (1) This Ordinance may be cited as the Law Society of Kenya (Amendment) Ordinance, 1952, and shall be read and construed as one with the Law Society of Kenya Ordinance, 1949, hereinafter referred to as the principal Ordinance.

Short title and
commencement.

No. 10 of 1949.

(2) This Ordinance shall come into force on the 1st day of January, 1953.

2. Section 2 of the principal Ordinance is amended by inserting therein immediately before the definition of "Council" a new definition as follows—

Amendment of
section 2 of the
principal
Ordinance.

"advocate" has the same meaning as in the Advocates Ordinance, 1949;

No. 55 of 1949.

3. The principal Ordinance is amended by substituting for Part III thereof a new Part as follows—

Replacement of
Part III of the
principal
Ordinance.

PART III—MEMBERSHIP

6. The membership of the Society shall consist of the following—

Membership.

(a) all advocates who are members of the Society by reason of the provisions of section 22 of the Advocates Ordinance, 1949;

No. 55 of 1949.

(b) all persons admitted to membership of the Society under section 7 of this Ordinance;

(c) all persons elected as honorary members of the Society under section 8 of this Ordinance.

7. Any of the following persons who applies for membership of the Society in the prescribed manner shall be admitted as a member of the Society, that is to say—

Qualifications
for membership.

(a) the Attorney General, Solicitor General, Legal Draftsman, Deputy Public Prosecutor and

Crown Counsel, for the time being of the Colony, and any person duly qualified as a barrister or solicitor holding office in the Attorney General's Department;

- (b) the Legal Secretary and the Assistant Legal Secretary to the East Africa High Commission, and any person duly qualified as a barrister or solicitor holding office in the Legal Secretary's Department or in the East Africa Income Tax Department;
- (c) any person duly qualified as a barrister or solicitor holding office in any municipality established under the Municipalities Ordinance;
- (d) the Registrar General and any person duly qualified as a barrister or solicitor holding office in his Department;
- (e) the Native Courts Officer if duly qualified as a barrister or solicitor;
- (f) such other legally qualified persons, for the time being resident in the Colony, as may from time to time be determined by special resolution:

Cap. 136.

No. 55 of 1949.

Provided that, subject to the provisions of section 22 of the Advocates Ordinance, 1949, no person who has been duly expelled from membership of the Society shall thereafter be admitted again as a member thereof without the authority of a special resolution.

Honorary membership.

8. The Council may elect as honorary members of the Society such persons as it may think fit, either for life or for such period as the Council may in any case deem appropriate.

Annual subscriptions.
No. 55 of 1949.

9. Subject to the provisions of section 22 of the Advocates Ordinance, 1949, members of the Society shall pay into the funds of the Society such annual subscription as may from time to time be prescribed:

Provided that no honorary member shall be liable to pay any such subscription.

No entrance fee payable.

10. No entrance fee shall be payable by any person on becoming a member of the Society.

Resignations.

10A. No member of the Society shall resign or be permitted to resign his membership thereof at any time while he is entitled to practise as an advocate, but, save as aforesaid, and subject to the provisions of section 22 of

the Advocates Ordinance, 1949, any member of the Society may resign his membership thereof in such manner as may be prescribed. No. 55 of 1949.

10B. Subject to the provisions of section 22 of the Advocates Ordinance, 1949, any member of the Society, other than an honorary member, may be expelled therefrom in such manner, and upon such grounds, after being given a reasonable opportunity to answer all allegations made against him, as may from time to time be prescribed: Expulsion.
No. 55 of 1949.

Provided that no member of the Society who is entitled to practise as an advocate shall be expelled from the Society at any time while entitled so to practise.

10C. Any member of the Society other than an honorary member, who ceases to be qualified for membership shall thereupon automatically cease to be a member. Members ceasing
to be qualified
for membership.

4. Section 27 of the principal Ordinance is amended by substituting for paragraph (a) thereof a new paragraph as follows— Amendment of
section 27 of
the principal
Ordinance.

“(a) annual subscriptions;”.

ORDINANCE No. 57 of 1952

Assented to in Her Majesty's name this eleventh day of
December, 1952.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title.
2—Interpretation.
3—Reinstatement rights of persons engaged
in military, police or other national
service or duty.

SECTION

- 4—Application of Ordinance to persons
whose service ended before the com-
mencement thereof.

SCHEDULE

**AN ORDINANCE TO MAKE PROVISION FOR THE
REINSTATEMENT IN CIVIL EMPLOYMENT OF
PERSONS CALLED UP FOR MILITARY, POLICE
OR OTHER NATIONAL SERVICE AND FOR SAFE-
GUARDING THE EMPLOYMENT OF PERSONS
LIABLE FOR SUCH SERVICE AS AFORESAID;
AND FOR PURPOSES CONNECTED THEREWITH**

11th December, 1952

Date of
commencement.

ENACTED by the Governor of the Colony of Kenya,
with the advice and consent of the Legislative Council there-
of, as follows:—

Short title.

1. This Ordinance may be cited as the Reinstatement in
Civil Employment Ordinance, 1952.

Interpretation.

2. In this Ordinance the expression "national service"
means such duty or service as the Governor in Council may
declare to be national service for the purpose of this
Ordinance.

Reinstatement
rights of persons
engaged in
military, police
or other
national service
or duty.

3. Where any person has at any time after the 19th day
of October, 1952, entered upon—

Cap. 89.

(a) a period of active service as an officer or member of the
Kenya Regiment (Territorial Force) or the Kenya
Regiment (Territorial Force) Reserve established by
the Kenya Regiment (Territorial Force) Ordinance in
pursuance of a proclamation made by the Governor
in exercise of the powers conferred upon him by
section 13 of that Ordinance; or

1952

Reinstatement in Civil Employment

No. 57

- (b) a period of emergency duty as an officer or member of the Kenya Police Reserve established by the Kenya Police Force Reserve Ordinance in pursuance of his calling out by the Commissioner of Police in exercise of the powers conferred upon the Commissioner by section 9 of that Ordinance; or
- (c) a period of national service in pursuance of any obligation or undertaking, whether legally enforceable or not, to engage in or perform such service,

Cap. 76.

the provisions, hereinafter called the said provisions, of sections 24, 25 and 28 to 34 (inclusive) of the Compulsory Military Training Ordinance, 1951, shall apply to such person in like manner as the said provisions apply to a person called up for military training under that Ordinance; and accordingly reference in the said provisions to a person called up for military training shall be construed as including reference to a person who had entered upon a period of active service or of emergency duty or of national service in the circumstances aforesaid:

No. 57 of 1951.

Provided that the said provisions, in their application as hereinbefore provided, shall have effect as if they were modified in the manner set forth in the Schedule to this Ordinance.

4. Subject to the proviso to section 3 of this Ordinance, the said provisions shall have effect, in relation to a person whose period of active service or of emergency duty or of national service, being a period entered upon in the circumstances mentioned in section 3 of this Ordinance, has ended before the commencement of this Ordinance, as if that period had ended immediately after the commencement of this Ordinance:

Application of Ordinance to persons whose service ended before the commencement thereof.

Provided that, where the person in question is in the employment of his former employer at the commencement of this Ordinance, he shall be treated for the purposes of the said provisions as having entered that employment immediately after the commencement of this Ordinance in pursuance of an application for reinstatement in such employment duly made by him under the said provisions.

SCHEDULE

(Section 3)

MODIFICATIONS OF COMPULSORY MILITARY TRAINING ORDINANCE, 1951
(No. 57 of 1951)

Section of Ordinance	Modifications
24.	<p>Sub-section (1) is modified by substituting for the words "in employment at the time of receiving the enlistment notice, make application to his employer in writing at any time before the enlistment date", appearing therein, the words "in employment at the date when the period of active service or of emergency duty or of national service commenced, make application to his employer in writing at any time before such period ends"; and by substituting for the words "at the time of the receipt of his enlistment notice" appearing in paragraph (a) thereof, the words "at the date such period commenced".</p> <p>Sub-section (2) is modified by substituting for the words "his period of initial training", appearing therein, the words "his period of active service, or of emergency duty or of national service, as the case may be"; and by substituting for the words "of the said training", appearing therein, the words "of the said period".</p> <p>Sub-section (6) shall have no effect.</p>
25.	<p>Sub-section (1) is modified by substituting for the words "equal to the period of his absence while undergoing initial training", appearing in paragraph (a) thereof, the words "equal to the period of his active service or of emergency duty or of national service, as the case may be"; and as if the words "of training" appearing later in that paragraph were deleted; and by substituting for the words "time when his initial training commenced", appearing in paragraph (b) thereof, the words "time when his period of active service or of emergency duty or of national service, as the case may be, commenced".</p>
27.	<p>The section is modified by substituting for the words "while such person is undergoing his initial training", appearing therein, the words "while such person is performing his active service or of emergency duty or of national service, as the case may be".</p>
29.	<p>Sub-section (1) is modified by substituting for the words "at the time of his call up", appearing therein, the words "at the time his period of active service or of emergency duty or of national service, as the case may be, commenced".</p>

ORDINANCE No. 58 of 1952

Assented to in Her Majesty's name this twenty-third day
of December, 1952.

E. BARING,
Governor.

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AND INTERPRETATION

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- 3—Duties and powers of Member and Department.
- 4—Member's powers in respect of public funds, etc.
- 5—Bursaries.

PART III—ADVISORY COUNCILS

- 6—Appointment of Advisory Councils.
- 7—Functions.
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- 10—Procedure.
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- 19—Constitution and functions of Board for Government school.
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- 22—Constitution and functions of Boards for aided schools.
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- 24—Existing Boards and modification of Certificates of Incorporation under the Land (Perpetual Succession) Ordinance.

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- 27—Gazettement of School Committees.
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- 29—Constitution and functions of School Committees for aided schools.
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AN ORDINANCE TO REFORM THE LAW RELATING TO EDUCATION IN THE COLONY

1st January, 1953

Date of commencement.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

PART I—SHORT TITLE, COMMENCEMENT AND INTERPRETATION

Short title and commencement.
G.N. No. 1398
of 30-12-52.

1. This Ordinance may be cited as the Education Ordinance, 1952, and shall come into operation on such date as the Governor shall, by notice in the Gazette, appoint.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“Advisory Council” means a Council appointed under Part III of this Ordinance;

“aided school” means any public school other than a Government school;

“Board of Governors” means a Board established under Part VI of this Ordinance;

“Department” means the Department of Education of the Colony;

“Director” means the person for the time being holding the office of Director of Education;

“District Education Board” means a board established under Part VIII of this Ordinance;

“Government school” means a school maintained out of public funds and managed by the Department;

“manager”, in relation to any school other than a Government school, means the person or body of persons responsible for the management of the school, and for the purposes of the provisions of this Ordinance relating to applications for the establishment of schools, and registration of schools, includes any person or body of persons proposing to be so responsible;

“medical inspection” means the physical examination of children in attendance at school and the consideration of all matters affecting the physical health of such children by a school medical officer and shall include physical examination by a school nurse;

“Member” means the Member of the Executive Council for the time being responsible for Education;

“parent”, in relation to any pupil or child, includes a guardian and every person who has the actual custody of the pupil or child;

“public school” means any school maintained or aided by way of a recurrent grant out of public funds or the funds of any public or local authority;

“pupil” includes a person of any age for whom education is required to be provided under this Ordinance and any person enrolled on any register of enrolment of children in attendance at a school maintained in the school;

“Regional Education Board” means a board established under Part IX of this Ordinance;

“school” means an institution in which not less than ten pupils receive regular instruction whether by way of personal tuition or by correspondence, and any assembly of not less than ten pupils for the purpose of receiving any such regular instruction, and any institution or place from which a regular

4. The Member may from time to time from public funds—

Member's powers in respect of public funds, etc.

- (a) establish or maintain or make grants in aid of or advances on loan in respect of schools and libraries;
- (b) establish or maintain boarding houses accessory to schools established or maintained under this Ordinance, and make grants or advances in aid of the establishment, maintenance or repair of boarding houses accessory to schools maintained under this Ordinance:

Provided that in the case of any aided school the consent of the manager shall first have been obtained;

- (c) maintain, or make grants or advances in aid of, any body of persons, institutions or organizations which promote the education or welfare of the people of the Colony or a substantial section thereof;
- (d) provide for the conduct of all such examinations as are held under the supervision or control of the Department;
- (e) provide in whole or in part for transporting pupils to and from any public school, or for, or in connexion with, the activities of any body of persons, institution or organization maintained or aided out of public funds;
- (f) provide for the compulsory medical inspection of pupils at any public school and for the exclusion on medical grounds of pupils from any such school;
- (g) provide for the reimbursement of the expenses of any body constituted under the provisions of this Ordinance;
- (h) make such other provision for the carrying on of public education as may be consistent with the provisions of this Ordinance.

5. The Member may from time to time from public funds provide bursaries and scholarships to assist in the education, maintenance and transport of pupils who are undergoing or proceeding to undergo courses of instruction at any institution approved by the Member, and may withdraw such bursaries or scholarships, provided always that the grant or withdrawal of any bursary or scholarship shall be in accordance with and subject to conditions prescribed by rules made under this Ordinance.

Bursaries.

PART III—ADVISORY COUNCILS

Appointment of
Advisory
Councils.

6. The Member may by order appoint one or more Advisory Councils to advise the Director in matters affecting education generally or affecting the education of any community or section of the public.

Functions.

7. The functions of an Advisory Council shall be to advise the Director upon the following matters in connexion with the education of those in whose interest the Council is appointed—

- (a) the organization of educational facilities;
- (b) the course of instruction to be given in different types or classifications of schools;
- (c) the fees to be charged in public schools;
- (d) the fees to be charged for boarding at public schools;
- (e) proposed legislation affecting education;
- (f) any matter submitted by two members of the Council;
- (g) any other matters referred to the Council by the Director.

Constitution.

8. An Advisory Council shall consist of such and so many members as the Member may from time to time decide, who shall hold office for a period of three years:

Provided that—

- (i) the Chairman of every Advisory Council shall be the Director or his nominee;
- (ii) the Member may at any time revoke the appointment of any member;
- (iii) the Member may at any time appoint a person to act temporarily in the place of any member in case of the absence or inability to act of such member.

Secretary.

9. The Secretary to an Advisory Council shall be an officer of the Department appointed by the Director.

Procedure.

10. An Advisory Council may—

- (a) decide the number required to constitute a quorum of the Council;
- (b) appoint, and decide the constitution and powers of, committees of the Council;
- (c) regulate its own procedure in so far as the same is not prescribed by regulations made under this Ordinance.

11. An Advisory Council shall meet at least once in every year and at such other times as the Director may decide; on receipt of a written request signed by three members of the Council, the Director shall summon a meeting of the Council to be held within six weeks of such request. Meetings.

12. An Advisory Council, at the discretion of the Chairman, may invite any person or persons to attend any meeting of the Council or its committees and such person or those persons may take part in the proceedings of that meeting but shall not be entitled to vote. Attendance of non-members.

13. It shall be the duty of the Director, as Chairman of an Advisory Council, to report to the Council the action taken on any matter on which the Council has advised the Director. Reports.

14. The order appointing an Advisory Council and every appointment, revocation of an appointment, and resignation of a member of an Advisory Council shall be notified in the Gazette. Gazettement of Council, etc.

PART IV—RELIGIOUS INSTRUCTION

15. (1) Subject to the provisions of this section, religious instruction shall be given in every public school. Religious instruction in public schools.

(2) If the parent of any pupil in attendance at any public school requests that he be wholly or partly excused from attendance at religious worship in the school or from attendance at both religious worship and religious instruction in the school, then, until the request is withdrawn, the pupil shall be excused from such attendance accordingly.

(3) Where the parent of a pupil attending a public school desires him to attend religious worship or religious instruction of a kind which is not provided in the school, the school shall provide such facilities as may be practicable for the pupil to receive religious instruction and attend religious worship of the kind desired by the parent.

(4) The Director may by order, published in the Gazette, direct that the provisions of this section shall not apply to any school or classification or type of school or pupils of a particular religious persuasion in any school or classification or type of school.

PART V—MANAGEMENT OF SCHOOLS

Restriction on management of schools without consent of Member.

16. (1) No person shall without the prior written approval of the Member manage or assist in the management of any school or group of schools.

(2) The Member may at any time, in his discretion, by notice in writing to the manager of any school or group of schools, withdraw any approval given by him in respect of such manager under sub-section (1) of this section.

Offence.

17. Any person who manages or assists in the management of a school or group of schools without the written approval of the Member given under section 16 of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a period not exceeding six months:

Provided that in the case of a person who, being at the date of the commencement of this Ordinance a manager of or an assistant in the management of a school or group of schools, applies for such written approval in respect of his management of or assistance in the management of such school or group of schools within the period of two months following such date, it shall not be an offence to continue to manage or assist in the management of such school or group of schools during any period prior to the refusal of such written approval.

PART VI—BOARDS OF GOVERNORS

Establishment of Boards of Governors for Government schools.

18. If, in the opinion of the Member, the establishment of a Board of Governors would be in the interests of any Government school or group of Government schools, he may by order establish a Board of Governors for that school or group of schools.

Constitution and functions of Board for Government school.

19. An order establishing a Board of Governors under section 18 of this Ordinance shall provide for—

- (a) the exercise by the Board of the duty of management of the school or group of schools specified in the order subject to such limitations or restrictions as may be so specified;
- (b) a membership of the Board of not less than three and not more than nine persons;

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- (c) the representation on the Board of the Government, the community or communities served by the school or group of schools and such bodies or organizations as, in the opinion of the Member, have a claim to be represented thereon;
- (d) the method by which continuity of membership of the Board will be provided;
- (e) the revocation of the appointment of, retirement of, and resignation of, members of the Board and the appointment of temporary members thereof in case of absence or inability to act of other members thereof;
- (f) the respective responsibilities, duties and powers of the Board and of any trustees incorporated under the provisions of the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for any school or group of schools affected by the order; Cap. 163.
- (g) such other matters as the Member may consider necessary in respect of the constitution, functions or procedure of the Board.

20. Every order establishing a Board of Governors under the provisions of section 18 or section 21 of this Ordinance shall be published in the Gazette. Gazettement of Boards of Governors.

21. (1) Where in the opinion of the Director it is desirable that a Board of Governors should be set up to manage an aided school or group of such schools he shall cause proposals thereanent to be placed before the manager or managers of that school or group of schools. Proposals for establishment of Board for aided schools.

(2) Where in the opinion of the manager or managers of any such school or group of schools as are referred to in sub-section (1) of this section it is desirable that a Board of Governors be set up to manage the school or group of schools he or they shall submit proposals thereanent to the Director.

(3) The Director shall submit any proposals made by or to him under sub-section (1) or sub-section (2) of this section which may have been agreed between him and the manager or managers of any school or group of schools to the Member who may adopt any such proposals with or without modification and where the Member adopts any such proposals, with or without modification, he shall proceed to establish, by order, a Board of Governors for the school or group of schools to which such proposals relate.

Constitution and
functions of
Boards for aided
schools.

22. An order establishing a Board under section 21 of this Ordinance shall provide for—

(a) the exercise by the Board of the duty of management of the school or group of schools specified in the order subject to such limitations or restrictions as may be so specified;

(b) a membership of the Board of not less than three and not more than fifteen persons;

(c) the representation on the Board of, subject to the provisions of Part V of this Ordinance, the former manager or managers, the Government, and the community or communities served by the school or group of schools and of such other bodies or organizations as may be mutually agreed on by the Member and the former manager or former managers, all in such numbers and proportions as may be so agreed:

Provided always that the Member's nominees under this paragraph shall in no case be fewer than two;

(d) the method by which continuity of membership of the Board may be provided;

(e) the revocation of the appointment of, retirement of, and resignation of, members of the Board, and the appointment of temporary members thereof in case of absence or inability to act of other members thereof;

(f) the respective responsibilities, duties and powers of the Board and of any trustees incorporated under the provisions of the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for any school or group of schools affected by the order;

(g) such other matters as the Member may consider necessary in respect of the constitution, functions or procedure of the Board.

Cap. 163.

Suspension of
grants, etc.

23. The Member may direct the Director to suspend the payment of any moneys due to be paid out of public funds to the manager of, or in respect of, any school, in any case in which the Member has adopted, with or without modification, proposals made under section 21 of this Ordinance in respect of such school, until the establishment of a Board in accordance with section 22 of this Ordinance.

24. (1) The Member may approve, with or without modification, the constitution of any Board of Governors in existence at the commencement of this Ordinance and thereupon such Board shall be deemed to be a Board of Governors appointed under this Ordinance and shall continue to function under such constitution or under such constitution as so modified as aforesaid.

Existing Boards and modification of Certificates of Incorporation under the Land (Perpetual Succession) Ordinance. Cap. 163.

(2) The Member, before making an order establishing a Board of Governors under this Part in relation to any school, may require that any trustees incorporated under the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for the school shall apply to the Governor in Council for amendment, in such terms as the Member may require, of the certificate of incorporation granted by the Governor in Council under that Ordinance; and, whether or not such an application is made, the Governor in Council shall have power, wherever any Board of Governors is or has been established, to amend any such certificate in such manner as he thinks fit or to cancel any such certificate and make such consequential order, which shall have the force of law, for divesting the trustees of the land for the time being vested in the trustees and for vesting such land in such person or body as the Governor in Council may think fit upon trusts as nearly as possible in conformity with the trusts upon which such land was held immediately prior to such order.

(3) An order made under the provisions of sub-section (2) of this section shall not be liable to any stamp duty and any officer concerned with the registration of the title to the land affected by such order shall register the same in respect of such title without payment of any fee; and any such order may be registered under the provisions of the Registration of Titles Ordinance notwithstanding the provisions of section 80 of that Ordinance.

Cap. 160.

PART VII—SCHOOL COMMITTEES

25. Where in the opinion of the Director the establishment of a School Committee is in the interests of a Government school or a group of Government schools he shall by order establish such a Committee.

Establishment of School Committees for Government schools.

26. An order establishing a School Committee under section 25 of this Ordinance shall provide for—

(a) the exercise by the Committee of the power of considering and refusing applications for admission to

Constitution and functions of School Committees for Government schools.

24. (1) The Member may approve, with or without modification, the constitution of any Board of Governors in existence at the commencement of this Ordinance and thereupon such Board shall be deemed to be a Board of Governors appointed under this Ordinance and shall continue to function under such constitution or under such constitution as so modified as aforesaid.

Existing Boards and modification of Certificates of Incorporation under the Land (Perpetual Succession) Ordinance. Cap. 163.

(2) The Member, before making an order establishing a Board of Governors under this Part in relation to any school, may require that any trustees incorporated under the Land (Perpetual Succession) Ordinance in whom any land is vested in trust for the school shall apply to the Governor in Council for amendment, in such terms as the Member may require, of the certificate of incorporation granted by the Governor in Council under that Ordinance; and, whether or not such an application is made, the Governor in Council shall have power, wherever any Board of Governors is or has been established, to amend any such certificate in such manner as he thinks fit or to cancel any such certificate and make such consequential order, which shall have the force of law, for divesting the trustees of the land for the time being vested in the trustees and for vesting such land in such person or body as the Governor in Council may think fit upon trusts as nearly as possible in conformity with the trusts upon which such land was held immediately prior to such order.

(3) An order made under the provisions of sub-section (2) of this section shall not be liable to any stamp duty and any officer concerned with the registration of the title to the land affected by such order shall register the same in respect of such title without payment of any fee; and any such order may be registered under the provisions of the Registration of Titles Ordinance notwithstanding the provisions of section 80 of that Ordinance.

Cap. 160.

PART VII—SCHOOL COMMITTEES

25. Where in the opinion of the Director the establishment of a School Committee is in the interests of a Government school or a group of Government schools he shall by order establish such a Committee.

Establishment of School Committees for Government schools.

26. An order establishing a School Committee under section 25 of this Ordinance shall provide for—

Constitution and functions of School Committees for Government schools.

(a) the exercise by the Committee of the power of considering and refusing applications for admission to

the school or group of schools specified in the order subject to such limitations or restrictions as may be so specified :

Provided that where the Committee refuses any application for admission, a right of appeal against such refusal shall lie to the Director whose decision shall be final;

- (b) a membership of the Committee of not less than three or more than nine persons;
- (c) the representation on the Committee of the Government, the community or communities served by the school or group of schools and such other bodies or organizations as, in the opinion of the Director, have a claim to be represented thereon;
- (d) the method by which continuity of membership of the Committee shall be provided;
- (e) the revocation of the appointment of, retirement of, and resignation of, members of the Committee, and the appointment of temporary members thereof in case of absence or inability to act of other members thereof;
- (f) such other matters as the Director may consider necessary in respect of the constitution, functions or procedure of the Committee :

Provided that unless the order specifically so provides the Committee shall have no control or authority over any teacher or servant appointed by the Government.

Gazettement of School Committees.

27. Every order establishing a School Committee under the provisions of section 25 or section 28 of this Ordinance shall be published in the Gazette.

Proposals for establishment of Committees for aided schools.

28. (1) Where in the opinion of the Director, it is desirable that a School Committee be set up in respect of any aided school or group of such schools he shall cause proposals thereanent to be submitted to the manager or managers of that school or group of schools.

(2) Where in the opinion of the manager or managers of any such school or group of schools as are referred to in subsection (1) of this section it is desirable that a School Committee be set up in respect of that school or group of schools he or they shall submit proposals thereanent to the Director.

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(3) The Director may, in agreement with the manager or managers of any school or group of schools, adopt any proposals submitted by or to him under sub-section (1) or sub-section (2) of this section, with or without modification, and where he adopts any such proposals, with or without modification, the Director shall proceed to establish, by order, a School Committee for the school or group of schools to which such proposals relate.

29. An order establishing a School Committee under section 28 of this Ordinance shall provide for—

- (a) a membership which shall not be less than six and not more than fifteen persons;
- (b) the representation on the Committee of the manager, or managers, the Government and the community or communities to be served by the school or group of schools;
- (c) the method by which continuity of membership of the Committee is to be secured;
- (d) the revocation of the appointment of, retirement of, and resignation of, members of the Committee, and the appointment of temporary members thereof in case of absence or inability to act of other members thereof;
- (e) the determination by the Committee of applications for admission to the school or group of schools specified in the order:

Provided that where the Committee refuses any application for admission a right of appeal against such refusal shall lie to the Director whose decision shall be final;

- (f) such other matters as the Director may consider necessary in respect of the constitution, functions or procedure of the Committee:

Provided that—

- (i) unless the order otherwise provides the Committee shall be prohibited from exercising any authority over any teacher or servant appointed by the manager or managers;
- (ii) the order shall make provision for a right of appeal to the Director, whose decision thereon shall be final, in respect of staffing changes made by the manager or managers to which the Committee object.

Constitution and functions of School Committees for aided schools.

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Suspension of grants, etc.

30. The Director may suspend the payment of any moneys due to be paid out of public funds to the manager of, or in respect of, any school, in any case in which the Director has adopted, with or without modification, proposals made under section 28 of this Ordinance in respect of such school, until the establishment of a School Committee in accordance with section 29 of this Ordinance.

PART VIII—DISTRICT EDUCATION BOARDS

Establishment of District Education Boards.

31. The Director may by order establish a District Education Board in respect of any area or areas in which, in the opinion of the Director, the establishment of such a Board is likely to promote, or assist the development of, education.

Orders establishing Boards and Gazettement.

32. (1) An order establishing a District Education Board under section 31 of this Ordinance shall specify the classification or type of schools, or groups of schools, to which the order applies and the area or areas over which the Board shall be entitled to exercise jurisdiction.

(2) Every order establishing a District Education Board shall be notified in the Gazette.

Membership.

33. A District Education Board shall consist of the following members—

- (a) one member, who shall be Chairman of the Board, to be appointed by the Member;
- (b) one member, who shall be Secretary and Executive Officer of the Board, to be appointed by the Director;
- (c) four members to be appointed by the local government authority for the area or areas over which the Board has jurisdiction, or, where there is more than one such authority, to be appointed by such local government authorities in such proportions as the Member may direct;
- (d) four members to be appointed by the manager or managers of the schools or groups of schools specified in the order establishing the Board subject to the prior approval of such members by the Provincial Commissioner or Commissioners for the area or areas concerned.

34. Every member of a District Education Board appointed under paragraphs (c) and (d) of section 33 of this Ordinance shall, subject to the provisions of section 37 of this Ordinance, hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment.

Period of office.

35. Whenever the Director is satisfied that any member of a District Education Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office he may authorize the appointment by the appropriate authority, body or person of some fit person to be a deputy to act for such member during the period of such incapacity.

Appointment of temporary members.

36. Whenever the appointment of a member of a District Education Board is revoked and whenever a member shall resign or die, the person or body responsible for his appointment shall appoint another member to take his place, and the appointment of such a member shall expire on the date on which the appointment of the member whose place he has taken would have expired by effluxion of time.

Casual vacancies.

37. The Member may, on the recommendation of the Director, at any time revoke the appointment, whether made by the Member or not, of any member of the Board.

Revocation of appointment.

38. A District Education Board shall meet at least once in every year; the Chairman of the Board may summon a special meeting whenever he considers such a meeting to be necessary and shall, on the written request of not less than three members of the Board, summon such a meeting to be held within six weeks of such request.

Meetings.

39. The Director, or his representative, and the Provincial Commissioner, or his representative, may be present at any meeting of a District Education Board and may take part in the proceedings thereat but shall not be entitled to vote; the Chairman of the Board may invite any person to attend any meeting of the Board and such person may take part in the proceedings of that meeting, but shall not be entitled to vote.

Attendance of non-members.

40. The functions of a District Education Board, in respect of the schools or group of schools specified in the order establishing the Board, and in respect of the area over which the Board has jurisdiction shall consist of—

Functions of Board.

(a) the preparation of estimates of revenue and expenditure;

- (b) the receipt of subventions or grants-in-aid from public funds and from the funds of any local government authority or authorities;
- (c) the administration of grants-in-aid in respect of such schools and in accordance with such estimates as may be approved by the Director;
- (d) the receipt of school fees;
- (e) the submission to the Director for approval of plans for the promotion or development of education in the area or areas over which the Board has jurisdiction and the carrying out of such approved plans;
- (f) the tendering of advice to the Director on the establishment and management of new schools;
- (g) the submission of such statistical, financial and other reports as the Director may require;
- (h) the management of any public school;
- (i) such other matters as may be prescribed by regulations made under this Ordinance.

Regulations.

41. Regulations may be made under section 80 of this Ordinance for all or any of the following purposes with regard to any District Education Board established under this Ordinance—

- (a) for prescribing the powers and duties of the Board in regard to the manner of establishment of new schools and the supervision and management of the schools or groups of schools specified in the order establishing the Board or situate within the area or areas over which the Board has jurisdiction;
- (b) for prescribing the manner and form in which records, statistics and accounts shall be kept by the Board and the manner in which the Board shall render returns and make recommendations to the Director;
- (c) for prescribing, subject to the provisions of sections 38 and 39 of this Ordinance, provisions as to, and the procedure to be followed at, meetings of the Board;
- (d) for prescribing the manner and form in which development plans shall be drawn up and submitted to the Director for his approval by the Board.

PART IX—REGIONAL EDUCATION BOARDS

42. The Director may by order establish a Regional Education Board in respect of any area or areas which, in the opinion of the Director, the establishment of such a Board is likely to promote, or assist the development of, education.

Establishment of
Regional
Education
Boards.

43. (1) An order establishing a Regional Education Board under section 42 of this Ordinance shall specify the classification or type of schools, or groups of schools, to which the order applies and the area or areas over which the Board shall be entitled to exercise jurisdiction.

Orders
establishing
Boards and
Gazettement.

(2) Every order establishing a Regional Education Board shall be notified in the Gazette.

44. A Regional Education Board shall consist of the following members—

Membership.

- (a) one member, who shall be Chairman of the Board, to be appointed by the Member;
- (b) one member, who shall be Secretary and Executive Officer of the Board, to be appointed by the Director;
- (c) eight other members, of whom at least one shall be a woman, appointed by the Member in such proportions as he thinks fit and drawn from such bodies, organizations and communities as the Member may consider to be concerned in the furtherance of education in the area specified in the order establishing the Board.

45. Every member of a Regional Education Board appointed under paragraph (c) of section 44 of this Ordinance shall, subject to the provisions of section 48 of this Ordinance, hold office for a period of three years from the date of his appointment, and shall be eligible for re-appointment.

Period of office.

46. Whenever the Director is satisfied that any member of a Regional Education Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office he may appoint some fit person to be a deputy to act for such member during the period of such incapacity.

Appointment of
temporary
members.

47. Whenever the appointment of a member of a Regional Education Board is revoked and whenever a member shall resign or die the Member shall appoint another member to take his place and the appointment of such a member shall

Casual vacancies.

expire on the date on which the appointment of the member whose place he has taken would have expired by effluxion of time.

Revocation of appointment.

48. The Member may, on the recommendation of the Director, revoke the appointment, whether made by the Member or not, of any member of the Board.

Meetings.

49. A Regional Education Board shall meet at least once in every year; the Chairman of the Board may summon a special meeting whenever he considers such a meeting to be necessary and shall, on the written request of not less than three members of the Board, summon such a meeting to be held within six weeks of such request.

Attendance of non-members.

50. The Director, or his representative, and the Provincial Commissioner or the Provincial Commissioners of the area or areas over which a Regional Education Board has jurisdiction, if not members of the Board, or his or their representative or representatives, and any other person invited by the Chairman of the Board, may take part in the proceedings at any meeting of the Board but shall not be entitled to vote; the Chairman may invite any person to attend any meeting of the Board and such person may take part in the proceedings at that meeting, but shall not be entitled to vote.

Functions of Board.

51. The functions of a Regional Education Board, in respect of the schools specified in the order establishing the Board, and in respect of the area over which the Board has jurisdiction shall consist of—

- (a) the preparation of estimates of revenue and expenditure;
- (b) the receipt of subventions or grants-in-aid from public funds and from any such source as may be approved by the Member;
- (c) the administration of grants-in-aid in respect of such schools and in accordance with such estimates as may be approved by the Director;
- (d) the receipt of school fees;
- (e) the submission to the Director for approval of plans for the promotion or development of education in the area or areas over which the Board has jurisdiction and the carrying out of such approved plans;

- (f) the tendering of advice to the Director on the establishment and management of new schools;
- (g) the submission of such statistical, financial and other reports as the Director may require;
- (h) the management of any public school which the Director considers should be managed by the Board;
- (i) such other matters as may be prescribed by regulations made under this Ordinance.

52. Regulations may be made under section 80 of this Ordinance for the like purposes with regard to any Regional Education Board as may, under section 41 of this Ordinance, be made with regard to a District Education Board. Regulations.

PART X—CONTROL OF SCHOOLS

53. (1) The Director may adopt a system of classification with appropriate nomenclature for distinguishing— Classification and nomenclature thereof.

- (a) different types of schools according to the nature or form, or highest form, of education provided therein respectively; and
- (b) different classes, standards or forms within schools according to the stage and nature of education provided therein respectively.

(2) Any manager of a school who refers to such school in, or in the course of, any correspondence, or any advertisement, or any literature, whether similar to the foregoing or not, in such a manner as to suggest that the school is of a type or classification other than that in which it is, for the time being, registered under this Part, shall be guilty of an offence, and liable on conviction to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

54. (1) Any person desirous of establishing a school shall first make application for the registration thereof in accordance with regulations made under this Ordinance; and any person desirous of maintaining a school which is at the date of the commencement of this Ordinance established but not registered under Part VII of the Education Ordinance (hereby repealed) shall make application for such registration within two months of such date. Registration of schools.
Cap. 90.

(2) For the purposes of this Ordinance, the establishment of a school shall be deemed to include—

- (a) the provision of any additional class, standard or form in any school, whether or not such class, standard or form is parallel to any existing class, standard or form in the school; or
- (b) the provision of any nature or form of education in any school, being a nature or form of education different from the nature or form of education falling within the classification in which the school is, for the time being, registered under this Part; or
- (c) the adoption by the manager of any school, by any means, in relation to the school, a different nomenclature from that in which the school is, for the time being, registered as aforesaid; or
- (d) the reopening of any school which has remained closed for a consecutive period of six months or more; or
- (e) the transfer of the ownership or management of any school, whether such transfer takes effect by way of partnership or otherwise.
- (f) the transfer of a school to a new site;
- (g) the alteration of any qualification for admission to any school.

(3) An application for registration of a school shall state, according to the nomenclature adopted by the Director under section 53 of this Ordinance, the classification of the school sought to be established and the classes, standards or forms to be provided therein, and registration may be effected accordingly or otherwise as the Director thinks proper in relation to the school.

Cap. 90

(4) Any registration of a school effected under Part VII of the Education Ordinance (hereby repealed) and in force immediately before the date of the commencement of this Ordinance shall become null and void upon the expiration of six months from such date; upon an application for registration of any such school under this Part the Director shall, subject to the provisions of sub-section (6) of this section, register the school in such classification as he may consider is proper in relation to such school and shall indicate in the register in which such registration is effected the number and category of classes, standards or forms which he considers ought properly to be provided in such school.

(5) The Director may, in his absolute discretion, refuse any application for registration of a school, other than a school to which sub-section (4) of this section applies.

(6) The Director shall refuse an application for the registration of any school the manager of which is a person who has not been approved by the Member under section 16 of this Ordinance.

(7) The Director may, on registering any school, register the same in a category which restricts the highest form or type of education which may be provided therein.

(8) The Director may cancel the registration of any school where he is satisfied that—

- (a) the manager thereof has persisted in adopting in relation to the school a different nomenclature from that in which the school is, for the time being, registered under this Part; or
- (b) the school has remained closed for a consecutive period of six months or more; or
- (c) any approval by the Member of the manager, or, if there is more than one, of all the managers, thereof, under section 16 of this Ordinance has been withdrawn.

(9) The Director shall, at convenient intervals, publish in the Gazette, a list of the schools for the time being registered under this Part and of any schools the registration of which has been cancelled.

(10) Any person who—

- (a) establishes or maintains a school which has not been registered in accordance with the provisions of this Part; or
- (b) manages or assists in the management of any such school, or any school the registration of which is cancelled under the provisions of this section; or
- (c) manages or assists in the management of any school in which to his knowledge any publication or periodical publication which is for the time being declared to be unsuitable for use in schools by the Member under section 57 of this Ordinance, or any copy thereof, or extract therefrom, is used or referred to in, or in the course of, or as part of, the instruction provided in such school

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a period not exceeding six months and to a further fine not exceeding fifty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine to imprisonment for such period as is prescribed by section 29 of the Penal Code.

Cap. 24.

Regulations
prescribing
requirements for
school premises.

55. (1) The Director shall make regulations prescribing the minimum requirements for health and safety to which the premises of every school shall conform and such regulations may prescribe different requirements for different classifications of schools:

Provided that if the Director is satisfied with respect to any school that having regard to the nature of the site or to any existing buildings thereon or to other special circumstances affecting the school premises it would be unreasonable in that case to require conformity with any such regulations in any particular respect, he may direct that the school premises shall be deemed to conform to the prescribed requirements.

(2) Where it appears to the Director that in the case of any school, the premises thereof do not conform to any regulations made under this section he may order the manager thereof to execute within a reasonable period, to be stated in the order, such specified works as are necessary to secure such conformity.

(3) Any person who, being aware that an order made under sub-section (2) of this section in respect of any school has not been complied with, manages or assists in the management of the school to which such order relates shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a period not exceeding six months and to a further fine not exceeding fifty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine to imprisonment for such period as is prescribed by section 29 of the Penal Code.

Cap. 24.

Conduct of
schools.

56. (1) It shall be the duty of the manager of every school—

(a) to keep a record in such form as may be so prescribed, of teachers employed thereat, showing their qualifications;

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- (b) to ensure that the school is properly conducted and follows a curriculum approved by the Director;
- (c) to ensure that no nomenclature is adopted for, or in relation to, the school except that in which the school is, for the time being, registered under this Part;
- (d) to ensure that the head teacher keeps a register of enrolment of pupils and register of their daily attendance in such form as may be so prescribed;
- (e) to furnish to the Department and to any body constituted under this Ordinance whose functions relate to such school such returns as the Director may require.

(2) Any manager of a school who shall fail to comply with any of the requirements of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred shillings and in default of payment to imprisonment for a period not exceeding two months and to a further fine not exceeding twenty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine to imprisonment for such period as is prescribed by section 29 of the Penal Code. Cap. 24.

57. (1) The Director or any person duly authorized by him may from time to time visit, with or without notice, and enter and inspect, any school or any place at which it is reasonably suspected that a school is being conducted, and may inspect and take copies of, or extracts from, any records or accounts kept or maintained in relation to any such school or suspected school:

Inspection of schools and proscription of publications.

Provided that in the case of a purdah school the inspection shall be carried out by a woman.

(2) For the purposes of this section a school shall be deemed to include any part of such school and any building used in connexion with it, including workshops, dormitories, kitchens, sanatoria, hostels, staff quarters and all ancillary buildings.

(3) The Member may, by notice in the Gazette, declare any publication or periodical publication to be unsuitable for use in schools, and such a declaration made in respect of a periodical publication shall include all past and future issues thereof; for the purposes of this sub-section, the expressions "publication" and "periodical publication" have the meanings assigned to them respectively by section 52 of the Penal Code, Cap. 24.

and such a declaration as aforesaid shall be deemed to extend to all copies, in whatsoever language, of such publication or periodical publication.

Closing of schools.

58. (1) If, as a result of an inspection carried out in accordance with the provisions of the preceding section, or otherwise, the Member is satisfied that—

- (a) any school is conducted in a manner which is calculated to be detrimental to the physical, or mental, or moral, welfare of the pupils attending thereat or that any instruction has been imparted therein, to any pupil, which is prejudicial to peace, good order or good government in the Colony; or
- (b) the premises of any school do not and cannot at reasonable expense be made to, conform with the requirements of section 55 of this Ordinance; or
- (c) the curriculum approved by the Director is persistently and materially departed from in any school; or
- (d) any publication or periodical publication which is for the time being declared to be unsuitable for use in schools by the Member under section 57 of this Ordinance, or any copy thereof, or extract therefrom, is, or has been, after the date of such declaration, used or referred to in, or in the course, or as part of the instruction provided in any school;
- (e) any school is not for the time being registered under and in accordance with this Part;
- (f) any person has been convicted of an offence under section 17 of this Ordinance in relation to any school;
- (g) any person who has been convicted of such an offence is managing or assisting in the management of any school,

he may order the manager of such school to close the school.

(2) Any school ordered to be closed under this section and which has remained closed for a period of less than six months may be reopened at the discretion of the Director; whenever a school ordered to be closed under this section has remained closed for a consecutive period of six months or more, the reopening thereof shall be deemed, for the purposes of section 54 of this Ordinance, to be the establishment of a new school.

59. (1) Whenever an order is made under this Part for the closing of any school, and it appears to the Member to be in the interests of education in the area in which such school is situate that the school should be reopened, the Member may—

Power to take over schools.

- (a) take possession of the school and the site thereof, and reopen the school;
- (b) take possession of any land, adjoining the site of the school, which he considers is required for use in connexion with the school;
- (c) take possession of any chattels, in the school, or which were at the date of the order closing the school, usually used in connexion with the school;
- (d) subject to the provisions of the Water Ordinance, 1951, take water for the purpose of the school, from any source of supply whether natural or artificial; No. 56 of 1951.
- (e) do, or authorize the doing, in relation to such school, school site, land, chattels or source of water supply, anything which a person being the absolute owner thereof would be entitled to do by virtue of such ownership;
- (f) make any arrangements, including the appointment of managers or a managing body with such powers as he may think fit to vest in him or them, in relation to the management of the school;
- (g) give such directions as appear to him to be necessary or expedient in respect of any of the foregoing matters;
- (h) request any person who was, at the date of the order closing the school, using, or in occupation or possession of, such school, or school site, land, chattels, or source of water supply, to furnish in relation thereto such information as may be in his possession to such person or authority as may be specified in such request;
- (i) delegate, to such extent and subject to such restrictions as he thinks proper, any of his powers under this section, except the power of making rules conferred by sub-section (6) of this section.

(2) Any police officer may take such steps and use such force as appears to him to be reasonably necessary for securing compliance with any directions given by the Member under paragraph (g) of sub-section (1) of this section.

(3) Where the Member takes possession of any chattels under the powers conferred by sub-section (1) of this section, he may use or deal with, or authorize the use of or dealing with, the chattels in such manner as he thinks fit, and may hold, or sell or otherwise dispose of the same as if he were the absolute owner thereof.

(4) Where the source of any water supply is the property of any statutory undertaker, water shall not be taken from such source except with the consent of such statutory undertaker.

G.N. No. 970 of
1940.

(5) Where in the exercise of the powers conferred on the Member by this section possession is taken of any property compensation in respect thereof shall be assessed and payable in accordance with the provisions of the Defence (Compensation) Regulations, 1940, or any Ordinance or regulations replacing the same.

Cap. 100.

(6) This section in its application to a school, which is, or any part of the site whereof is, situate in the Native Lands, as defined by the Native Lands Trust Ordinance, shall have effect subject to the following modifications, that is to say—

(a) as if paragraphs (a) and (b) of sub-section (1) thereof did not appear therein;

(b) as if, in paragraph (e) of sub-section (1) thereof, the words "school, school site, land," were deleted; and

(c) as if sub-section (5) thereof were limited in its application to chattels only;

(7) Where any compensation is paid by an African District Council in pursuance of section 22 of the Native Lands Trust Ordinance upon the setting apart of the site of a school in respect of which an order has been made under section 58 of this Ordinance, such compensation shall, if the Member has previously agreed to the payment thereof, be repaid to the African District Council out of the general revenues of the Colony. Where an African District Council refuses or is unwilling or fails to pay such compensation the Member may pay the same to the parties entitled thereto and such payment shall operate as if the same were made by the African District Council.

(8) Any person who—

(a) hinders or obstructs the Director or any officer of the Department acting in the course of his duty as such,

or any person exercising any powers, or performing any duties, conferred or imposed, by or under this section; or

(b) hinders or obstructs any police officer acting in the exercise of any powers conferred upon him by sub-section (2) of this section; or

(c) fails to comply with any request made to him under paragraph (h) of sub-section (1) of this section,

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a term not exceeding six months.

(9) For the purpose of this section a school shall be deemed to include any part of such school and any building used in connexion with it, including workshops, dormitories, kitchens, sanatoria, hostels, staff quarters and all ancillary buildings.

60. Any person who keeps open or reopens otherwise than in accordance with the provisions of this Ordinance a school ordered to be closed under section 58 of this Ordinance, or manages or assists in the management of any such school shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a period not exceeding six months, and to a further fine, not exceeding fifty shillings for each day on which the offence continues after conviction therefor and in default of payment of such further fine or imprisonment for such period as is prescribed by section 29 of the Penal Code. Offence.
Cap. 24.

PART XI—TEACHERS

61. No person shall teach in any school unless he holds a certificate or licence to teach issued by, or with the authority of, the Director and signed by the Director or by such other officer as may be authorized by the Director to sign such certificates or licences on his behalf: Certificate or
licence to teach
required.

Provided that if it appears to the Director that in the case of any particular person not being the holder of such a certificate or licence, special circumstances exist, the Director may authorize such person to teach in any specified school, or classification or type of school, or in any specified standard or form in any specified school, or classification or type of school, subject to such restrictions or limitations as the Director may think fit to impose.

Issue and
cancellation of
certificates or
licences to teach
and appeal
against
cancellation.

62. (1) The Director may, subject to any rules made under this Ordinance, issue to any person a certificate or licence authorizing such person to teach in any school, or classification or type of schools, and the Director may, at any time, subject to the provisions of sub-section (2) of this section, cancel any such certificate or licence if he is satisfied that such person is an unsuitable person to be a teacher on the grounds that he is incompetent or immoral, or has been convicted of any offence involving dishonesty or fraud, or has imparted to any pupil any instruction which the Director considers to be prejudicial to peace, good order or good government in the Colony.

(2) Upon cancelling any certificate or licence under sub-section (1) of this section the Director shall notify the person whose certificate or licence is cancelled, that he may appeal against such cancellation within the period of thirty days from the service of such notification upon him, to a Board established under sub-section (3) of this section; such notification shall state shortly the grounds upon which the certificate or licence has been cancelled.

(3) The Member shall by order establish a Board or Boards each consisting of three or more persons to be appointed by the Member, who may likewise revoke any such appointment, and any such Board shall have power to consider and determine any appeal made under sub-section (2) of this section by any person whose certificate or licence to teach has been cancelled; a Board may act on general evidence or statements relating to the character of the appellant and shall not be bound to receive and consider only evidence admissible in a court of law; and any determination by a Board shall be final and conclusive.

(4) The Member may make rules regulating the manner and form in which appeals may be brought before any Board established under sub-section (3) of this section and the procedure of the Board in hearing and determining such appeals, but subject thereto the Board shall determine its own procedure.

(5) An order establishing a Board under sub-section (3) of this section, and every appointment of, or revocation of the appointment of, a member of the Board shall be published in the Gazette.

63. (1) The Member may make rules imposing conditions subject to which certificates and licences to teach may be issued and shall have effect under this Ordinance, and such conditions may prohibit the holder of any such certificate or licence from teaching in any specified standard or form in any school, or classification or type of school.

Rules relating to certificates and licences to teach.

(2) Any such certificate or licence shall be subject to such conditions as may be prescribed by rules made under this section.

64. The appointment of teachers in any aided school shall lie with the manager of such school, but every such appointment shall be subject to the approval of the Director.

Approval of appointment of teachers in aided schools.

65. Any person—

Offences.

- (a) who, not being the holder of a certificate or licence to teach issued under section 62 of this Ordinance and not being a person authorized by the Director to teach under the proviso to section 61 of this Ordinance, teaches or assists in teaching in any school; or
- (b) employs or engages as a teacher in any school any person, not being the holder of a certificate or licence as aforesaid and not being a person authorized as aforesaid;
- (c) who, being a person authorized to teach by the Director, under the proviso to section 61 of this Ordinance, teaches or assists in teaching in any school in which he is not so authorized to teach or in any standard or form in which he is not so authorized to teach; or
- (d) employs or engages such a person as is referred to in the preceding paragraph as a teacher in any school or in any standard or form in which such person is not so authorized to teach; or
- (e) who teaches or acts as a teacher otherwise than in accordance with any conditions to which his certificate or licence to teach is subject,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand shillings and in default of payment to imprisonment for a period not exceeding three months:

Provided that it shall not be an offence under this section for a person whose certificate or licence to teach has been cancelled by the Director under section 62 of this Ordinance to teach or assist in teaching pending the determination of any appeal lodged by him under that section.

PART XII—FEES

A. (Government Schools)

Fees to be prescribed, etc.

66. (1) Such fees or reduced fees as may be prescribed by rules made under this Ordinance shall be payable in every Government school:

Provided that the Member may at any time and for such period as he shall think fit, by order determine that no fees for tuition or for books or for medical attendance shall be payable in any such school, or in any classification or type of such schools, or in any form or standard of such schools, or classification or type of such schools, or in respect of any individual pupil or group of pupils.

(2) Any child not subject to the provisions of this Ordinance in relation to compulsory education in respect of whom fees are due and owing may be refused admission or re-admission to school, as the case may be, or if he has been admitted, or re-admitted, may be excluded from school until all fees due up to the date of such exclusion have been paid:

Provided that such exclusion shall not take place until the School Committee, or any other committee to which advisory functions in respect of such exclusions may have been delegated by the Director, has been consulted.

(3) The Director may remit in whole or in part the fees due in respect of tuition or books or board or medical attendance if he is satisfied that the parent of the pupil in respect of whom such remission is recommended is unable to pay such fees in whole or in part.

(4) The Director may, by order, published in the Gazette, require fees for tuition, board, books, or medical attendance payable in respect of the pupils in any Government school, or type or classification of Government schools, to be payable in advance at such time as may be specified in the order and thereupon such fees shall be due and recoverable at such time; the Director may, by the same or any other order, require payment of such fees to be made to the principal of the school attended by the pupils in respect of whom any such fees are or become due or to such other person or body as may be

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specified in the order and may require payment of some such fees to the principal as aforesaid and of other such fees to such person or body as aforesaid and thereupon the principal or such person or body may recover the fees so ordered to be payable to him or them or it as if the fees were due to him or them or it personally; any order issued under this sub-section may be in general or particular terms and may relate to fees due in respect of any future period or periods specified therein or generally to any such fees thenceforward payable.

(5) The parent of a pupil shall be liable for all fees due in respect of the attendance or board, or both the attendance and board, of such pupil at a Government school, whether or not such parent enrolled such pupil, and the Director or the principal or other person or body by whom such fees are recoverable under any order made under sub-section (4) of this section, may, in his or its own name, institute proceedings for the recovery from such parent of any such fees:

Provided that where the father, or stepfather, of such pupil is not the parent of such pupil within the meaning of this Ordinance such father, or step-father, as the case may be, and the parent shall be jointly and severally liable for payment of such fees as aforesaid.

67. All fees in respect of pupils in Government schools shall be accounted for and paid into the general revenue of the Colony. Crediting of fees.

B. (Aided Schools)

68. (1) The Director may by regulation prescribe the rate of fees to be charged in any aided school for tuition or books or board or medical attendance: Fees to be prescribed.

Provided that if any such school be under the jurisdiction of a Regional Education Board or District Education Board he shall first consult such Board.

(2) The Director may by regulation prescribe the body, being a body constituted under the provisions of this Ordinance, to which shall be paid any fees collected in, or in respect of, any public school other than a Government school.

(3) The Director may by regulation prescribe the conditions under which any such fees as are mentioned in sub-section (1) of this section may be remitted in whole or in part.

PART XIII—MISCELLANEOUS

Legal
proceedings.

69. Any proceedings under this Ordinance may be brought in the name of the Director and it shall be lawful for the Director to appoint any person to conduct such proceedings in court on his behalf and any person so appointed may appear in court and conduct any such proceedings notwithstanding that he is not an advocate within the meaning of the Advocates Ordinance, 1949.

No. 55 of 1949.

Prescription of
area to be served
by school.

70. The Director may by order published in the Gazette prescribe the area to be served by any Government school. No pupil resident outside any area so prescribed shall be admitted to any Government school prescribed as serving such area without the written permission of the Director and any child resident outside such area who has been admitted to such a school may be excluded from the school, but such exclusion shall not be deemed to be a sufficient excuse for non-attendance at school within the meaning of Part XIV of this Ordinance.

Medical
inspection and
excusal
therefrom.

71. Every pupil in attendance at a public school shall be liable to medical inspection provided that if the parent of any pupil objects to medical inspection he may signify his objection in writing, through the Board of Governors or School Committee if either the one or the other exists, to the Director, who may excuse such pupil from medical inspection. Any excusal or refusal of excusal by the Director under this section shall be final and conclusive.

Apprenticeship.

72. (1) Every pupil attending a public school and undergoing a course of training for any trade or vocation or a preliminary general course of instruction leading to such course of training may be bound by an apprenticeship deed in accordance with rules made under this Ordinance to complete such course of training unless released therefrom by the Director and any such rules may make such provision as to the form and contents of such apprenticeship deeds as the Member may consider reasonable.

(2) No stamp duty shall be payable on any apprenticeship deed made under this section.

PART XIV—COMPULSORY EDUCATION

Proclamations
applying this
Part.

73. (1) The provisions of this Part shall apply to such children, of or between such age or ages, of such sex, resident in such area or areas, and belonging to such race or community, as the Governor may, with the consent of the Legislative Council, specify by proclamation published in the Gazette.

(2) Any proclamation respecting compulsory education made under Part VI of the Education Ordinance (hereby repealed) shall, until revoked or replaced by a proclamation made under this section, have effect as if it were a proclamation made under this section. Cap. 90.

(3) Any proclamation issued under this section may vary the application of paragraph (d) of sub-section (1) of section 74 of this Ordinance to any area in respect of which the proclamation applies by reducing or increasing the distances of three miles and two miles respectively specified in such paragraph.

74. (1) It shall be the duty of the parent of every child to whom this Part for the time being applies to cause such child to attend at a school on every day on which such school is open, unless—

Duty of parent to cause child to be educated.

- (a) such child is, in the opinion of the Director, receiving efficient instruction suitable to the age of such child in some other way; or
- (b) such child is prevented from such attendance by reason of ill-health, or any other cause, whether temporary or permanent, which the Director may deem a sufficient excuse for non-attendance; or
- (c) such child resides more than three miles or, if he has not completed his ninth year, two miles, by the nearest road from the nearest school, and, in the opinion of the Director, it would be unreasonable to require the attendance of the child at any school on the ground of the distance which such child would be required to travel to school, or on the ground of the financial burden which the cost of such travel would impose on the parent, or on any other ground which the Director deems to be sufficient.

(2) It shall be the duty of the parent of every child who has reached the age at which education ceases to be compulsory for such child, and who remains on the roll of any school to cause such child to attend regularly until such child shall be withdrawn in the manner required by regulations made under this Ordinance.

75. The principal of every school shall report to the Director, or other education officer approved by the Director, any case of irregular attendance on the part of any child enrolled at such school and the principal of a school who has

Report of non-attendance.

been notified that it is proposed to send any child to the school shall report any non-attendance of such child at the school in such manner, and in each case, as may be prescribed by rules made under this Ordinance.

Duty of parent to make report respecting child approaching school age.

76. (1) Whenever a proclamation has been issued under this Part it shall be the duty of every parent of a child who, but for the fact that such child has not yet attained the age at which education becomes compulsory for him, would have been subject to such proclamation, to forward in writing to the Director, the following particulars in regard to the child—

- (a) full name and sex;
- (b) date of birth (to be substantiated by production of a birth certificate, a baptismal certificate, or a sworn affidavit);
- (c) the nationality and place of birth of the father and mother;
- (d) distance of residence from nearest school;
- (e) name of the school to which it is proposed to send such child, or if the parent of such child does not intend to send the child to school, the manner in which he proposes to provide efficient instruction for the child.

(2) The particulars required to be forwarded to the Director under sub-section (1) of this section shall be so forwarded as to be received by the Director—

- (a) in the case of a child whose parent is absent from the Colony at the date of the publication of the proclamation applying to such child, within three months of such parent returning to or arriving in the Colony;
- (b) in the case of a child who will attain the age of compulsory education within six months from the date of such publication, within one month from such date;
- (c) in the case of a child who will not attain the age of compulsory education within six months from the date of such publication, not less than six months before such child will attain such age;
- (d) in any other case, within one month from the date of such publication.

(3) Any person who fails to comply with the provisions of sub-sections (1) and (2) of this section shall be guilty of an offence and liable on conviction for the first offence to a fine not exceeding fifty shillings and on conviction for a second or subsequent offence to a fine not exceeding one hundred shillings.

77. (1) If the Director or any officer of the Department is of opinion that any child to whom this Part for the time being applies is not receiving education he may apply to a magistrate having jurisdiction in the area in which the parent of such child resides for an order calling upon the parent to cause such child to attend school, and shall at the same time inform such parent that such application is being made to the magistrate and of the date, time and place when and where such application will be heard.

Order for
attendance at
school.

(2) The magistrate to whom any such application is made may, after affording the parent an opportunity of stating, either in writing or in person, any reason why such an order should not be made, make an order requiring the parent to cause such child to attend school regularly or to give such child efficient instruction in some other way to the satisfaction of the Director :

Provided that the magistrate may, if he considers that the application should be reconsidered by the Director adjourn the proceedings at any stage thereof.

(3) Whenever a magistrate has refused to make an order under sub-section (2) of this section no such application with respect to the same child shall be made before the lapse of four months from the date of such refusal.

(4) Any person who fails to comply with an order made under sub-section (2) of this section shall be guilty of an offence and liable on conviction for the first offence to a fine not exceeding one hundred shillings and on conviction for a second or subsequent offence to a fine not exceeding five hundred shillings.

78. (1) If a parent who is summoned before a magistrate as provided in section 77 of this Ordinance claims that he is providing efficient instruction, the magistrate may call for a report on such instruction to be submitted to him by an officer of the Department.

Evidence of
instruction:

(2) Any person who hinders or obstructs any officer endeavouring to obtain material for a report to be made under sub-section (1) of this section shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred shillings.

Provisions
relating to
proceedings and
evidence.

79. In any proceedings before a magistrate under this Part the following provisions shall apply—

- (a) it shall lie on the parent to prove that the child is not of the age in respect of which attendance at school is compulsory;
- (b) a certificate purporting to give particulars of the attendance of a child at a school and to be signed by the principal of the school shall be received in evidence and shall, unless the contrary is proved, be deemed to be the document it purports to be and to be signed by the person by whom it purports to be signed without further proof and any such certificate shall be evidence of such particulars;
- (c) the magistrate may by summons require the parent of a child to produce the child before him and any parent failing to comply with such a summons without reasonable excuse to the satisfaction of the magistrate shall be guilty of an offence and liable to a fine not exceeding five hundred shillings;
- (d) in any proceedings relating to a child at which the child is present the magistrate shall sit either in a different room from that in which the ordinary sittings of the court are held, or on different days or at different times from those at which the ordinary sittings of the court are held, and no persons other than officers of the Department, the parties to the case, their advocates, and other persons directly concerned in the case shall, except by leave of the magistrate, be allowed to attend;
- (e) no fees shall be payable for any process applied for or issued under this Part.

PART XV—RULES AND REGULATIONS

Rules and
regulations.

80. (1) The Member may from time to time make rules prescribing—

- (a) the conditions of admission to public schools;
- (b) the conditions of expulsion or exclusion from public schools on grounds of age, discipline, or health, and providing for the administration of corporal punishment;
- (c) the manner in which compulsory attendance at school is to be ensured;

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- (d) the conditions for the payment of grants-in-aid in respect of boarding houses conducted in connexion with Government schools;
- (e) the conditions of payments of grants-in-aid of or advances on loan in respect of schools or boarding houses;
- (f) the conditions of the grant of bursaries and scholarships awarded under section 5 of this Ordinance;
- (g) the conditions under which funds raised by African District Councils or other local bodies may be expended for educational purposes;
- (h) the amounts and the manner of payment of fees payable under this Ordinance and the recovery thereof;
- (i) the manner in which the medical inspection and treatment of school children shall be carried out;
- (j) the conditions for securing liberty of conscience and due respect for the religious beliefs of pupils attending public schools;
- (k) the conditions of payment of grants-in-aid or advances on loan in respect of libraries;
- (l) the conditions of the issue of teachers' licences and the withdrawal of such licences;
- (m) the conditions under which children may, for the purpose of learning a trade or becoming teachers, be apprenticed to the Director or his representative or the head of an approved institution;
- (n) the duties of officers appointed under this Ordinance;
- (o) any matter or thing required to be prescribed by rules under this Ordinance;
- (p) generally for the better carrying out of the objects of this Ordinance.

(2) All rules made under this section shall have the same force and effect as if they had been enacted in this Ordinance and shall be laid as soon as conveniently may be before the Legislative Council; and if a resolution is passed within forty days of their being so laid before the Legislative Council praying that any such rule shall be revoked or amended, such rules shall thenceforth be deemed to be revoked or amended, but without prejudice to anything done thereunder.

- (3) The Director may make regulations prescribing—
- (a) the subjects of instruction to be given in any public school and the courses in such subjects;
 - (b) the conditions of any examinations held by the Department and the fees payable for any examinations held by or under the supervision of the Department;
 - (c) the manner in which records, statistics and accounts shall be kept and returns and reports shall be made to the Department;
 - (d) the procedure to be adopted at meetings of bodies constituted under this Ordinance;
 - (e) the conditions of the use of the buildings of Government schools out of school hours;
 - (f) the manner and form in which applications for the establishment and registration of schools shall be submitted and the information which shall be furnished in relation thereto and the manner and form in which registration shall be effected;
 - (g) the manner in which schools shall be classified and the nomenclature thereof and of the forms or standards into which schools may be divided;
 - (h) any matter required to be prescribed by regulations made under this Ordinance.

Saving.

81. No defect or invalidity in the appointment of any member of any Board, Committee, or other body, constituted, appointed or established under the provisions of this Ordinance, or any rules or regulations made thereunder, shall prejudicially affect or render invalid any proceedings of, or the exercise of any functions by, any such Board, Committee or other body.

Signification and service of documents.

82. (1) Any order, notice, approval, disapproval, or document made or issued by a Board, Committee or other body established, appointed or constituted under the provisions of this Ordinance or any rules or regulations made thereunder may be signified by the Chairman or Secretary of such Board, Committee or other body, or by any member thereof duly authorized in that behalf, and any order, notice, approval, disapproval or document purporting to be so authenticated shall be deemed, until the contrary is proved, to have been made or issued by the Board, Committee or other body on whose behalf it purports to have been made or issued.

(2) Any order, notice, approval, disapproval, certificate, licence or other document made or issued under this Ordinance or any rules or regulations made thereunder purporting to have been signed by the Director shall be deemed, until the contrary is proved, to have been made or issued by the Director.

(3) Any order made, or direction given, or document made or issued, under this Ordinance or any rules or regulations made thereunder, purporting to have been made, given or issued by the Member shall be deemed, until the contrary is proved, to have been made, given or issued by the Member.

§3. The Education Ordinance and the District Education Boards Ordinance are hereby repealed:

Repeal of
Cap. 90 and
Cap. 91.

Provided that any existing rules and regulations made under those Ordinances, or either of them, shall, except only so far as they conflict with the provisions of this Ordinance, remain in force until revoked as if they were rules and regulations made under this Ordinance.