

COLONY AND PROTECTORATE OF KENYA

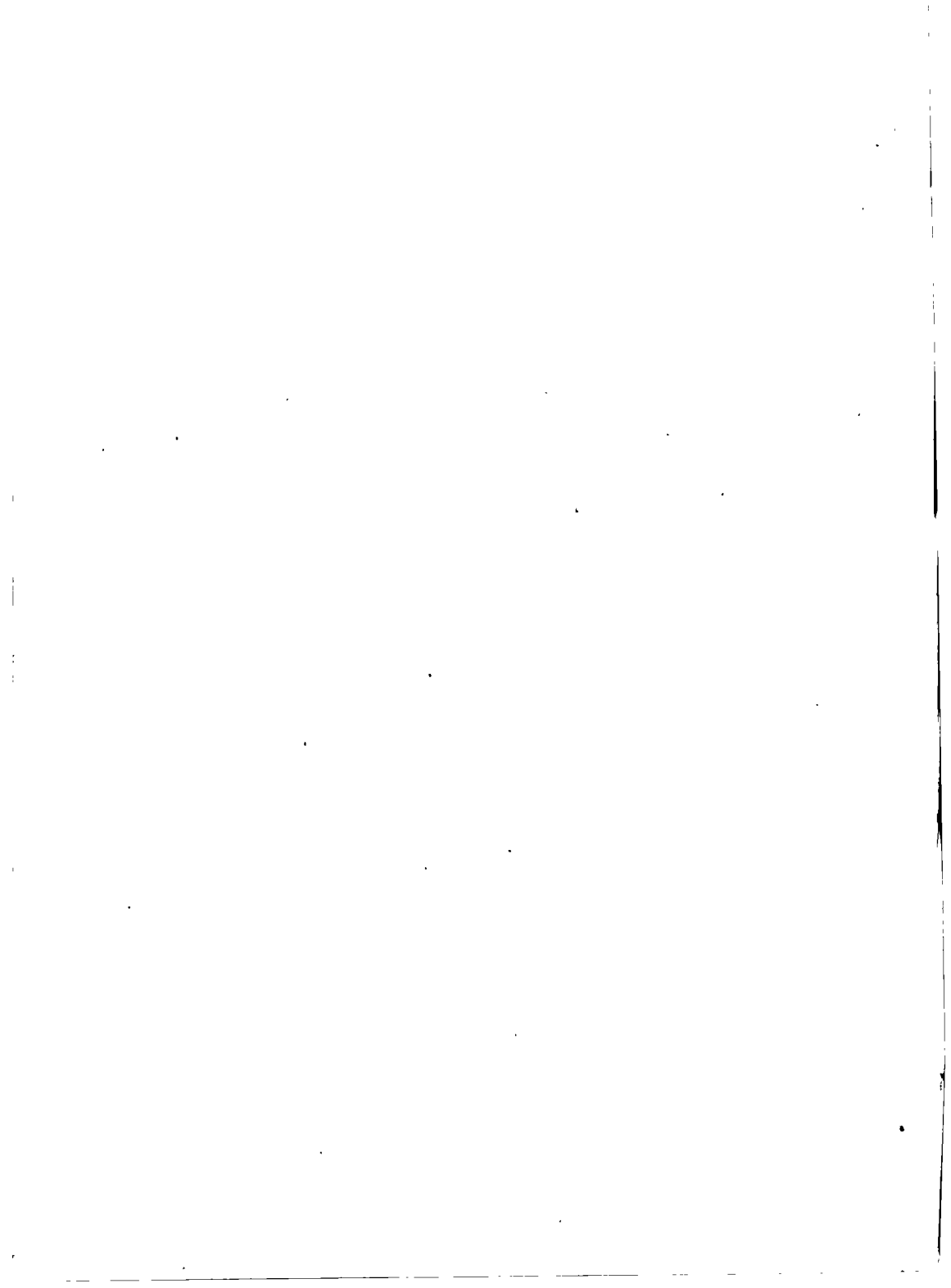
ORDINANCES

ENACTED DURING THE YEAR

1943

VOL. XXII (NEW SERIES)

1944
PRINTED BY THE GOVERNMENT PRINTER
NAIROBI



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II	Mining (Amendment)	"	"
III	Soldiers (Exemption from Civil Process) (Amendment)	"	"
IV	Excess Profits Tax (Amendment)	"	"
V	Registration of Documents (Photostatic Copies)	"	"
VI	Pyrethrum (Amendment)	"	"
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IX	Kenya and Uganda Railway (Amendment)	"	"
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XIII	Increased Production of Crops (Amendment)	"	"
XIV	His Majesty's Forces Pensions (Amendment)	29-9-43	29-9-43
XV	Land and Agricultural Bank (Amendment)	"	"
XVI	Co-operative Societies (Registration) (Amendment)	"	"
XVII	European Officers Pensions (Amendment) ..	"	"
XVIII	Non-European Officers Pensions (Amendment)	"	"
XIX	Native Authority (Amendment)	"	"
XX	Traffic (Amendment)	"	"
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XXVIII	Pyrethrum (Amendment)	"	"
XXIX	Probation of Offenders	"	By Proclamation
XXX	1942 Supplementary Appropriation	"	20-12-43
XXXI	Collective Punishment (Amendment)	"	"
XXXII	Local Government (District Councils) (Amendment)	"	"
XXXIII	Tea (Amendment)	"	"
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XXXVI	Compulsory National Service	"	By Notice
XXXVII	Non-European Officers' Pensions (Amendment)	"	20-12-43
XXXVIII	King's African Rifles (Amendment)	"	By Notice
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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1943

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1943
10 of 1924	Trespass	Repealed	XL
11 of 1927	European Officers' Pensions	Section 10, amended; section 12, repealed and replaced; section 13, repealed; section 19, repealed and replaced	XVII
15 of 1927	Kenya and Uganda Railway	Section 2, amended	IX
19 of 1928	Local Government (Municipalities)	Sections 52 and 69, amended	XXXV
21 of 1928	Local Government (District Councils)	Section 47, amended; section 57, repealed and replaced; section 66, amended; section 70A, new; sections 111 and 112, amended	XXXII
26 of 1928	Traffic	Sections 48, 49, amended	XX
54 of 1930	Collective Punishment	Section 2, amended	XXXI
64 of 1930	Police	Section 56, amended	XXI
3 of 1931	Land and Agricultural Bank	Section 18 and 28, amended; provision for consolidation and reprinting	XV
24 of 1931	Co-operative Societies (Registration)	Section 2, amended	XVI
48 of 1932	King's African Rifles	Sections 2, 19, 44, amended; section 52A, new; sections 53, 73, 105, amended; with provision for transfer to other military forces and definition of "East African Territory"	XXXVIII
53 of 1932	* Non-European Officers' Pensions	Sections 18 and 19, amended	XVIII
22 of 1934	Juveniles	Section 18, repealed and replaced	XXXVII
46 of 1934	Tea	Sections 11 and 37 (k), repealed	XXXIX
		Section 3 (3), amended	XXXIII

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1943

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1943
26 of 1935	Legislative Council	Section 9 (8), definition of "ordinarily resident"; section 9 (9), amended, with saving provision; section 10, repealed and replaced; section 22, amended	XXXIV
40 of 1935	Excise Duties	Section 4A, amended	XXII
51 of 1936	Traders' Licensing	Section 16, repealed and replaced	VII
2 of 1937	Native Authority	Sections 8, 9, amended; section 21, repealed and replaced; sections 24, 25, amended	XIX
5 of 1937	Kenya Defence Force	Suspended	XXXVI
28 of 1937	Trade Unions	Repealed	I
2 of 1938	Employment of Servants	Section 56, repealed; exemption of juveniles from penal sanctions	X
34 of 1938	Pyrethrum	Section 17 (3) (d), new	VI
20 of 1939	Compulsory Service	Licensing and control of production; suspension of section 8	XXXVIII
25 of 1939	Military Units	Repealed	XXXVI
1 of 1940	Trade Unions (Amendment)	Section 2, amended; section 3b, new; section 4, amended; section 11, repealed and replaced	XXXIX
4 of 1940	Land and Water Preservation	Repealed	I
11 of 1940	Income Tax	Section 8, repealed and amended; sections 3, 4, amended; section 21, repealed and replaced; section 27A, new; sections 43, 56, 58, 72, 74, 75, amended	XI
			XXIV

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1943

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1943
12 of 1940	Increase of Rent and of Mortgage Interest (Restrictions)	Section 2 (1), amended; section 2A, 2B, 2C, new; section 3 (4), repealed and replaced; section 4A, new; section 5 (1), amended; section 6 (1), repealed and replaced; section 7, repealed; section 8, amended; section 11, repealed; section 12, repealed and replaced; sections 14 and 17, amended; provision for consolidation and reprinting Sections 3, 6, amended; section 18, repealed and replaced; section 19, amended; with provision for recovery of possession of dwelling house let for short period, and saving section	XII XXVI
28 of 1940	Soldiers Exemption from Civil Process) ..	Section 3 (2), amended	III
29 of 1940	Mining (Amendment)	Section 29 (1) and (3), and schedule, amended	II
33 of 1940	Land and Water Preservation	Repealed	XI
3 of 1941	European Officers' Pensions (Amendment)	Repealed	XVII
14 of 1941	Excess Profits Tax	Section 4 (3), amended	IV

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION

FORMER ORDINANCES (IN CHRONOLOGICAL ORDER) REPEALED OR AMENDED BY ORDINANCES OF 1943

Year and No. of Ordinance	Short Title	How Affected	Ordinance of 1943
15 of 1941	Non-European Officers' Pensions (Amendment No. 2)	Repealed	XXXVII
24 of 1941	His Majesty's Forces Pensions	Section 2 (1), amended	XIV
41 of 1941	Control of Grass Fires	Section 7 (1) (a), amended; section 9, repealed and replaced; section 11 (1), amended	VIII
7 of 1942	Increased Production of Crops	Sections 2, 4, amended; sections 7, 11, repealed and replaced; sections 13, 16, 17, 19, 20, 21, 23, 24, amended; section 26, repealed and replaced; sections 31, 32, amended; section 33, repealed and replaced; section 34, amended; section 35, repealed and replaced; section 43, amended; 1st, 2nd, 3rd schedules, repealed; provision for consolidation and re-printing	XIII

COLONY AND PROTECTORATE OF KENYA

ORDINANCE No. I of 1943

Assented to in His Majesty's name this twenty-sixth day of March, 1943.

HENRY MOORE,
Governor.

An Ordinance to Regulate Trade Unions and Trade Disputes

26th March, 1943

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 Trade Unions and Trade Disputes Ordinance, 1943.

Short title.

PART I—TRADE UNIONS

2. In this Ordinance—

Interpretation.

“trade union” means any combination, whether temporary or permanent, the principal purposes of which are under its constitution the regulation of the relations between workmen and masters, or between workmen and workmen, or between masters and masters, whether such combination would or would not, if this Ordinance had not been enacted, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade:

Provided that nothing in this Ordinance—

(a) shall affect—

- (i) any agreement between partners as to their own business;
- (ii) any agreement between an employer and those employed by him as to such employment;
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft; or

(b) shall preclude any trade union from providing benefits for its members;

“registered” means registered under this Ordinance;

“Registrar” means the Registrar of Trade Unions.

3. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful so as to render any member of such trade union liable to criminal prosecution for conspiracy or otherwise.

Trade unions not criminal.

4. The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be unlawful so as to render voidable any agreement or trust.

Trade union not unlawful for civil purposes.

5. (1) No trade union or any member thereof shall perform any act in furtherance of the purposes for which it has been formed unless such trade union has first been registered.

Trade unions prohibited from carrying on business unless registered.

(2) Any trade union or any officer or member thereof who contravenes the provisions of this section shall be guilty of an offence punishable with a fine not exceeding twenty-five pounds.

6. The Governor may appoint such person as he may think fit to be the Registrar of Trade Unions.

Registrar of trade unions.

7. Any seven or more members of a trade union may, by subscribing their names to the rules of the union and otherwise complying with the provisions of this Ordinance with respect to registration, register such trade union under this Ordinance:

Registration of trade unions

Provided that if any of the purposes of such trade union be unlawful such registration shall be void.

Compulsory registration.

8. (1) Every trade union shall be registered in accordance with the provisions of this Ordinance or be dissolved within three months of the date—

- (a) of its formation; or
- (b) of any notification by the Registrar that he has refused under section 10 of this Ordinance to register the trade union; or
- (c) of the commencement of this Ordinance,

whichever is the later date.

(2) Every trade union which is not registered or dissolved within the period prescribed in the preceding sub-section and every officer thereof shall be guilty of an offence punishable with a fine not exceeding five pounds for every day it remains unregistered after the expiration of such period.

Rules for registry.

9. With respect to the registry under this Ordinance of a trade union, and of the rules thereof, the following provisions shall apply—

(1) an application to register the trade union and its rules shall be sent to the Registrar with copies of the rules and a list of the titles and names of the officers of the trade union;

(2) the Registrar upon being satisfied that the trade union has complied with the rules respecting registry in force under this Ordinance shall subject to the provisions of section 10 of this Ordinance register the trade union and rules;

(3) no trade union shall be registered under a name identical with that by which any other existing trade union has been registered or so nearly resembling such name as to be likely to deceive the members or the public;

(4) the Registrar upon registering a trade union shall issue a certificate of registration.

Refusal of registration.

10. (1) If the Registrar is satisfied that—

- (a) the applicants have not been duly authorized to apply for registration; or
- (b) the purposes of the trade union are unlawful; or
- (c) the application is not in conformity with the provisions of this Ordinance,

he may refuse registration.

(2) When the Registrar refuses to register a trade union he shall forthwith inform the applicants in writing of the grounds of his refusal.

(3) An appeal shall lie to the Supreme Court from a refusal of the Registrar to register a trade union and on such appeal the Supreme Court may make any such order as it thinks proper, including any directions as to the costs of the appeal. Any such order of the Supreme Court shall be final.

(4) The Supreme Court may make rules governing such appeals, providing for the method of giving evidence, prescribing the time within which such appeals shall be brought, the fees to be paid, the procedure to be followed and the manner of notifying the Registrar of the appeal.

(5) The Registrar shall be entitled to be heard on any appeal.

11. (1) It shall be lawful for the Registrar to cancel the registration of any trade union—

Cancellation of registration.

- (a) at the request of the trade union, to be evidenced in such manner as he may direct;
- (b) on proof to his satisfaction that a certificate of registration has been obtained by fraud or mistake, or that such trade union has wilfully, and after notice from the Registrar, violated any of the provisions of this Ordinance or has ceased to exist.

(2) Not less than two months' previous notice specifying briefly the grounds of the proposed cancellation, except where the trade union has ceased to exist in which case notice of cancellation may be given forthwith, shall be given by the Registrar to the trade union before such cancellation is effected.

(3) An appeal from the decision of the Registrar under this section shall lie to the Supreme Court subject to the same conditions as are provided for an appeal against the refusal of the Registrar to register a trade union, and the Supreme Court may make rules providing for the same matters for which rules may be made in respect of such appeal. The decision of the Supreme Court shall be final.

12. (1) Every treasurer or other officer of a registered trade union at such time as by the rules thereof he should render such accounts as hereinafter mentioned, or having been required so to do, shall render to the members thereof, at a meeting of the trade union, a just and true account of all moneys received and paid by him since he last rendered the like account, and of the balance then remaining in his hands, and of all bonds and securities of such trade union.

Officers of trade union to account.

(2) Such account shall be audited by some fit and proper person or persons to be appointed by the trade union.

(3) Upon the account being audited the treasurer or other officer as the case may be shall, if thereupon required, hand over to the trade union the balance which on such audit appeared to be due from him, and shall also if required hand over to the trade union all securities and effects, books, papers and property of the trade union in his hands or custody.

(4) If the treasurer or other officer fails to hand over such things and documents as in sub-section (3) required, the committee of management of the trade union or any member for and on behalf of the trade union may sue him in any competent court for the balance appearing to have been due from him upon the account last rendered by him, and for all moneys since received by him on account of such trade union and for the securities and effects, books, papers and property in his hands or custody, leaving him to set off in such action the sums, if any, which he may have since paid on account of such trade union; and in any such action the plaintiff shall be entitled to recover full costs of suit to be taxed as between advocate and client.

13. (1) Every registered trade union shall transmit to the Registrar the account prepared and audited in accordance with section 12 of this Ordinance within one month of its submission to the members of the trade union,

Audited accounts to be sent to the Registrar.

(2) Every officer of a registered trade union which fails to comply with the provisions of this section shall be guilty of an offence punishable with a fine not exceeding twenty-five pounds.

Rules of registered trade unions.

14. With respect to the rules of a registered trade union, the following provisions shall have effect:—

(1) The rules of every such trade union shall contain provisions in respect of the several matters mentioned in the Schedule to this Ordinance;

(2) A copy of the rules shall be delivered by the trade union to every person on demand on payment of a sum not exceeding one shilling.

Alteration of rules of trade unions.

15. (1) Every alteration of the rules of a registered trade union shall be registered with the Registrar and shall take effect from the date of registration unless some later date is specified in the rules.

(2) The rules of a registered trade union shall not be altered so that they cease to contain provisions in respect of the several matters in the Schedule to this Ordinance.

Rules by Governor in Council.

16. The Governor in Council may make rules respecting registry under this Ordinance and in particular but without prejudice to the generality of the foregoing power with respect to—

(a) the seal, if any, to be used by the Registrar for the purpose of registration under this Ordinance;

(b) the forms to be used for such registry;

(c) the inspection of registers and documents kept by the Registrar and the making of copies of any entries therein;

(d) the fees to be charged for registration and inspection and any other service or matter prescribed or permitted by this Ordinance; and

(e) generally for carrying this Part of this Ordinance into effect.

PART II—TRADE DISPUTES

Definitions.

17. In this Part—

“to intimidate” means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants or of violence or damage to any person or property;

“injury” includes injury to a person in respect of his business occupation, employment or other source of income, and includes any actionable wrong;

“trade dispute” means any dispute between the employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or with the terms of the employment, or with the conditions of labour of any person;

“workmen” means all persons employed in trade or industry, whether or not in the employment of the employer with whom a trade dispute arises.

Immunity of trade unions from actions of tort.

18. (1) An action against a trade union, whether of workmen or masters, or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union shall not be entertained by any court.

(2) Nothing in this section shall affect the liability of a trade union or any official thereof to be sued in any court touching or

concerning the property or rights of a trade union, except in respect of any tortious act committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

19. (1) An agreement or combination of two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be triable as a conspiracy if such act committed by one person would not be punishable as a crime. Conspiracy in relation to trade disputes.

(2) An act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or furtherance of a trade dispute, not be actionable unless the act, if done without any such agreement or combination, would be actionable.

(3) Nothing in this section shall exempt from punishment any person guilty of a conspiracy for which a punishment is awarded by any law in force in the Colony.

(4) Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the State or the Sovereign.

(5) A crime for the purposes of this section means an offence for the commission of which the offender is liable to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment.

(6) Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable on conviction before a subordinate court, and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the law for the punishment of the said act when committed by one person.

20. An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment or that it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills. Removal of liability for interfering with another person's business.

21. (1) Every person who, with a view to compelling any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority— Intimidation or annoyance.

(a) uses violence to or intimidates such other person or his wife or children, or injures his property; or

(b) persistently follows such other person about from place to place; or

(c) hides any tools, clothes or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or

(d) watches or besets the house or other place where such other person resides or works or carries on business or happens to be or the approach to such house or place; or

(e) follows such other person with two or more other persons in a disorderly manner in or through any street or road,

shall be guilty of an offence punishable with a fine not exceeding twenty pounds or with imprisonment for a term not exceeding three months.

(2) Attending at or near any house or place in such numbers or in such manner as is by sub-section (2) of section 22 of this Ordinance declared to be unlawful shall be deemed to be a watching and besetting of that house or place within the meaning of this section.

Peaceful picketing and prevention of intimidation.

22. Notwithstanding anything contained in this Ordinance—

(1) it shall be lawful for one or more persons acting on their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides or works or carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or abstain from working;

Picketing in such numbers, etc., as to be calculated to intimidate.

(2) it shall not be lawful for one or more persons (whether acting on their own behalf or on behalf of a trade union or of an individual employer or firm, and notwithstanding that they may be acting in contemplation or furtherance of a trade dispute) to attend at or near a house or place where a person resides or works or carries on business or happens to be, for the purpose of obtaining or communicating information or of persuading or inducing any person to work or to abstain from working if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace; and any person who acts in contravention of this sub-section shall be guilty of an offence punishable with a fine not exceeding twenty pounds, or with imprisonment for a period not exceeding three months.

Repeal.
No. 28 of 1937.
No. 1 of 1940.

23. The Trade Unions Ordinance, 1937, as amended by the Trade Unions (Amendment) Ordinance, 1940, is hereby repealed.

THE SCHEDULE
(Section 14)

1. The name of the trade union.
2. The whole of the objects for which the trade union is to be established, the purposes for which the funds thereof shall be applicable, and the conditions under which any member may become entitled to any benefit assured thereby and the fines and forfeitures to be imposed on any member of the trade union.
3. The manner of making, altering, amending and rescinding rules.
4. A provision for the appointment and removal of a general committee of management, of a treasurer and other officers.
5. A provision for the keeping of full and accurate accounts by the treasurer.
6. A provision for the investment of the funds or their deposit in a bank and for an annual or periodical audit of accounts.
7. The inspection of the books and names of members of the trade union by every person having an interest in the funds of the trade union.
8. The manner of dissolving the trade union.

ORDINANCE No. II of 1943

Assented to in His Majesty's name this twenty-sixth day of
March, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Mining Ordinance, 1940

26th March, 1943.

Date of
commencement.

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

- | | |
|---|---|
| <p>1. This Ordinance may be cited as the Mining (Amendment) Ordinance, 1943, and shall be read as one with the Mining Ordinance, 1940, hereinafter referred to as the Principal Ordinance.</p> | <p>Short title.
No. 29 of 1940.</p> |
| <p>2. Sub-section (1) of section 29 of the Principal Ordinance is hereby amended by substituting the word "thirteen" for the word "ten" which appears in the tenth line thereof.</p> | <p>Amendment of
section 29(1) of
the Principal
Ordinance.</p> |
| <p>3. In any case of any location which, after being renewed for a period of ten years from the date of pegging, has expired between the 15th day of October, 1942, and the date of commencement of this Ordinance, sub-section (3) of section 29 of the Principal Ordinance shall be read as if the words "six months" were substituted for the words "thirty days" which appear in the fifth line thereof, and the penalty of two shillings per claim mentioned therein shall not be payable.</p> | <p>Renewal of
locations.</p> |
| <p>4. The Schedule to the Principal Ordinance is hereby amended by adding thereto the following paragraph:—</p> <p style="padding-left: 40px;">"Where there is a loss of two or more parts of a hand, the percentage of incapacity shall not be more than the percentage specified for the whole hand."</p> | <p>Amendment of
Schedule to
the Principal
Ordinance.</p> |

ORDINANCE No. III of 1943

Assented to in His Majesty's name this twenty-sixth day of
March, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Soldiers (Exemption from Civil
Process) Ordinance, 1940**

Date of
commencement.

26th March, 1943

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 Soldiers (Exemption from Civil Process) (Amendment) Ordinance, 1943, and shall be read as one with the Soldiers (Exemption from Civil Process) Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

No. 28 of 1940.

Amendment of
section 3 (2) of
the Principal
Ordinance.

2. Sub-section (2) of section 3 of the Principal Ordinance is hereby amended by deleting therefrom the words "third day of September, 1939" which appear in the fifth line thereof and substituting therefor the words "date of his enlistment".

ORDINANCE No. IV of 1943

Assented to in His Majesty's name this twenty-sixth day of March, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Excess Profits Tax Ordinance,
1941**

26th March, 1943

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 Excess Profits Tax (Amendment) Ordinance, 1943, and shall be read as one with the Excess Profits Tax Ordinance, 1941, hereinafter referred to as the Principal Ordinance, and shall have effect with respect to excess profits tax for all chargeable accounting periods.

Short title.

No. 14 of 1941.

2. Sub-section (3) of section 4 of the Principal Ordinance is hereby amended by substituting a full-stop for the colon at the end of the second line thereof and by deleting therefrom the proviso thereof.

Amendment of
section 4 (3) of
the Principal
Ordinance.

ORDINANCE No. V of 1943

Assented to in His Majesty's name this twenty-sixth day of
March, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Provide for the Taking of Photostatic Copies
of Instruments and Documents which under any Law for
the time being in Force in the Colony are Required to
be Registered.**

Date of
commencement.

26th March, 1943

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 Registration of Documents (Photostatic Copies) Ordinance, 1943.

Photostatic
copies of
instruments.

2. (1) Notwithstanding anything to the contrary contained in any of the Ordinances set out in the Schedule hereto, every instrument or document which, under the provisions of any of the said Ordinances is required to be registered, shall be presented to the Registrar for registration in original only; and the Registrar on payment of the prescribed fee shall prepare a photostatic copy of the instrument or document, as the case may be, and shall retain such photostatic copy as part of the register which he is required to keep under the provisions of any of the said Ordinances.

(2) The Registrar may, in his discretion, where he considers it expedient so to do, exempt from the provisions of this Ordinance any instrument or document.

(3) The prescribed fee shall be Sh. 1 for each page of written or printed matter or deed plan, or such other fee as the Governor in Council may from time to time prescribe.

(4) The Registrar may refuse to accept for registration any instrument or document which he considers unsuitable for a photostatic copy.

Power to add
to Schedule.

3. The Governor in Council may, by notice in the Gazette, add any Ordinance to the Schedule to this Ordinance, and from the date fixed in such notice such additional Ordinance shall be deemed to form part of the said Schedule.

SCHEDULE

The Crown Lands Ordinance: (Cap. 140 of the Revised Edition).

The Registration of Titles Ordinance: (Cap. 142 of the Revised Edition).

The Land Titles Ordinance: (Cap. 143 of the Revised Edition).

The Registration of Documents Ordinance: (Cap. 144 of the Revised Edition).

The Mining Ordinance, 1940.

ORDINANCE No. VI of 1943

Assented to in His Majesty's name this twenty-sixth day of March, 1943.

HENRY MÓORE,
Governor.

An Ordinance to Amend the Pyrethrum Ordinance, 1938

26th March, 1943

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 Pyrethrum (Amendment) Ordinance, 1943, and shall be read as one with the Pyrethrum Ordinance, 1938, hereinafter referred to as the Principal Ordinance.

2. Section 17 (3) of the Principal Ordinance is hereby amended by the deletion of item (d) thereof and the substitution therefor of the following new item:—

“(d) The payment of honoraria, travelling allowances and mileage allowances to the Chairman and members of the Board at rates to be approved by the Governor.”

Date of commencement

Short title.
No. 34 of 1938.

Amendment of section 17 (3) of the Principal Ordinance.

ORDINANCE No. VII of 1943

Assented to in His Majesty's name this twenty-sixth day of March, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Traders Licensing Ordinance, 1936

Date of commencement

26th March, 1943

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 Traders Licensing (Amendment) Ordinance, 1943, and shall be read as one with the Traders Licensing Ordinance, 1936, hereinafter referred to as the Principal Ordinance.

No. 51 of 1936.

Repeal and replacement of section 16 of the Principal Ordinance.

2. Section 16 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Cancellation of licence.

“16. (1) Any person holding a trading licence, who is convicted—

(a) of giving short change, short measure or weight or of not keeping proper books of account or of any breach of this Ordinance or of any Rule made thereunder; or

(b) of any offence involving fraud, or of any offence against any Regulation made, or order or direction given, under the powers conferred by the Emergency Powers (Defence) Acts, 1939 and 1940, as applied to the Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940, being an offence committed in the conduct of his business; or

(c) of any offence contrary to Chapter XXXI of the Penal Code, shall, in addition to any penalty to which he may otherwise be liable, on conviction be liable in the discretion of the Court to have his trading licence cancelled with effect from such date as the Court may consider necessary to enable him to dispose of his existing stocks, and to be debarred from obtaining another licence for such period as the Court may determine.

(2) Any such person who is aggrieved by any decision of the Court under the provisions of this section may, notwithstanding the provisions of section 348 of the Criminal Procedure Code, within thirty days after the date of such decision appeal to the Supreme Court.”

ORDINANCE No. VIII of 1943

Assented to in His Majesty's name this sixth day of April, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Control of Grass Fires Ordinance, 1941

6th April, 1943

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 Control of Grass Fires (Amendment) Ordinance, 1943, and shall be read as one with the Control of Grass Fires Ordinance, 1941, hereinafter referred to as the Principal Ordinance.

Short title.

No. 41 of 1941.

2. Paragraph (a) of sub-section (1) of section 7 of the Principal Ordinance is hereby amended—

Amendment of section 7 (1) (a) of the Principal Ordinance.

(a) by substituting the word "owner" for the word "grower" in line 1 thereof;

(b) by substituting a colon for the full stop at the end thereof and by adding the following proviso:—

"Provided that notwithstanding the definition of 'fire-break' in section 2 of this Ordinance, in the case of land contiguous to railway land adjoining a railway, the owner or occupier thereof may agree with the High Commissioner for Transport that for the purpose of this section a fire-break shall be of such dimensions, and sited at such places, as shall be mutually agreed."

3. Section 9 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Replacement of section 9 of the Principal Ordinance.

"9. A local authority, for the purpose of controlling grass fires within the area under its jurisdiction, may—

Engagement of fire-rangers

(a) engage such number of fire-rangers as the local authority may think fit, who shall be remunerated out of the revenue of the local authority;

(b) appoint any person to be an honorary fire-ranger."

4. Section 11 of the Principal Ordinance is hereby amended by deleting therefrom the word "and" in line 2 of sub-section (1) thereof and substituting therefor the words following:—

Amendment of section 11 of the Principal Ordinance.

"and any police officer, and any fire-ranger or honorary fire-ranger engaged or appointed under the provisions of section 9 of this Ordinance,".

ORDINANCE No. IX of 1943

Assented to in His Majesty's name this sixth day of April, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Kenya and Uganda Railway
Ordinance, 1927**

Date of
commencement.

6th April, 1943

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 Kenya and Uganda Railway (Amendment) Ordinance, 1943, and shall be read as one with the Kenya and Uganda Railway Ordinance, 1927, hereinafter referred to as the Principal Ordinance.

No. 15 of 1927.

Amendment of
section 2 of
the Principal
Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by deleting therefrom the definition of "Firebreak" contained therein and substituting therefor the following definition:—

"'Firebreak' means a strip of land whether under trees or not, which has been cleared of inflammable matter to prevent the spread of fire, being not less than 30 feet in width on either side of a boundary or of such other dimensions, or sited at such places, as may have been agreed upon by the parties concerned under the proviso to paragraph (a) of sub-section (1) of section 7 of the Control of Grass Fires Ordinance, 1941."

No. 41 of 1941.

ORDINANCE No. X of 1943

Assented to in His Majesty's name this fifth day of April, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Employment of Servants
Ordinance, 1937**

5th April, 1943

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 Employment of Servants (Amendment) Ordinance, 1943, and shall be read as one with the Employment of Servants Ordinance, 1937, hereinafter referred to as the Principal Ordinance.

Short title.

No. 2 of 1938.

2. Section 56 of the Principal Ordinance is hereby repealed.

Repeal of
section 56 of
the Principal
Ordinance.

3. The provisions of paragraph (d) of sub-section (1) of section 54, and of sections 58, 59, 62, 75 and 78 of the Principal Ordinance, shall not apply to any juvenile.

Exemption of
juveniles from
penal sanctions.

ORDINANCE No. XI of 1943

Assented to in His Majesty's name this fifth day of April, 1943.

HENRY MOORE,
Governor

An Ordinance to Consolidate and Amend the Law relating to the Preservation of the Land and Water Resources of the Colony

Date of commencement.

5th April, 1943

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 Land and Water Preservation Ordinance, 1943.

Interpretation.

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

No. 3 of 1931.

“Bank” means the Land and Agricultural Bank of Kenya established under the Land and Agricultural Bank Ordinance, 1930;

“body of water” means water contained in, or flowing in, a spring, stream, natural lake, or swamp, or in or beneath a watercourse;

“closed area” means any area declared by the Director, by notice in the Gazette, to be a closed area;

“Director” means the Director of Agriculture;

“live stock” includes cattle, sheep, goats, horses, mules, donkeys, pigs, camels, buffaloes and any other animal which the Governor may by order declare to be included in this definition for the purposes of this Ordinance;

No. 19 of 1928.

“local authority” means a Municipal Council or Board established under the Local Government (Municipalities) Ordinance, 1928, or a District Council established under the Local Government (District Councils) Ordinance, 1928, or a Local Native Council established

No. 21 of 1928.

No. 2 of 1937.

under the Native Authority Ordinance, 1937, in respect of the respective areas of jurisdiction so conferred upon them, and, where there is no Municipal Council or Board, District Council or Local Native Council, means a Committee appointed by the Governor in Council, by notice in the Gazette, consisting of a Chairman and such members as are specified in the notice, and the Governor in Council may, by any such notice, appoint different Committees for different areas;

“owner” means—

(a) in the case of freehold land, the person in whose name the title is registered; and

(b) in the case of leasehold land, the person in whose name the lease from the Crown is registered.

The term also includes any person in possession under a lease for a term of not less than three years from the person in whose name the freehold or Crown leasehold is registered, and any person in possession as mortgagee, but does not include any resident labourer

within the meaning of the Resident Labourers Ordinance, 1937, or any servant within the meaning of the Employment of Servants Ordinance, 1937. No. 30 of 1937.
No. 2 of 1938.

Where such person is not in the Colony, the term includes his superintendent, overseer, manager or agent.

In relation to the Native Land Units, "owner" shall mean the occupier or rightholder of the land in question.

In relation to any Crown land referred to in Part VI of the Crown Lands Ordinance (Chapter 140 of the Revised Edition), or any land the title to which is unregistered, the term shall include the person in actual occupation of the land, or, where no person is in actual occupation, the Commissioner of Lands; Cap. 140.

"trees" shall include not only timber trees, but trees, shrubs, bushes of all kinds, seedlings, saplings, and re-shoots of all ages, and any part of a tree;

"vegetation" includes trees, palms, bamboos, stumps, brushwood, undergrowth and grass;

"watercourse" means a natural channel or depression in which water flows, either continuously or intermittently.

3. (1) The Governor in Council may make Rules, all or any of which shall apply to such areas as the Governor in Council may by notice in the Gazette appoint, for all or any of the following purposes:— Power to
make Rules.

(a) prohibiting, regulating and controlling—

(x) the breaking up or clearing of land for cultivation or for any other purpose;

(y) the grazing or watering of live stock; or

(z) the firing, clearing or destruction of vegetation;

when such prohibiting, regulating and controlling is deemed by the Governor in Council to be necessary—

(i) for the protection of land against storms, winds, rolling stones, floods and landslips;

(ii) for the preservation of the soil on ridges, on slopes and in valleys;

(iii) for preventing the formation of gullies;

(iv) for the protection of land against erosion or the deposit thereon of sand, stones or gravel;

(v) for the maintenance of water in a body of water;

(vi) for the protection of roads, bridges, railways and other lines of communication;

(vii) for the preservation of public health;

(viii) generally in the public interest;

(b) requiring, regulating and controlling—

(i) the afforestation or reafforestation of land;

(ii) the protection of slopes and closed areas;

(iii) the construction of contour banks and terraces;

(iv) the repairing of gullies;

- (c) requiring the uprooting or destruction without payment of any compensation therefor of any vegetation which has been planted in contravention of the provisions of any Rule made under the provisions of this section or of any order issued under any such Rule; and
- (d) in addition to the specific powers referred to in this section, generally requiring persons to do, or to abstain from doing, any acts which may, in the opinion of any authority specified in such Rules, be necessary to protect land against erosion.
- (e) for the appointment of inspectors, honorary inspectors and scouts to assist in the carrying out of the provisions of this Ordinance and for prescribing the powers and duties of such inspectors, honorary inspectors and scouts.

(2) (a) Before any Rule made under this Ordinance is applied to any area, the Director shall forward to the local authority within which such area is situate a copy of such Rule together with a notice stating the period, which shall be not less than one month from the date of the notice, within which such local authority and/or any person may object to the application of such Rule.

(b) On receipt of the copy and notice aforesaid the local authority concerned shall—

- (i) deposit such copy and notice at its office for inspection by any person at all reasonable times; and
- (ii) cause notice of such deposit to be given in such manner as it thinks best for bringing such deposit to the notice of persons resident in the area in which such local authority is situate.

(c) Objections, if any, and any evidence in support of the same, shall be forwarded by the local authority to the Director within the period aforesaid, and any such objections and evidence shall be considered by the Governor in Council.

(3) (a) Any Rule made under sub-section (1) of this section may require acts or things to be performed or done to the satisfaction of the Director or any person appointed by him, and may empower the Director or such person to issue orders to any person requiring acts or things to be performed or done, prohibiting acts or things from being performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(b) Any such order may be issued verbally or, if so demanded by the person to whom it is issued, shall be in writing.

(c) Subject to the provisions of paragraph (d) of this sub-section, an appeal shall lie against any such order in the manner provided by sub-sections (4) and (5) of this section.

(d) In the case of Native Land Units and any Crown Land referred to in Part VI of the Crown Lands Ordinance (Chapter 140 of the Revised Edition), no such order shall be given by the Director or any person appointed by him without prior consultation with the

District Commissioner concerned. In the event of such District Commissioner not agreeing with the proposed order, he may appeal through the Provincial Commissioner to the Governor, whose decision shall be final and conclusive.

(4) Subject to the provisions of paragraph (d) of the immediately preceding sub-section, any person who considers that any order issued to him by a person appointed by the Director under sub-section (3) of this section is unreasonable may appeal against such order to the Director, and the decision of the Director thereon shall be subject to a further appeal in the manner provided by sub-section (5) of this section.

(5) The Governor in Council may, by notice in the Gazette, appoint, for such areas as are specified in the notice, Boards consisting of a Chairman and such members as he may deem fit for the purpose of hearing and determining appeals (other than those provided for in paragraph (d) of sub-section (3) of this section) made by any person who considers that any order issued to him by the Director under sub-section (3) of this section or any decision of the Director affecting him made under sub-section (4) of this section is unreasonable, and the decision of any such Board shall be final and conclusive and not subject to appeal to any court.

4. (1) (a) Where the owner of any land refuses or fails to comply with the terms of any order issued to him under the provisions of this Ordinance, or under the provisions of any Rules made thereunder; or

Power to enter land of defaulting or absentee owner.

(b) Where the Director is of the opinion that certain acts should be done or that certain works are required on any land in order to protect such land against erosion, and the owner of the land is not in the Colony, or cannot be found;

the Director, his servants or agents, may enter upon such land and may there do such acts and carry out such works as in the opinion of the Director are necessary to give effect to such Rule or such order, as the case may be.

(2) The expenses involved in any such entry and in doing any such acts or carrying out any such works shall be a debt due to the Director from the owner of the land, and unless paid by the owner within thirty days from the completion of such acts or works shall be recovered by the Director from the Bank under the provisions of sub-section (2) of section 5 of this Ordinance.

5. (1) Where any person is required, under the provisions of this Ordinance, or of any Rules made thereunder, to do any act or thing which may involve him in the expenditure of any money, he may, subject to the provisions of any Regulations made under the provisions of section 10 of this Ordinance, apply to the Bank for an advance of money to enable him to do such act or thing.

Application for advances.

(2) Where under the provisions of section 4 of this Ordinance the Director enters upon any land and does any acts or carries out any works, he may apply to the Bank for payment of any expenses involved in such entry and in doing such acts or carrying out such

works as if he were the owner of the land and had applied for an advance of a like sum of money under the provisions of sub-section (1) of this section, and the Bank shall thereupon pay to the Director such sum of money.

(3) An application for an advance shall be made to such person and in such manner as may be prescribed.

Source, interest
on, and
payment of
advances.

6. Any advances under the provisions of this Ordinance shall—
- (a) be made from funds provided for the purpose by the Legislative Council of the Colony;
 - (b) bear interest at such rate per annum as the Governor in Council may, from time to time, determine;
 - (c) be repaid in equal yearly instalments of capital and interest within such period, not exceeding thirty years, as may be agreed upon between the applicant and the Bank:

Provided that nothing in this paragraph contained shall preclude any person from repaying any balance due from him to the Bank at any time before the expiration of the period so agreed upon:

Provided further that, in respect of any payment made to the Director by the Bank under the provisions of sub-section (2) of section 5 of this Ordinance, such sum of money, together with interest thereon, shall be repaid by the owner within a period not exceeding ten years from the date of such payment, and in default of such repayment the Bank may, at any time after the expiration of the said period of ten years, exercise the powers conferred upon the Board of the Bank by section 45A of the Land and Agricultural Bank Ordinance, 1930, to the same extent as if that section referred to a payment made under the provisions of this Ordinance, except that, where the owner is not in the Colony or cannot be found, then, instead of complying with the terms of sub-section (1) of that section relating to the giving of three months' notice to the debtor and to the subsequent mortgages, it shall be sufficient for the Bank to publish a notice giving thirty days' notice of its intention to exercise such powers of entry and sale, and such publication shall, for the purposes of sub-section (1) of that section, be deemed to be sufficient notice to the owner and to all persons claiming or deriving any right or title to, or any interest in, the land.

No. 3 of 1931.

Priority of
advance.

7. All moneys advanced under the provisions of this Ordinance, and any moneys paid to the Director under the provisions of sub-section (2) of section 5 of this Ordinance, together with any interest thereon and all charges incidental thereto and to the repayment thereof, shall be a charge upon the land in respect of which the advance or payment has been made; and, notwithstanding the provisions of any other law for the time being in force in the Colony or of any rule of law or equity or of any agreement to the contrary, shall have priority over all other mortgages or charges affecting the land in respect of which the advance has been made, whether or not such mortgages or charges exist at the date of the advance or payment or otherwise:

Provided that—

- (a) where the Bank proposes to make an advance on land which is subject to a statutory or contractual mortgage or charge; or
- (b) where the Bank proposes to make an advance on land which is the subject of a lease and the lessee (not being the lessee from the Crown) is in possession,

the Bank shall in writing advise the mortgagee or chargee or lessor, as the case may be, who shall, if he objects to the making of the advance, be given an opportunity of being heard by the Bank before the advance is made.

8. As soon as possible after an advance has been approved by the Bank, or any payment has been made to the Director under the provisions of sub-section (2) of section 5 of this Ordinance, the Secretary to the Bank shall fill up the notification in the form in the Schedule hereto and shall sign and forward the same to the Registrar of Titles who shall forthwith, without charge, register such notification against the title affected.

Registration of advances.

9. Where a lessee holding land under a lease from any other person has, in complying with any Rule or any order issued under or by virtue of any such Rule, done at his own expense any work on such land, such lessee shall be entitled at the termination of his lease to obtain from the lessor as compensation such sum as fairly represents the residuary value of such work to the lessor.

Right of a lessee to compensation for certain work done.

10. The Governor in Council may make Regulations governing the making of advances under the provisions of this Ordinance and, without prejudice to the generality of the foregoing, for all or any of the following purposes—

Power to make Regulations.

- (a) prescribing the manner in which applications for advances shall be made;
- (b) prescribing the purposes for, and the terms and conditions on which, advances may be made;
- (c) prescribing the maximum amount of, and the rate of interest to be charged on, advances;
- (d) appointing an advisory board or boards to consider and report upon, and to make recommendations in regard to, applications for advances under the provisions of this Ordinance.

11. All regulations made under the provisions of section 10 of this Ordinance shall be laid before the Legislative Council as soon as conveniently may be after they are made, and if the Legislative Council, within a period of forty days beginning from the day on which such Regulations are laid before it, resolves that any such Regulation shall be annulled or amended, such Regulation shall thenceforth be deemed to be annulled or amended, but without prejudice to the validity of anything previously done thereunder or to the making of new Regulations.

Regulations to be placed before Legislative Council.

12. The Governor in Council may by Rule fix such penalty for the breach or attempted breach or non-observance of any Rule or order issued under or by virtue of such Rule as he may think fit, but no such penalty shall exceed a fine of one hundred pounds or

Penalties.

imprisonment for a period of six months, or both such fine and imprisonment, and where no penalty is fixed, the breach or attempted breach or non-observance of any such Rule shall be punishable to the extent aforesaid.

Offence
by owner.

13. The owner of any land on which any person commits any breach or attempted breach of or does not observe any Rule or order issued under or by virtue of such Rule, shall be guilty of an offence and shall be liable on conviction to the penalties prescribed by section 12 of this Ordinance.

Determination
of what is a
watercourse or
a body of water.
No. 35 of 1929.

14. Any question arising under this Ordinance as to what is to be considered as a watercourse or a body of water shall be referred by the appropriate local authority to the Water Board established under the Water Ordinance, 1929, and the decision of the Water Board thereon shall be final and conclusive and not subject to appeal to any court.

Saving of
provisions of
Water
Ordinance, 1929.
No. 35 of 1929.

15. Nothing contained in this Ordinance or in any Rules made thereunder shall directly or indirectly affect the provisions of the Water Ordinance, 1929, or any Ordinance amending or replacing the same, or any Rules made thereunder.

Repeal.
No. 4 of 1940.
No. 33 of 1940.

16. The Land and Water Preservation Ordinance, 1940, as amended by the Land and Water Preservation (Amendment) Ordinance, 1940, is hereby repealed.

SCHEDULE

(Section 8)

Name & address of Applicant	Name of Farm	Land Office Number	Amount of Advance	Date of Advance

ORDINANCE No. XII of 1943

Assented to in His Majesty's name this fifth day of April, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940

5th April, 1943

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 Increase of Rent and of Mortgage Interest (Restrictions) (Amendment) Ordinance, 1943, and shall be read as one with the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

Short title.

No. 12 of 1940.

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended—

Amendment of
section 2 (1) of
the Principal
Ordinance.

(a) by inserting therein immediately before the definition of "Court" which appears therein, the following new definition—

" 'the Board' means a Board established under section 2A of this Ordinance in respect of the area specified in the notice establishing such Board;";

(b) by deleting therefrom the definition of "standard rent", and substituting therefor the following—

" 'standard rent' means—

- (i) a rent not exceeding the rent at which the dwelling-house was let on the prescribed date;
- (ii) where the dwelling-house was in existence but was not let on the prescribed date and subsequently is let, or where the dwelling-house was, or is, erected after the prescribed date, a rent calculated at a sum not exceeding 10 per centum per annum of the ascertained market value, as determined by the Board, of the landlord's interest in the land and the permanent improvements thereon at the prescribed date, or at the date on which the erection of the dwelling-house was completed, whichever date is the later.

For the purposes of calculating the rent under this subparagraph it shall be assumed that the landlord shall pay—

- (A) the ground rent, if any;
- (B) the premium for insuring against fire risk;
- (C) the original and additional rates and the improvements rate as defined in the Local Government (Rating) Ordinance, 1928, if any;
- (D) such other reasonable outgoings as the Board may determine:

No. 20 of 1928.

Provided that where, in any agreement or lease entered into before the prescribed date, there is a provision for an

increase in the rent during the term of the agreement or lease, such agreed increase in rent shall be deemed to be part of the standard rent:

And provided further that the Board shall have power on the application of a landlord or a tenant to determine any question as to the amount of the standard rent; and where the Board is satisfied that it is not reasonably practicable to obtain sufficient evidence to enable the Board to ascertain the rent at which the premises were let at the material date, the Board shall have power to determine the standard rent as being of such amount as the Board thinks proper having regard to the standard rents of similar premises in the neighbourhood, and as from the date on which any such determination is made the standard rent of the premises shall be deemed for all purposes to be of that amount;

(iii) notwithstanding anything contained in paragraphs (i) and (ii) of this definition, the Board may, where it is satisfied that, having regard to the temporary nature of the construction of the dwelling-house concerned, or to the temporary nature of the lease or licence under which the land on which the dwelling-house is situate is held, or to the fact that the dwelling-house is one which, in the circumstances, can be expected to be let only during certain periods of the year, the standard rent as herein defined would yield an uneconomic return to the landlord, determine the rent at such figure, as the Board may, in all circumstances of the case, consider reasonable; and as from the date on which any such determination is made the standard rent of such dwelling-house shall be deemed for all purposes to be of that amount;"

(c) by deleting therefrom the words "and where the annual amount of the standard rent does not exceed two hundred pounds" which appear in the fifth and sixth lines of the definition of "dwelling-house" which appears therein;

(d) by substituting a colon for the semi-colon which appears at the end of the definition of "standard rate of interest" which appears therein, and by adding thereto immediately after such colon the words following:—

"or in the case of a mortgage created on or after the 1st day of January, 1943, a rate not exceeding 7 per centum per annum;"

and

(e) by deleting therefrom the definition of "net annual value" which appears therein.

Amendment of
the Principal
Ordinance.

Establishment,
constitution
and powers of
Board.

3. The Principal Ordinance is hereby amended by adding thereto, immediately after section 2 thereof, the following new sections:—

"2A. (1) The Governor shall, for the purposes of this Ordinance, by notice in the Gazette, establish a Rent Control Board, or a number of Rent Control Boards, with powers to act under the provisions of this Ordinance in respect of such areas in the Colony as may be specified in such notice.

(2) The Board shall consist of such members as the Governor may, by notice in the Gazette, from time to time appoint.

(3) The Chairman of the Board shall be selected by the Governor from amongst the members so appointed.

(4) All matters considered by the Board shall, in the event of a difference of opinion, be decided by the votes of a majority of members present at any meeting, and, in the event of an equality of votes, the Chairman shall have a casting vote.

(5) The Board shall have power to administer oaths and to order persons to attend and give evidence, and to produce and give discovery and inspection of documents, in like manner as in proceedings in the Supreme Court.

(6) In its determination of any matter the Board may take into consideration any evidence which it considers relevant to the subject of the inquiry before it, notwithstanding that such evidence would not be admissible under the law relating to evidence.

(7) Where any matter is under the provisions of this Ordinance to be determined by the Board, or where the Board's consent to any act is required, the determination of the Board, or the decision of the Board to give, or to refuse, its consent, shall be final and conclusive:

Provided that an appeal shall lie to the Court from any such determination or decision on a point of law but not on a question of fact.

(8) The Board may, with the consent of the Governor, delegate all or any of the powers and functions conferred upon it by this Ordinance, to any person or body of persons.

2b. Where any dispute arises between any landlord and his tenant relating to a tenancy to which this Ordinance applies, no proceedings arising out of such dispute shall be instituted in any court of law except with the written consent of the Board.

Board's consent necessary before proceedings in Court.

2c. (1) It shall be the duty of the Board, in addition to any other powers specifically conferred on it by this Ordinance, to investigate any complaint relating to the tenancy of a dwelling-house or business premises made to it either by a tenant or landlord of such dwelling-house or business premises.

Investigation of complaints by Board.

(2) Any tenant or any landlord making any such complaint to the Board, shall deposit with the Board, at the time of making the complaint, a sum of Sh. 20.

(3) If, after investigating the complaint, the Board is satisfied that the complaint was justified it shall refund the deposit to the tenant or landlord, as the case may be, but in any other case the deposit shall be forfeited to the Crown.

(4) Where the Board is satisfied upon investigation that the tenant of any dwelling-house or business premises has been or is being wilfully subjected to any annoyance by the landlord or by an agent or servant of such landlord, with the intention either of compelling the tenant to vacate the premises or to pay, directly or indirectly, a higher rental for the dwelling-house or business

premises, as the case may be, the Board may, under the hand of the Chairman of the Board, order the landlord of such dwelling-house or business premises, as the case may be, to cease to subject such tenant to such annoyance, and any landlord who fails to comply with the terms of any such order shall be guilty of an offence and shall be liable on conviction by the Court to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding six months, or to both such fine and such imprisonment.

(5) Nothing in this section shall be deemed to preclude the Board from taking cognizance of any infringement of this Ordinance or of any dispute or matter likely to lead to the dispute between a tenant and landlord, although such tenant or such landlord has not made a complaint to the Board under the provisions of this Ordinance.

(6) Where a complaint has been made against a tenant, or against a landlord, or against any of his agents or servants, or where a complaint has been made by a landlord against a tenant, or where the Board has taken cognizance of any dispute or of any facts which are likely to lead to a dispute between a landlord and a tenant, the Board may order the parties to a complaint or the landlord or tenant, as the case may be, to appear before the Board at a time and place specified in such order for the purpose of investigating such complaint.

(7) The Board or any person authorized by it in writing for that purpose, may, for the purpose of carrying out its duties and functions under the provisions of this Ordinance, at all reasonable times enter upon and inspect any dwelling-house or any business premises.

(8) Any person who fails to comply with any order or decision of the Board under the provisions of this Ordinance shall be liable on conviction by the Court to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment."

Amendment of section 3 (4) of the Principal Ordinance.

4. Sub-section (4) of section 3 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

"(4) Where the rent payable in respect of any tenancy of any dwelling-house is less than 7 per centum per annum of the ascertained market value, as determined by the Board, of the landlord's interest in the land and the permanent improvements thereon at the prescribed date the landlord shall, with the consent of the Board, be entitled, after giving to the tenant not less than three calendar months' notice in writing, to increase the rent with effect from a future date to a sum not exceeding 10 per centum per annum of such ascertained market value at the prescribed date, and such rent shall thereafter be the standard rent."

Amendment of the Principal Ordinance. Penalty for accepting excess rent.

5. The Principal Ordinance is hereby amended by adding thereto, immediately after section 4 thereof, the following new section:—

"4A. Where, after the first day of July, 1942, the landlord of a dwelling-house accepts any rent in respect thereof which exceeds

the standard rent by more than the amount permitted under this Ordinance, or, in the case of a furnished dwelling-house, exceeds the rent permitted under section 12 of this Ordinance, then without prejudice to any other remedy under the provisions of this Ordinance such landlord shall be liable on conviction by the court to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment; and the court by which he is convicted may order that the rent, so far as it exceeds the amount prescribed under this Ordinance, shall be irrecoverable, and that the amount of any such excess shall be repaid to the tenant, but any such order shall be in lieu of any other method of recovery prescribed by this Ordinance."

6. Sub-section (1) of section 5 of the Principal Ordinance is hereby amended by substituting the words "prescribed date" for the words "commencement of this Ordinance" which appear in the first and second lines of paragraph (a) thereof.

Amendment of section 5 (1) of the Principal Ordinance.

7. Sub-section (1) of section 6 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Repeal and replacement of section 6 (1) of the Principal Ordinance.

"6. (1) Nothing in this Ordinance contained shall be taken to authorize any increase of rent except in respect of a period during which, but for the provisions of this Ordinance, the landlord would be entitled to obtain possession."

8. Section 7 of the Principal Ordinance is hereby repealed.

Repeal of section 7 of the Principal Ordinance.

9. Section 8 of the Principal Ordinance is hereby amended—

Amendment of section 8 of the Principal Ordinance.

(a) by inserting therein between the word "himself" and the word "or" which appear in line two of paragraph (d) of sub-section (1) thereof, the words "or for his wife or minor children";

(b) by inserting therein between the word "himself" and the comma which appear in line four of paragraph (i) of sub-section (1) thereof, the words "or for his wife or minor children";

(c) by inserting therein, immediately after paragraph (i) of sub-section (1) thereof the following new paragraph:—

"(j) the dwelling-house is the property of the Kenya and Uganda Railways and Harbours Administration (hereinafter called 'the Administration') and is reasonably required for the occupation of an employee of the Administration:";

(d) by inserting therein the following new sub-section:—

"(1A) Nothing in this section contained shall be deemed to permit a landlord to recover possession of a dwelling-house if by such recovery he and his wife and/or minor children would be in occupation of, or would acquire the right to occupy, more than one dwelling-house at the same time."

Repeal of section 11 of the Principal Ordinance.

10. Section 11 of the Principal Ordinance is hereby repealed.

Repeal and replacement of section 12 of the Principal Ordinance.

11. Section 12 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Penalty for excessive charges for furnished lettings.

“12. Where any person lets, or has let, any dwelling-house or any part thereof at a rent which includes payment in respect of the use of furniture, the maximum rent per annum which may be charged shall be the standard rent, which would be applicable to the dwelling-house if such house were unfurnished, plus a sum not exceeding 15 per centum of the value of the furniture (exclusive of the soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery) and a sum not exceeding 25 per centum of the value of such soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, if any, as determined by the Board, and any rental charged in excess of the rent so determined shall, notwithstanding any agreement to the contrary, be irrecoverable from the tenant.”

Amendment of section 14 of the Principal Ordinance.

12. Section 14 of the Principal Ordinance is hereby amended by adding thereto, immediately after sub-section (2) thereof, the following new sub-section:—

“(3) Notwithstanding the provisions of sub-section (1) of this section:

- (a) where before the first day of May, 1943, any sum has been paid on account of any rent, being a sum which is, under the provisions of this Ordinance, irrecoverable by the landlord from the tenant the sum so paid shall not be recoverable by the tenant from the landlord in any Court unless the tenant within three months after the 1st day of May, 1943, has given notice to the landlord that he objects to the payment of such sum and has within six months after the said date instituted legal proceedings for the recovery of the sum in question;
- (b) where on or after the first day of May, 1943, any sum is paid on account of any rent, being a sum which is under the provisions of this Ordinance irrecoverable by the landlord from the tenant, the sum so paid shall not be recoverable by the tenant in any Court unless the tenant within three months after the said date, or within three months after the date of the commencement of the tenancy, whichever date is the later, has given notice to the landlord that he objects to the payment of such sum and the tenant institutes proceedings in the Court within six months after the said date or the date of the commencement of the tenancy whichever date is the later: Provided that in no case shall the tenant be allowed to recover more than six months' excess rental.”

1943

Control of Rentals

No. XII

13. Section 17 of the Principal Ordinance is hereby amended by deleting therefrom the commas and words “, where the annual amount of the standard rent does not exceed five hundred pounds.” which appear in the fourth and fifth lines thereof.

Amendment of section 17 of the Principal Ordinance.

14. (1) The Attorney General may consolidate into one edition the Principal Ordinance and all Ordinances (including this Ordinance) amending the same and in preparing such consolidated edition shall have powers to renumber and rearrange the order and/or sequence of any section or sections and make any amendments necessary and consequential to such renumbering and rearrangement, but so that such powers shall not be taken to imply any power to make any alteration or amendment in the matter or substance of any section of the Principal Ordinance or any Ordinance (including this Ordinance) amending the same.

Consolidation and reprinting.

(2) Where such consolidated edition has been prepared it shall be lawful for the Government Printer, with the authority of the Governor in Council, to print copies of the said edition and such copies shall be deemed to be and shall be without any question whatsoever in all courts of justice and for all purposes authentic copies of the Principal Ordinance and all Ordinances (including this Ordinance) amending the same.

(3) When a consolidated edition of the Principal Ordinance has been prepared and printed in accordance with the provisions of subsections (1) and (2) of this section the Governor may, by notice in the Gazette, declare that the same shall come into operation upon such date as he may appoint.

ORDINANCE No. XIII of 1943

Assented to in His Majesty's name this fifth day of April, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Increased Production of Crops Ordinance, 1942

Date of commencement.

5th April, 1943

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 Increased Production of Crops (Amendment) Ordinance, 1943, and shall be read as one with the Increased Production of Crops Ordinance, 1942, hereinafter referred to as the Principal Ordinance.

No. 7 of 1942.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended—
- (a) by substituting the word "seven" for the word "five" which appears in the fourth line of the definition of "Board" contained therein;
- (b) by deleting therefrom the definition of "crops" contained therein and substituting therefor the following definition:—
- " 'crops' means wheat, maize, rye, flax, oats, rice, rubber, pyrethrum, barley and potatoes, and such other produce of the soil as the Governor may, by Order, declare to be a crop for the purposes of this Ordinance;";
- and
- (c) by substituting the words and commas "non-native, or any body corporate," for the words "European or Indian or body corporate" which appear in the first line of the definition of "farmer" contained therein.

Repeal and replacement of section 4 (1) of the Principal Ordinance.

Guaranteed minimum returns.

3. Sub-section (1) of section 4 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

"4. (1) Any farmer upon whom an order has been served under the provisions of section 11 of this Ordinance—

- (a) shall, subject to the provisions of this Ordinance, be guaranteed by the Government of the Colony such minimum return of money per acre of land, which under the terms of such order he is required to plant with any crop, as the Governor in Council may, under the powers conferred upon him by section 35 of this Ordinance, by Rule prescribe; and
- (b) may, subject to the provisions of this Ordinance, and in cases where the Board has ordered such farmer to break virgin land or land which has not been ploughed since the first day of March, 1939, or to provide irrigation or other works which in the opinion of the Board are necessary for the successful cultivation of any crop, or in the cases

referred to in section 27 of this Ordinance, be given a grant by the Government of the Colony of such sum of money per acre of land affected by the order as the Governor in Council may, under the powers conferred upon him by section 35 of this Ordinance, by Rule prescribe."

4. Section 7 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 7 of the Principal Ordinance.

"7. (1) Every farmer in the Colony shall obtain from the Chairman of the District Production and Man Power Committee appointed for his district a form from time to time prescribed by the Board, and shall, on or before a date to be notified in the Gazette by the Chairman of the Board in respect of each district, complete and submit such form to the Chairman of the sub-committee, if any, appointed for his area, or, where no such sub-committee has been appointed, to the Chairman of the District Production and Man Power Committee. A separate form shall be completed in respect of each farm or farming unit which the farmer has the right to cultivate.

Programme of production.

(2) Any farmer who fails to comply with the provisions of this section, or who knowingly gives any false information in such form, shall be guilty of an offence against this Ordinance.

(3) The form when completed in accordance with the provisions of this section is hereinafter referred to as a programme of production.

(4) Any farmer may submit together with his programme of production an application, which shall be in such form as the Board may from time to time determine, for an advance against the guaranteed minimum return referred to in section 4 of this Ordinance.

(5) Any farmer may submit an application, which shall be in such form as the Board may from time to time determine, for the grant referred to in section 4 of this Ordinance.

5. Section 11 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 11 of the Principal Ordinance.

11. (1) The Board may by order in writing addressed to any farmer, and whether or not such farmer has submitted a programme of production, order such farmer to carry out, within such time as may be specified in the order, such farming operations in connexion with the production of crops as the Board may, in its absolute discretion, determine.

Order of Board to farmer.

(2) The order of the Board under this section shall be in such form as the Board may determine, and shall be signed by the Chairman of the Board, or by a member, officer or servant of the Board authorized in writing by the Chairman of the Board.

(3) The Board may in its absolute discretion at any time vary or revoke any order made by it under the provisions of this section.

(4) The original of any such order or of any variation or revocation thereof shall be served by the Board on the farmer, either by personal service or by registered post."

Amendment of section 13 of the Principal Ordinance.

6. Section 13 of the Principal Ordinance is hereby amended by deleting therefrom the words "which he has retained or intends", which appear in the fourth line thereof, and substituting therefor the words and commas "which, subject to the approval of the Board, he intends".

Amendment of section 16 of the Principal Ordinance.

7. Section 16 of the Principal Ordinance is hereby amended—

(a) by substituting the words "in such form as the Board may from time to time determine" for the words "in the form set out in the Second Schedule hereto", which appear in the eighth and ninth lines of sub-section (1) thereof, and for the words "in the form set out in the Third Schedule hereto", which appear in the eleventh and twelfth lines of sub-section (1) thereof;

(b) by deleting therefrom the words "and the crop in question has been actually sown", which appear in the fourth and fifth lines of sub-section (2) thereof, and substituting therefor the words "and brought into a proper state of cultivation ready for a crop, or that the irrigation or other works have been satisfactorily established, as the case may be,";

(c) by substituting a full-stop for the colon which appears in the tenth line of sub-section (2) thereof; and

(d) by deleting therefrom the proviso to sub-section (2) thereof.

Amendment of section 17 of the Principal Ordinance.

8. Section 17 of the Principal Ordinance is hereby amended—

(a) by deleting therefrom the words "or grant", which appear in the first line of sub-section (2) thereof;

(b) by substituting the words and comma "storing, insuring" for the word "storing", which appears in the fifth line of sub-section (2) thereof; and

(c) by adding thereto the following new sub-section:—

"(3) Where the Board has, under the provisions of sub-section (3) of section 11 of this Ordinance, varied or revoked any order made by the Board under the provisions of that section and such variation or revocation necessitates the discontinuance or modification of any advance to the farmer concerned, the Board shall so inform the Bank in writing, and the Bank shall comply with the terms of such order."

Amendment of section 19 of the Principal Ordinance.

9. Section 19 of the Principal Ordinance is hereby amended by deleting therefrom the word "Fourth", which appears in the second line of sub-section (1) thereof.

Amendment of section 20 of the Principal Ordinance.

10. Section 20 of the Principal Ordinance is hereby amended—

(a) by substituting the words "referred to" for the word "specified" which appears in the third line of sub-section (2) thereof; and

(b) by inserting, between the word "Board" and the word "be" which appear in the fifth line of sub-section (2) thereof, the words "but subject to the provisions of any Rules made under the provisions of section 35 of this Ordinance".

11. Section 21 of the Principal Ordinance is hereby amended— Amendment of section 21 of the Principal Ordinance.

(a) by inserting therein the words "or exceed" between the word "equal" and the word "the", which appear in the seventh line of sub-section (1) thereof;

(b) by substituting the words "referred to" for the word "specified" where it appears in the fifth line of paragraph (a) of sub-section (1) thereof and in the fourth line of sub-section (8) thereof; and

(c) by deleting therefrom sub-section (5) thereof and substituting therefor the following:—

"(5) Where any farmer with the approval of the Board retains for his own use any crop, or any portion thereof, which he has been ordered to produce under the provisions of this Ordinance, the value of such crop so retained by him shall, for the purpose of determining whether or not he has attained the guaranteed minimum return of money per acre referred to in section 4 of this Ordinance, be taken into account at such price (not exceeding the guaranteed price, if any, fixed under the provisions of section 5 of this Ordinance) as the Board may from time to time determine. Any price fixed by the Board under the provisions of this sub-section shall be published in the Gazette."

12. Section 23 of the Principal Ordinance is hereby amended by inserting therein the following new sub-section:— Amendment of section 23 of the Principal Ordinance.

"(1)A. Any person appointed under the provisions of sub-section (1) of this section, and the Agency appointed under the Sale of Wheat Ordinance, 1930, shall comply with all orders issued to him or to it, as the case may be, by the Board relating to the marketing of any crop, and shall on demand by the Chairman of the Board, or by any person authorized by him in writing for that purpose, give to the Chairman or such person, as the case may be, all such information relating to any crops in respect of which such person has been so appointed, or is agent, as the Chairman of the Board may require."

No. 42 of 1930

13. Section 24 of the Principal Ordinance is hereby amended by deleting therefrom the words "and due precaution against fire" which appear in the last line thereof and substituting therefor the comma and words ", due precaution against fire and preventing and controlling attacks by or spread of plant pests and diseases". Amendment of section 24 of the Principal Ordinance.

14. Section 26 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:— Repeal and replacement of section 26 of the Principal Ordinance.

"26 (1) Every farmer to whom an advance has been made under the provisions of this Ordinance shall take out an insurance policy against fire and against such other risks as the Board may

Insurance.

require in respect of the crop for which he has received the advance, for a sum of not less than the amount of the advance or advances approved by the Board to be made to him by the Bank, or of the value of the crop on the basis of the f.o.r. price guaranteed under the provisions of this Ordinance, whichever is the less. Such policy shall be taken out by the farmer in the joint names of the farmer and of the Bank (with a company approved by the Bank) in respect of their respective rights and interests. For the purposes of this sub-section "crop" means a crop when severed from the soil and stored.

(2) Any farmer upon whom an order has been served under the provisions of section 11 of this Ordinance, but who has not applied for an advance under the provisions of this Ordinance, shall not be eligible to claim the guaranteed minimum return per acre referred to in section 4 of this Ordinance if his claim is based on the fact that the crop when stored has been destroyed or damaged and he has failed to take out insurance against the risks referred to in sub-section (1) of this section.

(3) Any farmer upon whom an Order has been served under the provisions of section 11 of this Ordinance, and whether or not he has applied for or has been given an advance under the provisions of this Ordinance, shall not be eligible to claim the guaranteed minimum return per acre referred to in section 4 of this Ordinance if his claim is based on the fact that the crop, after it had been severed from the soil and before it had been stored, was destroyed or damaged by fire and he failed, in the opinion of the Board, to take reasonable precautions against the risk of fire."

Amendment of Section 31 of the Principal Ordinance.

15. Section 31 of the Principal Ordinance is hereby amended by deleting therefrom the last three lines thereof and substituting therefor the following:—

"of this Ordinance, or for any purpose connected with the administration of the Ordinance, and may require such person to give to him such information as he may consider necessary for the purpose of enabling him to carry out his functions under this Ordinance."

Repeal and replacement of section 32 (1) of the Principal Ordinance.

16. Sub-section (1) of section 32 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

Board's powers of entry.

"32. (1) The Board, or any person authorized by the Board for that purpose, may in any of the cases set out in this sub-section enter upon the whole or any portion of any land which is available for cultivation and take possession thereof and of all chattels, if any, incidental to the business of farming on such land, and may cultivate or cause to be cultivated such land to the same extent as if the Board were the registered owner of such land. The cases in which the Board may exercise the powers conferred upon it by this sub-section are as follows:—

(a) where the person who has the right to the user of such land cannot be found or is not in the Colony, and the land is not being cultivated;

- (b) where any person upon whom an order has been served under the provisions of section 11 of this Ordinance fails or, in the opinion of the Chairman of the Board upon the advice of the District Production and Man Power Committee, is unable to carry out the terms of the order;
- (c) where any person, upon whom an order has been served under the provisions of section 11 of this Ordinance, has died, and, in the opinion of the Chairman of the Board, it would be prejudicial to any crops growing on such land or to the maintenance of production to wait for the grant of probate or letters of administration and for the provisions of section 33 of this Ordinance to apply; and
- (d) in any case where, in the opinion of the Chairman of the Board, upon receipt of the recommendation of the District Production and Man Power Committee, it is necessary and desirable in the interest of production and of the Colony as a whole that the powers conferred upon the Board by this section should be exercised.

No member of the Board, nor any agent or servant thereof, nor any other person acting under the authority of the Board, shall be personally liable for any default or act done or omitted to be done in good faith and without negligence in the exercise of the powers conferred by this sub-section."

17. Section 33 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"33. Where any person upon whom an order has been served under the provisions of section 11 of this Ordinance—

- (a) dies; or
 (b) sells, transfers or otherwise disposes of the land or the user thereof to any other person; or

where the land in respect of which the order was served has either by act of the parties or by operation of law come into the possession of any other person, the order shall be deemed to have been served upon the executor or administrator or such other person, as the case may be, who shall be responsible for complying with the terms of the order and with the terms or conditions attached to any grant under the provisions of this Ordinance to the same extent as if the order had been served upon, or as if the grant had been made to, such executor, administrator or other person, as the case may be."

18. Section 34 of the Principal Ordinance is hereby amended by deleting therefrom the words "at the date of commencement of this Ordinance", which appear in the first line thereof.

19. Section 35 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"35. The Governor in Council may make Rules—

- (a) prescribing the guaranteed minimum return, and/or the grant of money per acre to be paid in respect of any crop, or

Repeal and replacement of section 33 of the Principal Ordinance.

Executors, etc., responsible for complying with order.

Amendment of section 34 of the Principal Ordinance.

Repeal and replacement of section 35 of the Principal Ordinance.

Rules.

special payments in respect of any irrigation or other works carried out under the order of the Board for the purpose of producing crops;

(b) providing for—

- (i) the compulsory fertilization of land and prescribing the sources from which such fertilizer shall, or may, be obtained;
- (ii) the granting of subsidies or other financial assistance to enable such fertilizers to be obtained;
- (iii) the making of grants in respect of the production of manure or compost; and

(c) in addition to the specific powers referred to in this section, generally requiring farmers at the order of the Board to do or to abstain from doing any such acts which may, in the opinion of the Board, be necessary to preserve the fertility of the soil, to provide increased yields per acre, and generally to stimulate and increase the production of crops.”

Amendment of Section 43 of the Principal Ordinance.

20. Section 43 of the Principal Ordinance is hereby amended by substituting the figures “1946” for the figures “1943” which appear in the second line thereof.

Repeal of First, Second and Third Schedules.

21. The First, Second and Third Schedules to the Principal Ordinance are hereby repealed.

Amendment of Fourth Schedule.

22. The Fourth Schedule to the Principal Ordinance is hereby amended by deleting therefrom the word “Fourth” which appears in the first line thereof.

Consolidation and reprinting.

23. (1) The Attorney General may consolidate into one edition the Principal Ordinance and all Ordinances (including this Ordinance) amending the same and in preparing such consolidated edition shall have powers to renumber and rearrange the order and/or sequence of any section or sections and make any amendments necessary and consequential to such renumbering and rearrangement but so that such powers shall not be taken to imply any power to make any alteration or amendment in the matter or substance of any section of the Principal Ordinance or any Ordinance (including this Ordinance) amending the same.

(2) Where such consolidated edition has been prepared it shall be lawful for the Government Printer, with the authority of the Governor in Council, to print copies of the said edition and such copies shall be deemed to be and shall be without any question whatsoever in all courts of justice and for all purposes authentic copies of the Principal Ordinance and all Ordinances (including this Ordinance) amending the same.

(3) When a consolidated edition of the Principal Ordinance has been prepared and printed in accordance with the provisions of subsections (1) and (2) of this section the Governor may, by notice in the Gazette, declare that the same shall come into operation upon such date as he may appoint.

ORDINANCE No. XIV of 1943

Assented to in His Majesty's name this twenty-ninth day of September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend His Majesty's Forces Pensions Ordinance, 1941

3rd September, 1939

Date of commencement

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

- | | |
|---|---|
| <p>1. This Ordinance may be cited as His Majesty's Forces Pensions (Amendment) Ordinance, 1943, and shall be read as one with His Majesty's Forces Pensions Ordinance, 1941, hereinafter referred to as the Principal Ordinance, and shall be deemed to have come into operation on the 3rd day of September, 1939.</p> | <p>Short title and commencement.
No. 24 of 1941.</p> |
| <p>2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by inserting therein between the word "serving" and the word "in" which occur in the fifth line thereof the words "or who has served".</p> | <p>Amendment of section 2 (1) of the Principal Ordinance.</p> |

ORDINANCE No. XV of 1943

Assented to in His Majesty's name this twenty-ninth day of September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Land and Agricultural Bank Ordinance, 1930

29th September, 1943

Date of commencement.

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 Land and Agricultural Bank (Amendment) Ordinance, 1943, and shall be read as one with the Land and Agricultural Bank Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

No. 3 of 1931.

Amendment of section 18 of the Principal Ordinance.

2. Paragraph (a) of section 18 of the Principal Ordinance is hereby amended by inserting therein the words "or to be used" between the word "used" and the word "for" which occur in the second line thereof.

Repeal and replacement of section 28 (2) of the Principal Ordinance.

3. Sub-section (2) of section 28 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

"(2) Save where provision to the contrary is expressly made no advance under the provisions of paragraph (a) of section 18 of this Ordinance shall be made for an amount exceeding sixty per centum of the fair agricultural or pastoral value of the land, as determined by the Board. An advance made on the security of land shall be made only on the security of land which to the satisfaction of the Board is permanently occupied and either beneficially cultivated or used for grazing stock or which is to be acquired for agricultural or pastoral purposes: Provided that land used exclusively for grazing stock may be regarded as permanently occupied land when it is worked as one holding with other land beneficially occupied."

Consolidation and reprinting.

4. (1) The Attorney General may consolidate into one edition the Principal Ordinance and all Ordinances (including this Ordinance) amending the same and in preparing such consolidated edition shall have powers to correct grammatical and typographical mistakes and to re-number and re-arrange the order and/or sequence of any section or sections and to make any amendments necessary and consequential upon such correction, re-numbering and re-arrangement, but so that such powers shall not be taken to imply any power to make any alteration or amendment in the matter or substance of any section of the Principal Ordinance or of any Ordinance (including this Ordinance) amending the same.

(2) Where such consolidated edition has been prepared it shall be lawful for the Government Printer, with the authority of the Governor

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Land and Agricultural Bank

No. XV

- in Council, to print copies of the said edition and such copies shall be deemed to be and shall be without any question whatsoever in all courts of justice and for all purposes authentic copies of the Principal Ordinance and all Ordinances (including this Ordinance) amending the same. And such consolidated edition shall come into force upon such date as the Governor may, by notice in the Gazette, appoint.

(3) The Principal Ordinance and all Ordinances amending the same printed and brought into force in accordance with the provisions of this section may be cited as the Land and Agricultural Bank (Consolidated) Ordinances, 1930 to 1943.

5. The provisions of sections 2 and 3 of this Ordinance shall be deemed to have come into force on the date of the commencement of the Principal Ordinance.

Commence-
ment of
sections 2
and 3.

ORDINANCE No. XVI of 1943

Assented to in His Majesty's name this twenty-ninth day of
September, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Co-operative Societies
(Registration) Ordinance, 1931**

Date of
commencement.

29th September, 1943

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

Short title.

No. 24 of 1931.

Amendment of
section 2 of
the Principal
Ordinance.

1. This Ordinance may be cited as the Co-operative Societies
(Registration) (Amendment) Ordinance, 1943, and shall be read as one
with the Co-operative Societies (Registration) Ordinance, 1931, hereinafter
referred to as the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended—

(a) by deleting therefrom the definition of "co-operative society"
contained therein and by substituting therefor the following
definition:—

"co-operative society" means a society or association
which has as its object the promotion of the economic
interests of its members in accordance with co-operative
principles, or a society or association established with the
object of facilitating the operations of such a society or
association;"

and

(b) by repealing the definitions of "producers of agricultural products"
and "farm supplies".

ORDINANCE No. XVII of 1943

Assented to in His Majesty's name this twenty-ninth day of
September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the European Officers' Pensions Ordinance, 1927

29th September, 1943

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 European Officers' Pensions (Amendment) Ordinance, 1943, and shall be read as one with the European Officers' Pensions Ordinance, 1927, hereinafter referred to as the Principal Ordinance.

Date of commencement.

Short title.

No. 11 of 1927.

2. Sub-section (1) of section 10 of the Principal Ordinance is hereby amended by deleting the letter "A" which appears in the first line thereof and substituting therefor the words "Except in cases provided for by sub-section (2) of this section, a".

Amendment of section 10 of the Principal Ordinance.

3. (1) Section 12 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 12 of the Principal Ordinance.

"12. If a European officer to whom a pension has been granted under this Ordinance is appointed to another office in the public service, the payment of his pension may, if the Governor in Council thinks fit, be suspended during the period of his re-employment."

Suspension of pensions on re-employment.

(2) Where prior to the commencement of this Ordinance a European officer has been granted a pension under the Principal Ordinance, and has been appointed to another office in the service of Kenya, any pension granted to him on his subsequent retirement may be computed as if the foregoing sub-section had not been enacted.

4. Section 13 of the Principal Ordinance is hereby repealed.

Repeal of section 13 of the Principal Ordinance.

5. Section 19 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 19 of the Principal Ordinance.

"19. (1) Where a European officer dies as a result of injuries received—

Pensions to dependants when an officer is killed on duty.

(a) in the actual discharge of his duty;

(b) without his own default; and

- (c) on account of circumstances specifically attributable to the nature of his duty,

while in the service of Kenya, it shall be lawful for the Governor in Council to grant, in addition to the grant, if any, made to his legal personal representative under section 18 of this Ordinance—

- (i) if the deceased officer leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or fifteen pounds a year, whichever is the greater;
- (ii) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, a pension in respect of each child, until such child attains the age of eighteen years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (iii) if the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of eighteen years, of double the amount prescribed by the preceding paragraph;
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i) of this sub-section, and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of eighteen years, of double the amount prescribed in paragraph (ii) of this sub-section;
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow:

Provided that—

- (a) pension shall not be payable under this paragraph at any time in respect of more than six children;
- (b) in the case of a pension granted under paragraph (v) of this sub-section, if the mother is a widow at the time of the grant of the pension and subsequently re-marries such pension shall cease as from the date of re-marriage; and if it appears to the Secretary of State at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Secretary of State may determine; and
- (c) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of eighteen years.

(2) In the case of a European officer not holding a pensionable office, the expression "pensionable emoluments" in the preceding sub-section shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(3) For the purposes of this section the word "child" shall include—

- (a) a posthumous child;
- (b) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent upon the deceased officer for support; and
- (c) an adopted child, adopted in manner recognized by law, before the date of the injury, and dependent as aforesaid.

(4) If an officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service therein, or a period of leave therefrom, dies as the result of damage to the vessel or vehicle in which he is travelling, or of any act of violence directed against such vessel or vehicle, and the Governor is satisfied that such damage or act is attributable to circumstances arising out of any war in which His Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in sub-section (1) of this section."

6. The European Officers' Pensions (Amendment) Ordinance, 1941, is hereby repealed.

Repeal of
Ordinance No. 3
of 1941.

ORDINANCE No. XVIII of 1943

Assented to in His Majesty's name this twenty-ninth day of September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Non-European Officers' Pensions Ordinance, 1932

Date of commencement.

29th September, 1943

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 Non-European Officers' Pensions (Amendment) Ordinance, 1943, and shall be read as one with the Non-European Officers' Pensions Ordinance, 1932, hereinafter called the Principal Ordinance,

No. 53 of 1932.

Amendment of section 18 (2) of the Principal Ordinance.

2. Sub-section (2) of section 18 of the Principal Ordinance is hereby amended by substituting a colon for the full stop at the end thereof and by adding the following proviso:—

“Provided that in the case of a non-European officer who does not hold a pensionable office the expression “pensionable emoluments” in paragraph (i) of sub-section (1) of this section shall be deemed to mean salary, personal allowance and personal consolidation allowance.”

Amendment of section 19 of the Principal Ordinance.

3. Section 19 of the Principal Ordinance is hereby amended by substituting a colon for the full stop at the end thereof and adding the following proviso:—

“Provided further that in the case of a non-European officer who dies as a direct result of injuries received in the circumstances set out in sub-section (1) of section 18 of this Ordinance, or who is permanently injured in the circumstances set out in sub-Regulation (1) of Regulation 10 in the Schedule to this Ordinance, the provisions of this Ordinance shall apply irrespective of the date of his entry into the service of Kenya.”

ORDINANCE No. XIX of 1943

Assented to in His Majesty's name this twenty-ninth day of
September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Native Authority Ordinance, 1937

29th September, 1943

Date of
commencement.

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

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| <p>1. This Ordinance may be cited as the Native Authority (Amendment) Ordinance, 1943, and shall be read as one with the Native Authority Ordinance, 1937, hereinafter referred to as the Principal Ordinance.</p> | <p>Short title.
No. 2 of 1937.</p> |
| <p>2. Section 8 of the Principal Ordinance is hereby amended—</p> <p>(a) by deleting the word “and” which occurs at the end of paragraph (o) thereof;</p> <p>(b) by inserting, immediately after paragraph (o) thereof, the following new paragraph:—</p> <p style="padding-left: 40px;">“(p) regulating the use of artificial water supplies constructed from public funds; and”;</p> <p style="padding-left: 40px;">and</p> <p>(c) by relettering the present paragraph (p) thereof as paragraph (q).</p> | <p>Amendment of
section 8 of
the Principal
Ordinance.</p> |
| <p>3. Section 9 of the Principal Ordinance is hereby amended—</p> <p>(a) by deleting the word “and” which occurs at the end of paragraph (k) thereof;</p> <p>(b) by inserting, immediately after paragraph (k) thereof, the following new paragraph:—</p> <p style="padding-left: 40px;">“(l) requiring natives to plant any specified crops for the support of themselves and their families when the area concerned is suffering from or threatened with a shortage of native foodstuffs; and”;</p> <p style="padding-left: 40px;">and</p> <p>(c) by relettering the present paragraph (l) thereof as paragraph (m).</p> | <p>Amendment of
section 9 of
the Principal
Ordinance.</p> |
| <p>4. Section 21 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—</p> <p style="padding-left: 40px;">“21. The district commissioner shall be the president of a Local Native Council. In his absence the next senior district officer present shall, as vice-president, preside over such Council. If neither the district commissioner nor a district officer is present,</p> | <p>Repeal and
replacement
of section 21 of
the Principal
Ordinance.</p> <p>President,
vice-president
and deputy
vice-president
of Council.</p> |

a native member of such Council specially appointed as deputy vice-president by the Provincial Commissioner after consultation with such Council may preside over such Council."

Amendment of section 24 of the Principal Ordinance.

5. Section 24 of the Principal Ordinance is hereby amended by inserting therein, immediately next after sub-section (4) thereof, the following new sub-section:—

"(5) The provisions of section 216 of the Criminal Procedure Code shall not apply to any proceedings instituted for the recovery of local native rate due and payable under this Ordinance."

Amendment of section 25 of the Principal Ordinance.

6. Section 25 of the Principal Ordinance is hereby amended by renumbering sub-section (4) thereof as sub-section (3).

ORDINANCE No. XX of 1943

Assented to in His Majesty's name this twenty-ninth day of
September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Traffic Ordinance, 1928

29th September, 1943

Date of
commencement.

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

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| <p>1. This Ordinance may be cited as the Traffic (Amendment) Ordinance, 1943, and shall be read as one with the Traffic Ordinance, 1928, hereinafter referred to as the Principal Ordinance.</p> | <p>Short title.
No. 26 of 1928.</p> |
| <p>2. Section 48 of the Principal Ordinance is hereby amended—</p> <p>(a) by adding immediately after the word "stop", which appears in the second line of sub-section (2) thereof, the words "and to enter"; and</p> <p>(b) by deleting the marginal note to sub-section (2) thereof and substituting therefor the following: "Power to stop and enter vehicles".</p> | <p>Amendment of
section 48 of
the Principal
Ordinance.</p> |
| <p>3. Section 49 of the Principal Ordinance is hereby amended by inserting therein immediately after paragraph (n) thereof, the following new paragraph:—</p> <p>"(n) (i) Regulating or restricting the use of public service vehicles by passengers and regulating and controlling the conduct of passengers while entering, alighting from or while using, such vehicles."</p> | <p>Amendment of
section 49 of
the Principal
Ordinance.</p> |
| <p>4. The provisions of section 3 of this Ordinance shall be deemed to have come into force on the first day of October, 1940.</p> | <p>Date of
operation.</p> |

ORDINANCE No. XXI of 1943

Assented to in His Majesty's name this twenty-ninth day of September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Police Ordinance, 1930

29th September, 1943

Date of commencement.

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 Police (Amendment) Ordinance, 1943, and shall be read as one with the Police Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

No. 64 of 1930.

Amendment of section 56 of the Principal Ordinance.

2. Section 56 of the Principal Ordinance is hereby amended as follows:—

(a) By deleting sub-section (1) thereof and by substituting therefor the following sub-section:—

“(1) It shall be lawful for the Governor in Council, with the sanction of the Secretary of State, from time to time to make, and when made to vary and revoke, Regulations (which may be given retrospective operation) for the granting of—

(a) gratuities to Arab and African subordinate officers;

(b) pensions or gratuities to Arab and African subordinate officers or their relations, in respect of death or disability on account of wounds, injury or disease certified to be attributable to police service as a member of the Police Force.”

(b) by substituting a comma for the full-stop at the end of sub-section (3) thereof and adding thereto the words following:—

“except a gratuity in respect of death or disability on account of wounds, injury or disease certified to be attributable to police service as a member of the Police Force.”

ORDINANCE No. XXII of 1943

Assented to in His Majesty's name this twenty-ninth day of
September, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Excise Duties Ordinance, 1935

29th September, 1943

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 Excise Duties (Amendment) Ordinance, 1943, and shall be read as one with the Excise Duties Ordinance, 1935, hereinafter referred to as the Principal Ordinance.

2. Sub-section (2) of section 4A of the Principal Ordinance is hereby amended by substituting a semi-colon for the full-stop at the end thereof and adding thereto the words "and any person who fails to comply with any of the provisions of this sub-section shall be guilty of an offence against this Ordinance".

Date of
commencement.

Short title.

No. 40 of 1935.

Amendment of
section 4A (2) of
the Principal
Ordinance.

ORDINANCE No. XXIII of 1943

Assented to in His Majesty's name this thirtieth day of September,
1943.

HENRY MOORE,
Governor.

**An Ordinance to Regulate the Production and Sale of Palm
Wine and to Provide for Matters Incidental Thereto**

Date of
commencement.

By Notice

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

Short title and
commencement.

1. This Ordinance may be cited as the Palm Wine Ordinance, 1943, and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Application.

2. (1) This Ordinance shall apply to the districts specified in the Schedule hereto.

(2) The Governor may, by notice in the Gazette, add to, delete from or otherwise vary the Schedule hereto.

No. 36 of 1930.

(3) From and after the date of commencement of this Ordinance in any district, the operation of such provisions of the Native Liquor Ordinance, 1930, as relate to the tapping of palm trees and to the production and sale of palm wine, shall be suspended in such district.

Interpretation

3. In this Ordinance, unless the context otherwise requires—
“licensing authority” means the District Commissioner of the district concerned and includes any person appointed by such District Commissioner to exercise the powers of a licensing authority under this Ordinance;

“palm wine” means fermented or unfermented juice drawn from any palm tree, and includes what is commonly known as *tembo tamu* and *tembo kali*;

“sale” includes barter and the giving of palm wine in lieu of any consideration or gratuitously;

“to tap” includes every part of any process by which the spathe or flower of any palm tree is prepared for the drawing of palm wine.

Licences to tap.

4. (1) No person, unless he holds a licence in that behalf from the licensing authority, shall tap or cause to be tapped—

(a) any coco-nut tree;

(b) any palm tree (which expression includes the coco-nut tree and the *doum* palm) in the districts of Kilifi, Malindi and Digo.

(2) Such licence may authorize the holder thereof to tap trees in such numbers, in such areas, within such hours and under such conditions and restrictions as the licensing authority may specify in the licence.

(3) No tree shall be included in any licence under the provisions of this section unless the owner of such tree is in possession of a licence authorizing him to permit the tapping of such tree by a person licensed under the provisions of sub-section (2) of this section.

Licence to permit tapping of trees.

(4) Save as provided in section 5 of this Ordinance, no licence under this section shall be issued to any person other than a native or a person of Arabian extraction born in Africa.

5. (1) Notwithstanding anything in this Ordinance contained, the Governor in Council may, on the recommendation of the local authority concerned, authorize a licence to be granted to a person, other than a native or a person of Arabian extraction born in Africa, to manufacture for the purpose of sale, and/or to sell palm wine to persons resident or employed in such place or places as may be specified in such licence.

Licences to persons other than natives or persons of Arabian extraction.

(2) A licence granted under sub-section (1) of this section shall, notwithstanding any other provision in this Ordinance contained, be issued free of charge, and shall, in addition to any other conditions which the Governor in Council may think fit to impose, be subject to the condition that all profits accruing to the licensee from the manufacture for the purpose of sale and sale of palm wine shall be paid to the local authority of the area concerned for expenditure in such ways and upon such projects on behalf of the persons resident or employed in the said area as may be approved by the Governor.

(3) Where any premises for the manufacture and/or sale of palm wine have been established in any district under a licence granted in accordance with the provisions of this section, the District Commissioner of such district and any other officer who may be duly appointed for that purpose by the Governor shall at all reasonable times have the right to enter and inspect such premises for the purpose of—

- (a) ensuring that good order and proper standards of comfort and cleanliness are maintained;
- (b) ensuring that proper books of account are kept by the licensee in connexion with the manufacture for the purpose of sale or sale of palm wine and for the purpose of examining the same; and
- (c) inquiring into any complaints against the proper conduct of the premises,

and the licensee shall afford all reasonable facilities and assistance to such District Commissioner or other officer whilst engaged in the foregoing duties.

(4) If the licensee commits a breach of any of the conditions of a licence granted under this section, or otherwise fails to comply with any of the provisions of this Ordinance, the District Commissioner may cancel his licence forthwith.

(5) In this section the term "local authority" has the same meaning as in the Native Liquor Ordinance, 1930.

No. 36 of 1930.

6. (1) Every tree which may be tapped under a licence issued under section 4 of this Ordinance shall be marked by the licensing authority in such a manner as to indicate that such tree has been so licensed.

Marking of licensed trees.

(2) The licensee of any tree which has been marked in accordance with the provisions of sub-section (1) of this section shall be responsible for ensuring that the mark of the licensing authority shall not be defaced, mutilated or tampered with in any way.

Sale on licensed premises.

7. (1) No person shall in any municipality, township or trading centre sell any palm wine except on premises duly licensed by the licensing authority for that purpose:

Provided that the provisions of this sub-section in so far as they relate to the sale of *tembo tamu* shall not apply to the township of Lamu.

(2) No such premises shall be licensed unless such premises are approved by the licensing authority.

(3) If any such premises shall in the opinion of the licensing authority become unsuitable or shall fall into disrepair the licensing authority may suspend the licence until such premises have been made conformable to the requirements of the licensing authority.

Being in possession of palm wine off licensed premises.

8. Subject to the provisions of the proviso to sub-section (1) of section 7 of this Ordinance, if any person is found in a municipality, township or trading centre in possession of any palm wine in any place other than licensed premises such person shall be guilty of an offence unless he proves that such palm wine was being transported by him from the place where it had been lawfully obtained to licensed premises for the purpose of sale therein.

Licences not to be transferable.

9. No licence granted under the provisions of this Ordinance shall be transferable from one person to another person or from one set of premises to another set of premises except with the consent in writing of the licensing authority who may in his absolute discretion withhold such consent.

Hours of sale.

10. The licensing authority may specify, subject to the approval of the Governor, the days and hours during which palm wine may be sold and if no such hours are prescribed no such palm wine shall be sold between the hours of 8 p.m. and 8 a.m.

11. No person shall distil or otherwise manufacture any intoxicating liquor from palm wine.

Power to make Rules.

12. The Governor in Council may make Rules in connexion with or for all or any of the following purposes—

- (1) prescribing the powers and duties of the licensing authorities;
- (2) prescribing the scale of fees payable in respect of any licence granted under this Ordinance and may prescribe a different fee for different districts or areas;
- (3) generally for the carrying into effect of the provisions of this Ordinance.

Powers of entry and arrest.

13. Any magistrate, licensing authority or police officer of or above the rank of sub-assistant inspector or any other person having written authority from a magistrate, may, at any time, enter into or upon any premises or place for the purpose of preventing and detecting offences against this Ordinance or any rule made thereunder and

may without warrant arrest and search any person whom he may find committing, or whom he reasonably suspects of having committed, an offence against this Ordinance or any rule made thereunder, and may also take possession of all palm wine and any implement, apparatus or utensil, used or capable of being used in connexion with the manufacture of palm wine, found therein or thereon:

Provided that any person so arrested or taken into custody as aforesaid shall, so soon as may reasonably be possible, be taken before a magistrate to be dealt with according to law.

14. (1) Any person who wilfully obstructs, hinders, assaults, or resists any officer or other person in the exercise of his powers under this Ordinance or any rule made thereunder shall be guilty of an offence. **Penalty.**

(2) Any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rule made thereunder or of the terms and conditions of any licence issued thereunder shall be guilty of an offence.

(3) Any person who is guilty of an offence against this Ordinance shall, on conviction before a subordinate court of the first or second class or before a native tribunal having jurisdiction over such person, be liable to a fine not exceeding £50 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment. Where any person has been convicted of an offence under this Ordinance, the court or the native tribunal may order the confiscation or destruction of all palm wine or any implement, apparatus or utensils used in connexion with the commission of such offence.

15. Any person holding a licence under this Ordinance who is convicted of an offence against this Ordinance or any rule made thereunder or the terms and conditions of any licence shall, in addition to any penalty to which he may otherwise be liable, be liable to have his licence cancelled by the licensing authority. **Cancellation of licence.**

SCHEDULE

Kilifi District
Malindi District
Lamu District

Digo District
Tana River District

ORDINANCE No. XXIV of 1943

Assented to in His Majesty's name this thirtieth day of September, 1943.

HENRY MOORE,
Governor.

An Ordinance Further to Amend the Income Tax Ordinance, 1940

Date of commencement.

30th September, 1943

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 Income Tax (Amendment) Ordinance, 1943, and shall be read as one with the Income Tax Ordinance, 1940, hereinafter referred to as the Principal Ordinance.

No. 11 of 1940.

Repeal of section 8 of the Principal Ordinance.

Basis of assessment.

2. Section 8 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“8. (1) Subject to the provisions of sub-section (4) of this section, tax shall be charged, levied and collected for each year of assessment upon the income of any person for the year immediately preceding the year of assessment, notwithstanding that the source of income may have ceased before or during the year of assessment:

Provided that where during any year of assessment ending on or before the thirty-first day of December, 1942, any person ceases to possess any source of income which was acquired by him prior to the 1st day of January, 1936 (or, in the case of income accrued in, derived from, or received in, another East African territory, prior to the 1st day of January, 1939), tax on the income from that source shall be charged, levied and collected upon the income of the year of assessment and not upon the income of the year preceding the year of assessment and no tax shall be charged, levied and collected upon the income from that source for the succeeding year of assessment.

(2) Where during the year preceding the year of assessment commencing on the first day of January, 1944, or during the year preceding any subsequent year of assessment, any person ceases to possess a source of income chargeable to tax under the provisions of this Ordinance other than debenture or mortgage interest to which the provisions of sub-section (3) of section 28 or sub-section (1) of section 29 of this Ordinance apply, there shall be deducted from the amount of income of that year from that source upon which tax would otherwise be charged, levied and collected—

(a) in the case of income accrued in, derived from, or received in, the Colony, the amount of income from such source upon which tax was charged, levied and collected for the year preceding the year of assessment commencing on the first day of January, 1937;

(b) in the case of income accrued in, derived from, or received in, another East African territory, the amount of income from such source upon which tax was charged, levied and collected under the provisions of this Ordinance, the Tanganyika Ordinance, the Uganda Ordinance or the Zanzibar Decree for the year preceding the year of assessment commencing on the first day of January, 1940:

Provided that where such person is a company resident in the Colony the amount or amounts to be deducted at any time under the provisions of this sub-section shall not, in the aggregate, exceed the amount resulting from the last of the following calculations:—

There shall be calculated—

(a) the amount of the income of the company accrued in, derived from, or received in, the Colony upon which tax was charged, levied and collected for the year preceding the year of assessment commencing on the first day of January, 1937;

(b) the amount of the income of the company accrued in, derived from, or received in, another East African territory upon which tax was charged, levied and collected under the provisions of this Ordinance, the Tanganyika Ordinance, the Uganda Ordinance or the Zanzibar Decree for the year preceding the year of assessment commencing on the first day of January, 1940;

(c) the total amount of any dividends, increased by any tax paid or deemed to have been paid thereon, declared by the company—

(i) to which the provisions of sub-section (2) of section 23 of the Income Tax Ordinance, 1937, apply; or No. 12 of 1937.

(ii) which were paid out of any income of the company accrued in, derived from, or received in, another East African territory and which were chargeable to tax as income of the shareholders of the company, under the provisions of this Ordinance, the Tanganyika Ordinance, the Uganda Ordinance or the Zanzibar Decree for the year preceding the year of assessment commencing on the first day of January, 1940;

(d) the amount which results by subtracting the amount arrived at under paragraph (c) of this proviso from the sum of the two amounts arrived at under paragraphs (a) and (b) of this proviso.

(3) Where, as regards any such source of income, the amount to be deducted under the provisions of the preceding sub-section of this section exceeds the amount of income of the year preceding the year of assessment from that source, the excess shall be deemed to be a loss incurred during that year in a trade, business, profession or vocation for the purposes of paragraphs (l) and (m) of sub-section (1) of section 13 of this Ordinance.

(4) Where the winding up of a company is commenced during any year of assessment, tax shall be charged, levied and collected for that year of assessment upon the income of the company for that year in addition to the tax charged under the preceding provisions of this section, and for every subsequent year of assessment tax shall be charged, levied and collected on the income of the year of assessment and not on the income of the preceding year:

Provided that for the purpose of this sub-section—

(a) sub-section (2) of this section shall be read as if for the words 'the year preceding the year of assessment commencing on the first day of January, 1944, or during the year preceding any subsequent year of assessment' there were substituted the words 'the year of assessment commencing on the first day of January, 1943, or during any subsequent year of assessment'; and

(b) sub-section (3) of this section shall be read as if the words 'the year preceding' were deleted therefrom."

Amendment of section 9 of the Principal Ordinance.

3. Section 9 of the Principal Ordinance is hereby amended by inserting therein the words "for each subsequent year of assessment" immediately after the word "collected" which occurs in the fourteenth line thereof.

Amendment of section 14 of the Principal Ordinance.

4. Section 14 of the Principal Ordinance is hereby amended by adding thereto the following new paragraph immediately after paragraph (g) thereof—

"(h) any sums contributed to any pension, saving, provident or other society or fund, except such sums as are allowed under paragraph (f) of sub-section (1) of section 13 of this Ordinance."

Amendment of section 21 of the Principal Ordinance.

5. Section 21 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Certain undistributed profits may be deemed to be distributed.

"21. (1) Where the Commissioner is satisfied that in respect of any period for which the accounts of a company resident in the Colony have been made up, the profits distributed as dividends by that company up to the end of the sixth month after the last date upon which its accounts for that period are required by virtue of the provisions of the Companies Ordinance, 1933, to be laid before the company in general meeting, increased by any tax payable thereon are less than sixty per cent of the total income of the company ascertained in accordance with the provisions of this Ordinance for that period, he may, unless he is satisfied that having regard to losses previously incurred by the company or to the smallness of the profits made, the payment of a dividend or a larger dividend than that declared would be unreasonable, by notice in writing order that the undistributed portion of sixty per cent of such total income of the company for that period shall be deemed to have been distributed as dividends amongst the shareholders as at the said last date and thereupon the pro-

No. 28 of 1933.

portionate share thereof of each shareholder shall be included in the total income of such shareholder for the purposes of this Ordinance:

Provided that—

- (a) when the reserves representing accumulations of past profits which have not been the subject of an order under this sub-section exceed the paid-up capital of the company, together with any loan capital which is the property of the shareholders, or the actual cost of the fixed assets of the company whichever of these is greater, this sub-section shall apply as if instead of the words "sixty per cent" the words "one hundred per cent" were substituted;
- (b) this sub-section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company if the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.

(2) For the purpose of this section a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the said period beneficially held by, the public (not including a company to which the provisions of this section apply), and if any such shares have in the course of such period been, in fact, freely transferable by the holders to other members of the public.

(3) Where the proportionate share of any shareholder of a company in the undistributed profits of the company has been included in his total income for any year under the provisions of sub-section (1) of this section the tax payable in respect thereof shall be recoverable from the company if the shareholder so elects by giving notice in writing to the Commissioner at any time before the due date for the payment of such tax. The Commissioner may serve a notice upon the company stating the sum so payable, and in default of payment the tax shall be recoverable from the company in the manner provided by section 70 of this Ordinance.

(4) Where tax has been paid in respect of any undistributed profits of a company under this section, and such profits are subsequently distributed, the proportionate share therein of any shareholder of the company shall be excluded in computing his total income.

(5) When a company is a shareholder deemed under sub-section (1) of this section to have received a dividend, the amount of the dividend thus deemed to have been paid to it shall be deemed to be part of its total income for the purpose also of the application of that sub-section to distributions of profits by that company.

(6) Where any undistributed portion of the total income of a company has been deemed, by notice given under the provisions of this section, to have been distributed as dividends to the shareholders of that company, the company shall, within twenty-one days of the date of the service of the said notice, furnish each shareholder with a certificate setting forth the amount of the dividend deemed to have been distributed to that shareholder and the amount of tax which the company would be entitled to deduct from such dividend under the provisions of section 28 of this Ordinance if such dividend had been paid.

(7) (a) Where the period for which the accounts of a company are made up began on or after the first day of January, 1943, the provisions of this section shall apply to the profits of such period;

(b) where the period for which the accounts of a company are made up began on or before the 31st day of December, 1942, and ended after that date, the provisions of this section shall apply to the profits of such portion of the period as falls after such date.

Amendment of
the Principal
Ordinance.

Additional tax
in the event of
default or
omission.

6. The Principal Ordinance is hereby amended by the insertion therein of the following new section immediately after section 27 thereof:—

“27A. (1) Any person who—

(a) makes default in furnishing a return or fails to give notice to the Commissioner required by the provisions of section 43 of this Ordinance in respect of the year of assessment commencing on the first day of January, 1940, or any subsequent year of assessment shall be chargeable for such year of assessment with treble the amount of tax for which he is liable for that year under the provisions of section 27 of this Ordinance; or

(b) omits from his return for the year of assessment commencing on the first day of January, 1940, or any subsequent year of assessment any amount which should have been included therein shall be chargeable with an amount of tax equal to twice the difference between the tax as calculated in respect of the total income returned by him and the tax properly chargeable in respect of his total income as determined after including the amounts omitted,

and shall be required to pay such amount of tax in addition to the tax properly chargeable in respect of his true total income.

(2) If the Commissioner is satisfied that the default in rendering the return or any such omission was not due to any fraud, art, contrivance or gross or wilful neglect, he shall remit the whole of the said treble or additional tax and in any other case may remit such part or all of the said treble or additional tax as he may think fit.

(3) The additional amounts of tax for which provision is made under this section shall be chargeable in cases where tax has been assessed by the Commissioner under the provisions of

section 56 of this Ordinance as well as in cases where such income or any part thereof is determined from returns furnished.

(4) The powers conferred upon the Commissioner by this section shall be in addition to any right conferred upon him to commence proceedings in respect of an offence under Part XIII of this Ordinance.

(5) Any person who in determining his total income, as disclosed by his return, deducts or sets off any amount, the deduction or set-off whereof is not allowed under the provisions of this Ordinance, or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed for the purposes of sub-section (1) of this section to have omitted such amount from his return.

(6) Any tax charged under the provisions of this section shall be deemed not to be part of any tax paid or payable for the purpose of section 27, section 28, section 32, section 33, section 74 or section 75 of this Ordinance.

(7) Where the default or omission has been made in connexion with a return required by the provisions of this Ordinance to be furnished by another person on behalf of a company, such company shall be liable for the additional tax chargeable under the provisions of this section."

7. Sub-section (2) of section 43 of the Principal Ordinance is hereby amended by the insertion of the words "before the fifteenth day of October in the year of assessment" immediately after the word "Commissioner" which appears in the fourth line thereof. Amendment of section 43 of the Principal Ordinance.

8. Section 56 of the Principal Ordinance is hereby amended— Amendment of section 56 of the Principal Ordinance.

(a) by deleting therefrom the full-stop which occurs in the last line thereof and substituting therefor a colon;

(b) by the addition of the following new proviso thereto:—

"Provided that—

(a) where any fraud or wilful default has been committed by or on behalf of any person in connexion with or in relation to tax for the year of assessment commencing on the first day of January, 1940, or any subsequent year of assessment, the Commissioner may, for the purpose of making good to the revenue of the Colony any loss of tax attributable to the fraud or wilful neglect, assess that person at any time;

(b) an objection to the making of such assessment or additional assessment on the ground that the time limited for the making thereof has expired shall only be made on objection or appeal as provided for under the provisions of this Ordinance.

9. Sub-section (4) of section 58 of the Principal Ordinance is hereby amended by inserting therein the words "or where any such person does not agree the amount and the Commissioner considers the assessment should be amended" immediately after the word and comma "assessed," which occur in the third line thereof. Amendment of section 58 of the Principal Ordinance.

Amendment of section 72 of the Principal Ordinance.

10. Section 72 of the Principal Ordinance is hereby amended—
- (a) by deleting therefrom the word "fifty" which occurs in the sixth line thereof and substituting therefor the words "one hundred";
 - (b) by deleting therefrom the word "three" which occurs in the eighth line thereof and substituting therefor the word "six".

Amendment of section 73 of the Principal Ordinance.

11. Section 73 of the Principal Ordinance is hereby amended—
- (a) by deleting therefrom the word "fifty" which occurs in the ninth line thereof and substituting therefor the words "one hundred";
 - (b) by deleting therefrom the word "three" which occurs in the tenth line thereof and substituting therefor the word "six".

Amendment of section 74 of the Principal Ordinance.

12. Sub-section (2) of section 74 of the Principal Ordinance is hereby amended—
- (a) by deleting therefrom the word "in" which occurs in the third line thereof and by substituting therefor the words "within three years from the date of the final determination of the assessment for";
 - (b) by deleting therefrom the words "or within three years after the expiration thereof" which occur in the fourth and fifth lines thereof.

Amendment of section 75 of the Principal Ordinance.

13. Section 75 of the Principal Ordinance is hereby amended—
- (a) by deleting from sub-section (1) thereof—
 - (i) the word "two" which occurs in the twentieth line thereof and by substituting therefor the word "five";
 - (ii) the words "six months" which occur in the twenty-fourth line thereof and by substituting therefor the words "two years";
 - (b) by re-numbering sub-section (2) thereof as sub-section (3);
 - (c) by inserting therein the following new sub-section immediately after sub-section (1) thereof:—

"(2) Whenever in any proceedings under this section it is proved that any false statement or entry is made in any return furnished under this Ordinance by or on behalf of any person or in any books of account or other records maintained by or on behalf of any person, that person shall be presumed, until the contrary is proved, to have made that false statement or entry with intent to evade tax."

ORDINANCE No. XXV of 1943

Assented to in His Majesty's name this ninth day of November, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Impose a Tax on Sugar Consumed
in the Colony**

9th November, 1943

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 War Taxation (Sugar Consumption Tax) Ordinance, 1943.

Date of commencement

Short title.

2. In this Ordinance—

Interpretation.

“sugar” shall not include jaggery;

“Commissioner” means the Commissioner of Customs or any person to whom he may, and he is hereby empowered so to do, delegate all or any of his powers, duties or functions, under this Ordinance.

3. As and from the 9th day of November, 1943, there shall be charged, levied and collected, and paid into the revenues of the Colony a Sugar Consumption Tax (hereinafter referred to as the tax), at the rate of one cent per pound on every pound of sugar to be consumed in the Colony.

Imposition of Consumption Tax.

4. The tax shall be collected in the following manner—

(a) in the case of sugar produced in the Colony the tax shall be paid by every manufacturer of such sugar on demand made by the Commissioner;

(b) in the case of sugar imported into the Colony the following provision shall apply:—

Every person who wishes to import sugar into the Colony shall obtain from the Commissioner a permit authorizing him to import sugar and shall before the issue of such permit pay to the Commissioner the tax in respect of the quantity of sugar for which the permit is to be issued.

5. The Commissioner may require any person who manufactures sugar in the Colony, or who imports sugar into the Colony, to submit such returns, to keep such records and books of account, and to give to him such information, in relation to his business as the Commissioner may require; and the Commissioner may, for that purpose, enter upon the premises of such manufacturer or such importer and require such manufacturer or such importer to produce to him for inspection such documents, records, books of account or other papers relating to such business, as the Commissioner may think necessary.

6. Any person—

- (a) who refuses to pay or who evades payment of any tax payable under this Ordinance, or
- (b) who imports sugar into the Colony without having first obtained a permit and paid the tax, or
- (c) who makes any false declaration on any documents or any false statement in any record or books of account required to be made or kept by him under the provisions of this Ordinance, or
- (d) who fails to submit any returns required or refuses to give to the Commissioner any information which the Commissioner may require him to give or to produce any records, documents or books of accounts for inspection by the Commissioner,

shall be guilty of an offence and shall, on conviction by a magistrate of the First or Second Class, and notwithstanding the provisions of the Criminal Procedure Code or of the Courts Ordinance, 1931, be liable to a fine of £1,000 or to two years' imprisonment or to both such fine and such imprisonment:

Provided that, where the person is a body corporate, such person shall, on conviction, be liable to a fine not exceeding £5,000.

7. The Governor in Council may by Proclamation at any time suspend the tax with effect from such date as may be specified in such Proclamation.

8. This Ordinance shall continue in force until the 31st of December next following such date as the Governor may, by Proclamation, declare to be the date on which the war that was the occasion of the enactment of this Ordinance came to an end, and shall then expire.

ORDINANCE No. XXVI of 1943

Assented to in His Majesty's name this twentieth day of
December, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Consolidated Edition of the
Increase of Rent and of Mortgage Interest (Restrictions)
Ordinance, 1940**

By Notice

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 Increase of Rent and of Mortgage Interest (Restrictions) (Amendment No 2) Ordinance, 1943, and shall be read as one with the Consolidated Edition of the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, hereinafter referred to as the Principal Ordinance, and shall come into operation upon such date as the Governor may, by notice in the Gazette, appoint. Short title and commencement.

2. Section 3 of the Principal Ordinance is hereby amended by adding thereto the following new sub-section:— Amendment of section 3 of the Principal Ordinance.

“(9) The Board may, at any time, of its own volition, or upon the application of any landlord or tenant, re-open any case in which it has given any decision or made any determination and may revoke, vary or amend such decision or determination.”

3. Sub-section (4) of Section 6 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:— Amendment of section 6 of the Principal Ordinance.

“(4) Where the rent payable in respect of any tenancy of any dwelling-house is less than 7 per centum per annum, of the ascertained market value, as determined by the Board, of the landlord's interest in the land and the permanent improvements thereon at the prescribed date, the Board may, upon the application of the landlord, authorize the landlord, after giving to the tenants not less than three calendar months' notice in writing, to increase the rent with effect from a future date to such sum not exceeding ten per centum of such ascertained market value as the Board may determine, and such rent shall thereafter be the standard rent.”

4. Section 18 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:— Repeal and replacement of section 18 of the Principal Ordinance.

“18. (1) The Governor in Council may make such Regulations, and give such directions, as he may think fit for the purpose of giving effect to the provisions of this Ordinance.

(2) Without prejudice of the generality of the foregoing, such Regulations may prescribe—

- (a) the manner in which the Board shall conduct its business;
- (b) the matters which shall be taken into account by the Board in exercising its powers under the provisions of this Ordinance;

(c) the circumstances or cases in which the Board may grant or withhold its consent under the provisions of this Ordinance.

(3) The Supreme Court may make Rules prescribing the procedure to be followed, and the fees to be paid, in respect of any appeal made to the Court from any decision or determination of the Board."

Amendment of section 19 of the Principal Ordinance.

5. Section 19 of the Principal Ordinance is hereby amended by deleting therefrom paragraph (d) thereof and substituting therefor the following paragraph:—

"(d) Sub-section (2) of section 11 and section 14 of this Ordinance shall not apply."

Recovery of possession of dwelling-house let for short period.

6. (1) Notwithstanding anything in the Principal Ordinance contained, the tenant of any dwelling-house may—

(a) with the consent in writing of the landlord (which consent shall not be unreasonably withheld) and with the consent of the Board, or

(b) in any case where, in the opinion of the Board, the consent of the landlord has been unreasonably withheld, with the consent of the Board alone,

sub-let for a period of not more than twelve months the dwelling-house of which he is in personal occupation; and upon the expiration of the period for which such dwelling-house has been sub-let the tenant shall be entitled to resume personal occupation of the premises.

(2) Any sub-tenant to whom sub-section (1) of this section applies, who fails, without the consent of the tenant, to give to the tenant vacant possession of the dwelling-house upon the due date shall be liable to pay to the tenant on demand in writing by the tenant a sum of Sh. 100 in respect of each day on which he continues to occupy the premises adversely against the tenant; and any such sum may be recovered by the tenant as a civil debt.

(3) Notwithstanding anything in the Principal Ordinance contained, the landlord of any dwelling-house in personal occupation of such dwelling-house may, with the consent of the Board, let for a period of not more than twelve months the dwelling-house, and upon the expiration of the period for which such dwelling-house has been let, the landlord shall be entitled to resume personal occupation of the premises.

(4) Any tenant to whom sub-section (3) of this section applies, who fails, without the consent of the landlord, to give to the landlord vacant possession of the dwelling-house upon the due date shall be liable to pay to the landlord on demand in writing by the landlord a sum of Sh. 100 in respect of each day on which he continues to occupy the premises adversely against the landlord; and any such sum may be recovered by the landlord as a civil debt.

Saving.

7. Where under the powers conferred upon him by section 19 of the Principal Ordinance the Governor in Council applies the provisions of the Principal Ordinance to any area, district or place in the Colony in respect of premises used for business, trade or professional purpose, or for the public service, such application shall be deemed to all intents, and for all purposes, not to apply the provisions of section 6 of this Ordinance to such premises.

ORDINANCE No. XXVII of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Validate the Valuation Roll of the Nairobi Municipal Council and the Rate Imposed on the Unimproved Value of Land Appearing Therein

20th December, 1943

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 Local Government (Rating) (Nairobi Municipal Council Valuation Roll Validation) Ordinance, 1943.

2. In this Ordinance, unless the context otherwise requires—
“the local authority” means the Nairobi Municipal Council;
“the Ordinance” means the Local Government (Rating) Ordinance, 1928;

“the Valuation Roll” means the Valuation Roll prepared by Mr. A. C. Tannahill dated the 31st day of August, 1943, and laid before the local authority on the 2nd day of September, 1943, and includes the Supplemental Roll dated the 20th day of September, 1943, and laid before the local authority on the 28th day of September, 1943.

3. (1) Notwithstanding anything contained in the Ordinance, the Valuation Roll shall, without any question whatsoever, be deemed to be valid and to comprise the valuation of all rateable property within the Nairobi Municipality which is required to be made by sub-section (1) of section 3 of the Ordinance.

(2) Such Valuation Roll, subject to such alterations and amendments as may be made under the provisions of the Ordinance shall remain in force and shall for all purposes be treated as valid and operative until another Valuation Roll shall have been prepared and completed under the provisions of section 3 of the Ordinance.

4. Notwithstanding anything contained in the Ordinance, the rate on the unimproved value of land appearing in the Valuation Roll which was imposed by the local authority on the 2nd day of September, 1943, before the said Valuation Roll had been completed in accordance with the provisions of sub-section (3) of section 3 of the Ordinance, shall, without any question whatsoever, be deemed to be a valid rate.

5. Nothing in this Ordinance contained shall affect the right of any person to lodge notice of objection under the provisions of section 9 of the Ordinance or the right of any person, or of the local authority, to appeal to the Magistrate from a decision of the Valuation Court under the provisions of section 12 of the Ordinance: Provided that notwithstanding anything contained in sub-section (2) of section 9 of the Ordinance or in the notices published by the local authority under the provisions of the said sub-section dated the 14th day of September, 1943, and the 19th day of October, 1943, notice of any objections may be lodged in the manner provided by the said sub-section before the 31st day of December, 1943.

Date of commencement.

Short title.

Interpretation.

No. 20 of 1928.

Validation of Valuation Roll

Validation of rate imposed on 2nd day of September, 1943.

Savings.

ORDINANCE No. XXVIII of 1943

Assented to in His Majesty's name this twentieth day of
December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Pyrethrum Ordinance, 1938

Date of
commencement.

20th December, 1943

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

Short title.

1. This Ordinance may be cited as the Pyrethrum (Amendment) Ordinance, 1943, and shall be read as one with the Pyrethrum Ordinance, 1938, hereinafter referred to as the Principal Ordinance.

No. 34 of 1938.

Licence
necessary.

2. (1) No person shall plant or maintain pyrethrum for sale on any land unless and until he is in possession of a licence issued to him, under the provisions of this Ordinance, by the Commissioner of Inland Revenue.

Control of
production.

(2) No person who is licensed under the provisions of this Ordinance shall plant or maintain an acreage of pyrethrum in excess of the acreage which he is ordered by the Chairman of the Agricultural Production and Settlement Board to plant or maintain under the provisions of the Increased Production of Crops Ordinance, 1942, and/or the Defence (Agricultural Production, Stock and Machinery) Regulations, 1943.

Authority for
licence.

3. The Commissioner of Inland Revenue shall only issue a licence upon an authority in writing from the Chairman of the Agricultural Production and Settlement Board authorizing him so to do.

Form of licence.

4. Every licence shall be in the form set out in the First Schedule hereto and shall be valid for a period of twelve months expiring on the 31st day of December.

Fee.

5. There shall be paid in respect of every licence issued under the provisions of this Ordinance a fee of Sh. 50:

Provided that, in the case of the licence to be issued for the year 1944, the fee shall be Sh. 37/50.

Fees to be paid
to Fund.

6. All licence fees paid under the provisions of this Ordinance shall be paid to the credit of the Fund.

Application
for licence.

7. (1) Any person who desires to plant or maintain pyrethrum for sale shall apply, in the form set out in the Second Schedule hereto, to the Chairman of the Agricultural Production and Settlement Board on or before the 30th day of September in the year preceding the year for which the licence is required. Upon receipt of an application for a licence the Chairman of the Agricultural Production and Settlement Board may at his discretion authorize the issue of a licence or refuse the application:

Provided that the Chairman of the Agricultural Production and Settlement Board may, in his discretion, accept an application for a licence although such application may be received after such date:

Provided further that, in respect of the period of twelve months ending on the 31st day of December, 1944, it shall not be necessary for any such person to make an application.

(2) The Chairman of the Agricultural Production and Settlement Board is hereby empowered to authorize the issue of a licence to every person who, at the date of commencement of this Ordinance, is licensed under the Principal Ordinance and who submitted to the Chairman of the Agricultural Production and Settlement Board under the provisions of Regulation 7 of the Defence (Agricultural Production, Stock and Machinery) Regulations, 1943, a return of his pyrethrum production on Form APSB/P/1/43 by the 15th day of November, 1943. Licence for 1944.

8. The Chairman of the Agricultural Production and Settlement Board may by writing under his hand delegate all or any of his powers or functions under this Ordinance to any person or body of persons. Delegation.

9. All licences issued during the year 1943 under the provisions of the Principal Ordinance are hereby cancelled with effect from the 31st day of December, 1943. Cancellation of existing licence.

10. During the continuance in force of this Ordinance the provisions of section 8 of the Principal Ordinance shall be suspended. Suspension of section 8 of the Principal Ordinance.

11. This Ordinance shall continue in force until the thirty-first day of December, 1946, and shall then expire: Duration.

Provided that the Governor may by Proclamation with the approval of the Legislative Council declare that this Ordinance shall remain in force until a date to be fixed in such Proclamation or until repealed.

FIRST SCHEDULE

THE COLONY AND PROTECTORATE OF KENYA

The Pyrethrum Ordinance, 1938, as Amended by the Pyrethrum (Amendment) Ordinance, 1941, the Pyrethrum (Amendment No. 2) Ordinance, 1941, and the Pyrethrum (Amendment) Ordinance, 1943

PYRETHRUM GROWER'S LICENCE

Date 1943. No.
Name
Estate

Address
is hereby licensed as a pyrethrum grower to grow and to maintain on Farm No. such acreage of pyrethrum as may be ordered by the Chairman of the Agricultural Production and Settlement Board under the provisions of the Increased Production of Crops Ordinance, 1942, and/or under the Defence (Agricultural Production, Stock and Machinery) Regulations, 1943.

.....
Commissioner of Inland Revenue

SECOND SCHEDULE

THE COLONY AND PROTECTORATE OF KENYA

Pyrethrum (Amendment) Ordinance, 1943

APPLICATION FOR PYRETHRUM GROWER'S LICENCE

To:—

The Chairman, Agricultural Production and Settlement Board,
P.O. Box 825, Nairobi.

I/WE, owner of
.....
(Estate name, L.R. Number and address)

I, manager for
.....
(Name of estate, L.R. Number and address)

hereby apply for a licence to plant and/or maintain pyrethrum for
sale during the year 1st January, 194.., to 31st December, 194...

The particulars of my application are as follows:—

L.R. Number
Area of pyrethrum which I wish to be authorized to plant this year
..... acres.
Area of pyrethrum planted previously to be maintained, this year
..... acres.
My/Our last year's licence was No., taken out by
..... in the name of

I hereby certify that all information given herein is true and
correct.

Licence fee of Sh. 50 is enclosed herewith (cheques should be
made payable to Inland Revenue).

(Signature of person making application)
On my own behalf
On behalf of

Postal address to which all communications are to be sent
.....

ORDINANCE No. XXIX of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Provide for the Probation of Offenders*By Proclamation*

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 Probation of Offenders Ordinance, 1943, and shall apply to such areas of the Colony and from such date as the Governor may, by proclamation, from time to time declare.

2. In this Ordinance, unless the context otherwise requires—
“court” means a court of competent jurisdiction but does not include a Native Tribunal established under the Native Tribunals Ordinance, 1930;

“judge” means a judge of the Supreme Court;

“magistrate” means a magistrate empowered to hold a subordinate court;

“probationer” means a person placed under supervision by a probation order;

“probation order” means an order made under this Ordinance placing a person under the supervision of a probation officer;

“probation officer” means a probation officer appointed under the provision of section 15 of this Ordinance;

“subordinate court” means a subordinate court of the first, second or third class.

3. (1) Where any person is charged with an offence which is triable by a subordinate court and the court thinks that the charge is proved but is of the opinion that, having regard to the youth, character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may—

(a) convict the offender and make a probation order; or

(b) without proceeding to conviction, make a probation order:

Provided that, before making a probation order, the court shall explain to the offender in ordinary language the effect of the order and that if he fails in any way to comply therewith or commits another offence, he will be liable to be sentenced or to be convicted and sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the provisions of the order.

(2) Where any person is convicted of an offence by the Supreme Court and the court is of the opinion that, having regard to the youth,

Date of commencement.

Short title and application.

Interpretation.

No. 39 of 1930.

Power of court to permit conditional release of offenders.

character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may, in lieu of sentencing him to any punishment, make a probation order:

Provided that before making a probation order the court shall explain to the offender in ordinary language the effect of the order and that if he fails in any respect to comply therewith or commits another offence, he will be liable to be sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the provisions of the order.

Probation order.

4. (1) A probation order shall have effect for such period of not less than six months and of not more than three years from the date of the order as may be specified therein, and shall require the probationer to submit during that period to the supervision of a probation officer appointed for or assigned to the district or area in which the probationer will reside after the making of the order, and shall contain such provisions as the court considers necessary for securing the supervision of the offender, and such additional conditions as to residence and other matters as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition of the same offence or the commission of other offences.

(2) Where a probation order contains a provision as to residence, the place at which and the period for which the probationer is to reside shall be specified in the order, and where any such provision requires the probationer to reside in an institution, the period for which the probationer is required so to reside shall not extend beyond twelve months from the date of the order, and the court shall forthwith give notice of the terms of the order to the Chief Secretary.

(3) The court by which a probation order is made shall furnish two copies of the order, one copy to be given to the probationer and the other to the probation officer under whose supervision he is placed.

Further provisions where court makes probation order.

5. Where a person is placed by a probation order under the supervision of a probation officer such order shall be without prejudice to the powers of the court, under any law for the time being in force, to order the offender to pay costs, and such damages for injury or compensation for loss as the court may think reasonable.

Commission of further offences by probationers.

6. (1) If it appears to a judge or any magistrate that a probationer has been convicted of an offence committed while the probation order was in force he may issue a summons requiring the probationer to appear at the place and time specified therein or may issue a warrant for his arrest:

Provided that a magistrate shall not issue such a summons or such a warrant except on information on oath.

(2) A summons or warrant issued under this section shall direct the probationer to appear or to be brought before the court by which the probation order was made.

(3) Where a probationer is convicted by a magistrate of an offence committed while the probation order was in force the magistrate may commit the probationer to custody or release him on bail, with or without sureties, until he can be brought or appear before the court by which the probation order was made.

(4) Where it is proved to the satisfaction of the court by which the probation order was made that the probationer has been convicted of an offence while the probation order was in force then—

(a) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may convict him of that offence and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or

(b) if the probationer was convicted of the original offence in respect of which the probation order was made the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence.

(5) Where a probationer in respect of whom a probation order has been made by a magistrate is convicted before the Supreme Court of an offence committed while the probation order was in force then—

(a) if the probationer was not convicted of the original offence in respect of which the probation order was made the Supreme Court may convict him of that offence and may pass any sentence which the court which made the probation order could pass if the probationer had just been convicted before that court of that offence; or

(b) if the probationer was convicted of the original offence in respect of which the probation order was made the Supreme Court may pass any sentence which the court which made the probation order could pass if the probationer had just been convicted before that court of that offence.

7. (1) If it appears to a judge or any magistrate that a probationer has failed to comply with any of the provisions of the probation order he may issue a summons to the probationer requiring him to appear at the place and time specified therein or may issue a warrant for his arrest:

Failure by probationer to comply with probation order.

Provided that a magistrate shall not issue such a summons or such a warrant except on information on oath.

(2) A summons or warrant under this section shall direct the probationer to appear or to be brought before the court by which the probation order was made.

(3) If it is proved to the satisfaction of the court by which the probation order was made that the probationer has failed to comply with any of the provisions of the probation order then—

(a) without prejudice to the continuance in force of the probation order, the court may impose on the probationer a fine not exceeding two hundred shillings; or

(b) (i) if the probationer was not convicted of the original offence in respect of which the probation order was made the court

may convict him and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or

- (ii) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence:

Provided that where a court has under the provisions of subparagraph (a) imposed a fine on the probationer, then, on any subsequent sentence being passed upon the probationer under the provisions of the preceding section or of this section, the imposition of the said fine shall be taken into account in fixing the amount of the said sentence.

Probation order:
disqualification
or disability.

8. (1) Where a person is convicted of an offence and is released under a probation order, his conviction for that offence shall be disregarded for the purposes of any enactment by or under which any disqualification or disability is imposed upon convicted persons by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after previous conviction:

Provided that if the probationer is subsequently sentenced for the original offence, this section shall cease to apply in respect of that offence, and he shall be deemed, for the purposes of any such enactment imposing a disqualification or disability, to have been convicted on the date of sentence.

(2) Where a person is released on probation without the court having proceeded to conviction and he is subsequently convicted and sentenced for the original offence, then he shall be deemed, for the purposes of any enactment by or under which any disqualification is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after a previous conviction, to have been convicted on the date of such conviction and sentence.

Transmission
of documents
when case is
remitted to
another court.

9. Where a probationer is committed to custody or released on bail by a magistrate until he can be brought or appear before the court which made the probation order the magistrate shall transmit to the said court such particulars of the case as he thinks desirable, and where the probationer has been convicted of a subsequent offence by a magistrate, the magistrate shall transmit to the said court a certificate to that effect signed by him, and for the purposes of proceedings in the court to which it is transmitted any such certificate if purporting to be so signed, shall be admissible as evidence of the conviction.

Amendment of
probation orders.

10. (1) Subject to the provisions of this section, where on the application of a probationer or of the principal probation officer, the court which made the probation order is satisfied that the provisions of the probation order should be varied, or that any provisions should be inserted or cancelled, the court may by order amend the probation order accordingly:

Provided that no order shall be made under this section reducing the period of duration of the probation order, or extending that period beyond a period of three years from the date of the probation order.

(2) An order under the foregoing sub-section may require a probationer to reside in an institution for any period not extending beyond twelve months from the date of that order, if the total period or the aggregate of the periods for which he is required to reside in any institution or institutions under the probation order does not exceed twelve months.

(3) The court shall if it is satisfied on the application of the principal probation officer that the probationer has changed, or is about to change, his residence from the district or area named in the order to another district or area, by order vary the probation order by substituting for the reference to the district or area named therein a reference to the district or area where the probationer is residing or is about to reside, and shall transmit to the court for the new district or area all documents and information relating to the case, and thereupon the last-mentioned court shall be deemed for all the purposes of this Ordinance to be the court by which the probation order was made.

(4) An order under this section cancelling a provision of a probation order or substituting a new district or area for the district or area named therein may be made without summoning the probationer, but no other order under this section shall be made except on the application or in the presence of the probationer.

(5) Where an order is made under this section for the variation, insertion, or cancellation of a provision requiring a probationer to reside in an institution, the court shall forthwith give notice of the terms of the order to the Chief Secretary.

11. (1) The court by which a probation order was made may, on the application of the probationer or of the principal probation officer, discharge the probation order, and where the application is made by the principal probation officer, the court may deal with it without summoning the probationer.

Discharge of probation orders.

(2) Where an offender in respect of whom a probation order has been made is subsequently sentenced for the offence in respect of which the probation order was made the probation order shall cease to have effect.

12. Where an order is made for the amendment or discharge of a probation order the clerk or other officer of the court by which the order is made shall furnish two copies of the order to the principal probation officer, one copy of which shall be given by the principal probation officer to the probationer.

Transmission of copies of orders for amendment or discharge of probation orders.

13. (1) The probation officer who is to be responsible for the supervision of any probationer shall be selected by the principal probation officer.

Selection of probation officers.

(2) Where a woman or girl is placed under the supervision of a probation officer the probation officer shall be a woman.

Contributions
towards
institutions.

14. Such contributions may be made towards the establishment or maintenance of institutions for the reception of persons placed under the supervision of probation officers as the Legislative Council of the Colony may approve.

Appointments.

15. (1) The Governor shall appoint—

- (a) a principal probation officer who shall organize and supervise the probation service in the Colony in accordance with rules made under this Ordinance;
- (b) a sufficient number of probation officers, qualified by character and experience to be probation officers, who shall perform such duties as may be prescribed by rules made under this Ordinance.

(2) The Governor may appoint a probation committee or probation committees, consisting of such persons as the Governor shall think fit, who shall review the work of probation officers in individual cases and perform such duties in connexion with probation as may be prescribed by rules made under this Ordinance.

Rules.

16. The Governor in Council may make Rules prescribing—

- (a) the duties of the principal probation officer;
- (b) the duties of probation officers;
- (c) the constitution and duties of a probation committee or probation committees;
- (d) the form of records to be kept under this Ordinance;
- (e) what shall be an institution for the purposes of this Ordinance;
- (f) the remuneration of any person appointed to carry out any duties under this Ordinance, and the fees and charges to be made for any act, matter or thing under this Ordinance to be done or observed;
- (g) generally for carrying out the purposes and provisions of this Ordinance.

Delegation
of powers.

17. The principal probation officer may in writing delegate all or any of his powers, duties or functions in relation to any probationer, to any probation officer who is responsible for the supervision of the probationer.

Repeal.
No. 22 of 1934.

18. Section 11 and paragraph (k) of section 37 of the Juveniles Ordinance, 1934, are hereby repealed.

ORDINANCE No. XXX of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Provide for the Supply of a Further Sum of Money for the Service of the Year ended 31st December, 1942

20th December, 1943

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 1942 Supplementary Appropriation Ordinance, 1943. Short title.

2. The public revenue for the period 1st January to 31st December, 1942, of the Colony and Protectorate of Kenya is hereby charged towards the service of the period 1st January to 31st December, 1942, with a further sum of one million one hundred and ninety-six thousand five hundred and ninety-four pounds, ten shillings and thirty-four cents in addition to the sums provided by the 1942 Appropriation Ordinance, 1941. Public revenue charged.

No. 45 of 1941.

3. The money granted by this Ordinance shall be applied to the purposes and services expressed in the Schedule hereto. Application of money granted.

4. The Accountant General of the Colony and Protectorate of Kenya is hereby given authority for having paid out of the revenue of the Colony and Protectorate of Kenya, for the several services specified in the Schedule hereto, the said sum of one million one hundred and ninety-six thousand five hundred and ninety-four pounds, ten shillings and thirty-four cents which have come in course of payment during the period 1st January to 31st December, 1942. Accountant General's authority for payment.

SCHEDULE

HEAD KENYA	Amount £ s. cts.
Administration Extraordinary	3,263 0 89
Agriculture	8,298 7 53
Agricultural Extraordinary	52,263 0 16
Civil Aviation Extraordinary	24 4 90
Conference of E.A. Governors	207 8 38
Customs	4,699 9 70
Customs Extraordinary	100 15 28
Education	1,752 4 85
Education Extraordinary	340 11 00
Forest	8,215 1 84
Forest Extraordinary	61,121 11 89
Game	130 19 37
Inland Revenue	375 6 02
Kenya Auxiliary Air Unit Extraordinary	7,220 10 38
Labour	386 11 56
Legal	155 9 63
Legal Extraordinary	115 18 20

SCHEDULE—(Contd.)				Amount	
HEAD				£	s. cts.
KENYA					
Local Government Contributions				7,623	6 28
Local Government Contributions Extraordinary				14,614	4 32
Medical Extraordinary				18,572	13 05
Miscellaneous Services				4,393	12 79
Miscellaneous Services Extraordinary				636,481	3 26
Pensions and Gratuities				14,236	5 79
Police Extraordinary				3,088	19 03
Posts and Telegraphs				8,078	15 99
Posts and Telegraphs Extraordinary				10,960	10 41
Printing and Stationery Extraordinary				638	1 11
Prisons				11,270	3 59
Public Debt				11,869	5 49
Public Works				119,339	19 05
Public Works Recurrent				8,214	6 73
Registrar General				257	0 91
Subventions				1,223	6 93
Veterinary Services				4,858	2 07
War Expenditure, Civil				172,171	0 26
				<hr/>	
				1,196,561	8 64
				<hr/>	
JOINT SERVICES					
Income Tax Extraordinary				33	1 70
				<hr/>	
				33	1 70
				<hr/>	
TOTAL KENYA AND JOINT SERVICES				£	1,196,594 10 34
				<hr/>	

ORDINANCE No. XXXI of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Collective Punishment Ordinance, 1930

20th December, 1943

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 Collective Punishment (Amendment) Ordinance, 1943, and shall be read as one with the Collective Punishment Ordinance, 1930, hereinafter referred to as the Principal Ordinance.

Short title.

No. 54 of 1930.

2. Section 2 of the Principal Ordinance is hereby amended by substituting a colon for the full stop which occurs at the end thereof and by adding thereto immediately after such colon the following proviso:—

Amendment of section 2 of the Principal Ordinance.

“Provided that—

(1) the provisions of this section shall apply, notwithstanding the fact that no public announcement had previously been made, to any case which, but for the absence of such public announcement, would fall within the provisions of this section and in which—

(a) the property concerned is stock, as defined in the Stock and Produce Theft (Levy of Fines) Ordinance, 1933; and

No. 18 of 1933.

(b) the village, area or district concerned is within the limits of a proclaimed district as defined in the Stock and Produce Theft (Levy of Fines) Ordinance, 1933;

No. 18 of 1933.

(2) the Governor may, if he thinks fit, in any case falling within this proviso order that any fine shall be paid partly or wholly in stock instead of in cash.”

ORDINANCE No. XXXII of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Local Government (District Councils) Ordinance, 1928

Date of commencement.

20th December, 1943

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

Short title.

No. 21 of 1928.

Amendment of section 47 (4) of the Principal Ordinance.

Repeal and replacement of section 57 of the Principal Ordinance.

Buildings.

Residences for officers.

Trees in public places.
Fire-rangers.

Lighting public places.

Medical and funeral expenses of persons employed by Council.

Pension funds for officers and servants.

1. This Ordinance may be cited as the Local Government (District Councils) (Amendment) Ordinance, 1943, and shall be read as one with the Local Government (District Councils) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

2. Sub-section (4) of section 47 of the Principal Ordinance is hereby amended by inserting the words and comma "if not appointed by the Council," between the word and comma "Chairman," and the word "and" in line one thereof.

3. Section 57 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

"57. The Council shall have power to do all or any of the following things, namely:—

- (1) To acquire, hire, erect, maintain and keep in repair such offices and buildings as may be required for the purposes of the Council.
- (2) Subject to the consent of the Governor to acquire houses as residences for officers and persons appointed under the provisions of section 35 of this Ordinance.
- (3) To plant trees or remove trees in or on any public place.
- (4) To engage and remunerate such staff as the Council may consider necessary for the control of grass fires.
- (5) To arrange for the lighting of public places and the erection and maintenance of lamps for that purpose.
- (6) To pay the medical and/or funeral expenses of any person employed by the Council who suffers injury or dies as the result of an accident occurring in the course of his employment or as the result of illness contracted in consequence of such employment.
- (7) (a) Subject to the provisions of any by-laws made under sub-section (10) of section 66 of this Ordinance, to establish, control, manage, maintain, and contribute to any pension, provident or benevolent fund intended for the benefit of the officers and servants of the Council, and to grant pensions and gratuities from any such fund to such officers or servants on their retirement from the service of the Council and to dependants on the death of such officers or servants.

- (b) Subject to the consent of the Standing Committee, in cases where no pension, provident or benevolent fund has been established under this sub-section, or in cases where no benefits accrue from any fund so established, to grant from the revenues of the Council pensions or gratuities to officers or servants on their retirement from the service of the Council and to dependants of deceased officers and servants of the Council.
- (c) Subject to the consent of the Governor in cases where a pension, provident or benevolent fund has been established under this sub-section, to grant from the revenues of the Council additional or increased pensions or gratuities to officers or servants on their retirement from the service of the Council and to dependants of deceased officers and servants of the Council where such officer or servant has been employed for a period of at least five years immediately prior to the establishment of a pension, provident or benevolent fund.
- (8) To establish and maintain outspan grounds within the district. Outspans.
- (9) To establish and maintain pounds within the district and to make such charges in connexion therewith as may be prescribed. Pounds.
- (10) Subject to the consent of the Governor— Grants to institutions.
- (a) to make grants of money towards the establishment and maintenance of schools and public libraries and museums within or without the district;
- (b) to provide bursaries to assist parents resident in the district in educating and maintaining their children at any school;
- (c) to make grants of money towards the establishment and maintenance of hospitals and dispensaries, whether within or without the district;
- (d) to acquire, establish and maintain, either by itself or jointly with any other council or any municipal council or municipal board, hospitals and dispensaries within or without the district, and to make such charges in connexion therewith as shall be fixed by law;
- (e) to provide treatment free of charge for indigent patients who are inhabitants of the district.
- (11) To do all things necessary for carrying out all the purposes for and in regard to which the Council is empowered from time to time to make by-laws, and for carrying all such by-laws into effect. General.
- (12) To incur all expenditure necessary for the carrying out of any purposes of this Ordinance which the Council is authorized to carry out, or for any purpose not specially provided for in this Ordinance which the Governor may determine to be a purpose incidental to the exercise by the Council of its powers and duties under this Ordinance." Expenditure for carrying out purposes of this Ordinance.

Amendment of section 66 (10) of the Principal Ordinance.

4. Section 66 of the Principal Ordinance is hereby amended by inserting the following new sub-paragraph (j) between sub-paragraphs (i) and (j) of paragraph (10) thereof, and by relettering sub-paragraphs (j) and (k) as (k) and (l) respectively:—

“(j) for prescribing that no moneys while in the provident or benevolent fund of the Council and no rights acquired by a contributor thereto shall, while such contributor is in the service of the Council be assignable or transferable or liable to be attached, sequestrated or levied upon in respect of any debt or claim whatsoever other than a debt due to the Council.”

Amendment of the Principal Ordinance.

5. The Principal Ordinance is hereby amended by inserting therein, immediately after section 70 thereof, the following new section:—

Power to demand monetary deposits from applicants for permits.

70A. Where the Council is empowered to make by-laws prohibiting, restricting or regulating the doing of any act and such by-laws require any person to obtain a permit from a specified authority before the doing of such act, such by-laws may provide for a deposit of such sum, or the execution of a bond with or without sureties in such sum, as may be prescribed in such by-laws, such sum to be refunded or such bond to be void, as the case may be, if the person to whom such permit is granted complies with all the conditions of such permit.”

Amendment of section 111 of the Principal Ordinance.

6. Section 111 of the Principal Ordinance is hereby amended by inserting between the word “Gazette” and the full stop in line five of sub-section (3) thereof a comma followed by the words “if in the opinion of the Standing Committee such publication is necessary”.

Amendment of section 112 (3) of the Principal Ordinance.

7. Section 112 of the Principal Ordinance is hereby amended by the deletion therefrom of the words “the last preceding section” which appear in the fourth line of sub-paragraph (3) thereof and by the substitution therefor of the word and figures “section 109”.

ORDINANCE No. XXXIII of 1943

Assented to in His Majesty's name this twentieth day of
December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Tea Ordinance, 1934

20th December, 1943

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 Tea (Amendment) Ordinance, 1943, and shall be read as one with the Tea Ordinance, 1934, hereinafter referred to as the Principal Ordinance.

Short title.
No. 46 of 1934.

2. Sub-section (3) of section 3 of the Principal Ordinance is hereby amended by substituting the words "six thousand seven hundred and thirty-two" for the words "three thousand and five hundred" which occur in the last line thereof.

Amendment of
section 3 (3) of
the Principal
Ordinance.

ORDINANCE No. XXXIV of 1943

Assented to in His Majesty's name this twentieth day of
December, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Legislative Council Ordinance,
1935**

Date of
commencement.

20th December, 1943

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

Short title.

No. 26 of 1935.

Definition of
ordinarily
resident.

Repeal and
replacement of
section 9 (9) of
the Principal
Ordinance.

Saving for
members of the
armed forces.

Repeal and
replacement of
section 10 of
the Principal
Ordinance.

Registering in
one electoral
area only.

1. This Ordinance may be cited as the Legislative Council (Amendment) Ordinance, 1943, and shall be read as one with the Legislative Council Ordinance, 1935, hereinafter referred to as the Principal Ordinance.

2. For the purposes of sub-section (8) of section 9 of the Principal Ordinance, a member of the Armed Forces shall be deemed to have been ordinarily resident in the Colony if he was residing in the Colony as a civilian or as a member of the King's African Rifles for any period of twelve consecutive months preceding the 3rd day of September, 1939.

3. Sub-section (9) of section 9 of the Principal Ordinance is hereby repealed and the following sub-section is substituted therefor:—

√ “(9) has not resided, or carried on business or been employed, in the electoral area in which the application to have his name entered on the register is made for a period of not less than three months immediately preceding the date of such application.”

4. The provisions of sub-section (9) of section 9 of the Principal Ordinance, as repealed and replaced by section 3 of this Ordinance, shall not apply to members of the Armed Forces so far as the election of members of the Legislative Council are concerned during the present war.

5. Section 10 of the Principal Ordinance is hereby repealed and the following sections are substituted therefor:—

“10. (1) No person shall be entitled to be registered as a voter in more than one electoral area at the same time, but such electoral area may be either the normal place of residence in the Colony of the voter, or the electoral area in which he normally carries on business or is employed.

(2) No person who is, or has been, registered in one electoral area shall be registered in any other electoral area unless he produces to the registering officer of the latter electoral area a certifi-

1943

Legislative Council

No. XXXIV

cate from the registering officer of the former electoral area to the effect that his name has been expunged from the register of voters for such former electoral area.

10A. No voter shall vote in more than one electoral area in the same election." One vote only.

6. Sub-section (1) of section 22 of the Principal Ordinance is hereby amended by substituting a semi-colon for the comma which appears after the word "publisher" in the sixth line of paragraph (h) thereof, and by adding immediately after such semi-colon the following:—

Amendment of section 22 (1) of the Principal Ordinance.

"or

(i) registers or attempts to register himself in an electoral area when he is already registered in another electoral area,".

ORDINANCE No. XXXV of 1943

Assented to in His Majesty's name this twentieth day of
December, 1943.

HENRY MOORE,
Governor.

**An Ordinance to Amend the Local Government
(Municipalities) Ordinance, 1928**

Date of
commencement.

20th December, 1943

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 Local Government (Municipalities) (Amendment) Ordinance, 1943, and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

No. 19 of 1928.

Amendment of
section 52 of the
Principal
Ordinance.

2. Section 52 of the Principal Ordinance is hereby amended—

(i) by deleting from sub-section (33) thereof the words "milk and" which occur in the second line thereof;

(ii) by inserting therein between sub-section (33) and sub-section (34) thereof the following new sub-section:—

Inspection and
sale of milk.

"(33A) To establish, erect, equip, maintain and carry on depots for the inspection, treatment, distribution, purchase and sale of milk or milk products, and to distribute, buy and sell milk or milk products;"

Amendment of
section 69 of the
Principal
Ordinance.

3. Section 69 of the Principal Ordinance is hereby amended—

(i) by deleting therefrom paragraph (e) of sub-section (3) thereof and substituting therefor the following paragraph:—

"(e) for prohibiting, regulating, supervising, inspecting and licensing the keeping of cattle, horses, sheep, goats and pigs within the municipality;"

(ii) by deleting therefrom paragraph (f) of sub-section (3) thereof and substituting therefor the following paragraph:—

"(f) for prohibiting, regulating, supervising, inspecting and licensing stables, cowsheds, pigsties and fowl-houses;"

(iii) by deleting from sub-section (14) thereof the words "milk and dead meat" which occur in the second and third lines thereof and by substituting therefor the following words:—

"dead meat and for the inspection, treatment, distribution, purchase and sale of milk or milk products";

(iv) by deleting therefrom sub-section (30) thereof and by substituting therefor the following sub-section:—

"(30) for providing for the due and proper care of the common pasture or other municipal land, and for prohibiting, regulating, supervising and licensing grazing within the municipality;"

(v) by deleting therefrom sub-section (81) thereof.

ORDINANCE No. XXXVI of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Provide for Compulsory National Service

By Notice

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 Compulsory National Service Ordinance 1943, and shall not come into operation unless and until the Governor has declared by notice in the Gazette that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into force on such date as the Governor may, by notice in the Gazette, appoint.

Short title, commencement and duration.

(2) This Ordinance shall continue in force until one year after the date which the Governor, by Proclamation, declares to be the date on which the present hostilities shall have ceased, and shall then expire except as respects things previously done or omitted to be done.

2. Every person of either sex for the time being in the Colony shall, unless exempted under the provisions of this Ordinance, be liable to be called up for national service, whether under the Government or not, and whether in the armed forces of the Crown, or as a member of any force or unit established for civil defence, or in agriculture or in industry or otherwise, and whether whole-time or part-time, as follows:—

General obligation to service.

- (a) if a male British subject or a male British protected person who has attained the age of eighteen years and has not attained the age of forty-five years and is for the time being in the Colony, to be enrolled for military service in any unit of His Majesty's Armed Forces which has been lawfully established in the Colony (whether such unit is serving in or beyond the Colony) or in any unit of His Majesty's Armed Forces which is serving in the Colony;
- (b) if a female British subject or a female protected person who has attained the age of eighteen years and has not attained the age of forty-five years and is for the time being in the Colony, to be enrolled in the Women's Territorial Service (East Africa) or such other women's unit as may be, or may hereafter be, established;
- (c) if a male British subject or a male British protected person who has attained the age of eighteen years and is for the time being ordinarily resident in the Colony, to be enrolled in any force which may be established in the Colony by Regulations made under section 7 of this Ordinance, for civil defence or for the maintenance of internal security in the Colony;

(d) if not enrolled in accordance with the provisions of paragraphs (a) and (b) of this section, to do such work or to render such personal service for such period and in such manner as the Governor in writing may order.

Compulsory transfer to other forces.

3. The Governor may authorize the compulsory transfer to any unit of His Majesty's Armed Forces which has been lawfully established in the Colony (whether such unit is serving in or beyond the Colony) or to any unit of His Majesty's Armed Forces which is serving in the Colony, of any person enrolled for military service under the provisions of this Ordinance.

Appointment of Man Power Committees.

4. (1) The Governor may, by notice in the Gazette, appoint for such areas as are specified in the notice Man Power Committees, whose duty shall be to select and provide for national service under this Ordinance such number of persons as may, from time to time, be required.

(2) In selecting such persons in accordance with the provisions of sub-section (1) of this section, a Man Power Committee shall have regard to the necessities of civil life and to the circumstances of each case.

(3) A Man Power Committee shall consist of a chairman and such other members as the Governor may direct.

No. 20 of 1939.

(4) In respect of any area for which a Man Power Committee has not been appointed under the provisions of sub-section (1) of this section, or under the provisions of section 8 of the Compulsory Service Ordinance, 1939, the Man Power Committee for such area shall be deemed to be the District Commissioner having jurisdiction in such area.

Calling-up notices.

5. (1) Subject to the provisions of this Ordinance, the Governor may serve on any person who is for the time being liable to be called up for national service under section 2 of this Ordinance a notice stating that such person is so called up.

(2) Every such notice shall require the person on whom it is served to present himself in accordance with the terms of the notice at such place and time (not earlier than fourteen days after the date of the service of the notice) and to such authority and for such service as may be specified in the notice.

(3) Every person who is required to present himself in accordance with a notice served upon him under this section shall receive such travelling and other allowances as may be prescribed by regulations made under this Ordinance.

(4) If any person upon whom a notice is served under this section fails to comply with the requirements of that notice, he shall be guilty of an offence and shall be liable on conviction before a subordinate court of the first or second class to imprisonment for a term not exceeding twelve months or to a fine not exceeding seventy-five pounds, or to both such imprisonment and such fine.

Medical examination of persons called up for military service.

6. (1) Every person who is called up for military service under the last preceding section shall, on being called up or as soon thereafter as may be practicable, be medically examined by a medical officer specially appointed for the purpose by the Governor, and shall attend

for examination at the time and place notified by such medical officer. The medical officer shall certify the result of such examination to the person examined and to the Man Power Committee which served the notice under the immediately preceding section or to the Governor as the case may be:

Provided that any person or class of persons who was exempted under the provisions of the Kenya Defence Force Ordinance, 1937, from all or any of the obligations imposed by the said Ordinance or any Regulations made thereunder shall be deemed to be exempt to the same extent from military service imposed by this Ordinance or by any Regulations made thereunder:

No. 5 of 1937.

Provided further that nothing in this sub-section contained shall affect the powers of the Governor under sub-section (3) of section 8 of this Ordinance.

(2) Physical fitness for military service shall be determined in the manner prescribed by Regulations made under this Ordinance.

7. Subject to the provisions of this Ordinance the Governor may make Regulations establishing a force for civil defence or for maintaining internal security within the Colony, and in such Regulations may make provision for the powers and duties, pay, appointment, promotion, reduction in rank and discipline of the officers, non-commissioned officers and members of such force, and may make further provision that the whole or part of the Kenya Defence Force or any other specified class of persons shall be deemed to be enrolled in such force: and the whole or part of the Kenya Defence Force or such other specified class of persons shall, upon the coming into operation of the said Regulations, become members of such force, notwithstanding that any member of the Kenya Defence Force or other person may be doing work or rendering personal service under the provisions of paragraph (d) of section 2 of this Ordinance.

Powers to make Regulations establishing a force for civil defence.

8. (1) Notwithstanding anything to the contrary in this Ordinance contained, the classes of persons set out in the Schedule to this Ordinance shall be exempted from all the obligations imposed by this Ordinance or by any Regulations made thereunder.

Exemptions.

(2) Any person who is certified under the hand of a medical officer, specially appointed by the Governor, to be medically unfit for service under this Ordinance by reason of bodily or mental infirmity or unfitness may be exempted by the Governor from all or any of the obligations imposed by this Ordinance or by any Regulations made thereunder.

(3) The Governor may, by order, exempt any person or class of persons from all or any of the obligations imposed by this Ordinance or by any Regulations made thereunder, and may amend, vary, rescind or revoke any such exemption or any exemption granted under sub-section (4) of this section or any exemption previously granted by the Tribunal appointed under section 12 of the Kenya Defence Force Ordinance, 1937.

No. 5 of 1937.

(4)(a) If any person who is liable to be enrolled for military service under the provisions of this Ordinance claims that he conscientiously objects—

- (i) to performing military service; or
- (ii) to performing combatant duties; or

(b) if any person who is liable to be enrolled for military service, or who is liable to do any work or render any personal service, under the provisions of this Ordinance, claims that exceptional hardship would ensue if he were enrolled for such military service or required to do any such work or render any such personal service,

he may apply in writing to the Governor for exemption and the Governor may in any such case, after making such inquiries as he may deem necessary, exercise the powers conferred upon him by sub-section (3) of this section.

Advisory
Tribunal.

9. For the purpose of exercising the powers conferred upon him by sub-sections (3) and (4) of the immediately preceding section, the Governor may appoint a Tribunal which shall consist of a chairman and such members as he may direct for the purpose of hearing applications for exemption from all or any of the obligations imposed by this Ordinance and advising him thereon.

Rates of pay for
compulsory
personal service.

10. Except in the special cases provided for by section 11 of this Ordinance the rates of pay for any person required to do work or render personal service under the provisions of this Ordinance shall be the ordinary rates of pay current for such class of work or service in the area in which such work or service is performed.

Person liable
for payment of
remuneration.

11. Where any person is required under the provisions of this Ordinance to do any work for, or to render any personal service to, any other person, the person for whom the work is to be done or to whom the person is to render the personal service shall pay to the person doing such work or rendering such service such rate of pay as the Governor may direct for such work or such service, as the case may be.

Supervision of
business where
owner on
military service.

12. (1) Where any person is enrolled for military service under the provisions of this Ordinance or under any other law for the time being in force in the Colony and, in the opinion of the Governor, it is necessary that the business of such persons should be carried on under supervision, the Governor may, with the consent of the owner of such business, make all such arrangements as, in his opinion, are necessary for the carrying on of such business.

(2) Where in order to carry on such business, the Governor has, under the provisions of this Ordinance ordered any person to manage or supervise any such business, the Governor may, without prejudice to the generality of the powers conferred by sub-section (1) of this section, with the consent of the owner of the business, authorize the person so appointed to do all such acts as are customary and necessary to the conduct and management of the business as if such person had been duly appointed under a power of attorney to carry on such business, to enter into contracts in connexion with such business, to engage and recruit staff and, with the approval of the appropriate Man Power Committee of the area in which the business is situate, or of such other person or body of persons as the Governor may appoint, to raise moneys by way of loan on the movable assets of the business, where the business is not that of farming, and, where the business is that of farming, only on the produce grown, produced, or to be grown or produced, on the farm; and all persons and courts

shall pay regard to such authorization to the same extent as if the powers therein conferred had been contained in a properly executed power of attorney duly registered and stamped in accordance with the provisions of any law relating thereto for the time being in force in the Colony.

(3) The Governor may also direct that any remuneration to be paid to the person so managing or supervising such business and all expenses properly incurred by such person shall be paid by the owner of such business. Any such direction may specify the rate of remuneration and/or expenses and may provide for such incidental and supplementary matters as the Governor may think fit.

(4) Where any such direction has been given, the amount of the remuneration and/or expenses specified therein shall be recoverable as a civil debt at the suit of the person managing or supervising the business.

(5) If any dispute shall arise between the person appointed to manage or supervise the business and the owner of such business with regard to anything done, alleged to have been done, omitted to be done or alleged to have been omitted to be done, by such person appointed to manage or supervise the business, such dispute shall be referred to a Board to be appointed by the Governor, by notice in the Gazette, and the decision of such Board upon any matter referred to it for adjudication under the provisions of this sub-section shall be final and conclusive and not subject to appeal to any court.

13. (1) The Governor may appoint on such terms and conditions as he may deem fit any person to be an Inspector for the purpose of inspecting any business being supervised or managed under the provisions of section 12 of this Ordinance.

Appointment of
Inspectors and
their powers.

(2) Any Inspector appointed under the provisions of sub-section (1) of this section may enter at any reasonable time the premises of any business which is being supervised or managed under the provisions of section 12 of this Ordinance for the purpose of inspecting and taking copies of the accounts of such business and may give any such directions as he may deem necessary for the proper supervision or management of the business.

(3) Any person who wilfully obstructs or hinders any Inspector exercising his powers under the provisions of this Ordinance and any person supervising or managing a business under the provisions of section 12 of this Ordinance who willingly fails to comply with any directions given by an Inspector under the provisions of sub-section (2) of this section shall be guilty of an offence against this Ordinance.

14. The Governor may delegate to any person or to any body of persons all or any of the powers conferred upon him by this Ordinance.

Power to
delegate.

15. (1) Any person who is ordered by the Governor under the provisions of this Ordinance to do any work or render any personal service, and who refuses to comply with any such order shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding three years.

Penalties.

(2) Any person who wilfully contravenes or fails to comply with any of the provisions of this Ordinance or of any Regulations made thereunder, for which no other penalty is specifically provided, shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment:

Provided that no person shall be liable to be punished for any offence under the provisions of this Ordinance as well as under the provisions of the Army Act (44 and 45 Vict., Ch. 58), the Naval Discipline Act (12 and 13 Geo. 5, Ch. 37), or the Air Force (Constitution) Act (7 & 8 Geo. 5, Ch. 51).

Regulations.

16. The Governor in Council may, from time to time, make Regulations—

- (a) prescribing anything required to be prescribed under this Ordinance;
- (b) prescribing the procedure to be adopted by Man Power Committees appointed under the provisions of this Ordinance;
- (c) prescribing the rates of pay and terms of service for any person enrolled for military service;
- (d) prescribing the payment of, and the amount of any award, gratuity, or pension in respect of the death, disablement, or sickness of any person enrolled under the provisions of this Ordinance or ordered to do any work or render any personal service under the provisions of this Ordinance;
- (e) generally for the carrying out of the provisions and purposes of this Ordinance.

Repeal,
suspension and
saving clause.
No. 20 of 1939.
No. 5 of 1937.

17. The Compulsory Service Ordinance, 1939, is hereby repealed, and the Kenya Defence Force Ordinance, 1937, is hereby suspended until the date upon which this Ordinance shall expire:

Provided that—

- (a) the Man Power Committees appointed under section 8 of the Ordinance so repealed and the Tribunal appointed under section 12 of the Ordinance so suspended shall continue in force and shall be deemed to have been appointed under section 4 and 9 of this Ordinance respectively;
- (b) any regulation, notice, order, direction or delegation made or given under the Ordinance so repealed, or under the Ordinance so suspended, and in force immediately prior to the coming into operation of this Ordinance, and not being inconsistent with the provisions of this Ordinance, shall continue in force until other provisions shall be made under and by virtue of the provisions of this Ordinance.

SCHEDULE

Ministers of religion who have undergone a ceremony of ordination in a recognized Church, and any lay member of a recognized Missionary Society, who was a member of such Society on the 3rd day of September, 1939.

Judges of the Supreme Court.

Members of Executive and Legislative Councils.

Officers, warrant officers, non-commissioned officers and men of—

- (a) the Royal Navy, Regular Army and Royal Air Force;
- (b) the Regular Reserves of the Royal Navy, Army and Royal Air Force;
- (c) the Territorial Army and Territorial Army Reserve;
- (d) any naval, military and air force unit established in the Colony prior to the coming into operation of this Ordinance.

All members of the Kenya Police Force.

All members of the Kenya Prisons Service.

Administrative Officers and Resident Magistrates.

Any person who is, under the provisions of any Act in force in a Dominion, a national or citizen of that Dominion within the meaning of that Act, or who is a person born or domiciled in a Dominion, if in either case he has been ordinarily resident in the Colony for less than two years.

For the purpose of this Schedule "Dominion" means a Dominion within the meaning of the Statute of Westminster, 1931.

ORDINANCE No. XXXVII of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Non-European Officers' Pensions Ordinance, 1932

20th December, 1943

Date of commencement.

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 Non-European Officers' Pensions (Amendment No. 2) Ordinance, 1943, and shall be read as one with the Non-European Officers' Pensions Ordinance, 1932, hereinafter referred to as the Principal Ordinance.

No. 53 of 1932.

Repeal and replacement of section 18 of the Principal Ordinance.

2. (1) Section 18 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Pensions to dependants when an officer is killed on duty.

“18. (1) Where a non-European officer dies as a result of injuries received—

- (a) in the actual discharge of his duty;
- (b) without his own default; and
- (c) on account of circumstances specifically attributable to the nature of his duty,

while in the service of Kenya, it shall be lawful for the Governor in Council to grant, in addition to the grant, if any, made to his legal personal representative under section 17 of this Ordinance—

- (i) if the deceased officer leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or fifteen pounds a year, whichever is the greater;
- (ii) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, a pension in respect of each child, until such child attains the age of eighteen years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (iii) if the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of eighteen years, of double the amount prescribed by the preceding paragraph;
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i) of this sub-section, and the widow subsequently dies, a pension in respect of each child as from the date of the

death of the widow until such child attains the age of eighteen years, of double the amount prescribed in paragraph (ii) of this sub-section;

- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow:

Provided that—

- (a) pension shall not be payable under this paragraph at any time in respect of more than six children;
- (b) in the case of a pension granted under paragraph (v) of this sub-section, if the mother is a widow at the time of the grant of the pension and subsequently remarries such pension shall cease as from the date of remarriage; and if it appears to the Secretary of State at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Secretary of State may determine;
- (c) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of eighteen years.

(2) In the case of a non-European officer not holding a pensionable office, the expression "pensionable emoluments" in the preceding sub-section shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(3) For the purposes of this section the word "child" shall include—

- (a) a posthumous child;
- (b) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent upon the deceased officer for support; and
- (c) an adopted child, adopted in manner recognized by law, before the date of the injury, and dependent as aforesaid.

(4) If a non-European officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service therein, or a period of leave therefrom, dies as the result of damage to the vessel or vehicle in which he is travelling, or of any act of violence directed against such vessel or vehicle, and the Governor is satisfied that such damage or act is attributable to circumstances arising out of any war in which His Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in sub-section (1) of this section."

(2) The provisions of the said section 18 as replaced by sub-section (1) of this section shall be deemed to have come into operation on the 3rd day of September, 1939.

3. The Non-European Officers' Pensions (Amendment No. 2) Ordinance, 1941, is hereby repealed.

Repeal.
No. 15 of 1941.

ORDINANCE No. XXXVIII of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the King's African Rifles Ordinance, 1932

Date of commencement.

By Notice

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

Short title.

No. 48 of 1932.

1. This Ordinance may be cited as the King's African Rifles (Amendment) Ordinance, 1943, and shall be read as one with the King's African Rifles Ordinance, 1932, hereinafter referred to as the Principal Ordinance, and shall not come into operation unless and until the Governor has declared by notice in the Gazette that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into force on such date as the Governor may, by notice in the Gazette, appoint.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by deleting therefrom the words "and an enlisted clerk" from the definition of "non-commissioned officer".

Amendment of section 19 of the Principal Ordinance.

3. Section 19 of the Principal Ordinance is hereby amended by deleting therefrom item (4) thereof and by substituting therefor the following item:—

"(4) steals, embezzles or fraudulently misapplies, or receives, knowing it to have been stolen or embezzled, any property belonging to a person subject to military law, or belonging to any regimental band, regimental or garrison mess or regimental or garrison institution, or to the Navy, Army and Air Force Institutes, or any public property;"

Amendment of section 44 of the Principal Ordinance.

4. Section 44 of the Principal Ordinance is hereby amended as follows—

(a) by deleting therefrom proviso (5) thereof and by substituting therefor the following proviso:—

"(5) In addition to or without any other punishment in respect of any offence, an offender may be sentenced by court martial to deduction from his ordinary pay to make good the amount of any loss or damage he may have caused.";

(b) by adding thereto the following further proviso immediately after proviso (9) thereof:—

"(10) In addition to or without any other punishment in respect of an offence committed by a soldier on active service, it shall be lawful for a court martial to order that the offender shall forfeit all ordinary pay for a period commencing on the day of the sentence and not exceeding six weeks.".

5. The Principal Ordinance is hereby amended by adding thereto immediately after section 52 thereof the following new section:—

“52A. (1) An accused person charged before a court martial with stealing may be found guilty of embezzlement or of fraudulently misapplying property.

(2) An accused person charged before a court martial with embezzlement may be found guilty of stealing or fraudulently misapplying property.

(3) An accused person charged before a court martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(4) An accused person charged before a court martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(5) An accused person charged before a court martial with striking may be found guilty of using or offering violence.

(6) An accused person charged before a court martial with using violence may be found guilty of offering violence.

(7) An accused person charged before a court martial with using threatening language may be found guilty of using in-subordinate language.

(8) An accused person charged before a court martial with any offence under this Ordinance may, on failure of proof of an offence being committed under circumstances involving a higher degree of punishment, be found guilty of the same offence as being committed under circumstances involving a less degree of punishment.

(9) Where an accused person is charged before a court martial with a civil offence and the charge is one upon which, if he had been tried by a civil court in the Colony for an offence committed in the Colony he might have been found guilty of any other offence, the court martial shall have power to find him guilty of that offence.”

6. Section 53 of the Principal Ordinance is hereby amended—

(a) by inserting therein between the word “Colony” and the word “or” which appear in the third line of sub-section (1) thereof the words “or in any military prison or detention barracks established in any place under the provisions of sections 132 and 133 of the Army Act”; and

(b) by adding thereto immediately after sub-section (4) thereof the following sub-section:—

“(5) The officer in charge of any military prison or detention barrack established in any place under the provisions of section 133 of the Army Act, shall, in respect of offenders who are subject to Part II of this Ordinance and who are confined in such military prison or detention barracks, have the same power as is conferred in respect of prisoners confined in a prison established under the Prisons Ordinance, 1930, upon the Commis-

Amendment of the Principal Ordinance. Conviction of less offence permissible on charge of greater.

Amendment of section 53 of the Principal Ordinance.

44 & 45 Vict., Ch. 58.

No. 37 of 1930

sioner and upon the Superintendent and Visiting Justices by section 59 of the said Prisons Ordinance; and the provisions of sections 60 and 61 of the said Prisons Ordinance shall apply *mutatis mutandis* to every sentence of corporal punishment imposed under this sub-section, subject to the modification that for the words "the Governor" shall be read the words "the General Officer Commanding":

Provided that every such sentence shall be subject to confirmation by the Assistant Provost Marshal or by the Deputy Assistant Provost Marshal and shall not be carried into effect until such confirmation shall have been received:

Provided further that nothing in this sub-section shall authorize the infliction of corporal punishment upon any person who is not an Abyssinian (Amhara, Tigre and Shoa), a Somali, a Baluchi born in Africa, a Malagasy, a Comoro Islander or a native."

Amendment of section 73 of the Principal Ordinance.

7. Section 73 of the Principal Ordinance is hereby amended—

(a) by deleting therefrom the words "other than a clerk, medical orderly, syce, sweeper or boy" which appear in the first and second lines of sub-section (2) thereof and by substituting therefor the words "other than a person mentioned in sub-section (3) of this section";

(b) by adding thereto, immediately after paragraph (c) of sub-section (2) thereof, the following paragraph:—

"(d) for the duration of the war and one year thereafter,"; and

(c) by substituting the following sub-section for sub-section (3) thereof:—

"(3) Clerks, medical orderlies, personal servants, syces, sweepers and such other persons, whether combatants or non-combatants, as the General Officer Commanding may approve, shall be enlisted for the duration of the war and one year thereafter or for such term as may be from time to time fixed by the Governor."

Amendment of section 105 of the Principal Ordinance.

8. (1) Section 105 of the Principal Ordinance is hereby amended by deleting therefrom paragraph (b) thereof and by substituting therefor the following paragraph:—

"(b) to soldiers and followers when on active service, within the meaning of the said Act:

Provided that in relation to the infliction of any punishment by court martial for any offence under the said Act following provisions shall apply—

(1) section 44 of the said Act shall take effect as if—

(i) paragraph (k) read—

'(k) imprisonment, with or without hard labour, for life or any less period;'

(ii) between paragraphs (m) and (mm) thereof the following were inserted—

'(1m) corporal punishment not exceeding twenty strokes in lieu of, or in addition to, other punishment under this section:

Provided that the sentence on a non-commissioned officer for any offence shall in no case include corporal punishment, or imprisonment, unless it also includes reduction of the offender to the rank of a private, and in such case the sentence of reduction shall precede and be carried out before that of corporal punishment or imprisonment.'

(iii) proviso 1(b) thereof read:—

'(b) an offender under this Act shall not be subject to detention for more than two consecutive years whether under one or more sentences;'

and

(iv) immediately after proviso thirteen thereto were added the following proviso:—

'14. The Governor shall, by regulation, prescribe the instrument with which corporal punishment under this section shall be inflicted.'

(2) Imprisonment may be awarded for the same period for which penal servitude may be awarded for any offence, and any sentence of penal servitude whether awarded before or after the coming into force of this Ordinance, shall be carried out into effect as if it were a sentence of imprisonment for the same period, and if any such sentence has been so carried into effect it shall be deemed to have been lawfully carried into effect and if any sentence of imprisonment has been awarded for a period for which a sentence of penal servitude might be awarded it shall be deemed to have been lawfully awarded:

Provided further that nothing in this paragraph contained shall affect the application of sections 46, 47, 48 and 49 of this Ordinance to soldiers and followers when on active service."

(2) This section shall be deemed to have come into effect on the 3rd day of September, 1939.

9. Notwithstanding anything to the contrary contained in any law in force in the Colony any member of the King's African Rifles may be transferred to any other military force lawfully established or serving in any East African territory:

Transfer to other military forces.

Provided that any member of the King's African Rifles so transferred shall for the purposes of pay, good conduct pay and gratuities on discharge retain his right as a member of the King's African Rifles and his service in such other military force shall for the aforesaid purposes be taken into account to the same extent as if it were service in the King's African Rifles.

10. In section 9 of this Ordinance the term "East African territory" means the Colony, the Tanganyika Territory, the Uganda Protectorate, the Nyasaland Protectorate, the Zanzibar Protectorate or the Somaliland Protectorate.

Definition.

ORDINANCE No. XXXIX of 1943

Assented to in His Majesty's name this twentieth day of
December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Amend the Military Units Ordinance, 1939

Date of
commencement.

By Notice

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

Short title
and commence-
ment.
No. 25 of 1939.

1. This Ordinance may be cited as the Military Units (Amendment) Ordinance, 1943, and shall be read as one with the Military Units Ordinance, 1939, hereinafter referred to as the Principal Ordinance, and shall not come into operation unless and until the Governor has declared by notice in the Gazette that it is His Majesty's pleasure not to disallow the same and thereafter it shall come into force on such date as the Governor may, by notice in the Gazette, appoint.

Amendment of
section 2 of
the Principal
Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended by inserting therein, immediately after the definition of "East African Territories", the following new definition:—

"follower" means any person, not being of European origin or extraction, who is attached to a unit in any capacity, and includes any such person being a servant or being of a soldier's or follower's family, but does not include any person who has been enlisted in a unit."

Amendment of
the Principal
Ordinance.

3. The Principal Ordinance is hereby amended by adding thereto, immediately after section 3 thereof, the following new section:—

Ordinance to
apply to
officers, etc.,
serving
outside the
Colony.

"3B. The provisions of this Ordinance shall apply to any unit raised in the Colony and to the officers, warrant officers, non-commissioned officers and members belonging thereto wherever serving, whether within or without the Colony."

Amendment of
section 4 of
the Principal
Ordinance.

4. Section 4 of the Principal Ordinance is hereby amended—

(a) by deleting therefrom the word "Governor" which appears in the seventh line of sub-section (1) thereof and by substituting therefor the words "Governor of any East African territory"; and

(b) by deleting therefrom sub-section (2) thereof and by substituting therefor the following:—

"(2) The Governor of any East African territory in which a unit or a portion thereof is stationed may at any time and for any purpose, as the Secretary of State may direct, order that such unit or portion thereof which is stationed in his territory shall be employed out of or beyond such territory."

5. Section 11 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 11 of the Principal Ordinance.

"11. (1) In relation to the government and discipline of military units the provisions as to discipline contained in the Army Act, 44 and 45, Vict. Ch. 58, and in any articles of war or rules made in pursuance of such Act and for the time being in force, shall, subject to the provisions of this Ordinance and of any regulations made thereunder and with all necessary modifications, apply to all members of such units:—

Application of Imperial Acts.

- (A) At all times to officers and British warrant or non-commissioned officers and locally enlisted British warrant or non-commissioned officers appointed to or attached to any unit;
- (B) To soldiers and followers when on active service within the meaning of the said Act:

Provided that in relation to the infliction of any punishment for any offence under the said Act the following provisions shall apply:—

(i) Section 44 of the said Act shall take effect as if—

(a) paragraph (k) read—

'(k) imprisonment with or without hard labour for life or any less period;'

(b) between paragraphs (m) and (mm) thereof the following were inserted—

'(lm) corporal punishment not exceeding twenty strokes in lieu of, or in addition to, other punishment under this section:

Provided that the sentence on a non-commissioned officer for any offence shall in no case include corporal punishment, or imprisonment, unless it also includes the reduction of the offender to the rank of a private, and in such case the sentence of reduction shall precede and be carried out before that of corporal punishment or imprisonment.'

(c) proviso 1 (b) thereof read—

'1 (b) an offender under this Act shall not be subject to detention for more than two consecutive years whether under one or more sentences;'

and

(d) immediately after proviso thirteen thereto were added the following proviso:—

'14. The Governor shall, by regulation, prescribe the instrument with which corporal punishment under this section shall be inflicted.'

(ii) Imprisonment may be awarded for the same period for which penal servitude may be awarded for any offence, and any sentence of penal servitude whether awarded before or after the coming into force of this Ordinance shall be carried into effect as if it were a sentence of imprisonment for the same period, and if any such sentence has been so carried into effect it shall be deemed to have been lawfully carried into effect and if any sentence of imprisonment has been awarded for a period for which a sentence of penal servitude might be awarded it shall be deemed to have been lawfully awarded.

(c) To soldiers during their residence in the United Kingdom when sent there for the purpose of undergoing instruction or training, or other duty or employment.

(2) In relation to the government and discipline of Air Force units, the Air Force (Constitution) Act, 7 and Geo. 5, Ch. 51, and all Acts amending or replacing the same, the Rules of Procedure made thereunder and the Air Council Instructions for the time being in force, shall, subject to the provisions of this Ordinance and any regulations made thereunder and with all necessary modifications, apply to all members of such units.

(3) This section shall be deemed to have come into effect on the 6th day of December, 1939."

ORDINANCE No. XL of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance relating to Trespass

20th December, 1943

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 Trespass Ordinance, 1943. Short title.
2. In this Ordinance, unless inconsistent with the context— Interpretation.

“cultivated lands” include ploughed or tilled land, land under crops, and plantations;

“enclosed lands” means any lands either private or public, enclosed or surrounded with any fence or which may be partly so enclosed or surrounded and partly with a river so that the whole boundaries thereof may be known or recognized;

“fence” includes any clearly defined ditch, hedge, wall or other erection by which the boundaries of any lands may be known or recognized;

“owner” includes the occupier and person in charge of or having the supervision of any lands or fence.
3. Any person who shall, without reasonable excuse, whereof the burden of proof shall lie upon him, enter upon the cultivated or enclosed lands of any other person, without the consent of the owner thereof shall be guilty of an offence under this Ordinance. Penalty for unlawful entry upon cultivated or enclosed lands.
4. Any person who is in any hut, enclosed premises, yard or compound on any privately owned land between the hours of 6 p.m. and 6 a.m. without the consent of the owner of the said land shall be guilty of an offence under this Ordinance: Penalty for unlawful entry on premises at night.

Provided that it shall be a good defence if such person proves that the consent of the owner was unreasonably refused or that he had reasonable grounds for not obtaining such consent.
5. Any person who shall, without reasonable excuse, whereof the burden of proof shall lie upon him, creep through or over or tamper with a fence shall be guilty of an offence under this Ordinance. Damage to fences.
6. (1) When any person is seen or found committing or is reasonably suspected of having committed an offence under this Ordinance, the owner of the cultivated, enclosed or private lands or the owner of the fence, as the case may be, or any police officer may arrest such person without warrant if he has reason to believe that, except by arresting him, he may not afterwards be found without undue delay, trouble or expense. When person committing an offence may be arrested.

(2) A person apprehended under this section shall be taken with all practicable speed before a magistrate and shall not be detained, without a warrant, longer than is necessary for the purpose.

(3) A person making an arrest under the provisions of sub-section (1) of this section may make over any person so arrested to a police officer who shall take the person arrested with all practicable speed before a magistrate and shall not detain him without a warrant, longer than is necessary for that purpose.

(4) A person making over a person arrested to a police officer under the provisions of the last preceding sub-section shall give such police officer a written and signed statement setting out the circumstances under which the arrest was made.

Penalty for giving false name and address.

7. Any person who upon being required to give his name and address shall give a false or fictitious name or address shall be guilty of an offence under this Ordinance.

Sanction of owner.

8. Proceedings for an offence under this Ordinance, other than an offence under section 7 of this Ordinance, shall only be instituted by, or with the consent of the owner of cultivated, enclosed or private lands or of a fence, as the case may be.

Penalty.

9. Any person guilty of an offence under this Ordinance shall on conviction be liable to a fine not exceeding fifty shillings, and, in default of payment, to imprisonment for a term not exceeding one month.

Repeal.
No. 10 of 1924.

10. The Trespass Ordinance, 1924, is hereby repealed.

ORDINANCE No. XLI of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Provide for Loans of Public Moneys for the Construction of Dwellings and for Matters Incidental Thereto

20th December, 1943

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

- | | |
|---|--|
| | Date of commencement |
| 1. This Ordinance may be cited as the Housing Ordinance, 1943. | Short title. |
| 2. In this Ordinance, unless the context otherwise requires— | Interpretation. |
| “construct” includes alter, enlarge or adapt, and | |
| “construction” has a corresponding meaning; | |
| “dwelling” means a building which when constructed, adapted or enlarged, does not contain more than five living rooms, together with a kitchen and usual appurtenances, outbuildings, fences and permanent provision for lighting, water supply, drainage and sewerage, whether such building is or is to be constructed as a detached or semi-detached building or is to be contained in a block of buildings; “dwelling” also includes the site for the dwelling as herein defined; | |
| “approved dwelling” means a dwelling approved by the Central Housing Board; | |
| “local authority” means a Municipal Council or Board established under the Local Government (Municipalities) Ordinance, 1928, or any person whom, or body of persons which, the Governor may by notice in the Gazette declare to be a local authority for the purpose of this Ordinance; | No. 19 of 1928. |
| “scheme” means a proposal for the construction of several approved dwellings and may include such other proposals as may be necessary or desirable or incidental, including the provision of roads, drains, open spaces, places of worship, places of recreation, places providing facilities for social welfare and trading and the acquisition, laying out, sub-division and development of land. “Scheme” also includes a proposal for the accommodation of natives in accordance with section 13 of this Ordinance. | |
| “approved scheme” means a scheme approved by the Governor in Council. | |
| 3. Subject, in the case of a Municipal Council or Board, to the provisions of sub-section (1) of section 88 of the Local Government (Municipalities) Ordinance, 1928, and, in the case of a District Council, to the provisions of sub-section (1) of section 109 of the Local Government (District Councils) Ordinance, 1928, any local authority may borrow or receive a grant of money for the purpose of enabling it, subject to the provisions of this Ordinance— | Powers of local authorities.
No. 19 of 1928.
No. 21 of 1928. |
| (a) to construct approved dwellings; | |
| (b) to lend or grant money for the construction of approved dwellings; | |

(c) to carry out approved schemes;

(d) to lend or grant money to enable approved schemes to be carried out;

and such local authority may borrow or receive a grant of the money for any of the purposes aforesaid either from the Government of the Colony in accordance with and on terms and conditions prescribed by this Ordinance or from any source whatever on terms and conditions specified by the Governor in Council.

Establishment of
Housing
Fund

4. (1) The Governor in Council may, from funds voted from time to time by the Legislative Council for the purpose, or from funds obtained by the raising of loans, or from funds obtained under the Colonial Development and Welfare Act, 1940, establish a Housing Fund and may, from such fund, authorize the advance or grant of money to any local authority, subject to the provisions of this Ordinance, for the purpose of enabling such local authority to exercise any of the powers conferred upon it by section 6, 7 or 13 of this Ordinance. Any moneys so advanced are hereinafter referred to as an advance.

Rate of interest.

(2) Every advance made under this section shall bear interest at such rate as the Governor in Council may specify. The Governor in Council may specify different rates for different types of dwellings and for different approved schemes, and where the advance is being made from money raised by way of loan, may specify a rate lower than that payable by the Government of the Colony in respect of such loan.

(3) The Governor in Council may prescribe the details of management and repayment of any such Housing Fund and the method in which the accounts of such fund shall be kept.

(4) Any loss of capital or interest arising out of the transaction of any Housing Fund shall be a charge, either in equal shares or in such other proportions as the Governor in Council may in any case determine, against the general revenues and other funds of the Colony and the property and revenue of the local authority to whom the advance has been made.

Conditions of
advance to local
authorities.

5. (1) An advance shall be repaid by the local authority in such instalments of principal together with interest thereon on such dates as may be specified by the Governor in Council in each case, but in no case shall the period for repayment of the total amount advanced and interest thereon exceed forty years.

(2) Every advance made to any local authority under the provisions of this Ordinance, and any interest payable thereon, shall be a charge upon the revenues and assets of the local authority concerned.

Construction of
dwellings and
carrying out of
schemes by local
authorities.

6. (1) Any local authority may—

(a) out of advances or grants made to it by the authority of the Governor in Council or out of moneys otherwise borrowed by it under this Ordinance—

(i) construct approved dwellings and carry out approved schemes within its area of jurisdiction;

(ii) with the approval of the Governor in Council acquire land and construct approved dwellings or carry out approved schemes outside its area of jurisdiction;

- (b) sell or let on conditions prescribed by the Governor in Council any dwellings constructed by it from funds provided under the provisions of this Ordinance:

Provided that all moneys received by the local authority from the sale of such dwellings shall be appropriated to the reduction or extinction of any existing debt incurred for the construction of such dwellings.

- (2) The Governor in Council may, for the purposes of paragraph (b) of sub-section (1) of this section, prescribe as a condition that any such dwelling may be let at a rental which is not sufficient to cover the payment of interest on the capital cost of such dwelling.

7. (1) Any local authority may, out of advances or grants made to it by the authority of the Governor in Council or out of moneys borrowed by it under this Ordinance, lend moneys (hereinafter called a housing loan) or undertake to grant or grant moneys (hereinafter called a housing grant) to any company, society or individual person for the purpose of enabling such company, society or individual person—

Loans and grants by local authorities for the construction of dwellings, etc.

- (a) to construct approved dwellings within the area of jurisdiction of such local authority; or

- (b) to carry out therein an approved scheme:

Provided that a local authority shall not make a housing loan or grant—

- (i) to any company or society unless its articles of association or constitution forbid it to declare or otherwise divide profits amongst or for the benefit of its members at a higher rate than may be specified by the Governor in Council; or

- (ii) to any individual who does not satisfy the local authority that he is not the owner of any other dwelling suitable for his occupation, and that he intends to occupy personally the dwelling in respect of which the housing loan or grant is applied for.

(2) The proportion that a housing loan or grant shall bear to the estimated cost of an approved dwelling or approved scheme shall be as prescribed by the Governor in Council.

(3) It shall be a condition (*inter alia*) of every housing loan or grant made to an individual person for the construction of a dwelling that, notwithstanding in the case of a housing loan that the total amount of the loan together with all interest thereon is repaid and the instrument of mortgage or charge in favour of the local authority is cancelled by reason of such repayment, such individual shall not sell the dwelling within a period of five years after the date of the registration of such instrument or mortgage or charge, or the date on which the grant or the last instalment of the grant was made, as the case may be, unless he has first offered it for sale to the local authority. The local authority may upon such offer purchase the dwelling at a price to be agreed between it and such individual person, or failing agreement, the matter shall be determined in accordance with the provisions of the Arbitration Ordinance.

Cap. 18.

(4) A housing loan shall be repaid to the local authority in such instalments of principal, together with interest thereon, on such dates

as may be specified by the Governor in Council, but the period for repayment of the total amount of the loan and interest thereon shall not exceed twenty years.

(5) A housing loan shall be secured by a first mortgage or charge over the land on which the dwelling is to be constructed or is situate or (as the case may be) over the land acquired for the approved scheme together with all the buildings and improvements on such land, and on such further security or on any other security, as the Governor in Council may in any case specify.

(6) The rate of interest payable to a local authority on a housing loan shall not exceed the rate of interest which the local authority is liable to pay in respect of the money from which the housing loan has been made by more than one-half of one per cent, and such loans or instalments thereof shall bear interest from the date of issue.

(7) For the purposes of this section the period of repayment of the principal shall be calculated from the date on which the first instalment of the loan is paid over by the local authority to the borrower.

Conditions for
obtaining
advances,
grants and loans.

8. (1) No advance or grant shall be made by the authority of the Governor in Council to a local authority and no housing loan or grant shall be made by a local authority except upon a written application accompanied by such particulars as may be specified by the Governor in Council.

(2) An advance or grant or housing loan or housing grant may be made in instalments and in such case the aggregate of all instalments shall not at any particular date exceed the aggregate amount represented by the value of the progress made with a dwelling or scheme at that date. Where any part of the advance or grant or housing loan or housing grant is to be applied to the purchase of a site for an approved dwelling or approved scheme the amount of the purchase price may be included in the amount of any instalment. Such value shall be certified by a person designated by the Governor in Council.

(3) If a dwelling, constructed or to be constructed out of any grant or loan under the provisions of this Ordinance, is sold or leased, the purchase price or the rent, as the case may be, shall be assessed in such a way as to pass on to the purchaser or lessee the benefit of the grant or loan.

Remedies against
local authorities.

9. If a local authority to which an advance or grant or an instalment thereof has been made by the authority of the Governor in Council—

- (a) fails to pay the amount due in respect of interest on the advance or on any instalment, or fails to repay the amount of any instalment of principal on the due date; or
- (b) has not applied the whole of any instalment of the advance or grant to the specific purpose for which it was made; or
- (c) fails to make such progress as the Governor in Council considers reasonable with an approved dwelling or an approved scheme within the period specified for its completion; or

- (d) fails to comply with any condition on which the advance or any instalment thereof was made;

the Governor in Council may reduce the amount of any grant or may suspend or discontinue the payment of any grant as he thinks just and may by an officer authorized in writing by him proceed to recover the amount already lent or granted together with interest thereon—

- (i) by declaring that any revenue of the local authority shall be applied to payment of the amount so due and by appointing a receiver who is hereby authorized to collect so much of such revenues as will discharge such amount and pay over the same to the Governor in Council; or
- (ii) by levying a special rate upon all rateable property within the area of jurisdiction of the local authority;

or by both or either of such method of recovery and the certificate of the Governor in Council shall be evidence of the amount due by the local authority.

10. (1) If an individual person to whom, or a company or society to which, a housing loan or grant has been made by a local authority—

- (a) fails to pay any amount due in respect of interest on the loan or on any instalment thereof or fails to repay the amount of any instalment of principal on the due date; or
- (b) has not applied the whole of any instalment of the loan or grant to the specific purpose for which it was granted; or
- (c) fails to make such progress as the local authority considers reasonable with an approved dwelling or approved scheme within the period specified for its completion; or
- (d) fails to comply with any condition on which the loan or grant or any instalment thereof was made; or
- (e) becomes bankrupt, or is placed in liquidation;

the local authority may reduce the amount of any grant or may suspend or discontinue the payment of any grant as it thinks just and may either proceed to recover the amount already lent, or granted, together with the interest due thereon, by action in a competent court or, after giving three months' notice by prepaid registered letter addressed to such person at his last known place of abode or office or business, or in the case of a company or society at its office, the local authority may by an officer authorized in writing by it and without obtaining any judgment or order of the court, enter upon and take possession of the land and premises on which the loan was secured; and may, after notice of intention to sell, published in a newspaper circulating in its area twice a week for three weeks, sell, by public auction or after public tender, the said land and premises and transfer it to the purchaser and give a good and valid title thereto notwithstanding that such land and premises may, since the loan was secured in accordance with sub-section (5) of section 7 of this Ordinance, have been mortgaged or charged in favour of some other person:

Provided that if the land and premises are so mortgaged or charged the local authority shall transmit to the mortgagee or chargee

Remedies of local authorities against persons to whom housing loans or grants made.

at his last known abode or office or place of business three weeks before the date fixed for the sale, notice by prepaid registered post of such its intention.

(2) If any such dwelling is not completed the local authority may in its discretion complete the same before such sale. The proceeds of such sale shall be applied in payment of all sums due to the local authority, including the cost of completing any such dwelling and of the sale; and the balance (if any) shall be paid to the individual person to whom, or company or society to which, the housing loan was made or to any other person who is the legal representative thereof or is otherwise entitled to receive such balance.

(3) A local authority may itself purchase and take transfer of any dwelling sold as aforesaid and treat the same as if it had been constructed by the local authority under this Ordinance, and no stamp duty or registration charges shall be payable on transfer to the local authority.

(4) The Principal Registrar of Titles is hereby authorized to make the necessary entries in his registers and to sign any document necessary to give effect to this section.

By-laws, etc., not to apply to approved schemes and dwellings.

11. Any by-law or resolution made by a local authority and in force in its area of jurisdiction, which is inconsistent with the conditions of approval specified by the Governor in Council in respect of any dwelling or scheme shall, in so far as it is inconsistent, not apply to the approved dwelling or scheme.

Establishment of Central Housing Board.

12. (1) The Governor in Council shall appoint a board (to be called the Central Housing Board) of not more than seven persons, including as far as practicable an architect and an engineer.

The Governor in Council shall designate one of the members to be chairman and an officer in the public service to be secretary of the Board.

(2) Members of the Board shall hold office for a period of two years or for such longer period as the Governor in Council may decide.

(3) It shall be the duty of the Board when required by the Governor in Council or local authority to enquire into and report as to the necessity for the provision of dwellings in the area of a local authority and the Board may upon its own initiative institute such an enquiry and make a report thereon to the Governor or local authority, as the case may demand.

(4) The Board shall advise and assist generally the Governor in Council in the carrying out of the provisions of this Ordinance.

(5) The Board shall advise and assist local authorities in the preparation of proposals for dwellings and schemes, and in due course shall transmit such proposals to the Governor in Council with its recommendations in regard to the merits, costs and proposed methods of execution of such proposals.

(6) The Board may from time to time convene as occasion may require committees containing representatives of persons and associa-

tions intimately connected with matters arising from the carrying out of this Ordinance, to assist the Board in carrying out any of its functions under the preceding sub-sections.

(7) The Board shall draw up and present to the Governor annually a report of its work during the previous year.

(8) The Governor in Council may prescribe by regulations the procedure of the Board, the allowances which shall be payable to members thereof, the quorum of its meetings and as to such other matters as the Governor in Council may deem necessary for enabling the Board to carry out its powers, functions and duties.

13. (1) Subject to the approval of the Governor in Council any local authority may—

Provision for accommodation of natives.

(a) provide one or more buildings or groups of buildings or huts (hereinafter called "native hostels") either within or without the limits of the area under its jurisdiction for the accommodation of natives not living under conditions of family life on such terms and conditions as, with the approval of the Governor in Council, the local authority may specify;

(b) provide buildings or huts within or without the limits of the area under its jurisdiction for the accommodation of native families on such terms and conditions as, with the approval of the Governor in Council, the local authority may specify.

(2) The Governor in Council in deciding whether to give his approval under this section shall have regard, *inter alia*, to the suitability of the situation, nature and dimensions of any native hostels, buildings or huts, and the provision made for water, lighting, sanitary and other necessary services for the native hostels, buildings or huts, as the case may be.

14. Whenever it appears to the Governor in Council, and after a local inquiry in public by an officer appointed by the Governor for that purpose at which the local authority and other parties interested shall be entitled to be heard, that the provision made in the area of any local authority for the needs of natives ordinarily employed within that area for normal requirements is inadequate or unsuitable, the Governor in Council may, by written notice, require that local authority within such time as may be stated in the notice, to make all or any of the provisions mentioned in section 13 of this Ordinance.

Governor's powers where inadequate or unsuitable accommodation is provided for natives.

15. (1) Upon the failure of a local authority within the time fixed in any notice given under section 14 of this Ordinance or within any extension of that time granted by the Governor in Council to comply with any requirement notified under that section, the Governor may, after written notice to the local authority, carry out such works and do all such things as may be necessary to give effect to that requirement; and for that purpose the Governor is hereby authorized to exercise all such rights, powers and authorities as might have been exercised by the local authority in that behalf.

Governor's powers upon failure of local authority to comply with requirements made under section 14.

(2) Any expenditure reasonably incurred by the Governor under this section in excess of revenue derived from the exercise of the powers vested in him may be recovered in the manner provided by section 9 of this Ordinance.

Governor's
power to make
regulations.

16. The Governor in Council may from time to time make regulations for prescribing anything which may be prescribed under this Ordinance, and for the better carrying out of the objects and purposes of this Ordinance, and such regulations may be expressed to apply throughout the Colony or any specified or defined portion thereof. Such regulations may provide penalties for any contravention thereof or failure to comply therewith not exceeding a fine of £500 or of imprisonment for two years, or both such fine and such imprisonment.

Powers of
entry and
inspection of
premises.

17. (1) Any member of the Central Housing Board, any officer or servant of the local authority generally or specially authorized by such authority, and any person likewise authorized by the Governor may, at any hour reasonable for the proper performance of the duty, enter upon any land or building in respect of which an advance or grant or housing loan or grant has been made or undertaken to be made under this Ordinance to make any inspection or to perform any work or to do anything which he is required or authorized to do under regulations made under this Ordinance.

(2) Any person who fails to give or refuses access to any person mentioned in or authorized under sub-section (1) of this section or obstructs or hinders him in the execution of his duties under the regulations made under this Ordinance or who prevents any servant or workman of a local authority from entering any such land or dwelling for the purpose of complying with any requirements under the regulations made under this Ordinance shall be guilty of an offence and liable on conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

Provisions of
this Ordinance
in relation to
other laws.

18. The provisions of this Ordinance shall be deemed to be in addition to and not in substitution for any provisions of any other law which are not in conflict or inconsistent with this Ordinance, and if the provisions of any law are in conflict with or inconsistent with this Ordinance the provisions of this Ordinance shall prevail.

ORDINANCE No. XLII of 1943

Assented to in His Majesty's name this twentieth day of December, 1943.

HENRY MOORE,
Governor.

An Ordinance to Apply a Sum of Money for the Service of the Year Ending the 31st day of December, 1944

1st January, 1944

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 1944 Appropriation Ordinance, 1943. | Short title. |
| 2. The public revenues for the year 1944 and other funds of the Colony and Protectorate of Kenya are hereby charged towards the service of the year ending the thirty-first day of December, one thousand nine hundred and forty-four, with the sum of five million eight hundred and sixty thousand two hundred and ten pounds. | Public revenue and other funds charged. |
| 3. The money granted by this Ordinance shall be applied for the purposes and services expressed in the Schedule annexed hereto. | Application of money granted. |
| 4. The Accountant General of the Colony and Protectorate of Kenya is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the Revenue and other funds of the Colony and Protectorate of Kenya, for the several services specified in the Schedule annexed hereto, the said sum of five million eight hundred and sixty thousand two hundred and ten pounds which will come in course of payment during the year ending the thirty-first day of December, one thousand nine hundred and forty-four. | Accountant General's authority for payment. |

SCHEDULE

<i>No. of Head</i>	<i>Amount £</i>
1. His Excellency the Governor	15,230
2. Accountant General's Department	18,780
3. Administration	217,738
3A. Administration Extraordinary	52,053
4. Agricultural Department	101,139
4A. Agricultural Department Extraordinary	58,065
4B. Agricultural Production and Settlement Board Extraordinary	156,933
5. Audit	24,253
6. Civil Aviation	26,233
6A. Civil Aviation Extraordinary	140
7. Coast Agency	5,541
8. Conference of East African Governors	16,815
9. Customs	69,576
9A. Customs Extraordinary	120
10. Education Department	292,999

SCHEDULE—Contd.

<i>No. of Head</i>		<i>Amount £</i>
10A.	Education Department Extraordinary	7,345
11.	Forest Department	41,746
11A.	Forest Department Extraordinary	51,720
12.	Game Department	13,867
13.	Government Chemist	2,715
14.	Inland Revenue Department	61,662
15.	Judicial Department	35,533
16A.	K.A.A.U. Extraordinary	3,000
17.	Labour Department	19,644
18.	Lands, Settlement and Local Government	32,099
19.	Legal Department	9,521
20.	Local Government Contributions	157,212
20A.	Local Government Contributions Extraordinary	6,000
21.	Medical Department	319,687
21A.	Medical Department Extraordinary	31,905
22.	Military	133,555
23.	Mining and Geological	10,253
23A.	Mining and Geological Extraordinary	3,500
24.	Miscellaneous Services	51,950
25.	Naval	8,570
26.	Pensions and Gratuities	301,000
27.	Police	211,026
28.	Posts and Telegraphs	369,954
28A.	Posts and Telegraphs Extraordinary	33,285
29.	Printing and Stationery	39,099
30.	Prisons	93,347
30A.	Prisons Extraordinary	300
31.	Public Debt	1,278,716
32.	Public Works Department	118,529
33.	Public Works Recurrent	165,996
34.	Registrar General's Department	7,889
35.	Rent and Interest to H.H. the Sultan of Zanzibar ..	16,000
36.	Secretariat and Legislative Council	34,387
36A.	Secretariat and Legislative Council Extraordinary ..	400
37.	Subventions	22,869
38.	Veterinary Services	90,237
38A.	Veterinary Services Extraordinary	10,596
39.	Public Works Extraordinary	426,955
40.	War Expenditure, Civil	582,526
		£5,860,210