

ELECTED MEMBERS ORGANISATION



COLONY AND PROTECTORATE OF KENYA

ORDINANCES

ENACTED DURING THE YEAR

1928

VOL. VII (NEW SERIES)

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TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION.
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COLONY AND PROTECTORATE OF KENYA.

No. 1 OF 1928.

[9TH JUNE, 1928.] Date of Assent.

An Ordinance to Provide for the Repayment to Users of Imported Kerosene Oil for Agricultural Purposes of an amount equivalent to the Customs Duty paid upon such Oil.

9th June, 1928.

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 Kerosene Oil (Repayment of Duty) Ordinance, 1928,” and shall come into operation on such date as the Governor may by proclamation in the Gazette appoint.

Short title and commencement.

2. Any person using imported kerosene oil solely for the purpose of supplying motive power to farm tractors actually employed in agriculture shall be entitled, in accordance with the provisions of this Ordinance, to repayment of an amount equal to the duty paid in respect of such oil under the Customs Tariff Ordinance.

Repayment in respect of kerosene oil used for agricultural purposes.

Cap. 50.

3. (1) No person shall be entitled to repayment of duty under the provisions of the last preceding section unless and until he shall have obtained a certificate in the Form A in the Schedule hereto from the District Officer in charge of the District in which such person resides. For each such certificate there shall be paid the sum of two shillings.

Procedure to be adopted.

(2) Every such certificate shall be issued annually and shall expire on the 31st day of December of the year of issue.

No. I.

Kerosene Oil (Repayment of Duty)

1928

Production of
certificate to
supplier of oil.

4. Every person desiring to purchase imported kerosene oil for the purpose mentioned in section 2 hereof shall produce to the person by whom such oil is supplied (hereinafter referred to as "the supplier") the certificate issued to him under the last preceding section.

Supply Forms

5. (1) The supplier shall keep for the purposes of this Ordinance Supply Forms in the Form B in the Schedule hereto.

(2) Such Supply Forms shall be in book form, serially numbered, and shall be obtainable by the supplier upon application to the District Officer in charge of the district in which such supplier resides or carries on business.

Duty of
supplier.

6. (1) Upon supplying such oil the supplier shall fill up and sign a Supply Form in duplicate and shall give the original form to the purchaser of such oil and shall retain and keep the duplicate form in the book from which the original form has been issued.

(2) No Supply Form shall be made out or issued in respect of the supply of any less quantity of oil than forty gallons.

(3) Every book of Supply Forms issued to any supplier shall be open, at all reasonable times, to inspection by any police officer.

Time and
procedure for
obtaining
repayment.

7. (1) A claim for obtaining repayment under section 2 of this Ordinance shall be made within six months from the date of the purchase of the oil.

(2) For the purpose of making such claim the purchaser shall make and subscribe a Statutory Declaration in the Form C in the Schedule hereto before a Magistrate and shall attach thereto the original Supply Form or Forms to which such Statutory Declaration relates.

(3) Such Declaration, together with the Supply Forms referred to therein, shall thereupon be sent by the purchaser to the Treasurer and the Treasurer shall pay to the purchaser, out of such funds as may be provided by the Legislative Council for that purpose, such sum as may be due under the provisions of this Ordinance.

No. I.**Kerosene Oil (Repayment of Duty)****1928**

8. It shall be lawful for the Treasurer to make repayments of duty in respect of oil purchased between the first day of January, 1928, and the date of the coming into operation of this Ordinance if and when a Statutory Declaration in the Form D in the Schedule hereto is submitted to him by the person seeking the repayment of such duty and provided that such Statutory Declaration is accompanied by receipts for the purchase of such oil in quantities of not less than forty gallons.

Repayments of duty may be retrospective.

9. No stamp duty shall be chargeable upon any Statutory Declaration made under the provisions of this Ordinance.

Exemption from Stamp Duty.

10. (1) If any person knowingly and wilfully makes any statement which is false in any material particular in any Statutory Declaration made under this Ordinance he shall be liable to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding two years or to both such fine and imprisonment.

Penalties.

(2) Any person who contravenes or fails to comply with any of the provisions of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds.

SCHEDULE.**FORM A.**

This is to certify that for the purposes of the Kerosene Oil (Repayment of Duty) Ordinance, 1928, of is the owner and/or user of the undermentioned farm tractor(s), namely :—

<i>Make.</i>	<i>Engine No.</i>
.....	
.....	
.....	
.....	

This certificate will expire on the 31st day of December, 19.....

Issued this.....day of....., 19...
Fee : Sh. 2/-.

.....
District Officer.

No. I.

Kerosene Oil (Repayment of Duty)

1928

FORM B.

SUPPLY FORM.

THE KEROSENE OIL (REPAYMENT OF DUTY) ORDINANCE, 1928.

I hereby certify that I have this day supplied*.....
gallons of imported
 Kerosene Oil to.....

Brand.....

Certificate No..... produced.

Date.....

.....
Signature of Supplier.

* In words.

FORM C.

STATUTORY DECLARATION.

I,, of
, do
 solemnly and sincerely declare that I have during the period
 from.....to.....
 (inclusive) purchased and used*.....
 gallons of imported Kerosene Oil, as shown on the Supply
 Form(s) hereto annexed, solely for the purpose of supplying
 motive power to farm tractor(s) while such farm tractor(s)
 was/were actually employed by me in agriculture and that
 no portion of the above-mentioned*.....
 gallons of imported Kerosene Oil was used for any other
 purpose.

No. I. Kerosene Oil (Repayment of Duty)**1928**

And I do further solemnly and sincerely declare that I have not made any previous claim in respect of any portion of the said quantity of*.....gallons of imported Kerosene Oil.

And I make this Declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Ordinance, 1926.

Made before me.....
this.....day of.....
at.....

.....
Magistrate.

.....
Signature of Declarant

* In words.

FORM D.

STATUTORY DECLARATION.

I,, of, do solemnly and sincerely declare that I have during the period from.....to..... (inclusive) purchased and used*..... gallons of imported Kerosene Oil, as shown on the Receipt(s) hereto annexed, solely for the purpose of supplying motive power to farm tractor(s) while such farm tractor(s) was/were actually employed by me in agriculture and that no portion of the above-mentioned*..... gallons of imported Kerosene Oil was used for any other purpose.

And I do further solemnly and sincerely declare that I have not made any previous claim in respect of any portion of the said quantity of*.....gallons of imported Kerosene Oil.

No. I.

Kerosene Oil (Repayment of Duty)

1928

And I make this Declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Ordinance, 1926.

Made before me.....
 this.....day of.....
 at.....

.....
Magistrate.

.....
Signature of Declarant.

* In words.

No. 2 OF 1928.

[9TH JUNE, 1928.] Date of Assent.

An Ordinance to Provide for the Notification and Registration of Births and Deaths and Other Matters Incidental Thereto.

9th June, 1928.

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 Births and Deaths Registration Ordinance, 1928." Short title.

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

" Birth " means the issuing forth of any child from its mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead ;

" Police officer " means a police officer in charge of a police station ;

" Prescribed particulars " means—

(i) as to any birth, the name, sex, date and place of birth, and the names, residence, occupations and nationality of the parents ;

(ii) as to any death, the name, age, sex, residence, occupation and nationality of the deceased, and the date, place and cause of death ;

(iii) such other particulars as may be prescribed by the Rules ;

" Registrar General " means the Registrar General of Births and Deaths for the Colony ;

" Registrar " means a registrar appointed to register births and deaths in any area ;

" The Rules " means Rules made under section 27 of this Ordinance ;

" The Statistician " means the Statistician appointed by the Governor for the purposes of this Ordinance.

ADMINISTRATION.

Registrar
General.

3. The Governor shall appoint a Registrar General of Births and Deaths for the Colony.

Appointment of
"registration
areas" and
Registrars.

4. The Governor may from time to time, by notice in the Gazette, appoint any area in the Colony to be a "registration area" for the purposes of this Ordinance, and may appoint fit and proper persons to be the Registrars for each registration area.

Register books
to be supplied
to Registrars.

5. (1) The Registrar General shall provide each Registrar with such register books and forms as may be required, and with such instructions as he may consider necessary, for the registration of births and deaths in his registration area.

(2) Every Registrar shall keep safely each of the said register books until it shall be filled, and shall then deliver it to the Registrar General to be kept by him with the records of his office.

REGISTRATION.

Register of
births and
deaths.

6. It shall be the duty of every Registrar to keep a register of births and a register of deaths and to enter therein, respectively, the prescribed particulars of every birth and death notified to him.

Period for
registration.

7. A Registrar shall not register a birth or death after the expiration of six months from the date of such birth or death, except upon receiving the written authority of the Registrar General, and upon payment of the prescribed fee.

Compulsory
registration of
births.

8. (1) The registration of the birth of a child shall be compulsory if either one or both parents are of European or American or Asiatic origin or descent, or, in the case of an illegitimate child, not recognised by its father, if the mother is of European or American or Asiatic origin or descent.

Power to
extend
compulsory
provisions.

(2) The Governor may, by notice in the Gazette, declare that from a date to be named in the notice the registration of births of all persons in the Colony of any particular race, class, tribe, or group, or of all or some of the inhabitants of any particular town, district or area, shall be compulsory.

No. II.*Births and Deaths Registration***1928**

9. Every person notifying the birth of a child shall, to the best of his knowledge and ability, give the prescribed particulars, which shall be entered forthwith by the Registrar in the register, and the person notifying the birth shall certify to the correctness of the entry by signing or, if he be illiterate, by fixing his mark to the register.

Mode of
registration of
births.

10. Upon the birth of any child, the registration of whose birth is compulsory, it shall be the duty of the father and mother of the child, and, in default of the father and mother, of the occupier of the house in which to his knowledge the child is born, and of every person present at the birth, and of the person having charge of the child, to give notice of the birth, within such time as may be from time to time prescribed by the Rules, to the Registrar of the registration area in which the birth occurs :

Duty to notify
births where
registration is
compulsory.

Provided that in the case of births in prisons, hospitals, orphanages, barracks or quarantine stations, the duty to give such notice shall lie on the officer in charge of the establishment in which the birth took place.

11. No person shall be entered in the Register as the father of any child except either at the joint request of the father and mother or upon the production to the Registrar of such evidence as he may require that the father and mother were married according to law or, in the case of natives, in accordance with some recognised custom.

Entry of
father in the
register.

12. Where any living new-born child is found exposed, it shall be the duty of any person finding such child, and of any person in whose charge such child may be placed, to give to the Registrar of the registration area in which such child is found, within seven days of the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant may possess.

Duty to notify
finding of
exposed
new-born child.

13. Where the birth of any child has been registered before it has received a name, or where the name by which it was registered is altered, the parent or guardian of such child may within two years of the registration, on payment of the prescribed fee, and on providing such evidence as the Registrar may think necessary, register the name that has been given to the child.

Change of name
of child after
registration.

No. II.*Births and Deaths Registration***1928**

Compulsory
registration
of deaths.

14. (1) The registration of the death of every person of whatsoever race, origin or descent dying within a township shall be compulsory, and the registration of the death of every person of European, American, or Asiatic descent dying elsewhere within the Colony shall be compulsory.

Power to
extend
compulsory
provisions.

(2) The Governor may, by notice in the Gazette, declare that from a date to be named in the notice the registration of deaths of all persons in the Colony of any particular race, class, tribe, or group, or of all or some of the inhabitants of any particular district or area, shall be compulsory.

Mode of
registration of
deaths.

15. Every person notifying a death shall, to the best of his knowledge and ability, give the prescribed particulars, which shall be entered forthwith by the Registrar in the register, and the person notifying the death shall certify to the correctness of the entry by signing or, if he be illiterate, by fixing his mark to the register.

Duty to notify
deaths where
registration is
compulsory.

16. Upon the death of any person, the registration of whose death is compulsory, it shall be the duty of the nearest relatives of the deceased present at the death or in attendance during the last illness of the deceased, and, in default of such relatives, of every other relative of the deceased dwelling or being in the same registration area as the deceased, and, in default of such other relatives, of each person present at the death and of the occupier of the house in which to his knowledge the death took place, and, in default of the persons hereinbefore in this section mentioned, of each inmate of such house, or of any person finding or taking charge of the body of such person or causing the body of such person to be buried or otherwise disposed of, to give notice within such time as may from time to time be prescribed by the Rules to the Registrar of the registration area in which the death took place.

Registrars to
issue burial
permits.

17. (1) A Registrar shall, upon production to him at the time of registering the death of a medical certificate on such form as may from time to time be prescribed by the Rules as to the cause of death, issue a written permit for the interment or other disposal of the body of the deceased.

(2) Where no certificate as to the cause of death is produced the Registrar shall forthwith notify the nearest magistrate or police officer, forwarding with the notification such of the prescribed particulars as he may have received.

18. (1) On the receipt of a notice from a Registrar under sub-section (2) of the last preceding section, the magistrate or police officer, or any person specially empowered by the Governor in that behalf, shall cause such enquiries to be made as to the cause of the death as he may think fit or as may be prescribed by the Rules. Enquiries as to cause of death.

(2) If the case does not appear from such enquiries to be one to which section 141 or section 143 of the Criminal Procedure Ordinance applies, the magistrate or police officer or other person as aforesaid shall issue a permit for the interment or other disposal of the body of the deceased and shall send a copy thereof to the Registrar. sup. 7.

19. No person shall bury, cremate or otherwise dispose of the body of any deceased person the registration of whose death is compulsory without a permit issued in accordance with the provisions of the two last preceding sections. Issue of burial permits to be subject to the last two preceding sections.

20. Any person who fails to give notice of a birth or death, the registration of which is compulsory, or who refuses to furnish any of the prescribed particulars or who contravenes the provisions of the last preceding section, and any person who wilfully gives any false information or particulars for the purpose of registration, shall be liable to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment. Penalties.

MISCELLANEOUS PROVISIONS.

21. It shall be the duty of every Registrar, on or before such date as the Registrar General may appoint, to forward to the Registrar General a return in the form prescribed showing the births and deaths registered in his registration area during the preceding year. Duty of Registrars to forward annual returns to Registrar General.

22. It shall be the duty of every Registrar, at the close of each week, to forward to the medical officer in charge of every district included within his registration area, and to the Statistician, a statement of the births and deaths registered by him during such week. Duty of Registrars to forward weekly statements to medical officers.

23. (1) The Registrar General shall cause to be prepared from the returns made to him alphabetical indexes of the births and deaths registered. Preparation of indexes.

No. II.*Births and Deaths Registration***1928**

Inspection of registers, etc.

(2) Any register, return or index in the custody of the Registrar General shall, subject to the Rules, be open to inspection on payment of the prescribed fee.

Certified copies.

(3) The Registrar General shall, on payment of the prescribed fee, furnish a certified copy of any entry in any register or in any return in his custody.

Evidence.

(4) The copy of any entry in any register or return certified under the hand of the Registrar General shall be *prima facie* evidence in all courts of the dates and facts therein contained.

Duty of Registrar General to compile annual summary and report.

24. It shall be the duty of the Registrar General to compile, after the close of each year, a summary of the births and deaths of such year, and a report on the increase or decrease of the population of the Colony and on any special causes appearing to affect the same.

Correction of errors in registers.

25. (1) The Registrar General may, subject to the Rules, correct any error in any register or index.

(2) Corrections shall be made without erasing the original entry, and shall be authenticated by the signature of the Registrar General.

Access to documents by Statistician.

26. The Statistician shall have access at all reasonable times to all documents kept by a Registrar for the purposes of this Ordinance, and may require a Registrar to prepare such statements of births and deaths and provide such information as may be required for the preparation of statistical abstracts of births and deaths.

Rules.

27. The Governor in Council may make Rules with regard to all or any of the following matters, namely :—

- (1) The time within which births and deaths may be notified and registered ;
- (2) The place in each registration area and the hours at which births and deaths may be notified and registered ;
- (3) The conditions under which and the mode in which registration may be effected without personal attendance ;

No. II. *Births and Deaths Registration***1928**

- (4) The forms of all registers, returns, and other documents required for the purposes of this Ordinance;
- (5) The inspection of registers, returns and indexes and the provision of certified copies;
- (6) The places at which births and deaths occurring on ships within the territorial waters of the Colony shall be registered;
- (7) The exemption from all or any of the provisions of this Ordinance of persons of any particular class or race within an area in which the registration of births or deaths has been declared to be compulsory;
- (8) The exemption from all or any of the provisions of this Ordinance of any district or township within an area in which the registration of births and deaths has been declared to be compulsory.
- (9) Any matter which is by this Ordinance required to be prescribed;
- (10) Generally, for carrying into effect the provisions of this Ordinance.

28. The Births and Deaths Registration Ordinance Repeal.
(Chapter 29 of the Revised Edition) is hereby repealed.

Date of Assent.

[9TH JUNE, 1928.]

An Ordinance to Amend the Drugs and Poisons Ordinance.

Date of commencement.

9th June, 1928.

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 Drugs and Poisons (Amendment) Ordinance, 1928,” and shall be read as one with the Drugs and Poisons Ordinance (Chapter 120 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Power to
appoint a board
for the purposes
of this
Ordinance.

2. Section 8 of the Principal Ordinance is hereby repealed and in lieu thereof shall be read the following :—

“ 8. (1) It shall be lawful for the Governor to appoint a board for the purposes of this Ordinance which shall consist of the Director of Medical and Sanitary Services, who shall be chairman thereof, and such other persons who shall be either duly qualified medical practitioners or druggists licensed under this Ordinance as the Governor may from time to time appoint.

(2) The Governor may revoke appointments to and fill vacancies in the board. Every appointment made or revoked under this section shall be notified in the Gazette.

(3) In the absence of the Director of Medical and Sanitary Services or for any other necessary or reasonable cause the senior Government medical officer present shall preside at any meeting of the board.

(4) The chairman together with two other members shall form a quorum.

(5) The board shall keep a record of proceedings.”

No. III.

Drugs and Poisons

1928

3. Section 11 of the Principal Ordinance is hereby repealed and in lieu thereof shall be read the following :—

Qualifications
necessary to
obtain a licence

" 11. No licence to act as a druggist shall be granted by the Director of Medical and Sanitary Services to any person unless such person shall satisfy the board that he is a duly qualified chemist and druggist in the United Kingdom of Great Britain, Ireland or Northern Ireland or holds a certificate or diploma of competency as a chemist or druggist from any college, society, council, or board recognised by the Pharmaceutical Society of Great Britain."

4. Section 12 of the Principal Ordinance is hereby repealed.

Repeal of
section 12
of the Principal
Ordinance.

5. Section 13 of the Principal Ordinance is hereby amended by the deletion of the words " examination or ".

Amendment of
section 13 of
Principal
Ordinance.

6. Schedule B to the Principal Ordinance is hereby repealed and in lieu thereof shall be read the following :—

Amendment of
Schedule B to
the Principal
Ordinance.

" SCHEDULE B.

(See Section 5.)

No.

DRUGGIST'S LICENCE.

Whereas of
has satisfied the board appointed for the purposes of the
Drugs and Poisons Ordinance (Chapter 120 of the Laws
of Kenya) that he is entitled to be licensed as a druggist
in the Colony and Protectorate of Kenya this licence is
hereby granted to the said to dispense and sell
drugs and poisons from the day of
....., 19....., to the 31st day of
December, 19....., subject to the provisions of the Drugs
and Poisons Ordinance.

Given at Nairobi this day of
....., 19.....

.....
Director of Medical and Sanitary Services.

Fee for licence £3."

No. III.*Drugs and Poisons***1928**

Repeal of
Schedule C to
the Principal
Ordinance.

7. Schedule C to the Principal Ordinance is hereby repealed.

Amendment of
Schedule D to
the Principal
Ordinance.

8. Schedule D to the Principal Ordinance is hereby amended by the deletion of the columns headed " Board Certificate " and the columns headed " Examination."

Amendment of
Schedule G
to the Principal
Ordinance.

9. Schedule G to the Principal Ordinance is hereby amended by the deletion of the following :—

" On certificate of examination ... 150 00 ".

An Ordinance to Apply a Sum of Money for the Service of the Year ending the 31st day of December, 1928.

[9TH JUNE, 1928.]

Date of Assent.

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 Appropriation Ordinance, 1928.” Short title

2. The Public Revenue for the year 1928, 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 twenty-eight, with a sum of two million eight hundred and forty thousand, one hundred and ninety-seven pounds. Public Revenue 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 Treasurer of the Colony and Protectorate of Kenya is hereby authorised 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, the said sum of two million eight hundred and forty thousand, one hundred and ninety-seven pounds, which will come in course of payment during the year ending on the thirty-first day of December, one thousand nine hundred and twenty-eight. Treasurer's authority for payment.

SCHEDULE.

	£
I. Public Debt Funded	365,000
II. Rent and Interest to H. H. the Sultan of Zanzibar	16,000
III. Pensions and Gratuities	96,000
IV. His Excellency the Governor	16,574
V. Conference of East African Governors	1,750
VI. Secretariat and Legislative Council	18,305
VII. Printing and Stationery	37,727

Carried forward ... 551,356

No. IV.

Appropriation

1928

		£
	<i>Brought forward</i> ...	551,356
VIII.	Administration	271,678
VIIIa.	Administration, Extraordinary	1,050
IX.	Statistics and Research	21,661
X.	Treasury	24,910
XI.	Customs Department	44,859
XII.	Audit Department	17,977
XIII.	Judicial Department	28,249
XIV.	Registrar General's Department	5,273
XV.	Legal Department	10,340
XVI.	Police	148,864
XVIa.	Police, Extraordinary	165
XVII.	Prisons	45,199
XVIII.	Medical Department	204,801
XVIIIa.	Medical, Extraordinary	1,800
XIX.	Education	158,241
XIXa.	Education, Extraordinary	10,305
XX.	Military	115,380
XXa.	Military, Extraordinary	6,000
XXI.	Post Office and Telegraphs	151,189
XXIa.	Post Office and Telegraphs, Extraordinary	13,430
XXII.	Agricultural Department	144,418
XXIIa.	Agricultural Department, Extraordinary	1,350
XXIII.	Forest Department	37,755
XXIV.	Game Department	10,586
XXV.	Survey and Registration Department	37,975
XXVI.	Government Coast Agency	5,797
XXVIa.	Government Coast Agency, Extraordinary	320
XXVII.	Miscellaneous Services	56,255
XXVIII.	Interest	207,554
XXIX.	Public Works Department	135,705
XXX.	Public Works, Recurrent	193,004
XXXI.	Public Works, Extraordinary	170,651
XXXII.	Trade Information and Publicity Bureau	6,100
Total ...		£2,840,197

No. V.

Surveyor General

1928

No. 5 OF 1928.

[9TH JUNE, 1928.]

Date of commencement.

An Ordinance to Provide a New Designation for the Officer hitherto styled " Director of Surveys " or " Director of Land Surveys."

1st January, 1928.

Short title.

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 Surveyor General's Ordinance, 1928." Change of title.

2. Where in any Ordinance, rule, order, notice, contract or other document the designation " Director of Surveys " or " Director of Land Surveys " occurs, it shall be read as though the designation " Surveyor General " had been substituted therefor. Date of commencement.

3. This Ordinance shall have effect from the first day of January, 1928.

No. VI.

General Loan and Inscribed Stock

1928

No 6 OF 1928.

Date of Assent.

[9TH JUNE, 1928.]

An Ordinance to Amend the General Loan and Inscribed Stock Ordinance.

Date of commencement.

9th June, 1928.

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 General Loan and Inscribed Stock (Amendment) Ordinance, 1928," and shall be read as one with the General Loan and Inscribed Stock Ordinance (Chapter 46 of the Revised Edition), hereinafter referred to as " the Principal Ordinance."

Cesser of sinking fund contributions.

2. Notwithstanding anything to the contrary contained in the Principal Ordinance, if at any time the trustees of the sinking fund of any loan issued or to be issued under the provision of the said Ordinance (other than a debenture loan redeemable by annual drawings or by purchase in the market) are satisfied that the value of the fund will be sufficient with further accumulations of interest but without further payments of contributions to enable the loan to be redeemed out of the proceeds of the sinking fund when the same shall fall due to be redeemed, the Governor may with the approval of the Secretary of State suspend further payments of contributions to the said sinking fund : Provided always that contributions to the sinking fund shall be recommenced if the trustees shall at any time inform the Governor that it is necessary.

No. 7 OF 1928.

[9TH JUNE, 1928] Date of Assent.

An Ordinance to Amend the Revised Edition of the Laws Ordinance.

9th June, 1928.

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 Revised Edition of the Laws (Amendment) Ordinance, 1928,” and shall be read as one with the Revised Edition of the Laws Ordinance, hereinafter referred to as “ the Principle Ordinance.” short title.

2. Sub-section (1) of section 9 of the Principle Ordinance is hereby repealed and the following sub-section is substituted therefor :— Revision of subsidiary legislation up to 1926.

“ (1) There shall be issued, as supplementary to the revised edition of the Ordinances, a volume or volumes containing all such local Orders in Council, Proclamations, Rules and Regulations in force on the thirty-first day of December, 1926, as appear to the Commissioners to be of sufficient importance to be included.”

3. The Principal Ordinance is hereby amended by adding thereto immediately after section 9 the following section :— Bringing into force subsidiary legislation.

“ 9A. (1) Each volume of every copy of the supplementary volume or volumes to the revised edition of the Ordinances when printed shall be impressed on the title-page thereof with the Public Seal of the Colony ; and on some convenient day thereafter the Governor shall by a proclamation published in the Gazette notify that the copies of the supplementary volume or volumes to the revised edition of the Ordinances has or have been duly impressed as aforesaid, and is or are ready for issue at the Secretariat.

Validity of
subsidiary
legislation.

(2) Immediately on the publication of the proclamation the supplementary volume or volumes to the revised edition of the Ordinances shall, subject to the provisions of section 9, become and be without any question, in all courts of justice and for all purposes whatsoever, the sole authentic edition of the local Orders in Council, Proclamations, Rules and Regulations in force on the thirty-first day of December, 1926."

No. 8 OF 1928.

[9TH JUNE, 1928.]

Date of Assent

**An Ordinance to Provide for the more Convenient
Administration of the Extradition Acts, 1870
and 1873.**

WHEREAS by the Act of the Imperial Parliament known as the Extradition Act, 1870, it is amongst other things enacted that the said Act, when applied by Order in Council, shall, unless it is otherwise provided by such Order, extend to every British possession, but with the following among other modifications, namely :—

Preamble
33 and 34
Vict., c.52

No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorised or required to be done under the said Act by the Police Magistrates and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone ;

and any prison in the British possession may be substituted for a prison in Middlesex :

AND WHEREAS by the said Act it is also enacted that :—

If by any law or Ordinance made before or after the passing of the said Act by the legislature of any British possession, provision is made for carrying into effect, within such possession, the surrender of fugitive criminals who are in, or suspected of being in, such British possession, His Majesty may, by the Order in Council applying the said Act in the case of any foreign State, or by any subsequent order, either

Suspend the operation, within any such British possession, of the said Act, or of any part thereof, so far as it relates to such foreign State, and so long as such law or Ordinance continues in force there, and no longer ;

Or direct that such law or Ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act.

36 and 37
Vict., c.60

AND WHEREAS by another Act of the Imperial Parliament known as the Extradition Act, 1873, it is enacted that the said Act shall be construed as one with the Extradition Act, 1870, and that the said two Acts may be cited together as the Extradition Acts, 1870 and 1873 :

AND WHEREAS it is expedient to provide for the more convenient administration within the Colony of Kenya of the Extradition Acts, 1870 and 1873, by conferring on Magistrates the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom :

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

Short title.

1. This Ordinance may be cited as “ the Extradition Ordinance, 1928.”

Interpretation.

2. In this Ordinance the term “ Colony ” shall not include the Protectorate of Kenya.

Powers of
 magistrate in
 relation to
 extradition
 under the
 Imperial Acts.

3. All powers vested in, and acts authorised or required to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom, under the Extradition Acts, 1870 and 1873, are

hereby vested in, and may in the Colony be exercised and done by, any magistrate holding a subordinate court of the first class in relation to the surrender of fugitive criminals under the said Acts.

Suspending
 clause.

4. This Ordinance shall not come into operation until His Majesty shall by Order in Council direct that this Ordinance shall have effect within the Colony as if it were part of the Extradition Act, 1870, but this Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

[9TH JUNE, 1928.]

Date of Assent.

**An Ordinance to Amend the Fugitive Criminals
Surrender Ordinance.***9th June, 1928.*Date of com-
mencement.

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 Fugitive Criminals Surrender (Amendment) Ordinance, 1928," and shall be read as one with the Fugitive Criminals Surrender Ordinance (Chapter 11 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Short title.

2. The Principal Ordinance is hereby amended by adding immediately after section 1 thereof the following new section :—

Principal
Ordinance
only applies
to Protectorate
of Kenya.

" 1A. This Ordinance applies only to the Protectorate of Kenya."

3. The Principal Ordinance is hereby further amended by deleting the word "Colony" wherever it occurs and by substituting therefor the word "Protectorate."

" Protectorate "
substituted for
" Colony "
throughout
Principal
Ordinance.

No. 10 OF 1928.

Date of Assent.

[9TH JUNE, 1928.]

An Ordinance to Amend the Stock and Produce Theft Ordinance.

Date of commencement.

9th June, 1928.

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 Stock and Produce Theft (Amendment) Ordinance, 1928," and shall be read as one with the Stock and Produce Theft Ordinance (Chapter 79 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Interpretation.

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

"Stock," in addition to the animals included in the definition of stock in section 2 of the Principal Ordinance, includes the meat, hide, skin or any part of any stock;

"Produce" includes milk, eggs, fruit, tea, maize, coffee beans, coffee berries and any other article whatever produced or derived from agricultural or horticultural operations which the Governor in Council may from time to time by proclamation declare to be produce;

"Sell" includes barter or exchange;

"Proclaimed district" means any area to which sections 4 and 5, or either of them, of this Ordinance may from time to time be applied by the Governor in Council by proclamation.

Liability to account for possession of produce in certain cases.

3. (1) If any person is found in possession of produce on any farm or in the immediate vicinity thereof under circumstances which may reasonably lead to the belief that such produce has been stolen, such person shall be deemed to have stolen the same and shall, unless he proves affirmatively (the onus being on him) that the possession was lawful, be liable to the penalties prescribed by section 3 of the Principal Ordinance.

(2) It shall be lawful for the owner or manager of any **farm** to apprehend and detain, without a warrant, any person found in possession of any produce upon such farm or in the immediate vicinity thereof which such owner or manager may have reasonable cause to suspect to have been stolen or unlawfully obtained from such farm :

Power to arrest persons conveying produce suspected to be stolen.

Provided that any person apprehended under this subsection shall, with all practicable speed, be either handed over to a police officer or brought before a magistrate to be dealt with according to law.

4. If any stock is found in the possession or on the premises of any person in a proclaimed district in circumstances which may reasonably lead to the belief that such stock has been stolen, such person shall be deemed to have stolen the same and shall, unless he proves affirmatively (the onus being on him) that the possession was lawful, be liable to the penalties prescribed by section 3 of the Principal Ordinance.

Liability to account for possession of stock in certain cases.

5. It shall not be lawful for any person to sell or deliver any stock or produce in a proclaimed district between sunset and sunrise, and any person so doing and any person buying or taking delivery of any stock or produce which is sold in contravention of this section shall be liable to a fine not exceeding five pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment :

Restriction on sale of stock and produce by persons during night-time.

Provided that this section shall not apply to the registered holder of agricultural land within the proclaimed district under grant or lease from the Crown or to his duly authorised agent in respect of stock or produce raised on such land or to the purchaser thereof.

6. All offences under this Ordinance shall be cognizable to the police.

Offences cognizable to Police.

No. 11 OF 1928.

Date of Assent.

[22ND JUNE, 1928.]

**An Ordinance to Alter the Time within the Colony
and Protectorate of Kenya.**Date of com-
mencement.

30th June, 1928.

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 Alteration of
Time Ordinance, 1928.”

Alteration of
local time.

2. At and after midnight on the 30th day of June, 1928,
time within the Colony and Protectorate shall be deemed to
be and shall be three hours fast on Greenwich mean time.

[2ND JULY, 1928.] Date of Assent.

An Ordinance to Provide for the Organisation of the European Inhabitants of the Colony of Kenya for the Defence thereof.

2nd July, 1928.

Date of commencement.

WHEREAS, in view of the responsibility resting upon the European inhabitants of the Colony for the defence thereof and for the protection of life and property therein, it is desirable that special provision be made to enable such inhabitants promptly and efficiently to perform, when called upon, the duty of maintaining law and order incumbent upon them under the common law :

AND WHEREAS for the above purpose it is necessary that all able-bodied British subjects of European origin or descent should be enrolled and organised, and that youths before reaching manhood should be adequately trained :

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

PART I.

ESTABLISHMENT, ORGANISATION AND ADMINISTRATION OF DEFENCE FORCE.

1. This Ordinance may be cited as " the Defence Force Ordinance, 1927," and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Short title and commencement.

2. There shall be established a Force to be known as the Kenya Colony Defence Force (hereinafter referred to as " the Defence Force ") which shall be under the supreme command of the Governor, and the members of which shall be liable to render general military service in any part of the Colony for the defence thereof or any part thereof or for the protection of life and property therein.

Establishment of Defence Force.

Organisation
of Defence
Force.

3. (1) The Governor shall appoint an officer to be Commandant of the Defence Force, who shall be responsible for the discipline and efficiency of the Defence Force.

(2) The Governor shall appoint a permanent headquarters staff which shall consist of a Staff Officer and such other ranks as the Governor may deem expedient.

(3) The headquarters of the Defence Force shall be at Nairobi.

Central Defence
Committee.

4. (1) The Governor shall appoint a Central Defence Committee consisting of the Commandant and one delegate from each Defence Force District.

(2) The Central Defence Committee shall perform such functions and shall execute such powers and duties as may be prescribed by this Ordinance or by any Regulations made hereunder.

Central Sub-
Committee.

(3) It shall be lawful for the Governor to appoint a Central Sub-Committee, consisting of the Commandant and three other members of the Central Defence Committee, for the performance of such functions and the execution of such powers and duties as may be delegated to the Sub-Committee by the Central Defence Committee.

Defence Force
Districts.

5. (1) For the purposes of this Ordinance the Governor shall divide the Colony into districts to be known as Defence Force Districts, and shall designate the same respectively by such names as he may think fit: Provided that the Governor may at any time alter or abolish such districts or designations and may appoint others in place thereof respectively.

(2) Each Defence Force District shall, in accordance with the provisions of this Ordinance and of any Regulations made hereunder, be organised as far as possible so as to constitute units complete for service in the field, including Supply, Transport, Medical and Veterinary Services, and shall hold its own stock of reserve arms and ammunition, and shall have its own first and second line Transport allocated to it.

6. (1) The Governor shall appoint in each Defence Force District a Local Defence Committee which shall include the District or Resident Commissioners of any areas included in such Defence Force District and such other persons as the Governor, on the recommendation of the members of the Force in such District, may approve.

District
organisation.

(2) The Governor shall, after consultation with the Local Defence Committee, appoint in each Defence Force District a District Commandant and such Section Commanders as he may deem expedient. Each District Commandant shall *ex officio* be a member of the Local Defence Committee for the district in which he is appointed.

(3) The District Commandant, Section Commanders and Local Defence Committee shall respectively perform such functions and shall execute such powers and duties as may be prescribed by this Ordinance or by any Regulations made hereunder.

7. (1) Each Local Defence Committee shall draw up a scheme of defence for its district, including the selection of rallying points, the establishment of defensive posts and the arrangement of a system for the collection and use of available supplies and transport during such period as the Defence Force or any portion thereof shall be called out on active service.

Duties of Local
Defence
Committee.

(2) Each Local Defence Committee shall also collect such topographical and other information as it may consider necessary or expedient. Any such topographical information shall be inserted in the existing maps of the Defence Force District so that the same shall at all times be kept up to date.

(3) The Local Defence Committee shall from time to time send duplicate reports on all or any of the foregoing matters to the Staff Officer of the Defence Force.

8. The Governor may at any time dispense with the services of any officer or member of the Defence Force or of any member of the Central or Local Defence Committees.

Power of
Governor to
dispense with
services.

Power of
Governor to
delegate
authority.

9. The Governor may, for all or any of the purposes of this Ordinance, delegate all or any of his functions, powers and duties under this Ordinance to such person or persons as he may deem expedient.

PART II.

CONSTITUTION AND ENROLMENT OF DEFENCE FORCE.

Division of
Defence Force
into Classes

10. Members of the Defence Force shall be divided into the following classes, namely :—

Class I.—Persons who have attained the age of eighteen years and have not attained the age of thirty years ;

Class II.—Persons who have attained the age of thirty years and have not attained the age of forty years ;

Class III.—Persons who have attained the age of forty years and have not attained the age of fifty years ;

Class IV.—Persons who have attained the age of fifty years.

Compulsory
enrolment of
male British
subjects
between the
ages of 18 and
50 years

11. (1) Subject to the provisions of this Ordinance, every male British subject, both of whose parents are of European origin or descent, who has attained the age of eighteen years and has not attained the age of fifty years, and who is ordinarily resident in the Colony, shall attend at the office of the District or Resident Commissioner of his administrative district within one month after the commencement of this Ordinance or within one month of attaining the age of eighteen years or becoming so resident as aforesaid, as the case may be, and shall enrol himself as a member of the Defence Force in the Class appropriate to his age, and if any such person shall fail so to enrol himself he shall be deemed to be enrolled as a member of the Defence Force.

(2) Any male British subject, both of whose parents are of European origin or descent who has attained the age of fifty years may volunteer to serve in the Defence Force, and in such case such person shall attend at the office of the District or Resident Commissioner of his administrative district and shall enrol himself as a member of Class IV of the Defence Force.

Voluntary enrolment of male British subjects who have attained the age of 50 years.

(3) Subject to the permission of the Governor, any male person, not being a British subject but otherwise qualified in regard to age and origin or descent, may volunteer to serve in the Defence Force, and in such case such person shall attend at the office of the District or Resident Commissioner as aforesaid, and shall enrol himself as a member of the Defence Force in the Class appropriate to his age.

Enrolment of persons other than British subjects.

(4) Notwithstanding anything in this section contained, members of the Medical and Veterinary professions in actual practice shall only be enrolled or deemed to be enrolled and liable to serve in their professional capacity.

12. Notwithstanding anything in the last preceding section contained, any person liable to be enrolled and to serve in the Defence Force or who volunteers for service therein may, with the permission of the District Commandant of the Defence Force District in which he ordinarily resides, elect to enrol himself as a member of any Class preceding the Class appropriate to his age: Provided that upon such enrolment such person shall be liable to perform all the duties and shall be subject to all the obligations imposed by this Ordinance and by any Regulations made hereunder upon the members of the Class in which he is so enrolled.

Right of persons to elect as to Class in which they are enrolled.

13. (1) All persons who are certified under the hand of a Medical Officer to be medically unfit for service under this Ordinance by reason of bodily or mental infirmity or unfitness shall be exempt from enrolment and service in the Defence Force.

Exemptions.

(2) The Governor in Council may by order exempt any person or any class of persons from all or any of the obligations imposed by this Ordinance or by any Regulations made hereunder.

Preparation of
lists of persons
liable to serve.

14. (1) The District or Resident Commissioner (hereinafter referred to as "the officer in charge") of each administrative district shall, within two months after the commencement of this Ordinance, and during the month of January in each succeeding year, prepare a list, in the Form given in the Schedule to this Ordinance, containing the names of all persons in his district who are liable for enrolment and service or who volunteer for service under the provisions of this Ordinance.

(2) When such list has been prepared the officer in charge shall cause a copy thereof to be affixed in a conspicuous manner at his office and court-house, and shall cause a notice to be inserted in at least one newspaper of the day on which and the place at which he will hold a court for the purpose of hearing objections to such list, which day shall not be earlier than two weeks nor later than four weeks (unless for special reason) after the date on which the copy of such list was affixed as aforesaid.

(3) Upon the day and at the place so notified the officer in charge shall hold a court, and shall, on due proof by the oath of such persons as he shall see fit to examine or by statutory declaration or affidavit, correct all errors in such list, either by adding thereto the names of persons liable to enrolment and service or by striking out the names of persons who claim to be exempt. Such court may be adjourned from day to day until all questions as to the correctness of the list have been determined. The decision of the officer in charge upon any question arising in regard to the correction of the list shall be subject to appeal to the Court of a First Class Magistrate.

(4) As soon as all questions as to the correctness of the list have been determined as aforesaid, the officer in charge shall forthwith transmit such corrected list to the Staff Officer of the Defence Force.

Change of
residence of
members of
Defence Force.

15. Any member of the Defence Force who leaves one Defence Force District to reside in another Defence Force District shall forthwith notify the District Commandant of each such District.

PART III.

ARMS, AMMUNITION AND EQUIPMENT.

16. Such rifles, ammunition and equipment as may be prescribed shall be provided by the Government for members of the Defence Force, and will be issued in accordance with the Regulations to be made under this Ordinance.

Government to provide rifles and ammunition.

17. Every member of the Defence Force in possession of a Government rifle, ammunition and equipment as hereinbefore provided shall be responsible for the same and for keeping the same in a good and efficient condition, and shall be liable for any loss of or damage to such rifle, ammunition or equipment, due to his act, neglect, or default.

Duties of members in regard to Government rifles, etc.

PART IV.

TRAINING.

18. (1) Subject to the provisions of section 20, every member of the Defence Force shall in each year undergo the course of training prescribed for the Class in which he is enrolled: Provided that the annual course of training shall not exceed—

Training.

(a) in the case of Class I, a period of one hundred hours in the aggregate;

(b) in the case of Classes II, III and IV, a period of twelve hours in the aggregate.

(2) The time occupied in proceeding to or returning from a camp or place of assembly or instruction shall not be reckoned as part of the prescribed period of training.

19. Any member of the Defence Force may be required, as part of his annual course of training, to fire such musketry course as may be prescribed.

Musketry training.

20. (1) A District Commandant may, in his discretion, exempt any member of his unit from the performance of the whole or any part of his compulsory training under the two last preceding sections.

Powers of exemption in regard to training.

(2) A District Commandant may, in his discretion, authorise any member of his unit to fire his musketry course on any military or police range: Provided that in such case such member shall obtain a certificate of efficiency signed by a European Military or Police Officer.

Notification of
time and place
of training.

21. The date and place for every course of training and every musketry course shall be notified by the Staff Officer, and notice of such date and place published in the Defence Force Orders and affixed in a conspicuous manner at the office of the District Commandant of each Defence Force District shall be sufficient notice to every member of the Defence Force residing in such District.

Penalties for
non-attendance
at training or
musketry
course.

22. If any member of the Defence Force shall without reasonable cause or excuse, after due publication of the notice prescribed by the last preceding section, fail to attend at the place mentioned in such notice for the purpose of undergoing the prescribed course of training or of firing the prescribed musketry course, or shall fail to complete such courses or either of them, then and in any such case such member shall be liable, on conviction before a Magistrate of the First or Second Class, to a fine not exceeding five pounds or to imprisonment of either description for a term not exceeding one month or to both such fine and imprisonment : Provided that no such conviction shall be deemed to exempt the person convicted from all or any of his duties and obligations under this Ordinance or any Regulations made hereunder.

PART V.

MOBILIZATION.

Calling out and
mobilization of
Defence Force.

23. (1) Whenever in the opinion of the Governor it shall be necessary for the defence of the Colony or any part thereof or for the protection of life and property therein, the Governor may, by proclamation, call out and mobilize the Defence Force, or such part or parts thereof as he may deem necessary, for active service :

Provided that a proclamation under this sub-section may call out the members of any one or more of the Classes mentioned in section 10 of this Ordinance, but so that the members enrolled in any Class shall not be called out until the members enrolled in every preceding Class have been called out :

Provided, further, that the Governor may by such proclamation, in lieu of calling out and mobilizing the Defence Force or any part thereof as aforesaid, order the Defence Force, or such part or parts thereof as he may deem necessary, to hold itself in readiness for immediate mobilization.

(2) In the case of sudden and imminent danger in any administrative district, when it is not possible to obtain the authority of the Governor without undue delay, the civil officer in charge of such district may, for the defence of the district or any part thereof or for the protection of life and property therein, by proclamation in the name of the Governor call out the members of the Defence Force resident in such district, but in such case such officer shall forthwith report to the Governor such calling out and any subsequent step taken by him.

Power of administrative officers to call out Defence Force.

24. Members of the Defence Force shall, when they are on active service or when called out under the last preceding section or when ordered to hold themselves in readiness for mobilization under the second proviso to section 23 (1), be subject to the provisions of the Army Act and all Acts amending or substituted for the same, but so that the Regulations under section 31 hereof may prescribe that any provisions of those Acts shall not apply to the Defence Force : Provided that—

Discipline of Defence Force on mobilization to be governed by Army Act. 44 & 45 Vic., c. 58.

- (a) the words " the Defence Force " shall be read therein for the words " Regular Forces ", the words " member of the Defence Force " for the words " officer or soldier ", as the case may be, and the word " Governor " for the words " His Majesty " and " Secretary of State " ;
- (b) no sentence of a court-martial upon the trial of a member of the Defence Force shall be carried into execution unless confirmed by the Governor or such officer as he may appoint on his behalf.

25. On the mobilization of the whole or any part of the Defence Force for active service, every resident (whether he shall or shall not himself be a member of the Defence Force) shall be liable to provide any transport and supplies in his possession if so required ; and any person who, without reasonable cause or excuse, shall fail to comply with the requirements of this section shall be liable, on conviction before a Magistrate of the First or Second Class, to a fine not exceeding one hundred pounds or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

Liability of population to provide transport, etc.

No. XII.**Defence Force****1928**

Defence Force
not to be
called out for
ceremonial
parades.

26. No member of the Defence Force shall be liable to be called out for ceremonial parades or for any purpose other than as provided in this Ordinance.

Penalty for
breach of duty

27. Any member of the Defence Force who, after publication of any proclamation mentioned in section 23, shall without reasonable cause or excuse fail to attend for service or duty on any occasion, or shall absent himself without the permission of some competent authority, or shall refuse or neglect to obey any lawful command of his superior officer, shall be liable, on conviction before a Magistrate of the First or Second Class, to a fine not exceeding one hundred pounds or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment :

Provided always that no such conviction shall be deemed to exempt the person convicted from service or from any future liability to serve under the provisions of this Ordinance.

PART VI.**MISCELLANEOUS PROVISIONS.**

Temporary
absence of
members.

28. The provisions of this Ordinance shall not apply to any member of the Defence Force during his temporary absence from the Colony.

Right of
members to
volunteer for
service in His
Majesty's
Forces.

29. Nothing in this Ordinance contained shall be deemed to prevent any member of the Defence Force from volunteering to serve in any of His Majesty's Regular or other Forces.

Governor may
award gratuity
or pension in
certain events.

30. (1) In the case of any member of the Defence Force who shall be temporarily or permanently disabled by reason of any wound or injury received or sickness contracted by him when on service as provided in section 23, the Governor may award to such member such gratuity or yearly pension as to him may seem fit, but, except with the sanction of the Legislative Council, no such gratuity shall exceed two hundred and fifty pounds and no such pension shall exceed one hundred pounds per annum.

(2) The Governor may assign to the widow or family of any such member who may be killed in action or on service as provided in section 23 a pension or allowance not exceeding one hundred pounds per annum.

(3) No pension or gratuity payable under this Ordinance shall be assignable or transferable, nor shall the same be attached, arrested or levied upon for or in respect of any debt or claim due by the recipient thereof or his wife.

31. The Governor in Council may from time to time make provision by Regulations for all or any of the following matters, that is to say— Power to make Regulations.

- (a) the general government, discipline, training and management of the Defence Force;
- (b) the establishment of corps and other units of the Defence Force and the various divisions, branches, grades, numerical establishment, ranks and appointments therein;
- (c) the attendance at drills, inspections, classes and courses of instruction of members of the Defence Force, and the examination of members of the Defence Force as to proficiency in military professional subjects, and the granting of certificates of proficiency in military professional subjects;
- (d) the appointment to, seniority of, promotion in and tenure of commissioned or non-commissioned ranks in the Defence Force;
- (e) the leave of absence, suspension, reduction and discharge of members of the Defence Force;
- (f) the condition as to physical fitness for service in the various branches of the Defence Force;
- (g) the fixing of the rates of pay and allowances and issue of rations to members of the Defence Force when called out under section 23 of this Ordinance;
- (h) the enrolment of all persons liable for service in the Defence Force;
- (i) the convening, composition, procedure and power of boards of officers and courts of inquiry;
- (j) the payment of compensation to widows and families of members of the Defence Force as provided in section 30 of this Ordinance;
- (k) the requisitioning of means of conveyance and transport for service with the Defence Force when called out under section 23 of this Ordinance;
- (l) the conveyance by rail or road of members of the Defence Force and their transport and equipment when travelling on duty;

No.	Name.	Age	Residence	Calling.	Nationality	Previous military service (if any) and technical qualifications	Class in which enrolled

No 13 OF 1928.

[2ND JULY, 1928.] Date of Assent.

**An Ordinance to Supply a Further Sum of Money
for the Service of the Year Ended 31st
December, 1927.***2nd July, 1928.*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 Supplemen- Short title.
ary Appropriation Ordinance, 1928.”

2. The Public Revenue for the period 1st January to Public
31st December, 1927, and other funds of the Colony and Revenue
Protectorate of Kenya are hereby charged towards the service charged.
of the period 1st January to 31st December, 1927, with a
further sum of ninety-two thousand eight hundred and thirty-
three pounds, seventeen shillings and nine cents, in addition
to the sums provided by the Appropriation Ordinance No. 32
of 1926.

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

4. The Treasurer of the Colony and Protectorate of Treasurer's
Kenya is hereby given authority for having paid out of the authority for
Revenue and other funds of the Colony and Protectorate of payment.
Kenya, for the several services specified in the schedule, the
said sum of ninety-two thousand eight hundred and thirty-three
pounds, seventeen shillings and nine cents, which have come
in course of payment during the period 1st January to
31st December, 1927.

SCHEDULE.

No. of Head.		£	S.	Cts.
IV	His Excellency the Governor ...	2,132	6	19
VII	Official Gazette and Printing ...	9,482	13	16
VIIa	Official Gazette and Printing, Extraordinary	3,780	14	79
IX	Treasury	1,024	8	54
XI	Port and Marine Department ...	60	7	37
XIII	Judicial Department	1,100	7	69
XIV	Registrar General's Department	692	4	96
XV	Legal Department	652	8	30
XXIa	Post Office and Telegraphs, Extra- ordinary	1,785	0	72
XXIIa	Agricultural Department, Extra- ordinary	739	2	08
XXIV	Game Department	1,502	1	68
XXV	Land Department	421	7	91
XXVI	Miscellaneous Services	59,656	14	83
XXIX	Public Works Recurrent	9,803	18	71
XXXI	Trade Information and Publicity Bureau			16
		£92,833	17	09

No. 14 OF 1928.

[2ND JULY, 1928.] Date of Assent.

An Ordinance to Amend the Public Trustee's Ordinance, 1925.*2nd July, 1928.*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 Public Trustee's (Amendment) Ordinance, 1928," and shall be read as one with the Public Trustee's Ordinance, 1925, hereinafter referred to as "the Principal Ordinance."

Short title.

No. 7 of 1925.

2. The proviso to sub-section (1) of section 11 of the Principal Ordinance is hereby repealed and the following proviso is substituted therefor :—

Conversion
into money of
immovable
property.

" Provided that if all parties interested in the said immovable property consent in writing to its conversion into money by the Public Trustee, or if the value of the said immovable property does not exceed seven hundred and fifty pounds and the Public Trustee is satisfied that the conversion of the said immovable property into money would be to the advantage of the estate, the consent of the Court as hereinbefore provided shall not be necessary."

Date of Assent.

[2ND JULY, 1928.]

**An Ordinance to Amend the Criminal Law
Amendment Ordinance.**

Date of
commencement.

2nd July, 1928.

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 Criminal Law Amendment Ordinance, 1928," and shall be read as one with the Criminal Law Amendment Ordinance (Chapter 78 of the Revised Edition) as amended by the Criminal Law Amendment Ordinance, 1926, hereinafter referred to as " the Principal Ordinance."

Use of force
of an indecent
nature to a
woman under
16 years of
age.

2. Section 354 of the Indian Penal Code as amended by the Principal Ordinance is hereby further amended by the addition thereto of the following sub-section :—

" 3. Whoever voluntarily uses force of an indecent nature to any woman under the age of sixteen years, shall, notwithstanding that such woman consents to such force, be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to a fine : Provided that it shall be sufficient defence to any charge under this sub-section if it shall be made to appear to the court, jury or assessors before whom the charge shall be brought that the person so charged had reasonable cause to believe that the woman was of or above the age of sixteen years."

[20TH SEPTEMBER, 1928.] Date of Assent.

An Ordinance to Amend the Native Authority Ordinance.

20th September, 1928.

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 Native Authority (Amendment) Ordinance, 1928,” and shall be read as one with the Native Authority Ordinance (Chapter 129 of the Revised Edition), as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926, hereinafter referred to as “ the Principal Ordinance.” Short title.

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by the addition thereto of the following definition :—

“ The term ‘ District Commissioner ’ shall include an ‘ Assistant District Commissioner ’.”

3. Section 8 of the Principal Ordinance is hereby amended by the insertion of the following words in the following places :— Amendment of section 8 of the Principal Ordinance.

In clause (m) after the word “ labour ” of the words “ by able-bodied adult males ”; in clause (n) after the word “ paid ” of the words “ able-bodied adult male ”; and in clause (o) after the word “ labour ” of the words “ by able-bodied adult males ”.

4. Section 10 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor :— Penalty on natives for disobeying orders.

“ 10. Any native who shall without lawful excuse disobey or shall fail to comply with any lawful order issued or given by a headman under this Ordinance, or by a senior commissioner or district commissioner under the powers conferred by the last preceding section, shall be guilty

of an offence and shall, on conviction before a magistrate or before a native tribunal having jurisdiction over such native, be liable to imprisonment of either description for a period not exceeding two months, or to a fine not exceeding seven pounds ten shillings and in default of payment to imprisonment of either description for a period not exceeding two months, or to both such fine and imprisonment."

Administrative officer may order natives occupying land outside a Native Reserve to remove into the Reserve.

5. Section 11 of the Principal Ordinance is hereby amended by the deletion of the first paragraph thereof and the substitution therefor of the following paragraph :—

" Whenever a senior commissioner or district commissioner shall find that any native, being a member of a tribe or community for the occupation of which land has been reserved, is cultivating or occupying any land outside the lands so reserved, otherwise than by virtue of a valid contract or other lawful authority, he may order such native to remove from such land on to land reserved for the tribe or community to which such native belongs."

Amendment of section 26 of the Principal Ordinance.

6. Sub-section (3) of section 26 of the Principal Ordinance is hereby repealed, and the following sub-section is substituted therefor :—

" (3) Such imprisonment or fine shall not operate as a satisfaction or extinguishment of any local native rate payable under this Ordinance and any such local native rate shall, on application made to any magistrate by any member of a local native council, be recovered as if it were a fine imposed by the magistrate and shall as it is recovered be paid into the local native fund."

Disposal of council's funds

7. Section 30 of the Principal Ordinance is hereby repealed, and the following section is substituted therefor :—

" 30. (1) A local native fund shall be devoted only to such purposes as may be prescribed by any resolution which has been approved by the Governor under section 26 :

Provided that in any case where Government has expended public funds or incurred any liability in consideration of a resolution of a local native council by virtue of which the local native council has undertaken to pay to Government a capital or recurrent contribution from a local native fund, the Governor in Council may, if such local native council refuse or fail to make due payment in accordance with such resolution, order that such payment be made from such local native fund and may further order that any rate necessary to produce the sum required be levied on and collected from the inhabitants of the area in which such local native council is established.

(2) The provisions of sub-sections (2) and (3) of section 26 of this Ordinance shall apply to a rate imposed under this section in the same manner as if it had been imposed by a resolution of a local native council and approved by the Governor in Council."

No. XVII.

Aerial Navigation

1928.

No. 17 OF 1928

Date of
Assent.

[20TH SEPTEMBER, 1928].

**An Ordinance to Repeal the Aerial Navigation
Ordinance.**Date of
commencement.*20th September, 1928.*

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 Aerial Navigation
(Repeal) Ordinance, 1928."

Repeal of
Chapter 69
of the
Revised
Edition.

2. The Aerial Navigation Ordinance (Chapter 69 of the
Revised Edition), is hereby repealed.

No. 18 OF 1928.

[20TH SEPTEMBER, 1928.] Date of Assent.

An Ordinance to Amend the Native Liquor Ordinance.

20th September, 1928.

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 Native Liquor (Amendment) Ordinance, 1928,” and shall be read as one with the Native Liquor Ordinance (Chapter 133 of the Revised Edition), as amended by the Native Liquor (Amendment) Ordinance, 1927, hereinafter referred to as “ the Principal Ordinance.”

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

Amendment of section 11 of Principal Ordinance. To whom may be sold.

11. No person who has been granted a licence under this Ordinance shall sell or supply any native intoxicating liquor :—

- (a) To any non-native.
- (b) To any female in a township.
- (c) To any person apparently under the age of eighteen years.
- (d) To any drunken person.
- (e) To any person, in quantities, exceeding one Imperial quart, unless such person has in his possession a permit authorising him to purchase and possess such liquor.

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

Amendment of section 14 of Principal Ordinance.

Being in
possession of
native
intoxicating
liquor off
licensed
premises.

14. (1) Subject to the provisions of this section, any person found to be in possession of any native intoxicating liquor exceeding one imperial quart in any place other than on licensed premises or his own premises, shall be deemed to be guilty of an offence unless he shall prove that such liquor was being transported from a licensed place of manufacture to licensed premises for the purpose of sale therein.

Provided that it shall be lawful for any person to purchase, possess or transport native intoxicating liquor if he shall have first obtained a permit, from the administrative officer in charge of the district of sale or of the district in which he is so found, to purchase, possess or transport such liquor. Any such permit shall be produced on demand to any administrative officer or police officer or any person authorised thereto by an administrative officer.

Provided also that any person who shall have been granted a licence under section 26 of this Ordinance shall not require such permit to transport palm-wine from the place of tapping to licensed premises.

(2) Any person who purchases any native intoxicating liquor except on licensed premises shall be guilty of an offence against this Ordinance

(3) On the conviction of any person of an offence under this section, the Court shall order the liquor in respect of which such offence is committed, to be confiscated.

[8TH OCTOBER, 1928.] Date of Assent.

**An Ordinance to Amend the Law relating to
Municipal Government and to provide for
matters incidental thereto.**

By Notice.

Date of Com-
mencement.

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 Govern- Short-title and
ment (Municipalities) Ordinance, 1928,” and shall come into commencement.
operation upon such date as the Governor may by notice in
the Gazette appoint.

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

“ Medical Officer of Health ” includes an Assistant
Medical Officer of Health ;

“ Municipality ” means the area or district placed under
the jurisdiction of a Municipal Council or Municipal
Board ;

“ Native ” means a native of Africa and includes
Somalis, Swahilis, Comoro Islanders, and Mada-
gascans ;

“ Owner ” in the case of freehold property, means the
person (other than His Majesty) owning such pro-
perty, and, in the case of any property held under
a lease for a period of not less than ten years, or
for the natural life of any person, or which is renew-

able from time to time at the will of the lessee indefinitely or for periods which together with the first period thereof amount in all to not less than ten years, means the person holding such property under such lease and includes any agent who receives rents or profits from any such person and also any superintendent, overseer or manager of any such lessee in respect of the holding on which he resides as such superintendent, overseer or manager;

“ Occupier ” includes any person in actual occupation of land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, includes also the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein;

“ Premises ” includes any land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, drain or ditch (open or enclosed) whether public or private;

“ Public place ” includes any road, street, thoroughfare, foot-pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in a Municipal Council or Municipal Board under this Ordinance;

“ Public vehicle ” includes any cab, cart, omnibus, ricksha, trolley or any other vehicle standing or plying for hire in any public place within a municipality, but shall not include a motor vehicle carrying passengers for hire or reward;

“ Sanitary Inspector ” means and includes any person for the time being lawfully acting in the capacity of sanitary inspector;

“ Street ” means any highway, road, or sanitary lane, or any land reserved for a highway, road or sanitary lane, and includes any bridge, footway, square, court, alley or passage, whether a thoroughfare or not;

“ Street trading ” includes the hawking of newspapers, matches, flowers and other articles, the distribution of handbills or other advertisements, and shoe-blackening and any other like occupation carried on in any public place; and “ Street trader ” includes any person who engages in any such occupation so carried on.

3. This Ordinance is divided into nine Parts relating to the following matters :— Division of Ordinance.

Part I.—Establishment of Municipalities and Constitution of Municipal Councils and Municipal Boards :—

- (A) Nairobi;
- (B) Mombasa;
- (C) General.

Part II.—Provisions relating to Elections.

Part III.—Appointment of Officers of Municipal Councils and Municipal Boards.

Part IV.—Meetings and Proceedings of Municipal Councils and Municipal Boards.

Part V.—Powers and Duties of Municipal Councils and Municipal Boards.

Part VI.—Financial Provisions.

Part VII.—Establishment of Central Authority and Organisation for Local Government Purposes.

Part VIII.—Special Powers of the Governor.

Part IX.—Legal Procedure and Miscellaneous.

PART I.

ESTABLISHMENT OF MUNICIPALITIES AND CONSTITUTION OF
MUNICIPAL COUNCILS AND MUNICIPAL BOARDS.(A) *Nairobi.*

Area of
municipality of
Nairobi.

4. For the purposes of this Ordinance the municipality of Nairobi shall be the area included within the boundaries set forth in the First Schedule to this Ordinance.

Constitution
of Nairobi
Municipal
Council

5. There shall be constituted for the municipality of Nairobi a Municipal Council which shall consist of :—

- (1) Nine European members to be elected ;
- (2) Seven Indian members to be nominated by the Governor ;
- (3) Not more than two members, to be nominated by the Governor, to represent the Government of the Colony ;
- (4) The Administrative Officer of Nairobi District, with a special view to the safeguarding of native interests :

Provided that in the event of the establishment of a local authority for the rural area adjacent to the Municipality of Nairobi, the Governor may nominate a representative of such authority as an additional member :

Provided further that the Governor in Council may at any time direct by notice in the *Gazette*, upon receipt of a request so to do from the Council, that in lieu of such nomination as aforesaid the whole or any number of the members mentioned in sub-section (2) of this section shall be elected.

Period of
election or
nomination
of councillors.

6. (1) The councillors elected or nominated under the provisions of sub-sections (1) and (2) of section 5 of this Ordinance shall be elected or nominated for a period of three years :

Provided that one-third, or as near as may be, shall retire at the expiration of twelve months from the date of such first election or nomination, as the case may be, and one-third, or as near as may be, at the expiration of twenty-four months from the date of such election or nomination :

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Provided further that the councillors so retiring shall be chosen by ballot and any such councillor shall be eligible for re-election or re-nomination, as the case may be.

(2) The councillors nominated under the provisions of sub-sections (3) and (4) of section 5 of this Ordinance shall be nominated during the Governor's pleasure for a period not exceeding three years.

7. After the first election or nomination of councillors as provided in the preceding section an annual election or nomination of councillors shall take place for the purpose of electing or nominating councillors to replace an equal number of councillors retiring from office.

Annual
election or
nomination.

(B) Mombasa.

8. For the purposes of this Ordinance the municipality of Mombasa shall be the area included within the boundaries set forth in the Third Schedule to this Ordinance.

Area of
municipality
of Mombasa.

9. There shall be constituted for the Municipality of Mombasa a Municipal Board, which shall consist of:—

Constitution
of Mombasa
Municipal
Board.

- (1) The Resident Commissioner (who shall be chairman);
- (2) Seven European members to be nominated by the Governor;
- (3) Seven Indian members to be nominated by the Governor;
- (4) One Arab member to be nominated by the Governor;
- (5) Not more than four members to be nominated by the Governor to represent the Government of the Colony;
- (6) One member, to be nominated by the Governor, to represent the Port Administration:

Provided that the Governor in Council may at any time direct, by notice in the Gazette upon receipt of a request so to do from the Board, that in lieu of such nomination as aforesaid the whole or any number of the members referred to in sub-sections (2), (3) and (4) of this section shall be elected.

10. (1) The members nominated under the provisions of sub-sections (2) and (3) of section 9 of this Ordinance shall be nominated for a period of three years:

Periods of
election and
nomination.

Provided that one-third, or as near as may be, shall retire at the expiration of twelve months from the date of such first nomination, and one-third, or as near as may be, at the expiration of twenty-four months from the date of such nomination :

Provided further that the members so retiring shall be chosen by ballot, and that any such members shall be eligible for re-nomination.

(2) The member nominated under the provisions of sub-section (4) of section 9 of this Ordinance shall be nominated annually.

(3) The members nominated under the provisions of sub-sections (5) and (6) of section 9 of this Ordinance shall be nominated during the Governor's pleasure for a period not exceeding three years.

(C) *General.*

Powers of
Governor in
regard to
municipalities.

11. Subject to the provisions of the next succeeding section, the Governor may from time to time, by proclamation, exercise all or any of the following powers; that is to say, he may :—

- (1) (a) declare any area to be a municipality under the jurisdiction of a Municipal Council and constitute for such municipality a Municipal Council in accordance with section 13 of this Ordinance ;
- (b) declare any area to be a municipality under the jurisdiction of a Municipal Board and constitute for such municipality a Municipal Board in accordance with section 13 of this Ordinance, and define the powers and duties under Part V of this Ordinance to be exercised by any such Municipal Board ;
- (2) assign a name to any such municipality ;
- (3) define the boundaries of any such municipality, and from time to time alter any such boundaries ;
- (4) divide any municipality into wards and declare the number of elected members to be returned for each such ward ;
- (5) from time to time alter the boundaries of any such ward and alter the number of elected members to be returned for each such ward ;

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1928

- (6) with the consent of the Municipal Council or Municipal Board, as the case may be, divide any municipality or ward into polling districts and from time to time increase or decrease the number of such districts or alter the boundaries thereof.

12. (1) Prior to the exercise of any of the several powers conferred by the last preceding section the Governor shall appoint the Commissioner for Local Government to inquire into and report as to the advisability of the exercise of any of the powers so conferred, and for the purpose of such inquiry the Governor may confer on the Commissioner for Local Government all or any of the powers vested in Commissioners under the Commissions of Inquiry Ordinance.

Powers under preceding section to be exercised only after preliminary inquiry.

- (2) Notice of such appointment and particulars of the power or powers proposed to be exercised shall be published in three consecutive issues of the Gazette.

- (3) The report of the Commissioner for Local Government shall be submitted to the Governor through the Standing Committee established under section 99 of this Ordinance, and such Committee shall record its recommendations thereon.

13. (1) There shall be constituted within every municipality established under section 11 of this Ordinance a Municipal Council or a Municipal Board which shall consist of such number of elected and/or nominated (official and unofficial) members as the Governor may, by proclamation, appoint. Such elected members shall be elected as hereinafter provided, and any such nominated members shall be nominated by the Governor.

Constitution of Municipal Councils and Boards.

- (2) In the case of any municipality in which any proportion of the European members of the municipal council or board, as the case may be, is required to be elected, every person nominated by the Governor to be a European member of such council or board shall possess the qualifications required by this Ordinance in the case of such European elected members, and in any municipality in which any proportion of the Indian members of the council or board, as the case may be, is required to be elected, every person nominated to be an Indian member of such council or board shall possess the

qualifications required by this Ordinance in the case of such Indian elected members; and any provisions of this Ordinance or of any rules made thereunder relating to the vacating of seats by and disqualification of elected members shall apply *mutatis mutandis* to members so nominated.

(3) Whenever a vacancy is caused on any Municipal Council or Municipal Board by the death, retirement or disqualification of any nominated member, or by a nominated member vacating his seat, the Town Clerk shall forthwith notify the Commissioner for Local Government of such vacancy, and thereupon the Governor may nominate another European, Indian or Arab member, as the case may be, to fill the vacancy.

Municipal
Councils and
Boards to be
bodies
corporate.

14. Every Municipal Council and every Municipal Board constituted by or under the provisions of this Ordinance shall, under the name of "The Municipal Council (or Board) of", be each and severally a body corporate with perpetual succession and a common seal (with power to alter such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and, generally, of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance and any other law.

PART II.

PROVISIONS RELATING TO ELECTIONS.

Rules for
elections.

15. As soon as possible after elected members have been included in the constitution of a council or board established under the provisions of Part I of this Ordinance, the Governor in Council shall make rules for the carrying out of elections, and particularly for all or any of the following purposes, that is to say :—

- (a) for prescribing the qualifications and disqualifications of voters and candidates;
- (b) for prescribing the procedure for the nomination of candidates;

- (c) for prescribing the term of office of elected councillors or members and providing for the annual retirement of one-third, or as near as may be, of their number, and the method by which such retirements shall be effected, and for annual elections to elect a corresponding number of councillors or members;
- (d) for prescribing the method of filling casual vacancies;
- (e) for regulating the procedure in regard to the preparation of voters' rolls, and for the making and disposing of claims and objections;
- (f) for regulating the procedure in regard to the taking of polls at contested elections under this Ordinance;
- (g) for prescribing such forms as he may think necessary to be used in connection with the matters dealt with in this part of this Ordinance, and any rules made thereunder;
- (h) for prescribing penal provisions relating to elections;
- (i) generally for the better carrying out of elections and for all matters in connection therewith.

PART III.

APPOINTMENT OF OFFICERS OF MUNICIPAL COUNCILS AND MUNICIPAL BOARDS.

16. (1) In every municipality established under the jurisdiction of a Municipal Council there shall be elected by show of hands of councillors present at the first meeting of the Council, and thereafter at the first meeting of the Council held after every annual election or nomination of councillors, one councillor to be Mayor and another councillor to be Deputy Mayor, and such Mayor and Deputy Mayor shall hold office until their successors be appointed as hereinbefore provided.

**Mayor and
Deputy Mayor
of Municipal
Councils.**

(2) On any election of Mayor or Deputy Mayor the outgoing Mayor shall preside: Provided that at the first meeting of the Council after its constitution, and subsequently if the office of the outgoing Mayor has been vacated by reason of the

expiry of his period of office as councillor or from any other cause, the councillors present shall elect a chairman from amongst themselves to preside for the purposes of such election: Provided, further, that the chairman of the meeting shall have a deliberative vote only, and that, in the case of equality of votes for two or more candidates, the election shall be determined by lot by the chairman.

(3) In the event of the office of Mayor or Deputy Mayor becoming vacant from any cause whatsoever during the term of office of such Mayor or Deputy Mayor, a successor shall, at the next meeting of the Council after such vacancy occurs, be chosen by show of hands of the councillors from amongst themselves, and the councillor so chosen shall forthwith enter upon his office and shall serve as Mayor or Deputy Mayor, as the case may be, for the remainder of the period for which the Mayor or Deputy Mayor had been elected.

(4) A retiring Mayor or Deputy Mayor may be re-elected to the office which he is vacating.

(5) The Deputy Mayor shall, whenever it shall be necessary owing to the death, resignation, absence, illness or incapacity of the Mayor, be deemed to have authority to exercise all the powers and discharge all the duties vested in and imposed upon the Mayor under and by virtue of this Ordinance.

**Allowance to
Mayor**

17. (1) A Municipal Council may vote out of the revenues of the Council as a personal allowance to the Mayor such sum as it may consider sufficient having regard to the position. The amount of such allowance shall be fixed at the commencement of the Mayor's term of office and shall not be altered during the said term. The expenditure of such allowance shall not be subject to any audit, but the Mayor's signature therefor shall be sufficient.

(2) Whenever the duties of the office of Mayor are performed, for any continuous period not being less than one month, by the Deputy Mayor under any of the circumstances mentioned in sub-section (5) of the last preceding section the allowance under this section shall be paid for such period to the Deputy Mayor.

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18. (1) In every municipality constituted under the jurisdiction of a Municipal Board the officer of Government discharging the functions of Resident Commissioner shall be Chairman.

Chairman and
Deputy
Chairman of
Municipal
Boards.

(2) There shall be elected annually, at the first meeting of the Municipal Board after every annual election or nomination of members, one member of the Board who shall be Deputy Chairman, and such Deputy Chairman shall hold office until his successor is appointed as hereinbefore provided.

(3) In the event of the office of Deputy Chairman becoming vacant from any cause whatsoever during the term of office of such Deputy Chairman, a successor shall, at the next meeting but one of the Board after such vacancy occurs, be chosen by the members from amongst themselves, and the member so chosen shall forthwith enter upon his office and shall serve as Deputy Chairman for the remainder of the period for which the Deputy Chairman had been elected.

(4) A retiring Deputy Chairman may be re-elected.

(5) The Deputy Chairman shall, whenever it shall be necessary owing to the death, resignation, absence, illness or incapacity of the Chairman, be deemed to have authority to exercise all the powers and discharge all the duties vested in and imposed upon the Chairman under and by virtue of this Ordinance.

19. (1) Every Municipal Council and every Municipal Board constituted by or under this Ordinance may from time to time, subject to the approval of the Governor, appoint, as permanent, part time or consulting officers, fit and proper persons to be, respectively, Town Clerk, Town Treasurer, Town Engineer, and Medical Officer of Health, and may pay to such officers such salaries and allowances as the Council or Board, as the case may be, may, subject to the approval of the Governor, determine. Every Council and Board may also appoint such other officers as may be considered necessary and may pay to such officers such salaries and allowances as the Council or Board, as the case may be, may determine.

Appointment of
Town Clerk and
other officers.

(2) Subject to the provisions of any law or by-law relating to retirement on grounds of ill-health or on reaching the prescribed age, unless it shall be otherwise stipulated in the contract with or in the terms of appointment of an officer appointed under this section, the Council or Board, as the case may be, may at any time terminate the appointment of such officer upon not less than one month's notice or, in the case of misconduct, immediately without notice :

Provided that, except as provided for in section 42 of this Ordinance, no officer holding the post of Town Clerk, Town Treasurer, Town Engineer, or Medical Officer of Health shall be removed from office unless and until such removal has been decided upon by a majority of the councillors or members present at a meeting specially convened for the purpose, and unless the number of councillors or members voting in the majority is not less than a majority of the whole Council or Board, and unless and until the Governor has notified to the Council or Board, as the case may be, his approval of the removal of such officer :

Provided, however, that the Council or Board may suspend any such officer from the duties and emoluments of his office for incapacity, neglect or misconduct pending the sanction of the Governor to his removal, and in the event of such sanction being granted such officer shall be deemed to have been removed from his office as from the date of such suspension.

(3) No person may be appointed to any office under this section who is a member of the Council or Board, as the case may be, or who has been a member thereof within the preceding six months.

Power of the
Governor to
make rules.

20. The Governor may from time to time make rules for regulating the procedure in regard to the appointment by Municipal Councils and Municipal Boards of Town Clerks, Town Treasurers, Town Engineers, Medical Officers of Health, and sanitary inspectors, and for prescribing the qualifications, conditions of appointment, tenure of office, salaries and duties of all such officers.

PART IV.

MEETINGS AND PROCEEDINGS OF MUNICIPAL COUNCILS AND
MUNICIPAL BOARDS.

21. The provisions of this Part of this Ordinance shall apply to every Municipal Council and every Municipal Board constituted by or under this Ordinance: Provided that the terms "Council," "Mayor," "Deputy Mayor" and "councillors" shall, in the case of a municipality under the jurisdiction of a Municipal Board, be deemed to refer, respectively, to the Board, and to the Chairman, Deputy Chairman, and members of such Board.

Application and
interpretation.

22. The Council shall hold an ordinary meeting for the despatch of business on such days and at such hours as the Council may from time to time appoint, but not less often than once in every month.

Ordinary
meetings.

23. The Mayor may at any time and shall, at the request in writing of not less than one-third of the councillors, call a special meeting of the Council, and the day fixed for such meeting shall be within fourteen days of the presentation of such request. The notice of any special meeting shall specify the object of the meeting, and no other subjects than those specified in such notice shall be discussed at such meeting.

Special
meetings.

24. Notice of the time and place of every meeting of the Council shall be served on every councillor either personally or by leaving the same at his usual place of residence or at his business address not less than twenty-four hours before such meeting:

Notice of
meetings.

Provided that the accidental omission to serve such notice on any councillor shall not affect the validity of any meeting.

25. Every meeting of the Council shall be open to the public and to the press:

Meetings to
be public.

Provided that this section shall not apply to any committee of the Council nor to a committee of the whole Council.

26. Save as is otherwise specially provided by this Ordinance, all acts, matters and things authorised or required by this Ordinance to be done by the Council, and all questions

Quorum.

that may come before it, shall be done and decided by the majority of the councillors present at any meeting at which are present not less than one-half of the councillors or such larger proportion thereof as the Council may from time to time fix.

Mayor to
preside at
meetings and to
have casting
vote.

27. (1) At every meeting of the Council the Mayor, if present, and in his absence the Deputy Mayor, shall preside. In the event of the absence from any meeting of both the Mayor and the Deputy Mayor the councillors present shall elect a chairman from amongst themselves to preside at such meeting.

(2) In the case of equality of votes the chairman of the meeting shall have a second or casting vote.

Absence of
councillors
from meetings.

28. (1) Any councillor who, without having first obtained leave from the Council, absents himself from three consecutive ordinary meetings of the Council, or fails to attend any meetings of the Council for a period of two months, whichever period is the longer, shall become disqualified from continuing to be a councillor, and the Town Clerk shall, at the next ordinary meeting of the Council after any such continued absence, report the same, and the Mayor shall thereupon declare the seat of such councillor vacant.

(2) Where any councillor leaves the Colony for a period not exceeding eight months the Council may, with the consent of the Governor, co-opt a fit and proper person to discharge the duties of such councillor during his absence from the Colony: Provided that if any councillor is absent from the Colony for a period exceeding eight months his seat shall become vacant.

Minutes to be
kept and signed.

29. Minutes of the proceedings of every meeting of the Council and of any committee thereof shall be regularly entered in books kept for that purpose, and such minutes shall be confirmed at the same or the next ordinary meeting. Such minutes when signed by a councillor describing himself or appearing to be chairman of the meeting at which the minutes are confirmed shall, in the absence of proof of error, be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes.

30. Whenever the minutes of the proceedings have been recorded and confirmed, such meeting shall, until the contrary is proved, be deemed to have been duly convened and held, and all the councillors present at such meeting shall be deemed to have been duly qualified; and in the case of proceedings so recorded of a committee the committee shall, until the contrary is proved, be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

Meetings to be deemed to be duly held.

31. The minutes of the proceedings of the Council shall at all reasonable times be open to the inspection of any ratepayer of the municipality, and any such ratepayer may obtain a copy thereof or an extract therefrom on payment of such fee (if any) as may be prescribed by the Council.

Minutes to be open to inspection.

32. The councillors present at any meeting may from time to time adjourn such meeting, and if at any meeting a sufficient number of councillors be not present to exercise the powers vested in the Council the councillors present or, if there be no councillor present, the Town Clerk shall adjourn the meeting and may appoint for the adjourned meeting such day and hour as may be thought convenient.

Adjournment of meetings.

33. (1) The Council may from time to time appoint out of its own body such and so many committees, either of a general or special nature, consisting of such number of councillors as the Council may think fit, for the purpose of examining and reporting upon any matter or performing any act which in the judgment of the Council would be more conveniently performed by means of a committee, and, subject to the provisions of the next succeeding section, may delegate to any committee such powers (other than power to raise money by rate or loan or any other power as to the exercise of which special provision is made in this Ordinance) as it may think fit, and may fix the quorum of any such committee. The Mayor and Deputy Mayor shall be *ex officio* members of every such committee.

Appointment of committees.

(2) In no case shall any act of any committee be binding on the Council until submitted to and approved by the Council, except in cases where the Council has, by resolution, authorised a committee to manage, regulate, or conclude any matter or matters.

(3) Each committee shall elect its own chairman and may also elect a deputy chairman.

(4) Every committee appointed by the Council may be dissolved after notice of motion to that effect by the vote of the majority of the whole Council.

(5) Every councillor shall be elected by the Council to serve on at least one committee.

**Appointment
and functions of
Finance
Committee.**

34. (1) The Council shall from time to time appoint a Finance Committee for regulating and controlling the finances of the Council.

(2) No expenditure shall be incurred unless provision has been made therefor on a detailed estimate submitted by the Finance Committee and approved by the Council.

**Procedure at
meetings of
committees.**

35. (1) Every committee appointed by the Council may meet from time to time and may adjourn from place to place as it may think proper, but no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the Council, or if no quorum be fixed two members, be present.

(2) At all meetings of the committee the chairman if present, and in his absence the deputy chairman, shall preside. In the event of the absence from any meeting of both the chairman and deputy chairman the members present shall elect a chairman from amongst themselves to preside at such meeting. In the case of equality of votes the chairman of the meeting shall have a second or casting vote.

**Contracts for
execution of
works or supply
of goods.**

36. (1) Except in the cases mentioned in sub-section (3) of this section, before any contract for the execution of any work or the supply of any goods to the value of seventy-five pounds or upwards is entered into by the Council, fourteen days' clear notice at the least shall be given in the Gazette or in one newspaper circulating in the municipality, or, if there be no such newspaper, then by affixing a notice outside the principal door of the municipal offices and in two or more other conspicuous places within the municipality, expressing the purpose of such contract and inviting any person willing to undertake the same to submit tenders therefor to the Council. The Council shall not consider such tenders or conclude the contract until full and similar particulars have been supplied to every person applying to the Town Clerk therefor within thirteen days after the said notice was first published or affixed.

(2) The Council or committee thereof duly authorised shall accept the tenders which, having regard to all the circumstances, appear to the Council or committee to be most advantageous, and may take security for the due and faithful performance of every such contract, or the Council or committee may decline to accept any such tenders :

Provided that all tenders received shall be recorded in the minutes of the Council or committee, as the case may be.

(3) In cases of emergency or where the delay involved by calling for tenders in the manner hereinbefore prescribed would cause loss to the Council, the Finance Committee may authorise the making of contracts or purchases to the value of seventy-five pounds or upwards without publication of the notice prescribed by sub-section (1) : Provided that in all such cases the Finance Committee shall prescribe the method of calling for tenders and the period within which such tenders shall be submitted, and no such tender shall be accepted without the approval of the Finance Committee : Provided, further, that in every such case the Finance Committee shall submit to the Council at its next succeeding ordinary meeting a report as to the reasons for making such contract or purchase without calling for public tenders in the manner prescribed by sub-section (1), and such report shall include a schedule giving full particulars of all such tenders received.

(4) Nothing in this section shall apply to any contract for the purchase by the Council of produce or other perishable goods bought in a public market or to any purchase entered into by the Council as the result of bidding at a public auction.

37. The Mayor may from time to time if he shall see fit, and upon receipt of a requisition signed by such number of the inhabitants of the municipality as may be fixed by resolution of the Council or by by-law, summon at such place and time as he may determine a public meeting of the inhabitants of the municipality for the discussion of any matter of public interest which may be specified in the requisition : Provided that no such meeting shall be summoned for the purpose of promoting, opposing or discussing the election of any person as a councillor or as a member of the Legislative Council.

**Summoning of
public meetings**

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Validity of acts
of Council and
officers.

38. All acts of the Council or of any person acting as Mayor, Deputy Mayor, councillor, Town Clerk or any other municipal official, as the case may be, shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any such person or that he was disqualified, be as valid and effectual as if such person had been duly elected or appointed and qualified.

Authentication
and execution
of documents.

39. (1) Every order, notice or other document requiring authentication by the Council shall be deemed to be sufficiently authenticated without the common seal of the municipality if signed by two councillors or by the Town Clerk or by any other officer of the Council duly authorised thereto by any resolution or by-law of the Council.

(2) Every contract and every instrument and document which the Council is lawfully empowered to execute shall be deemed to be duly executed by or on behalf of the Council if signed by the Mayor or Deputy Mayor or by the Town Clerk or by any one or more councillors duly authorised thereto by any resolution or by-law of the Council.

Exemption of
councillors, etc.,
from personal
liability.

40. No matter or thing done or omitted and no contract entered into by the Council, and no matter or thing done or omitted by any councillor or officer or servant of the Council or other person acting under the direction of the Council, shall, if the matter or thing was done or omitted or the contract was entered into in good faith for the purposes of this Ordinance or of any by-law in force in the municipality, subject any such person personally to any action, liability, claim or demand whatsoever; and any expense incurred by the Council or any such person as aforesaid shall be paid by the Council out of its revenues :

Provided that nothing in this section shall exempt any such councillor, officer or servant or other person aforesaid from liability to be surcharged by the inspector under section 96 of this Ordinance.

*Conduct of Councillors and Officers of Municipal
Councils.*

Pecuniary
interest of
councillors in
matters coming
before the
Council.

41. (1) No councillor shall be disqualified by his office from entering into any contract with the Council, nor shall any such contract entered into by or on behalf of the Council in which any councillor is in any way directly or indirectly interested be on account of such interest avoided or set aside,

nor shall any councillor so contracting or being so interested be liable to account to the Council for any profit realised by any such contract by reason of such councillor holding that office, provided that the nature and extent of his interest is disclosed by him so that such disclosure is duly recorded in the minutes of the Council prior to or at the meeting of the Council at which the contract is determined on, if the interest then exists, or in any other case at the first meeting of the Council after the acquisition of his interest: Provided, however, that it shall not be necessary for any such disclosure to be made—

(a) by any councillor in the case of any contract or bargain which the Council may expressly authorise to be entered into with such councillor in his own name; or

(b) by any councillor who shall have notified in writing to the Town Clerk subsequent to his last election or nomination as councillor that he has any interest in any firm or partnership in the case of any contract or bargain which the Council may expressly authorise to be entered into with such firm or partnership.

(2) No councillor shall be present at the discussion upon any matter in or before the Council or a committee thereof in which he has directly by himself or his partners any pecuniary interest: Provided, however, that no councillor shall be prohibited from being present or taking part in any discussion before the Council or a committee thereof relating to—

(a) any scheme for the imposition of rates; or

(b) the tariff charges for or the regulations and conditions generally applicable to the supply by the Council of anything, or the rendering by the Council of any service whether in the whole municipality or any portion thereof.

(3) No councillor shall by himself or his partner or agent act as an advocate against the Council.

(4) No councillor shall by himself or his partner or agent act as an advocate or representative of any other person—

(a) before any Valuation Court appointed by the Council under the Local Government (Rating) Ordinance, 1928; or

(b) before any committee of the Council appointed to consider or deal with applications for any licence or certificate which the Council has power to grant or issue.

(5) Any councillor who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment, and shall *ipso facto* become disqualified from continuing to be a councillor and shall account to the Council for any profit which may accrue to him in respect of such contract or matter.

(6) Any councillor who is disqualified under the provisions of this section shall not be capable, for a period of three years, of being elected or nominated a councillor for any municipality.

Interest of
officers or
servants of
the Council
in contracts.

42. (1) No officer or servant of the Council shall in anywise be concerned or interested in any bargain, contract or arrangement whatsoever made by or with the Council.

(2) If any officer or servant is so concerned or interested, or under cover of his office or employment exacts or accepts any promise, fee or reward whatsoever other than his proper salary, wages and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Ordinance and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

(3) Any profits, fee or reward which may have accrued to such officer or servant, or which may accrue to him by reason of such bargain, contract or arrangement, may be recovered by the Council before any court of competent jurisdiction.

PART V.

POWERS AND DUTIES OF MUNICIPAL COUNCILS AND MUNICIPAL BOARDS.

Application and
interpretation.

43. The provisions of this Part of this Ordinance shall apply to every Municipal Council and to the Mombasa Municipal Board and, subject to the provisions of section 11 (1) (b) of this Ordinance, to every other Municipal Board constituted by or under this Ordinance :

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Provided that the terms " Council " and " Mayor " shall, in the case of a municipality under the jurisdiction of a Municipal Board, be deemed to refer, respectively, to the Board and to the Chairman of the Board.

44. (1) The Council shall have the general control and care of all public roads, streets, bridges, squares and all other open public places and of all gardens, parks, and other enclosed spaces within the municipality which have been or shall be at any time set apart and appropriated by proper authority for the use of the public or to which the inhabitants of the municipality shall at any time have or acquire a common right, and the same shall be vested in the Council in trust to keep the same for the use and benefit of the inhabitants.

Public roads, streets, open spaces, etc., vested in the Council.

(2) The Council may make, construct, alter, repair, and if necessary temporarily close all roads, streets, bridges, squares, ferries, sewers, drains and culverts vested in the Council or under its control, and may make new roads, streets, bridges, squares, open spaces, ferries, dams, sewers, drains and culverts within the municipality, and if it shall be necessary may carry any sewers, drains and pipes through and across any private property : Provided that compensation for any damage done shall be paid by the Council, and the amount of such compensation, if not mutually agreed upon, shall be settled by arbitration.

(3) The Council may, with the consent of the Governor, erect and maintain on any square or other open public place buildings for public purposes, and may set apart any such square or other open public place or any portion thereof for any purpose which the Council may from time to time think fit.

45. The Council may close or divert or alter any road, street or thoroughfare and may close or alter any square or other open public place and any garden, park or other enclosed space vested in the Council under the last preceding section : Provided that the Council shall, in the exercise of such powers, be subject to the following conditions and restraints :—

Power of the Council to close, divert or alter roads and streets.

- (1) Before the Council shall sanction any such closing or diversion or alteration, not less than fourteen days' notice shall be given at a meeting of the Council to move therefor ;

- (2) Before any such closing or diversion or alteration is carried out, the Council shall prepare a plan showing the nature thereof, and shall give notice of the proposed work, not less than one month before its commencement, in the Gazette and in one or more newspapers (if any) circulating in the municipality, as well as by a sufficient number of conspicuous placards posted on or near the road, street, thoroughfare, square or other open public place, garden, park or other enclosed space which it is proposed to close or divert or alter. Such notice shall set forth a place where the said plan shall be open for inspection at all reasonable hours. The Council shall further serve a copy of such notice on the owners or reputed owners, lessees or reputed lessees, and occupiers of all property abutting upon the said road, street, thoroughfare, square or other open public place, garden, park or other enclosed space, and alteration or diversion thereof, whose addresses can after reasonable inquiry be ascertained, and, if the proposed road, street, thoroughfare, square or other open public place, garden, park or other enclosed space, or alteration or diversion thereof, shall affect land not vested in the municipality, shall also serve a copy of such notice on the Commissioner of Lands :
- (3) It shall be competent for the Commissioner of Lands, or any such owner, lessee or occupier, or any other person aggrieved by such closing or diversion or alteration, to serve upon the Council within the period of one month aforesaid a claim in writing for compensation in consequence of such closing or diversion or alteration, and the Council shall make compensation to the Commissioner of Lands on behalf of Government or to such person respectively, the amount of such compensation, in default of agreement, being settled by arbitration : Provided that in assessing the amount of compensation payable hereunder the benefit or advantage derived or to be derived by Government or by such person, as the case may be, shall be taken into account.
- (4) If the Commissioner of Lands or any person interested as owner, lessee or occupier in any property abutting on the road, street, thoroughfare, square

or other open public place, garden, park or other enclosed space which it is proposed to close or divert or alter, or any other person aggrieved by such closing or diversion or alteration, shall at any time within the period of one month aforesaid serve written notice on the Council of any objection to such closing or diversion or alteration, then, unless such objection shall be withdrawn, such closing or diversion or alteration shall not be carried out without the sanction of the Governor.

- (5) After the service of any such objection the Governor may, on the application of the Council, appoint one or more persons to make an inquiry into the proposed closing or diversion or alteration and the objection thereto, and to report thereon; and on receiving the report of such person or persons the Governor may make an order disallowing the proposed closing or diversion or alteration, or allowing it with such modifications (if any) as he may deem necessary.
- (6) If the closing or diversion or alteration be allowed by the Governor, or if there be no objection to it under sub-section (4) of this section and the Council proceeds to carry out such closing or diversion or alteration, the Council shall, on completion of the work, give notice thereof to the Governor, who shall, after due inquiry as to whether the closing or diversion or alteration has been properly effected in accordance with this section, notify the Surveyor General and the Registrar of Titles or other registration officer that the closing or diversion or alteration has been properly effected under this Ordinance, and the Surveyor General shall, on being supplied by the Council with a plan prepared by a registered land surveyor or other person, approved in writing by the Surveyor General, showing all details of the closing or diversion or alteration, cause such amendments as may be necessary to be made in the general plan of the municipality, and the Registrar of Titles or other registration officer shall thereupon make corresponding entries in his registers.

Naming and
numbering of
streets, etc.

46. (1) The Council may from time to time cause the houses, buildings or erections fronting upon any street or other public place to be marked with such numbers as it may think fit, and may cause the name by which any street or other public place is to be known to be put up or painted on a conspicuous part of any house, building, fence, wall or place fronting thereon, and may further at its discretion change or vary any such number or name, whether or not such number or name existed before the commencement of this Ordinance.

(2) Any person who destroys, pulls down, or defaces any such number or name, or, without the permission of the Council, puts up any number or name different to the number or name put up by the Council, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten pounds.

Power to
acquire land
compulsorily
for municipal
purposes.

47. (1) Subject to the approval of the Governor, the Council shall have power to acquire land compulsorily, whether within or without the municipality, for municipal purposes, and such land, when so acquired, shall be vested in the Council.

(2) The provisions of the Indian Land Acquisition Act, 1894, or any Ordinance amending or replacing the same for the time being in force, shall apply to the acquisition of any land under this section.

Power to enter
into contracts.

48. (1) Subject to the provisions of section 36 of this Ordinance, the Council may enter into contracts for the purpose of any work or service which it is itself, by or under the provisions of this Ordinance, empowered to undertake or carry out :

Provided that the Council shall not exempt the party or parties with whom it is contracting from the operation of any by-laws, but shall on the contrary stipulate that such party or parties shall, within the municipality, be subject, in the carrying out of the contract, to all by-laws for the time being in force.

(2) All contracts lawfully made under the provisions of this section shall be valid and binding on the Council and its successors and all other parties thereto, their heirs, successors or legal representatives, as the case may be.

49. The Council may establish pounds, and may from time to time make by-laws for all or any of the following purposes :—

Power to establish pounds.

- (1) For the management of pounds;
- (2) For fixing the charges payable by owners of impounded animals;
- (3) As to the conditions under which impounded animals may be sold;
- (4) As to the transfer of the property in such animals on such sale;
- (5) For regulating the entry of the police without warrant into pounds.

50. The Council may, subject to the approval of the Governor, lay out on lands under its control such locations for natives as may be deemed desirable and erect suitable buildings thereon, and may, subject to the like approval, compel all natives residing in the municipality, except such natives as are employed in domestic service and are lodged on the premises of their employers and such natives as may be exempted by the Governor, to reside within such locations.

Power to lay out native locations.

51. (1) It shall be the duty of the Council to provide for the burial of all destitute persons who die within the municipality : Provided that in respect of those who—

Duty of Council to provide for burial of paupers.

- (a) die in hospital (unless they had lived for at least three months in the municipality prior to their admission to hospital, in which case the Council shall be responsible for the burial and all charges in connection therewith); or
- (b) die in gaol; or
- (c) had not lived in the municipality for a period of three months prior to their death,

the Council shall be entitled to recover the cost of burial from the Government, subject to the provisions of sub-sections (2) and (3) of this section, and the Council is hereby authorised and empowered to incur any expenditure necessary therefor.

(2) In the case of destitute persons who die in hospital, but who had lived within the area of jurisdiction of any other local authority for a period of at least three months prior to their admission to hospital, such other local authority shall be responsible for the payment of all charges in connection with the burial of such destitute persons.

(3) If any native brought into the municipality by any person carrying on the business of recruiting native labour shall die in the municipality within one month after his arrival, the Council may recover from such person or his employer or principal such burial charges as may be fixed by by-laws with regard to cemeteries.

General powers
of the Council.

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

Making and
repairing roads,
etc.

(1) To construct, alter, repair and keep clean the roads, streets, bridges, squares and other open spaces vested in the Council under this Ordinance ;

Sanitary
services.

(2) To establish, maintain, and carry out such sanitary services for the removal and destruction of, or otherwise dealing with night soil, slops, rubbish, carcases of dead animals, and all kinds of refuse and effluent ;

Funerals,
cemeteries,
mortuaries, etc.

(3) To conduct funerals and to establish and maintain cemeteries, mortuaries, and crematoria within or without the municipality ;

Destitute
natives.

(4) To make provision for the return of destitute natives to their homes ;

Municipal
buildings.

(5) To erect, maintain and keep in repair such offices and buildings as may be required for municipal purposes ;

Trees.

(6) To plant, trim or remove trees in or on any public place ;

Lighting public
places.

(7) To arrange for the lighting of public places and for the erection and maintenance of lamps for that purpose ;

Recreation
grounds.

(8) (a) To establish, maintain and control recreation grounds on municipal land and on parks, squares and open spaces vested in the Council ;

(b) To establish, maintain and control, in connection with recreation grounds so established, aquariums, pavilions, piers, dressing-rooms, lavatories, and such other buildings, structures or conveniences of any nature and for any purpose as the Council may consider to be necessary or convenient ;

(c) To set apart any portion of any recreation ground so established as may be fixed by the Council and

described in a notice set up in some conspicuous place on such recreation ground for the purpose of any particular game or recreation; and to exclude the public from the portion so set apart;

- (d) To provide any apparatus for games or recreation in respect of any such recreation ground, or to permit any person, club or body to provide any such apparatus on such terms as the Council may decide;
- (e) To establish, maintain and control refreshment rooms, cafés and restaurants in any such recreation ground;
- (f) To let any such recreation ground and/or any building, structure or apparatus established or provided in connection therewith to any person or club or other body of persons, and, by resolution of the Council, to authorise such person, club or body to make charges in connection therewith;
- (9) To establish, erect, maintain and control markets and market buildings, and to let portions of such buildings and stalls therein; Markets.
- (10) To make grants of money towards the establishment and maintenance of the institutions hereinafter mentioned, not being of a private character, that is to say, schools, hospitals, libraries, art galleries, museums, musical or scientific institutions, asylums for the aged, destitute or infirm, homes for destitute orphans, and to provide bursaries to assist parents resident in the municipality in educating and maintaining their children at any school; Grants-in-aid.
- (11) To sell, let or otherwise dispose of any movable or immovable property of the Council: Alienation of property of Council.

Provided that—

- (a) no sale or other alienation of immovable property shall take place without the consent of the Governor, who may require that the proposal of the Council to alienate such property shall be published in four successive issues of the Gazette and of one or more newspapers (if any) circulating in the municipality; and

- (b) all moneys received by the Council from the sale or other alienation of immovable property shall be appropriated to the redemption and extinction of existing debt incurred for capital purposes : Provided, however, that where due provision has been made for the redemption and extinction of any such debt, or where no such debt exists, the Governor may authorise the Council to apply all moneys so received to such capital expenditure as may be approved by him : Provided, further, that nothing in this paragraph shall apply to moneys received in respect of rentals under leases granted by the Council ;
- Land for housing and industrial sites.
- (12) (a) Subject to the consent of the Governor, to lay out building plots upon or otherwise sub-divide any land the property of the Council for the purpose of housing schemes for inhabitants of the municipality or for the purpose of factory, industrial business or workshop sites ; and
- (b) Subject to the provisions of sub-section (11), to sell, let or otherwise dispose of any such plots or sub-divisions of land and the buildings thereon ;
- (13) Subject to the consent of the Governor, to acquire by voluntary purchase or to hire any land, wayleave, water right or any other property or easement within or without the municipality which may be necessary for the purposes of this Ordinance : Provided that the consent of the Governor shall not be required where no consideration or merely nominal consideration passes in respect of such acquisition or hiring ;
- Land for offensive trades
- (14) Subject to the consent of the Governor, to sell, let or otherwise dispose of any land the property of the Council to any person for the purpose of carrying on thereon any work or trade of an offensive nature which the Council is empowered to license ;
- Dipping tanks.
- (15) To establish, erect and maintain dipping tanks ;
- Lavatories, etc.
- (16) To establish, erect and maintain public lavatories, closets and urinals, either above or below ground, in any public place ;
- Housing
- (17) Subject to the consent of the Governor—
- (a) to erect and maintain dwelling-houses with their appurtenant out-buildings on plots or sub-divisions of land referred to in sub-section (12) hereof ;

- (b) to convert buildings into dwelling-houses, and to alter, enlarge, repair and improve the same;
- (c) to make advances of money on the security of immovable property for the purpose of enabling persons resident in the municipality (including officers and servants of the Council) to acquire land and/or to erect dwelling-houses, and to recover such advances with interest thereon by instalments or otherwise as the Council may in its discretion arrange with any person to whom an advance is made;
- (18) To pay the medical 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; Medical expenses of employees.
- (19) (a) Subject to the provisions of any by-laws made under sub-section (86) of section 69 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 dependents on the death of such officers or servants; Establishment of pension funds.
- (b) Subject to the consent of the Governor, 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 dependents of deceased officers and servants of the Council;
- (20) To establish and maintain camping, grazing, and outspan grounds, whether within or without the municipality; Camping grounds, etc.
- (21) Subject to the provisions of any law relating to the storage of explosives, to establish, erect and maintain magazines for the storage of explosives and dangerous articles, whether within or without the municipality; Powder magazines.

Adornment of
squares.

- (22) To lay out and adorn any square or open space the property of the Council by any architectural scheme of ornamentation, including the erection of statues, fountains or other structures;

Public
weighing
machines.

- (23) To establish, erect and maintain public weighing machines;

Slaughter-
houses.

- (24) To establish, erect, maintain and control slaughter-houses, whether within or without the municipality;

Fire brigades
and ambulances.

- (25) To establish and maintain one or more fire brigades and ambulances;

Libraries, etc.

- (26) To establish, acquire, erect, construct, maintain, assist, promote and control—

(a) public libraries, art galleries and museums;

(b) botanical and zoological gardens;

(c) public baths and wash-houses;

Provided that the Council may decide that the general management, regulation and control of institutions mentioned in paragraphs (a) and (b) established by the Council shall be vested in and exercised by such committee as the Council may from time to time appoint, the members whereof need not be members of the Council.

Bands.

- (27) To establish, maintain, control and contribute to bands for musical performances in public places and at municipal functions, and, generally, to provide musical entertainment in such places and at such functions;

Removal of
trees, etc.

- (28) To require the owner of any premises to do any of the following acts:—

(a) to remove, lower or trim to the satisfaction of the Council any tree, shrub or hedge overhanging or interfering in any way with the traffic on any road or street or with any wires or works of the Council;

(b) to remove any dilapidated fence or structure abutting upon any public place;

By-products.

- (29) To sell all by-products resulting from the carrying on of any works or undertakings which the Council is authorised to carry on;

Legislation.

- (30) To promote and oppose legislation in the interests of the municipality;

- (31) (a) To safeguard and promote the public health, to take all necessary and reasonably practicable measures for preventing the occurrence of, or for dealing with any outbreak or prevalence of, any infectious, communicable or preventable disease, for maintaining its district in clean and sanitary condition, and for preventing the occurrence of, or for remedying or causing to be remedied, any nuisance or condition likely to be injurious or dangerous to health; **Public health and hospitals.**
- (b) Subject to the consent of the Governor, to establish, erect, equip and maintain, either within or without the municipality, hospitals, whether permanent or temporary, for the reception of patients, and to provide treatment free of charge for indigent patients who are inhabitants of the municipality;
- (32) To establish, erect and maintain public monuments and to make grants of money towards the establishment or maintenance thereof; **Public monuments.**
- (33) To establish, erect, equip and maintain cold storage works, depôts for the inspection of milk and dead meat, and to make and sell ice; **Cold storage works, etc.**
- (34) To establish, acquire, maintain and carry on within the municipality a service of motor omnibuses or other vehicles drawn or propelled by animal, mechanical or electrical power for the carriage of passengers and parcels and, in connection with any such service, to enter into agreements with any person or corporation for the establishment, acquisition, construction, laying down, equipment, maintenance, working and guaranteeing of the capital cost and interest on the capital cost thereof, and to exercise such powers either alone or in conjunction with other persons, corporations or authorities: **Omnibus services.**

Provided that—

- (a) this sub-section shall not apply to tramways;
- (b) the Council may exercise such powers in any area beyond the municipality with the consent of the local authority, if any, of such area, or, if there be no local authority in such area, then with the consent of the Governor;

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| Boats. | (35) To acquire, equip and maintain boats and boating establishments; |
| Taking of census. | (36) To take a census of the inhabitants of the municipality and to contribute to the cost of any such census when taken by any other authority; |
| Contracts with other local authorities. | (37) To enter into any contract with any other local authority or with any corporation, company or person to secure or further the carrying on outside the municipality of any work or undertaking which the Council is authorised to carry on; |
| Laundries. | (38) To establish, acquire, erect, maintain and carry on laundries and places for washing clothes; |
| Disinfecting stations. | (39) To establish, erect, maintain and carry on disinfecting stations; |
| Construction of footways. | <p>(40) (a) At the request of the owner of any land or premises situate within the municipality, to construct in such manner as the Council may think fit, either by its own servants or through contractors, a footway along the side of any street abutting upon the land or premises of such owner, and to recover from such owner the whole or any portion of the expenses incurred in such work, including a reasonable charge for supervision, and, if the work is undertaken by the Council without the interposition of a contractor, to recover charges for the use of tools and plant;</p> <p>(b) To advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the construction of any footway as above mentioned.</p> <p>The provisions of sub-sections (2) to (5) of section 68 shall <i>mutatis mutandis</i> apply to any advances made under this sub-section:</p> |
| Advertising. | (41) To advertise and give publicity to the attractions and advantages of the municipality and district; |
| Canalisation of streams. | (42) Subject to the consent of the Governor, and to the provisions of any law relating to water rights, to divert, straighten, define, and canalise the course of any stream or watercourse after giving notice and making compensation to any owner or occupier of land, and to any person entitled to any rights or easements attaching to land, abutting on such stream or watercourse: |

Provided that in arriving at the amount of any compensation payable under this sub-section regard shall be had to the enhanced or improved value, immediate or prospective, which shall or may accrue to any such land by reason of the carrying out of the said purposes or any of them. The amount of such compensation shall, in default of agreement, be settled by arbitration ;

- (43) To establish, erect, maintain and carry on or assist institutions or clinics for the care and welfare of newly-born infants, and to make provision for suitable instruction being imparted to expectant mothers and to mothers of such infants; (child welfare institutions.
- (44) Subject to the provisions of any law relating to aerial navigation, to establish, erect, maintain and carry on aerodromes; Aerodromes.
- (45) Subject to the provisions of any law relating to wireless telegraphy, to establish, erect, maintain and carry on wireless broadcasting stations and to enter into contracts for the hire of apparatus and for listening-in; Broadcasting stations.
- (46) 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.
- (47) To incur all expenditure necessary for the carrying out of any purpose of this Ordinance which the Council is authorised to carry out, or of 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, including a reasonable amount for public entertainment and for travelling and personal expenses of councillors, officers and servants on the business of the Council at rates to be fixed by by-laws. Expenditure unprovided for.

All charges under this section shall be regulated by by-law : Provided, however, that the Council may from time to time, with the consent of the Governor, impose, by resolution of the Council, charges in respect of any power conferred upon the Council

by this section; and every such resolution shall take effect as from the date of its adoption by the Council. A copy of every such resolution shall be published in the Gazette.

Supply of Water and Electricity.

Works for the
supply of water.

53. Subject to the provisions of any law relating to water rights, the Council may—

- (1) establish, acquire, construct, equip and carry on, within or without the municipality, works for supplying the inhabitants thereof with water, and may make such charges and impose such conditions of service for the supply of water as may be fixed by by-law;
- (2) excavate, construct and lay down within the municipality watercourses, water furrows, water pipes, conduits, sluices, drains, dams, reservoirs and other works for supplying, storing and leading water, and close, alter or divert any of such works as may from time to time be necessary: Provided that if the Council closes or diverts any work for the supply of water and thereby deprives any owner of private property of a water supply to which his property has been hitherto by lawful right entitled, he may lodge an objection, and thereupon the Council shall not proceed with the closing or diversion without the prior consent of the Governor, and the payment of such compensation (if any) as may be agreed upon between the parties, and in default of agreement as may be determined by arbitration;
- (3) whenever necessary, carry any water furrows through and across any private property subject to compensation being made by the Council for any damage done thereby, the amount of such compensation being determined, in default of agreement, by arbitration;
- (4) make advances to the owner of any land of money or material for the purpose of enabling him to instal a water supply on his premises from municipal mains upon such conditions as the Council may determine. The provisions of sub-sections (2) to (5) of section 68 shall *mutatis mutandis* apply to any advances made under this sub-section:

Provided that the Council shall not—

- (a) establish, acquire or commence to construct water works, or
- (b) extend any existing water works involving an expenditure in excess of £1,000, without the prior consent of the Governor, and the Council shall, in every such case, furnish such plans and specifications as may be required by the Commissioner for Local Government.

54. In any municipality the Council of which carries on works for the supply of water to the inhabitants thereof no person shall construct any works for the supply of water to any premises without first obtaining permission in writing from the Council to construct such works :

Supply of water to private premises.

Provided, however, that such permission shall be granted by the Council in all cases where the Council is not itself willing and able to give a proper and sufficient water supply to any premises at such price as may be fixed in its by-laws :

Provided, further, that nothing in this section shall prohibit the owner or occupier of any premises from constructing thereon any works for the supply of water to such premises.

55. (1) Subject to the provisions of the Electric Power Ordinance, the Council may establish, acquire, construct, equip and carry on, within or without the municipality, works for supplying the inhabitants thereof with light, heat and power, and may supply electricity for all purposes for which the same can be used to or in respect of any land, building or premises within the municipality and may make such charges and impose such conditions of supply as may be fixed by by-laws ;

Works for the supply of light, heat and power

(2) Subject as aforesaid, any Council having established electric light works under the preceding sub-section may—

- (a) supply electricity to any corporation, company or person carrying on business or residing outside the boundaries of the municipality ;
- (b) contract with the local authority of any adjoining area to supply electricity to such local authority upon such terms and conditions as may be mutually agreed upon ;
- (c) sell (including sale against payment by instalments) electric lines, fittings, apparatus and appliances to private consumers, and make advances of money to

any owner of land within or without the municipality for the purpose of enabling or assisting him in the installation of plain wiring and electric fittings and articles in or at his premises. The provisions of sub-sections (2) to (5) of section 68 shall *mutatis mutandis* apply to any advances made under this sub-section.

Power to lay wires and pipes in public places and private property.

56. The Council may—

- (1) do all things necessary for the laying of main and branch wires and lines of pipes to convey electric current or water respectively under or over public places, and connect such wires or pipes with any premises at the request of the owners or occupiers thereof;
- (2) after giving thirty days' notice in writing to the owner, lessee or occupier of the intention to do so, carry mains, pipes, wires and cables through, across, under or over any private land, within or without the municipality, subject to compensation being made for any damage done thereby, the amount of such compensation being determined, in default of agreement, by arbitration; and the Council may cause such mains, pipes, wires and cables to be laid, altered, deepened, covered and maintained: Provided that if any owner, lessee or occupier of land outside the municipality shall object to such work the provisions of sub-sections (2) and (3) of section 65 shall *mutatis mutandis* apply.

Vesting of pipes, wires, etc., in the Council, and right of access thereto.

57. All mains, pipes, wires or cables laid by or on behalf or at the expense of the Council or which are under its control shall be vested in the Council, and the Council, its officers and servants, shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repair of such mains, pipes, wires or cables, and may do all things necessary to uncover and expose such mains, pipes, wires and cables for the purpose of inspection, alteration or repair: Provided that the Council shall repair all damage caused by the exercise of the powers conferred by this section.

Power of entry into premises supplied.

58. Any officer appointed thereto by the Council may at all reasonable times enter any premises to which electricity or water is or has been supplied by the Council, in order to inspect the pipes, wires, lines, meters, fittings, works and

apparatus for the supply of electricity or water, or for the purpose of ascertaining the quantity of electricity or water consumed or supplied, or whenever the supply of electricity or water is no longer required, or whenever the Council is authorised to cut off the supply of electricity or water from such premises, or for the purpose of removing any pipes, wires, lines, meters, fittings, works or apparatus belonging to the Council: Provided that the Council shall repair all damage caused by the exercise of the powers conferred by this section.

59. If any person shall neglect to pay any charge for electricity or water or any other sums due to the Council in respect of the supply thereof, or in respect of any advances made under the provisions of sections 53 or 55, the Council may cut off such supply, and for that purpose may cut or disconnect any pipe, wire, line, or other work through which the electricity or water may be supplied, and may, until such charge or other sum together with the cost incurred by the Council in cutting off such supply of electricity or water, is fully paid, but no longer, discontinue the supply thereof to such person. **Power to cut off supply.**

60. Any person who, by culpable negligence or with malicious intent, cuts or injures any pipe, wire, line or other work used for or in connection with the supply of electricity or water, and vested in the Council, shall be guilty of an offence and shall be liable upon conviction to make good the damage done by such injury and to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding two years. **Penalty for injuring pipes or wires.**

Sewerage and Drainage Works.

61. The Council may erect, construct, equip and carry on sewerage or drainage works within or without the municipality: Provided that the Council shall not— **Power to undertake sewerage and drainage.**

- (a) commence to erect or construct sewerage works; or
- (b) commence to erect or construct drainage works involving expenditure in excess of five hundred pounds or being part of any drainage scheme the whole of which involves expenditure in excess of five hundred pounds,

without the prior consent of the Governor.

Provisions as to
carrying out
sewerage and
drainage works.

62. For the purpose of carrying out any drainage or sewerage works the Council may—

- (a) cause such sewers, drains and pipes to be made, laid, altered, deepened, covered over, and maintained either within or (subject to the provisions of section 65) without the municipality as may be necessary for effectively disposing of the sewage or drainage of the municipality or any portion thereof, and from time to time cause to be made and maintained all such reservoirs, sluices, engines, ventilating shafts, and other works as may be necessary for cleansing and ventilating such sewers, drains and pipes;
- (b) carry such sewers, drains or pipes through, across or under any public road, street, square or open space or any place laid out as or intended for a public road, street, square or open place, either within or without the municipality, without paying compensation, and, after giving reasonable notice in writing to the owner or occupier of the intention to do so, perform the same acts in respect of private land within or (subject to the provisions of the said section) without the municipality upon making compensation for any damage done, the amount whereof shall be determined, in default of agreement, by arbitration;
- (c) from time to time alter, enlarge, divert, discontinue, close up, or destroy any sewers, drains or pipes under the control of the Council;
- (d) construct any works within or (subject to the provisions of the said section) without the municipality for the purpose of receiving, storing, disinfecting, purifying, distributing or otherwise disposing of any sewage or drainage;
- (e) in any case where, owing to the contour of the ground or for other reasons, it is difficult to connect for sewerage purposes any premises within the municipality direct with a public sewer maintained by the Council, the Council may, subject to the provisions of paragraph (b) of this section, make connections with and utilise any private drain on private ground so as to connect such premises with any public sewer: Provided that upon such connection being made the said drain with which connection is so

made shall, from the point of such connection to the point of junction with the public sewer, be considered and used as a combined or joint drain, and the cost of construction, repair and maintenance of such combined or joint drain shall, so far as the same shall not fall to be borne by the Council, be paid and borne by the owners of premises respectively served thereby, in such proportions as the Council shall from time to time adjust and settle.

63. All sewers, drains, pipes, ventilating shafts, or other conveniences for the disposal of sewage or drainage, constructed by or which are under the control of the Council, shall be vested in the Council, and the Council, its officers and servants, shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repair of such sewers, drains, pipes, shafts or other conveniences, and may do all things necessary to uncover and expose such sewers, drains, pipes, shafts or other conveniences for the purpose of inspection, alteration or repair: Provided that the Council shall repair all damage caused by the exercise of the powers conferred by this section.

Vesting of
sewers in the
Council, and
right of access
thereto.

64. The Council may establish, maintain and carry on any such sewage farms or sewage disposal works, either within or (subject to the provisions of section 65) without the municipality as may be necessary or advisable for the requirements of the municipality, and may farm the same and dispose of the produce thereof; and neither the Council nor any person shall be liable for any nuisance or damage which is the inevitable consequence of the proper and ordinary conduct of any sewage farm or sewage disposal works established, maintained or carried on under the provisions of this section.

Sewage farms.
municipality.

65. (1) The Council shall, at least thirty days before commencing outside the municipality the construction or extension of any sewer or any work for sewerage purposes, give notice of the intended work by advertisement in the Gazette and in one or more newspapers circulating in the area within which the work is to be done, or, if there is no such newspaper, then in one or more newspapers (if any) circulating in the municipality. Such notice shall describe the nature of the intended work, and shall state the intended termini thereof and particulars of the roads, streets, squares, open spaces and other land (if any) through, across,

Notice before
commencing
sewerage
works outside
municipality.

under or on which the work is to be done, and shall name a place where a plan of the intended work is open for inspection at all reasonable times. A copy of such notice shall be served upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land and on the local authority (if any) having the care of such roads, streets, squares or open spaces.

(2) If any owner, lessee or occupier, or any such local authority, or any person who would be affected by the intended work, objects to such work and serves written notice of objection on the Commissioner for Local Government and on the Town Clerk at any time within the said period of thirty days, then the intended work shall not be commenced without the consent of the Governor unless such objection is withdrawn.

(3) The Governor may appoint the Commissioner for Local Government or any other person or persons to make inquiry on the spot into the propriety of the intended work and the objections thereto, and to report to him on the matter. The report of the Commissioner for Local Government or such other person as aforesaid shall be forwarded to the Governor through the Standing Departmental Committee constituted under section 99 of this Ordinance, and such Committee shall record its recommendations thereon. On receiving such report the Governor may make an order disallowing the intended work or allowing it with such modifications (if any) as he may deem necessary, and such compensation shall be payable as may be agreed upon by the parties or in default of agreement as may be determined by arbitration.

**Provisions for
protection of
drains.**

66. (1) Any person who, without the prior consent in writing of the Council, shall—

- (a) erect or cause to be erected any building or other structure over any sewer, drain or pipe vested in or constructed under the authority of the Council; or
- (b) excavate, open up or remove, or cause to be excavated, opened up or removed, the ground under or near to any such sewer, drain or pipe; or
- (c) make or cause to be made any opening into any such sewer, drain or pipe, for the purpose of discharging sewage or drainage into the same or otherwise; or

- (d) injure or destroy, or cause to be injured or destroyed, any such sewer, drain or pipe or any works or things in connection therewith,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding one year.

(2) The Council may alter, demolish or otherwise deal with any building or structure so erected as it may think fit, or may make good any such damage, or may close up any such opening, and the expenses so incurred shall, along with such fine, be recoverable from the offender.

37. Any charges which the Council may fix by by-law for the use of the Council's drains or sewers or sewerage works shall for all purposes be deemed to be charges for sanitary services, and shall be recoverable from the owner of any land or premises which are connected with such drains, sewers or sewerage works in accordance with section 85 of this Ordinance.

Charges for use of sewers and drains.

38. (1) The Council may—

- (a) carry out, either by its own servants or by contractors, any work in connection with the installation or improvement of a drainage or sewerage system on any land or premises, and may connect any such system with the Council's drains or sewers, and may recover from the owner of such land or premises the expenses incurred in such work, including a reasonable charge for supervision and, if the work is undertaken without the interposition of a contractor, for the use of tools and plant: or

Power to execute drainage works on private land or premises and to make advances therefor.

- (b) advance to the owner of any land or premises the amount of any expenses incurred or to be incurred by him in the execution of any such drainage or sewerage work on such land or premises;

(2) The Council may agree to accept payment of such expenses and repayment of such advances in such instalments, at such times, upon such rate of interest, and upon such conditions as the Council may determine.

(3) Such expenses and advances, together with the interest thereon, shall be a charge upon the land or premises in respect of which the same are incurred or made, and shall be paid to the Council by the owner thereof for the time being, and the instalments thereof as they fall due shall be recoverable from the present or any future owner of the land or premises in any competent court.

(4) The Council shall keep at the municipal offices a register of all expenses incurred and advances made under this section, and shall show in such register the total amounts thereof, the instalments in which the same are payable, the land or premises in respect of which the same have been incurred or made, and the balances for the time being outstanding; and shall keep such register open at all reasonable times to the inspection of any person, free of charge. Such register and any extract therefrom, certified by the Town Clerk or by any other person authorised by the Council, shall, in any proceedings for the recovery of such expenses, advances or interest thereon or any instalments thereof, be *prima facie* evidence of the matters contained therein.

(5) Nothing in this section shall limit or affect the power of the Council to execute any work which the Council is, by law or by any by-law in force in the municipality, empowered to execute or to recover the cost of executing such work from any person who is liable therefor.

By-laws.

Power to make
by-laws.

69. The Council may from time to time make, alter and revoke by-laws in respect of all such matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants or for the good rule and government of the municipality, and more especially for all or any of the following purposes :—

General.

(1) For regulating any of the things which the Council is empowered under this Ordinance to do, establish, maintain or carry on, and for fixing the charges to be made in respect thereof;

Proceedings of
the Council.

(2) For regulating the proceedings of the Council and preserving order at meetings of the Council and of committees, and for prohibiting, restricting and regulating the publication and disclosure of the Council's documents and records and the proceedings of any committee of the Council, and for regulating the duties and privileges of members, officers and servants of the Council;

- (3) (a) For establishing, maintaining and compelling the Sanitation.
use of any sanitary service which the Council is authorised to carry out or regulate, or which may be established by virtue of any powers vested in the Council for the removal and destruction of or otherwise dealing with night-soil, slops, rubbish, carcases of dead animals and refuse of all kinds ;
- (b) For keeping public places clean and free from filth, rubbish or refuse, and for prohibiting the throwing, dropping or depositing of any filth, rubbish, glass, tins, paper, dead animals, waste or flushing water or other refuse, liquid or solid, on or in any road, street, bridge, thoroughfare, open space, stream or watercourse, and for preventing any such liquid from flowing into any such place, and for regulating or prohibiting the bathing or washing of persons, animals or things in any such place ;
- (c) For preventing the use or misuse and securing the closing of cesspools, and for compelling and regulating the provision, construction, position, screening, use, cleansing and repair of earth closets, water closets, privies, ashpits, ashbins, urinals, sinks, fixed baths and fixed basins, waste pipes, drains and slop tanks in connection with buildings ;
- (d) For prohibiting, removing or abating, and for preventing the recurrence of nuisances :

Provided that the by-laws may provide that in any case where it appears that a nuisance existing within the municipality is wholly or partly caused by some act or default outside the municipality, proceedings may be taken against any person in respect of such act or default in the same manner and with the same incidents and consequences as if the act or default were wholly inside the municipality ;

- (e) For securing the proper construction of and regulating stables, cowsheds, and fowl-houses, and for preventing the keeping of animals on premises which are not constructed in accordance with the by-laws or are so constructed or situated that animals if kept therein are likely to cause a nuisance

or injury to health, and for prohibiting the keeping of swine on any premises which the Medical Officer of Health certifies to be so situated as to be unfit for the purpose ;

(f) For prohibiting the erection of buildings or the conversion of existing buildings for use as stables or cowsheds for trading purposes in residential areas, and for defining areas where such buildings may or may not be erected or used ;

(g) For ascertaining the existence and cause of any nuisance arising from any drain, closet, cesspool, water supply, sink, trap, syphon, pipe or other work or apparatus connected therewith, and for remedying the same and recovering the expenses incurred by the Council in respect thereof, and for regulating the liability and penalty for nuisance in any yard or sanitary convenience used in common by the occupiers of two or more separate dwellings or by different tenants of the same building ;

(h) For regulating, controlling or prohibiting the construction or use of septic tanks and filter installations or other works for the disposal of sewage on private property ;

Public health.

(4) (a) For preserving the public health ;

(b) For preventing the outbreak and spread of infectious and contagious diseases, for declaring what diseases are notifiable, for compelling the notification of such diseases, for compelling the removal of persons suffering from any such disease to suitable hospitals or places of segregation and their detention and treatment therein where, in the opinion of the Medical Officer of Health, such removal, detention and treatment are necessary either for the protection of the public health or by reason of the insufficiency or unsuitability of the patient's lodging or accommodation, for regulating and enforcing quarantine and the disinfection of persons, places or things, and for authorising the seizure and detention and ensuring the destruction (when necessary in the opinion of the Medical Officer of Health) of articles which are infected or which have been exposed to infection, upon payment of compensation to the owner thereof, such amount to be settled by agreement or arbitration ;

- (c) For compelling the giving of any information or the production of any documentary or other evidence required for the purpose of tracing the source and preventing the spread of infection, for requiring the closing of schools or trade premises which are suspected of being or are likely to become sources of infection, and for prohibiting persons who are or are suspected of being or are likely to become infected from carrying on any trade or business or engaging in any occupation which may cause the spread of any infectious or contagious disease;
 - (d) For requiring any person arriving in the municipality within fifteen days of leaving any district infected or suspected of being infected with any disease declared to be notifiable under paragraph (b) of this sub-section, or within fifteen days of landing in the Colony from any ship so infected or suspected of being infected or from any ship which has, within ten days prior to his landing, cleared from or touched at any port so infected or suspected of being so infected, to report to the Medical Officer of Health his name and place of residence within the municipality;
 - (e) For erecting, regulating and maintaining isolation hospitals, and appointing committees of management thereof.
- (5) For granting licences (but without charging any fee therefor) to private hospitals and nursing homes, and for regulating such hospitals and nursing homes; Private hospitals and nursing homes.
- (6) (a) For inspecting and examining any article of food or drink for sale, for regulating and supervising the manufacture, preparation, storage, transmission and conveyance of any article of food or drink for sale, and for prohibiting and preventing the introduction into the municipality, the possession, sale or offering for sale for the purpose of human consumption, or the handling (other than for purposes of destruction) of diseased animals, diseased meat, fish or other articles of food or drink unfit for human consumption; Unwholesome food and drink.

- (b) For authorising the seizure and ensuring the destruction (when necessary in the opinion of the Medical Officer of Health) of any meat, fish or other article of food or drink which is diseased, unsound, unwholesome or unfit for human consumption ;
- (c) For permitting at the owner's risk such treatment in lieu of destruction of any diseased, unsound or unwholesome article of food or drink as may render the same fit for human consumption ;
- (d) For authorising the seizure and ensuring the destruction of diseased animals when certified to be necessary by a veterinary officer employed or approved by the Department of Agriculture ;
- (e) For ordering the detention pending examination or inquiry of animals or articles of food or drink ;
- (f) For prescribing standards of composition, strength or quality, and for preventing the adulteration, misdescription or reduction below a prescribed standard (or, where none has been prescribed, a proper standard) and securing the sale in a pure state and in a condition which conforms with such standards of milk or any other article of food or drink or any drug ;
- (g) For authorising the Council by its officers or servants to inspect and examine any animal, article or package, and to cut into any dead animal or any article or package, and to purchase samples and require the sale of samples for the purposes of this sub-section.

Offensive
trades.

- (7) For prohibiting, regulating, inspecting, supervising and licensing noisome and offensive trades, and for compelling residents to keep their premises free from offensive or unwholesome matter ;

Flock
manufacture.

- (8) For regulating, inspecting and supervising the work or trade of manufacturing flock from rags, and for prohibiting the sale and use for the purpose of manufacture of articles of unclean flock manufactured from rags, and for requiring persons establishing or carrying on such work or trade to obtain a licence from the Council for the purpose of so doing ;

- (9) For prohibiting, regulating, inspecting, supervising and licensing the work or trade of disinfection or fumigation by cyanide or other means and for penalising persons who, after due notice, refuse without reasonable ground to vacate any room or rooms occupied by them on the same floor or on any floor above that of any building where fumigation is being carried out, and for the cancellation of licences granted to fumigators in cases where the licensee upon conviction for any offence has been proved to have been negligent, careless or incompetent in or at his work or trade aforesaid; Fumigation.
- (10) For regulating and prohibiting the establishment or carrying on of any trade, business or calling which may in the opinion of the Council be or be likely to become a source of serious nuisance, discomfort or annoyance to the neighbourhood; Objectionable trades.
- (11) For defining the streets or areas within which shops, warehouses, factories or business premises may not be erected, or within which specified trades, businesses or callings, or street trading may not be established or carried on; Definition of non-business areas.
- (12) For regulating, inspecting, supervising and licensing all businesses, factories, and workshops which, by reason of smoke, fumes, gases, dust, smell, noise, vibration or other cause, may be or become sources of danger, discomfort or annoyance to the neighbourhood, for prescribing the conditions subject to which such businesses, factories, or workshops shall be carried on, and for prohibiting the carrying on thereof unless the prescribed licences shall have first been obtained and the prescribed conditions complied with; Dangerous and offensive factories, etc.
- (13) For regulating, inspecting, supervising and licensing the killing of cattle and other animals and the sale of butchers' meat, and the establishment and localisation of slaughter-houses and meat shops and their maintenance in a clean and proper state, and for authorising the entry on and inspection of slaughter-houses and meat shops and the cattle, carcasses and meat therein; Private slaughter-houses and meat shops.

Municipal
slaughter-houses,
etc.

- (14) For regulating the use and management of municipal slaughter-houses and depots for the inspection of milk and dead meat, and for prohibiting the slaughtering of animals intended for human consumption elsewhere in the municipality than in municipal slaughter-houses, except in the case of animals which the occupier of any premises may slaughter for his own or his family's consumption ;

Premises where
food or drink
is manufactured
or sold.

- (15) For regulating, inspecting, supervising and licensing tea-rooms, cafés, restaurants, hotels, eating, boarding and lodging houses, bakehouses, butcher's shops, grocers' shops, and all factories and places where articles of food or drink are manufactured or prepared for sale or use, or are stored or sold ;

Sale of milk or
milk products.

- (16) For regulating, supervising and licensing purveyors of milk and ice-cream makers or vendors, for regulating, inspecting, supervising and licensing dairies, milk-shops, and cowsheds, for regulating the conveyance and distribution and securing the identification of the source of milk or milk products distributed, offered for sale, or sold within the municipality, for prescribing the conditions subject to which any milk or milk products produced or prepared within or without the municipality may be introduced, distributed, stored, sold or used within the municipality, for enabling the Council to certify the quality of any milk and prohibiting the unauthorised use of any terms employed by the Council in denoting such quality, and for prohibiting the introduction, distribution, storage, sale or use within the municipality of any milk or milk products from any source within or without the municipality where it appears to the Council or a committee thereof, on the certificate of the Medical Officer of Health, that the consumption of such milk or milk products is likely to cause the outbreak or spread of any infectious or contagious disease ;

Pedlars and
hawkers.

- (17) For regulating, supervising and licensing pedlars and hawkers ;

Washing of
clothes.

- (18) For regulating or prohibiting the washing of clothes on public or private premises, for supervising and licensing persons for washing and laundry work for

the inhabitants of the municipality, for regulating, supervising, and licensing (but without charging any fee therefor) premises or places outside the municipality (hereinafter referred to as "outside laundries") at which articles are washed for such inhabitants, and for preventing the introduction into the municipality of any articles as aforesaid unless the outside laundries at which they were washed have been licensed by the Council;

- (19) For securing the prevention and destruction of rats and other vermin within the municipality, and for enabling the Council to set traps or take other measures on any premises necessary for this purpose, for prohibiting interference with such traps, and for prohibiting or regulating the laying down and use of poison for the destruction of animals or vermin; Destruction of rats and other vermin.
- (20) For securing the prevention and destruction of locusts and other noxious insects within the municipality, for preventing and abating agricultural pests, and for the supply of poison and appliances for the aforesaid purposes; Destruction of locusts and other pests.
- (21) For preventing and abating conditions permitting or favouring the breeding of mosquitoes and flies, and, generally, for the prevention of malaria and other insect borne diseases; Mosquitoes and malaria.
- (22) For regulating the manufacture of chemicals; Manufacture of chemicals.
- (23) For regulating and supervising the practice of midwives, and for prohibiting the practice of midwifery by persons other than registered midwives; Midwives.
- (24) For regulating and controlling the use of public baths, wash-houses, laundries, and places for washing clothes, established by the Council; Public baths, etc.
- (25) For regulating barbers and hairdressers and barbers' and hairdressers' shops; Barbers and hairdressers.
- (26) (a) For regulating the supply and distribution of any water under the control or management of the Council, for preventing waste and misuse thereof, and for compelling owners and occupiers to maintain in good order water furrows abutting on their premises; Water supply.

- (b) For providing water meters, for fixing charges for water according to meter, and for determining the areas within which such meters shall be installed and used ;
- (c) For preventing the pollution of any water which the inhabitants have a right to use ;
- (d) For preventing the pollution of gathering grounds, rivers, canals, springs, wells, reservoirs, filter beds, water purification or pumping works, tanks, cisterns, or other sources of water supply or storage, the water wherein or wherefrom is used or is likely to be used within the municipality for drinking or domestic purposes ;
- (e) For compelling the provision of a proper and sufficient water supply for every dwelling-house, school, store, factory or workshop ;
- (f) For compelling owners of premises which, in the opinion of the Council, are not provided with a sufficient supply of good and wholesome water for drinking and domestic purposes to take such a supply from any pipe or main belonging to the Council or that is within reasonable distance of such premises ;
- (g) For prohibiting, subject to the payment of compensation in respect of existing boreholes or wells, the use of water from, or the provision or sinking of, any borehole or well on any premises in cases where, in the opinion of the Council, such use, provision or sinking prejudicially affects or diminishes or is likely so to affect or diminish any municipal water supply ;

Buildings.

- (27) (a) For regulating the construction, alignment and elevation of all buildings or other structures and all parts thereof, for compelling the pulling down, removal or rendering safe of all buildings, walls, bridges, earthworks, and verandahs of an unsafe or dangerous character, or which have been allowed to fall into a dilapidated condition, and for doing any such work at the cost of the owner and recovering such cost ;

- (b) For prohibiting or regulating the erection or use of back-to-back tenements or houses, and for ensuring sufficient air space and ventilation between houses and adequate through ventilation within houses;
- (c) For prohibiting the owners or occupiers of any premises from allowing any wells or other excavations thereon to be in an unprotected or dangerous state, for compelling the fencing, filling in or covering over of wells or excavations which are in such a state, and for doing such work at the cost of the owner or occupier and recovering such cost;
- (d) For regulating, controlling or prohibiting the erection or use of any temporary or movable structures, whether standing on wheels or otherwise, and for prohibiting or restricting the use of tents or similar structures for business or dwelling purposes;
- (e) For preventing the discharge of any guttering or down-pipe on to any footway, pavement or sidewalk, and for securing, regulating and controlling the laying down of pipes to carry any outflow therefrom to such gutter or drain as may be authorised or approved by the Council for the purpose;
- (f) For regulating the sizes of pieces of ground on which buildings may be erected, for prescribing, with due regard to the local conditions of different parts of the municipality, the extent and disposition of the open space or private land to be provided and maintained in connection with new buildings in order to secure proper sanitary conditions, amenity and convenience, and for prohibiting the erection of buildings on any open space so provided;
- (g) For preventing the erection of buildings on ground contaminated by any faecal, animal or vegetable matter;
- (h) For requiring and regulating the lighting and cleansing of staircases and passages used in common by different tenants of the same building, and the cleansing, drainage and paving of courts, yards, and open spaces used in connection with dwellings;

- (i) For prescribing the frontage lines, securing the regularity of lines and level of buildings and of the architecture of buildings, and the removal, alteration and prevention of projections or obstructions in front of buildings;
- (j) For preventing the erection, alteration or use of any building or structure whatsoever which, either in itself or from the circumstances or nature of the locality in which it is or is to be placed, is a disfigurement to the town or an annoyance to the inhabitants thereof, and for securing the removal of projections over streets;
- (k) For preventing the erection of any building or structure whatsoever which, in the opinion of the Council, is or is likely to be objectionable by reason of either the nature or construction of the building itself, or the uses to which it is to be put, or its environment;
- (l) For regulating or prohibiting the use as a dwelling of any building not erected for that purpose;
- (m) For preventing the sub-division or alteration of buildings or dwellings in such a manner as might be calculated to be injurious to health or to depreciate the value of properties in the locality or to cause annoyance to the inhabitants of the neighbourhood;
- (n) For preventing buildings on lands being put to uses which might be calculated to depreciate the value of neighbouring property or to interfere with the convenience or comfort of neighbouring occupiers;
- (o) For regulating, restricting or prohibiting the erection of dwellings or structures of wood or wood and iron or canvas or of hoardings or fences;
- (p) For regulating the inspection of buildings and structures by the Council its officers and servants, and for regulating the erection and use of scaffolding and hoarding during the construction, demolition, repair or alteration of any building or structure;

- (q) For determining and regulating :—
- (i) the structure of walls, foundations, roofs, chimneys, windows, guttering, down-piping and all other parts of buildings, whether new or already existing, in order to secure stability, sufficient height, light and ventilation, and the proper carrying off of rain-water as well as for the prevention of fires and for purposes of health ;
 - (ii) the sufficiency of the space about buildings in order to secure a free circulation of air and the proper ventilation of buildings ;
 - (iii) the closing of buildings or parts of buildings which are unfit for human habitation ;
 - (iv) adequate provision for the escape of the occupants of any building in the event of an outbreak of fire, by way of ordinary or special doors, outside iron stairways or other means, having regard to the size and use of the building ;
- (r) For the giving of notice and the deposit of plans and sections by persons wishing to construct or alter buildings, for the approval or otherwise of all plans and sections of any such building or alteration, for the removal, alteration, or pulling down, at the cost of the owner, of any work begun or done in contravention of any by-law, and for preventing the occupation of any new or altered building until a certificate of the fitness thereof for habitation shall have been issued by the Council ;
- (s) For the giving of notice to a licensee under the Electric Power Ordinance or any Ordinance amending or replacing the same by persons intending to commence the erection of any structure where any part of such structure is to be erected within seven feet of any existing electric supply line ;
- (28) For regulating, supervising and licensing lodging-houses and lodging-house keepers, and for prohibiting or regulating the use of underground rooms for human habitation or occupation ; **Lodging houses, etc.**
- (29) For preventing or regulating the sub-division or cutting up of land or the sub-division of existing building lots into smaller areas, for providing that no **Sub-divisions of land.**

transfer of any such sub-division of land shall be registered in any deeds registry unless and until a certificate under the hand of the Town Clerk has been produced to the registration officer, who shall register the same against the title to such land at the cost of the applicant for such sub-division, to the effect that the Council has approved of such sub-division, and for preventing the withdrawal, cancellation or alteration, except with the consent of the Council, of any sub-divisional plan which has been approved by the Council;

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| Grazing land. | (30) For providing for the due and proper care of the common pasture or other municipal land, and for prohibiting or regulating grazing thereon; |
| Brick works, etc. | (31) For granting permits to make bricks or to dig and burn lime, or to dig and remove clay, gravel, peat or turf, or to quarry or crush stone, or to cut or burn firewood, brushwood, or grass upon municipal lands; |
| Trees. | (32) For planting and preserving trees, flowers, and shrubs, for prohibiting or regulating the planting of trees and shrubs in public places, and for maintaining, cutting or removing any such trees or shrubs and preventing the removal or injury thereof; |
| Dangerous animals. | (33) For preventing or regulating the keeping of stallions, bulls, rams, swine, bees, and of wild or dangerous animals within the municipality; |
| Dogs. | (34) For regulating or licensing the keeping of dogs, for providing for the seizure, sale or destruction of vicious, dangerous, ownerless and unlicensed dogs, and for prohibiting bitches in heat from running loose in streets or public thoroughfares; |
| Birds. | (35) For preserving and protecting birds and animals, wild or domesticated; |
| Traffic and public places. | (36) (a) For regulating the width, curbing, paving, guttering, gravelling and cleansing of roads and streets;
(b) For preventing and removing obstructions in or on public places, for dealing with live stock and dead, diseased or injured animals found in any public place, and for restricting and regulating the driving of live stock through streets or other public thoroughfares; |

- (c) For regulating and controlling traffic, processions, and gatherings at, in or on public places;
- (d) For preventing any person or vehicle from carrying or conveying any article, burden or load so as to obstruct or incommode passengers or vehicles in any public place, and for preventing the wheeling of wheelbarrows, cycles or other vehicles on any sidewalk or foot-pavement except for the purpose of crossing the same to or from any building;
- (e) For preventing persons from congregating with others and so causing obstruction in any public place, except such as may be set apart for the purpose;
- (37) For regulating street trading and for licensing and supervising street traders; Street trading.
- (38) For regulating, licensing, supervising, restricting or prohibiting the playing of musical instruments, or singing or performing for profit, in or on any public place; Strolling musicians.
- (39) (a) For regulating, supervising and licensing porters, public carriers, carters, motor vehicle attendants, omnibuses, cabs, rickshas, trolleys and all other public vehicles and the drivers or haulers thereof, for fixing the amount of the licence fees to be paid, the charges or fares whether by distance or by time within or without the municipality, the number of passengers and the weight, dimensions, and nature of the loads to be carried, and for enabling the Council to endorse, suspend or cancel any such licence; Carriers and public vehicles.
 (b) For providing in the interests of public safety for the periodical examination by an authorised officer of the Council of all public vehicles, and for prohibiting the use of any vehicle as a public vehicle unless a certificate of efficiency under the hand of such officer has first been obtained by the applicant for a licence or by the licensee;
- (40) For regulating, supervising and licensing bicycles and tricycles, and for registering and stamping such vehicles; Bicycles and tricycles.
- (41) For regulating and licensing motor vehicles, motor-cars and motor-cycles belonging to persons having a residence or place of business within the municipality where such vehicles are ordinarily housed or kept; Motor vehicles.

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| Private vehicles. | (42) For prohibiting or restricting, notwithstanding any provision of any law relating to traffic, the use of specified classes of vehicles in certain streets or areas within the municipality; |
| Conveyance of meat. | (43) For regulating and licensing all private vehicles not hereinbefore provided for, and which are not licensed under the provisions of any law relating to traffic; |
| Placing of articles on window sills. | (44) For regulating the conveyance of meat or dead animals through or along any street or public thoroughfare; |
| Street advertisements. | (45) For preventing the placing of articles on window sills or in any other position near any street in such a manner as may be likely to cause danger or annoyance to passers-by; |
| Advertising devices. | (46) For regulating, supervising, inspecting, prohibiting and licensing the display of advertisements or advertising devices in or in view of any street or public thoroughfare, for prohibiting the display of advertisements, devices or pictures which are indecent or suggestive of indecency, and for preventing the display of advertisements or advertising devices in such places or in such manner or by such means as would, in the opinion of the Council, be likely to affect injuriously the amenities of or to disfigure any neighbourhood; |
| Signboards, etc | (47) For regulating, supervising, inspecting, prohibiting and licensing the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other movable advertising devices, and the distribution of handbills in or along any street or public thoroughfare; |
| Street decorations, platforms, etc. | (48) For preventing the disfiguring of the fronts of buildings or fences, and for prohibiting, supervising, inspecting and licensing the use, or regulating the size, description and fixing of signboards, screens, private lamps, sunblinds or other devices attached to or connected with any buildings or fences, by means of which advertisements or notices of any kind may be displayed; |
| | (49) For regulating street decorations, and for prohibiting or regulating the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the |

accommodation of spectators at any procession, exhibition, ceremony or spectacular display of any kind;

- (50) (a) For regulating the conveyance, removal, transport, manufacture, storage, sale and use of petroleum, explosives, fireworks, gas and all other inflammable liquid or combustible material; Conveyance, etc., of inflammable or combustible material.
 (b) For prescribing the routes and speeds by and at which, and the days and times when, explosives or inflammable material may be conveyed;
- (51) For prohibiting or regulating collections of money in public places for charitable or other objects; Charitable collections.
- (52) For establishing and regulating public markets and market dues, and for prohibiting the establishment of any market within the municipality without the permission of the Council; Markets.
- (53) For regulating public sales held on any public or open space or in any public building; Public sales.
- (54) For regulating, supervising, inspecting and licensing places used for the purpose of selling publicly, or exposing to public sale, any cattle, horses, sheep, goats, pigs, poultry or other live stock, for licensing persons to conduct such sales in municipal markets or elsewhere, and for requiring the deposit of security by an applicant for such licence; Sales of livestock.
- (55) For regulating, supervising, and inspecting the construction and maintenance of all installations for the supply of light, heat or power by means other than electricity; Lighting and power installations.
- (56) (a) For regulating lighting with gas or otherwise, other than by electricity;
 (b) For regulating the generation of acetylene gas or other inflammable or explosive gas and the construction and use of all apparatus connected therewith, and for preventing or regulating the storage of liquid acetylene or carbide of calcium;
- (57) For preventing and extinguishing fires, for compensating the owner of buildings removed in order to prevent the spread of fires, and for regulating fire brigades; Fires and fire brigades.

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| Theatres, etc. | (58) For regulating and licensing theatres, music halls, public halls, concert rooms, public billiard rooms, and other places of public amusement ; |
| Places of public resort. | (59) For establishing, regulating, supervising, inspecting and licensing places of public recreation and public resort, and for regulating the means of ingress and egress in any such places ; |
| Use of streets by natives. | (60) For regulating the use of streets and other public places by natives ; |
| Dances. | (61) For prohibiting or regulating dances ; |
| Native housing. | (62) For regulating the housing of natives by their employers ; |
| Native labour. | (63) For regulating and licensing wash boys and native labourers other than those employed in industrial concerns or domestic service ; |
| Native locations. | (64) For regulating, supervising and inspecting native locations, and for regulating the charges to be made for the occupation of buildings erected by the Council in such locations ; |
| Native passes. | (65) For regulating the issue of passes to and the carrying of passes by natives within the municipality, and for fixing charges payable by natives for passes, not exceeding a maximum to be approved by the Governor in Council ; |
| Dangerous trades. | (66) For regulating, supervising and licensing dangerous trades and the use of machinery in connection therewith ; |
| Dealers in second-hand goods. | (67) For regulating, supervising and licensing the trade, business or occupation of dealers in second-hand goods, including bottles, sacks, bones and tins ; |
| Cycle dealers. | (68) For regulating, supervising and licensing cycle dealers, manufacturers and repairers ; |
| Swimming baths | (69) For regulating, supervising, inspecting and licensing swimming baths and bathing establishments, and for prohibiting or regulating bathing in any open piece of water within the municipality ; |
| Boating establishments. | (70) For regulating, supervising, inspecting and licensing boating establishments, for licensing boats whether |

kept for hire or otherwise, and for regulating the use of and fixing the number of persons to be carried in such boats;

- (71) For regulating, supervising and licensing undertakers, Undertakers.
and for regulating the conveyance and disposal of
dead bodies;
- (72) For protecting from damage or interference any Protection of
municipal works or property situated or being in, municipal
under or over any public or other place within the property.
municipality;
- (73) For prohibiting, restricting or regulating the quarry- Quarrying of
ing of stone, lime, clay or other material on any stone, etc.
premises;
- (74) For suppressing houses of ill-fame; Houses of
ill-fame.
- (75) For preserving public decency, for prohibiting the Public decency,
use of indecent language in public places, for pro- indecent
hibiting the sale or exhibition of indecent literature, literature, etc.
pictures and devices, and for prohibiting the sale or
exhibition of pictures or devices of the nude;
- (76) For prohibiting or restricting the public exhibition Exhibitions of
of monstrosities, freaks of nature, or any abnormal monstrosities.
person or animal;
- (77) For prohibiting begging in any public place; Begging.
- (78) For suppressing gambling houses; Gambling
houses.
- (79) For regulating the possession and use of firearms Firearms.
and the carrying of weapons by which bodily hurt
can be inflicted;
- (80) For enforcing and regulating the fencing of Fencing of
plots, and for regulating the use of barbed wire plots.
for fencing;
- (81) For regulating and licensing livery stables and any Livery stables.
place where horses or other animals are kept for
hire;

Census.

- (82) For regulating the taking by the Council of any census of the inhabitants of the municipality, for defining the duties of census officers appointed by the Council, for compelling the giving of information required for the purpose of such census, and for prohibiting the divulging of such information ;

Construction of footways.

- (83) For regulating the construction by any owner of land at his own expense of a footway along the side of any street abutting on his land, the paving of any such footway with concrete blocks or stones or in any other way, and the construction and paving, at the cost of such owner, of any such footway ;

Omnibus service.

- (84) For regulating and maintaining any service of motor omnibuses or other vehicles, drawn or propelled by animal, mechanical or electric power, which may be established by the Council ;

Sewerage and drainage.

- (85) (a) For regulating sewerage and drainage, for compelling the construction and connection, at the cost of the owner, of private drains with public drains, sewers or pipes, and for regulating the construction by the Council, at the cost of the owner, of all house drains in so far as they connect with and extend from the main sewer to the boundary of the property concerned ;
- (b) For regulating the giving of notice and the deposit of plans and sections by persons intending to carry out any sewerage or drainage work on any land or premises and the approval or disapproval thereof by the Council, and for the removal or alteration of any sewerage or drainage works begun or done in contravention of any by-laws ;
- (c) For fixing the charges which may be made for the use of the Council's drains, sewers and sewerage works ;
- (d) For granting to plumbers and drain-layers licences authorising them to carry out—
- (i) plumbing or drain-laying work for the installation, alteration or repair of any system of drainage connected or intended to be connected with any municipal sewer, and/or

(ii) drain-laying or drainage work (other than storm-water drainage) for draining soiled or waste water,

and for regulating such plumbers and drain-layers and for prohibiting the carrying out of any such work by any unlicensed person;

- (86) (a) For permitting or requiring all or any of its officers or servants to become members of one or more pension, provident or benevolent fund or funds established, controlled, managed or maintained by the Council under sub-section (19) of section 52; Pension and provident funds
- (b) For fixing the contributions, if any, to be made by such members and by the Council;
- (c) For making periodical valuations of such funds and for the enforcement of any increase in the contributions thereto or diminution in the benefits arising therefrom as may be shown by any valuation to be necessary for maintaining the solvency thereof;
- (d) For prescribing the age at which persons in the service of the Council shall be permitted or required to become members of the fund and the age at and the conditions under which they shall be permitted or required to retire from the service of the Council;
- (e) For determining the amount of pension or other benefit to be paid to members on retirement from the service of the Council and to their dependents on death;
- (f) For regulating the management and investment of funds and the appointment or election where necessary of members of a committee for that purpose;
- (g) For vesting the property, money or/and assets pertaining to such funds in trustees for the purpose of administration thereof as directed by any committee of management by and against whom all actions at law relating to the fund shall be brought;
- (h) For regulating the retirement, removal and resignation of members of such committees of management or trustees and for filling of vacancies caused thereby;

- (i) For prescribing that no pension or right to a pension shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or of being attached or subjected to any form of execution under a judgment or order of a court of law, and for withholding, suspending or entirely discontinuing the payment of the same in the event of the beneficiary attempting to assign, transfer or otherwise cede or to pledge or hypothecate any pension or right as aforesaid;
- (j) For prescribing that in the event of any person in receipt of an annuity being convicted by any court in His Majesty's dominions and being sentenced to imprisonment without the option of a fine for a period exceeding one month any such annuity shall during such period of imprisonment be payable to his dependents.
- (k) For agreeing with one or more other councils to establish a united pension, provident or benevolent fund for the benefit of persons in the service of any of those councils: Provided that
 - (i) every such united fund shall be established by separate resolutions passed by each of the councils and approved by the Governor and shall be subject to such by-laws as may be framed under paragraphs (a) to (j) hereof and adopted by each of the councils concerned,
 - (ii) such by-laws shall provide for the management and investment of such united fund being vested in a joint board consisting of representatives of the councils which are members of the said fund and the employees, and for the election of the members of such board;
 - (iii) the expenses of the administration of a united fund so established shall be defrayed by the councils concerned in such proportions as may be agreed upon from time to time;
 - (iv) any council, other than a council concerned in the establishment of such united fund, may by resolution approved by the Governor and subject to such terms as may be mutually agreed upon between the joint board and the council, join in any united fund.

No by-law made under this section shall be inconsistent with or repugnant to the provisions of this Ordinance or of any Ordinance dealing with public health or of any other law in force within the municipality.

70. The following are hereby declared to be nuisances for the purposes of this Ordinance, namely :— **What constitutes a nuisance.**

- (1) Any vessel, and any railway carriage or other conveyance in such a state or condition as to be injurious or dangerous to health ;
- (2) Any dwelling or premises or part thereof which is or are of such construction or in such a state or so situated or so dirty or so verminous as to be injurious or dangerous to health, or which is or are liable to favour the spread of any infectious disease ;
- (3) Any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, water-closet, earth-closet, privy, urinal, cesspool, soakaway pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage receptacle, dustbin, dung-pit, refuse-pit, slop-tank, ash-pit or manure heap so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health ;
- (4) Any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by man for drinking or domestic purposes or in connection with any dairy or milkshop, or in connection with the manufacture or preparation of any article of food intended for human consumption, which is polluted or otherwise liable to render any such water injurious or dangerous to health ;
- (5) Any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any nullah or watercourse, irrigation channel or bed thereof not approved for the reception of such discharge ;

- (6) Any stable, cow-shed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is injurious or dangerous to health ;
- (7) Any animal so kept as to be a nuisance or injurious to health ;
- (8) Any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health ;
- (9) Any accumulation of stones, timber, or other building material if such is likely to harbour rats or other vermin ;
- (10) Any premises in such a state or condition and any building so constructed as to be likely to harbour rats ;
- (11) Any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the inmates, or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with adequate sanitary accommodation ;
- (12) Any public or other building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health ;
- (13) Any occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain ;
- (14) Any factory or trade premises not kept in a cleanly state and free from offensive smell arising from any drain, privy, water-closet, earth-closet, or urinal, or not ventilated so as to destroy or render harmless and inoffensive so far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein ;
- (15) Any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health ;

- (16) Any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious, communicable or preventable disease or injury or danger to health ;
- (17) Any chimney sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health ;
- (18) Any cemetery, burial-place or place of sepulture so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health ;
- (19) All collections of water, sewage, rubbish, refuse, ordure, or other fluid or solid substances, which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents which are known to carry such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites ;
- (20) Any collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket or any other article, and found to contain any of the immature stages of the mosquito ;
- (21) Any cesspit, latrine, urinal, dung-pit or ash-pit found to contain any of the immature stages of the mosquito ;
- (22) Any act, omission, or thing which is or may be dangerous to life, or injurious to health.

71. No by-law shall be made or amended by the Council unless and until a copy of such proposed by-law or amendment shall have been deposited at the office of the Council for inspection by any person at all reasonable times, and unless and until a notice shall have been published in some newspaper, if any, circulating in the municipality and exhibited in a conspicuous place at or near the public entrance of the municipal offices seven days prior to the meeting of the Council held for the purpose of making such by-law or amendment setting forth the general purport of the proposed by-law or amendment and stating that a copy thereof is open to inspection as aforesaid : Provided that any objection to any such proposed by-law or amendment shall be lodged with the Town Clerk within six days after the publication of the notice as aforesaid.

By-laws, how to be made.

Submission of
by-laws for
approval.

72. (1) After any by-law has been made or amended by the Council, such by-law or amendment shall be submitted to the Commissioner for Local Government for the approval of the Governor: Provided that when any objection has been lodged against any proposed by-law or amendment, and such objection has not been withdrawn, such by-law or amendment shall be submitted for the approval of the Governor in Council.

(2) Every by-law or amendment submitted for approval under the preceding sub-section shall be accompanied by—

- (a) a copy of the minutes of the meeting of the Council at which the by-law or amendment was adopted;
- (b) a certificate by the Town Clerk that the provisions of the last preceding section have been complied with;
- (c) copies of any objections against the adoption of the by-law or amendment which may have been lodged, in writing, with the Town Clerk, or, if none have been lodged, a statement to that effect.

(3) The Governor (or the Governor in Council when any objection has been lodged and has not been withdrawn) may approve, alter or reject any such by-law or amendment.

(4) Upon approval by the Governor or the Governor in Council, as the case may be, of any by-law or amendment (with or without alteration thereof) such by-law or amendment shall be published in the Gazette and thereupon shall have the full force of law within the municipality.

(5) A copy of the Gazette containing any by-law of the Council shall be evidence of the due making of such by-law and of the contents thereof.

Power of
Governor in
Council to
make, etc.,
by-laws.

73. The Governor in Council may at any time, after having given to the Council reasonable notice and having heard the Council thereon, make, amend or revoke any by-law which the Council is empowered by this Ordinance to make, amend or revoke. Every by-law and every amendment or revocation under this section shall be notified to the Council by the Commissioner for Local Government and shall be published in the Gazette.

Penalties for
breaches of
by-laws.

74. The Council may, by by-law, impose a fine or imprisonment of either description or both for the breach of any by-law made under this Ordinance, and may also impose different fines and different periods of imprisonment in case of successive or continuous breaches, but no such penalty

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shall exceed fifty pounds and no such period of imprisonment shall exceed six months. Any by-law may further provide that, in addition to any such penalty, any expense incurred by the Council in consequence of any breach of such by-law, or in the execution of any work directed by any such by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

75. All offences against any by-law in force within the municipality shall be deemed to be offences against this Ordinance, and in any prosecution for contravening the provisions of any such by-law it shall be sufficient to allege that the accused is guilty of contravening a by-law of the Council and to allege the act constituting such contravention, describing the by-law by number.

Prosecution for
contravention of
by-laws.

76. (1) Where any person is convicted a second time within a period of twelve months of having contravened any by-law by selling or exposing for sale or depositing for the purpose of sale or preparation for sale, or of having in his possession, any animal or article (whether solid or liquid) intended for human consumption which is diseased or unwholesome or unfit for human consumption, the court may, if it finds that such person knowingly or wilfully committed both offences, in addition to inflicting any other punishment, order that a notice of the facts be affixed in such form and manner and for such period, not exceeding twenty-one days, as may be specified in the order to any premises occupied by such person, and may further order that such person do pay the costs of such affixing.

Provision for
affixing to
premises notice
of conviction
for sale or
possession of
unsound food

(2) If any person obstructs the fixing of any such notice, or removes, defaces or conceals such notice while affixed during the said period, he shall be guilty of an offence and shall, for each such offence, be liable to a fine not exceeding ten pounds.

Licences.

77. (1) The Council may impose such duties or fees as may be fixed by by-laws in respect of any trade, occupation or premises which it is empowered under this Ordinance to inspect or supervise and licence.

Duties and fees.

(2) The Council may appoint committees for the purpose of hearing any application for licences to carry on any trade or business or may itself sit to hear such applications, and the Mayor or the chairman of any committee so appointed as the case may be shall have power to summon any applicant for or any objector to the grant of a licence (by writing under his hand served on such persons) to give evidence at any sitting of the Council or a committee held for the purpose of hearing the application for such licence or to produce books or documents at such sitting, and any such person refusing or omitting without sufficient cause to attend and give evidence or to produce books or documents in his possession or under his control as required by such summons shall be guilty of an offence against this Ordinance: Provided always that every person summoned under this section to give evidence or produce books and documents shall be entitled to all the privileges to which a witness summoned to give evidence or produce books or documents before the Supreme Court is entitled.

(3) All witnesses giving evidence before the Council or a committee at the hearing of any application for such licences shall give evidence on oath which may be administered by the Mayor or the member presiding.

Power of the
Council to
refuse licences.

78. The Council may refuse to grant any licence to carry on any trade or business which it is empowered to grant, on any of the following grounds :—

- (a) That within the three years immediately preceding the application either the applicant or any person employed by or assisting him in his business or directly or indirectly interested therein has been convicted three times of contravening a law or by-law in force within the municipality in regard to the trade for which the licence is applied for;
- (b) That the premises in or on which the applicant intends to carry on his trade or business do not conform to the requirements of the Council's by-laws;
- (c) That the granting of such licence would be contrary to the public interest :

Provided, however, that any applicant for a licence whose application has been refused may appeal against the Council's decision to the court of the magistrate within whose jurisdiction the premises in or on which the applicant intended to conduct his trade or business lies, and, in the event of the appellant

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satisfying the court that the licence was refused on insufficient grounds, the court may order the Council to grant such licence and such licence shall be granted accordingly :

Provided, further, that the appellant or the Council may appeal to the Supreme Court against any such order of the magistrate and the decision of the Supreme Court shall be final.

79. The Council may refuse a licence in respect of any premises as a theatre, music hall, dance hall, public hall, concert room or other place of amusement, or as a restaurant or eating house, on any of the grounds mentioned in the last preceding section or on any of the following grounds :—

Power of the Council to refuse to licence certain premises

- (a) That the applicant has failed to produce satisfactory evidence of good character;
- (b) That the premises in respect of which the licence is sought or any adjacent premises owned or occupied by the applicant are frequented by persons of bad character;
- (c) That the granting of such licence would be calculated to cause nuisance or annoyance to persons residing in the neighbourhood :

Provided, however, that the refusal of the Council to grant any licence on any of the grounds mentioned in this section shall be subject to the same right of appeal as is provided in the last preceding section.

80. (1) No person shall, without having first obtained from the Council a licence for that purpose, carry on within the municipality the work or trade of a knacker or of blood-boiling or cleaning, tallow melting, fat melting or fat extracting, fell mongering, skin storing, skin curing, blood drying, gutscraping, fish mongering, fish frying, leather dressing, tanning, glue making, size making, charcoal burning, brick burning, lime burning, manure making, manure storing, bone storing, or any other work or trade of an offensive nature which the Council may, with the sanction of the Governor, declare to be an offensive trade for the purposes of this section.

Licensing of offensive trades

(2) Any person who shall carry on any such work or trade without having first obtained the required licence from the Council shall be guilty of an offence and shall be liable to a fine not exceeding fifty pounds and to a further fine not

exceeding two pounds in respect of every day during which such offence shall continue after notice to cease such offensive work or trade has been served upon such person by the Council.

(3) Before considering any application for any licence under this section the Council may require the applicant to pay the cost of advertising full particulars of his application in such manner and for such period as the Council may think fit.

(4) The Council may refuse to grant any licence under this section on any of the grounds mentioned in section 78 of this Ordinance or on any of the following grounds :—

- (a) That the premises used or proposed to be used by the applicant for the work or trade for which the licence is sought are unsuitable for the purpose;
- (b) That the methods adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapours, gases or smells arising from such work or trade are not efficient :

Provided, however, that the refusal of the Council to grant any such licence on any of the grounds mentioned in this section shall be subject to the same right of appeal as is provided in section 78 of this Ordinance.

Power to refuse licences to ricksha boys.

81. The Council may refuse to grant a licence to the hauler of a ricksha who is medically or physically unfit or who has failed to pass any test of efficiency or to deposit any security as may be required by by-laws.

Penalty on conviction for contravention of law or by-law relating to licences.

82. On the conviction of any person holding a trade licence granted by the Council for any contravention of the law or the Council's by-laws relating to the conduct of such trade, the magistrate before whom such person is convicted may, on the application of the Council, cancel or suspend his licence and order that no new licence to carry on such trade within the same municipality shall be granted to such person for a period not exceeding one year from such conviction, and thereupon such person shall become disqualified to hold a licence during such period of cancellation or suspension.

PART VI.

FINANCIAL PROVISIONS.

Application and interpretation.

83. Save as otherwise expressly provided, the provisions of this Part of this Ordinance shall apply to every Municipal

Council and every Municipal Board constituted by or under this Ordinance :

Provided that the terms "Council" and "Mayor" shall, in the case of a municipality under the jurisdiction of a Municipal Board, be deemed to refer, respectively, to the Board and to the Chairman of the Board.

Revenue and Borrowing Powers.

84. The revenues of the Council shall include :—

Revenues of the Council.

- (a) All rates levied by the Council ;
- (b) All moneys derived from licences issued by the Council and all market dues and pound fees ;
- (c) One-half of all fines imposed by any competent court in respect of any contravention of the provisions of this Ordinance or of any by-laws made thereunder ;
- (d) All charges or profits arising from any trade, service or undertaking carried on by the Council under the powers vested in it ;
- (e) Proceeds of sale of by-products ;
- (f) All other fees, charges, dues and rents recoverable by the Council or to which the Council is entitled under this Ordinance or any other law ;
- (g) Interest on moneys invested by the Council, except where special provision is made in regard thereto under this Ordinance or any other law ;
- (h) Government contributions (if any).

85. (1) All moneys due for sewerage, sanitary and refuse removal services shall be recoverable from the owner and occupier jointly and severally of the premises in respect of which the services were rendered : Provided that the owner shall, in the absence of any agreement to the contrary, be entitled to recover from the occupier of the said premises for the time being any such charges paid by him in respect of the occupation of such occupier.

Recovery of sanitary rates.

(2) When any charges due in respect of any premises for sewerage, sanitary or refuse removal services shall remain unpaid for a period of six weeks after the date on which written notice shall have been given by the Council to the owner or occupier of his indebtedness, the Council may, at any time within twelve months after such date, proceed jointly and severally against the owner and occupier for the time being of such premises for the amount of such charges

or any part thereof, and may recover the same from such owner or occupier: Provided that every such occupier shall be entitled to deduct from any rent or other amount payable by him to the owner of the premises any portion of such charges paid by or recovered from him under this sub-section which the owner could not lawfully have required him to pay, and the production of the receipts for such portion of such charges so paid or recovered from such occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount:

Provided further that where such charges are as a general rule recovered by the Council from the occupier of any premises the Council shall give written notice to the owner of such premises if such charges shall at any time remain outstanding for a period exceeding six weeks.

(3) The Council may charge and recover interest on arrear charges for sewerage, sanitary and refuse removal services at a rate not exceeding one per centum per month or part of a month.

Payment of
rates, taxes, and
other charges
before transfer
of premises.

36. (1) No transfer of any premises within a municipality shall be passed or registered before any registration officer until a written statement in the form shown in the Second Schedule to this Ordinance, and signed and certified by the Town Clerk or other officer authorised thereto by the Council, shall be produced to such registration officer, nor unless such statement shows—

- (a) that all charges for a period of three years immediately preceding the date of application for transfer due in respect of such premises for sewerage, sanitary and refuse removal services and lawfully imposed under this Ordinance or any by-laws made thereunder, and
- (b) that all charges (if any) for a period of three years immediately preceding such date due in respect of such premises on account of rates imposed under any enactment for the time being in force within the municipality; and
- (c) that all sums (if any) due on account of any expenses incurred or advances made by the Council under the provisions of this Ordinance,

have been paid to the Council.

(2) The Town Clerk or other officer authorised thereto by the Council is hereby required to give the said statement on the demand of the owner of the premises or his attorney or agent, upon payment by him of all charges due as aforesaid and of a charge to be fixed by resolution of the Council not exceeding two shillings for each such statement.

87. (1) This section shall apply only to the municipalities of Nairobi and Mombasa. Government contributions.

(2) There shall be paid to the Council and Board respectively, from the general revenue of the Colony, an annual contribution in lieu of rates for each and every financial year as hereinafter provided, that is to say :— Contributions in lieu of rates.

(a) In respect of all rates imposed by the Council or Board, as the case may be, upon the unimproved value of land under the provisions of any enactment for the time being in force (except special rates hereinafter referred to), a contribution calculated upon the unimproved value of Crown land as shown by the valuation made under such enactment at the same percentage or amount in the pound as rates imposed by the Council or Board for the same financial year upon the unimproved value of privately owned land ;

(b) In respect of all rates imposed by the Council or Board, as the case may be, upon the value of improvements under the provisions of any such enactment as aforesaid, a contribution bearing the same proportion to the total amount chargeable as rates upon privately owned improvements as the contribution payable under paragraph (a) on the unimproved value of Crown land bears to the total amount chargeable as rates upon the unimproved value of privately owned land :

Provided that the total contribution payable for any financial year (excluding contributions in respect of special rates hereinafter referred to) shall not exceed two per centum of the total unimproved value of Crown land as shown by the aforesaid valuation.

(3) In addition to the contributions payable under the last preceding sub-section, there shall be payable, in respect of all special rates imposed by the Council or Board, as the case may be, upon a particular area or areas of the municipality Contributions in lieu of special rates.

under any such enactment as aforesaid, a contribution calculated upon the unimproved value of Crown land situate within such area or areas as shown by the aforesaid valuation at the same percentage or amount in the pound imposed by the Council or Board in respect of such special rates upon the unimproved value of privately owned land.

Contributions,
when payable.

(4) Contributions under the preceding sub-sections shall become due upon the dates fixed by the Council or Board, as the case may be, for the payment of the rates in respect of which such contributions are payable, and, upon the Council or Board passing a resolution to impose any rate, such Council or Board shall forward to the Commissioner for Local Government a copy of such resolution certified by the Town Clerk, together with a statement of the contribution payable in respect thereof.

Advances in
anticipation of
rates.

(5) The Governor may advance to the Council or Board, in anticipation of rates to be levied, any sum not exceeding three-fourths of the estimated total contribution payable in respect of such rates, and any sum so advanced shall be free of interest and shall be deducted from the contribution payable in respect of such rates: Provided that no such advance shall be made in any financial year in respect of contributions on account of rates to be levied in any succeeding financial year.

Additional
grants.

(6) There shall also be paid annually to the Council and Board, respectively, from the general revenue of the Colony:—

- (a) (i) A grant of one-half of the cost of construction, reconstruction and maintenance of such roads within the municipality as the Governor may, on the advice of the Central Roads Board established under section 104 of this Ordinance, classify as main trunk and main district roads, subject, however, to the standard of construction, reconstruction and maintenance proposed by the Council or Board, as the case may be, being approved by the Central Roads Board and to provision being made in the annual estimates of the Council or Board for the recovery of the remaining one-half (or, where such one-half is to be met from loan funds, for the recovery of the interest and loan charges) out of rates imposed on the public;
- (ii) The Council or Board, as the case may be, shall cause a special account to be kept of expenditure incurred on construction, reconstruction and main-

tenance of such main trunk and main district roads, and, where any question shall arise as to the correctness or admissibility of any charge against such special account, the decision of the Governor in Council shall be final;

- (b) Such proportion as the Governor in Council may direct of the revenue collected by Government under the provisions of the Motor Traffic Ordinance or any enactment amending or replacing the same in respect of vehicles belonging to persons having a residence or place of business within the municipality where such vehicles are ordinarily housed or kept;
 - (c) A sum which is equivalent to one-third of the annual emoluments of the Town Clerk, the Town Treasurer and the Town Engineer, respectively, appointed in accordance with the provisions of this Ordinance;
 - (d) A sum which is equivalent to one-half of the annual emoluments of the Medical Officer of Health and of all qualified sanitary inspectors appointed in accordance with the provisions of this Ordinance;
 - (e) A sum which is equivalent to one-half of any expenditure incurred by the Council or Board, as the case may be, in connection with outbreaks of infectious diseases, and such proportion, if any, of other expenditure in connection with measures taken for the purpose of promoting and maintaining the public health as the Governor in Council may determine, subject, however, to the approval by the Governor of the details of such expenditure.
- (7) There shall also be paid to the Council and Board, Grant in aid of public health. respectively, from the general revenue of the Colony, in respect of expenditure incurred upon public health by such Council or Board, a diminishing grant of such amount annually and for such period of years as may be determined by the Governor in each case.
- (8) Payment for all municipal services rendered to Govern- Payment for municipal services. ment offices shall be made on the same basis as if such services had been rendered to private premises.

**Borrowing
powers.**

88. (1) The Council may from time to time, by a majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Council, raise loans in such amounts and on such conditions as may be allowed by the Governor in Council with the approval of the Secretary of State.

(2) Such loans shall be secured on the property and revenues of the Council, including any lands which may be specially placed at the disposal of the Council under the provisions of any law : Provided, however, that this sub-section shall not be deemed to confer any power to alienate such lands other than is conferred by such law.

(3) Where any such loan shall be raised by means of stock, the provisions of any borrowing powers Ordinance which may be applicable and in force for the time being with regard to the issuing of stock, the provision to be made for payment of interest thereon, for the redemption thereof at the time or times fixed for repayment, and the proceedings to be taken in case of default, shall apply.

(4) If at any time any interest due on any loan (other than stock) shall remain unpaid for three months after demand therefor in writing has been lodged with the Town Clerk by the person entitled thereto or by his duly authorised representative, application may be made by such person or his representative to the Supreme Court for the appointment of a receiver of the property and revenues on which the loan is secured.

(5) On the hearing of such application the Court may make such order and give such directions as under the circumstances shall seem expedient for the raising and payment of the moneys due. In particular, the Court may order that a rate or rates of such amount or amounts as it may fix be levied upon all rateable property within the municipality ; and such rate so ordered shall have the same incidence as any rate imposed by the Council and may be enforced in like manner, and the proceeds thereof shall be paid into Court or otherwise as the Court shall direct.

(6) If at any time default be made in the repayment of any loan or of any instalment thereof after a period of thirty days from the date on which such loan or instalment shall have become repayable, the like proceedings may be instituted on the application of the person to whom such repayment shall be due or his duly authorised representative.

(7) The Court, on such application, in addition to any order which it is empowered to make under sub-section (5) of this section, may, if it shall think fit, order the sale of any property on which the loan may be secured, subject always to the provisions of any law as regards the alienation of any lands vested in the Council under such law.

89. (1) The Council may from time to time obtain Advances from Government and overdrafts. from Government advances of moneys required for the proper carrying out of the provisions of this Ordinance.

(2) The Council may obtain advances from any bank by way of overdraft in such amounts and on such conditions as may be approved by the Governor.

(3) All moneys so advanced, and the interest thereon (if any), shall constitute a liability of the Council and shall be a charge on the property and revenues, present and future, of the Council; and the provisions of the last preceding section for the security of such advances and for the recovery thereof shall apply in all respects as if such advances were loans raised under the provisions of the said section.

90. Save when any loan or advance by way of overdraft has been authorised as aforesaid, no person or bank lending money to the Council shall have any remedy or right whatsoever to recover such loan or advance from the Council: Provided that, if the Council borrows any money which it is not legally bound to repay, all the members who have joined in authorising the borrowing of such money shall be jointly and severally liable to repay the amount so borrowed and all interest thereon, and the same may be recovered from them by action in any competent court. Illegal borrowing.

91. (1) It shall be the duty of the Council to frame regulations providing for the annual setting aside by the Council of amounts to create adequate reserve funds to provide for the entire or partial replacement of assets of the Council which owing to depreciation or other cause will require at some future date to be replaced, and providing for the investment of such funds. Such regulations shall be submitted for the approval of the Governor who may approve the same with or without modification, and, when approved, shall be published in the Gazette: Provided that if the Council shall fail to frame such regulations and to submit the same for approval as aforesaid within a period of twelve months from the date on which the Governor shall require the Council so to do, such regulations may be made by the Governor. Depreciation regulations

(2) The Council shall pay annually out of its revenues into the reserve funds so created such contributions as are required by regulations made under this section, and no such moneys or any part thereof shall, without the sanction of the Governor, be used either permanently or temporarily for any purpose other than the purposes for which they have been contributed. All interest or other revenues derived from such reserve funds shall be paid into and become part of such funds.

Accounts and Audit.

Accounts to be kept.

92. (1) The Council shall cause proper books and accounts to be provided and true and regular records to be entered therein of all transactions of the Council, and such books and accounts shall be open at all reasonable times and for reasonable periods, to the inspection of any member of the Council, ratepayer or creditor of the municipality, without fee or reward. Any such person may make copies of or extracts from such books or accounts.

(2) All such books and accounts shall, in order to provide for the production of comparative statements of revenue, expenditure, cost, and general uniformity in the accounts of local authorities, be kept in such form and manner as the Commissioner for Local Government may approve.

Financial year; statement of accounts.

93. (1) For the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirty-first day of December of each and every year.

(2) The accounts of the Council shall, as soon as may be, be balanced for the preceding financial year and an annual statement or abstract thereof shall be prepared. Copies of such annual statement or abstract, and of the inspector's report made under section 95, shall be laid before the Council not later than at its first ordinary meeting in the month of May following, and shall be delivered to any inhabitant of the municipality on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) Such annual statement or abstract shall be prepared in such form and shall contain such information as the Commissioner for Local Government may require, and such portions thereof or extracts therefrom, together with such portions or extracts from the inspector's report, as the Commissioner for Local Government may direct, shall be published in one or more newspapers (if any) circulating in the municipality.

94. (1) Not less than fourteen days before the expiry of any financial year the Finance Committee shall present for the approval of the Council detailed estimates of the revenue and expenditure of the Council for the next financial year. Annual estimates to be framed by the Council.

(2) A summary of such annual estimates shall be published in the Gazette and in one or more newspapers (if any) circulating in the municipality at least fourteen days prior to the date of the meeting of Council at which such estimates are presented for the approval of the Council, and a copy of such annual estimates shall be delivered to any inhabitant of the municipality on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) Such estimates shall be passed at a meeting of the Council specially convened for the purpose at which the majority voting shall not be less than a majority of the whole Council.

(4) In the case of any municipality constituted under the jurisdiction of a Municipal Council, the Council shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Council to the Commissioner for Local Government together with a statement of the rates proposed to be levied for such financial year and an estimate of the amount of the contribution payable by Government in respect thereof. Any revised or supplementary estimate of revenue and expenditure approved by the Council shall be submitted in like manner, together with a statement of any proposed alteration in the rates to be imposed and an estimate of the revised contribution, if any, payable by Government: Provided, however, that this sub-section shall not come into operation in the municipality of Nairobi for a period of five years from the commencement of this Ordinance. During the period aforesaid the estimates of the municipality of Nairobi shall be dealt with in the manner prescribed by the next succeeding sub-section, and the term "Board" shall, when used in the said sub-section, be deemed to refer to the Nairobi Municipal Council. Special provisions for Municipal Councils.

(5) In the case of any municipality constituted under the jurisdiction of a Municipal Board, the Board shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Board to the Commissioner for Local Government for approval by the Governor in Council, and when so approved an abstract thereof shall be Special provisions for Municipal Boards.

published in the Gazette. The Board shall not incur any expenditure which has not been included in such approved estimates except with the sanction of the Governor in Council : Provided that reallocations of expenditure within the limits of the approved estimates which shall not increase or decrease any one item of expenditure by more than one hundred pounds may be made by the Board. Any revised or supplementary estimates approved by the Board shall be submitted for the approval of the Governor in Council.

(6) For the purpose of approval under the last preceding sub-section all annual, revised or supplementary estimates shall be prepared in such form and shall contain such detailed information as the Commissioner for Local Government may require.

(7) A copy of all annual, revised or supplementary estimates as approved in accordance with this section shall be recorded in the minutes of the Council or Board, as the case may be.

Audit of the
accounts, etc.,
of the Council.

95. (1) The Governor shall appoint one or more persons, being officers of the public service, from time to time to inspect, examine and report upon the accounts and records of the Council, and the Council shall, by the Town Clerk or other officer authorised by the Council, produce and lay before the person or persons so appointed (in this Ordinance referred to as " the inspector ") all books and accounts of the municipality together with all vouchers, papers and writings relating thereto.

(2) It shall be the duty of the inspector to certify, not less than once in each financial year, whether or not—

- (a) the accounts of the Council are in order ;
- (b) separate accounts of all trading undertakings have been kept ;
- (c) the accounts issued present a true and correct view of the financial position of the Council, of its transactions, and of the results of trading ;
- (d) due provision has been made on account of redemption and repayment of all moneys borrowed by the Council ;
- (e) the value of the assets of the municipality have been fairly stated ;
- (f) the amounts set aside for depreciation and renewal of the assets of the municipality are adequate and in accordance with regulations framed under section 91 ;

- (g) all his requirements and recommendations have been complied with and carried out.

(3) The inspector in his report shall state his opinions and observations upon all questions arising out of the certificate given by him under the last preceding sub-section, and upon all matters affecting the economical and efficient administration and conduct of municipal services which in his opinion call for special notice, and shall in such report draw attention to all cases in which it shall appear to him that the provisions of this Ordinance or any other law have not been carried out or that any acts, matters or things have been performed or carried out without due authority.

(4) The Town Clerk shall, immediately upon the receipt of the inspection report or reports or copies thereof, submit the same to the Mayor and/or Chairman of the Finance Committee and thereafter shall lay the same before the Council at its next ensuing meeting.

(5) The Council shall pay to the Governor, within three months from the date of the signing and certifying by the inspector of the accounts of the Council for any financial year, such sum as the Governor may from time to time determine, not being more than one per centum of the total expenditure of the Council which has been brought to account and certified by the inspector for that financial year: Provided that where, for the purpose of an effective audit, the accounts of the municipality require to be completed, adjusted or balanced by the inspector a proportionately higher fee, as the Governor may determine, shall be charged and paid.

96. (1) The inspector shall disallow every payment made without due authority according to law, and shall surcharge the same on the person or persons making or authorising the illegal payment, and shall charge against any person or persons responsible therefor the amount of any deficiency or loss occasioned by the negligence or misconduct of such person or persons or of any sum which ought to have been brought to account by any such person or persons, and shall in every case certify the amount due from such person or persons.

Inspector's
power to
surcharge

(2) For the purposes of this section the pecuniary responsibility for a surcharge in respect of any illegal payment shall rest upon the Treasurer or other official making the payment except where payment is made upon instructions

(recorded in the minutes or in writing) from the Council or from any Committee or member of the Council given after the irregularity has been pointed out; and the pecuniary responsibility for a surcharge in respect of any such illegal payment when such payment is made upon such instructions aforesaid shall rest upon the person or persons giving or joining in giving such instructions. Any Councillor shall be deemed to have joined in giving such instructions if he shall not cause his vote against the resolution to be recorded in the minutes.

(3) An appeal shall lie to the Supreme Court from any decision of the inspector under this section, or the person surcharged may, in lieu of such appeal, appeal to the Governor in Council whose decision shall be final.

(4) Every sum certified by the inspector, or found on appeal, to be due from any person under this section shall be paid into the fund from which it was taken within thirty days from the date of the inspector's certificate or decision on appeal, as the case may be, and if such sum is not so paid the inspector shall recover the same from the person surcharged in any competent court, and shall be paid by the Council his reasonable costs and expenses incurred in such proceedings.

(5) In any proceedings for the recovery of such sum the inspector's certificate shall be conclusive evidence that the sum is due and payable by the person charged.

(6) On the production of such certificate the court shall give a decree for the sum sued for, and every such decree shall have the effect of a decree under the Civil Procedure Ordinance, 1924, and any Rules made thereunder.

Powers of
inspector to
take evidence.

97. (1) For the purpose of any examination under the provisions of section 95, the inspector may hear and receive evidence and examine witnesses upon oath (which oath the inspector is hereby empowered to administer), and may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers (including the minutes of the proceedings of the Council or of any committee thereof) as may be necessary for such examination.

(2) Any person so required who, without reasonable excuse—

- (a) neglects or refuses to comply with the tenour of such summons; or
- (b) having appeared, refuses to be examined on oath or to take such oath; or
- (c) having taken such oath, refuses to answer such questions as are put to him,

shall be guilty of an offence and shall be liable, for every such neglect or refusal, to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months.

PART VII.

ESTABLISHMENT OF CENTRAL AUTHORITY AND ORGANISATION FOR LOCAL GOVERNMENT PURPOSES.

98. (1) The Governor shall appoint an officer to be Commissioner for Local Government who shall perform the duties prescribed to be performed by him under this Ordinance. The Commissioner shall also be responsible for conducting all correspondence with Municipal Councils and Municipal Boards and for dealing with all matters which require to be referred by such Councils or Boards to the Governor. He shall administer all Government contributions to Municipal Councils and Municipal Boards and shall conduct all the business of the Standing Departmental Committee and Central Roads Board established under this Ordinance.

Appointment of
Commissioner
for Local
Government
and Municipal
and Town
Planning
Engineer

(2) The Governor shall appoint an officer to be Municipal and Town Planning Engineer whose duties shall be to inspect the works of Municipal Councils and Municipal Boards save as regards main trunk and main district roads, to assist and advise Municipal Councils and Boards in the preparation of town planning schemes, of sewerage, drainage, water supply and other municipal works, and in the preparation of by-laws relating thereto, and to undertake such other duties as may be directed by the Commissioner for Local Government.

(3) The Governor may at any time require any officer of the Government to conduct or cause to be conducted such investigations, researches, and inquiries as the Governor may deem necessary for any of the purposes of this Ordinance, or for assisting any Municipal Council or Board in the carrying out of its duties under this Ordinance and generally for the purpose of promoting the efficiency of Municipal Government,

and all necessary facilities shall be given by the Council or Board as the case may be to the officer conducting such investigations, researches and inquiries.

Standing
Committee for
Local
Government.

99. (1) There shall be established a Standing Departmental Committee for Local Government (in this Ordinance referred to as "the Standing Committee") to advise the Governor in regard to all matters relating to local government and to perform the duties imposed upon it by this Ordinance or by any other enactment relating to local government for the time being in force.

(2) The Standing Committee shall consist of :—

(a) The Colonial Secretary as Chairman ;

(b) The Commissioner for Local Government as Deputy Chairman ;

(c) The Director of Medical and Sanitary Services ;

(d) The Director of Public Works ;

(e) The Attorney General ;

and such other person or persons as the Governor may from time to time appoint :

Provided that in the case of absence or inability to attend any of the officers included under paragraphs (c), (d) and (e) above may be represented by a deputy.

(3) In the absence from any meeting of both the Chairman and Deputy Chairman the members present shall elect one of their number to preside at such meeting.

(4) The member presiding and three other members shall form a quorum.

Functions of
Standing
Committee.

100. The Standing Committee shall advise upon all by-laws submitted for approval by Municipal Councils and Municipal Boards and upon all matters in regard to which the approval of the Governor or the Governor in Council is required under this Ordinance or in regard to which the Governor is empowered to make rules, regulations or by-laws under this Ordinance, and shall perform all such functions as are vested in the Committee by virtue of the Public Health (Amendment) Ordinance, 1928

101. (1) It shall be the duty of every Municipal Council and Municipal Board constituted by or under this Ordinance to render to the Commissioner for Local Government, not later than the thirty-first day of March in each year, a report of the work of the Council or Board, as the case may be, and of the affairs of the municipality for the preceding financial year.

Reports to be rendered by Councils and Boards.

(2) Such report shall be rendered in such form as may be directed by the Commissioner for Local Government, and shall be accompanied by such statistics as the Commissioner may require.

(3) A copy of such report shall be delivered by the Town Clerk to any inhabitant of the municipality on application and on payment of the fee, if any, prescribed by resolution of the Council or Board.

102. (1) It shall be the duty of every Municipal Council and Municipal Board to furnish to the Commissioner for Local Government a certified copy of any record or minutes of its proceedings and of the proceedings of any committee appointed by the Council or Board, and of a record of any accounts of the Council or Board, and such reports, statistics and documents as the Commissioner for Local Government may from time to time require.

Minutes, etc., of Councils and Boards to be furnished.

(2) Minutes of the proceedings of each meeting of the Council or Board or of a committee thereof shall be forwarded within ten days after the date upon which such minutes were confirmed as prescribed by this Ordinance or any by-law made thereunder.

103. It shall be the duty of the Commissioner for Local Government to render to the Governor, not later than the thirtieth day of June in each year, a comprehensive report upon the affairs and activities of all Municipal Councils and Municipal Boards constituted by or under this Ordinance.

General report to be rendered to the Governor by the Commissioner.

104. (1) There shall be established a Central Roads Board for the purpose of advising the Governor upon the matters mentioned in the next succeeding section of this Ordinance, and for the performance of all such other duties as may be imposed upon it under this Ordinance or by any other enactment for the time being in force.

Central Roads Board.

(2) The Central Roads Board shall consist of :—

- (a) The Colonial Secretary as Chairman ;
- (b) The Commissioner for Local Government as Deputy Chairman ;
- (c) The Chief Native Commissioner ;
- (d) The Director of Public Works ;
- (e) The Roads Engineer of the Public Works Department,

and such other persons, not being less than two, as the Governor may from time to time appoint.

(3) In the absence from any meeting of both the Chairman and Deputy Chairman the members present shall elect one of their number to preside at such meeting.

(4) The member presiding and four other members shall form a quorum.

**Functions of
Central Roads
Board.**

105. (1) It shall be the duty of the Central Roads Board to advise the Governor upon the following matters :—

- (a) The contributions payable from the general revenue of the Colony under section 87 of this Ordinance in respect of the construction, reconstruction and maintenance of roads ;
- (b) The classification of roads in respect of which such contributions are payable ;
- (c) All grants to any Municipal Council or Municipal Board in respect of the construction, reconstruction or maintenance of roads ;
- (d) All other matters concerning roads in municipalities.

(2) The Central Roads Board shall control any plant which may be placed at its disposal for the purpose of hire to any Municipal Council or Municipal Board, and shall prescribe charges for the hire of such plant, and shall do all other things necessary in regard to the conditions of hiring such plant.

PART VIII.

SPECIAL POWERS OF THE GOVERNOR.

106. (1) Pending the first election or nomination of members of the Municipal Council or Municipal Board, as the case may be, for any municipality constituted by or under the provisions of this Ordinance, the Governor may, by proclamation, nominate and appoint such number of fit and proper persons as he shall select, not being less than ten, to form a Council or Board, as the case may be, with jurisdiction over any area which under this Ordinance—

Governor's powers of nomination in certain circumstances.

(a) has been constituted a municipality; or

(b) has been severed from a municipality (of which it formed part) and constituted a separate municipality.

(2) Every such nominated Council or Board shall exercise all or any of the powers and authorities and shall carry out the duties conferred or imposed on a Municipal Council or Municipal Board, as the case may be, by this Ordinance or under any other enactment, and shall be subject to the obligations attaching to the exercise thereof.

(3) The period of office of every such nominated Council or Board shall be from the date of the proclamation aforesaid until the date upon which a Municipal Council or Municipal Board, as the case may be, shall be duly constituted in accordance with the provisions of this Ordinance; and upon such latter date such nominated Council or Board shall be deemed to be dissolved.

(4) Whenever any area has been severed from a municipality and constituted a separate municipality as aforesaid, the Governor may, by proclamation, declare that all by-laws which at the date of such severance were operative in such area shall, notwithstanding such severance, continue to have full force and effect in the said separate municipality until altered or revoked under and in accordance with the provisions of this Ordinance.

107. If any Municipal Council or Municipal Board shall at any time neglect to hold a meeting for the space of three months, the Governor may dissolve such Council or Board and may, by proclamation, nominate and appoint other fit and proper persons, not being less than three in number, to form a Council or Board for the purposes of this Ordinance, and every such nominated Council or Board shall be competent and is

Power to dissolve Municipal Councils and Municipal Boards.

hereby required to exercise all the powers and authorities vested in the Council or Board which has been dissolved.

Powers of Governor where Council or Board defaults in matters of public health.

108. If any Municipal Council or Municipal Board shall fail to do or carry out any work or thing which it is or may be empowered under this Ordinance to do or carry out, or shall fail to make, alter, revoke or enforce any by-laws on any matters upon which it is empowered to make, alter, revoke or enforce by-laws, and such failure on the part of the Council or Board constitutes, in the opinion of the Governor, a grave danger and menace to the health of the public within or without the municipality, the Governor may give notice to the Council or Board in default, requiring it to take measures within its powers under this Ordinance to abate and remove such danger; and if such Council or Board shall fail to take and properly carry out the required measures, the Governor, on satisfying himself that the Council or Board has so failed without reasonable cause, may—

- (a) make such by-laws as may be necessary to abate and remove such danger, and such by-laws shall, until revoked by the Governor, have the force and effect of law within the municipality concerned;
- (b) authorise any person or persons to do or carry out any works or things and to expend such moneys in so doing or carrying out works or things as to him may seem necessary; and any moneys so expended under the authority of the Governor shall be recoverable by the Governor from the Council or Board, as the case may be, on the order of any competent court in like manner as if the sum so expended was a loan secured on the property and revenues of the Council or Board under the provisions of section 88 of this Ordinance.

Provisions as to by-laws made by the Governor.

109. Any by-laws which the Governor is by the last preceding section empowered to make—

- (a) may provide penalties for the breach thereof in the same manner and to the same extent as is allowed under the provisions of this Ordinance in the case of by-laws made by a Council or Board;
- (b) may be made applicable to any one or more municipalities;

- (c) shall have the force and effect of law within the area in respect of which they are made upon publication in the Gazette or upon such other date as the Governor may fix in that behalf;
- (d) may from time to time be amended, altered or revoked.

110. If at any time it shall appear that the revenues of a Municipal Council or Municipal Board are not being properly used in the best interests of the municipality as a whole, or that the administration of the affairs of the Council or Board is wasteful or inefficient, or that the Council or Board has failed to act in conformity with the provisions of this Ordinance, the Governor in Council may, on the recommendation of the Standing Committee, and after such inquiry as he may deem necessary (at which inquiry the Council or Board shall be heard);

Power to reduce Government contributions in certain circumstances.

(a) Reduce in the case of Nairobi or Mombasa the contributions payable in lieu of rates under section 87 of this Ordinance and, in the case of any other Council or Board, such contributions (if any) as may be payable to such Council or Board for the next succeeding financial year by such amount as he shall determine; or

(b) Dissolve such Council or Board, and, by proclamation, nominate or appoint other fit and proper persons not being less than three in number to form a Council or Board for the same purposes and with the same powers as are provided for in section 107 of this Ordinance:

Provided that any such reduction shall be notified to the Council or Board, as the case may be, within one month after the commencement of the financial year in respect of which such contributions are payable.

PART IX.

LEGAL PROCEDURE AND MISCELLANEOUS.

Legal Procedure.

111. (1) Where any matter is by this Ordinance directed to be determined by arbitration, such matter shall, except as may be otherwise expressly provided, be determined by a fit person as arbitrator, to be agreed upon by the parties to the arbitration, or, failing such agreement by the parties, to be nominated by the Commissioner for Local Government on the application of either party.

Arbitration.

(2) The expenses of any such arbitration shall be borne and paid as the arbitrator directs.

General penalties.

112. Every person who is guilty of any offence against this Ordinance or any by-law in force within any municipality shall, for every such offence, be liable to the penalty expressly prescribed by this Ordinance or by such by-law and, if no such penalty be prescribed, then to a fine not exceeding ten pounds.

Recovery of penalties.

113. All fines, penalties or other moneys payable in respect of any offence against this Ordinance or any by-law in force within any municipality may be recovered before any court of competent jurisdiction.

Default in payment of fines.

114. Save as in this Ordinance is otherwise expressly provided, whenever any fine shall have been imposed under the provisions of this Ordinance or of any by-law in force within any municipality, and the person convicted shall not forthwith pay the same, the court imposing the fine may direct that such person shall suffer imprisonment of either description for a period not exceeding one month if the fine does not exceed ten pounds, or for a period not exceeding three months if the fine exceeds ten pounds, and such person shall suffer imprisonment accordingly, unless he shall sooner pay the fine.

Appropriation of penalties.

115. All fines recovered in respect of offences against the provisions of this Ordinance or of any by-law shall be paid as to one-half into the revenues of the Council or Board, as the case may be, and as to the remaining one-half into the general revenue of the Colony.

Conduct of prosecutions.

116. The Town Clerk or any other person authorised thereto by the Council or Board, as the case may be, may prosecute in subordinate courts for all contraventions of this Ordinance or of any by-laws, and the provisions of any law relating to prosecutions by private persons shall apply to all such prosecutions.

Powers of arrest.

117. Any police officer may arrest without warrant any person who commits any offence against this Ordinance or any by-law in force within any municipality, and any officer of the Council or Board, as the case may be, in uniform or wearing

a visible badge of office and authorised thereto in writing by the Council or Board, may arrest without warrant any person who in his presence commits any such offence and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law :

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of the person offending, he could not be found or made answerable to justice without delay, trouble or expense.

118. When any matter or thing is by this Ordinance, or by any order or notice made and published under the authority thereof, directed or prohibited to be done, or where any authority is given by this Ordinance to any person to direct or prohibit any matter or thing to be done, and such act so directed to be done remains undone or such act so prohibited to be done is done, then in every such case every person offending against such direction or prohibition shall be deemed to be guilty of an offence against this Ordinance.

Persons offending against order or notice to be deemed guilty of an offence.

119. The books and registers of any Municipal Council or Municipal Board and any extracts therefrom certified by the Town Clerk or other officer authorised thereto by such Council or Board shall, in any proceedings for the recovery of sewerage, sanitary or refuse removal fees, or charges for the supply of water or electricity, or for any other municipal service, be *prima facie* evidence of the amounts so due.

Books of Council or Board to be *prima facie* evidence of sums due.

120. If any contravention of this Ordinance or of any by-law is committed by a company or partnership, every director, manager, secretary, or person having the management or control, in the Colony, of the business or property in the case of a company, and every such person and each partner in the case of a partnership, shall be responsible therefor, and shall be liable to the punishment prescribed for such contravention :

Contraventions of Ordinance or by-law by company or partnership.

Provided that nothing in this section shall be deemed to exempt from liability any other person guilty of any such contravention.

121. All actions against any Municipal Council or Municipal Board shall be brought within six months from the date upon which the causes of such actions arose, and all

Actions against a Council or Board.

such costs, charges and expenses as the Council or Board may be put to or may become chargeable with by reason of the prosecution or defence of any such action or under the judgment of any court shall be paid out of the revenues of the Council.

Miscellaneous.

Power of officers
to enter
premises.

122. (1) Any Council or Board or any officer of any Council or Board duly authorised in writing may, at all reasonable times, enter into and upon any premises within the municipality for the purpose of exercising any power of inspection, inquiry, or execution of works which is given to the Council or Board under this Ordinance or by any by-law or regulation in force within the municipality.

(2) The Medical Officer of Health or any sanitary inspector may, when entering into or upon any premises in exercise of the powers conferred by this section, be accompanied by a European member of the police force.

(3) Any by-law made under this Ordinance may confer on the Council or Board, its officers and servants, such powers of inspection, inquiry, and execution of works as may be reasonably necessary for the proper carrying out or enforcement thereof.

Obstructing
officers.

123. The following persons shall be liable to a fine not exceeding twenty pounds or to imprisonment of either description for a period not exceeding three months :—

- (a) Any person who wilfully obstructs any member of any Council or Board or any officer or servant of a Council or Board in the execution of his duty as such ;
- (b) Any occupier of premises who prevents the owner of such premises from complying with any of the requirements of a Council or Board ;
- (c) Any occupier of premises who, on demand, refuses or wilfully omits to disclose or wilfully misstates the name of the owner of such premises ;
- (d) Any person who refuses to answer to the best of his ability or knowingly makes false answers to inquiries made by the Medical Officer of Health or any sanitary inspector specially authorised by him in writing for the purpose of discovering cases of any infectious disease or possible sources of infection of any such disease.

124. Nothing in this Ordinance shall be deemed to override the provisions of the Public Health Ordinance or any Ordinance amending or replacing the same. Saving of
Public Health
Ordinance.

125. The Governor in Council may make rules for the purpose of— Rules to be
made by
Governor
in Council.

- (1) Providing for the inspection of work under construction, the cost of which is met wholly or partly from Government grants, and defining the powers and duties of inspecting officers; and
- (2) Providing for the purchase by the Government on behalf of Municipal Councils and Boards of goods and materials required for municipal purposes.

126. The Municipal Corporations Ordinance (Chapter 84 of the Revised Edition) is hereby repealed : Repeal and
saving clauses.

Provided that—

- (1) All by-laws made under the said Ordinance shall be deemed to be by-laws under this Ordinance and shall continue to be of full force and effect within the area to which they apply until altered or revoked under this Ordinance;
- (2) All appointments made, powers conferred, and notifications served or published under the said Ordinance shall be deemed respectively to have been made, conferred, served and published under this Ordinance;
- (3) All works and undertakings authorised to be executed, all rights, liabilities and engagements existing, and all actions, suits and legal proceedings pending by or against the Council constituted under the said Ordinance shall be vested in, attached to, and be enforced, carried on and prosecuted by or against the Nairobi Municipal Council constituted by this Ordinance, and no such action, suit or proceeding shall abate or be discontinued or prejudicially affected by the operation of this Ordinance;
- (4) All rates, fees, charges and debts of whatsoever description due or payable to or recoverable by the Council constituted under the said Ordinance shall be payable to or recoverable by the Nairobi Municipal Council constituted by this Ordinance;

- (5) All property, movable and immovable, vested in or belonging to the Council constituted under the said Ordinance or to which such Council was entitled at the commencement of this Ordinance, and all assets and claims to which such Council was entitled at such commencement, shall be vested in and belong to the Nairobi Municipal Council constituted by this Ordinance;
- (6) All creditors of the Council constituted under the said Ordinance shall have the same rights and remedies as if such Ordinance had not been repealed;
- (7) All licences, registrations and permits issued, made or granted under or in pursuance of the said Ordinance shall continue in force for the period, if any, specified in such licences, registrations or permits, unless the same are sooner suspended or cancelled under or in pursuance of this Ordinance.

127. From and after the date of the establishment of a municipality under the jurisdiction of a Municipal Board under the provisions of this Ordinance, the provisions of the Township Ordinance (Chapter 82 of the Revised Edition), and the Townships Fees and Conservancy Ordinance (Chapter 83 of the Revised Edition) shall cease to apply to such municipality:

Provided that—

- (1) All rules made under the said Ordinances shall continue to be of full force and effect within the area to which they apply for a period of two years from such date until altered or revoked under this Ordinance;
- (2) All rates, fees, charges and debts of whatsoever description due or payable to or recoverable by the Government of the Colony under the said Ordinances within any area placed under the jurisdiction of a Municipal Board shall be payable to or recoverable by such Municipal Board constituted by this Ordinance;
- (3) All licences, registrations, and permits issued, made, or granted under or in pursuance of the said Ordinances shall continue in force for the period, if any, specified in such licences, registrations and permits, unless the same are sooner suspended or cancelled under or in pursuance of this Ordinance.

FIRST SCHEDULE.**BOUNDARIES OF NAIROBI MUNICIPALITY.**

Commencing at the north-west corner of L.O. No. 1870 (Upper Parklands Estate) on the Getathuru River;

thence bounded by that river down-stream to its intersection with the eastern boundary of L.O. No. 220;

thence by the eastern and part of the southern boundary of that portion to the intersection of the latter with the eastern boundary of L.O. No. 36 (Eastleigh);

thence southerly by that eastern boundary to its intersection with the Nairobi River;

thence by the eastern boundaries of L.O. No. 35 and L.O. No. 221 (Veterinary Quarantine Reserve) to the intersection of the latter with the Ngong River;

thence by that river up-stream to its intersection with the southern 100-foot zone of the Kenya and Uganda Railway;

thence by that zone, down-line (south-easterly) to the north-east corner of L.O. No. 1140 (Kenya and Uganda Railway Quarry Reserve);

thence south-westerly by the eastern boundary of that portion to its southern corner;

thence by the southern boundary of L.O. No. 2729 (P.W.D. Quarry Reserve) to its south-west corner;

thence westerly by a straight line to the south-east corner of L.O. No. 1759 (Native Cemetery);

thence in a generally westerly direction by part of the southern boundary of L.O. No. 1759, the eastern, southern and western boundaries of L.O. No. 3886 (Native Cemetery extension) and again by part of the southern boundary of L.O. No. 1759 to the south-west corner of the latter portion;

thence by the western boundary of the same portion to the southern corner of L.O. No. 37;

thence by part of the south-western boundary of the latter portion to its intersection with the Ngong River;

thence by that river, up-stream, to its junction with a dry watercourse on its left (or northern) bank;

thence by that dry watercourse up-stream to a point bearing due north-east of the south-east corner of L.O. No. 4233 (golf course);

thence by a straight line to that corner, and onward by part of the southern boundary of that portion to the south-east corner of L.O. No. 1702/8 (golf course extension);

thence westerly and northerly by the southern and part of the western boundary of L.O. No. 1702/8 to its most western corner;

thence westerly by a straight line parallel to the Ngong Road Reserve, to its intersection with the eastern boundary of the Ngong Road Forest Reserve;

thence north-westerly by part of that forest reserve boundary to its intersection with the southern boundary of the Ngong Road Reserve;

thence westerly by that road reserve boundary to its intersection with the southern boundary of the Dagoreti Road Reserve;

thence still westerly by the latter road reserve to a point due south of the intersection of the south-western boundary of L.O. No. 330 (Thompson's Estate) with the Kirichwa Kubwa River;

thence due north by a straight line to that point;

thence in a generally northerly direction by part of the generally western boundary of L.O. No. 330 to its intersection with the western boundary of L.O. No. 3734;

thence northerly by part of the western boundary of the latter portion to its intersection with the Nairobi River;

thence by that river down-stream to its intersection with the generally south-western boundary of L.O. No. 5;

thence north-easterly, north-westerly and northerly by the south-western and western boundaries of that portion to its north-west corner;

thence north-easterly by the western boundary of L.O. No. 4393 to its north-west corner on the southern 100-foot zone of the Kenya and Uganda Railway;

thence easterly by that zone to its intersection with the eastern boundary of L.O. No. 11 extended southerly;

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thence north-easterly by that extended boundary (common to L.O. No. 1870, Upper Parklands Estate) to the point of commencement.

SECOND SCHEDULE.

LOCAL GOVERNMENT (MUNICIPALITIES) ORDINANCE, 1928.

Section 86.

This is to certify that all sums due in accordance with section 86 of the Local Government (Municipalities) Ordinance, 1928, to the Municipal Council (or Board) of in respect of the premises registered in the name of have been paid to the Council (or Board).

This certificate is available to 19.....

Given under my hand at
 this day of
 One thousand nine hundred and

.....

Town Clerk.

.....*Municipality.*

THIRD SCHEDULE.

BOUNDARIES OF MOMBASA MUNICIPALITY.

Commencing at the most southerly corner of Sub-division No. 36 of Section V, Mainland South (Timbwani);

thence bounded by the generally south-eastern boundary of that section to the most westerly corner of Sub-division No. 36;

thence by a straight line north-westerly to the southern corner of Sub-division No. 27 of Section I, Mainland South (Likoni);

thence by the south-western boundaries of Sub-divisions Nos. 27 and 29 to the most westerly corner of the latter Sub-division;

thence by a straight line north-westerly across the Gasi Road Reserve to the most southern corner of Sub-division No. 30 of the same Section;

thence by the south-western boundaries of Sub-divisions Nos. 30 and 31 to Beacon D.B. 30 on the south-western boundary of the latter Sub-division;

thence by a straight line to the Beacon B.N. 2 on the southern boundary of Sub-division No. III of Section II, Mainland South (Mtongwe);

thence by that southern boundary to the south-west corner of that Sub-division;

thence southerly by part of the eastern boundary of No. 110/2 of the same section to its south-east corner;

thence by the generally south-western boundary of that sub-division to its most westerly corner on the Road Reserve;

thence by a straight line westerly across that Road Reserve to the south-east corner of Sub-division No. 1 of Section III, Mainland South (Mtongwe);

thence by the generally southern boundaries of Sub-divisions Nos. 1, 2, 35, 36, 32, 29, 37, 38, 40, 41 and 42 of the same section to the most westerly corner of the last Sub-division;

thence by a straight line north-westerly across the Road Reserve to the most southerly corner of Sub-division No. 1 of Section IV, Mainland South (Mtongwe);

thence by the generally western boundary of Section IV to the Beacon B.N. 28 on the south-eastern boundary of Sub-division 168 of that Section;

thence south-westerly by part of the south-eastern boundary of that Sub-division to its most southerly corner on high water mark in Mkunguni Creek;

thence north-westerly by high water mark to the most westerly point of Mkunguni;

thence by a straight line northerly to the Beacon A39 on the Kenya and Uganda Railway about 5,000 feet west of Changamwe Station;

thence by a straight line north-easterly to the Trigonometrical Beacon Kibirini, in Changamwe;

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thence by a straight line north-easterly to the Trigonometrical Beacon Nguuni South, in Junda;

thence by a straight line south-easterly to the most northerly corner of Sub-division No. 283 of Section I, Mainland North;

thence by the generally western and south-western boundary of that Sub-division to its most southerly corner on high water mark of the Indian Ocean;

thence south-westerly by high water mark to Ras Kunwongbe;

thence by a straight line south-westerly to Ras Muaka Senge;

thence south-westerly by high water mark to the point of commencement.

No. XX

Local Government (Rating)

1928

No. 20 OF 1928.

Date of Assent.

[8TH OCTOBER, 1928.]

**An Ordinance to Enable Local Government
Authorities to Impose and Collect Rates.**

Date of Com-
mencement.

8th October, 1928.

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

Short title and
application.

1. This Ordinance may be cited as “ the Local Government (Rating) Ordinance, 1928,” and shall apply to all municipalities established by or under the Local Government (Municipalities) Ordinance, 1928.

Interpretation.

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

“ Agricultural land ” means arable, meadow or pasture land, market gardens, poultry farms, nursery gardens, plantations, and orchards, but does not include—

- (a) land occupied as a park together with a house thereon ;
- (b) land used as a garden other than as aforesaid ; or
- (c) land kept or reserved for the purpose of sport, athletics or recreation, or used as a racecourse ;

“ Commissioner for Local Government ” means the Commissioner for Local Government appointed under the provisions of the Local Government (Municipalities) Ordinance, 1928 ;

“ Improvements on, in or under land, ” means all work actually done or material used on, in or under land by the expenditure of capital or labour by any owner or occupier of any interest in such land, nevertheless in so far only as the effect of such work or material used is to increase the value

of the land, and the benefit thereof is unexhausted at the time of valuation; but shall not include machinery, whether fixed to the soil or not; nor shall it include work done or material used on or for the benefit of any interest in land by the Crown or by any statutory public body unless such work has been paid for by the contribution of the owner or occupier of any interest in such land for that purpose: Provided that the payment of rates or taxes shall not be deemed to be a contribution within the meaning of this definition;

“ Interest in land ” means and includes—

- (a) any freehold interest in land;
- (b) any lease of or right to or concession over land for a period of not less than ten years or for the natural life of any person or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period thereof amount in all to not less than 10 years;
- (c) any easement over land;
- (d) any lease of land for less than ten years where any buildings or other improvements in, on or under such land are owned by the lessee;

“ Land ” includes the value of any improvements thereon, therein or thereunder;

“ Local authority ” means a Municipal Council or Municipal Board constituted by or under the Local Government (Municipalities) Ordinance, 1928:

“ Mayor ” means the Mayor or Deputy Mayor or the Chairman or the Deputy Chairman of the local authority;

“ Municipality ” means the area under the control and jurisdiction of a local authority;

“ Occupier ” means and includes any person in actual occupation of rateable property without regard to the title under which he occupies;

“ Owner,” in the case of any interest in land defined herein as rateable property, means the person holding such interest;

“ Person ” includes a company, corporation or partnership;

“ Rateable property ” includes every interest in land as above defined, save and except—

- (a) land occupied by buildings used primarily for public worship and by the necessary curtilage;
- (b) any interest in land used for burial or burning grounds in so far as such interest is held for such purposes aforesaid;
- (c) any interest in land used exclusively for the purposes of any charitable or educational institutions supported mainly by endowments or voluntary contributions in so far as such interest is held for such purposes aforesaid;
- (d) any interest in land laid out and used for the purpose of sport or recreation and controlled in accordance with Rules or Regulations approved by the local authority in so far as such interest is held for such purposes aforesaid: Provided that an interest in land used as a recreation ground conducted for profit or as a racecourse shall not be entitled to the benefit of this exemption;
- (e) any interest in land held by the Crown;

“ Town Clerk ” and “ Town Treasurer ” mean the persons for the time being lawfully acting respectively in the capacities of Town Clerk and Town Treasurer for the municipality;

“ Unimproved value of land ” means the sum which the owner's estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a *bonâ fide* seller might be expected to impose if the improvements, if any, thereon or appertaining thereto had not been made.

The unimproved value of land shall include any value due to any licence, privilege or concession attached to the site for the time being;

"Value of improvements," in relation to any interest in land, means the added value which the improvements give to such interest in land at the date of valuation irrespective of the cost of the improvements: Provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the site value of the land to its improved value as at the date of valuation, such improved value being the value of such interest in land together with any improvements therein, thereon or thereunder, if valued together as a whole under the provisions of section 6 of this Ordinance.

3. (1) The local authority shall from time to time, but not less than once in every five years or such longer period as the Governor may approve, cause a valuation of all rateable property within the municipality to be made. General valuation.

(2) The local authority shall by resolution appoint one or more competent persons approved by the Governor to compile such valuation.

(3) For the purposes of this section, the valuation shall be deemed to be completed on the date the valuation roll is signed and certified by the president of the Valuation Court under section 11 of this Ordinance.

4. (1) Every valuer shall, before entering upon the valuation entrusted to him, make before a magistrate or justice of the peace a solemn declaration in the terms following:— Declaration of valuer.

"I.....do solemnly and sincerely declare that I will to the best of my skill and knowledge and without favour and prejudice truly and impartially appraise and value all such rateable property as I shall be required to value for the purposes of assessment, and that I will conscientiously value the same at and for the full and fair value thereof. And I make this solemn declaration conscientiously intending to fulfil the same.

Declared at.....this.....day of.....

Before me....."

And every such declaration shall be lodged with and preserved by the local authority.

(2) Every valuer shall, on completion of the valuation entrusted to him, attach to the valuation a certificate under his hand that such valuation is the valuation to which the declaration provided for in sub-section (1) hereof refers.

Provisional
valuation
roll.

5. Every valuer shall prepare the said valuation (hereinafter referred to as the "valuation roll") in writing in a form to be approved by the Commissioner for Local Government and in such manner as to show to the best of his knowledge and opinion—

- (a) the name and address of the owner;
- (b) the area, description and situation of the property valued;
- (c) the nature of the interest of the owner;
- (d) the unimproved value of the land;
- (e) the value of any improvements.

Basis of
valuation.

6. The amount or sum at which the valuer shall value, for the purposes of the valuation roll, any rateable property shall be the capital sum which the same might be expected to realise if offered at the time of valuation for sale on such reasonable terms and conditions as a *bonâ fide* seller would require, due regard being had not only to such particular rateable property but to other properties of similar class, character, value, position or other comparative factors: Provided that where the rent reserved under any lease of land for a period of less than ten years represents an annual value which is less than the reasonable annual value of the land let, such lease shall not in any manner be taken into account in valuing any rateable property in the land the subject of any such lease: Provided, further, that where the lessee of land for a period of less than ten years is the owner of a building or other improvement in, on or under such land, the value of such building or other improvement as existing at the date of valuation shall be deemed to be the value of the lessee's interest.

7. Notwithstanding anything in this Ordinance contained, land *bonâ fide* and exclusively used as agricultural land shall be rated upon half its agricultural value; but where such land has a value in excess of its agricultural value, it shall also be rated upon the full amount of such excess value.

Rating of
agricultural
land.

8. (1) Every valuer provided with written authority signed by the Mayor or Town Clerk shall, for the purpose of making any valuation as aforesaid, have power to enter at all reasonable hours in the daytime into and upon any land or buildings within the municipality, and shall also have power to inspect and make extracts from all registers or other records or any deeds or instruments belonging to or in the custody or possession of any Government officer or any person, in which are contained particulars of any rateable property, whether such person is or is not interested in such rateable property.

Valuer to have
power of entry
and inspection.

(2) Any person who shall wilfully obstruct the valuer from exercising the powers conferred on him under this section shall be liable to the penalties in the next succeeding sub-section provided.

(3) Every such valuer shall be entitled to call upon the owner or occupier of rateable property for such written particulars in regard to such rateable property as may be necessary for enabling such valuer to make a correct valuation thereof; and any owner or occupier, who shall neglect to furnish such particulars within fourteen days after being called upon to do so, shall be liable on conviction to a penalty not exceeding twenty pounds in respect of each offence, and any person, who shall furnish to any valuer a false statement of value or of any other particulars as aforesaid, shall be liable on conviction to a penalty not exceeding fifty pounds in respect of each offence:

Provided that no person convicted of an offence under this section shall thereby become exempt from liability to supply the information lawfully demanded by the valuer.

Inspection of
provisional roll;
Objections.

9. When the valuation roll has been completed it shall be laid before the local authority and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom.

The local authority shall, by notice published in the Gazette and in one or more newspapers (if any) circulating in the municipality, call upon all persons interested to lodge in writing with the Town Clerk, within a specified time not less than fourteen days from the first publication of such notice, in the form set forth in the Schedule to this Ordinance, notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property, and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription. No person shall be entitled to urge any objection before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

Valuation
Court;
duties and
proceedings.

10. (1) After the expiration of the time specified in such notice, the local authority shall appoint a Valuation Court consisting of not less than three persons who may or may not be members of the local authority. Such persons shall, before the first sitting of the Court, appoint a president from among themselves. The Town Clerk or some other person appointed by the local authority shall act as clerk to the said Court.

(2) Such Court shall thereafter, at meetings duly called by the president or clerk, proceed to consider the valuation roll and the objections made as aforesaid, and shall be entitled to make such alterations or amendments in the valuation roll, either by way of reduction, increase, addition, or omission as to it may seem expedient: Provided that no alteration or amendment by way of increase or addition shall be made unless and until the person appearing to be directly affected thereby shall have had at least seven days' previous notice by personal service or by registered post to the last known address of such person from the clerk of the date of the sitting of the Court at which any proposal for such increase or addition will be considered, and such person so affected may either forward any objections to such increase or addition in writing to the president or clerk before such date, or present the same for consideration at such sitting, and the Valuation Court shall duly hear and consider all such objections.

(3) At every sitting of such Court three members personally present shall constitute a quorum, and the president, thereof, if present, shall preside, and, if absent, the members of the Court present shall elect a person from among themselves to act as president during such absence as aforesaid. All decisions of such Court shall be arrived at by the vote of a majority of the members personally present and, in case of an equality of votes, the president or the member acting as such shall also have a casting vote.

(4) No person shall sit on the hearing of any matter in which he shall be directly interested or concerned as being primarily liable to pay the rates in question or any part thereof.

(5) In case for any reason there shall be vacancies in the said Court or incapacity to act so that a quorum cannot be formed, the local authority may at once and without any notice appoint other persons temporarily or otherwise to fill up such vacancies or the places of the members incapable of sitting.

(6) The Town Clerk shall, by publication in the Gazette and in one or more newspapers (if any) circulating in the municipality, give not less than seven days' previous notice of the date fixed for the first sitting of such Court.

(7) At every sitting of such Court the local authority and any person who has lodged any objection to any valuation, and any person, the valuation of whose property is objected to or proposed to be increased, or whose property it is proposed to add to the roll, may appear either in person or by an advocate.

(8) At every sitting of such Court it shall be competent for the Court to call and examine any witnesses on oath or affirmation and to call for the production of all such papers or documents as it may deem necessary, and every valuer by whom any valuations under consideration shall have been made shall attend such Court and answer on oath or affirmation all questions which may be put to him by or through the Court in regard thereto.

(9) The said Court shall keep a record of its proceedings and a note of the assessment, objection, and finding in regard to each objection, and such Court shall cause any deposition taken before it to be taken down in writing and signed by the

deponent, and shall authenticate it by the signature of the president or member acting as such as having been taken before such Court, and every such deposition so taken down and authenticated shall be deemed and taken to be good evidence in a prosecution for perjury.

**Valuation
roll.**

11. When the Valuation Court has completed its examination of the valuation roll, and has made such alterations and amendments therein as it may deem necessary, the president of the Court shall sign and certify the same. He shall further cause to be inserted once in the Gazette and in one or more newspapers (if any) circulating in the municipality not less than twice within a period of ten days, an advertisement informing all persons interested of the completion thereof, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such notice, not being less than one month from the date of the first publication of the aforesaid advertisement, appeal from the decision of the Valuation Court in manner provided in the next succeeding section.

**Right of appeal
from decision of
Valuation
Court.**

12. (1) It shall be lawful for any person who feels himself aggrieved by the value put upon any property owned or occupied by him to appeal within one month against such valuation from the decision of the Valuation Court to the court of the Magistrate having jurisdiction and such last-mentioned court shall inquire into such valuation, and its decision shall be final and conclusive : Provided, however, that if any question of law shall arise as to the principle upon which any valuation has been or should be made, it shall be lawful for such Magistrate, instead of himself deciding such question, at the request of the local authority or party objecting, to reserve such question of law for decision by the Supreme Court, and such question shall be stated in the form of a special case and may be argued before and determined by the Supreme Court, and such Court may make such order as to costs as to the Court shall seem fit.

(2) It shall be lawful for the local authority to appeal within one month against the decision of the Valuation Court in respect of any rateable property in the municipality to the Court of the Magistrate having jurisdiction, and such appeal shall be subject to the provision set forth in sub-section (1) hereof in respect of appeals by the owner or occupier of property.

13. Notwithstanding anything in this Ordinance contained, it shall be lawful for the local authority from time to time and at any time—

Power to remit rates on rateable property not in existence, to cause rateable property omitted to be valued, and to cause revaluations

- (a) to remit any rate imposed on any rateable property in any case in which such rateable property has been demolished since the date of the making of the valuation roll, and in such other cases as may be approved by the Governor;
- (b) to cause any rateable property omitted from the valuation roll or new rateable property to be valued in the manner hereinbefore provided, and to cause the current rate to be collected in respect thereof;
- (c) to cause a valuation to be made of any rateable property which is sub-divided after the date when the valuation in respect of such property has become final, and to cause the valuation to be apportioned according to the sub-divisions of the said property, and to cause any rate due in respect thereof to be assessed and collected according to such sub-division;
- (d) to cause a fresh valuation to be made of any rateable property which, from any cause particular to such property arising since the last valuation thereof, has materially increased or decreased in value;
- (e) to cause any error appearing in the valuation roll from time to time in force to be corrected in any case where some clerical error or some error as to the nature of the interest valued or the name of the owner has been made in such roll, and to cause any rate due in respect thereof to be collected according to the corrected roll;
- (f) where a part only of any rateable property not separately valued in any valuation roll is or may be subject to a special rate under section 16 of this Ordinance, to cause the apportionment of the value of such property appearing in such roll as between the part thereof which is or may be subject to any special rate as aforesaid and the remaining part which is not subject to such special rate:

Provided that—

- (i) upon the making of any such interim valuation the same forms shall be observed and the same proceedings taken as nearly as can be *mutatis mutandis* as are hereinbefore set forth with regard to general valuations, except that in the discretion of the local authority the prescribed notices may be served in writing upon the person interested instead of being published as aforesaid;
- (ii) every such valuation, revaluation, correction, and apportionment shall be subject to any objection made thereto at the next succeeding Valuation Court which may be appointed by the local authority under this Ordinance and to the same right of appeal as is provided for in the last preceding section;
- (iii) in the case of any property which is added to the roll under the provision of paragraph (b) hereof or the valuation of which is increased under paragraph (d) hereof, if at the next succeeding Valuation Court the value of the said property be fixed at a sum less than that on which the last preceding rate has been levied, the owner shall be entitled to a refund of any rate paid by him in excess of that which would have been paid if the rate had been levied on the value as fixed by the said Valuation Court.

Valuation roll
not to be
challenged or
set aside.

14. No valuation contained in any valuation roll framed under this Ordinance, and no rate based thereon, shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of any owner thereof; and no valuation roll made up and authenticated in terms of this Ordinance shall be capable of being challenged or set aside by reason of any informality.

Incidence of
rating.

15. (1) It shall be lawful for the local authority to impose a rate or rates on the unimproved value of land as appearing in the valuation roll for each and every financial year of such amount as the local authority shall determine (such rate or rates being hereinafter referred to as the "original rate"):

Provided that no such original rate exceeding half of one per centum of the unimproved value of land shall be imposed in any one financial year.

(2) In addition to the original rate it shall be lawful for the local authority to impose a rate or rates on the unimproved value of land as appearing in the valuation roll for each and every financial year of such amount as the local authority shall determine (such rate or rates being hereinafter referred to as the "additional rate"): Provided that—

(a) where an improvements rate is levied, no such additional rate exceeding one per centum of the unimproved value of land shall, except as provided in sub-section (6) hereof, be imposed in any one financial year; and

(b) where no improvements rate is levied, no such additional rate exceeding one and one-half per centum of the unimproved value of land shall, except as provided in sub-section (6) hereof, be imposed in any one financial year.

(3) No rate shall be imposed upon the value of improvements in any financial year until an original rate of half of one per centum on the unimproved value of land has been imposed.

(4) Subject to the provisions of the last preceding sub-section, it shall be lawful for the local authority to impose a rate or rates upon the value of improvements as appearing in the valuation roll for each and every financial year of such amount as the local authority shall determine (such rate or rates being hereinafter referred to as the "improvements rate"): Provided that the percentage payable on the value of improvements shall not exceed in any one financial year the percentage payable as the additional rate on the unimproved value of land for such financial year, and such improvements rate shall not in any case exceed one per centum in any one financial year, except as provided in sub-section (6) hereof.

(5) The minimum charge for any financial year in respect of any rateable property for rates imposed under this section shall be five shillings.

(6) The Governor in Council may, at the request of the local authority, sanction the imposition by such local authority of an additional rate higher than is stipulated in sub-section (2) hereof, or of an improvements rate higher than is stipulated in sub-section (4) hereof.

Special rates.

16. Notwithstanding anything in this Ordinance contained, in case any abnormal or extraordinary expenditure shall be incurred by the local authority for any purpose which the local authority is authorised to carry out in respect of some particular area of rateable property over and above expenditure common to the whole municipality, the local authority may determine, subject to the provisions of the next succeeding section, that such abnormal or extraordinary expenditure shall be in whole or in part a special charge upon the rateable property or some portion thereof within such particular area, to the exclusion of the rest of the municipality, and may fix the amount of the special rate thereon and the persons and times by whom and when the same shall be payable.

**Conditions re
special rates.**

17. The following provisions shall apply in respect of any special rate proposed to be levied under the last preceding section :—

- (1) The local authority shall, before imposing any such rate—
 - (a) pass a resolution by a majority of existing councillors or members of the local authority at a meeting held not less than fourteen days after notice shall have been given at a meeting of the local authority of an intention to move for the imposition of such rate ;
 - (b) publish daily in three issues of one or more newspapers (if any) circulating in the municipality an advertisement describing shortly the purpose of the expenditure which it is proposed to incur, the area of land which is proposed to be specially rated, and the proportions (if any) according to which it is proposed that such special rates should be imposed, and naming a place where full particulars of the proposed expenditure and of the area proposed to be specially rated may be seen at all reasonable hours.

- (2) If any person interested as owner, lessee, or occupier of any land proposed to be specially rated objects to the proposed expenditure or to the imposition of any such special rate, or to the proportion according to which it is proposed to impose the same, or to the exclusion of any other property from the area of land proposed to be specially rated, and serves written notice of such objection on the local authority at any time within fourteen days after the last publication of the advertisement mentioned in sub-section (1) of this section, the local authority shall not be entitled to proceed with the imposition of the special rate without the sanction of the Governor in Council, unless such objection be withdrawn.
- (3) The Governor in Council may, after making due inquiry, for which purpose he may appoint a person or persons to hold a local investigation, make an order empowering the local authority to proceed with the imposition of the special rate in the manner proposed by the local authority, or subject to such conditions and modifications as he may think fit.
- (4) For the purpose of imposing any special rate the local authority shall deduct from the value of the rateable property on which such rate is to be imposed, as appearing in the valuation roll, such part thereof as represents the value of improvements, and shall impose such rate on the value of such property, after deduction as aforesaid, instead of on the full value thereof.
- (5) If at any time within the period allowed under sub-section (2) of this section for serving notice of objection on the local authority with reference to the imposition of the special rate, the owners of two-thirds of the rateable property on which it is proposed to impose such special rate (such two-thirds being reckoned by value according to the values on the valuation roll for the time being in force but subject to the deduction in the last preceding sub-section mentioned) shall sign and cause to be transmitted to the Town Clerk a petition to the local authority, praying that the proposals for the imposition of special rates set forth in the advertisement with reference thereto be entirely abandoned.

the local authority shall not proceed further therewith but the same shall forthwith be abandoned, and the local authority shall not again initiate proceedings for the imposition of a special rate for the particular purpose in question until after the expiry of a period of six months from the date when such petition for abandonment is received by the Town Clerk.

- (6) If it shall appear that the amount received or to be received by way of special rates imposed to meet expenditure for any purpose is in excess of the amount of such expenditure, the local authority shall refund to persons who have paid such rates, or remit in favour of persons liable to pay the same, a proportionate part thereof, so that the total amount received or to be received by the local authority may be approximately equal to such expenditure.

Notice of rates. 18. Every rate imposed by the local authority shall become due and payable upon a day to be fixed by it, of which day and of the amount of which rate the local authority shall give at least thirty days' notice by advertisement in the Gazette and in some newspaper (if any) circulating in the municipality : Provided that every rate shall become due and payable within the financial year for which or for part of which it is imposed.

Payment of rates. 19. (1) Whenever the local authority shall have given such notice as aforesaid of the day upon which such rate will become due and payable, it shall be the duty of all persons liable for such rate to pay the amount thereof at the offices of the local authority, failing which proceedings may be taken as hereinafter provided.

(2) It shall be competent for the local authority to allow discount, not, however, exceeding two-and-a-half per centum, on any rates paid on or before the date on which such rates become due and payable under the last preceding section.

(3) The local authority shall be empowered to charge and collect interest on arrear assessment rates at a rate not exceeding one per centum per month.

Rates payable pending appeal. 20. When an appeal is pending from the decision of a Valuation Court, any rates levied by a local authority after the president of the Valuation Court shall have signed and

certified the valuation roll, but before such appeal shall have been determined, shall, in respect of any rateable property against the valuation of which such appeal is pending, become due and payable upon such valuation upon the day fixed in terms of section 18, and should such appeal result, subsequent to the date of the payment of such rate, in alteration of the valuation, either by way of increase or decrease, the local authority shall collect or refund the difference, as the case may be, together with interest at the rate of six per centum per annum upon the amount so collected or refunded from the date of payment of the rate to the date of such collection or refund. The provisions of this section shall apply to any rateable property against the valuation of which an appeal is pending at the date of the commencement of this Ordinance.

21. If after the time fixed for the payment of any such rate as aforesaid any person fails to pay any rate due by him, it shall be competent for the local authority to cause a printed or written demand to be made upon such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had such demand delivered to him personally or left at his ordinary place of residence or place of business or office shall make default, it shall be competent for the local authority to apply to the Magistrate having jurisdiction for a summary warrant to recover such rates from the persons liable to pay the same, which warrant the said Magistrate shall grant on production of a list of the names and addresses of the persons so in default, and the amount due by them, with a certificate by the Town Clerk or Town Treasurer that they have been severally required to make payment of the said rates by notice as aforesaid, and that such rates are due by them and do not exceed the maximum rates fixed by or under this Ordinance; and every such warrant shall contain every authority and be executed in all respects as though it were a writ of execution issued out of the court of the said Magistrate.

Enforcement of
payment of
rates.

22. Notwithstanding the provisions of the last preceding section, the local authority may at its discretion, after the time fixed for the payment of any such rates as aforesaid, recover from the person in default (without further notice or demand) the amount of the rates due by such person, irrespective of the amount thereof, by action in the court of the Magistrate having jurisdiction, whether the person liable for

Recovery of
rates.

the same shall be resident within the jurisdiction of such court or not. In case it shall not be possible to effect service of summons within the limits of the jurisdiction of such court as aforesaid, then such service shall be effected in such manner as the said court shall direct.

Proceedings
against persons
liable for rates.

23. In case any person liable to pay any rate and who shall be in default as regards payment thereof shall not be resident within the jurisdiction of the court of the Magistrate of the district, it shall be lawful for the local authority at its option to make the demand referred to in section 21 hereof upon, or to take proceedings under section 22 hereof against, any person receiving any rents or profits of the rateable property in respect of which such rate is unpaid, or who would receive the same if such rateable property were let or occupied.

Proceedings for
recovery of rates
unpaid for three
months.

24. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable, the local authority may, at any time within twelve months after the imposing of the rate, demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property, to the extent of any rent due and payable by the tenant at the date of the demand, and on non-payment thereof may, after one month from the date of such demand, recover the same from such tenant or occupier in the same manner as though he were the owner; and every such tenant or occupier shall be entitled to deduct from any rent or other amount payable by him to such owner, or his successors in title, so much as was so paid by or recovered from him, and the production of the receipt for such rates so paid by or recovered from such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

Evidence.

25. In any proceedings to impose or recover rates or consequent on the imposing or recovering of any rates, as well as in all other proceedings under the provisions of this Ordinance, the valuation rolls and records of the local authority and all entries made therein and extracts or certified copies thereof signed by the Mayor or Town Clerk, and also all copies of any newspaper containing any notice necessary

to be proved, shall upon production thereof alone be *prima facie* evidence of the imposing of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Ordinance have been complied with : Provided that it shall be competent for any party to any such proceedings to offer evidence to prove the contrary.

26. The person who is the owner of any rateable property at the date when a rate becomes due and payable in respect of such property under section 18 of this Ordinance shall be liable for payment of the amount of such rate, and in the case of joint owners of rateable property they shall be jointly and severally liable for the rate due thereon : Provided that in the case of the owner being absent from the Colony any person receiving the rent or being in charge or control of such property shall be liable.

Owner liable
for rates.

27. The proceeds of the rate or rates levied under this Ordinance shall be applied for and towards such purposes of the municipality as the local authority shall from time to time think fit.

Application of
rates.

28. Notwithstanding anything to the contrary contained in this Ordinance, any interest in land held by the Crown which would, if it were not so held, be rateable property under this Ordinance shall for the purpose of assessing the contributions in lieu of rates payable by the Government of the Colony under the provisions of the Local Government (Municipalities) Ordinance, 1928, be valued in accordance with the principles laid down in this Ordinance subject to such exceptions and in such manner as may be prescribed by rules made by the Governor in Council.

Basis of
valuation of
Crown property

29. Notwithstanding the provisions of section 1 of this Ordinance, the Governor may, by notice in the Gazette—

Powers of
Governor in
regard to
application of
Ordinance.

(a) declare that any municipality or any part of any municipality shall be excluded from the application of this Ordinance ;

(b) declare that the provisions of this Ordinance shall apply to any township established under the Townships Ordinance or any Ordinance amending or replacing the same, or to any part of any such township :

Provided that when the provisions of this Ordinance are applied to any township under this section, unless the context otherwise requires :—

“ Local Authority ” means the Governor ;

“ Municipality ” means the area of the township ;

“ Mayor ”, “ Town Clerk ” and “ Town Treasurer ” mean the District Commissioner.

**Repeal and
saving clause.**

30. The Nairobi (Rating of Unimproved Site Values) Ordinance (Chapter 86 of the Revised Edition) is hereby repealed : Provided that notwithstanding such repeal any valuation roll in force under the provisions of the said Ordinance shall remain of full force and effect for one year after the commencement of this Ordinance and for such longer period as the Governor may approve and any rates imposed by the Municipal Council of Nairobi, within such period but no longer, shall be levied upon the unimproved value of land in the manner provided by the said Ordinance ; and all rates so levied shall be collected and payable as if they were rates imposed under the provisions of this Ordinance.

SCHEDULE.

OBJECTIONS.

(Section 9).

Against an entry in the valuation roll made up under the provisions of the Local Government (Rating) Ordinance, 1928.

Year 19.....

To the Valuation Court of the
Municipality of

The following entry has been
made in the valuation roll
of the Municipality of

(Here insert the name of the
objector and copy of the
entry complained of)

No. XX*Local Government (Rating)*

1924

I do hereby object to the said entry and ask that :—

(The objector will here state
what entry he considers
should be substituted for
the above)

On the following grounds :—

(The objector will here state the
reason why he considers
the entry should be altered)

.....
(Signature of objector).

.....day of19...

VALUATION COURT.

Objection by :—

.....
.....
.....

Decision of Court.

.....day of 19...

No. XXI*Local Government (District Councils)***1928**

No. 21 of 1928.

Date of Assent.

[8TH OCTOBER, 1928.]

**An Ordinance to Provide for Local Government
in Rural Areas and for the Establishment of
District Councils and other matters inci-
dental thereto.**

Date of Com-
mencement.*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 Local Govern-
ment (District Councils) Ordinance, 1928,” and shall come
into operation upon such date as the Governor by notice in
the Gazette shall appoint.

Interpretation.

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

“ Council ” means a District Council constituted under
this Ordinance ;

“ Clerk ” means the person for the time being lawfully
acting as Clerk to a District Council ;

“ Chairman ” means the Chairman of a District Council ;

“ Commissioner for Local Government ” means the
Commissioner for Local Government appointed under the pro-
visions of the Local Government (Municipalities) Ordinance,
1928 ;

“ District ” means the area placed under the jurisdiction
of a District Council ;

“ District road ” means any road classified by the Governor as a district road under this Ordinance ;

“ Magistrate ” means a magistrate holding a subordinate court of the first or second class ;

“ Municipality ” means a Municipality as defined by the Local Government (Municipalities) Ordinance, 1928 ;

“ Municipal Council ” means a Municipal Council constituted under the Local Government (Municipalities) Ordinance, 1928 ;

“ Municipal Board ” means a Municipal Board constituted under the Local Government (Municipalities) Ordinance, 1928 ;

“ Public road ” means a public road as defined under the Public Travel and Access Roads Ordinance (Chapter 113 of the Revised Edition) ;

“ Person ” includes a company, corporation or partnership ;

“ Standing Committee ” means the Standing Departmental Committee for Rural Areas established under the provisions of section 119 of this Ordinance ;

“ Township ” means an area proclaimed as a Township under the Townships Ordinance (Chapter 82 of the Revised Edition).

3. This Ordinance is divided into ten Parts relating to the following matters :— Division of Ordinance.

Part I. Establishment of Districts and Constitution of District Councils.

„ II. Provisions relating to Elections.

„ III. Appointment of Officers.

„ IV. Meetings and Proceedings.

Part V. Powers and duties.

„ VI. Powers of taxation.

„ VII. General Financial Provisions.

„ VIII. Central Organization.

„ IX. Special Powers of Governor.

„ X. Legal Procedure and Miscellaneous.

PART I.

ESTABLISHMENT OF DISTRICTS AND CONSTITUTION OF DISTRICT COUNCILS.

Powers of
Governor in
regard to
District
Councils.

4. Subject to the provisions of the next succeeding section, the Governor may from time to time, by proclamation, exercise all or any of the following powers; that is to say he may—

- (1) declare any area to be a district under the jurisdiction of a District Council and constitute for such area a District Council in accordance with section 6 of this Ordinance: Provided that no area which has been declared a Municipality or a Township shall be included in any district;
- (2) assign a name to any such district;
- (3) define the boundaries of any such district, and from time to time alter any such boundaries;
- (4) divide any district into wards and declare the number of elected members to be returned for each such ward;
- (5) from time to time alter the boundaries of any such ward and alter the number of elected members to be returned for each such ward;
- (6) with the consent of the District Council divide any district or ward into polling districts and from time to time increase or decrease the number of such polling districts or alter the boundaries thereof;

- (7) divide any district into not more than four Road Areas, and from time to time alter the boundaries of any such Road Areas: Provided that no such Road Area shall include part only of a ward.

5. (1) Prior to the exercise of any of the several powers conferred by the last preceding section the Governor shall appoint the Commissioner for Local Government to inquire into and report as to the advisability of the exercise by the Governor of any of the powers so conferred and for the purpose of such inquiry the Governor may confer on the Commissioner for Local Government all or any of the powers vested in Commissioners under the Commissions of Inquiry Ordinance.

Powers under preceding section to be exercised only after preliminary inquiry.

(2) Notice of such appointment and particulars of the power or powers proposed to be exercised shall be published in three consecutive issues of the Gazette.

(3) The report of the Commissioner for Local Government shall be submitted to the Governor through the Standing Committee, and such Committee shall record its recommendations thereon.

6. (1) There shall be constituted within every district established under section 4 of this Ordinance a District Council which shall consist of :—

Constitution of District Councils.

- (a) Such number of elected European members not being less than ten, as the Governor may, by proclamation, appoint, to be elected as hereinafter provided :

Provided that, if a District Council be constituted for the rural area of the administrative district now known as the Kisumu-Londiani District, there shall be, in addition, one elected Indian member of such District Council;

- (b) One representative of any Municipal Council or Municipal Board, whose area is surrounded or bordered by the district to be nominated by the Governor with the approval of the Municipal Council or Board, as the case may be;

(c) One official member, being either :—

- (i) Where the district is included in a Province, the Senior Commissioner of such Province, or an administrative officer deputed by him :

Provided that such administrative officer shall be entitled to attend, in an advisory capacity and without a vote, meetings at which the Senior Commissioner is present.

- (ii) Where the district is extra-provincial, the Resident Commissioner.

(2) The Governor may, at his discretion, nominate either one or two Indian members to any District Council.

(3) Whenever a vacancy is caused on any District Council by the death, retirement or disqualification of any nominated member or by a nominated member vacating his seat, the Chairman of the District Council shall notify the Commissioner for Local Government of such vacancy, and thereupon the Governor may nominate another European or Indian, as the case may be, to fill the vacancy.

District
Councils to be
bodies
corporate.

7. Every District Council constituted by or under the provisions of this Ordinance, shall, under the name of "The District Council of, " be each and severally a body corporate with perpetual succession and a common seal (with power to alter such seal from time to time), and shall by such name be capable in law of suing and being sued, of purchasing, holding, and alienating land, and, generally, of doing and performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Ordinance or any other law.

PART II.

PROVISIONS RELATING TO ELECTIONS.

Registration of Voters.

Preparation of
voters' roll.

8. (1) A Council shall, as soon as possible after it has been duly constituted under the provisions of this Ordinance, and thereafter once in every three years, by a date to be fixed

by the Commissioner for Local Government, cause a list to be made of all Europeans who are qualified to be enrolled as voters under this Ordinance. Such list shall be sub-divided into as many parts as there are wards of the district, and each such part shall show in alphabetical order the full name, residential address, occupation, and nature of the qualification of every voter qualified to vote within the ward to which such part refers :

Provided that, if a District Council be constituted for the rural area of the administrative district now known as the Kisumu-Londiani District, such Council shall also cause a separate list to be made of all Indians who are qualified to be enrolled as voters.

(2) Whenever the boundaries of any district have been altered, or whenever the number of wards in a district has been increased or decreased or the boundaries thereof altered, the Council shall, as soon as possible after such alteration, increase or decrease, cause such alterations to be made in the respective voters' rolls as may be necessary to show correctly the particulars of voters resident in the district or in each ward, as the case may be.

(3) Whenever any ward has been divided into polling districts or any increase, decrease, alteration or adjustment of such districts has been made under sub-section (6) of section 4 of this Ordinance, the Council shall compile from the voters' roll of such ward a register of voters for each such polling district, consisting of the voters for the ward who are entitled to vote in such polling district.

(4) The Standing Committee may order all such steps to be taken with regard to the preparation of the first voters' rolls for any district to which the provisions of this Ordinance apply or may hereafter become applicable as he may deem necessary to meet the circumstances of the case.

9. The registering officer for the purpose of the preparation of voters' rolls under this Ordinance shall be the Clerk or such other person as the Council may, with the approval of the Commissioner for Local Government, appoint. Registering officer.

10. Subject to the provisions of this Ordinance every person shall be entitled, upon application to the registering officer, to be enrolled in the European voters' roll and to vote at the election of an European member who is— Qualifications of European voters.

- (1) of European origin or descent; and
- (2) of not less than twenty-one years of age; and
- (3) either—
 - (a) owns rateable property within the district of the capital value of one hundred pounds; or
 - (b) (i) has resided in the district for twelve months out of the twenty-four months preceding the date of application for enrolment, and either
 - (ii) has been in occupation for a like period of premises in the district of an annual value of thirty-six pounds, or
 - (iii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than ten pounds per month.

A married woman who is qualified for enrolment under paragraphs (1), (2) and (3) (b) (i) of this section shall be entitled to be enrolled notwithstanding that she does not possess either of the qualifications numbered (ii) and (iii) in paragraph (3) (b) provided that her husband is so qualified.

**Qualifications
of Indian
voters.**

11. Subject to the provisions of this Ordinance every person shall be entitled, upon application to the registering officer, to be enrolled in the Indian voters' roll and to vote at the election of an Indian member who is—

- (1) a British subject of Indian origin or descent or an Indian under the suzerainty or protection of His Majesty; and
- (2) of not less than twenty-one years of age; and
- (3) either—
 - (a) owns rateable property within the district of the capital value of one hundred pounds; or
 - (b) (i) has resided in the district for twelve months out of the twenty-four months preceding the date of application for enrolment, and either
 - (ii) has been in occupation for a like period of premises in the district of an annual value of twelve pounds, or
 - (iii) is, at the date aforesaid, and has been for six months out of the preceding twelve months, in receipt of earnings at the rate of not less than five pounds per month.

No. XXI *Local Government (District Councils)***1928**

A married woman who is qualified for enrolment under paragraphs (1), (2) and (3) (b) (i) of this section shall be entitled to be enrolled notwithstanding that she does not possess either of the qualifications numbered (ii) and (iii) in paragraph (3) (b) provided that her husband is so qualified.

12. Notwithstanding anything in the preceding sections of this Ordinance contained, no person shall be entitled to have his name entered upon any voters' roll or to vote at any election if such person—

Disqualifications of voters.

- (a) has been found by a competent court to be of unsound mind; or
- (b) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than twelve months and has not received a free pardon: Provided that such disqualification shall cease two years after the date of the expiration of the sentence; or
- (c) has received relief from any public funds within twelve months prior to the date of his application to have his name entered upon the voters' roll; or
- (d) has been declared bankrupt or insolvent by a competent court, whether in the Colony or elsewhere, and has not received his discharge; or
- (e) is suffering from any disqualification provided by any enactment for the time being in force.

13. Every person who is entitled to be enrolled in any voters' roll in respect of a property qualification shall be enrolled in the ward in which such property is situate; and every person who is entitled to be enrolled in respect of a residential qualification shall be enrolled in the ward in which he resides.

Voters to be enrolled in ward in respect of which they are qualified.

14. The registering officer shall cause every voters' roll framed under the provisions of this Ordinance to be deposited in the Council's offices for inspection by the public, and shall cause to be published in the Gazette and in one or more newspapers (if any) circulating in the district a notice that all objections and claims to be enrolled will be heard at some time and place to be therein stated: Provided that such time shall not be less than fourteen days after the publication of such notice.

Notices of objection to list.

Determination
of claims and
objections.

15. (1) The magistrate having jurisdiction within the district shall hear and determine all claims and objections, and may enrol the names of any persons qualified which have been omitted from the appropriate voters' roll, and shall strike out the names of all persons not entitled to be enrolled :

Provided that the name of any person shall not be struck out until such person shall have had not less than seven days' notice of the investigation of his qualification, and such person shall, if he shall so desire, be heard in regard thereto either personally or by a representative.

(2) The hearing and determination of any claim or objection under this section may be adjourned from time to time, and the decision upon any such claim or objection shall be subject to appeal to a Judge in Chambers if notice thereof be given by any interested person within seven days after the declaration of such decision. The Judge in Chambers hearing such appeal may uphold or reverse the decision and may make such order as to costs as may seem just.

Rolls to be in
force until new
rolls prepared.

16. Subject to the provisions of the next succeeding section the voters' rolls when so settled and amended shall be the voters' rolls for the district until the next voters' rolls shall in like manner be completed; and such voters' rolls shall be deemed to be conclusive and the only proof of the right of every person enrolled therein to vote at the election of members of the Council.

Provisions for
addition of
names to
voters' rolls.

17. Any person who is not on the appropriate voters' roll in force for the time being in a district may at any time apply to the registering officer to be enrolled as a voter, and the registering officer upon being satisfied that such person is qualified under this Ordinance to be so enrolled shall cause the name of such person to be placed on the voters' roll. If the registering officer shall refuse any application under this section the applicant may appeal to the magistrate having jurisdiction within the district, and the application shall be disposed of in the manner provided by section 15 of this Ordinance.

Right of public
to inspect
voters' rolls.

18. Every voters' roll framed or amended under the provisions of this Ordinance shall be deposited at the Council's offices for inspection by the public during office hours.

19. Any person who wilfully makes any false statement on an application to be enrolled upon any voters' roll under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment of either description for a period not exceeding three months or to both such fine and imprisonment.

Penalty for false statements.

Elections.

20. (1) The first election of members of the Council (hereinafter referred to as "members") of any district constituted by or under the provisions of this Ordinance shall be held in the manner hereinafter prescribed as soon as may be after the preparation of the voters' rolls in such district. The date of any such election shall be such date as may be notified in the Gazette by the Commissioner for Local Government.

Holding of first elections, and term of office.

(2) The members so elected shall be elected for a term of three years :

Provided that of the members so elected one-third, or as near as may be, shall retire at the expiration of twelve months from the date of such first election, and one-third, or as near as may be, shall retire at the expiration of twenty-four months from the date of such election :

Provided, further, that the members so retiring shall be chosen by ballot, and any such member shall be eligible for re-election.

21. (1) After the first election of members as aforesaid there shall be, in each district, an annual election of members, to be held upon such date as may be notified in the Gazette by the Commissioner for Local Government, for the purpose of electing members to replace an equal number of members retiring from office.

Annual elections to be held.
Term of office of councillors and members elected at such elections.

(2) The members elected at every such annual election to fill the vacancies caused by the retirement of members owing to the expiration of their term of office shall continue in office until the date of the third annual election next ensuing.

22. (1) Subject to any of the disqualifications mentioned in sub-section (2) of this section any person who is and who is entitled to be enrolled as a voter in any district shall be eligible for election as a member of the Council of such district.

Qualifications of candidates.

(2) A person shall be disqualified for election as a member of any Council if such person—

- (a) is not a British subject; or
- (b) cannot read, write and speak the English language; or
- (c) is in the employment of, or holds any office or place of profit under or in the gift of, the Council; or
- (d) has been convicted of a criminal offence, whether in the Colony or elsewhere, and has been sentenced to imprisonment for a term of not less than six months and has not received a free pardon: Provided that the Governor may by order in any particular case remove such disqualification; or
- (e) has received relief from any public funds within twelve months prior to the date of his nomination as a candidate for election.

**Casual
vacancies.**

23. (1) Whenever a vacancy is caused by the death of any elected member, or by an elected member retiring or vacating his seat (otherwise than by reason of the expiration of his term of office), the Clerk shall forthwith notify the Commissioner for Local Government of such vacancy, and an election shall be held, upon such date as may be notified in the Gazette by the Commissioner for Local Government, for the purpose of electing a member to replace the member so retiring or vacating his seat.

(2) The member elected to fill a vacancy under this section shall hold office for the remainder of the term for which the member who has retired or vacated his seat would have been entitled to remain in office.

**Circumstances
in which
councillors
and members
ipso facto
vacate office.**

24. Any elected member who ceases to possess the qualifications by this Ordinance prescribed, or who is a paid agent for any candidate at an election under this Ordinance, or who becomes disqualified under this Ordinance, shall *ipso facto* vacate his office, and the Chairman shall at the next meeting of the Council declare the seat of such member to be vacant, and shall forthwith notify the Commissioner for Local Government of such vacancy. In any such case such vacancy shall be filled by election in the manner prescribed by the last preceding section :

Provided, however, that a member whose seat shall have been declared vacant under this section may, within fourteen days after the date of such declaration, apply to a Judge of the Supreme Court in Chambers to have such declaration set aside. Notice of the intention to make such application and the grounds thereof shall be given to the Clerk within seven days after such declaration. The order of the Judge in Chambers as to the disqualification or otherwise of the councillor or member shall be final and without appeal.

25. The Clerk or such other person as the Council may, with the approval of the Commissioner for Local Government, appoint shall be the returning officer at every election held under this Ordinance. **Returning officer.**

26. (1) The Clerk or such other person as may have been appointed as returning officer under the last preceding section shall, not less than twenty-one days prior to any election, cause to be published in the Gazette and in one or more newspapers (if any) circulating in the district and to be posted at such conspicuous places as he shall think fit within the ward or wards in which the election is to be held, a notice of such election, and in such notice he shall specify the day and place on and at which he will receive the nomination of candidates for the seat or seats to be filled by election. **Notice of election.**

(2) The day so fixed shall be not less than ten nor more than fourteen days from the date of the publication of the notice.

27. (1) On the day and at the place fixed under the last preceding section the returning officer shall attend at eleven o'clock in the forenoon and for sixty minutes thereafter and shall receive the nomination of any duly qualified candidate for the seat or seats to be filled. **Nomination of candidates.**

(2) Every candidate shall be proposed and seconded and shall be supported by not less than seven persons other than the proposer and seconder. The proposer and seconder and supporters shall be persons whose names appear on the appropriate voters' rolls for the district or ward, as the case may be, for which the candidate seeks election.

(3) Every nomination paper shall be in a form to be prescribed by rules under this Ordinance, and the signatures of the proposer and seconder and supporters shall be witnessed by a magistrate, justice of the peace or notary public.

(4) Every nomination paper subscribed and witnessed as aforesaid shall be delivered to the returning officer by the candidate or by his proposer or seconder at the time and at the place appointed, and any nomination paper which is not so delivered shall be rejected.

Description of candidates and examination of nomination papers.

28. (1) Every candidate shall be described in his nomination paper in such manner as in the opinion of the returning officer is calculated sufficiently to identify such candidate. No objection to a nomination paper on the ground of the description of the candidate therein being insufficient, or on the ground that such nomination paper does not comply with the provisions of this Ordinance or any rules made thereunder, shall be valid unless such objection is made to the returning officer at or immediately after the time of delivery of the nomination paper. The decision of the returning officer as to the sufficiency of any nomination paper shall be final.

(2) The returning officer shall permit any candidate and his proposer and seconder to examine the nomination paper of any other candidate.

Procedure for election of candidates.

29. (1) If at the expiration of the time appointed for the election the number of duly nominated candidates for any district or ward, as the case may be, does not exceed the number of members to be elected for such district or ward, the returning officer shall forthwith declare such candidate or candidates to be elected, and shall report such election to the Commissioner for Local Government who shall cause the election to be published in the Gazette.

(2) If the number of duly nominated candidates exceeds the number of members to be elected as aforesaid, the returning officer shall forthwith adjourn the election for the purpose of taking a poll, and shall report to the Commissioner for Local Government the names of the candidates as described in their nomination papers. Upon receipt of such report the Commissioner for Local Government shall cause to be published in the Gazette and in one or more newspapers (if any) circulating in the district, and to be posted at such conspicuous places as he shall think fit within the ward or wards in which a poll is to be taken, a notice specifying—

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- (a) the ward or wards (if any) in which a poll will be taken;
- (b) the date on which the poll will be taken, which shall not be less than fourteen days from the date of the publication of the notice;
- (c) the names of the candidates as described in their respective nomination papers and the names of their proposers and seconders;
- (d) the places at which a poll will be taken and the portion of the district or ward, as the case may be, allotted to each polling station.

30. If after an election has been adjourned for the purpose of taking a poll, one of the candidates nominated shall die before the poll has commenced, the Commissioner for Local Government shall, upon being satisfied of the fact of such death, countermand notice of the poll, and in such case all the proceedings with reference to the election shall be commenced afresh :

Death of
candidate
before the
poll taken.

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

31. (1) A registered voter shall be entitled to one vote in every ward in respect of which his or her name appears upon the voters' rolls, but no voter shall have more than one vote in any ward.

Provisions as
to voting.

(2) Every voter shall vote at the polling station appointed for the ward or polling district, as the case may be, in respect of which his or her name appears upon the voters' rolls and at no other place.

32. The Governor in Council may from time to time make rules for all or any of the following purposes :—

Power to make
rules.

- (a) For regulating the procedure in regard to the preparation of voters' rolls and for the making and disposing of claims and objections;
- (b) For regulating the procedure in regard to the taking of polls at contested elections under this Ordinance;
- (c) For prescribing such forms as he may think necessary to be used in connection with the matters dealt with in this Part of this Ordinance and any rules made thereunder;
- (d) Generally, for the better carrying out of the provisions of this Part of this Ordinance.

Penal
provisions
relating to
elections.

33. Sections 20 to 28 (both inclusive) of the Legislative Council Ordinance shall apply *mutatis mutandis* to any election held under the provisions of this Ordinance.

PART III.

APPOINTMENT OF OFFICERS.

Chairman of
Council.

34. (1) In every district established under this Ordinance there shall be elected at the first meeting of the Council, and thereafter at the first meeting of the Council held after every annual election of members, one member of the Council who shall be Chairman, and such Chairman shall hold office until his successor is appointed as herein provided.

(2) At every meeting for the election of Chairman, the Senior or Resident Commissioner shall preside and shall have a deliberative vote only, provided that in the case of an equality of votes for two or more candidates, he shall determine the election by lot.

(3) In the event of the office of Chairman becoming vacant from any cause whatsoever, a successor shall, at the next meeting but one of the Council after such vacancy, be chosen by the members from amongst themselves, and the member so chosen shall serve as Chairman for the remainder of the period for which the Chairman had been elected.

Clerk to
Council and
other officers.

35. (1) The Council may, subject to the approval of the Standing Committee, appoint as permanent, part-time or consulting officers fit and proper persons to be Clerk, Treasurer, Engineer and, subject to the provisions of section 65 of this Ordinance, Medical Officer of Health, and may pay such officers such salaries and allowances as the Council may, subject to the approval of the Standing Committee, determine.

(2) The Council may also appoint such other officers as may be considered necessary and may pay to such officers such salaries and allowances as the Council may determine.

(3) No person may be appointed to any office under this section who is a member of the Council, or who has been a member thereof within the preceding six months.

(4) No officer holding the post of Clerk, Treasurer, Engineer or Medical Officer of Health shall be removed from office unless and until such removal has been decided upon

by a resolution passed by a majority of the whole Council, nor unless and until the Standing Committee has notified to the Council its approval of the removal of such officer :

Provided, however, that the Council may suspend any such officer from the duties and emoluments of his office for incapacity, neglect or misconduct pending the sanction of the Standing Committee to his removal, and, in the event of such sanction being granted, such officer shall be deemed to have been removed from his office as from the date of his suspension.

(5) The Governor may from time to time make rules for regulating the procedure in regard to the appointment by District Councils of Clerks, Treasurers, Engineers, Medical Officers of Health and Sanitary Inspectors, conditions of appointment, tenure of office, salaries and duties of all such officers.

PART IV.

MEETINGS AND PROCEEDINGS.

36. The Council shall hold an ordinary meeting for the despatch of business on such days and at such hours as the Council may from time to time appoint, but not less often than once in every three months. **Ordinary meetings.**

37. The Clerk shall give at least one week's notice in writing to each of the members of the time and place appointed from time to time for ordinary meetings of the Council : **Notices of ordinary meetings.**

Provided that the accidental omission to serve such notice on any member shall not affect the validity of any meeting.

38. (1) Any member who, without having first obtained leave from the Council, absents himself from three consecutive ordinary meetings of the Council shall become disqualified from continuing to be a member, and the Clerk shall, at the next ordinary meeting of the Council after such continued absence, report the same and the Chairman shall thereupon declare the seat of such member vacant. **Absence of members from meetings.**

(2) Where any member leaves the Colony for a period not exceeding eight months the Council may, with the consent of the Governor, co-opt a fit and proper person to discharge the duties of such member during his absence from the Colony :

Provided that, if any member is absent from the Colony for a period exceeding eight months, his seat shall become vacant.

Meetings to be public.

39. Every meeting of the Council shall be open to the public and the press :

Provided that this section shall not apply to any committee of the Council nor to a Committee of the whole Council.

Quorum.

40. Save as otherwise specially provided by this Ordinance all acts, matters and things authorised or required to be done by the Council, and all questions that may come before it, shall be done and decided by the majority of the members present at any meeting at which are present not less than one-half of the members or such larger proportion thereof as the Council may from time to time fix.

Chairman to preside at meetings and have casting vote.

41. (1) At every meeting of the Council the Chairman, if present, shall preside. In the event of the absence of the Chairman the Councillors present shall elect a Chairman from amongst themselves to preside at such meeting, and such election shall, in the event of equality of votes for two or more candidates, be determined by lot.

(2) In the case of equality of votes the Chairman of the meeting shall have a second or casting vote.

Special meetings.

42. The Chairman may at any time and shall, at the request in writing of not less than one-third of the members, call a special meeting of the Council. The notice of any special meeting shall specify the object of the meeting ; and no other subjects than those specified in such notice shall be discussed at such meeting.

Minutes to be kept and signed.

43. Minutes of the proceedings of every meeting of the Council and of any Committee thereof shall be regularly entered in books kept for that purpose, and such minutes shall be confirmed at the same or the next ordinary meeting. Such minutes when signed by a member describing himself or appearing to be Chairman of the meeting at which the minutes are confirmed shall, in the absence of proof of error, be deemed to be a correct record of the proceedings of the meeting of which they purport to be the minutes.

44. Whenever the minutes of the proceedings have been recorded and confirmed, such meeting shall, until the contrary is proved, be deemed to have been duly convened and held, and all the members present at such meeting shall be deemed to have been duly qualified; and in the case of proceedings so recorded of a Committee the Committee shall, until the contrary is proved, be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

Meetings
deemed to be
duly held.

45. The minutes of the proceedings of the Council shall at all reasonable times be open to the inspection of any ratepayer or voter of the district, and any such ratepayer or voter may obtain a copy thereof or an extract therefrom on payment of such fee (if any) as may be prescribed by the Council.

Minutes to be
open to
inspection.

46. The members present at any meeting may from time to time adjourn such meeting; and if at any meeting a sufficient number of members be not present to exercise the powers vested in the Council the members present or, if there be no members present, the Clerk shall adjourn the meeting and may appoint for the adjourned meeting such day and hour as may be thought convenient.

Adjournment
of meetings.

47. (1) The Council may from time to time appoint out of its own body such and so many committees, either of a general or special nature, consisting of such number of members as the Council may think fit, for the purpose of examining and reporting upon any matter or performing any act which in the judgment of the Council would be more conveniently performed by means of a committee, and may delegate to any committee such powers (other than power to raise money by rate or loan or any other power as to the exercise of which special provision is made in this Ordinance) as it may think fit. The Chairman shall be ex officio a member of every such committee.

Appointment
of committees.

(2) The quorum of every committee shall be fixed by the Council, but shall in no case be less than two members.

(3) Each committee shall report its proceedings to the Council, but to the extent to which the Council so directs the acts and proceedings of the committee shall not require the approval of the Council.

(4) Each committee shall elect its own Chairman, and such election shall, in the event of equality of votes for two or more candidates, be determined by lot.

(5) Every committee appointed by the Council may be dissolved after notice of motion to that effect by the vote of the majority of the whole Council.

**Procedure at
meetings of
committees.**

48. (1) Every committee appointed by the Council may meet from time to time and may adjourn from place to place as it may think proper, but no business shall be transacted at any meeting of the committee unless the quorum of members fixed by the Council be present.

(2) At all meetings of the committee the Chairman of the committee, if present, shall preside. In the event of the absence from any meeting of the Chairman of the committee the members present shall elect a Chairman from amongst themselves to preside at such meeting. In the case of equality of votes the Chairman of the meeting shall have a second or casting vote.

**Appointment
of Road Area
Committee.**

49. (1) In any district where road areas have been proclaimed by the Governor in terms of section 4 of this Ordinance, the Council shall from time to time appoint out of its own body a Road Area Committee for each such road area consisting of such number of members as the Council shall think fit, and may delegate to any Road Area Committee such powers (other than power to raise money by rate or loan or any other power as to the exercise of which special provision is made in this Ordinance) as it may decide.

(2) The Council may empower any such Road Area Committee to add to its number either one or two residents in the road area concerned who are not members of the Council, and such additional members shall be allowed to vote upon any question, but no such additional member may be elected as chairman of any such Road Area Committee.

(3) All the provisions of this Ordinance which apply to Committees appointed by the Council under section 47 hereof, shall apply *mutatis mutandis* to Road Area Committees appointed under this section.

50. All acts of the Council or of any person acting as chairman, member, clerk or any other official, as the case may be, shall, notwithstanding that it be discovered that there was some defect in the election or appointment of any such person or that he was disqualified, be as valid and effectual as if such person had been duly elected or appointed and qualified.

Validity of acts of Council and officers.

51. (1) Every order, notice or other document requiring authentication by the Council shall be deemed to be sufficiently authenticated without the common seal of the district if signed by two members or by the clerk or by any other officer of the Council duly authorised thereto by any resolution or by-law of the Council.

Authentication and execution of documents.

(2) Every contract and every instrument and document which the Council is lawfully empowered to execute shall be deemed to be duly executed by or on behalf of the Council if signed by the chairman or by the clerk or by any one or more members duly authorised thereto by any resolution or by-law of the Council.

52. No matter or thing done or omitted and no contract entered into by the Council, and no matter or thing done or omitted by any member or officer or servant of the Council or other person acting under the direction of the Council, shall, if the matter or thing was done or omitted or the contract was entered into in good faith for the purposes of this Ordinance or of any by-law in force in the district, subject any such person personally to any action, liability, claim or demand whatsoever; and any expense incurred by the Council or any such person as aforesaid shall be paid by the Council out of its revenues :

Exemption of Councillors, etc., from personal liability.

Provided that nothing in this section shall exempt any such member, officer or servant or other person aforesaid from liability to be surcharged by the inspector under section 117 of this Ordinance.

53. (1) No member shall be present at the discussion upon any matter in or before the Council or a committee thereof in which he has directly or indirectly, by himself or his partner, any pecuniary interest apart from any interest in common with the public.

Member not to vote on question in which he has pecuniary interest.

(2) Every member who knowingly offends against this section is liable for every such offence to a fine not exceeding fifty pounds, and on conviction his seat on the Council shall become vacant.

Travelling
expenses of
members.

54. (1) The Council may from time to time vote such reasonable sums as it deems sufficient to defray the actual travelling expenses only of members attending meetings of the Council or any committee thereof, or attending any business of the Council when authorised by resolution of the Council to do so.

(2) A member voting upon any such question shall not thereby become liable to any penalty under the last preceding section.

Interest of
officers or
servants in
contracts.

55. (1) No officer or servant of the Council shall in anywise be concerned or interested in any bargain, contract, or arrangement whatsoever made by or with the Council.

(2) Every officer or servant who knowingly offends against this section shall be liable for every such offence to a fine not exceeding one hundred pounds, or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

PART V.

POWERS AND DUTIES.

General Powers.

Power to enter
into contracts.

56. (1) The Council may enter into contracts for the supply of goods or for the purpose of any work or service which it is, by or under the provisions of this Ordinance, empowered to undertake or carry out :

Provided that except in cases of emergency no contract the amount of which exceeds seventy-five pounds, shall be made except after public tender, of which at least fourteen days' clear notice shall be given in the Gazette and in one newspaper circulating in the district, or if there be no such newspaper, then by exhibiting a notice in a conspicuous place at or near the public entrance to the offices of the Council :

Provided further that the Council shall not be compelled to accept the lowest or any tender.

(2) The Council may enter into contracts with any other District Council or with any Municipal Council or Board for or with respect to the doing and the control or management by either or both of the contracting parties of any of the things provided for in this Ordinance, or of any matter or thing the Council and such other Local Authority is by law empowered to do, control, and manage.

(3) The Council may enter into contracts with the Government for the purpose of any work or service for which the Government is responsible within or adjacent to the district under the jurisdiction of the Council or for any purpose which the Council is authorised to carry out under this Ordinance.

(4) All contracts lawfully made under the provisions of this section shall be valid and binding on the Council and its successors and all other parties thereto, their heirs, successors, or legal representatives, as the case may be.

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 Buildings.
such offices and buildings as may be required for
the purposes of the Council.
- (2) To plant trees or remove trees in or on any public Trees in public
place. places.
- (3) To arrange for the lighting of public places and the Lighting
erection and maintenance of lamps for that purpose. public places.
- (4) To pay the medical and/or funeral expenses of any Medical and
person employed by the Council who suffers injury funeral
or dies as the result of an accident occurring in the expenses of
course of his employment or as the result of illness persons
contracted in consequence of such employment. employed by
Council.
- (5) Subject to the consent of the Standing Committee, to Pensions and
grant from the revenues of the Council pensions or gratuities to
gratuities to officers and servants on their retirement officials and
from the service of the Council and to dependants servants.
of deceased officers and servants of the Council.
- (6) To establish and maintain outspan grounds within Outspans.
the district.
- (7) Subject to the consent of the Governor in Council— Grants to
institutions.

- (a) to make grants of money towards the establishment and maintenance of schools 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.

(8) To establish and maintain hospitals and dispensaries within the district and to make such charges in connection therewith as shall be fixed by by-law.

General.

(9) 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.

Expenditure for carrying out purposes of this Ordinance.

(10) To incur all expenditure necessary for the carrying out of any purpose of this Ordinance which the Council is authorised 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.

Roads.

Classification of roads.

58. (1) The Governor shall, as soon as may be after the establishment of any district under this Ordinance, classify all public roads within such district, and shall, whenever necessary, classify any new public roads.

(2) Public roads shall, when so classified, be described as either—

- (a) Main Trunk Roads; or
- (b) District Roads;

and District Roads shall be classified further as either Main or Minor District Roads.

Powers under Public Travel and Access Roads Ordinance to be exercised by Council.

59. From and after the date upon which any District Council is constituted for any district under this Ordinance, such Council shall, within such district, exercise all or any of the powers and carry out the duties prescribed for district road boards by sections 8 to 17 inclusive of the Public Travel

and Access Roads Ordinance (Chapter 113 of the Revised Edition).

60. The Council shall have the general control and care of all district roads, as herein defined, and of all bridges, ferries, fords, drifts, culverts, drains, and other accessories on any such road or used in connection therewith, and the Council may make, construct, alter, repair, and, if necessary, temporarily close any such road or any such bridge, ferry, ford, drift, culvert, drain and other accessory :

Council to control district roads.

Provided that the Council shall not commence to construct or carry out any road work, the cost of which would exceed one thousand pounds, without the consent of the Standing Committee and the Council shall in every such case furnish such plans and specifications as may be required by the Commissioner for Local Government.

61. Where any public road (not being a main trunk road) mainly required to serve the population of the district crosses a portion of a Native Reserve, the Council may, with the approval of the Governor, exercise all the powers and carry out all the duties in respect of such road which the Council would, under this Ordinance, have exercised or carried out if such road had been within the district.

District roads in Native Reserves.

62. (1) For the purpose of the construction or maintenance of roads, or the carrying out of any works which the Council is empowered by this Ordinance to carry out, the Council may enter upon any land, and remove therefrom any clay (other than kaolin), country rock, gravel, murram, lime, sand, shale, shingle, slate or surface soil :

Power to take material for roads and works.

Provided that—

- (a) prior to the exercise of the powers conferred by this section, the Council shall give notice by personal service or by registered post to the last-known address of the owner or occupier of such land ;
- (b) compensation shall be payable by the Council to the owner or occupier of such land for any damage done to buildings, roads or crops or otherwise, and for any interference with the rights of occupancy of such land ;

(c) any pit or quarry made in the exercise of the rights conferred upon the Council under this section shall be filled up, fenced or secured by and at the expense of the Council.

(2) If any person interested in any land in respect of which the powers conferred by this section are to be exercised by the Council shall notify the Council in writing within fourteen days of the issue of the notice referred to in paragraph (a) of sub-section (1) of this section that he objects to the exercise of such powers, the Council shall not proceed therewith without the approval of the Governor.

(3) Any dispute as to the amount of any compensation payable by the Council under this section shall be settled by arbitration.

(4) For the purposes of this section the expression "owner or occupier" shall, in respect of unalienated Crown lands, include the Commissioner of Lands, and shall, in respect of land in Native Reserves, include a Senior Commissioner of the Province within which such lands are situated.

Compensation
for land used
for district
roads.

63. The Governor may recover from the Council any expenditure incurred by Government in respect of compensation for land resumed for the purpose of any district road within the jurisdiction of the Council, under the Crown Lands Ordinance, or any other law.

Public Health.

Council may
contribute to
public health
expenditure.

64. The Council may contribute towards any expenditure incurred by Government within the district for the preservation of public health, including the emoluments of medical officers of health and sanitary inspectors.

Council may
be declared a
"local
authority"
under Public
Health
Ordinance.

65. (1) Notwithstanding anything contained in the Public Health Ordinance or any law amending or replacing the same, the Governor may, if the Council shall so request, declare the Council to be a "local authority" within the meaning of the said Ordinance.

(2) When the Council is declared a local authority under this section the Council may appoint a medical officer of health, sanitary inspector or other necessary officers and servants, and shall be vested with all the powers and charged with all the duties prescribed for local authorities under the said Ordinance :

Provided that the Governor shall not declare any Council to be a local authority as aforesaid unless and until such Council shall have exercised the power to impose a district rate under the provisions of section 73 of this Ordinance.

By-laws.

66. The Council may from time to time make, alter and revoke by-laws in respect of all or any of the following purposes :— Power to make
by-laws

- (1) For regulating any of the things which the Council is empowered under this Ordinance to do, establish, maintain or carry on.
- (2) For regulating the proceedings of the Council and preserving order at meetings of the Council and of committees, and for prohibiting, restricting and regulating the publication and disclosure of the Council's documents and records and the proceedings of any committee of the Council, and for regulating the duties and privileges of members, officers and servants of the Council.
- (3) For protecting from damage or interference works or property of the Council situated or being in, under or over any public place or other place within the district.
- (4) For regulating the imposition and collection of a flat rate per head of African labour employed within the district and for requiring employers of African labour to render returns of all such labour employed by them to the Council at such times and in such manner as the Council may require.
- (5) If and when the Council is declared a local authority under section 65 (1) of this Ordinance, for preserving the public health and for preventing the outbreak and spread of infectious and communicable disease.
- (6) For securing the eradication of any weed which may be declared by the Governor to be noxious from any land within the district and for compelling owners or occupiers of such land to cause any such weed to be eradicated on their land.
- (7) For preserving public decency.

(8) For controlling and regulating native dances on farms or elsewhere within the district.

(9) For regulating, managing and controlling the use of hospitals and dispensaries established by the Council, and for fixing the charges to be made in connection therewith.

No by-law made under this section shall be inconsistent with or repugnant to the provisions of this Ordinance or of any Ordinance dealing with public health, or of any other law in force within the district.

By-laws. how
to be made.

67. No by-law shall be made or amended by the Council unless and until a copy of such proposed by-law or amendment shall have been deposited at the office of the Council for inspection by any person at all reasonable times, and unless and until a notice shall have been published in some newspaper (if any) circulating in the district and exhibited in a conspicuous place at or near the public entrance to the Council's offices fourteen days prior to the meeting of the Council held for the purpose of making such by-law or amendment setting forth the general purport of the proposed by-law or amendment and stating that a copy thereof is open to inspection as aforesaid :

Provided that any objection to any such proposed by-law or amendment shall be lodged with the clerk within thirteen days after the publication of the notice as aforesaid.

Submission of
by-laws for
approval of
Standing
Committee

68. (1) After any by-law has been made or amended by the Council such by-law or amendment shall be submitted to the Commissioner for Local Government for the approval of the Standing Committee, together with—

- (a) a copy of the minutes of the meeting of the Council at which the by-law or amendment was adopted ;
- (b) a certificate by the clerk that the provisions of the last preceding section have been complied with ;
- (c) copies of any objections against the adoption of the by-law or amendment which may have been lodged in writing, with the clerk, or, if none have been lodged, a statement to that effect.

(2) Subject to the provisions of section 119 of this Ordinance, the Standing Committee may approve, alter or reject any such by-law or amendment.

(3) Upon approval by the Standing Committee of any by-law or amendment (with or without alteration thereof) such by-law or amendment shall be published in the Gazette and thereupon shall have the full force of law within the district.

(4) A copy of the Gazette containing any by-law of the Council shall be evidence of the due making of such by-law and of the contents thereof.

69. The Governor in Council may at any time after having given to the Council reasonable notice and having heard the Council thereon, make, amend or revoke any by-law which the Council is empowered by this Ordinance to make, amend or revoke. Every by-law and every amendment or revocation under this section shall be notified to the Council by the Commissioner for Local Government and shall be published in the Gazette.

Power of Governor in Council to make, etc., by-laws.

70. The Council may, by by-law, impose a fine or imprisonment of either description, or both such fine and imprisonment, for the breach of any by-law made under this Ordinance and may also impose different fines and different periods of imprisonment in case of successive or continuous breaches, but no such fine shall exceed fifty pounds, and no such period of imprisonment shall exceed six months. Any by-law may further provide that, in addition to any such fine and/or imprisonment, any expense incurred by the Council in consequence of any breach of such by-law, or in the execution of any work directed by any such by-law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work.

Penalties for breaches of by-laws.

71. All offences against any by-law in force within the District, shall be deemed to be offences against this Ordinance, and in any prosecution for contravening the provisions of any such by-law it shall be sufficient to allege that the accused is guilty of contravening a by-law of the Council and to allege the act constituting such contravention, describing the by-law by number.

Prosecution for contravention of by-laws.

PART VI.

POWERS OF TAXATION.

Interpretation.

72. In this Part, unless the context otherwise requires—

“ Occupier ” means and includes any person in actual occupation of rateable property without regard to the title under which he occupies;

“ Owner ” in the case of any freehold land, means the person owning such land, and in the case of leasehold and other land means the person holding such land directly from the Crown as lessee or licensee;

“ Rateable property ” means all land within the district, save and except—

- (a) land occupied by buildings used primarily for public worship and by the necessary curtilage;
- (b) land used for burial or burning grounds;
- (c) land used exclusively for the purposes of any charitable or educational institutions supported mainly by endowments or voluntary contributions;
- (d) land laid out and used for the purpose of sport or recreation and controlled in accordance with rules or regulations approved by the Council: Provided that any land used as a recreation ground conducted for profit or as a racecourse shall not be entitled to the benefit of this exemption;
- (e) any land held by the Crown.

“ Improvements ” means all work actually done or materials used on, in or under land by the expenditure of capital or labour by any owner or occupier of such land;

“ Unimproved value of land ” means the sum which the owner's estate or interest therein, unencumbered by any mortgage or other charge thereon, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to impose if the improvements, if any thereon, therein or thereunder had not been made.

THE DISTRICT RATE : PRELIMINARY PROCEDURE.

The district rate.

73. (1) An annual rate upon land (herein referred to as “ the district rate ”) may be imposed by the Council as hereinafter provided.

(2) Before the Council may commence to impose the district rate the following procedure shall be carried out :— A method of taxation shall be adopted.

(a) The Council shall, by resolution passed by a majority of not less than two-thirds of the elected members of the Council, adopt one or other of the following methods of rating :—

- (i) a rate upon the unimproved value of land ;
- (ii) a flat rate upon the area of land ;
- (iii) a graduated rate upon the area of land.

(b) Before the Council may vote upon any such resolution, at least sixty days' notice shall be given at a meeting of the Council of the intention to move such a resolution, and a copy of the proposed resolution shall be published in the Gazette and in one or more newspapers (if any) circulating within the district, once a week for six consecutive weeks, and shall be exhibited in a conspicuous place at or near the public entrance to the offices of the Council.

(3) The Council may from time to time vary the method of rating for the purpose of the district rate, but no more than one of the methods of rating referred to in this section shall be in force within the district at one time, and whenever it is desired to substitute one method of rating for another method of rating, the procedure laid down in sub-section (2) hereof shall in all cases be followed :

Provided that whenever the Council has adopted as a method of rating a rate upon the unimproved value of land and a valuation roll has been prepared as hereinafter provided, none other of the methods of rating referred to in this section shall be substituted therefor without the consent of the Governor in Council.

SPECIAL PROVISIONS WHEN THE DISTRICT RATE IS IMPOSED IN THE FORM OF A RATE UPON THE UNIMPROVED VALUE OF LAND.

74. (1) As soon as may be after the Council has adopted as a method of rating a rate upon the unimproved value of land, the Surveyor General or other person appointed by the Governor (herein called " the valuer ") shall prepare a valuation roll of all rateable property within the district, without cost to the Council. Valuation roll and appointment of valuer.

(2) Not less than once in every five years after the completion of the first valuation roll for the district, or such longer period as the Governor may approve, the Governor shall cause a new valuation roll of all rateable property within the district to be prepared by such person (herein called "the valuer") as he may appoint :

Provided that the Governor in Council may direct that the whole or any portion of the cost of preparation of any valuation roll (not being the first valuation roll for the district) shall be borne by the Council.

(3) For the purposes of this section, the valuation shall be deemed to be completed on the date the valuation roll is signed by the President of the Valuation Court under section 80 of this Ordinance.

Declaration of valuer.

75. (1) Every valuer shall, before entering upon the valuation entrusted to him, make before a magistrate or justice of the peace a solemn declaration in the terms following :—

" I, do solemnly and sincerely declare that I will to the best of my skill and knowledge and without favour and prejudice truly and impartially appraise and value all such rateable property as I shall be required to value for the purposes of assessment, and that I will conscientiously value the same at and for the full and fair value hereof, and I make this solemn declaration conscientiously intending to fulfil the same."

Declared at.....this.....day of , 19.....

Before me :

And every such declaration shall be lodged with and preserved by the Council.

(2) Every valuer shall, on completion of the valuation entrusted to him, attach to the valuation a certificate under his hand that such valuation is the valuation to which the declaration provided for in sub-section (1) hereof refers.

Valuation roll to be prepared in writing.

76. The valuation roll shall be prepared in writing in a form to be approved by the Commissioner for Local Government and in such manner as to show to the best of the knowledge and opinion of the valuer—

- (1) the name and address of the owner ;
- (2) the area, description and situation of the property ;
- (3) the unimproved value of the land.

77. (1) Every valuer provided with written authority signed by the chairman or clerk shall, for the purpose of making any valuation as aforesaid, have power to enter at all reasonable hours in the daytime into and upon any land or buildings within the district, and shall also have power to inspect and make extracts from all registers or other records or any deeds or instruments belonging to or in the custody or possession of any Government officer or any person, in which are contained particulars of any rateable property, whether such person is or is not interested in such rateable property. Valuer to have power of entry and inspection.

(2) Any person who shall wilfully obstruct the valuer from exercising the powers conferred on him under this section shall be liable to the penalties in the next succeeding subsection provided.

(3) Every such valuer shall be entitled to call upon the owner or occupier of rateable property for such written particulars in regard to such rateable property as may be necessary for enabling such valuer to make a correct valuation thereof, and any owner or occupier who shall neglect to furnish such particulars within fourteen days after being called upon to do so, shall be liable on conviction to a penalty not exceeding twenty pounds in respect of each offence, and any person who shall furnish to any valuer a false statement of value or of any other particulars as aforesaid, shall be liable on conviction to a penalty not exceeding fifty pounds in respect of each offence: Provided that no person convicted under this section shall thereby become exempt from liability to furnish the information lawfully demanded by the valuer.

78. When the valuation roll has been completed it shall be laid before the Council and shall lie at its office for public inspection, and any person may at all reasonable times inspect the same and take copies or extracts therefrom. Inspection of provisional roll; objections.

The Council shall, by notice published in the *Gazette* and in one or more newspapers (if any) circulating in the district call upon all persons interested to lodge in writing with the Clerk, within a specified time not less than one month from the first publication of such notice, notice of any objections that they may have in respect of the valuation of any rateable property valued as aforesaid or in respect of the omission therefrom of property alleged to be rateable property,

and whether held by the person objecting or by others, or in respect of any other error, omission or misdescription. No person shall be entitled to urge any objection before the Valuation Court hereinafter referred to unless he shall have first lodged such notice of objection as aforesaid.

Valuation
Court; duties
and
proceedings.

79. (1) After the expiration of the time specified in such notice, the Governor shall appoint a Valuation Court consisting of not less than three persons who may or may not be members of the Council. Such persons shall, before the first sitting of the Court, appoint a president from among themselves. The clerk or some other person appointed by the Governor, shall act as clerk to the said Court.

(2) Such Court shall hereafter, at meetings duly called by the president or clerk, proceed to consider the valuation roll and the objections made as aforesaid, and shall be entitled to make such alterations or amendments in the valuation roll, either by way of reduction, increase, addition or omission as to it may seem expedient :

Provided that no alteration or amendment by way of increase or addition shall be made unless and until the person appearing to be directly affected thereby shall have had at least seven days' previous notice by registered post to the last known address of such person from the clerk of the date of the sitting of the Court at which any proposal for such increase or addition will be considered, and such person so affected may either forward any objections to such increase or addition in writing to the president or clerk before such date, or present the same for consideration at such sitting and the Valuation Court shall duly hear and consider all such objections.

(3) At every sitting of such Court three members personally present shall constitute a quorum, and the president thereof, if present, shall preside, and if absent, the members of the Court present shall elect a person from among themselves to act as president during such absence as aforesaid. All decisions of such Court shall be arrived at by the vote of a majority of the members personally present and, in case of an equality of votes, the president or the member acting as such shall also have a casting vote.

(4) No person shall sit on the hearing of any matter in which he shall be directly interested or concerned as being primarily liable to pay the rates in question or any part thereof.

(5) In case for any reason there shall be vacancies in the said Court, or incapacity to act so that a quorum cannot be formed, the Governor may at once and without any notice appoint other persons temporarily or permanently to fill up such vacancies or the places of the members incapable of sitting.

(6) The clerk shall, by publication in the Gazette and in one or more newspapers (if any) circulating in the district, give not less than seven days' previous notice of the date fixed for the first sitting of such Court.

(7) At every sitting of such Court the Council and any person who has lodged any objection to any valuation, and any person the valuation of whose property is objected to or proposed to be increased, or whose property it is proposed to add to the roll, may appear either in person or by a representative.

(8) At every sitting of such Court it shall be competent for the Court to call and examine any witnesses on oath or affirmation and to call for the production of all such papers or documents as it may deem necessary, and every valuer by whom any valuations under consideration shall have been made shall attend such Court and answer on oath or affirmation all questions which may be put to him by or through the Court in regard thereto.

(9) The said Court shall keep a record of its proceedings and a note of the assessment, objection, and finding in regard to each objection, and such Court shall cause any deposition taken before it to be taken down in writing and signed by the deponent, and shall authenticate it by the signature of the president or member acting as such as having been taken before such Court, and every such deposition so taken down and authenticated shall be deemed and taken to be good evidence in a prosecution for perjury.

80. When the Valuation Court has completed its Valuation roll. examination of the valuation roll, and has made such alterations and amendments therein as it may deem necessary, the president of the Court shall sign and certify the same. He shall further cause to be inserted once in the Gazette and in one or more newspapers (if any) circulating in the district not less than twice within a period of two weeks, an advertisement informing all persons interested of the completion thereof, and

that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such notice, not being less than one month from the date of the first publication of the aforesaid advertisement, appeal from the decision of the Valuation Court in manner provided in the next succeeding section.

Right of appeal
from decision
of Valuation
Court.

81. (1) It shall be lawful for any person who feels himself aggrieved by the value put upon any property owned or occupied by him to appeal within one month against such valuation from the decision of the Valuation Court to the court of the Magistrate having jurisdiction within the district, and such last-mentioned court shall enquire into such valuation, and its decision shall be final and conclusive :

Provided, however, that if any question of law shall arise as to the principle upon which any valuation has been or should be made, it shall be lawful for such Magistrate, instead of himself deciding such question, at the request of the Council or party objecting, to reserve such question of law for decision by the Supreme Court, and such question shall be stated in the form of a special case and may be argued before and determined by the Supreme Court, and such Court may make such order as to costs as to the Court shall seem fit.

(2) It shall be lawful for the Council to appeal within one month against the decision of the Valuation Court in respect of any rateable property in the district to the Court of such Magistrate, and such appeal shall be subject to the provision set forth in sub-section (1) hereof in respect of appeals by the owner or occupier of property.

Power to remit
rates, to cause
rateable
property
omitted to be
valued, and to
cause
revaluations.

82. Notwithstanding anything in this Ordinance contained, it shall be lawful for the Council from time to time and at any time—

- (a) to remit any rate imposed on any rateable property in such cases as may be approved by the Governor in Council ;
- (b) to cause any rateable property omitted from the valuation roll or new rateable property to be valued in the manner hereinbefore provided, and to cause the current rate to be collected in respect thereof ;

- (c) to cause a valuation to be made of any rateable property which is sub-divided after the date when the valuation in respect of such property has become final, and to cause the valuation to be apportioned according to the sub-divisions of the said property, and to cause any rate due in respect thereof to be assessed and collected according to such sub-division ;
- (d) to cause a fresh valuation to be made of any rateable property which, from any cause particular to such property arising since the last valuation thereof, has materially increased or decreased in value ;
- (e) to cause any error appearing in the valuation roll from time to time in force to be corrected in any case where some clerical error or some error as to the name of the owner has been made in such roll, and to cause any rate due in respect thereof to be collected according to the corrected roll :

Provided that—

- (i) upon the making of any such interim valuation the same forms shall be observed and the same proceedings taken as nearly as can be *mutatis mutandis* as are hereinbefore set forth with regard to general valuations, except that in the direction of the Council the prescribed notices may be served in writing upon the person interested instead of being published as aforesaid ;
- (ii) every such valuation, revaluation, correction and apportionment shall be subject to any objection made thereto at the next succeeding Valuation Court which may be appointed by the Council under this Ordinance and to the same right of appeal as is provided for in the last preceding section ;
- (iii) in the case of any property which is added to the roll or the valuation of which is increased under this section, if at the next succeeding Valuation Court the value of the said property be fixed at a sum less than that on which the last preceding rate has been levied, the owner shall be entitled to a refund of any rate paid by him in excess of that which would have been paid if the rate had been levied on the value as fixed by the said Valuation Court.

Imposition of
rate.

83. Subject to the provisions of section 73 of this Ordinance, the Council may, by resolution passed by a majority of the elected members of the Council, impose a rate for each financial year upon the unimproved value of land as shown by the valuation roll of such amount as the Council shall determine :

Provided that no such rate shall, in any one financial year, exceed half of one per centum without the sanction of the Governor in Council.

SPECIAL PROVISIONS WHEN THE DISTRICT RATE IS IMPOSED IN THE FORM OF A FLAT RATE OR GRADUATED RATE UPON THE AREA OF LAND.

Area roll to be
prepared by
Council.

84. (1) As soon as may be after the Council has adopted as a method of rating for the purpose of the district rate a flat rate or graduated rate upon the area of land, the Council shall cause to be prepared an area roll of all rateable property in the district, which shall show in respect of each property—

- (a) the name and address of the owner ;
- (b) the description and situation of the property ;
- (c) the area of the land in acres.

(2) Where the method of rating adopted is that of a graduated rate upon the area of land, all land within the district defined herein as rateable property shall be classified by the Council according to the purposes for which it is used, or, in the case of unused land, according to the purposes for which it is suitable, and particulars of such classification shall be shown in the area roll. For the purposes of this sub-section land shall, in the first place, be classified as either agricultural land or pastoral land ; and agricultural land shall be classified further under headings which shall indicate its character, and relative unimproved value.

Powers of
Council for
compilation
of area roll.

85. For the purpose of compiling the area roll, the Council or any person authorised by the Council shall have all the powers conferred upon valuers by section 77 of this Ordinance, and all the provisions of the said section shall *mutatis mutandis* apply.

Provisional
area roll ;
inspection and
objections.

86. (1) When the area roll has been completed it shall lie at the office of the Council for public inspection, and any person may at all reasonable times inspect the same and take

copies or extracts therefrom. The Council shall by notice published in the Gazette and in one or more newspapers (if any) circulating in the district, call upon all persons interested to lodge in writing with the clerk, within a specified time not less than one month from the first publication of such notice, statements of any objections they may have in respect of the classification of any rateable property shown in the area roll, or in respect of the omission therefrom of property alleged to be rateable property and whether held by the person objecting or by others, or in respect of any other error, omission, or misdescription.

(2) After the expiration of the period specified in such notice, the Council shall inquire into all objections received and shall make such alterations and amendments to the area roll as they may deem necessary, and the chairman shall then sign and certify the area roll, and shall cause to be inserted once in the Gazette and in one or more newspapers (if any) circulating in the district not less than twice within a period of two weeks, an advertisement informing all persons interested of the completion of the area roll, and that the same will become fixed and binding upon all parties concerned who shall not before a date fixed in such advertisement, not being less than one month from the date of the first publication thereof, appeal from the decision of the Council in manner provided in the next succeeding sub-section.

(3) It shall be lawful for any person who feels himself aggrieved by the classification or area fixed in respect of any property owned or occupied by him to appeal within the period of one month aforesaid against the decision of the Council to the court of the Magistrate having jurisdiction within the district, and the decision of such court shall be final and conclusive.

87. Notwithstanding anything in this Ordinance contained, it shall be lawful for the Council from time to time and at any time—

Powers to
remit rates
and amend
area roll.

- (1) to remit any rate imposed on any rateable property in such cases as may be approved by the Governor in Council;
- (2) to cause any rateable property omitted from the area roll or new rateable property to be added to the area roll and to classify any such rateable property in terms of section 84 of this Ordinance; and to cause the current rate to be collected in respect thereof;

- (3) to amend the area roll in respect of any rateable property which is sub-divided and to cause any rate in respect thereof to be assessed and collected according to such sub-division ;
- (4) to amend the area roll from time to time in any case where some clerical error or some error as to the name of the owner has been made in such roll, and to cause any rate due in respect thereof to be collected according to the corrected roll ;
- (5) to remove from the area roll any property which shall at any time cease to be rateable property ;
- (6) to amend the classification of any rateable property when such shall at any time be necessary, and to cause any rate due in respect thereof to be collected according to the corrected classification :

Provided that—

- (i) upon the making of any addition or alteration to the area roll the same forms shall be observed and the same proceedings taken as nearly as can be *mutatis mutandis* as are hereinbefore set forth with regard to the preparation of the roll in the first instance except that in the discretion of the Council the prescribed notices may be served in writing upon the person interested instead of being published as aforesaid ;
- (ii) every such addition or other alteration shall be subject to any objection made thereto by any interested persons and to the same right of appeal as is provided for in the last preceding section of this Ordinance.

Imposition of
flat rate.

88. Subject to the provisions of section 73 of this Ordinance, the Council may by resolution passed by a majority of the elected members of the Council impose a flat rate per acre for each financial year upon all rateable property as shown by the area roll of such amount as the Council shall determine :

Provided that no such rate shall exceed 10 cents per acre in any one financial year without the sanction of the Governor in Council.

Imposition of
graduated rate.

89. (1) Subject to the provisions of section 73 of this Ordinance, the Council may, by resolution passed by a majority of the elected members of the Council, impose for each financial

year upon all rateable property as shown by the area roll a graduated rate of such amount per acre in respect of each class of land shown by the area roll as the Council shall determine.

(2) In fixing the rates per acre chargeable in respect of the different classes of land, the Council shall be guided by the relative unimproved values of such different classes of land throughout the district at the time the rates are imposed.

(3) No such rate shall in any one financial year exceed in the aggregate the amount which would be produced by a uniform rate of 10 cents per acre over the whole of the district without the sanction of the Governor in Council.

THE DISTRICT RATE.—GENERAL PROVISIONS.

90. No valuation contained in any valuation roll framed under this Ordinance, and no area or classification of land contained in any area roll framed under this Ordinance, and no rate based upon any such valuation roll or such area roll, shall be rendered void or be affected by reason of any mistake or variance in the description of any rateable property or in the name of the owner thereof; and no valuation roll or area roll made up and authenticated in terms of this Ordinance shall be capable of being challenged or set aside by reason of any informality.

Valuation on area roll not to be challenged or set aside.

91. Subject to the consent of the Governor in Council, where the district has been divided into road areas under section 4 of this Ordinance, any district rate which the Council has power to impose may be imposed as a separate rate within each such road area and the amount of the rate may be fixed independently for each such road area according to the expenditure necessary therein:

Power to impose separate rates in district road areas.

Provided that nothing in this section shall be deemed to prevent the Council imposing a district rate over the whole of such district in addition to any separate rates imposed within such road areas.

And provided further that the total district rates imposed within any part of the district shall not exceed the maximum fixed by this Ordinance without the consent of the Governor in Council.

92. Every rate imposed by the Council shall become due and payable upon a day to be fixed by it, of which day and of the amount of which rate the Council shall give at least thirty days' notice by advertisement in the Gazette and in some newspaper (if any) circulating in the district:

Notice of rates.

Provided that every rate shall become due and payable within the financial year for which or for part of which it is imposed.

Payment of rates.

93. (1) Whenever the Council shall have given such notice as aforesaid of the day upon which such rate will become due and payable, it shall be the duty of all persons liable for such rate to pay the amount thereof at the offices of the Council, failing which proceedings may be taken as hereinafter provided

(2) It shall be competent for the Council to allow discount, not, however exceeding two-and-a-half per centum, on any rates paid on or before the date on which such rates become due and payable under the last preceding section.

(3) The Council shall be empowered to charge and collect interest on arrear assessment rates at a rate not exceeding one per centum per month.

Enforcement of payment of rates.

94. If after the time fixed for the payment of any such rate as aforesaid any person fails to pay any rate due by him, it shall be competent for the Council to cause a printed or written demand to be made upon such person to pay the amount stated in such demand within fourteen days after service thereof. And in case any person who shall have had such demand delivered to him personally or left at his ordinary place of residence or place of business or office shall make default, it shall be competent for the Council to apply to the magistrate having jurisdiction within the district for a summary warrant to recover such rates from the persons liable to pay the same, which warrant the said magistrate shall grant on production of a list of the names and addresses of the persons so in default, and the amount due by them, with a certificate by the clerk that they have been severally required to make payment of the said rates by notice as aforesaid, and that such rates are due by them and do not exceed the maximum rates fixed by or under this Ordinance; and every such warrant shall contain every authority and be executed in all respects as though it were a writ of execution issued out of the Court of the said magistrate.

Recovery of rates.

95. Notwithstanding the provisions of the last preceding section, the Council may at its discretion, after the time fixed for the payment of any such rates as aforesaid, recover from the person in default (without further notice or demand) the

amount of the rates due by such person, irrespective of the amount thereof, by action in the Court of the magistrate having jurisdiction within the district whether the person liable for the same shall be resident within the jurisdiction of such Court or not. In case it shall not be possible to effect service of summons within the limits of the jurisdiction of such Court as aforesaid, then such service shall be effected in such manner as the said Court shall direct.

96. In case any person liable to pay any rate and who shall be in default as regards payment thereof shall not be resident within the jurisdiction of the Court of the magistrate of the district, it shall be lawful for the Council at its option to make the demand referred to in section 94 hereof upon, or to take proceedings under section 95 hereof against, any person receiving any rents or profits of the rateable property in respect of which such rate is unpaid, or who would receive the same if such rateable property were let or occupied.

Proceedings
against persons
liable for rates.

97. When any rate imposed upon any owners of rateable property shall remain unpaid for a period of three months after the date on which such rate shall have been fixed to become due and payable, the Council may, at any time within twelve months after the imposing of the rate, demand the amount of such rate or any part thereof from any tenant or occupier for the time being of such rateable property, to the extent of any rent due and payable by the tenant at the date of the demand, and on non-payment thereof may, after one month from the date of such demand, recover the same from such tenant or occupier in the same manner as though he were the owner; and every such tenant or occupier shall be entitled to deduct from any rent or other amount payable by him to such owner or his successors in title, so much as was so paid by or recovered from him, and the production of the receipt for such rates so paid by or recovered from such tenant or occupier shall be a good and sufficient discharge for the amount so paid or recovered as payment of rent or other amount.

Proceedings for
recovery of
rates unpaid
for three
months.

98. In any proceedings to impose or recover rates or consequent on the imposing or recovering of any rates, as well as in all other proceedings under the provisions of this Ordinance, the valuation rolls, area rolls, and records of the Council and all entries made therein and extracts or certified copies thereof signed by the chairman or clerk, and also all

Evidence.

copies of any newspaper containing any notice necessary to be proved, shall upon production thereof alone be *prima facie* evidence of the imposing of such rate and of the contents thereof without any evidence that the notices required by or other requirements of this Ordinance have been complied with : Provided that it shall be competent for any party to any such proceedings to offer evidence to prove the contrary.

Owner liable
for rates.

99. The person who is the owner of any rateable property at the date when a rate becomes due and payable in respect of such property under section 92 of this Ordinance shall be liable for payment of the amount of such rate, and, in case of joint owners of rateable property they shall be jointly and severally liable for the rate due thereon : Provided that in the case of the owner being absent from the Colony any person receiving the rent or being in charge or control of such property shall be liable.

Application of
rates.

100. The proceeds of the district rate or rates levied under this Ordinance may be applied for and towards any purposes in respect of which the Council is authorised by this Ordinance to incur expenditure.

ADDITIONAL RATING POWERS.

Rate per head
of African
labour.

101. (1) For the purpose of making grants to any hospital or dispensary for the benefit of Africans employed within the district which the Council is empowered by this Ordinance to make, or for meeting the cost of treatment of such Africans in hospitals and dispensaries established by the Council under the provisions of this Ordinance, the Council may, by resolution passed by a majority of at least two-thirds of the elected members of the Council, adopt as an additional method of rating a flat rate per head of Africans employed within the district :

Provided that notice of such resolution shall be given and advertised in the same manner and for the same periods as if such resolution were a resolution to adopt a method of rating for the purposes of a district rate under section 73 of this Ordinance.

(2) When such method of rating has been adopted as aforesaid the Council may from time to time by resolution passed by a majority of the elected members of the Council, impose a rate upon employers of African labour of such amount per head in respect of Africans employed by them as the Council shall determine.

(3) For the purposes of this section "Africans" shall include any casual native labourers and any natives residing on farms under the provisions of the Resident Native Labourers Ordinance, 1925, or any law amending or replacing the same.

(4) The Council may exercise the powers conferred upon it by this section in respect of either—

(a) the district as a whole; or

(b) any part of the district:

Provided that such powers shall not be exercised in respect of part only of the district, without the consent of the Governor.

PART VII.

GENERAL FINANCIAL PROVISIONS.

Revenue and Borrowing Powers.

102. The revenues of the Council shall include— Revenues.

(a) all rates levied by the Council;

(b) one-half of all fines imposed by any competent Court in respect of any contravention of the provisions of this Ordinance or of any by-laws made thereunder;

(c) Government grants;

(d) all other moneys recoverable by the Council or to which the Council is entitled under this Ordinance or any other law.

103. (1) No transfer of any premises within a district shall be passed or registered before any registration officer until a written statement signed and certified by the clerk or other officer authorised thereto by the Council, shall be produced to such registration officer, nor unless such statement shows that all charges (if any) for a period of three years immediately preceding such date due in respect of such premises on account of any rates imposed under this Ordinance have been paid to the Council.

Payment of rates before transfer of premises.

(2) The Clerk or other officer authorised thereto by the Council is hereby required to give the said statement on the demand of the owner of the premises or his attorney or agent, upon payment by him of all charges due as aforesaid and of a charge to be fixed by resolution of the Council not to exceed two shillings for each such statement.

Basic road grant.

104. There shall be paid to the Council from the general revenue of the Colony an annual grant (herein called the "basic road grant") which shall be fixed by the Governor in Council, and which shall be calculated in the following manner:—

- (1) There shall be taken a sum equal to the amount provided in the Annual and Supplementary Estimates of the Colony for the financial year 1927 for the maintenance and improvement of all roads within the district which shall be classified under section 58 of this Ordinance as district roads:

Provided that such sum may be increased by such amount as the Governor in Council with the advice of the Central Roads Board may deem necessary if it shall appear that no or insufficient provision was made in such estimates for the maintenance of any district roads for which the Council will become responsible at the date of its constitution, or which, though not constructed at such date were approved prior to such date for construction from loan funds.

- (2) There shall be added to such sum an amount equal to twenty-five per centum thereof, or such larger amount as the Governor in Council shall deem necessary for the purpose of enabling the Council to employ the necessary staff, to maintain the necessary plant and equipment and generally to carry out the duties and obligations placed upon the Council under this Ordinance in respect of roads.

Additional road grants.

105. (1) Additional road grants may also be paid from the general revenue of the Colony to the Council in respect of expenditure in any financial year on account of—

- (a) construction and maintenance of new district roads;
- (b) improvement of existing district roads;
- (c) new permanent bridges or other special works in connection with district roads.

(2) Every application for a grant under this section shall be forwarded to the Commissioner for Local Government and shall show details of the works proposed, the estimated cost

thereof, the proportion of such cost which it is proposed to meet from such grant and any other information which may be required.

106. There shall be paid to the Council from the public revenues of the Colony all sums derived by Government from the taxation of vehicles (not being motor vehicles) belonging to persons having a residence or place or business within the district where such vehicles are ordinarily housed or kept :

Vehicle licences to be paid to the Council.

Provided that the Council may be required to pay to the public revenues of the Colony a collection fee not exceeding five per centum of the amount so payable to the Council.

107. In the case of any Council which shall have been declared a local authority within the meaning of the Public Health Ordinance (Chapter 24 of the Revised Edition) in terms of section 65 of this Ordinance, there shall be payable to the Council from the public revenues of the Colony—

Public health grants.

- (1) a sum equal to one-half of the annual emoluments of the Medical Officer of Health and of all qualified Sanitary Inspectors appointed in accordance with the provisions of this Ordinance ;
- (2) a sum equal to one-half of any expenditure incurred by the Council in connection with outbreaks of infectious diseases and such proportion, if any, of other expenditure in connection with measures taken for the purpose of promoting and maintaining the public health as the Governor in Council may determine, subject, however, to approval by the Governor of the details of such expenditure.

108. The Governor may at any time make advances to the Council in respect of any grants payable or to become payable under this Ordinance, and any such advances shall be free of interest and shall be deducted from the grants when paid :

Governor may make advances on account of grants.

Provided that no such advance shall be made in any financial year in respect of grants for a succeeding financial year.

109. (1) The Council may from time to time, by a majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not

Borrowing powers.

be less than a majority of the whole Council, raise loans in such amounts and on such conditions as may be allowed by the Governor in Council with the approval of the Secretary of State.

(2) Such loans shall be secured on the property and revenues of the Council, including any lands which may be specially placed at the disposal of the Council under the provisions of any law : Provided, however, that this sub-section shall not be deemed to confer any power to alienate such lands other than is conferred by such law.

(3) If at any time any interest due on any loan shall remain unpaid for three months after demand therefor in writing has been lodged with the clerk by the person entitled thereto or by his duly authorised representative, application may be made by such person or his representative to the Supreme Court for the appointment of a receiver of the property and revenues on which the loan is secured.

(4) On the hearing of such application the Court may make such order and give such directions as under the circumstances shall seem expedient for the raising and payment of the moneys due. In particular, the Court may order that a district rate or rates of such amount or amounts as it may fix be levied upon all rateable property within the district; and such rate so ordered shall have the same incidence as any rate imposed by the Council and may be enforced in like manner, and the proceeds thereof shall be paid into Court or otherwise as the Court shall direct.

(5) If at any time default be made in the repayment of any loan or of any instalment thereof after a period of thirty days from the date on which such loan or instalment shall have become repayable, the like proceedings may be instituted on the application of the person to whom such repayment shall be due or his duly authorised representative.

(6) The Court, on such application, in addition to any order which it is empowered to make under sub-section (4) of this section, may, if it shall think fit, order the sale of any property on which the loan may be secured, subject always to the provisions of any law as regards the alienation of any lands vested in the Council under such law.

**Financial year
statement of
accounts.**

110. (1) For the purposes of this Ordinance the financial year shall be the twelve months ending on and including the thirty-first day of December of each and every year.

(2) The accounts of the Council shall, as soon as may be, be balanced for the preceding financial year and an annual statement or abstract thereof shall be prepared. Copies of such annual statement or abstract, and of the inspector's report made under section 116 of this Ordinance shall be laid before the Council not later than its first ordinary meeting in the month of May following, and shall be delivered to any inhabitant of the district on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) Such annual statement or abstract shall be prepared in such form and shall contain such information as the Commissioner for Local Government may require, and such portions thereof or extracts therefrom, together with such portions or extracts from the inspector's report, as the Commissioner for Local Government may direct, shall be published in one or more newspapers (if any) circulating in the district.

111. (1) Not less than one month before the expiry of any financial year the Council shall approve detailed estimates of the revenue and expenditure of the Council for the next financial year. Annual estimates to be framed by the Council.

(2) A summary of such annual estimates shall be published in the Gazette and in one or more newspaper (if any) circulating in the district at least fourteen days prior to the date of the meeting of Council at which such estimates are presented for the approval of the Council, and a copy of such annual estimates shall be delivered to any inhabitant of the district on application and on payment of the fee, if any, prescribed by resolution of the Council.

(3) The Council shall, before the commencement of each financial year, submit a copy of such annual estimates as approved by the Council to the Commissioner for Local Government for approval by the Governor in Council, and when so approved an abstract thereof shall be published in the Gazette. The Council shall not incur any expenditure which has not been included in such approved estimates except with the sanction of the Governor in Council :

Provided that reallocations of expenditure within the limits of the approved estimates which shall not increase or decrease any one item of expenditure by more than one hundred pounds may be made by the Council.

(4) For the purpose of approval under the last preceding sub-section estimates shall be prepared in such form and shall contain such detailed information as the Commissioner for Local Government may require.

(5) A copy of all estimates approved in accordance with this section shall be recorded in the minutes of the Council.

**Advances from
Government
and overdrafts**

112. (1) The Council may from time to time obtain from Government advances of moneys required for the proper carrying out of the provisions of this Ordinance.

(2) The Council may obtain advances from any bank by way of overdraft in such amounts and on such conditions as may be approved by the Governor.

(3) All moneys so advanced, and the interest thereon (if any), shall constitute a liability of the Council and shall be a charge on the property and revenues, present and future, of the Council; and the provisions of the last preceding section for the security of such advances and for the recovery thereof shall apply in all respects as if such advances were loans raised under the provisions of the said section.

**Illegal
borrowing.**

113. Save when any loan or advance by way of overdraft has been authorised as aforesaid, no person or bank lending money to the Council shall have any remedy or right whatsoever to recover such loan or advance from the Council: Provided that, if the Council borrows any money which it is not legally bound to repay, all the members who have joined in authorising the borrowing of such money shall be jointly and severally liable to repay the amount so borrowed and all interest thereon, and the same may be recovered from them by action in any competent Court.

**Depreciation
regulations.**

114. (1) It shall be the duty of the Council to frame regulations providing for the annual setting aside by the Council of amounts to create adequate reserve funds to provide for the entire or partial replacement of assets of the Council which owing to the depreciation or other cause will require at some future date to be replaced, and providing for the investment of such funds. Such regulations shall be submitted for the approval of the Standing Committee who may approve the same with or without modification, and, when approved, shall be published in the Gazette: Provided that if the Council

shall fail to frame such regulations and to submit the same for approval as aforesaid within a period of twelve months from the date on which the Governor shall require the Council so to do, such regulations may be made by the Governor.

(2) The Council shall pay annually out of its revenues into the reserve funds so created such contributions as are required by regulations made under this section, and no such moneys or any part thereof shall, without the sanction of the Governor in Council, be used either permanently or temporarily for any purpose other than the purposes for which they have been contributed. All interest or other revenues derived from such reserve funds shall be paid into and become part of such funds.

Accounts and Audit.

115. (1) The Council shall cause proper books and accounts to be provided and true and regular records to be entered therein of all transactions of the Council, and such books and accounts shall be open to the inspection of any member of the Council, ratepayer or creditor of the district, without fee or reward. Any such person may make copies of or extracts from such books or accounts.

Accounts to
be kept.

(2) Where the district rate is imposed as a separate rate within each road area in terms of section 91 of this Ordinance the Council shall cause separate accounts of the revenue and expenditure of each such road area to be kept.

(3) All such books and accounts shall, in order to provide for the production of comparative statements of revenue, expenditure, cost, and general uniformity in the accounts of district Councils, be kept in such form and manner as the Commissioner for Local Government may direct.

116. (1) The Governor shall appoint one or more persons, being officers of the public service, from time to time to inspect, examine and report upon the accounts and records of the Council, and the Council shall, by the clerk or other officer authorised by the Council, produce and lay before the person or persons so appointed (in this Ordinance referred to as "the inspector") all books and accounts of the district together with all vouchers, papers and writings relating thereto.

Audit of the
accounts, etc.,
of the Council.

(2) It shall be the duty of the inspector to certify, not less than once in each financial year, whether or not—

- (a) the accounts of the Council are in order;
- (b) the accounts issued present a true and correct view of the financial position of the Council and of its transactions;
- (c) due provision has been made on account of redemption and repayment of all moneys borrowed by the Council;
- (d) the value of the assets of the Council has been fairly stated;
- (e) the amounts set aside for depreciation and renewal of the assets of the district are adequate and in accordance with regulations framed under section 114;
- (f) all his requirements and recommendations have been complied with and carried out.

(3) The inspector in his report shall state his opinions and observations upon all questions arising out of the certificate given by him under the last preceding sub-section, and upon all matters affecting the economical and efficient administration and conduct of services which in his opinion call for special notice, and shall in such report draw attention to all cases in which it shall appear to him that the provisions of this Ordinance or any other law have not been carried out or that any acts, matters or things have been performed or carried out without due authority.

(4) The clerk shall, immediately upon the receipt of the inspection report or reports or copies thereof, submit the same to the chairman of the Council and thereafter shall lay the same before the Council at its next ensuing meeting.

Inspector's
power to
charge.

117. (1) The inspector shall disallow every payment made without due authority according to law, and shall surcharge the same on the person or persons making or authorising the illegal payment, and shall charge against any person or persons responsible therefor the amount of any deficiency or loss occasioned by the negligence or misconduct of such person or persons or of any sum which ought to have been brought to account by any such person or persons, and shall in every case certify the amount due from such person or persons.

(2) For the purposes of this section the pecuniary responsibility for a surcharge in respect of any illegal payment shall rest upon the Treasurer or other official making the

payment, except where payment is made upon instructions (recorded in the minutes or in writing) from the Council or from any committee or member of the Council, given after the irregularity has been pointed out; and the pecuniary responsibility for a surcharge in respect of any such illegal payment when such payment is made upon such instructions aforesaid shall rest upon the person or persons giving or joining in giving such instructions. Any member shall be deemed to have joined in giving such instructions if he shall not cause his vote against the resolution to be recorded in the minutes.

(3) An appeal shall lie to the Supreme Court from any decision of the inspector under this section, or the person surcharged may, in lieu of such appeal, appeal to the Governor in Council, whose decision shall be final.

(4) Every sum certified by the inspector, or found on appeal, to be due from any person under this section shall be paid into the fund from which it was taken within thirty days from the date of the inspector's certificate or decision on appeal, as the case may be, and if such sum is not so paid the inspector shall recover the same from the person surcharged in any competent court, and shall be paid by the Council his reasonable costs and expenses in such proceedings.

(5) In any proceedings for the recovery of such sum the inspector's certificate shall be conclusive evidence that the sum is due and payable by the person charged.

(6) On the production of such certificate the Court shall give a decree for the sum sued for, and every such decree shall have the effect of a decree under the Civil Procedure Ordinance, 1924, and any rules made thereunder.

118. (1) For the purpose of any examination under the provisions of section 116, the inspector may hear and receive evidence and examine witnesses upon oath or affirmation (which oath or affirmation the inspector is hereby empowered to administer), and may, by summons under his hand, require all such persons as he may think fit to appear personally before him at a time and place to be stated in such summons and to produce all such books and papers (including the minutes of the proceedings of the Council or of any committee thereof) as may be necessary for such examination.

**Powers of
inspector to
take evidence.**

(2) Any person so required who, without reasonable excuse—

- (a) neglects or refuses to comply with the terms of such summons; or
- (b) having appeared, refuses to be examined on oath or affirmation or to take such oath or affirmation; or
- (c) having taken such oath or affirmation, refuses to answer such questions as are put to him,

shall be guilty of an offence and shall be liable, for every such neglect or refusal, to a fine not exceeding thirty pounds or to imprisonment for a period not exceeding six months.

PART VIII.

CENTRAL ORGANISATION.

Functions of Standing Committee.

119. (1) There shall be established a Standing Departmental Committee for local government in rural areas (in this Ordinance referred to as "the Standing Committee") to perform the duties imposed upon it by this Ordinance or by any other enactment relating to local government for the time being in force.

(2) The Standing Committee shall consist of :—

- (a) the Colonial Secretary as Chairman;
- (b) the Commissioner for Local Government as Deputy Chairman;
- (c) the Director of Medical and Sanitary Services;
- (d) the Director of Public Works;
- (e) the Attorney General;

and such other person or persons as the Governor may from time to time appoint :

Provided that in case of absence or inability to attend any of the officers included under paragraphs (c), (d) and (e) above may be represented by deputy.

(3) At any meeting of the Standing Committee, the member presiding and three other members shall form a quorum, and in the absence of both the Chairman and the Deputy Chairman, the members present shall elect one of their number to preside at such meeting.

(4) The Standing Committee shall, in addition to any other duties which may be placed upon it under this Ordinance or any other law, advise the Governor and the Governor in Council upon all matters in regard to which the approval of the Governor or Governor in Council is required under this Ordinance or in regard to which the Governor or the Governor in Council is empowered to make rules, regulations or by-laws under this Ordinance, or upon any matters which may be submitted to it for advice by its Chairman.

(5) There shall be an appeal from any decision of the Standing Committee under this Ordinance to the Governor in Council whose decision shall be final.

(6) None of the powers conferred by this Ordinance shall in any case be exercised in a way inconsistent with or repugnant to any of the principles, directions or prohibitions laid down in any Letters Patent, Royal Instructions, or Orders in Council, issued by His Majesty the King or by His Majesty the King in Council as the case may be.

120. The Governor may at any time require any officer of Government to conduct or cause to be conducted such investigations, researches and inquiries as the Governor may deem necessary for any purpose of this Ordinance or for assisting any Council in the carrying out of its duties under this Ordinance and generally for promoting the efficiency of local government in rural areas: and all necessary facilities shall be given by any Council to the Officer conducting any such investigations, researches and inquiries. **Inquiries.**

121. (1) It shall be the duty of every Council constituted by or under this Ordinance to render to the Commissioner for Local Government, not later than the thirty-first day of March in each year, a report of the work of the Council and of the affairs of the district for the preceding financial year. **Reports to be rendered by Council.**

(2) Such report shall be rendered in such form as may be directed by the Commissioner for Local Government, and shall be accompanied by such statistics as the Commissioner may require.

(3) A copy of such report shall be delivered by the Clerk to any inhabitant of the district on application and on payment of the fee, if any, prescribed by resolution of the Council.

Minutes, etc.,
of Council to
be furnished.

122. (1) It shall be the duty of every Council to furnish to the Commissioner for Local Government a certified copy of any record or minutes of its proceedings and of the proceedings of any committee appointed by the Council and of a record of any accounts of the Council and such reports, statistics and documents as the Commissioner for Local Government may from time to time require.

(2) Minutes of the proceedings of each meeting of the Council or of a committee thereof shall be forwarded within ten days after the date upon which such minutes were confirmed as prescribed by this Ordinance or any by-law made thereunder.

General report
to be rendered
to the
Governor by
the
Commissioner.

123. It shall be the duty of the Commissioner for Local Government to render to the Governor, not later than the thirtieth day of June in each year, a comprehensive report upon the affairs and activities of all Councils constituted by or under this Ordinance.

Functions of
Central Roads
Board.

124. (1) It shall be the duty of the Central Roads Board established under the Local Government (Municipalities) Ordinance, 1928, to advise the Governor upon the following matters :—

- (a) The grants payable from the general revenue of the Colony under sections 104 and 105 of this Ordinance in respect of roads;
- (b) The classification of roads in respect of which such grants are payable;
- (c) All other matters concerning roads in districts.

(2) The Central Roads Board shall control any plant which may be placed at its disposal for the purpose of hire to any Council and shall prescribe charges for the hire of such plant, and shall do all other things necessary in regard to the conditions of hiring such plant.

PART IX.

SPECIAL POWERS OF THE GOVERNOR.

Governor's
powers of
nomination in
certain
circumstances.

125. (1) Pending the first election of members of the Council for any district constituted by or under the provisions of this Ordinance, the Governor may, by proclamation, nominate and appoint such number of fit and proper persons as he shall select, not being less than ten, to form a Council with jurisdiction over any area which under this Ordinance—

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- (a) has been constituted a district; or
- (b) has been severed from a district (of which it formed part) and constituted a separate district.

(2) Every such nominated Council shall exercise all or any of the powers and authorities and shall carry out the duties conferred or imposed on a Council by this Ordinance or under any other enactment, and shall be subject to the obligations attaching to the exercise thereof.

(3) The period of office of every such nominated Council shall be from the date of the proclamation aforesaid until the date upon which a Council shall be duly constituted in accordance with the provisions of this Ordinance; and upon such latter date such nominated Council shall be deemed to be dissolved.

(4) Whenever any area has been severed from a district and constituted a separate district as aforesaid, the Governor may, by proclamation, declare that all by-laws which at the date of such severance were operative in such area shall, notwithstanding such severance, continue to have full force and effect in the said separate district until altered or revoked under and in accordance with the provisions of this Ordinance.

126. If any Council shall at any time neglect to hold a meeting for the space of six months, the Governor may dissolve such Council and may, by proclamation, nominate and appoint other fit and proper persons, not being less than three in number, to form a Council for the purpose of this Ordinance, and every such nominated Council shall be competent and is hereby required to exercise all the powers and authorities vested in the Council which has been dissolved.

Power to
dissolve
Councils.

127. If at any time it shall appear that the revenues of a Council are not being properly used in the best interests of the district as a whole, or that the administration of the affairs of the Council is wasteful or inefficient, or that the Council has failed to act in conformity with the provisions of this Ordinance, the Governor in Council may, on the recommendation of the Standing Committee, and after such inquiry as he may deem necessary (at which inquiry the Council shall be heard),

Power to
reduce
Government
contributions
in certain
circumstances.

- (a) reduce the road grants payable under sections 104 and 105 of this Ordinance for the next succeeding financial year by such amount as he shall determine;
or

- (b) dissolve such Council and, by Proclamation, nominate or appoint other fit and proper persons not being less than three in number to form a Council for the same purposes and with the same powers as are provided for in section 126 of this Ordinance :

Provided that any reduction of the road grant as aforesaid shall be notified to the Council within one month after the commencement of the financial year in respect of which such grants are payable.

PART X.

LEGAL PROCEDURE AND MISCELLANEOUS.

Legal Procedure.

Arbitration.

128. (1) Where any matter is by this Ordinance directed to be determined by arbitration such matter shall, except as may be otherwise expressly provided, be determined by a fit person as arbitrator, to be agreed upon by the parties to the arbitration, or, failing such agreement by the parties, to be nominated by the Commissioner for Local Government on the application of either party.

(2) The expenses of any such arbitration shall be borne and paid as the arbitrator may direct.

General penalties.

129. Every person who is guilty of any offence against this Ordinance or any by-law in force within any district shall, for every such offence, be liable to the penalty expressly prescribed by this Ordinance or by such by-law and, if no such penalty be prescribed, then to a fine not exceeding ten pounds.

Recovery of penalties.

130. All fines, penalties or other moneys payable in respect of any offence against this Ordinance or any by-law in force within any district may be recovered before any court of competent jurisdiction.

Default in payment of fines.

131. Save as in this Ordinance is otherwise expressly provided, whenever any fine shall have been imposed under the provisions of this Ordinance or of any by-law in force within any district, and the person convicted shall not forthwith pay the same, the court imposing the fine may direct that such person shall suffer imprisonment of either description for a period not exceeding one month if the fine does not exceed ten pounds, or for a period not exceeding three months if the fine exceeds ten pounds, and such person shall suffer imprisonment accordingly unless he shall sooner pay the fine.

132. All fines recovered in respect of offences against the provisions of this Ordinance or of any other by-law shall be paid as to one-half into the revenues of the Council and as to the remaining one-half into the general revenue of the Colony.

Appropriations
of penalties.

133. The Clerk or any other person authorised thereto by the Council may prosecute in subordinate courts for all contraventions of this Ordinance or of any by-laws, and the provisions of any law relating to prosecutions by private persons shall apply to all such prosecutions.

Conduct of
prosecutions.

134. Any police officer may arrest without warrant any person who commits any offence against this Ordinance or any by-law in force within any district, and any officer of the Council in uniform or wearing a visible badge of office and authorised thereto in writing by the Council may arrest without warrant any person who in his presence commits any such offence and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law :

Powers of
arrest.

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of the person offending, he could not be found or made answerable to justice without delay, trouble or expense.

135. When any matter or thing is by this Ordinance, or by any order or notice made and published under the authority thereof, directed or prohibited to be done, or where any authority is given by this Ordinance to any person to direct or prohibit any matter or thing to be done, and such act so directed to be done remains undone or such act so prohibited to be done is done, then in every such case every person offending against such direction or prohibition shall be deemed to be guilty of an offence against this Ordinance.

Persons
offending
against order
or notice to be
deemed guilty
of an offence.

136. The books and registers of any Council and any extracts therefrom certified by the Clerk or other officer authorised thereto by such Council shall in any proceedings for the recovery of any rates or charges for any service be *prima facie* evidence of the amounts so due.

Books of
Council to be
prima facie
evidence on
sums due.

Contraventions
of Ordinance
or by-law by
company or
partnership.

137. If any contravention of this Ordinance or of any by-law is committed by a company or partnership, every director, manager, secretary or person having the management or control, in the Colony, of the business or property in the case of a company, and every such person and each partner in the case of a partnership, shall be responsible therefor, and shall be liable to the punishment prescribed for such contravention :

Provided that nothing in this section shall be deemed to exempt from liability any other person guilty of any such contravention.

Actions
against a
Council.

138. All actions against any Council shall be brought within twelve months from the date upon which the causes of such actions arose, and all such costs, charges and expenses as the Council may be put to or may become chargeable with by reason of the prosecution or defence of any such action or under the judgment of any court shall be paid out of the revenues of the Council.

Miscellaneous.

Power of
officers to
enter premises.

139. (1) Any Council or any officer of any Council duly authorised in writing may, at all reasonable times, enter into or upon any premises within the district for the purpose of exercising any power of inspection, inquiry, or execution of works which is given to the Council under this Ordinance or by any by-law or regulation in force within the district,

(2) The Medical Officer of Health or any sanitary inspector may, when entering into or upon any premises in exercise of the powers conferred by this section, be accompanied by an European member of the police force.

(3) Any by-law made under this Ordinance may confer on the Council its officers and servants, such powers of inspection, inquiry, and execution of works as may be reasonably necessary for the proper carrying out or enforcement thereof.

Obstructing
officers.

140. The following persons shall be liable to a fine not exceeding twenty pounds or to imprisonment of either description for a period not exceeding three months :—

- (a) Any person who wilfully obstructs any member of any Council or any officer or servant of a Council in the execution of his duty as such ;

- (b) Any occupier of premises who prevents the owner of such premises from complying with any of the requirements of a Council;
- (c) Any occupier of premises who, on demand, refuses or wilfully omits to disclose or wilfully misstates the name of the owner of such premises;
- (d) Any person who refuses to answer to the best of his ability or knowingly makes false answers to inquiries made by the Medical Officer of Health or any sanitary inspectors specially authorised by him in writing for the purpose of discovering cases of any infectious disease or possible sources of infection of any such disease.

141. Nothing in this Ordinance shall be deemed to override the provisions of the Public Health Ordinance or any Ordinance amending or replacing the same. Saving of
Public Health
Ordinance.

142. The Governor in Council may make Rules for the purpose of exercising adequate control over works carried out under this Ordinance, the cost of which is met either wholly or partly from Government grants, and more especially in regard to the following :— Power to
make Rules.

- (1) For providing for the making of investigations and surveys by Government officers in connection with such works;
- (2) For providing for the inspection of such works under construction, and defining the powers and duties of inspecting officers;
- (3) For providing for the adoption by District Councils of standardised designs and specifications for such works, and for materials used in the construction thereof;
- (4) For providing for the adoption by District Councils of standardised contract documents to be used in connection with such works;
- (5) For providing for the methods to be adopted for the purchase by District Councils of goods and materials required for such works.
- (6) For the sanctioning and giving binding effect to any scheme for the provision of hospitals and dispensaries, and generally for regulating the establishment of hospitals and dispensaries.

Date of Assent.

[8TH OCTOBER, 1928.]

An Ordinance to Amend the Public Health Ordinance.

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.

1. This Ordinance may be cited as “ the Public Health (Amendment) Ordinance, 1928,” and shall be read as one with the Public Health Ordinance (Chapter 124 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Definition of local authority.

2. Section 3 of the Principal Ordinance is hereby amended by the deletion of the definition of the term “ Local Authority ” and by the substitution therefor of the following :—

“ ‘ Local Authority ’ means :—

- (a) In the case of the municipality of Nairobi, the Nairobi Municipal Council constituted by the Local Government (Municipalities) Ordinance, 1928 ;
- (b) In the case of the municipality of Mombasa, or such portion thereof as the Governor may, by notice in the Gazette, declare to be under its jurisdiction for the purposes of this Ordinance, the Mombasa Municipal Board constituted by the Local Government (Municipalities) Ordinance, 1928 ;
- (c) In the case of any municipality hereafter established under the jurisdiction of a Municipal Council, the Municipal Council of such municipality as constituted under the provisions of the Local Government (Municipalities) Ordinance, 1928 ;

(d) In the case of any other municipality or any part thereof, such person, body of persons, or authority as the Governor may, by notice in the Gazette, appoint to be the local authority for the purposes of this Ordinance;

(e) In the case of any other area, the District Commissioner, or such person, body of persons, or authority as the Governor may, by notice in the Gazette, appoint to be the local authority for the purposes of this Ordinance."

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

Functions
of Central
Board of
Health.

" 9. The functions of the Central Board of Health shall be to advise the Governor upon all matters affecting the public health and particularly upon all matters mentioned in sub section (2) of section 11 of this Ordinance :

Provided, however, that—

(a) in the case of the municipality of Nairobi; and

(b) in the case of the municipality of Mombasa or such portion thereof as may be placed under the jurisdiction of the Mombasa Municipal Board for the purposes of this Ordinance; and

(c) in the case of any other municipality hereafter established under the jurisdiction of a Municipal Council or Board; and

(d) in the case of such townships as the Governor may, by notice in the Gazette, specify,

the functions of the Central Board of Health shall be and are hereby transferred to and vested in, and shall be performed by, the Standing Committee for Local Government established under the Local Government (Municipalities) Ordinance, 1928 :

Provided, further, that in the case of any district hereafter established under the jurisdiction of a District Council, the functions of the Central Board of Health shall be and are hereby transferred to and vested in, and shall be performed by, the Standing Committee for Local Government in Rural Areas established under the Local Government (District Councils) Ordinance, 1928."

4. This Ordinance shall come into operation upon such date as the Governor may, by notice in the Gazette, appoint.

Date of commencement.

No. 23 OF 1928.

Date of Assent.

[8TH OCTOBER, 1928.]

**An Ordinance to Amend the Immigration
Restriction Ordinance.**

Date of Com-
mencement.*8th October, 1928.*

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 Immigration Restriction (Amendment) Ordinance, 1928," and shall be read as one with the Immigration Restriction Ordinance (Chapter 62 of the Revised Edition) hereinafter referred to as "the Principal Ordinance."

Repeal and
replacement of
section 5 (f) of
Principal
Ordinance.

2. Paragraph (f) of section 5 of the Principal Ordinance is hereby repealed and the following paragraph is substituted therefor :—

- (f) Any person who, in consequence of information received from any trusted source or from any Government, whether British or Foreign, through official or diplomatic channels, is deemed by the Principal Immigration Officer to be an undesirable immigrant;

Provided that every decision of the Principal Immigration Officer under this paragraph shall be subject to the confirmation or otherwise of the Governor in Council, whose decision shall be final.

3. Section 40 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

Repeal and
replacement of
section 40 of
Principal
Ordinance.

“ 40. Notwithstanding anything to the contrary in this Ordinance contained, it shall be lawful for the Immigration Officer to prohibit any person, (not being a person mentioned in section 4), from entering the Colony, unless such person is in possession of a valid passport or other document satisfactorily establishing his identity, issued to him by or on behalf of the Government of which he is a subject and duly visaed or endorsed for the British Empire or the Colony.”

No. XXIV

Trout Protection

1928

No. 24 OF 1928.

Date of Assent.

[8TH OCTOBER, 1928.]

An Ordinance to Provide for the Protection of Trout and the Regulation of Trout Fishing in the Colony.

Date of commencement.

8th October, 1928.

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 Trout Protection Ordinance, 1928.”

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

“ Game Warden ” includes any European member of the Game Warden’s staff and also includes an Honorary Game Warden ;

“ Trout Warden ” means any Honorary Trout Warden ;

“ Forest Officer ” means any European Forest Officer and also includes any Honorary Forest Officer ;

“ Police Officer ” means any European Police Officer ;

“ Licence ” means a Trout Fishing Licence as provided by this Ordinance ;

“ Resident ” means a Non-Native who has satisfied the Senior Commissioner of the Province or the District Commissioner of the District in which he resides that he is a *bona fide* resident in the Colony, and shall include any officer in the public service in the Uganda Protectorate or the Tanganyika Territory or any officer of one of His Majesty’s ships on the East Indies station or

such other officer of His Majesty's forces visiting the Colony on duty but not usually resident in the Colony as the Governor may in each case approve.

" Rod and line " means a single rod and line ;

" Trout " means any fish of the salmon family commonly known as trout and includes eggs and young of trout ;

" Private land " means any land privately owned without a title from the Crown, and any land held or occupied under a conveyance, lease or licence from the Crown : Provided, however, that the said term shall not include land occupied by the members of a native tribe or any land held by virtue of a temporary occupation licence issued under the Crown Lands Ordinance.

3. The Governor may appoint any person to be an Honorary Trout Warden and every person so appointed shall before assuming his duties take an oath before a Magistrate in the following form :—

Honorary
Trout
Wardens.

" I, do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King George the Fifth, His Heirs and Successors and that I will faithfully serve His Majesty in the office of a Trout Warden in the Colony and Protectorate of Kenya according to the laws in that behalf made and provided."

4. Save as provided by this Ordinance, it shall be unlawful for any person—

Protection of
trout against
unauthorised
killing.

- (a) to fish for, capture or kill any trout in any water unless he is authorised by a licence in that behalf in accordance with the provisions of this Ordinance ;
- (b) to be in possession of any trout captured or killed in contravention of any of the provisions of this Ordinance ;
- (c) to fish for, capture or kill any trout in any water unless such water has been declared open for the purposes of trout fishing by the Governor as provided by this Ordinance

Power of
Governor to
declare open
any water
for trout
fishing.

5. The Governor may by notice in the Gazette declare any water in the Colony to be open for the purposes of trout fishing under the provisions of this Ordinance :

Provided that the Governor may by such notice declare any such water to be open for trout fishing in respect of a particular individual, club or association only and in such case it shall be unlawful for any person other than such individual or a member of such club or association to fish for, capture or kill trout in such water, except with the written consent of such individual, club or association.

Method of
capture.

6. Save as in this Ordinance provided, it shall be unlawful for any person to fish for, capture or kill any trout otherwise than with a rod and line held in the hand :

Provided that nothing in this section shall be deemed to prohibit the use of a landing net to remove from the water any trout lawfully taken in accordance with the provisions of this Ordinance.

Special
authority
from
Governor.

7. Notwithstanding anything in this Ordinance contained, the Governor may, in the interests of trout fishing, authorise any person to fish for, kill or capture trout in any manner, in any water and at any time.

Prohibition
of sale of
trout.

8. It shall be unlawful for any person to buy, sell, barter or expose for sale, or have in his possession for sale any trout without the permission of the Governor :

Provided that it shall not be an offence to purchase trout from a person duly authorised to sell the same :

And provided further that this section shall not apply to any person buying, selling or exposing for sale, or having in his possession for sale any trout which has been canned, frozen, cured, salted, pickled, dried or otherwise preserved beyond the limits of the Colony.

Issue of
licences.

9. Trout Fishing Licences may be granted at his discretion by any Senior Commissioner, District Commissioner or Assistant District Commissioner or by any other person authorised in that behalf by the Governor (hereinafter referred to as a "licensing officer").

10. (1) The following Trout Fishing Licences may be granted by any licensing officer and the following fees shall be paid therefor, that is to say :—

Fees payable
for licences.

Visitor's Licences.		Resident's Licences.	
	Shs.		Shs.
(a) Yearly	200	Yearly	25
(b) Fortnightly	80	Fortnightly	10
(c) Twenty-four hourly	25	Twenty-four hourly	3

- (2) (a) A Visitor's Yearly Licence shall be in force for one year from the date of issue;
- (b) A Resident's Yearly Licence shall be in force up to and including the thirty-first day of December in the year of issue;
- (c) A Fortnightly Licence shall be in force for fourteen consecutive days from and including the day on which it is dated to commence by the licensing officer;
- (d) A Twenty-four Hourly Licence shall be in force for twenty-four consecutive hours from and including the hour of the day on which it is dated to commence by the licensing officer.
- (3) Any person holding a visitor's yearly licence and becoming a *bona fide* resident while the licence is in force shall be entitled to a refund of one hundred and seventy-five shillings.
- (4) A fortnightly licence may be converted during the year of its issue into a yearly licence on payment of the difference between the fees for fortnightly and yearly licences.
- (5) The Governor shall have power to remit the fee payable in respect of any licence under this Ordinance.
- (6) In the event of any licensee losing his licence he may apply to the licensing officer who issued such licence for the issue of a duplicate licence, and a fee of two shillings shall be charged by such licensing officer for the issue of such duplicate licence.

11. The Governor may, by notice in the Gazette—

- (1) set a limit to the number of trout that may be taken from any water by any person during any specified period;

Power to
Governor to
prescribe
conditions.

- (2) fix a minimum size below which a trout taken from any water shall be returned thereto : Provided that any trout taken from any water which is below the minimum size fixed by the Governor under this section shall be returned to such water with as little delay and with as little damage to such trout as possible ;
- (3) prescribe the number, form and size of hooks, baits and lures that may be used on any water ;
- (4) prescribe conditions for the better protection of trout, the improvement of trout fishing and the management of any waters in which trout may be found.

Power to call
for licence.

12. (1) Any Magistrate, Justice of the Peace, Game Warden, Trout Warden, Forest Officer, Police Officer or other person authorised in that behalf by the Governor may require any person found fishing for, capturing, killing, or possessing trout or suspected of fishing for, capturing, killing or possessing trout to give his name and address and to produce for inspection his licence and any trout in his possession.

(2) Any person who, being required as aforesaid to give his name and address or to produce his licence or to produce any trout in his possession, shall without reasonable excuse refuse or neglect to comply with such request shall be guilty of an offence against this Ordinance.

Power to
arrest.

13. When any person is seen or found committing an offence or is reasonably suspected of having committed an offence against this Ordinance and such person fails or refuses on demand to give his name and address, or there is reason to believe that the name and address given by him is incorrect, or there is reason to believe that he will abscond, any Magistrate, Justice of the Peace, Police Officer, Game Warden, Trout Warden or Forest Officer may without warrant or other written authority arrest him forthwith.

Power of
seizure.

14. (1) Any Magistrate, Justice of the Peace, Game Warden, Trout Warden, Forest Officer, Police Officer or other person authorised in that behalf by the Governor, may seize any rod, tackle, net, machine, instrument or other appliance which he may have reason to believe is being or has been used in contravention of this Ordinance

(2) Any rod, tackle, net, machine, instrument or other appliance so seized shall be sent without undue delay to the Magistrate having jurisdiction to try the person suspected.

(3) In the event of such person being convicted of such offence the rod, tackle, net, machine, instrument or other appliance may, at the discretion of the Magistrate, be forfeited to Government.

15. Any Magistrate, Justice of the Peace, Game Warden, Trout Warden, Forest Officer, Police Officer or other person authorised in that behalf by the Governor, may enter upon any land for the purpose of preventing or detecting offences against this Ordinance. **Power to enter.**

16. It shall be unlawful for any person to enter upon private land for the purpose of fishing for, capturing or killing trout unless the permission of the owner or his agent or of the occupier of such land shall have been first obtained. **Trespass an offence.**

17. Whenever any person is charged with being in possession of any trout in contravention of the provisions of this Ordinance the onus of proving that such trout have not been obtained in contravention of this Ordinance shall lie upon such person. **Onus of proof.**

18. (1) Any person who commits or attempts to commit or abets the commission of any offence against this Ordinance or contravenes or attempts to contravene or abets the contravention of any provisions of this Ordinance or fails to comply with any provision of this Ordinance shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment of either description for a period not exceeding three months. **Penalties.**

(2) A conviction of a licensee for any offence against the provisions of this Ordinance shall have the effect of cancelling any licence held by him thereunder as from the date of such conviction, unless the Governor shall otherwise direct.

19. (1) Any person who shall be convicted of any offence against the provisions of this Ordinance shall be disqualified from holding any licence under this Ordinance for a period of three years from the date of such conviction, unless the Governor shall otherwise direct. **Disability after conviction.**

(2) Any person who for any reason is unqualified to hold a licence or any particular licence or who has been refused any licence under this Ordinance and who obtains or attempts to obtain such licence without disclosing to the licensing officer such disability or refusal shall be guilty of an offence against this Ordinance.

Rewards to
informers.

20. Where on any conviction for an offence against this Ordinance a fine is imposed, the Court may award any sum not exceeding half the amount of the fine recovered as a reward to any person, not being a person whose duty it is to detect or assist in the detection of offences against this Ordinance, who gave information leading to the conviction.

Saving of
rights granted
by lease.

21. Nothing in this Ordinance shall be deemed to affect any trout fishing rights or privileges expressly conferred upon any person or body of persons by any lease issued to any such person or body by the Crown, prior to the commencement of this Ordinance.

Power of
Governor to
make rules.

22. The Governor may make Rules—

- (a) prescribing the form of any Trout Fishing Licence;
- (b) generally, for the better carrying out of the provisions of this Ordinance.

Saving of
licences in
force under
Rules.

23. Any licence issued under the Trout Protection Rules, 1923, and current at the commencement of this Ordinance, shall be deemed to have been issued under this Ordinance and shall continue in force for the remainder of the period for which it was granted and the holder of such licence shall be subject to the provisions of this Ordinance.

Repeal.

24. Sections 5 and 6 of the Fish Protection Ordinance (Chapter 163 of the Revised Edition) are hereby repealed.

No. 25 OF 1928.

[8TH OCTOBER, 1928.] Date of Assent.

An Ordinance to Amend the Game Ordinance.*8th October, 1928.*Date of Com-
mencement.

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 Game (Amend- Short title
ment) Ordinance, 1928,” and shall be read as one with the
Game Ordinance (Chapter 161 of the Revised Edition), here-
inafter referred to as “ the Principal Ordinance.”

2. Section 2 of the Principal Ordinance is hereby Amendment of
amended by the addition of the following words after the word section 2 of the
“ thereon ” in the definition of “ Private Land ” :— Principal
Ordinance.

“ or any land held by virtue of a Temporary Occupation
Licence issued under the Crown Lands Ordinance.”

3. Section 4 of the Principal Ordinance is hereby Certain animals
repealed and the following section is substituted therefor :— not to be
hunted without
a special licence
or a Governor's
permit.

“ 4. Save as in this Ordinance expressly provided :—

(1) No person unless he is authorised by a special
licence in that behalf or a Governor's permit as provided
by section 25, shall hunt, kill or capture any of the
animals mentioned in Part A of the First Schedule; and

(2) No person, unless he is authorised by a Governor's
permit, as provided by section 25, shall hunt, kill or
capture any of the animals mentioned in Part B of the
First Schedule.”

Amendment of
section 5 of the
Principal
Ordinance.

4. Section 5 of the Principal Ordinance is hereby amended by the deletion of the words "special licence" and the substitution therefor of the words "Governor's permit."

Prohibition of
sale of game
or trophies.

5. The Principal Ordinance is hereby amended by the addition of the following section after section 8 thereof :—

" 8A. Notwithstanding anything in this Ordinance contained, no person shall buy, sell, barter, or exchange, or shall attempt to buy, sell, barter, or exchange any game, alive or dead, or any portion of any game, without the written consent of the Game Warden, which term for the purposes of this section shall not include Assistant Game Warden or honorary Game Warden ;

Provided that nothing in this section contained shall be deemed to prohibit the purchase or the acquisition by barter or exchange of any game alive or dead, or any portion of any game, where written consent to sell, barter or exchange has been obtained in accordance with this section."

Repeal of
section 10 of
the Principal
Ordinance.

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

Amendment of
section 17 of
the Principal
Ordinance.

7. Section 17 of the Principal Ordinance is hereby amended as follows :—

(a) By the deletion of the following :—

" (f) A Game Dealer's Licence ...	£1
(g) A Trophy Dealer's Licence ...	£1."

(b) By the addition of the following :—

" (f) A Serving Officer's Licence ...	£20."
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(c) By the addition of the following sub-section :—

" (9). A serving officer's licence may be issued to any officer on the active list of His Majesty's Navy, Army or Air Forces, and the licensee shall hold such licence on the same terms and conditions as apply to a Visitor's Full Licence :

Provided that any person holding a serving officer's licence and becoming a *bona fide* resident while such licence is in force shall be entitled to a refund of ten pounds."

8. Section 19 of the Principal Ordinance is hereby amended by the deletion of the following words :—

Amendment of
section 19 of
the Principal
Ordinance.

“ Each female animal killed shall count as two except in the case of eland and cheetah.”

9. Section 23 of the Principal Ordinance is hereby repealed.

Repeal of
section 23 of
the Principal
Ordinance.

10. Section 25 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

Governor's
permit.

“ 25. (1) The Governor may, at his discretion, grant to any person a permit (in this Ordinance called ‘ a Governor's Permit ’) to hunt, kill or capture animals of any one or more species mentioned in any of the Schedules, or to hunt, kill or capture any animal or animals in a game reserve.

(2) A Governor's Permit shall be subject to such conditions as the Governor may prescribe.

(3) Save as in this section provided the holder of a Governor's Permit shall be subject to the provisions of this Ordinance.”

11. The Principal Ordinance is hereby amended by the addition of the following section after section 26 :—

Visitor's
private land
rhinoceros
licence

“ 26A. (1) A Senior Commissioner or a District Commissioner may, on the application of the holder of a Visitor's Private Land Licence, grant a special licence authorising such person to hunt, kill or capture one or two rhinoceros. Such special licence shall entitle the licensee to hunt, kill or capture one or two rhinoceros only on private land with the consent of the owner or occupier of such land. There shall be paid for such special licence the same fee as if the special licence was issued under section 26 of this Ordinance.

(2) Such special licence shall expire on the same day as the Visitor's Private Land Licence by virtue of which it shall have been granted.

(3) During the currency of any Visitor's Private Land Licence, the holder thereof may be granted not more than one such special licence : Provided, however, that if such holder has taken out a special licence in respect of

one rhinoceros he may during the currency of that licence be granted a special licence in respect of a second rhinoceros on payment of the same fee as if the special licence was issued under section 26 of this Ordinance."

Original licences
to be endorsed.

12. Section 27 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

" 27. Every person who shall obtain a special licence under either of the last two preceding sections shall produce to the officer granting the same his visitor's, visitor's private land, resident's full or serving officer's licence, and such officer shall endorse thereon the fact of such special licence having been granted and the nature of the licence."

Amendment of
section 28 of
the Principal
Ordinance.

13. Sub-sections (2) and (4) of section 28 of the Principal Ordinance are hereby repealed and the following sub-sections are substituted therefor :—

" (2) Every holder of a visitor's, serving officer's or resident's licence shall keep a register of the game killed or captured by him in the form specified in the Sixth Schedule.

(4) Every holder of a visitor's, serving officer's or resident's licence shall, within fifteen days after the expiration of his licence, or before he leaves the Colony, whichever event occurs first, produce or send to the Game Warden the register of the game killed or captured by him under his licence."

Prohibition of
hunting on
private land
without consent
of owner.

14. Section 31 of the Principal Ordinance is hereby repealed and the following section is substituted therefor :—

" 31. No person shall hunt, kill or capture game on private land without the consent of the owner or his agent or the occupier of such land :

Provided that nothing herein contained shall be deemed to confer any right on any owner or occupier of private land to preserve or cause or permit to be preserved or to purposely accumulate any game on such private land unless such owner or occupier shall have taken such reasonable and adequate precautions as may be necessary for preventing such game from being a nuisance to neighbouring landholders : And provided further that

nothing herein contained shall be deemed to prejudice the right of any aggrieved landholder in any suit which may be brought by him in respect of any damage occasioned by such preserved or accumulated game."

15. Section 34 of the Principal Ordinance is hereby amended by the deletion of the words "who may sell the same."

Amendment of section 34 of the Principal Ordinance.

16. The Principal Ordinance is hereby amended by the addition of the following sections after section 35 :—

Prohibition of hunting, killing or capturing game during hours of darkness.

" 35A. Notwithstanding anything in this Ordinance contained, no person shall hunt, kill or capture any game during the hours of darkness (which, for purposes of this section, shall mean the period commencing half an hour after sunset and ending half an hour before sunrise) without the written consent of the Game Warden :

Provided that nothing in this section shall be held to apply to the hunting, killing or capturing of game on private land with the consent of the owner or occupier thereof, nor to the hunting, killing or capturing of any lion or cheetah within twenty miles of any private land, nor to the hunting, killing or capturing of any game which may be damaging or about to damage property or may be attacking or about to attack any person.

35B. Any person who whilst hunting, killing or capturing game causes unnecessary or undue suffering to any game or wastefully kills any game shall be guilty of an offence against this Ordinance."

Prohibition of unnecessary cruelty and killing

17. Section 44 of the Principal Ordinance is hereby amended as follows :—

Amendment of section 44 of the Principal Ordinance.

(a) By the deletion of the words " If the person convicted is the holder of a licence his licence may be revoked by the court " from sub-section (3) thereof.

(b) By the addition thereto of the following sub-sections :—

" (4) A conviction of a licensee for any offence against the provisions of this Ordinance shall have the effect of cancelling any or all licences or permits held by him thereunder as from the date of such conviction, unless the Governor shall otherwise direct.

Conviction shall have effect of cancelling licences.

(5) Any person who shall be convicted of any offence against this Ordinance or against any law for the time being in force and designed for the preservation of game, in Uganda, Tanganyika or the Sudan, shall be disqualified from holding any licence or permit under this Ordinance for a period of three years from the date of such conviction, unless the Governor shall otherwise direct."

Unqualified
person to hold
licence an
offence.

18. The Principal Ordinance is hereby amended by the addition of the following section after section 45 :—

" 46. Any person who for any reason is unqualified to hold any licence or class of licence, or who has been refused any licence or class of licence under this Ordinance and who obtains or attempts to obtain such licence or class of licence without disclosing to the issuer of the licence such disability or refusal shall be guilty of an offence against this Ordinance."

Amendment of
First Schedule
of the Principal
Ordinance.

19. Part B of the First Schedule to the Principal Ordinance is hereby amended as follows :—

(a) By the insertion of the following words immediately under the word and letter " PART B "—

" Animals which may be hunted, killed or captured only by virtue of a Governor's Permit."

(b) By the deletion of item 2 and the substitution therefor of the following :—

" 2. Greater Kudu (except in the Northern Frontier Province and Turkana District).

Amendment of
Second Schedule
to the Principal
Ordinance.

20. Part A of the Second Schedule is hereby amended by the deletion of the words " special licence " and the substitution therefor of the words " Governor's Permit ".

Amendment of
Third Schedule
to the Principal
Ordinance.

21. The Third Schedule to the Principal Ordinance is hereby amended by the deletion of item 10 and the substitution therefor of the following item :—

" 10. Greater Kudu (*Strepsiceros strepsiceros*)
(male) in Northern Frontier Province and Turkana
District only 1."

No. 26 OF 1928.

[27TH DECEMBER, 1928]. Date of
Assent.**An Ordinance to Provide for the Control of Traffic
on Roads and for the Licensing and Taxation
of Vehicles used thereon.***By Proclamation.*Date of
Commence-
ment.

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 Traffic Short title.
Ordinance, 1928,” and shall commence and come into
operation upon such date as the Governor may by proclamation
in the Gazette appoint.

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

“ Carriage ” means wagon, cart, ricksha, bicycle, tricycle,
and every description of wheeled vehicle except a motor
vehicle, trailer, and such appliances as baby carriages, wheel-
barrows or other appliance exempted by the Governor by notice
in the Gazette and vehicles used on specially prepared ways
such as railways and tramways.

“ Gross weight ” means the tare weight of the vehicle
when laden, together with the weight of driver, attendants,
passengers, freight, fuel, water and equipment.

“ Motor vehicle ” includes a motor cycle and every des-
cription of vehicle propelled by means of mechanism contained
within itself other than a vehicle used on specially prepared
ways such as railways and tramways.

“ Motor cycle ” means a motor vehicle designed to travel
on not more than three wheels and having a tare weight not
exceeding three hundred pounds.

" Motor omnibus " means any public service vehicle licensed to carry more than six passengers.

" Public service vehicle " means a motor vehicle carrying passengers for hire or reward.

" Road " means the carriageway or portion of any road to which the public has right of access for vehicular traffic being that portion commonly in use for vehicular traffic and includes the portion of any bridge used for that purpose.

" Road authority " means the Director of Public Works or his duly authorised representative, except where the roads or any of them within any area or district have been vested in a local authority under any Ordinance in which case the local authority or its duly authorised representative is the road authority for the purposes of this Ordinance for the roads vested in it.

" Tare weight " means the weight of a vehicle when unladen computed as provided for by section 9 of this Ordinance.

" Taxicab " means a public service vehicle licensed to carry not more than six passengers whether it is fitted with a taximeter or not.

" Tractor " means a motor vehicle designed for towing one or more trailers.

" Traffic " includes pedestrians.

" Trailer " means a vehicle attached to and drawn by a motor vehicle whether its weight is partly supported by the motor vehicle or otherwise but does not include a sidecar attached to a motor cycle.

" Vehicle " includes motor vehicle and carriage.

PART I.

LICENCES.

Penalty for
use of a
vehicle without
a licence.
Cap. 113.

3. The owner and driver of any vehicle which is used upon any road, other than a road of access granted under the provisions of the Public Travel and Access Roads Ordinance, without a licence in that behalf issued under this Ordinance, shall be severally liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment of either description for a term not exceeding three months :

Provided that any vehicle duly licensed for any particular year or half-year or quarter of a year in the Uganda Protectorate or in Tanganyika Territory, and imported from either of those countries, shall not be required to be licensed under this Ordinance during the year or half-year or quarter of a year, as the case may be, in which it was so imported : **Provisos**

Provided further that the provisions of this section shall not apply to a bicycle, tricycle or such other vehicle as the Governor may by notice in the Gazette exempt.

4. Licences under this Ordinance shall be issued by such officer or officers (hereinafter referred to as the "licensing officer") as may be appointed for that purpose by the Governor from time to time. **Licensing officers.**

5. No licence shall, except with the consent in writing of the road authority and subject to such conditions, if any, as the road authority may impose, be granted for any vehicle the tare weight whereof exceeds four and one half tons, or which has metal tyres fitted with spuds, angle irons, spikes, or any similar device. **Certain vehicles only to be licensed with consent of road authority.**

6. (1) A licensing officer may refuse to issue a licence for the use of any vehicle so constructed as, in his opinion, to be likely to be dangerous to persons or animals lawfully using the road, or injurious to the roads, or which does not comply with the provisions of this Ordinance or of any rules made thereunder. **Power to refuse licence in certain cases.**

(2) A person whose application for a licence has been refused may appeal to the Governor, who may either direct a licence to be granted to him, or may refuse the licence, or may withhold the same until such alteration of the vehicle shall have been made as the Governor thinks proper. **Appeal to Governor.**

(3) A licensing officer may at any time inspect a vehicle licensed under this Ordinance and, if such vehicle is not maintained in a fit and proper condition, may cancel the licence relating thereto. **Power of inspection.**

(4) A licensing officer may at any time order and require the owner of a vehicle to bring the vehicle to him for examination. **Examination of vehicle.**

Appointment
of Central
Registrar of
Licences.
Form of
licence.

7. (1) The Governor shall by notice in the Gazette appoint a Central Registrar of Licences issued under this Ordinance.

(2) Every licence issued under this Ordinance shall be in the form prescribed by rules made under section 49 of this Ordinance and shall contain the particulars by such form required; and the licence or such identification marks in lieu thereof as may be prescribed shall be fixed and exhibited on the vehicle in such manner as may be prescribed by rules made under section 49 of this Ordinance.

Transfer of
ownership of
vehicle.

(3) Every person who shall transfer the ownership of any vehicle in the Colony and every person to whom such ownership is transferred shall immediately, in writing, notify the Central Registrar of such transfer.

Procedure
when vehicle
obsolete, etc.

(4) If any licensed vehicle shall not be used for a period of 12 months, or if it be broken up or destroyed or sent permanently out of the Colony, the licensee shall forthwith notify the Central Registrar.

Procedure
when licence
lost.

(5) In the event of any licensee losing his licence he shall apply forthwith to the licensing officer or to the Central Registrar for a duplicate licence, and a fee of two shillings shall be charged for the issue of such duplicate licence.

Duration of
licence.

8. A licence may be issued for one year or half a year or quarter of a year. Every half-yearly licence shall continue in force from the date of the granting thereof until the next following thirtieth day of June or thirty-first day of December, whichever shall first ensue, and every quarterly licence shall continue in force from the date of the granting thereof until the next following thirty-first day of March, thirtieth day of June, thirtieth day of September or thirty-first day of December, whichever shall first ensue, and every yearly licence shall continue in force from the date of the granting thereof until the next following thirty-first day of December :

Provided.

Provided that the fee payable in respect of every half-yearly licence shall be fifty-five per cent. of the fee payable in respect of every yearly licence and the fee payable in respect of every quarterly licence shall be thirty per cent. of the fee payable in respect of every yearly licence.

9. (1) The fees set out in the Schedule to this Ordinance ^{Fees} shall be payable in respect of licences for vehicles.

(2) A list of the tare weights of different makes, types, ^{Tare weights} models or classes of vehicles shall be made by the Governor and published in the Gazette and may be added to or altered from time to time by him and those weights shall for all the purposes of this Ordinance and Rules thereunder be deemed to be the tare weights of vehicles of those makes, types, models or classes.

(3) In the event of any vehicle being presented for registration which is not deemed by the licensing officer to be ^{Vehicle not included in list of tare weights.} included in such list, the licensing officer may require the owner to adduce such evidence to prove the tare weight of the vehicle as he may require.

10. If it is shown to the satisfaction of the licensing officer that any particular vehicle will be used solely for agricultural purposes and will not be used on a road except for the purpose of its movement to or from a farm ^{Exemption of vehicles used solely on farms for agricultural purposes.} and not for the conveyance of persons, farm produce, goods, or merchandise along a road, he may issue a permit in the form prescribed by rules made under section 49 of this Ordinance without fee authorising the owner to drive or cause to be driven the vehicle as stated thereon. Any person using the vehicle on a road for a purpose other than that expressed in the permit shall be guilty of an offence against this Ordinance.

11. (1) Marks indicating the number of the licence and the place where the same is issued shall be fixed on every licensed vehicle in such manner as may be prescribed by rules made under section 49 of this Ordinance, or in the absence of such rules in such manner as may be directed by the licensing officer. ^{Identification marks.}

(2) If such marks or any of them be not fixed to a licensed vehicle in the manner prescribed or directed, or if, ^{Penalty for not fixing, etc., identification marks} being so fixed, any of them are in any way obscured or rendered or allowed to become not easily distinguishable, the owner and driver of the vehicle shall be severally guilty of an offence against this Ordinance.

No identification marks to be fixed other than those prescribed.

General identification mark.

(3) No identification marks other than those prescribed whether by rule or otherwise shall be fixed to any licensed vehicle.

(4) A licensing officer may issue on payment of the fee prescribed by rules made under section 49 of this Ordinance to any manufacturer of or dealer in motor vehicles a general identification mark which may be used for any motor vehicle on trial after completion of assembly or on trial by an intending purchaser, and the person so using the motor vehicle shall not be liable to a penalty under section 3 of this Ordinance if the mark so assigned is fixed and the vehicle bearing it is used in compliance with rules made under section 49 of this Ordinance or, in the absence of such rules, in such manner as may be prescribed by the licensing officer :

Provided that any motor vehicle used under such general identification mark shall not carry more than two persons in addition to the driver.

PART II.

MOTOR VEHICLES.

Drivers to be certified as competent.

12. (1) A person shall not drive a motor vehicle on any road unless he shall hold a certificate of competency to drive such motor vehicle or one of similar type ; such certificate to be issued by such officer or person as the Governor may appoint for the purpose (hereinafter referred to as " the certifying officer ") or issued to him in the Uganda Protectorate or Tanganyika Territory under any law in force in those countries :

Provided that, for the purpose of being taught to drive, an uncertificated person may drive a motor vehicle upon any unfrequented road if accompanied by a person holding a certificate of competency to drive such motor vehicle and that in such case both the uncertificated person and the person holding a certificate shall be severally liable for any offence under this Ordinance committed during the driving by such uncertificated person.

Form of certificate.

(2) A certificate of competency shall be prepared in duplicate in the form prescribed by rules made under section 49 of this Ordinance.

(3) A certificate of competency shall not be granted to a person under the age of sixteen years, nor to any person of materially defective vision or hearing nor until the certifying officer shall have satisfied himself personally that the applicant has sufficient knowledge and experience in the driving of motor vehicles to enable him to keep his vehicle completely under control in heavy traffic, to bring it promptly to a standstill, and generally so to manage it that no danger or inconvenience to the public is to be apprehended from his use of it.

Requirements
before grant
of certificate.

(4) There shall be paid for a certificate of competency Fee. the sum of thirty shillings.

(5) In the event of any person losing his certificate of competency he shall apply to the Central Registrar for the issue of a duplicate certificate, and a fee of two shillings shall be charged by the Central Registrar for the issue of such duplicate certificate of competency.

Duplicate
certificate.

(6) If the certifying officer be not an officer in the public service, it shall be lawful for the Governor to direct that there be paid to such certifying officer such fees for each certificate of competency granted by him as the Governor thinks proper.

Certifying
officer not in
public service
may be awarded
certain fees.

(7) The person certified as competent shall in the presence of the certifying officer endorse the certificate and duplicate with his usual signature, or, if he be illiterate, shall affix thereto his thumb mark, or finger prints, or such other mark of identity as the certifying officer shall require.

Endorsement
of certificate.

(8) The certifying officer shall forward the duplicate of every certificate of competency issued by him to the Commissioner of Police, by whom it shall be filed.

Duplicate to
be kept.

(9) Any licensing officer appointed under this Ordinance or any magistrate or any European police officer or any other police officer not below the rank of an assistant sub-inspector may require any person driving a motor vehicle to produce his certificate of competency for inspection when demanded.

Inspection of
certificate.

(10) Any person who shall drive a motor vehicle upon any road without having upon his person or in the motor vehicle at the time a valid certificate of competency as required by this Ordinance, except as provided in sub-section (1) of this section, shall be guilty of an offence against this Ordinance.

Penalty for
driving
without
certificate.

Certificate of competency under Motor Traffic Ordinance. Cap. 68.

(11) A certificate of competency issued under the Motor Traffic Ordinance shall be a valid certificate of competency under this Ordinance.

Special requirements as to motor vehicles and trailers.

13. No person shall cause or permit a motor vehicle or trailer to be used on a road, or shall drive or have charge of a motor vehicle or trailer when so used, unless the following conditions are complied with :—

Brakes on motor vehicles.

(a) Every motor vehicle when in use on a road shall have two independent brakes in good working order and of such efficiency that the application of either to the vehicle shall cause two of its wheels on the same axle to be so held that the wheels shall be effectually prevented from revolving, and shall bring the motor vehicle to a stop in a distance of twenty-five feet when running at a rate of fifteen miles per hour on level ground : Provided that in the case of a motor vehicle having less than four wheels this condition shall apply as if, instead of two wheels on the same axle, one wheel was referred to.

Brakes on trailers.

(b) Every four-wheeled trailer shall have at least one brake in good working order.

Not more than two trailers to be towed.

(c) No tractor shall tow a train of more than two trailers at the same time unless with the consent in writing of a licensing officer.

Couplings to be in safe condition.

(d) Whenever a trailer is attached to a motor vehicle the couplings shall be efficient for the purpose and shall be maintained in safe condition.

Safety chains.

(e) Safety chains shall also be coupled between all trailers.

Brakesman to be carried on trailer.

(f) A brakesman shall be carried on the rear trailer of each train of two or more trailers and shall be responsible for applying the brake of the trailer in case of emergency, without however relieving the driver of the tractor or the owner from any responsibility on their part.

- (g) Every motor vehicle shall have its steering-gear in good working order. Steering-gear.

14. The Governor in Council may prescribe by rules speed limits either generally or for any particular locality or for any particular road or portion of a road or at cross roads or dangerous corners or for any particular kind or class of motor vehicle and no person shall drive a motor vehicle at a greater speed than that which may be prescribed. Speed limits of motor vehicles.

15. Any person who drives or causes to be driven a motor vehicle on a road recklessly or at a speed or in a manner which is dangerous to the public having regard to all the circumstances of the case, including the amount and nature of the traffic on such road, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding six months. Driving a motor vehicle to common danger.

16. (1) If any person drives or causes to be driven a motor vehicle on any road carelessly, or negligently, or without reasonable regard to the safety, comfort or convenience of other persons using the road, he shall be guilty of an offence against this Ordinance. Careless driving of motor vehicle.

(2) This section applies where the conduct complained of does not amount to an offence under the last preceding section, or where it does amount to such an offence but the court considers that the case should be dealt with under this section rather than under the last preceding section. When section applies.

(3) A conviction for an offence under this section shall not render the offender liable to be disqualified for holding or obtaining a driver's certificate of competency. Effect of conviction.

17. (1) Any person driving or being in charge of a motor vehicle whilst drunk, or whilst his efficiency as a driver is impaired by drink or drugs, shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment. Drunkness while driving a motor vehicle.

(2) Any person against whom a second or subsequent conviction of any of the offences referred to in sub-section (1) of this section shall be recorded shall be liable to a fine not exceeding one hundred pounds and to imprisonment of either description for a period not exceeding six months.

Directions
for manage-
ment of
motor vehicles
on roads.

18. Every motor vehicle and trailer when in use on a road shall be used in conformity with the following conditions and not otherwise and if used in contravention of these conditions the driver and person in charge shall severally be guilty of an offence against this Ordinance.

Horn to be
carried.

(1) Every motor vehicle shall carry an efficient hooter or other suitable appliance for giving audible warning and every driver of a motor vehicle shall, whenever it is prudent for the purpose of giving audible warning of his approach, clearly sound such hooter or appliance.

Certain horns,
etc., may be
prohibited.

(2) A licensing officer may prohibit the use of any bell, hooter or other appliance if in his opinion the use of such bell, hooter or other appliance constitutes an annoyance to the public and no person shall use a bell, hooter or other appliance the use of which has been prohibited by a licensing officer.

Silencer.

(3) No motor vehicle shall run on any road without a silencer operating effectually.

Unattended
motor vehicle.

(4) No person shall leave unattended on a road any motor vehicle with the engine running.

(5) No person driving or being in charge of a motor vehicle shall—

Position of
driver.

(a) when in the motor vehicle be in such a position that he cannot control the same or that he cannot obtain a full view of the road and traffic in the direction of his travel;

Quitting
motor vehicle.

(b) quit the motor vehicle without having taken due precautions against its moving along the road from its stationary position;

Obstruction by
motor vehicle.

(c) allow the motor vehicle to cause any unnecessary obstruction or any unnecessary inconvenience to the public.

PART III.

PUBLIC SERVICE VEHICLES.

19. Application for the licensing as a taxicab or motor omnibus of a motor vehicle duly registered and licensed shall be made to a licensing officer in the form prescribed by rules made under section 49 of this Ordinance. Application for licence.
20. The licensing officer shall subject to the provisions of section 6 of this Ordinance and on payment of the prescribed fee issue a licence in the form prescribed by rules made under section 49 of this Ordinance. Form of licence.
21. On issuing any such licence the licensing officer shall also issue an identification plate which he shall provide showing the description of the motor vehicle licensed. Such plate shall be securely fixed to the back identification mark plate of the motor vehicle in such a position that it shall be clearly visible to a person behind such vehicle. Identification plate.
22. No motor omnibus or taxicab shall stand or ply for hire on any road if such motor omnibus or taxicab is in such condition as to be unsafe or unsuitable for the conveyance of passengers. Vehicle to be safe and suitable.
23. A licensing officer, or the licensing officers where there is more than one registration area concerned, may by public notice impose a table of fares for motor omnibuses and taxicabs. Every such vehicle shall carry in a conspicuous position inside such vehicle a copy of the appropriate table of fares for the area or areas in which it operates. No person shall be entitled to recover more than such fares. Fares.
24. The holder of a licence for a public service vehicle shall apply to a licensing officer for a motor omnibus or taxicab driver's badge. Driver's badge.
25. A licensing officer may issue such badge on payment of such sum as may be prescribed by rules made under section 49 of this Ordinance. Fee for badge.
26. Such badge shall be worn in a conspicuous manner by the driver to whom it is issued whenever he is driving or is in charge of a public service vehicle on a road. Badge to be worn.
27. The Commissioner of Police may by public notice appoint stands within the registration area for motor omnibuses or taxicabs and the places where motor omnibuses may stop to take up or set down passengers : Stands and stopping places.

Proviso.

Provided that if the stand would be situated within the boundaries of any municipality established under the Local Government (Municipalities) Ordinance, 1928, the notice shall be subject to the approval of the Municipal Council or Board of the Municipality.

Limitation of number of passengers.

28. The maximum number of persons allowed to be carried at any one time on a taxicab or motor omnibus shall be determined by the licensing officer and shall be inscribed on the licence and legibly painted in a conspicuous position on the taxicab or motor omnibus in such manner as may be prescribed by rules made under section 49 of this Ordinance or, failing such rules, as may be decided by the licensing officer.

Offences.

29. No owner, driver or person in charge of a motor vehicle shall—

- (a) permit such vehicle to ply for hire unless it is licensed for that purpose under this Ordinance;
- (b) permit such vehicle to ply for hire unless it carries an identification plate as provided by this Ordinance;
- (c) permit such vehicle to ply for hire without exhibiting inside the vehicle the prescribed table of fares, if any, and without stating the number of passengers the vehicle is licensed to carry;
- (d) drive, or be in charge of on a road, any motor vehicle plying for hire without carrying on his person or in such vehicle the licence issued to him in the form set out in rules made under section 49 of this Ordinance;
- (e) drive, or be in charge of on a road, any motor vehicle plying for hire without wearing the prescribed driver's badge;
- (f) while in charge of an omnibus or taxicab permit to be carried more persons than the number which the vehicle is licensed to carry: Provided that two children each under the age of 12 years shall be counted as one passenger.

30. (1) On an application for the grant or renewal or the sanction of a transfer of a public service vehicle licence, the licensing officer shall before granting the application require the production of such evidence as may be prescribed that the applicant has effected a policy of insurance covering in such terms as may be prescribed all such claims as may be made against him as owner, or as driver or employer of the driver, of the vehicle in respect of damage to person or property and issued by an insurance company approved by the licensing officer. Insurance policies.

(2) Any stipulation purporting to restrict the liability of the holder of any such licence in respect of any such claim as aforesaid shall be void. Restriction of liability.

(3) If any person, for the purpose of obtaining a policy of insurance required by this section, makes any false statement in consequence whereof the policy is liable to be avoided, or if the licensee commits any act which disentitles him to claim under the policy, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment of either description for a term not exceeding six months. False statement.

(4) If a policy of insurance required by this section at any time lapses or otherwise becomes invalid, any public service vehicle licence granted under this Ordinance in respect of any vehicle to which the policy relates shall thereupon become void. If insurance policy becomes invalid, licence also becomes invalid.

PART IV.

GENERAL.

31. Every driver or person in charge of a motor vehicle or carriage on a road between the hours of 6.45 p.m. and 6.15 a.m. shall provide and maintain such motor vehicle or carriage with a lamp or lamps in proper working order to be fixed or carried and lighted in such manner as may be prescribed by Rules made under section 49 of this Ordinance. Lights on carriages.

32. Any person who rides, drives, leads or propels or causes to be ridden, driven, led or propelled any animal or carriage on a road carelessly, negligently or recklessly, or at a speed or in a manner which is dangerous to the public or to property having regard to all the circumstances of the case, including the amount and nature of the traffic on such road, shall be guilty of an offence against this Ordinance. Driving carriage to common danger.

Drunkenness
while driving
a carriage.

33. Any person who is drunk or under the influence of drugs or whose efficiency as a driver is impaired by drink or drugs while driving a carriage shall be guilty of an offence against this Ordinance.

Directions for
use of
vehicles.

Name plate,
etc.

34. Every vehicle shall be used in conformity with the following directions and not otherwise :—

(1) The owner of every cart, waggon, motor lorry or tractor shall paint or mark or cause to be painted or marked in legible letters not less than one inch in height on the right or off side thereof or upon some board or plate affixed to such side his name and place of residence, together with the name of the district in which he resides, and no owner of any cart, wagon, motor lorry or tractor shall use or allow the same to be used on any road without having his name, residence and district legibly painted thereon as aforesaid.

Blind animal.

(2) No owner or person in charge of a carriage drawn by animals shall allow an animal which is of materially defective vision to be used for drawing such vehicle on a road.

Brakes.

(3) Every carriage, except such class of carriage as may be exempted by the Governor by notice in the Gazette, shall, when in use on a road, be provided with a brake fit and sufficient for the purpose thereof. The wheels thereof shall not be locked so that they cannot rotate when the carriage is in motion.

Closing
of roads.

35. (1) It shall be lawful for the road authority, or its authorised representative, for the purpose of carrying out any works which it may consider necessary or desirable in connection with the maintenance or improvement of any road, to close the whole or any part of such road at any time for any purpose it may think fit.

Damage to
road works.

(2) It shall not be lawful for the driver or person in charge of a vehicle to drive or haul the vehicle or cause it be driven or hauled over any bridge on or near which a conspicuous notice has been placed by the road authority to the effect that such bridge is insufficient to carry traffic in excess of a specified weight, unless the gross weight of such vehicle and any trailer attached thereto is less than the weight specified

or unless he has obtained the written consent in writing of the road authority to his so doing; provided always that it shall be lawful for the purpose of keeping within the specified weight to detach any trailer from any vehicle and take over singly any vehicle or trailer which does not exceed the specified weight.

(3) If any injury to a bridge be caused through any such contravention it shall be lawful for the road authority to make good such injury and to recover the cost thereof from the owner of the vehicle; and the certificate of the road authority of the amount of the cost of making good such injury shall be conclusive evidence of the amount payable by such owner.

Injury to
bridges.

(4) It shall not be lawful for the driver or person in charge of any vehicle to drive or haul the vehicle or cause it to be driven or hauled over any portion of a road which is closed to traffic by the road authority and where a conspicuous notice is displayed to the effect that the road is closed, unless he has received the permission in writing of the road authority or of the representative thereof who is in charge of the portion of the road which is closed.

No vehicle to
be driven over
closed road.

(5) The driver or person in charge of a vehicle shall comply with all cautionary notices displayed by the road authority for the purpose of regulating traffic.

Driver to
observe
cautionary
notices.

(6) Every driver or person in charge of a vehicle shall obey all reasonable signals or instructions given to him by any member of the Police Force.

Obedience to
signals.

(7) The driver or person in charge of a vehicle shall, on the request or signal of any person in charge of a horse, camel, mule or donkey, or on any member of the Police Force putting up his hand as a signal for that purpose, immediately bring such vehicle to a standstill and keep it stationary as long as may be reasonably necessary.

36. The Governor may by Order :—

Power to
regulate traffic.

(a) Prohibit absolutely or on certain roads or portions thereof the use of any particular description of vehicle which in his opinion is likely to cause excessive wear and tear of the road, or to be dangerous or inconvenient to the public.

(b) Generally restrict or regulate the use of vehicles in such manner as circumstances may appear to him to require.

Power of police to detain vehicle.

37. When any person uses a vehicle in contravention of any of the provisions of this Ordinance or of any rule made thereunder, it shall be lawful for any member of the police force to take the vehicle or cause the same to be taken to any police station or other place of safety, there to be detained until such enquiries have been made by the police as they may think necessary in the circumstances of the case.

Road authority not liable.

38. (1) The road authority shall not be liable for any loss or damage which may be caused to any person or property through the condition of a road or the failure of a road to sustain the weight of a vehicle.

Right to recover compensation.

(2) Nothing in this Ordinance shall affect the right of the road authority or of any person to recover compensation from the owner or driver of any vehicle for any loss, damage, or injury which may be sustained by the road authority or such person by the use of a vehicle.

In case of accident driver to stop and give name and address.

39. The driver of a vehicle, if an accident occur to any person, whether on foot, mounted or in another vehicle or to any horse, mule, donkey, ox or to another vehicle, shall, if the accident is in any way connected with the presence on the road of the vehicle driven by him, stop and if required give his name and address and also the name and address of the owner and, in the case of a registered vehicle, the identification mark or number of the vehicle and shall forthwith report such accident to the nearest police station.

Obstruction and damage to roads.

40. Every person who, without lawful authority or the written permission of the road authority :—

Encroachment on road.

(a) Encroaches on a road or on any land reserved therefor at the side or sides thereof by making or erecting any building, fence, ditch, or other obstacle, or by digging thereon or by planting or sowing any tree shrub or seeds thereon ;

Leaving obstruction.

(b) Leaves on a road any timber, stones or other material so as to obstruct or endanger persons using the road ;

- (c) Digs up, removes or alters in any way the soil or surface of a road, or of any land reserved therefor at the side or sides thereof, or if done for the purpose of moving a vehicle without immediately thereafter making good the damage ; Digging up roadway.
- (d) Wilfully fills up, alters or obstructs any ditch or drain, whether on a road or contiguous thereto, made by or under the control of the road authority, to carry water off the road or to keep it from flowing on to the road ; Filling up drain.
- (e) Allows any sludge or any filthy or noisome matter to flow from any building or land in his occupation on to a road or into any ditch or drain made by the road authority ; Allowing water, etc., to flow on to the road.
- (f) Causes or allows any timber, sledge, plough or other heavy material, vehicle or implement, not wholly raised above the ground on wheels, to be dragged on a road ; Damage to roads by dragging.
- (g) Conducts or takes part in any race or competition between motor vehicles on a road ; Race or competition.
- (h) Pitches any tent, booth or stall ; Tents, etc.

shall be guilty of an offence against this Ordinance : Provided that in the case of paragraph (g) of this section the written permission of the police officer in charge of the district concerned shall also be obtained.

41. No person shall do any of the following things on a road :— Nuisance on roads.

- (a) Wilfully or negligently ride, drive or lead any animal or vehicle on a footpath constructed for foot-passengers only, or in a road drain ;
- (b) Play any game to the annoyance of persons using the road ;
- (c) Make any fire without the authority of the road authority ;
- (d) Wilfully obstruct in any manner the free passage of persons or vehicles passing along the road ;
- (e) Drive or conduct any vehicle drawn by animals without having reins to guide the animals, unless a person leads the animals in such a manner as to have reasonable control over them ;

- (f) When driving a vehicle, sleep while the vehicle is in motion ;
- (g) Impede the traffic or endanger the safety of persons using the road by a load unduly projecting from the side of a vehicle ;
- (h) Permit any cattle to be at large without being under such efficient control as to prevent their damaging the road or obstructing traffic ;
- (i) Outspan animals from a wagon or cart.

**Regulation
of traffic.**

42. Every vehicle used on a road shall be used in conformity with the following conditions and not otherwise, and any person contravening or failing to comply with any of these conditions shall be guilty of an offence against this Ordinance :—

**Meeting and
passing traffic.**

- (a) Every vehicle shall in passing traffic coming from the opposite direction be driven on the left or near side of the road, but when overtaking traffic proceeding in the same direction shall pass such traffic on the right or off side thereof. When one vehicle is being overtaken by another, the front vehicle shall give way to allow the overtaking vehicle to pass. In all cases a vehicle shall be driven so as to give as much space as possible for the passing of other traffic.

**Stationary
vehicle to
allow clear
roadway.**

- (b) Except in case of emergency, the onus of proof of which shall lie on the driver, every vehicle, when not in motion, shall be drawn up close to the side of the road, so as to allow the maximum of clear roadway for passing traffic.

**Duty in case
of breakdown.**

- (c) The driver of any vehicle shall in the case of breakdown remove from the road the vehicle or any portion of it obstructing the passage of other traffic as soon as possible after the breakdown. If it is not possible to remove such vehicle or portion of it from the road immediately after the breakdown, it shall be placed at the side of the road, and if it remains on the road at night a light or lights visible to the drivers of vehicles approaching from either direction shall be displayed on it between the hours of 6.45 p.m. and 6.15 a.m.

**Leaving a
vehicle
unattended.**

- (d) No driver of a vehicle shall leave such vehicle unattended without taking due precautions against its movements from natural causes during such driver's absence.

(e) No driver or person in charge of a vehicle with tyres made of metal shall drive, propel or cause to be driven or propelled such vehicle on a road while the bearing of any wheel is defective so that the tyre of the wheel does not bear evenly on a level surface when the vehicle is moving thereon.

When bearing of wheel defective.

(f) On any bridge no vehicle shall be driven so as to pass or attempt to pass another vehicle travelling in the same direction.

Passing on bridge.

(g) Whenever a white line is demarcated or any island is established upon any road by a road authority as a guide to which side of a road traffic should proceed, the driver of a vehicle shall keep to his left hand side of such line or island and shall not cross over it.

White lines.

43. Whoever fraudulently imitates, alters or uses or fraudulently lends or allows to be used by any other person any mark for identifying a vehicle or any licence, permit or certificate issued under this Ordinance shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

Penalty for using unauthorised identification mark.

44. Any person who shall be guilty of an offence against this Ordinance or who shall fail to comply with or act in contravention of any of the provisions of this Ordinance for the breach of which no penalty is expressly provided or of any rules made thereunder shall be liable on conviction to a penalty not exceeding thirty pounds or in default of payment to imprisonment of either description for a period not exceeding three months.

Penalties.

45. (1) When any driver of a motor vehicle is convicted under sections 15 or 17 of this Ordinance or is convicted of a second or subsequent offence against any other provision of this Ordinance, in addition to any other penalty—

Suspension of certificate of competency and disqualification.

(a) If the person convicted holds a certificate of competency, the court may suspend the certificate for such time as the court thinks fit, or cancel the same and declare the person convicted disqualified from obtaining another certificate either permanently or for a stated period and shall cause particulars of the

conviction and of any order of the court made under this section to be endorsed upon the certificate and shall also cause a copy of those particulars to be sent to the Commissioner of Police, who shall endorse them on the duplicate certificate in his custody.

(b) If the person convicted holds a certificate of competency issued in the Uganda Protectorate or Tanganyika Territory under any law in force in those countries, the court may suspend the validity of the certificate in the Colony for such time as the court thinks fit or cancel the validity of the same in the Colony and declare the person convicted disqualified from obtaining a certificate of competency in the Colony either permanently or for a stated period and shall cause particulars of the conviction and of any order of the court made under this section to be endorsed upon the certificate and shall also cause a copy of those particulars to be sent to the Commissioner of Police.

(c) If the person convicted does not hold a certificate of competency, the court may declare him disqualified from obtaining a certificate for such time as the court thinks fit.

Endorsement
of certificate
of competency.

(2) Any person so convicted, if he holds a certificate of competency, shall produce such certificate, within such reasonable time as the court may direct, for the purpose of endorsement and if he fails to do so shall be guilty of an offence against this Ordinance.

Certificate of
competency
to have no
effect during
suspension.

(3) A certificate of competency suspended by the court shall during the term of suspension be of no effect and a person whose certificate is suspended, or who is declared by the court to be disqualified from obtaining a certificate, shall, during the period of such suspension or disqualification, be disqualified from obtaining a certificate.

Right of appeal.

(4) Any person who is by virtue of an order of the court under this section disqualified from obtaining a certificate of competency may, within fourteen days of the making of such order, appeal as of right against the order to the Supreme Court; and the court by whom the order was made may, if it thinks fit, suspend the operation of the order pending the appeal.

(5) If any person who, under the provisions of this Ordinance is disqualified from obtaining such certificate, applies for or obtains a certificate of competency while he is so disqualified, or if any person whose certificate has been endorsed applies for and obtains another certificate without giving particulars of the endorsement, such person shall on conviction be liable to a fine not exceeding one hundred pounds, or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment. Penalty.

46. All offences under this Ordinance shall be cognisable to the police. Offences to be cognisable to the police.

47. Offences against this Ordinance or against any rules made thereunder shall be tried by subordinate courts of the first or second class. Jurisdiction of courts.

48. (1) It shall be lawful for a licensing officer or any officer appointed by him in writing for the purpose or any police officer not below the rank of assistant sub-inspector to inspect any vehicle with a view to ascertaining whether the provisions of this Ordinance or of any rules made thereunder are being complied with and, in the event of any non-compliance with any of the said provisions, the licensing officer may by an order in writing prohibit the further use of such vehicle until the said provisions have been complied with to his satisfaction. Any person using or permitting to be used a vehicle in contravention of any such order shall be guilty of an offence. Power to inspect vehicles.

(2) It shall be lawful for a licensing officer or any officer appointed by him in writing or a police officer to stop any vehicle with a view to ascertaining whether such vehicle is being used in contravention of this Ordinance or any rules made thereunder and, in the event of any vehicle being used on a road in such manner, a police officer may take the vehicle, or cause it to be taken to any police station or place of safety, there to be detained until the vehicle and driver can be identified. Power to stop vehicles.

49. The Governor in Council may make rules :—

- (a) Prescribing the number and duties of attendants to be in charge of any specified class, kind or description of vehicle ;

Power to make Rules.

- (b) Prescribing the size, shape, colour, character, and marking and all other matters connected with the identification marks to be fixed under this Ordinance, including the mode in which they are to be fixed and to be rendered easily distinguishable by day or night, and also including provision for the keeping by manufacturers and dealers to whom a general identification mark has been issued of a register and for the making of entries therein and for restrictions in the use of such general identification mark and the purposes for which it may be used ;
- (c) As to the registration of vehicles and the particulars to be entered in the register ;
- (d) As to the notification of any change in the ownership of vehicles and as to the re-registration thereupon ;
- (e) As to the examination of applicants for certificates of competency and as to the licences and permits which may be granted and the fees to be paid therefor and the manner of paying such fees ;
- (f) As to the appointment of licensing officers ;
- (g) As to the insurance of public service vehicles ;
- (h) Prohibiting or restricting the driving or use of vehicles or any kind of vehicle on any specified road or part of a road ;
- (i) Imposing tolls or charges on vehicles or any description, class or kind of vehicle using any specified road or part of a road ;
- (j) Prescribing the fees to be charged for motor omnibus and taxicab drivers' badges ;
- (k) With respect to the construction of vehicles or any description of vehicle and the conditions under which they may be used ;
- (l) With respect to the speed at which vehicles or any description, class or kind of vehicle may be driven or used either generally or on any specified road or within any defined area or place ;
- (m) Exempting from the provisions of this Ordinance—
 - (i) any specified kind, class or description of vehicle ;
 - (ii) the drivers of any specified kind, class or description of vehicle ;

- (n) As to public service vehicles and the fee to be paid by their owners ;
- (o) Prescribing the number, nature, method and circumstances of use, and position of lamps to be fixed on vehicles or on any kind, class or description thereof ;
- (p) Prescribing the gross weights allowed and the methods for ensuring that those weights are not exceeded ;
- (q) Regulating the traffic on roads and prescribing rules of the road ;
- (r) Prohibiting any practice which may lead to the obstruction of or damage to roads ;
- (s) For preventing nuisances on roads ;
- (t) Allowing, subject to such conditions as he may deem necessary, the licences, identification marks, and certificates of competency issued under any laws in force in other territories in Africa to be accepted as the equivalent of and used instead of the licences, marks and certificates prescribed by this Ordinance ;
- (u) Providing for the use of taximeters on taxicabs either generally or in any specified area ;
- (v) Declaring a portion of a road to be used only for certain classes of traffic ;
- (w) Prescribing the maximum dimensions of vehicles of any kind or of any parts of them or of the loading of them ;
- (x) Prescribing the forms to be used for giving effect to the provisions of this Ordinance ;
- (y) Regulating or restricting the use of heavy motor vehicles and of trailers on roads ;
- (z) Generally restricting or regulating the use of vehicles in such manner as circumstances may appear to him to require and for the further, better or more convenient carrying out of any of the provisions of this Ordinance.

Repeal.

50. The Motor Traffic Ordinance (Chapter 68 of the Revised Edition) is hereby repealed :

Proviso.

Provided that nothing in this repeal shall affect any rules, orders or notices already issued under the said Motor Traffic Ordinance until they are superseded by rules, orders or notices made under this Ordinance.

THE TRAFFIC ORDINANCE.

SCHEDULE.

LICENCE FEES FOR VEHICLES (SECTION 9).

I.—Motor Vehicles.

(1) Licence Fees per annum :—

	£	s.	c.
(a) For a motor cycle	1	10	00
(b) For a motor cycle (with a sidecar)	2	0	00
(c) For a motor vehicle with pneumatic tyres not exceeding 1,500 lbs. in tare weight	4	0	00
(d) For every additional 250 lbs. or part thereof up to 10,080 lbs.	0	10	00

- (2) (a) For motor vehicles with full or half track irrespective of the material of which it may be made the above rates shall apply ;
- (b) For motor vehicles with solid or cushion rubber tyres the above rates to be increased by twenty-five per cent. .
- (c) For motor vehicles with metal tyres double the above rates ;
- (d) For trailers for motor vehicles, half the above rates provided for in para. 1 and in para. 2 (b) or (c), as the case may be ;
- (e) For licences for half a year, fifty-five per cent. of the annual rates ;
- (f) For quarterly licences, thirty per cent. of the annual rates.

(3) In addition to the rates specified in paragraphs (1) and (2) above, a licence of shillings ten per passenger for each passenger which the vehicle is licensed to carry shall be paid by the owner of a public service vehicle.

II.—*Vehicles other than Motor Vehicles.*

For every vehicle not being a rickshaw, bicycle or other vehicle exempted by the Governor :—

Licence Fees per annum for every 100 lbs. of tare weight to the nearest 100 lbs. :—

	Sh. Cts.
(a) If the tyres are of rubber or other soft or elastic material	1 00
(b) If the tyres are of metal and four inches or over in width	1 50
(c) If the tyres are of metal and under four inches in width	1 50

Increasing by Cents 50 annually
after the fourth year.

No. 27 OF 1928.

Date of assent.

[31ST DECEMBER, 1928.]

**An Ordinance to Amend the Dangerous
Petroleum Tax Ordinance.**

Date of
commencement.*1st January, 1929.*

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 Dangerous Petroleum Tax (Amendment) Ordinance, 1928,” and shall be read as one with the Dangerous Petroleum Tax Ordinance (Chapter 54 of the Revised Edition) as amended by the Dangerous Petroleum Tax (Amendment) Ordinance, 1927, together hereinafter referred to as “ the Principal Ordinance,” and shall come into operation on the first day of January, 1929.

Repeal and
replacement
of section 3 of
the Principal
Ordinance.

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

“ 3. There shall as from the first day of January, 1929, be charged, levied and paid to the general revenue of the Colony by any person importing into the Colony for sale or consumption therein dangerous petroleum, a tax at the rate of fifteen cents a gallon on all dangerous petroleum so imported.”

NO. 28 OF 1928.

[31ST DECEMBER, 1928.] Date of assent.

An Ordinance to Repeal the Trading with the Enemy Ordinance.

31st December, 1928.

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 Trading with Short title.
the Enemy Ordinances (Repeal) Ordinance, 1928.”

2. The Ordinances mentioned in the schedule to this
Ordinance, are hereby repealed to the extent specified in the
second column of the Schedule.

SCHEDULE.

ENACTMENTS REPEALED.

First.	Second.
Short Title of Ordinance Repealed.	Extent of Repeal.
The Trading with the Enemy Ordinance, 1915 	The whole.
The Trading with the Enemy Amendment Ordinance, 1916 	The whole.
The Trading with the Enemy (Restriction of Banking) Ordinance, 1920 	The whole

No. XXIX.

Widows' and Orphans' Pension

1928

No. 29 OF 1929.

Date of assent.

[31ST DECEMBER, 1928.]

An Ordinance to Amend the Widows' and Orphans' Pension Ordinance.Date of
commencement.*31st December, 1928.*

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 Widows' and Orphans' Pension (Amendment) Ordinance, 1928," and shall be read as one with the Widows' and Orphans' Pension Ordinance (Chapter 34 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

Amendment of
section 2 of
the Principal
Ordinance.

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by the insertion of the words "Northern Rhodesia" after the word "Somaliland" in the definition of "East African Service."

Amendment of
section 10 of
the Principal
Ordinance.

3. Sub-section (4) of section 10 of the Principal Ordinance is hereby amended by the addition of the following paragraph :—

"(e) Her own re-marriage or bankruptcy."

No. 30 OF 1928

[31ST DECEMBER, 1928.] Date of Assent.

An Ordinance to Amend the Asiatic Widows' and Orphans' Pension Ordinance, 1927.

31st December, 1928.

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 Asiatic Widows' and Orphans' Pension (Amendment) Ordinance, 1928," and shall be read as one with the Asiatic Widows' and Orphans' Pension Ordinance, 1927, hereinafter referred to as " the Principal Ordinance."

Short title.

2. Sub-section (1) of section 2 of the Principal Ordinance is hereby amended by the deletion of the word " means " in the definition of the term " contributor " and the substitution therefor of the word " includes ".

Amendment of section 2 of Turkana. Province and the Principal Ordinance.

3. The Principal Ordinance is hereby amended by the addition of the following section after section 6 thereof :—

Extension of time within which officers may be admitted as contributors.

" 6A. Notwithstanding anything in the last preceding section contained, any Asiatic officer who was in, or selected for appointment to, the service of this Government on the 1st day of October, 1927, and who had not elected to become a contributor before the 1st day of April, 1928, may before the 9th day of December, 1928, apply to the Board for special sanction to be admitted as a contributor and the said officer may with the approval of the Board be admitted as a contributor as from the 1st day of the month next following the date of such approval. Provided that any such officer admitted as a contributor shall within a time to be specified by the Board pay to the Fund a lump sum, which shall be equal to the total of the amounts which the officer would have contributed up to the date on which he becomes a

contributor if he had become a contributor on the 1st day of April, 1928, together with the interest on such lump sum for the period 1st day of April, 1928, to the date on which he becomes a contributor at the rate of six per centum per annum."

4. Section 34 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

" 34. In all cases where conversion is necessary from Kenya currency to any other currency for the purpose of payment of contributions or pensions under this Ordinance, the rate of exchange shall be that which the Governor, may from time to time, by notice in the Gazette, prescribe for the purpose of such conversion."

Amendment of
section 34 of
the Principal
Ordinance.

No. 31 OF 1928.

[31ST DECEMBER, 1928.] Date of assent.

An Ordinance to Amend the British and Colonial Probates Ordinance.*31st December, 1928.*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 British and Colonial Probates (Amendment) Ordinance, 1928,” and shall be read as one with the British and Colonial Probates Ordinance (Chapter 12 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Short title.

2. Section 2 of the Principal Ordinance is hereby amended by the addition of the following definition :—

“ ‘ British Protectorate ’ includes any territory in respect of which a mandate is being exercised by His Majesty’s Government or the Government of any part of His Majesty’s Dominions.”

Definition of
British
Protectorate.

No. 32 OF 1928.

Date of assent.

[31ST DECEMBER, 1928.]

**An Ordinance to Provide for the Regulation and
Control of Divisions of Land.**

Date of
commencement.

31st December, 1928.

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 Public Health
(Division of Lands) Ordinance, 1928.”

Application of
Ordinance.

2. This Ordinance shall apply to all lands in the Colony
not included within the boundaries of any municipality or of
any township proclaimed under the Townships Ordinance
already existing or which may hereafter be established.

Interpretation

3. In this Ordinance, unless the context otherwise
requires :—

“ Applicant ” means the owner, lessee, or sub-lessee of
any land proposed to be divided and includes his duly authorised
representative ;

“ Local authority ” means—

- (a) in the case of a municipality or township, the Council
or Board or other authority established for such
municipality or township ;
- (b) in the case of any area not included within a muni-
cipality or township, the District Commissioner, or
in his absence a District Officer, acting with the
advice of such advisory body (if any) as may be
established for such area ;

“ Purchase ” means purchase outright, or in the case of
purchase by instalments the payment of the first instalment ;

“ Dwelling ” means a building, or any part or portion of
a building, used or constructed, adapted or designed to be
used, for human habitation, as a separate tenancy or by one

family only, whether detached, semi-detached, or separated by party walls or by floors from adjoining buildings or part or portion of the same building, together with such out-buildings as are reasonably required to be used or enjoyed therewith.

4. (1) There shall be established for the purposes of this Ordinance a Public Health (Division of Lands) Board (hereinafter referred to as "the Board") which shall consist of :—

Establishment
of Public
Health
(Division of
Lands)
Board.

- (a) The Colonial Secretary as Chairman;
- (b) The Commissioner for Local Government as Deputy Chairman;
- (c) The Director of Medical and Sanitary Services;
- (d) The Director of Public Works;
- (e) The Deputy Director of Sanitary Services;
- (f) The Surveyor General,

and such other persons, not being more than three in number, as the Governor may from time to time appoint.

(2) In the absence from any meeting of both the Chairman and Deputy Chairman the members present shall elect one of their number to preside at such meeting.

(3) Four members shall form a quorum.

(4) Questions before the Board shall be decided by a majority of votes of those present and voting, and, in the case of equality of votes, the Chairman or other member presiding shall have a second or casting vote.

(5) A meeting of the Board may be summoned at any time by notice in writing, and all meetings shall be summoned by the Commissioner for Local Government. A meeting shall be held at least once in every three months.

5. Notwithstanding anything in any other Ordinance contained, no land to which this Ordinance applies shall be divided into plots of less than twenty acres without the prior approval of the Board to be obtained as hereinafter provided.

Restriction upon
division of land.

6. When any person is desirous of dividing his land into plots of less than twenty acres, or of building or of permitting the building of separate dwellings or shops on his land in such manner as to exceed one separate dwelling or

Application for
approval of
Board.

shop on the whole plot, or, if the plot exceeds twenty acres, one separate dwelling or shop for each twenty acres, such person shall submit an application to the Commissioner for Local Government for the approval of the Board, and shall forward to the Commissioner :—

- (1) A plan in quadruplicate showing the situation and boundaries of such land and of the plots immediately adjoining such land, the position and width of all roads and passages abutting on such land, and the position of all sewers and drains, if any, in the immediate vicinity, the manner in and the purposes for which it is intended to divide the land, the position and width of roads to be made over and through such land and the intended position of surface drains ;
- (2) A statement in writing as to—
 - (a) the provisions which have been or will be made for the construction and maintenance of any road or of any drain shown on the plan ; and
 - (b) the provisions which have been or will be made for the supply of water to the area, and for the disposal of refuse, waste water, and night soil ;
- (3) Such other or additional documents, statements, information, maps, or plans of whatsoever description as the Commissioner may require.

Applications to be referred to appropriate local authorities.

7. Every application received under the last preceding section, together with such plans and documents as may have accompanied such application, shall be referred by the Commissioner for Local Government to the local authority for the area in which the land to be divided is situated in order that the recommendations of such local authority upon the application may be obtained :

Provided that where the land to be divided is situated within three miles of any municipality or township, similar reference shall also be made to the local authority for such municipality or township.

Consideration of application by Board.

8. (1) As soon as conveniently may be after the receipt of the recommendations mentioned in the last preceding section, the Commissioner for Local Government shall place

the application, together with all documents relating thereto and with such recommendations as may have been received, before the Board for its consideration.

(2) The Board may require the applicant or his representative to attend before it and to lay before it or explain any facts relating to the application upon which the Board may desire further information.

9. The Board shall consider the application together with the documents and recommendations aforesaid, and may require the applicant to amend his plan to fulfil such requirements as the Board may consider necessary, and may, subject to the completion of such amendments, and the fulfilment by the applicant of any undertaking as provided in the next succeeding section, approve the application. If the Board is of the opinion that building or further building development is undesirable on the land which is the subject of the application, it may refuse the application.

Power of Board to refuse or approve application.

10. (1) Whenever the Board shall consider that in the interest of public health any road or drain shown on a plan deposited by an applicant under section 6 of this Ordinance should be constructed, or that proper and sufficient measures should be taken for the supply of water or for the disposal of refuse, waste water or night soil for the land proposed to be divided, the Board may, before approving the application, require the applicant to give an undertaking in writing that he will construct such road or drain or take such measures as aforesaid to the satisfaction of the Board within such time as the Board may determine.

Power of Board to require applicant to construct works.

(2) Any applicant who may be required to give an undertaking under the preceding sub-section may also be required to give or procure to be given to the Commissioner for Local Government security by bond with one or more sureties approved by the Commissioner, in such sum not exceeding the estimated cost of the works required to be constructed or provided as the Board may determine, for the faithful and punctual fulfilment of such undertaking.

11. (1) When the Board shall have approved an application under this Ordinance the Commissioner for Local Government shall certify such approval on each copy of the

Procedure when Board approves application.

plan deposited under the provisions of section 6, and such certified plans shall thereupon be disposed of as follows:—

- (a) One copy shall be deposited in the office of the Commissioner for Local Government;
- (b) One copy shall be deposited in the office of the local authority of the area in which the land to be divided is situated;
- (c) One copy shall be deposited in the office of the Surveyor General;
- (d) One copy shall be forwarded to the applicant.

(2) Upon receipt of the copy of the certified plan the applicant may proceed to divide the land referred to (subject to compliance with the provisions of the Ordinance under which title to the land to be divided is held) or to erect buildings thereon, as the case may be, in accordance with such plan.

(3) In the case of a division of any land the applicant shall cause a survey of such land to be made, and shall forward a copy of the plan of such survey to the Surveyor General who, if he is satisfied that such survey plan conforms to the plan or plans approved by the Board, shall certify accordingly on such survey plan and shall forward such survey plan so certified to the Registrar of Titles who shall register the same against the title to such land at the cost of the applicant.

Procedure when
Board refuses
to approve
application.

12. When the Board shall have refused to approve an application under this Ordinance the Commissioner for Local Government shall forthwith communicate the decision of the Board with the reasons therefor in writing to the applicant, who may within twenty-eight days after the receipt of such communication appeal to the Governor in Council whose decision shall be final.

Penalties

13. (1) Any person who contravenes or fails to comply with any of the provisions of this Ordinance, and any person who occupies, rents or purchases any portion of any land, or a building erected on any land, in respect of which there has been a contravention or failure to comply with any of the provisions of this Ordinance shall be liable to a penalty not exceeding one hundred pounds and also shall be liable to a penalty not exceeding five pounds for every day or part of a day during which such contravention or non-compliance continues and, in the case of the unauthorised erection of

separate dwellings or shops referred to in section 6, the Board may order the demolition by the person or persons who erected or authorised the erection of such dwellings or shops within such times as may be required by the Board, and, if such dwellings or shops have not been demolished in such required time, the Board may itself or by its agents demolish such dwellings or shops and recover the cost of so doing as a civil debt from the persons or persons who erected or authorised the erection of such dwellings or shops.

(2) Whenever any plan or note or memorandum on any plan approved by the Board shall show that any area is to be reserved for any special purpose or for the occupation of any particular class of persons, any person who, without the consent in writing of the Board, uses or permits to be used, or occupies or permits to be occupied, any land within such area otherwise than as shown on such plan shall be liable to a penalty not exceeding one hundred pounds and shall also be liable to a penalty not exceeding five pounds for every day or part of a day during which such contravention or non-compliance continues.

14. (1) All penalties under the last preceding section shall be recovered as civil debts recoverable summarily on the complaint of the Commissioner for Local Government or such other person as may be authorised by him in writing, and shall be paid to the general revenue of the Colony :

Procedure for
recovery of
penalties.

Provided that the court may in any such proceedings, if upon consideration of the circumstances it shall deem it expedient to do so, mitigate the penalty or penalties claimed.

(2) Every director, manager and secretary of a company shall be liable for the payment of any penalty or penalties incurred under this Ordinance by such company.

15. (1) Whenever any person shall give a bond under section 10 of this Ordinance and it shall appear that a condition of such bond has been broken, the Commissioner for Local Government or such other person as may be authorised by him in writing may sue for and recover for the use of Government the amount recoverable in respect of the breach of the condition of such bond.

Enforcement of
bond under
section 10.

No. XXXII.*Public Health (Division of Lands)***1928**

(2) Any sum recovered in respect of the breach of a condition of a bond under section 10 of this Ordinance shall be devoted to such purposes in connection with the land in relation to which the bond shall have been given as the Governor in Council shall determine.

**Power to make
rules.**

16. The Governor in Council may make Rules for the better carrying into effect of the provisions of this Ordinance.

Repeal.

17. The Public Health (Building) Ordinance (Chapter 125 of the Revised Edition) is hereby repealed.

No. 33 OF 1928.

[31ST DECEMBER, 1928.] Date of assent.

**An Ordinance to Provide for the Regulation,
Control and Management of the Harbours in
the Colony and Protectorate of Kenya, and
for Matters incidental thereto.**

*By Proclamation.*Date of
commencement.

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

PRELIMINARY.

1. This Ordinance may be cited as "the Harbours Regulation Ordinance, 1928," and shall come into force on such date as the Governor shall by proclamation in the Gazette appoint. Short title and
commencement.

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

"Board" means the Harbour Advisory Board established by the Order in Council;

"Bridge" means any fixed structure of wood, stone, brick, iron or other material erected over any water to make a passage way from one side to the other;

"Ferry" means any floating vessel plying from one side of a waterway to another for the purpose of the carriage of passengers, animals, goods or vehicles;

"Foreshore" means the sea shore between high water mark and low water mark;

"Goods" means goods, luggage, or other movable property of any description, and includes animals and birds, whether alive or dead;

"General Manager" means the General Manager for the time being of the Services;

"Harbours" means and includes all the ports and harbours on the coast of the Colony of which the High Commissioner has or may in the future have the control, working

or management, and all the wharves, jetties, slips, docks and breakwaters, and the machinery, plant, tools, and other property appertaining thereto;

“ High Commissioner ” means the High Commissioner for Transport established by the Order in Council;

“ High Water Mark ” means the highest point reached by ordinary spring tides at any season of the year;

“ Imprisonment ” means imprisonment of either description;

“ Low Water Mark ” means the lowest point reached by ordinary spring tides at any season of the year;

“ Master,” in relation to a ship, means any person (other than a pilot) having charge of that ship;

“ Mombasa ” includes the ports of Kilindini and Mombasa Old Port;

“ Mombasa Old Port ” means the old port of Mombasa;

“ Order in Council ” means the Kenya and Uganda (Transport) Orders in Council, 1925 and 1927;

“ Perishable Goods ” means goods liable to rapid deterioration, and includes fish, fruit, vegetables, potatoes, plants, bread, meat, game, butter, eggs, milk, cheese, dogs, small animals, birds, poultry, and any other thing which may hereafter be declared by the High Commissioner by proclamation in the Gazette, to be perishable goods;

“ Pilot ” means a person for the time being authorised by the General Manager, in accordance with rules made under this Ordinance, to pilot vessels;

“ Police Officer ” includes any member of the Police Force;

“ Port Captain ” means the officer appointed by the High Commissioner to take charge, under the General Manager, of the marine branch of a harbour, or the officer acting as such for the time being;

“ Port Manager ” means the officer appointed by the High Commissioner to take charge, control and management under the General Manager, of the marine and shore departments of the Services, including the Port and Marine Department established under the Port Ordinance;

" Port Officer " means the officer appointed to take charge of a particular port under the General Manager ;

" Servant " means any person employed by the High Commissioner in the Services ;

" Services " means the Services as defined in the Order in Council ;

" Ship " includes any vessel, ship, tug, lighter or boat of any kind whatsoever, whether propelled by steam or otherwise, or towed ;

" Terminals " includes ships dues and charges in respect of wharves, depots, warehouses, cranes and other similar matters and of any services rendered thereat ;

" Warehouse " means any building, place or truck provided by the High Commissioner for the purpose of storing or depositing goods.

PART I.

POWERS OF THE HIGH COMMISSIONER.

3. In addition to the powers conferred on him by the Order in Council, the High Commissioner shall have power as follows :—

- (a) In so far as is not inconsistent with the provisions of any law, to acquire, take, use, hire, purchase, work, sell, lease, deliver, transfer or otherwise lawfully dispose of property, whether movable or immovable, including water, ships, and other rights for harbour purposes and turn the same to account ;
- (b) To construct, maintain and repair any harbour works or any roads, bridges, or any other works whatever, or to negotiate with any person for such construction and to complete agreements concerning the same : Provided that no harbour or similar work or bridge over a navigable waterway shall be constructed without the sanction of the Legislative Council, and that no such sanction shall be given without a prior report thereon or any alternative harbour or similar work by the General Manager ;

- (c) To enter into agreements with any person whether in the Colony or elsewhere in connection with matters affecting or incidental to the control, working and management of the harbours, including contracts for the supply of water or electric energy to ships or to persons, and to grant powers of attorney and like authorities;
- (d) To construct, procure, maintain, and repair ferries and other ships to carry passengers and goods, and to use the same for plying for hire;
- (e) To reclaim, excavate, enclose or raise any part of the lands in a harbour area;
- (f) To clean, deepen, or improve any portion of a harbour, and for any of these purposes to construct or procure and maintain and repair any dredgers or other appliances;
- Cap. 165. (g) Subject to the provisions of the Electric Power Ordinance, to generate either for his own purposes or for purposes outside a harbour area electric and other energy;
- (h) To carry on the business of a builder and repairer of ships and machinery and of a wharfinger;
- (i) To construct, provide, lay down and repair moorings and all means and appliances for berthing, loading and unloading vessels;
- (j) To construct, provide, maintain and repair, and moor vessels and hulks for the storage and working of coal and other goods;
- (k) To construct, procure, maintain and repair ships, and use the same as well within a harbour as on the high seas, and whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any ship, whether entering or leaving a harbour or bound elsewhere, and for the purpose of saving or protecting life or property, or recovering property lost, sunk or stranded;
- (l) To supply water to shipping in any harbour, and for that purpose to construct, procure, maintain and repair, and use ships or appliances;

- (m) To carry on the business of a lighterman and carrier by land and sea, and to construct, procure, maintain and repair ships and carts, wagons, and other means of conveyance necessary for such purpose;
- (n) To control, manage and superintend all harbours, docks, or other similar works within his jurisdiction, the persons working or otherwise engaged therein or thereon, the ships, goods and persons arriving at or departing from the same, and, if deemed necessary, to limit the right to land, warehouse, deliver, or ship any goods within any harbour;
- (o) To stevedore, land, ship, transfer or lighter goods, regulate and control lighterage within any harbour, and to warehouse, deliver and collect any such goods, and to land or ship persons, either himself or by his duly constituted agents;
- (p) To erect, maintain, and regulate lighthouses, beacons, port lights, and signal stations, and to provide the necessary staffs for the same;
- (q) To establish and maintain lifeboats, life-saving apparatus, and such other works, institutions, or appliances as he may deem to be necessary for the requirements of any harbour;
- (r) To fix, demand and alter from time to time the shipping, harbour and light dues, wharf charges, fees in respect of licences, permits or certificates, and fees for piloting, berthing and mooring or other services at any harbour;
- (s) To delegate to the General Manager any of the powers conferred upon him by this Ordinance;
- (t) Generally, to execute and do all such acts, deeds and things as may be necessary for the control, working and management of harbours included in the Services.

4. (1) Subject to the provisions of this Ordinance, and, in the case of immovable property, to the provisions of any enactment for the time being in force for the acquisition or resumption of land for public purposes, the High Commissioner may for the purpose of constructing, maintaining or working

Authority of
the High
Commissioner
to execute all
necessary work.

a harbour or other or similar works or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force :—

- (a) Make or construct in, upon, across or over any lands, or any streets, roads, railways, tramways, or any rivers, canals, streams or other waters, or any drain-pipes, water-pipes, gas-pipes, or telegraph or electric power lines, such temporary or permanent arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, ways, passages, conduits, drains, piers, cuttings and fences as the High Commissioner may think proper ;
- (b) Alter the course of any rivers, streams, or water courses for the purpose of constructing and maintaining bridges, passages, or other works, and divert or alter, as well temporarily as permanently, the course of any rivers, streams, or water courses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or by the side of any harbour or any other works connected therewith, as the High Commissioner may think proper ;
- (c) Make, alter or repair drains or conduits into, through or under any lands for the purpose of conveying water from or to any harbour or other works ;
- (d) Erect and construct such houses, warehouses, offices and other buildings, and such yards, machinery, apparatus, and other works and conveniences as the High Commissioner may think proper ;
- (e) Maintain, alter, repair or discontinue any harbour buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead ;
- (f) Sink wells and construct dams and all other works necessary for providing a water supply ;
- (g) Do all other acts necessary for making, maintaining, altering or repairing any harbour.

(2) The exercise of the powers conferred on the High Commissioner by sub-section (1) shall be subject in so far as they affect property and interests outside harbours to the provisions of any law for the time being in force.

5. The High Commissioner may, for the purpose of exercising the powers conferred upon him by this Ordinance, alter the position of any pipe for the supply of gas, water or oil, or the position of any electric wire, or of any drain not being a main drain.

Alteration of
pipes, wires
and drains.

Provided that—

- (a) when the High Commissioner desires to alter the position of any such pipe, wire, or drain, he shall give reasonable notice of his intention to do so, and of the time he will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;
- (b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the High Commissioner shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, oil or electricity, or the maintenance of the drainage, as the case may be.

6. It shall be lawful for the High Commissioner or any person authorised by him, in the case of any accident from whatever cause happening or being apprehended to any cutting or embankment or other works connected with any harbour or other or similar work, to enter upon any land adjoining such harbour or other or similar work for the purpose of repairing any damage caused by such accident or of guarding against any apprehended accident and to do such work as may be necessary for the purpose.

Powers in
case of
accident.

7. (1) The High Commissioner shall do as little damage as possible in the exercise of the powers conferred by sections 4, 5 and 6, and compensation shall be paid for any damage caused by the exercise thereof.

Payment of
compensation.

(2) A suit shall not lie to recover such compensation but in case of dispute the amount thereof shall be determined and paid in accordance, so far as may be, with the provisions of

sections 11 to 15 both inclusive, sections 18 to 34 both inclusive, and sections 53 and 54 of the Indian Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of the Act shall apply to the award of compensation.

Provided always that, notwithstanding anything in this section hereinbefore contained, any person aggrieved by the exercise by the High Commissioner of the powers conferred upon him by sections 4, 5 and 6 may refer the matter in dispute to the decision of two arbitrators, one to be appointed by the High Commissioner and one to be appointed by the person aggrieved, and the provisions of the Arbitration Ordinance shall apply to such reference.

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PART II.

HARBOURS.

Compulsory
pilotage
harbours.

8. The Port of Mombasa is hereby declared to be a compulsory pilotage harbour (together with such other harbours as may from time to time be declared by the High Commissioner by proclamation in the Gazette to be compulsory pilotage harbours) save and except in respect of such ships as may be exempted by law or by regulation: Provided that the High Commissioner and any pilot who is in the service of the High Commissioner shall be exempt from liability for any loss or damage that may arise or be caused through the act, omission, or default of such pilot.

Ship's papers,
etc., to be
produced.

9. The master of every merchant ship arriving in a harbour shall, upon demand, produce and show the ship's register and ship's papers to the Port Captain or other authorised officer for his inspection, and shall deliver a list of his passengers with a description of their rank, sex and occupation, together with a list of any deaths or removals that may have occurred during the voyage, and shall report, in writing, if any person has stowed himself away or concealed himself on board of any such ship without the knowledge or consent of the master; and shall provide the High Commissioner with any other information with regard to the ship or the lading thereof as he may require; and any master not duly accounting for every individual aforesaid, or falsely accounting for any of them, or refusing to deliver the list when thereunto required as aforesaid, shall be liable on conviction

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to a fine not exceeding fifty pounds or, in default of payment, to imprisonment for a period not exceeding three months.

10. The Commissioner or other proper officer of Customs at any harbour may refuse to give the master of any ship in such harbour clearance outward until he has paid the dock or harbour dues, duties or charges of all kinds, which may be due from him or his ship and until he has received from the authorised officer a certificate setting forth that he has complied with the requirements of this Ordinance and with the regulations of the harbour, and every such ship shall be subject to a lien in favour of the High Commissioner in respect of the amount so due.

Clearance outward may be refused until regulations have been complied with and charges paid.

11. In the case of any contravention of this Ordinance or of any regulation on board any ship within a harbour, the master of the ship may be proceeded against in respect thereof and may be held liable for the contravention.

Responsibility of ship master for contraventions.

12. If at the time of landing and delivery at a harbour of goods to the High Commissioner for transit and/or delivery to the consignees, the shipowner notifies to the High Commissioner, in writing, that freight or other charges to the amount specified in the notice remain unpaid in respect of these goods, the High Commissioner may retain and refuse delivery of the goods to the owner or any other person until—

The High Commissioner, after notice, may retain goods until charges paid.

- (a) production of a receipt for the amount, notified as aforesaid, signed or purporting to be signed by or on behalf of the shipowner; or
- (b) production of a release from payment of the amount notified as aforesaid, signed or purporting to be signed by or on behalf of the shipowner; or
- (c) payment of the sum claimed, together with any charges and duty in respect of the said goods, shall have been made.

13. If the High Commissioner on production of a receipt or release or on payment, as aforesaid, deliver the goods to the party producing the receipt or release or making the payment, no liability whatsoever shall attach to the High Commissioner in respect of the goods either to the shipowner, the consignee, the owners, or any person whatsoever.

Action which may be taken by the High Commissioner in respect of the goods

The High Commissioner entitled to charge for rent and necessary expenses.

14. Whenever any goods are placed in the custody of the High Commissioner under the authority of section 12, the High Commissioner shall be entitled to rent in respect of the same, and shall also have power at the expense of the consignee of the goods to do all such reasonable acts as in the judgment of the High Commissioner are necessary for the proper custody and preservation of the goods and shall have a lien on the goods for the rent and expenses.

Saving clause.

15. Nothing in this part of the Ordinance shall be construed as obliging the High Commissioner to take charge of any goods which he would not have been liable to take charge of if this Ordinance had not been enacted, or as binding the High Commissioner to enquire into the validity of any claim for freight or other charges made by any shipowner.

Notice, etc., to whom given.

16. Wherever under sections 12, 13 and 14 of this Ordinance any act requires to be done, any notice to be given, or any receipt and release to be produced to the High Commissioner, such act, notice or receipt and release shall be deemed to have been validly done, given or produced if done by, given to, or produced to the Port Manager or other officer authorised by him at the harbour.

Lien for terminal or other charge.

17. (1) If any person fails to pay on demand made by or on behalf of the High Commissioner any terminal or other charge due from him to the High Commissioner in respect of any goods, the High Commissioner may detain the whole or any of the goods or, if they have been removed from any harbour, any other goods of such person then being in or thereafter coming into his possession.

(2) When any goods have been detained under subsection (1), the High Commissioner may sell by public auction, in case of perishable goods at once, and in the case of other goods on the expiration of at least ten days' notice of the intended auction, published in one or more of the local newspapers, sufficient of such goods estimated to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the High Commissioner may retain a sum equal to the charges and expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the goods, if any, as remain unsold, to the person who in the opinion of the High Commissioner is entitled to such surplus.

(4) If any person on whom a demand for any terminal or other charge due from him has been made fails to remove from the harbour within a reasonable time any goods which have been detained under sub-section (1) or any goods which have remained unsold after a sale under sub-section (2), the High Commissioner may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the preceding sub-sections, the High Commissioner may recover by suit any such terminal or other charge aforesaid or any balance thereof.

18. (1) When any goods have come into the possession of the High Commissioner and are not claimed by the consignee or other person appearing to the High Commissioner to be entitled thereto, the High Commissioner shall, if such consignee or person is known, cause a notice to be served upon him requiring him to remove the goods.

Disposal of
unclaimed
goods.

(2) If such consignee or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the High Commissioner may, within such time as he may deem fit, sell the goods as nearly as may be under the provisions of the last preceding section, rendering the surplus, if any, of the proceeds of the sale to the person who in the opinion of the High Commissioner is entitled thereto: Provided that no imported goods shall be sold under this Ordinance which have not been entered in accordance with the provisions of the Customs Management Ordinance, 1926.

19. When any goods or sale proceeds in the possession of the High Commissioner are claimed by two or more persons, or documentary proof of ownership to the satisfaction of the High Commissioner is not forthcoming, the High Commissioner may withhold delivery of the goods or sale proceeds until the person entitled in his opinion to receive them has

The High
Commissioner
may withhold
delivery of
goods.

given an indemnity, to the satisfaction of the High Commissioner, against the claims of any other person with respect to the goods or sale proceeds.

Claims for compensation to goods must be made within four months.

20. (1) No person shall be entitled to compensation for the loss of goods unless his claim for compensation, giving full and detailed information as to the goods and supported by such documentary evidence as may be reasonably required has been preferred in writing by him or on his behalf to the High Commissioner within four months from the date of delivery of the goods to the High Commissioner.

(2) No person shall be entitled to compensation for damage to or deterioration of goods unless his claim for compensation, giving full and detailed information as to the goods and supported by such documentary evidence as may be reasonably required has been preferred in writing by him or on his behalf to the High Commissioner within one month from the date of the delivery of the goods to the consignee.

Relief from liability in case of goods improperly described.

21. The High Commissioner shall not be responsible for loss, destruction or deterioration of any goods in respect of which a wrong or improper or insufficient description or address for delivery has been given, if the loss, destruction or deterioration is in any way brought about by giving such wrong or improper or insufficient description or address.

Limitation of the liability of the High Commissioner in respect of the act of God, etc.

22. (1) The High Commissioner shall in no case be liable for any loss or damage to any goods in his custody at a harbour, if the loss or damage be caused by the act of God or of the King's enemies, the perils or accidents of the sea, fire, flood, tempest, civil commotion, riots or strikes; or for—

- (a) the loss of weight or measure or the deterioration of goods by heat, decay, rust, sweat or change of character of such goods as may be handled by the High Commissioner or deposited in warehouses, or on premises under his control, or as may be otherwise in his charge; or for any loss of contents of bags through shifting or for internal breakage, or for deficiency in contents of unbroken packages; or for

- (b) loss of or damage to castings, machinery or other goods not protected or insufficiently protected, or insecurely packed, or from leakage arising from defective drums, tins or packages; or for
 - (c) the loss of or damage to goods by vermin or insect pests except upon proof that such loss or damage arises from the negligence of his servants; or for
 - (d) loss of or damage to animals arising from inherent vice, or from any cause other than that arising from the negligence of his servants; or for
 - (e) loss of or damage to goods caused from maintaining too high or too low a temperature in any warehouse or cool chamber or failure of machinery or plant not due to negligence on the part of the servants of the High Commissioner.
- (2) The High Commissioner shall not be liable for any demurrage which may accrue or be due on any ship howsoever caused.

PART III.

GENERAL OFFENCES IN RESPECT OF HARBOURS AND SHIPS
AND BY SERVANTS.

23. Any person who does or causes or procures to be done any of the following acts, namely who :—

Penalties for
certain classes
of offences.

- (a) Trespasses upon any portion of a harbour closed to the public or on any ship the property of the High Commissioner or on any work under construction or under repair, or in a specially prohibited place;
- (b) Wilfully gives a false name and address to a servant or police officer;
- (c) Is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of others in or about any harbour or upon any ship;
- (d) Does or attempts to do anything which may cause injury to persons employed or being in or about any harbour or upon any ship;
- (e) Commits any nuisance or act of indecency or uses profane, obscene, indecent, or abusive language in or about any harbour or upon any ship;

- (f) Writes, draws, or affixes any profane, obscene, indecent or abusive word, matter, representation or character upon any part of any harbour or upon any ship;
- (g) Defaces the writing on any board or on any notice authorised to be maintained at any harbour or upon any ship;
- (h) Smokes in any goods shed, warehouse, or in proximity to any cargo or inflammable material or in any other places within any harbour or upon any ship where notice boards prohibiting smoking are erected;
- (i) Disobeys while upon harbour premises the reasonable directions of a servant or police officer;

shall be liable to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

Penalties for
certain other
classes of
offences.

24. Any person who does or causes or procures to be done any of the following acts, namely, who :—

- (a) Pulls down or attempts to pull down or wilfully injures or attempts to injure any board or document set up or posted by order of the High Commissioner in any harbour or upon any ship;
- (b) Gives or offers to a servant any money or anything of value for the purpose of evading payment of any sum due under this Ordinance;
- (c) Fails to deliver at the earliest possible opportunity to a servant any property found in or about any harbour or upon any ship belonging to the High Commissioner or removes from a harbour or any ship any property so found;
- (d) Wilfully obstructs or impedes a servant in the discharge of his duty;
- (e) Discharges from a ship or within a harbour any fire-arm, or throws stones, metal, bricks, gravel, timber, glass, bottles, or other articles likely to obstruct or injure anyone engaged in working in or about a harbour or ship, or attempts to do any of the foregoing acts;
- (f) Removes or attempts to remove from any harbour or ship the property of the High Commissioner or from any harbour premises any rolling stock, tarpaulins,

tools, appliances, or property of any kind, or permits any such rolling stock, tarpaulins, tools, appliances or property to be unlawfully in his possession or on his premises;

shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

25. Any person who voluntarily and without lawful authority or excuse does or causes or procures to be done any of the following acts, namely, who :—

Penalties
for grave
offences.

- (a) Damages, removes, or in any other way interferes with any lighthouse, buoy, mark or beacon, sets adrift, or otherwise causes damage to any ship, or causes any damage to harbour property or equipment;
- (b) Cuts down, breaks, removes, destroys, or injures any fence, building, or bridge or any other property in or about any harbour;
- (c) Removes any cranes or tackle, points, wires, sleepers, rails or machinery or floating equipment in or about a harbour, or moves any part of the rolling stock or floating equipment in or about any harbour;
- (d) Obstructs or does anything which may obstruct the free use of any wharf, jetty, quay, railway or foreshore, or the approaches thereto;

shall be liable to a fine not exceeding £500 or to imprisonment for a period not exceeding ten years or to both such fine and imprisonment.

26. (1) If a minor under the age of sixteen years is, with respect to a harbour or ship, guilty of any of the acts mentioned or referred to in any of the three last preceding sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping not exceeding sixteen strokes with a light cane, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts.

Special
provisions with
respect to the
commission of
offences by
children.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as a fine.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be liable to a fine not exceeding five pounds.

Penalty for false claim, etc.

27. (1) If any person wilfully makes in any claim, return or particulars required by this Ordinance any statement which is untrue or incorrect in any particular, that person shall be liable on conviction to a fine not exceeding £50, and in addition shall pay to the High Commissioner as penalty double the amount of the charges leviable under the Harbour Tariff on the goods in respect of which the untrue or incorrect statement has been made.

(2) If any person negligently makes in any claim, return or particulars required by this Ordinance any statement which is untrue or incorrect in any particular, the High Commissioner may require such person to pay as penalty a sum not exceeding double the amount of the charges leviable under the Harbour Tariff on the goods in respect of which the untrue or incorrect statement has been made.

Penalty for refusing or neglecting to obey lawful direction of Port Manager, etc.

28. If any person wilfully or without lawful excuse refuses or neglects to obey any lawful direction of the Port Manager, Port Captain or Port Officer, he shall, for every such offence, be liable to a fine not exceeding ten pounds, or, in the case of a continuing offence, to a further fine not exceeding ten pounds for every day during which he shall without lawful excuse continue to disobey such instructions.

OFFENCES BY SERVANTS.

Drunkenness

29. If a servant is in a state of intoxication while on duty, he shall be liable to a fine not exceeding five pounds, or, where the improper performance of the duty would be likely to endanger the safety of any person employed or being upon harbour premises or upon any ship, to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

Endangering the safety of persons

30. If a servant, when on duty, endangers the safety of any person—

(a) by disobeying any regulation made, sanctioned, published and notified under this Ordinance; or

(b) by disobeying any rule or order which is not inconsistent with any such regulation, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or with which he was required to make himself acquainted, or

(c) by any rash or negligent act or omission,
he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

31. (1) If a servant before leaving the Services shall fail to give to the High Commissioner the notice specified in his agreement (if any), or provided by any regulation under this Ordinance or under the Order in Council, he shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the High Commissioner from any moneys due to him, and he shall in addition be liable to a fine not exceeding fifteen pounds.

Leaving
Services
without having
given the
requisite
notice.

(2) Whenever a servant, being a member of the crew of any ship, is guilty of the offence of leaving the service without giving the notice specified in the preceding subsection, or of absence without leave, he may be arrested by any police officer without warrant, or the master of the ship may, with or without the assistance of the police, convey him on board the ship.

(3) Nothing in this or the preceding sections contained shall be deemed to exempt a servant from punishment under the Employment of Natives Ordinance, or any Ordinance amending or substituted for the same. *Cap. 139.*

32. Any servant who, with intent to defraud, asks or receives a greater sum or a lesser sum than is allowed by law and is provided by the regulations or tariff then in force for the facilities provided at a harbour by the High Commissioner, or for any other services performed by the High Commissioner, shall, in addition to such other action as may be decided by the High Commissioner in regard to the termination of his employment, be liable to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

Penalty for
demanding
more than
is due.

PROCEDURE.

33. (1) If a person commits any offence mentioned in sections 23, 24, 25, 29 and 30, he may be arrested without warrant or other written authority by any police officer, or

Arrest for
offences
against
certain
sections.

in the absence of a police officer by any servant or by any other person whom such police officer or servant may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a magistrate having authority to try him or commit him for trial.

Arrest of
persons likely
to abscond
or unknown.

34. (1) If a person commits any offence under this Ordinance, other than an offence mentioned in the last preceding section, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name and address given by him is incorrect, any servant or police officer or any other person whom such servant or police officer may call to his aid may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond, without sureties, for his appearance before a magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall, with the least possible delay, be taken before the nearest magistrate having jurisdiction.

Appointment
of persons
to maintain
order in or
about
harbours.

35. The High Commissioner may appoint as many persons as may be deemed necessary for the duty of maintaining order in or about any harbour, and when any such person so appointed is carrying out that duty he shall be capable of exercising all such powers and shall perform all such functions as are by law conferred on or are to be performed by a police officer, and shall be liable in respect of acts done or omitted to be done to the same extent as he would have been liable in like circumstances if he were a member of the police force of the Colony, and shall have the benefits of all the indemnities to which a member of the police force would in like circumstances be entitled.

Place of trial.

36. (1) Any person committing any offence against this Ordinance shall be triable for such offence in any place in which he may be, or which the Governor may notify in this behalf, as well as in any place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such harbours as the Governor may direct.

PART IV.

SUPPLEMENTAL PROVISIONS.

37. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of rates or taxes in respect of the harbours in aid of the funds of local authorities, namely :—

Taxation of
harbours
by local
authorities.

- (1) The High Commissioner shall not be liable to pay any sum in respect of rates and taxes to the funds of any local authority unless the Governor in Council has by notification in the Gazette declared the High Commissioner to be liable to pay such sums.
- (2) The Governor in Council may at any time revoke or vary a notification under sub-section (1) of this section.
- (3) Nothing in this section is to be construed as debarring the High Commissioner from entering into a contract with any local authority for the supply of water or light, or for the scavenging of harbour premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.
- (4) " Local Authority " in this section means a municipal corporation or committee, district board, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or other fund.

38. None of the tugs, motor launches, boats, lighters, trucks, trollies, cranes, tools, plant, machinery, fittings, workshop materials, materials or effects used or provided by the High Commissioner for harbour purposes, shall be liable to be taken in execution of any decree or order of any Court, or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution, without the previous sanction of the High Commissioner.

Restriction
on execution
against
harbour
property.

Harbour
servants to
be public
servants.

39. (1) Every servant shall be deemed to be a public servant for the purpose of Chapter IX of the Indian Penal Code.

(2) A servant shall not—

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under sections 17 or 18; or

(b) in contravention of any direction of the High Commissioner in this behalf, engage in trade.

Disposal of
Provident
Fund
contributions
in event of
dismissal
from the
Service.

40. If a servant be dismissed from the service for fraud, dishonesty or misconduct, or retire from the service in order to avoid dismissal, or be ordered to resign on account of misconduct, he shall be refunded the amount of his own contributions only to any provident, pension or superannuation fund controlled by the High Commissioner, to which he may have contributed: Provided that, in the case of a member dismissed for fraud or dishonesty, the High Commissioner may deduct from any sums payable to such member under this section the amount of any loss which the High Commissioner may have sustained by reason of such fraud or dishonesty.

Arrest of a
harbour
servant.

41. (1) When the immediate arrest of a servant, either with or without warrant, would be likely to endanger the safety of any person being in or about any harbour or upon any ship, or to cause serious inconvenience to the High Commissioner, the police officer whose duty it is to make such arrest shall at once apply to the Port Manager, Port Captain or Port Officer to relieve such servant, and shall arrange so to watch him that he does not escape, and on such servant being relieved such police officer shall arrest him and proceed according to law.

(2) The relief of a servant under the preceding sub-section shall be effected with the least possible delay.

Procedure
for summary
delivery to
the High
Commissioner
of property
detained by
harbour
servant.

42. If a servant be discharged or suspended from his office, or dies, absconds, or absents himself, and he or his wife or widow or any of his family or representatives refuses or neglects, after notice in writing for that purpose to deliver up to the High Commissioner, or to a person appointed by the High Commissioner in this behalf, any dwelling-house, office

or other building with its appurtenances, or any books, papers or other matters, belonging to the High Commissioner and in the custody or possession of such servant at the occurrence of any such event as aforesaid, any magistrate may, on application made by or on behalf of the High Commissioner, order any police officer with proper assistance to enter upon the building and remove any such person found therein, and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the High Commissioner or to a person appointed by him in that behalf.

43. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the High Commissioner for any of the purposes of, or in relation to, this Ordinance or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by the officer or servant deputed by the High Commissioner to communicate his directions in respect of the matters to which the same may relate, and the High Commissioner shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in the manner aforesaid.

Mode of
signifying
communica-
tions from
the High
Commissioner.

44. Any notice or other document required or authorised by this Ordinance to be served on the High Commissioner may be served on the General Manager or such other officer as may be appointed by the General Manager for the purpose—

Service of
notice on
the High
Commissioner.

- (a) by delivering the notice or other document to the
General Manager or his agent; or
- (b) by leaving it at his office; or
- (c) by forwarding it by post in a prepaid registered letter
addressed to the General Manager or his agent at
his office.

45. Any notice or other document required or authorised by this Ordinance to be served on any person by the High Commissioner may be served—

Service of
notice by
the High
Commissioner.

- (a) by delivering to the person; or
- (b) by leaving it at the usual or last known place of
abode of the person; or

- (c) by forwarding it by post in a prepaid registered letter addressed to the person at his usual or last known place of abode.

Presumption
where notice
is served by
post.

46. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Limitation
of actions.

47. (1) No action the cause of which shall have arisen after the commencement of this Ordinance shall be brought against the High Commissioner unless the same be commenced within twelve months after the cause of action arose.

(2) No action shall be commenced against the High Commissioner until one month at least after written notice of intention to commence the action has been served upon the High Commissioner by the plaintiff or by his attorney or agent. In that notice the cause of action and details of the claim shall be clearly and explicitly stated.

(3) In any action against the High Commissioner, no execution or attachment or process in the nature thereof shall be issued against the High Commissioner or against any property of His Majesty, but the General Manager shall pay out of the Railway and Harbour Fund such sums of money as shall by the judgment of the Court be awarded to the plaintiff.

Representation
of the High
Commissioner
in Court.

48. (1) The High Commissioner may authorise the General Manager to act for or represent him, or to appoint any other person to act for or represent him, in any proceeding before any civil, criminal or other court.

(2) The General Manager, or any other person appointed by him to conduct prosecutions shall be entitled to conduct such prosecutions without the permission of the magistrate.

PART V.

REGULATIONS AND REPEAL.

Regulations.

49. The High Commissioner may, in addition to the powers conferred upon him by the Order in Council, make,

vary or revoke regulations, not inconsistent with this Ordinance, with respect to any of the following matters, that is to say, with respect to :—

- (1) The proper control and management of any anchorage, tidal river, foreshore, dock, basin or harbour, and the entrance thereto, the removal of any obstruction therein, and the preservation from injury of any works, buoys, dredgers, ships or other property connected therewith;
- (2) The erection of buildings or other structures, or the planting of posts or poles that may interfere with the proper working of any harbour or the signals or beacons thereat;
- (3) The regulation of the stevedoring, landing, shipping, transshipping, delivery, collection and warehousing of goods at any harbour, the fixing of minimum hours of work in ships loading or discharging cargo, and the minimum tonnage to be loaded or discharged in a working day, and the declaration of the tonnage and valuation of goods imported or exported and the necessary declarations and statements in support thereof;
- (4) The proper control of all ships entering or within any harbour, or coming alongside any jetties, piers, quays, or wharves, or anchoring or mooring within the limits of any harbour, and, subject to the provisions of any law relating to merchant shipping, the taking of measures for the prevention of ships from leaving any harbour if overloaded or improperly loaded or insufficiently manned or without qualified officers or engineers or with a number of passengers in excess of the number that can be carried with reasonable safety, or if so improperly found or otherwise unseaworthy;
- (5) The fixing and determining of ships dues, wharfage charges, and light dues and other harbour dues and charges, and the payment and the exemptions from payment thereof;
- (6) The prevention of shipwrecks and casualties to ships, and the protection of ships and cargoes wrecked or in danger of being wrecked, and the removal, destruction or abandonment of wrecks and wreckages

and anchors, dangerous or likely to become dangerous or a nuisance, or that obstruct or are likely to obstruct the fairway of any harbour, and the levy and recovery of a rent for the right of a hulk or wreck or any wreckage to lie in any harbour, and the saving of life in case of shipwreck ;

- (7) The removal or sale of stranded ships and their cargoes and appurtenances ; the payment of fines, expenses of sale and other charges incurred in connection therewith, and the disposal of the proceeds of sale ;
- (8) The promotion of efficiency and discipline in the pilot service, and the service upon ships or works connected with any harbour or lighthouse, lifeboat or life-saving apparatus, and provision for the examination, registration and licensing of pilots, and the charges to be made by pilots, their duties and obligations ;
- (9) Subject to the provisions of any law relating to merchant shipping, the examination and certification of masters, mates and engineers of ships engaged in local trade, whalers, tugs, dredgers, fishing boats and light craft, and the charges and licences payable in respect thereof, and, subject as aforesaid, the registration, licensing, inspection and control of ferries, tugs, launches, hulks, fishing or ferry boats or other craft, and the number of passengers to be carried on the same, and the charges to be paid for the registration, licensing and inspection of the same ;
- (10) The granting of licences to ferrymen, boatmen, and porters, landing agents, stevedores, forwarding agents, shipping agents, baggage and parcels agents, and contractors for the supply of water or ballast, or other persons concerned in harbour work, and the regulation of charges leviable by them, and their duties and the hours of their attendance at work ;
- (11) The regulation of the use of all landing places, slips, gridirons, docks, shears, cranes, lights, warps and coaling or other appliances, and the regulation of the traffic within any harbour area ;

- (12) The licensing or other authorisation of admission on to the wharves, docks, jetties, or other works of any harbour at any special times of any hotel representatives, landing agents, or other persons soliciting patronage from passengers on ships arriving at or departing from any such harbour ;
- (13) The prohibition of smoking in or on wharves, jetties, quays, buildings, or rolling stock ;
- (14) The prevention of obstructions and the preservation of good order on the foreshore, and on banks of rivers, wharves, jetties, landing places, breakwaters, and other works within his jurisdiction ;
- (15) The duties and conduct of carmen, draymen, carriers, and persons other than servants of the High Commissioner who ply for hire to or from any wharf, building, or other place which is under the control of the High Commissioner ;
- (16) The admission of the public to, or their exclusion from, any of the harbours, docks, wharves, jetties and landing places, and the charges (if any) to be made for admission, and the closing to the public, for such period as the High Commissioner may think fit, of any harbours, docks, wharves, jetties, sheds, roads, or landing places under his jurisdiction ;
- (17) The prevention of damage or injury to any harbour, dock, slip, wharf, jetty, landing place or other works and premises, ships or any property whatever ;
- (18) The prevention of the commission of any nuisance in or upon any harbour, foreshore, dock, wharf, jetty or landing place, and generally the promotion and ensuring of good sanitation, cleanliness and decency within any harbour ;
- (19) The charges to be made for warehousing goods under his control and for their care or custody, and the terms and conditions upon which they shall be received, and provision for the disposal of unclaimed goods ;
- (20) The definition for the purposes of this Ordinance of dangerous or offensive goods and the conditions under which and the times when those classes of goods

shall be landed, shipped, or transhipped, and the prohibition of the landing, shipping or transhipping of those classes of goods, and provision for or sanctioning of the removal or destruction of the same ;

- (21) The use of harbour land for coal stands, depositing or forwarding sites, pipe lines, power lines and the like, and whether the same shall be overhead, underground, or submarine ;
- (22) Advertising and bookstalls at any harbour and the fixing of the hours and days during which any such bookstall may remain open for the use of the public ;
- (23) The sale of liquors and refreshments within a harbour, and the imposition of licensing fees in respect of the sale of such liquors and refreshments ;

and generally with respect to the use and working of harbours and for the good government thereof, and the maintenance of order thereon and therein.

The regulations may provide penalties for any contravention thereof or failure to comply therewith, and may also impose different penalties in case of a second or subsequent contravention or non-compliance, but no such penalty shall exceed a fine of fifty pounds or imprisonment for a period of six months, or both such fine and imprisonment.

As often as the contravention of or failure to comply with any such regulation causes damage to any property under the management or control of the High Commissioner, the person causing the damage shall, in addition to any penalty which may be imposed under the regulation, be liable to the High Commissioner for the amount of the damage done.

A copy of all regulations for the time being in force shall be published in the Gazette and kept at the Port Office at each harbour and any person shall be allowed to inspect the same free of charge.

The Port Captain or other authorised officer shall on demand cause to be delivered to the master of any ship arriving at any harbour a copy of this Ordinance and of such harbour and quarantine regulations as may be in force in the harbour.

Repeal.

50. (1) The Port Ordinance (Chapter 107 of the Revised Edition) is hereby repealed.

Provided that all rules, regulations, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under the said Ordinance or under any other Ordinance or Order in Council relating to harbours shall, so far as they are consistent with this Ordinance, be deemed to have been respectively made, given, approved, conferred, and published under this Ordinance.

(2) All reference in any enactment or document to the Ordinance hereby repealed shall, as far as may be, be construed as references to this Ordinance.

No. XXXIV. Subordinate Courts (Separation and Maintenance) 1928

No. 34 OF 1928.

[31ST DECEMBER, 1928.]

Date of assent.

An Ordinance to confer Jurisdiction on certain Magistrates in reference to married women.*By Proclamation.*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 Subordinate Courts (Separation and Maintenance) Ordinance, 1928."

Interpretation.

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

"Court" means a subordinate court of the first class;

"Habitual drunkard" or "habitual drug-taker" means a person who, not being amenable to any jurisdiction in lunacy, is notwithstanding, by reason of habitual intemperate drinking of intoxicating liquor or habitual taking or using, except upon medical advice, of any opiate within the meaning of the Abuse of Opiates Prevention Ordinance as amended by the Abuse of Opiates Prevention (Amendment) Ordinance, 1926, at times dangerous to himself or to others or incapable of managing himself or his affairs.

Cap. 121.
No. 10 of 1926.

Application
for order.

3. (1) Any woman may apply to the Court for an order or orders under this Ordinance on any of the following grounds, namely :—

(a) that her husband has been convicted of any offence against her under sections 323 to 326 (both inclusive) of the Indian Penal Code or under the corresponding provisions of any enactment substituted therefor;

(b) that her husband has deserted her;

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- (c) that her husband has been guilty of persistent cruelty to her or her children or of wilful neglect to provide reasonable maintenance for her or her children whom he is legally liable to maintain ;
- (d) that he has, while suffering from a venereal disease and knowing that he was so suffering, insisted upon having sexual intercourse with her ;
- (e) that her husband has compelled her to submit herself to prostitution ;
- (f) that her husband is a habitual drunkard or habitual drug-taker.

(2) When the husband has in the opinion of the Court been guilty of such conduct as was likely to result and has resulted in his wife submitting herself to prostitution, he shall for the purposes of this Ordinance be deemed to have compelled her so to submit herself.

(3) An application under this Ordinance shall be made to the Court having jurisdiction within the area in which any such conviction has taken place or in which the cause of complaint shall have wholly or partially arisen.

(4) For the purposes of this Ordinance, the expression " children whom he is legally liable to maintain " shall include, in addition to children of the marriage, any child of the wife born before such marriage (whether such child be legitimate or illegitimate) until such child attains the age of sixteen years or until the death of its mother, whichever event shall first occur.

4. The Court to which any application under this Ordinance is made may make an order or orders containing all or any of the following provisions, namely :—

Power of Court.

- (a) a provision that the applicant be no longer bound to cohabit with her husband (which provision while in force shall have the effect in all respects of a decree of judicial separation on the ground of cruelty) ;
- (b) a provision that the legal custody of any children of the marriage between the applicant and her husband while under the age of sixteen years be committed to the applicant ;

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- (c) a provision that the husband shall pay to the applicant personally or for her use to any officer of the Court or third person on her behalf such monthly sum as the Court shall, having regard to the means both of the husband and wife, consider reasonable;
- (d) a provision for payment by the applicant or the husband or both of them of the costs of the Court and such reasonable costs of either of the parties as the Court may think fit.

Limitation of
powers of
Court.

5. No orders shall be made under this Ordinance on the application of a married woman if it shall be proved that such married woman has committed an act of adultery: Provided that the husband has not condoned or connived at or by his wilful neglect or misconduct conduced to such act of adultery.

Court may vary
or discharge
order.

6. (1) The Court may, on the application of the married woman or of the husband and upon cause being shown upon fresh evidence to the satisfaction of the Court, at any time alter, vary or discharge any such order and may upon any such application from time to time increase or diminish the amount of any payment ordered to be made.

(2) If any married woman upon whose application an order shall have been made under this Ordinance shall voluntarily resume cohabitation with her husband the order shall cease to have effect on the resumption of such cohabitation and if she commit an act of adultery such order shall on proof thereof be discharged: Provided that the Court may, if the Court thinks fit—

- (a) refuse to discharge the order if in the opinion of the Court such act of adultery as aforesaid was conduced to by the failure of the husband to make such payments as in the opinion of the Court he was able to make; and
- (b) in the event of the order being discharged, make a new order that the legal custody of the children of the marriage shall continue to be committed to the wife and that the husband shall pay to the wife or to any officer of the Court or third person on her behalf such monthly sum as the Court shall consider reasonable in the circumstances of the case for the

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maintenance of each such child until the child attains the age of sixteen years : Provided that the total monthly sum ordered to be paid under this paragraph shall not exceed twenty pounds. In making such an order the Court shall have regard primarily to the interests of the children.

7. In the case of the conviction of a husband under sections 323 to 326 (both inclusive) of the Indian Penal Code or under the corresponding provisions of any enactment substituted therefor, of any offence against his wife, her application may by leave of the Court be made by summons to be issued and made returnable immediately upon such conviction. **Procedure.**

8. No order made under this Ordinance shall be enforceable and no liability shall accrue under any such order whilst the married woman with respect to whom such order was made resides with her husband, and any such order shall cease to have effect if for a period of three months after it is made the married woman continues to reside with her husband. **Order not enforceable if parties reside together.**

9. Any person for the time being under an obligation to make payments (including costs) under an order made under this Ordinance shall give notice to such person (if any) as may be specified in the order of any change of address, and any person failing to give such notice without reasonable excuse shall be liable to a fine not exceeding five pounds. **Change of address.**

10. Where on the hearing of an application for an order of maintenance the application is adjourned for any period exceeding one week, the Court may order that the husband do pay to the wife or to an officer of the Court or third person on her behalf such weekly sum as the Court shall consider reasonable in the circumstances of the case for the maintenance of the wife and any child or children in her custody until the final determination of the case : Provided that the order directing such payment shall not remain in operation for more than three months from the date on which it was made. Any such order shall be enforced in like manner as if it were a final order of the Court. **Interim order for maintenance.**

11. (1) Any sum ordered to be paid under the provisions of this Ordinance shall be a civil debt recoverable summarily under the Civil Debts (Summary Recovery) Ordinance. **Enforcement of orders.**
Cap. 6.

No. XXXIV. Subordinate Courts (Separation and Maintenance) 1928

(2) A person making default in complying with an order made by a Court under this Ordinance in relation to any matter other than the payment of money may be sentenced to simple imprisonment until he has remedied his default : Provided always that a person shall not for non-compliance with an order of a Court, whether made by one or more orders, to do or abstain from doing any act or thing, be liable under this subsection to imprisonment for a period or periods amounting in the aggregate to more than six months.

Custody
and main-
tenance of
children.

12. When a woman, who might have applied for an order or orders under this Ordinance, is dead or has committed an act of adultery, and the Attorney General is satisfied that she would, if alive or if she had not committed an act of adultery, have had reasonable grounds for applying for an order or orders under this Ordinance, he may apply to the Court for an order or orders giving directions as to the legal custody of and the reasonable maintenance by the husband of such woman of her children whom he is legally liable to maintain, and the Court may, on such application, make such order or orders giving such directions as to the matters mentioned above as it may, in its discretion, think fit.

Any such order or orders shall, when made, be enforceable in the same way as any other order or orders is enforceable under this Ordinance.

Saving clause.
Cap. 170.
No. 7 of 1926.

13. Nothing in this Ordinance shall be deemed to affect the provisions of the Divorce Ordinance as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926.

Residence.

14. A Court shall entertain proceedings under this Ordinance only in cases where one of the parties has at the time of the issue of the summons his or her usual place of residence in the Colony.

Application of
Ordinance.

Cap. 170.

No. 7 of 1926.

15. This Ordinance shall apply only in cases where the husband and wife have been married within the definition of the word " marriage " contained in section 3 of the Divorce Ordinance as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926.

No. XXXIV. Subordinate Courts (Separation and Maintenance) 1928

- 16.** The Chief Justice may make Rules of Court— **Power to make Rules.**
- (a) prescribing the forms to be used and the fees to be paid in proceedings under this Ordinance;
 - (b) prescribing the procedure to be followed on applications under this Ordinance; and
 - (c) generally for the carrying out of the provisions of this Ordinance.

17. This Ordinance shall come into force on such date **Commencement of Ordinance.**
as the Governor shall by proclamation in the Gazette appoint.

Date of assent.

[31ST DECEMBER, 1928.]

**An Ordinance to Provide for the Punishment of
Departmental Offences.**

Date of
commencement.*31st December, 1928.*

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 “ Departmental
Offences Ordinance, 1928.”

Interpretation.

2. (1) In this Ordinance, unless the context otherwise
requires, the term “ subordinate officer of Government ”
means, in the case of an officer appointed under the conditions
of service ordinarily applicable to Europeans, an officer whose
salary does not exceed £500 per annum, and, in the case of
any other officer, an officer whose salary does not exceed £228
per annum.

(2) The powers by this Ordinance conferred upon the
Head of a Department shall be exercised only by such Heads
of Departments, Senior Commissioners, and other European
officers as the Governor may by notice in the Gazette from
time to time determine.

Offences.

3. If any subordinate officer of Government—

- (1) contravenes any regulation or instruction in force
in the department in which he is serving ; or
- (2) disobeys or neglects to obey any lawful order of any
officer in authority over him ; or
- (3) is impertinent or disrespectful to any officer in
authority over him or to any member of the public ;
or

- (4) is intoxicated or is under the influence of drink or drugs while on duty ; or
- (5) in general, conducts himself or acts in a manner calculated to prejudice the work or the efficiency of the department in which he is serving or unnecessarily to interfere with the work of another department,

he may, after due investigation by the Head of the Department in which he is serving, be fined by such Head of Department a sum not exceeding one quarter of a month's pay :

Provided that in no case shall the aggregate amount of fines inflicted in any one month exceed one quarter of a month's pay :

Provided further that an offender under this section may, in lieu, wholly or partly, of a fine, be allotted extra duty without remuneration, so only that the value of such extra duty, or of such fine and extra duty, shall not exceed one quarter of a month's pay.

4. A Head of Department may convict upon such Evidence. evidence, not given upon oath or affirmation, as he shall think fit.

5. A fine imposed under section 3 may be enforced by Pay may be deduction from the officer's salary. stopped.

6. A Head of Department or other officer authorised to exercise the powers of a Head of Department under this Ordinance shall, at the end of every month, submit to the Governor, through the Colonial Secretary, a return, in such form as the Governor may require, of all fines inflicted during the month. Such return shall operate as an appeal against the fines inflicted, and the Governor may, after calling for such information, if any, as he may require, cancel or reduce any fine and order the refund of the whole or part of the same. Returns to be made every month.

7. Nothing in this Ordinance contained shall be deemed to derogate from the powers otherwise conferred upon any Government officer to impose a fine upon any persons in the service of Government or shall apply to any fine so imposed. Ordinance not to affect powers otherwise conferred.

Saving clause.

8. Nothing in this Ordinance shall relieve any person from any of the consequences of any act or default punishable both under this Ordinance and under any other Ordinance or law :

Provided that no person shall be twice punished for the same offence :

Provided also that where the Governor shall have declared by writing under his hand that he has cancelled the penalty imposed on a person convicted of an offence against this Ordinance, in order that proceedings may be taken against such person in court of law, such person shall not be deemed to have been punished for or to have expiated such offence.

Power to
make rules.

9. The Governor may make Rules—

- (1) conferring powers upon Heads of Departments to enable them to enquire into offences ;
 - (2) prescribing the manner in which and the objects to which fines imposed under this Ordinance shall be applied ;
 - (3) regulating procedure ;
 - (4) generally to give effect to this Ordinance.
-