

**SENIOR COMMISSIONER,
NYANZA.**

INDEX TO ORDINANCES, 1927.

ORDINANCE.	No.	PAGE.
- Ancient Monuments Preservation	17	144
Arms and Ammunition (Amendment)	26	174
Asiatic Widows' and Orphans' Pension	20	158
Bank (Amendment)	5	10
Bills of Exchange	7	13
<i>R. 28/33</i> Companies (Amendment)	4	9
Cotton (Tax) (Amendment)	2	2
✓ Crown Grants (Execution)	18	152
Customs Revenue Allocation	10	55
<i>R. 1/30</i> Customs Tariff	9	53
Dangerous Petroleum Tax (Amendment)	1	1
Employment of Natives	21	168
European Officers' Pensions	11	57
Kenya and Uganda Railway	15	98
King's African Rifles Reserve of Officers	12	79
✓ Land Titles (Amendment)	27	175
Marriage (Amendment)	6	11
<i>R. 36/30</i> Native Liquor (Amendment)	19	153
Specific Loan	22	169
Stamp (Amendment)	13	82
Supplementary Appropriation	16	142
Supplementary Appropriation (Railway) (Amendment)	8	52
Supplementary Appropriation (Railway) (Amendment) (No. 2)	25	173
Supplementary Appropriation (Railway) (Amendment) (No. 3)	28	176
Town Planning (Amendment)	14	94
Widows' and Orphans' Pension (Amendment)	3	5
Widows' and Orphans' Pension (Amendment) (No. 2)	23	171
Wireless Telegraphy (Amendment)	24	172

II

CHRONOLOGICAL TABLE.

Ordinance No.	Title of Ordinance.	Date of Assent	Date of Commencement.	Page.
I	The Dangerous Petroleum Tax (Amendment) Ordinance, 1927 ..	10 3 27	1 7 26	1
II	The Cotton (Tax) (Amendment) Ordinance, 1927	10 3 27	10 3 27	2
III	The Widows' and Orphans' Pension (Amendment) Ordinance, 1927 ..	29 3 27	1 1 26	3
IV	The Companies (Amendment) Ordinance, 1927	29 3 27	29 3 27	9
V	The Bank (Amendment) Ord. 1927 ..	29 3 27	29 3 27	10
VI	The Marriage (Amend.) Ord. 1927 ..	29 3 27	29 3 27	11
VII	The Bills of Exchange Ord. 1927 ..	14 5 27	14 5 27	13
VIII	The Supplementary Appropriation (Railway) (Amend.) Ord. 1927 ..	14 5 27	14 5 27	52
IX	The Customs Tariff Ordinance, 1927..	14 5 27	14 5 27	53
X	The Customs Revenue Allocation Ordinance, 1927	14 5 27	By Notice	55
XI	The European Officers' Pensions Ordinance, 1927	25 6 27	1 4 27	57
XII	The King's African Rifles Reserve of Officers Ordinance, 1927	25 6 27	25 6 27	79
XIII	The Stamp (Amendment) Ord. 1927..	25 6 27	25 6 27	82
XIV	The Town Planning (Amend.) Ordinance, 1927	25 6 27	25 6 27	94
XV	The Kenya and Uganda Railway Ordinance, 1927	22 10 27	By Proclamation	98
XVI	The Supplementary Appropriation Ordinance, 1927	22 10 27	22 10 27	142
XVII	The Ancient Monuments Preservation Ordinance, 1927	22 10 27	22 10 27	144
XVIII	The Crown Grants (Execution) Ordinance, 1927	22 10 27	22 10 27	152
XIX	The Native Liquor (Amend.) Ordinance, 1927	22 10 27	22 10 27	153
XX	The Asiatic Widows' and Orphans' Pension Ordinance, 1927	22 10 27	22 10 27	158

III

CHRONOLOGICAL TABLE —(Contd.).

Ordinance No.	Title of Ordinance.	Date of Assent.	Date of Commencement.	Page.
XXI	The Employment of Natives Ordinance, 1927	7 11 27	7 11 27	168
XXII	The Specific Loan Ordinance, 1927 ..	3 11 27	3 11 27	169
XXIII	The Widows' and Orphans' Pension (Amendment) (No. 2) Ord. 1927 ..	31 12 27	1 1 26	171
XXIV	The Wireless Telegraphy (Amend.) Ordinance, 1927	31 12 27	31 12 27	172
XXV	The Supplementary Appropriation (Railway) (Amend.) (No. 2) Ord. 1927	31 12 27	31 12 27	173
XXVI	The Arms and Ammunition (Amend.) Ordinance, 1927	31 12 27	1 1 28	174
XXVII	The Land Titles (Amendment) Ordinance, 1927	31 12 27	1 7 26	175
XXVIII	The Supplementary Appropriation (Railway) (Amend.) (No. 3) Ord. 1927.	31 12 27	31 12 27	176

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION.

Former Ordinances (in Chronological Order) Repealed or Amended by Ordinances of 1927.

Year and No. of Ordinance	Short Title.	How Affected.	Ordinance of 1927.
Revised Edition Chap. 34	Widows and Orphans Pension ..	Amends S. 5 (1), 27 and 28 ..	No 3
do	do.	Further amendment to S. 28 (1), ..	" 23
48	Specific Loan (number two) ..	Repealed ..	" 22
50	Customs Tariff — ..	Application of Special provisions to import duty on notification of agreement under S. 263 of Customs Management Ordinance, 1926. ..	" 9
54	Dangerous Petroleum Tax ..	Amends S. 3 ..	" 1
57	Stamp	Amds S. 2(2),(19),(22); S. 3 (1); Adds S. 8A; Amends S. 16; Adds S. 16A; Amends S. 17, 26, 34 (3), 37; Repeals S. 38, Amends S. 42 (1) 43, 52 (1), 57, 63 (2), 67, 68 69; Amends Schedule and Adds Second Schedule ..	" 13
60	Cotton (Tax)	Amends S. 2 and Schedule ..	" 2
85	Town Planning	Provides for procedure upon final Approval of a Town Planning Scheme and adds sub-section 13 (7) ..	" 14
93	Companies.. .. .	Amends S. 292 ..	" 4
94	Bank.. .. .	Amends S. 2, 32, 33, 38 (1) and 39 (1); Repeals S. 35 and 40 ..	" 5
115	East Africa Railways	Repealed ..	" 15
118	Wireless Telegraphy	Amends S. 2 and adds paragraph to S. 6 (1) ..	" 24
133	Natives Liquor	Amends S. 2, 8 (1). Adds S. 8A; Amends S. 11, 13, 14, 20, 23; Adds S. 31 ..	" 19
139	Employment of Natives	Declares S. 47 to be law ..	" 21

TABLE SHOWING THE EFFECT OF THE YEAR'S
LEGISLATION—(contd.)

Former Ordinances (in Chronological Order) Repealed
or Amended by Ordinances of 1927—(contd.)

Year and No. of Ordinance	Short Title.	How Effect'd.	Ordi- nance of 1927.
Revised Edition Chap. 140	Crown Lands	Execution of Crown Grants, etc., by Com- missioner of Lands	No. 18
142	Registration of Titles	Execution of Crown Grants, etc., by Com- missioner of Lands	„ 18
143	Lands Titles	Amends S. 59	„ 27
167	Marriage	Amends S. 33 and First Schedule (Form F) ..	„ 6
8 of 1925	Arms and Ammunition	Amends S. 12. ..	„ 26
30 of 1925	Supplementary Appropriation (Railway)	Amends Schedule ..	„ 8
19 of 1926	Supplementary Appropriation (Railway) (Amendment) ..	Adds S. 1A. ..	„ 25
8 of 1927	Supplementary Appropriation (Railway) (Amendment) ..	Adds S. 1A' ..	„ 28

See 27/28

**An Ordinance to Amend the Dangerous Petroleum
Tax Ordinance.**

[10TH MARCH, 1927.] 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 Dangerous Petroleum Tax (Amendment) Ordinance, 1927,” and shall be read as one with the Dangerous Petroleum Tax Ordinance (Chapter 54 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.” Short title.

2. Section 3 of the Principal Ordinance is hereby amended by the deletion of the words “ twelve and a half ” and by the substitution therefor of the words “ twenty-five ”. Tax on imported dangerous petroleum.

3. This Ordinance shall be deemed to have come into operation on the first day of July, 1926. Date of commencement.

No. 2 OF 1927.

**An Ordinance to Amend the Cotton (Tax)
Ordinance.**

Date of Assent.

[10TH MARCH, 1927.]

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 Cotton (Tax) (Amendment) Ordinance, 1927, and shall be read as one with the Cotton (Tax) Ordinance (Chapter 60 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Tax on cotton.

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

“ 2. (1) There shall be payable in respect of all cotton ginned in any part of the Colony to which this Ordinance applies a tax on the basis of the sliding scale and according to the conditions set out in the Schedule to this Ordinance.

(2) The Governor in Council may from time to time, by order, vary the sliding scale or the conditions set out in the Schedule.”

Schedule.

3. The following shall be inserted as the Schedule to the Principal Ordinance :—

SCHEDULE.

BASIS OF TAXATION.

The tax shall be calculated on the sliding scale below according to the closing price on the Liverpool Cotton Exchange on the 14th, 15th or 16th day of December of the previous year, whichever shall be the last day on which business is done in respect of June American “ Middling ” futures :—

<i>Price in pence per lb.</i>	<i>Tax in cents per lb.</i>
6·00 pence or under	None.
From 6·01 „ to 7 pence, inclusive	2 cents.
„ 7·01 „ „ 8 „ „	3 „
„ 8·01 „ „ 9 „ „	4 „
„ 9·01 „ „ 10 „ „	5 „
„ 10·01 „ „ 13 „ „	6 „
„ 13·01 „ „ 14 „ „	7 „
„ 14·01 „ „ 15 „ „	8 „
Above 15 „ „ „ „ „	9 „

No. 3 OF 1927.

Amended
23/27.**An Ordinance to Amend the Widows and Orphans Pensions Ordinance.**

[29TH MARCH, 1927.] 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 Widows and Orphans Pension (Amendment) Ordinance, 1927,” and shall be read as one with the Widows and Orphans Pension Ordinance (Chapter 34 of the Revised Edition), hereinafter called the “ Principal Ordinance.” Short title.

2. Sub-section (1) of section 5 of the Principal Ordinance (as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926), is hereby repealed and the following sub-section is substituted therefor :— Rates of contribution.

“ 5. (1) The rates of contribution shall be as follows :—

“ (a) An officer whose salary exceeds the amount given in any line of the first column below but does not exceed that given in the corresponding line of the second shall contribute at the annual rate given in the corresponding line of the third column :

Column 1.	Column 2.	Column 3.
£	£	£
— ...	275 ...	12
275 ...	300 ...	15
300 ...	400 ...	18
400 ...	500 ...	24
500 ...	600 ...	30
600 ...	720 ...	36
720 ...	840 ...	42
840 ...	920 ...	48
920 ...	1,100 ...	54
1,100 ...	1,200 ...	60
1,200 ...	1,300 ...	65

and so on, the annual contribution increasing by £5 for each step of £100 in the salary scale.

“(b) A contributor who before the date of his first payment of contribution under this Ordinance or within three months after marrying shall by written notice to the Crown Agents so elect may make an additional annual contribution of one-half of the amount specified in the line of column 3 above which is applicable to him at the date of notification, or, if he so decides at the date of notification, of one-half the amount so specified which is applicable to him from time to time.

“ A contributor who has not so elected before the date of his first contribution or within three months after marrying may be permitted so to elect at any time during his contribution term, subject to the approval of the Governor after examination by a Government medical board. If he so elects to make an additional annual contribution he shall make it accordingly as from the date on which he first became a contributor or as from the first day of the month next after that in which his notice was received by the Crown Agents or as from the first day of the month next after that in which the Governor's approval was given to his subsequent election, as the case may be.

“ A contributor who on the first day of January, 1926, was making an additional annual contribution and has not since discontinued it may, if he so elects before the first day of August, 1927, discontinue it with effect from the first day of January, 1926, or he may elect to make his annual contribution at one or the other of the above rates with effect either from the first day of the month next after that in which his notice was received by the Crown Agents, or, if he prefers it and so elects before the first day of August, 1927, with retrospective effect from the first day of January, 1926.

“ A contributor who at the time of his appointment or re-appointment to the service of this Government is already making an additional annual contribution under the scheme shall (unless he elects at any time under section 7 (1) to discontinue such additional contribution) continue to pay it as an additional annual contribution under this Ordinance; and an officer who has ceased to contribute under the scheme may on being re-appointed to the service of this Government elect to make an additional annual contribution at the rate then applicable to him from time to time. No officer shall be allowed to make more than one additional annual contribution under the scheme at the same time.

“ (c) No officer shall be required to contribute at a higher rate than £60 a year.

“ (d) No officer shall, after attaining the age of forty-nine years, contribute at a higher rate than that at which he was contributing immediately before attaining that age.”

3. Section 27 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“ 27. If a contributor in the service of this Government who is married or who is a widower with children of a pensionable age and whose period of payment of contribution has not expired—

(a) is transferred to other service under the Crown not being East African Service; or

(b) retires on pension; or

(c) otherwise leaves the East African Service, and his service is of such a nature and of such length as would have rendered him eligible for a pension if he had been retired from the East African Service on medical certificate,

he may continue to contribute at the rate at which he was contributing immediately before he left the East African Service, in which case, if he is a pensioner, his contributions shall be deducted from his pension. Or he may, on or at any time after so leaving the East African Service,

Contributor married or widower with pensionable children leaving the East African Service on transfer, or pension, or when of pensionable standing.

cease to contribute. If he so ceases to contribute, any pension payable on his death shall be reduced so as to correspond with the payments he has made; or, if in the meantime—

- (i) in the case of a married contributor, his wife has died and his children, if any, have ceased to be of a pensionable age, or
- (ii) in the case of a widower, his children, if any, have ceased to be of a pensionable age,

he shall cease to rank for benefit under this Ordinance whether by way of pension or return of contributions."

Contributor
married or
widower with
pensionable
children.

4. Section 28 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

" 28. (1) If a contributor who is married or who is a widower with children of a pensionable age and whose service is not of such a nature or is not of such length as would render him eligible for a pension if retired from the East African Service on a medical certificate, and whose period of payment of contribution has not expired, dies in the East African Service, any pension that may become payable on his death shall be at the rate of four-fifths of the amount given by the Pension Tables; and pension at the same rate shall be granted if such a contributor having left the East African Service on retirement, transfer or otherwise ceases to contribute on leaving that service and dies within a period dating from the day of his leaving the service and equal to one-third of the number of complete months during which he contributed.

" (2) A contributor who is married or is a widower with children of a pensionable age whose service is not of such a nature or is not of such length as would render him eligible for a pension if retired from the East African Service on a medical certificate, and whose period of payment of contribution has not expired and who leaves the East African Service and is not transferred to other service under the Crown, shall not be eligible to continue to contribute thereafter, and, if he is alive on the expiration of the above-mentioned period during which he was entitled to rank for benefit under the scheme, he shall cease to be entitled to rank for benefit under this Ordinance whether by way of pension or return of contributions.

“ If such a contributor is appointed or re-appointed to the service of this Government before the expiration of the above-mentioned period during which he was entitled to rank for benefit under the scheme, he shall commence or re-commence to contribute under this Ordinance as from the expiration of that period, or, if he so elects, from the date of his appointment or re-appointment to the service of this Government, anything in section 3 of this Ordinance to the contrary notwithstanding.

“ (3) For the purpose of this section one-third of a month shall be taken as ten days and two-thirds of a month as twenty days.

“ (4) (a) If any person formerly in the service of this Government has been transferred to other service under the Crown, not being East African Service, prior to the first day of January, 1926, and at the time of such transfer—

- (i) was a contributor; and
- (ii) was married or was a widower with children of a pensionable age; and
- (iii) his period of payment of contributions had not expired; and
- (iv) his service was not of such a nature and of such a length as would have rendered him eligible for pension if he had been retired from the East African Service on medical certificate,

he may, if he is still in the service of the Crown and otherwise eligible to be a contributor, by a written notice addressed to the Crown Agents and received by them prior to the first day of January, 1928, elect to become again a contributor. If he so elects, he shall pay to the Crown Agents, within six months of the date of their receipt of his notice of election, arrears of contributions at the rate at which he was contributing immediately before he ceased to contribute, together with compound interest on such arrears at the rate of eight per centum per annum, with annual rests from the date from which he ceased to contribute to the date of expiration of his

contribution term, or to the date of resumption of payment of contributions, whichever shall first occur, whereupon he shall again be a contributor and any pension to his beneficiary shall be calculated as it would have been calculated if he had not ceased to contribute, and, if his contribution term has not expired, he shall resume payment of contributions at the rate at which he was contributing immediately before he ceased to contribute as from the first day of the month next after that in which the payment of arrears and interest as aforesaid is received by the Crown Agents.

“(b) A person who has resumed payment of contributions under this sub-section may at any time after such resumption of payment cease to contribute, in which case any pension payable on his death shall be reduced so as to correspond with the payments which he had made; or, if in the meantime—

(i) in the case of a married contributor, his wife has died and his children, if any, cease to be of a pensionable age; or

(ii) in the case of a widower, his children, if any, have ceased to be of a pensionable age,

he shall cease to rank for benefit under this Ordinance, whether by way of pension or return of contributions.”

Commence-
ment.

5. This Ordinance shall be deemed to have commenced and come into operation on the first day of January, 1926.

No. IV.

Companies

1927.

No. 4 OF 1927.

Repealed Ord. 28/33

**An Ordinance to Amend the Companies
Ordinance.**

[29TH MARCH, 1927.] 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 Companies (Amendment) Ordinance, 1927,” and shall be read as one with the Companies Ordinance (Chapter 93 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Short title

2. Section 292 of the Principal Ordinance is hereby repealed and in lieu thereof shall be read the following :—

Saving of Bank
Ordinance
(Cap. 94).

“ 292. (1) Nothing in this Ordinance shall affect the provisions of the Bank Ordinance.

“ (2) The provisions of sections 32 and 277 of this Ordinance shall not apply to any bank required to furnish statements or returns under Part II, Part III or Part IV, as the case may be, of the Bank Ordinance.”

NO. 5 OF 1927.

**An Ordinance to Amend the Bank
Ordinance.**

Date of Assent.

[29TH MARCH, 1927.]

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 Bank (Amendment) Ordinance, 1927,” and shall be read as one with the Bank Ordinance (Chapter 94 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Amendment of definition of “ bank ”.

2. Section 2 of the Principal Ordinance is hereby amended by the substitution of the following for the definition of the word “ bank ” :—

“ The word ‘ bank ’ means any company, person or body of persons, whether incorporated or not, engaged in the business of banking within the Colony.”

Amendment of sections 32, 33, 38 (1) and 39 (1) of the Principal Ordinance.

3. (1) Sections 32, 33 and 39 (1) of the Principal Ordinance are hereby amended by the substitution of the words “ Registrar of Companies ” for the word “ Governor ” and by the substitution of the words “ one copy ” for the words “ two copies ” wherever such words appear.

(2) Sub-section (1) of section 38 of the Principal Ordinance is hereby amended by the substitution of the words “ Registrar of Companies ” for the word “ Governor ” and by the deletion of the words “ in duplicate ”.

Repeal

4. Sections 35 and 40 of the Principal Ordinance are hereby repealed.

No. 6 OF 1926.

**An Ordinance to Amend the Marriage
Ordinance.**

[29TH MARCH, 1927.] Date of Assent.

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

1. This Ordinance may be cited as “ the Marriage (Amendment) Ordinance, 1927,” and shall be read as one with the Marriage Ordinance (Chapter 167 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.” Short title.

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

“ 33. The Registrar-General shall cause indexes of all the said certified copies of the Marriage Registers to be made and kept in the Registrar-General's office, and every person shall be entitled to search the said indexes at any reasonable time and, on payment of the fees set out in the Second Schedule hereto, shall be entitled to have a certified copy of any entry in the said certified copies of the Registers; and all certified copies of entries purporting to be signed and certified by the Registrar-General, and every certificate of marriage which shall have been filed in the office of the registrar of any district or a copy thereof purporting to be signed and certified by the registrar of such district for the time being, and every entry in a Marriage Register Book, shall be received as evidence of the marriage to which the same relates without any or other proof of such entry.”

3. Form F in the First Schedule to the Principal Ordinance is hereby repealed, and the Form F in the Schedule hereto is substituted therefor. Amendment of Form F in the First Schedule.

SCHEDULE.

FORM F.

MARRIAGE REGISTER BOOK.

No.	Marriage solemnized at.....in the .....of..... in the Province of.....						
	When married. Name and Surname.	Age	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's Name and Surname.	Rank or Profession of Father.
Married in the.....							by Registrar's Certificate, by Special Licence, by.....
This Marriage was Solemnized between {.....} in the presence of {.....}							

Entered this.....day of.....19 , at the District Registry of Marriage
at.....

Registrar.

**An Ordinance relating to Bills of Exchange,
Cheques, and Promissory Notes.**

[14th May, 1927] Date of Assent.

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

1. This Ordinance may be cited as “ the Bills of Exchange Interpretation Ordinance, 1927.”

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

“ Acceptance ” means an acceptance completed by delivery or notification ;

“ Action ” includes counter-claim and set-off ;

“ Banker ” includes a body of persons whether incorporated or not who carry on the business of banking ;

“ Bankrupt ” includes any person whose estate is vested in a trustee or assignee under the law for the time being in force relating to bankruptcy ;

“ Bearer ” means the person in possession of a bill or note which is payable to bearer ;

“ Bill ” means bill of exchange, and “ note ” means promissory note ;

“ Delivery ” means transfer of possession, actual or constructive, from one person to another ;

“ Holder ” means the payee or indorsee of a bill or note who is in possession of it, or the bearer thereof ;

“ Indorsement ” means an indorsement completed by delivery ;

“ Issue ” means the first delivery of a bill or note, complete in form, to a person who takes it as a holder ;

“ Value ” means valuable consideration ;

PART I.

BILLS OF EXCHANGE.

Form and Interpretation.

Bill of exchange defined.

3. (1) A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person or to bearer.

(2) An instrument which does not comply with these conditions, or which orders any act to be done in addition to the payment of money, is not a bill of exchange.

(3) An order to pay out of a particular fund is not unconditional within the meaning of this section ; but an unqualified order to pay, coupled with—

(a) an indication of a particular fund out of which the drawee is to reimburse himself or a particular account to be debited with the amount ; or

(b) a statement of the transaction which gives rise to the bill, is unconditional.

(4) A bill is not invalid by reason—

(a) that it is not dated ;

(b) that it does not specify the value given or that any value has been given therefor ;

(c) that it does not specify the place where it is drawn or the place where it is payable.

No. VII.*Bills of Exchange***1927**

4. (1) An inland bill is a bill which is or on the face of it purports to be— Inland and foreign bills.

(a) both drawn and payable within the Colony; or

(b) drawn within the Colony upon some person resident therein.

Any other bill is a foreign bill.

(2) Unless the contrary appear on the face of the bill the holder may treat it as an inland bill.

5. (1) A bill may be drawn payable to, or to the order of, the drawer, or it may be drawn payable to, or to the order of, the drawee. Effect where different parties to bill are the same person.

(2) Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note.

6. (1) The drawee must be named or otherwise indicated in a bill with reasonable certainty. Address to drawee.

(2) A bill may be addressed to two or more drawees whether they are partners or not, but an order addressed to two drawees in the alternative or to two or more drawees in succession is not a bill of exchange.

7. (1) Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty. Certainty required as to payee.

(2) A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees. A bill may also be made payable to the holder of an office for the time being.

(3) Where the payee is a fictitious or non-existing person the bill may be treated as payable to bearer.

What bills are negotiable.

8. (1) When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto, but is not negotiable.

(2) A negotiable bill may be payable either to order or to bearer.

(3) A bill is payable to bearer which is expressed to be so payable, or on which the only or last indorsement is an indorsement in blank.

(4) A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

(5) Where a bill, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

Sum payable.

9. (1) The sum payable by a bill is a sum certain within the meaning of this Ordinance, although it is required to be paid—

(a) with interest;

(b) by stated instalments;

(c) by stated instalments, with a provision that upon default in payment of any instalment the whole shall become due;

(d) according to an indicated rate of exchange or according to a rate of exchange to be ascertained as directed by the bill.

(2) Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

(3) Where a bill is expressed to be payable with interest, unless the instrument otherwise provides, interest runs from the date of the bill, and if the bill is undated from the issue thereof.

No. VII. *Bills of Exchange*

1927

10. (1) A bill is payable on demand—

Bill payable
on demand.

(a) which is expressed to be payable on demand, or at sight, or on presentation; or

(b) in which no time for payment is expressed.

(2) Where a bill is accepted or indorsed when it is overdue, it shall, as regards the acceptor who so accepts, or any indorser who so indorses it, be deemed a bill payable on demand.

11. A bill is payable at a determinable future time within the meaning of this Ordinance which is expressed to be payable—

Bill payable at
a future time.

(1) at a fixed period after date or sight;

(2) on or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain.

An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

12. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly:

Omission of date
in bill payable
after date.

Provided that—

(1) where the holder in good faith and by mistake inserts a wrong date, and

(2) in every case where a wrong date is inserted, if the bill subsequently comes into the hands of a holder in due course, the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

13. (1) Where a bill or an acceptance or any indorsement on a bill is dated, the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance, or indorsement, as the case may be.

Ante-dating and
post-dating.

(2) A bill is not invalid by reason only that it is ante-dated or post-dated, or that it bears date on a Sunday.

Computation of
time of payment

14. Where a bill is not payable on demand, the day on which it falls due is determined as follows :—

(1) Three days, called “days of grace”, are, in every case where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace : Provided that—

(a) when the last day of grace falls on Sunday, Christmas Day or Good Friday, the bill is, except in the case hereinafter provided for, due and payable on the preceding business day ;

Cap. 30.

(b) when the last day of grace is a public holiday (other than Christmas Day or Good Friday) under the Public Holidays Ordinance, or when the last day of grace is a Sunday and the second day of grace is a public holiday, the bill is due and payable on the succeeding business day.

(2) Where a bill is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run and by including the day of payment.

(3) Where a bill is payable at a fixed period after sight, the time begins to run from the date of the acceptance if the bill be accepted, and from the date of noting or protest if the bill be noted or protested for non-acceptance, or for non-delivery.

(4) The term “ month ” in a bill means calendar month.

Case of need.

15. The drawer of a bill and any indorser may insert therein the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the “ referee in case of need ”. It is in the option of the holder to resort to the referee in case of need or not as he may think fit.

Optional
stipulations by
drawer or
indorser.

16. The drawer of a bill and any indorser may insert therein an express stipulation—

(1) negating or limiting his own liability to the holder ;

(2) waiving as regards himself some or all of the holder's duties.

17. (1) The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. Definition and requisites of acceptance.

(2) An acceptance is invalid unless it complies with the following conditions, namely—

- (a) it must be written on the bill and be signed by the drawee. The mere signature of the drawee without additional words is sufficient;
- (b) it must not express that the drawee will perform his promise by any other means than the payment of money.

18. A bill may be accepted—

Time for acceptance.

- (1) before it has been signed by the drawer, or while otherwise incomplete;
- (2) when it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment;
- (3) when a bill payable after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

19. (1) An acceptance is either—

General and qualified acceptance.

- (a) general, or
- (b) qualified.

(2) A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

In particular an acceptance is qualified which is—

- (a) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;
- (b) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;
- (c) local, that is to say, an acceptance to pay only at a particular specified place;

(An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.)

- (d) qualified as to time ;
- (e) the acceptance of some one or more of the drawees, but not of all.

Inchoate
instruments

20. (1) Where a simple signature on a blank stamped paper is delivered by the signer in order that it may be converted into a bill, it operates as a *primâ facie* authority to fill it up as a complete bill for any amount the stamp will cover, using the signature for that of the drawer, or the acceptor, or an indorser ; and, in like manner, when a bill is wanting in any material particular, the person in possession of it has a *primâ facie* authority to fill up the omission in any way he thinks fit.

(2) In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given. Reasonable time for this purpose is a question of fact :

Provided that if any such instrument after completion is negotiated to a holder in due course it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.

Delivery.

21. (1) Every contract on a bill, whether it be the drawer's, the acceptor's, or an indorser's, is incomplete and revocable, until delivery of the instrument in order to give effect thereto :

Provided that where an acceptance is written on a bill, and the drawee gives notice to or according to the directions of the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable.

(2) As between immediate parties, and as regards a remote party other than a holder in due course, the delivery—

- (a) in order to be effectual must be made either by or under the authority of the party drawing, accepting, or indorsing, as the case may be ;
- (b) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.

But if the bill be in the hands of a holder in due course, a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.

(3) Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor, or indorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

Capacity and Authority of Parties.

22. (1) Capacity to incur liability as a party to a bill is co-extensive with capacity to contract : Capacity of parties.

Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor, or indorser of a bill unless it is competent to do so under the law for the time being in force relating to corporations.

(2) Where a bill is drawn or indorsed by an infant, minor, or corporation having no capacity or power to incur liability on a bill, the drawing or indorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto.

23. No person is liable as drawer, indorser, or acceptor of a bill who has not signed it as such : Provided that— Signature essential to liability.

(1) where a person signs a bill in a trade or assumed name, he is liable thereon as if he had signed it in his own name ;

(2) the signature of the name of a firm is equivalent to the signature by the person so signing of the names of all persons liable as partners in that firm.

24. Subject to the provisions of this Ordinance, where a signature on a bill is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorised signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority : Forged or unauthorised signature.

Provided that nothing in this section shall affect the ratification of an unauthorised signature not amounting to a forgery.

25. A signature by procuration operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority. Procuration signatures.

Person signing
as agent or in
representative
capacity.

26. (1) Where a person signs a bill as drawer, indorser, or acceptor, and adds words to his signature, indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability.

(2) In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted.

The Consideration for a Bill.

Value and
holder for
value.

27. (1) Valuable consideration for a bill may be constituted by—

(a) any consideration sufficient to support a simple contract;

(b) an antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

(2) Where value has at any time been given for a bill the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

(3) Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien.

Accommodation
bill or party.

28. (1) An accommodation party to a bill is a person who has signed a bill as drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person.

(2) An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

29. (1) A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely—

Holder in due course.

- (a) that he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact ;
- (b) that he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

(2) In particular the title of a person who negotiates a bill is defective within the meaning of this Ordinance when he obtained the bill, or the acceptance thereof, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

(3) A holder (whether for value or not) who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

30. (1) Every party whose signature appears on a bill is *primâ facie* deemed to have become a party thereto for value.

Presumption of value and good faith.

(2) Every holder of a bill is *primâ facie* deemed to be a holder in due course ; but if in an action on a bill it is admitted or proved that the acceptance, issue or subsequent negotiation of the bill is affected with fraud, duress, or force and fear, or illegality, the burden of proof is shifted, unless and until the holder proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill.

Negotiation of Bills.

31. (1) A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

Negotiation of bill.

(2) A bill payable to bearer is negotiated by delivery.

(3) A bill payable to order is negotiated by the indorsement of the holder completed by delivery.

(4) Where the holder of a bill payable to his order transfers it for value without indorsing it, the transfer gives the transferee such title as the transferor had in the bill, and the transferee in addition acquires the right to have the indorsement of the transferor.

(5) Where any person is under obligation to indorse a bill in a representative capacity, he may indorse the bill in such terms as to negative personal liability.

Requisites of a
valid
indorsement.

32. An indorsement in order to operate as a negotiation must comply with the following conditions, namely :—

(1) It must be written on the bill itself and be signed by the indorser. The simple signature of the indorser on the bill, without additional words, is sufficient.

An indorsement written on an *allonge*, or on a "copy" of a bill issued or negotiated in a country where "copies" are recognised, is deemed to be written on the bill itself.

(2) It must be an indorsement of the entire bill. A partial indorsement, that is to say, an indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the bill to two or more indorsees severally, does not operate as a negotiation of the bill.

(3) Where a bill is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.

(4) Where, in a bill payable to order, the payee or indorsee is wrongly designated, or his name is mis-spelt, he may indorse the bill as therein described, adding, if he thinks fit, his proper signature.

(5) Where there are two or more indorsements on a bill, each indorsement is deemed to have been made in the order in which it appears on the bill, until the contrary is proved.

(6) An indorsement may be made in blank or special; it may also contain terms making it restrictive.

Conditional
indorsement.

33. Where a bill purports to be indorsed conditionally, the condition may be disregarded by the payer, and payment to the indorsee is valid whether the condition has been fulfilled or not.

34. (1) An indorsement in blank specifies no indorsee, and a bill so indorsed becomes payable to bearer. Indorsement in blank and special indorsement.

(2) A special indorsement specifies the person to whom, or to whose order, the bill is to be payable.

(3) The provisions of this Ordinance relating to a payee apply with the necessary modifications to an indorsee under a special indorsement.

(4) When a bill has been indorsed in blank, any holder may convert the blank indorsement into a special indorsement by writing above the indorsee's signature a direction to pay the bill to or to the order of himself or some other person.

35. (1) An indorsement is restrictive which prohibits the further negotiation of the bill or which expresses that it is a mere authority to deal with the bill as thereby directed and not a transfer of the ownership thereof, as, for example, if a bill be indorsed "Pay *D* only," or "Pay *D* for the account of *X*," or "Pay *D* or order for collection." Restrictive indorsement.

(2) A restrictive indorsement gives the indorsee the right to receive payment of the bill and to sue any party thereto that his indorser could have sued, but gives him no power to transfer his rights as indorsee unless it expressly authorise him to do so.

(3) Where a restrictive indorsement authorises further transfer, all subsequent indorsees take the bill with the same rights and subject to the same liabilities as the first indorsee under the restrictive indorsement.

36. (1) Where a bill is negotiable in its origin it continues to be negotiable until it has been-- Negotiation of overdue or dishonoured bill.

(a) restrictively indorsed, or

(b) discharged by payment or otherwise.

(2) Where an overdue bill is negotiated, it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title than that which the person from whom he took it had.

(3) A bill payable on demand is deemed to be overdue within the meaning and for the purposes of this section when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time for this purpose is a question of fact.

(4) Except where an indorsement bears date after the maturity of the bill, every negotiation is *primâ facie* deemed to have been effected before the bill was overdue.

(5) Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour, but nothing in this sub-section shall affect the rights of a holder in due course.

Negotiation of bill to party already liable thereon.

37. Where a bill is negotiated back to the drawer, or to a prior indorser, or to the acceptor, such party may, subject to the provisions of this Ordinance, re-issue and further negotiate the bill, but he is not entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

Rights of the holder.

38. The rights and powers of the holder of a bill are as follows :—

- (1) He may sue on the bill in his own name.
- (2) Where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill.
- (3) Where his title is defective—
 - (a) if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill; and
 - (b) if he obtains payment of the bill, the person who pays him in due course gets a valid discharge for the bill.

General Duties of the Holder.

When presentment for acceptance is necessary.

39. (1) Where a bill is payable after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument.

(2) Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

(3) In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

(4) Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee, has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and indorsers.

40. (1) Subject to the provisions of this Ordinance, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time. Time for presenting bill payable after sight.

(2) If he do not do so, the drawer and all indorsers prior to that holder are discharged.

(3) In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills, and the facts of the particular case.

41. (1) A bill is duly presented for acceptance which is presented in accordance with the following rules :— Rules as to presentation for acceptance, and excuses for non presentation.

(a) The presentment must be made by or on behalf of the holder to the drawee or to some person authorised to accept or refuse acceptance on his behalf at a reasonable hour on a business day and before the bill is overdue.

(b) Where a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, then presentment may be made to him only.

(c) Where the drawee is dead, presentment may be made to his personal representative.

(d) Where the drawee is bankrupt, presentment may be made to him or to his trustee.

(e) Where authorised by agreement or usage, a presentment through the Post Office is sufficient.

(2) Presentment in accordance with these rules is excused, and a bill may be treated as dishonoured by non-acceptance—

(a) where the drawee is dead or bankrupt, or is a fictitious person or a person not having capacity to contract by bill;

(b) where, after the exercise of reasonable diligence, such presentment cannot be effected;

(c) where, although the presentment has been irregular, acceptance has been refused on some other ground.

(3) The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured, does not excuse presentment.

Non-acceptance

42. When a bill is duly presented for acceptance, and is not accepted within the customary time, the person presenting it must treat it as dishonoured by non-acceptance. If he do not, the holder shall lose his right of recourse against the drawer and indorsers.

Dishonour by non-acceptance and its consequences.

43. (1) A bill is dishonoured by non-acceptance—

(a) when it is duly presented for acceptance, and such an acceptance as is prescribed by this Ordinance is refused or cannot be obtained; or

(b) when presentment for acceptance is excused and the bill is not accepted.

(2) Subject to the provisions of this Ordinance, when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary.

Duties as to qualified acceptances.

44. (1) The holder of a bill may refuse to take a qualified acceptance, and, if he does not obtain an unqualified acceptance, may treat the bill as dishonoured by non-acceptance.

(2) Where a qualified acceptance is taken, and the drawer or an indorser has not expressly or impliedly authorised the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or indorser is discharged from his liability on the bill.

The provisions of this sub-section do not apply to a partial acceptance, whereof due notice has been given. Where a foreign bill has been accepted as to part, it must be protested as to the balance.

(3) When the drawer or indorser of a bill receives notice of a qualified acceptance, and does not, within a reasonable time, express his dissent to the holder, he shall be deemed to have assented thereto.

45. Subject to the provisions of this Ordinance, a bill must be duly presented for payment. If it be not so presented, the drawer and indorsers shall be discharged.

Rules as to
presentment for
payment.

A bill is duly presented for payment which is presented in accordance with the following rules :—

- (1) Where the bill is not payable on demand, presentment must be made on the day it falls due.
- (2) Where the bill is payable on demand, then, subject to the provisions of this Ordinance, presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time after its indorsement, in order to render the indorser liable.

In determining what is a reasonable time, regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case.

- (3) Presentment must be made by the holder or by some person authorised to receive payment on his behalf at a reasonable hour on a business day at the proper place, as hereinafter defined, either to the person designated by the bill as payer, or to some person authorised to pay or refuse payment on his behalf, if with the exercise of reasonable diligence such person can there be found.
- (4) A bill is presented at the proper place—
 - (a) where a place of payment is specified in the bill and the bill is there presented ;
 - (b) where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented ;
 - (c) where no place of payment is specified, and no address given, and the bill is presented at the drawee's or acceptor's place of business, if known, and if not, at his ordinary residence, if **known ;**

(d) in any other case, if presented to the drawee or acceptor wherever he can be found, or if presented at his last-known place of business or residence.

- (5) Where a bill is presented at the proper place, and, after the exercise of reasonable diligence, no person authorised to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required.
- (6) Where a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.
- (7) Where the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative, if such there be, and with the exercise of reasonable diligence he can be found.
- (8) Where authorised by agreement or usage, a presentment through the Post Office is sufficient.

Excuses for delay or non-presentment for payment.

46. (1) Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

(2) Presentment for payment is dispensed with—

(a) where, after the exercise of reasonable diligence, presentment, as required by this Ordinance, cannot be effected.

The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment :

(b) where the drawee is a fictitious person ;

(c) as regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented ;

- (d) as regards an indorser, where the bill was accepted or made for the accommodation of that indorser, and he has no reason to expect that the bill would be paid if presented;
- (e) by waiver of presentment, expressed or implied.

47. (1) A bill is dishonoured by non-payment—

Dishonour by non-payment.

- (a) when it is duly presented for payment and payment is refused or cannot be obtained; or
- (b) when presentment is excused and the bill is overdue and unpaid.

(2) Subject to the provisions of this Ordinance, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and indorsers accrues to the holder.

48. Subject to the provisions of this Ordinance, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each indorser, and any drawer or indorser to whom such notice is not given is discharged: Provided that—

Notice of dishonour and effect of non-notice.

- (1) where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course, subsequent to the omission, shall not be prejudiced by the omission;
- (2) where a bill is dishonoured by non-acceptance, and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment unless the bill shall in the meantime have been accepted.

49. Notice of dishonour in order to be valid and effectual must be given in accordance with the following rules:—

Rules as to notice of dishonour.

- (1) The notice must be given by or on behalf of the holder, or by or on behalf of an indorser who, at the time of giving it, is himself liable on the bill;
- (2) Notice of dishonour may be given by an agent either in his own name, or in the name of any party entitled to give notice, whether that party be his principal or not;

- (3) Where the notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior indorsers who have a right of recourse against the party to whom it is given ;
- (4) Where notice is given by or on behalf of an indorser entitled to give notice as hereinbefore provided, it enures for the benefit of the holder and all indorsers subsequent to the party to whom notice is given ;
- (5) The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently indentify the bill, and intimate that the bill has been dishonoured by non-acceptance or non-payment ;
- (6) The return of a dishonoured bill to the drawer or an indorser is, in point of form, deemed a sufficient notice of dishonour ;
- (7) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby ;
- (8) Where notice of dishonour is required to be given to any person, it may be given either to the party himself or to his agent in that behalf ;
- (9) Where the drawer or indorser is dead, and the party giving notice knows it, the notice must be given to a personal representative, if such there be, and with the exercise of reasonable diligence he can be found ;
- (10) Where the drawer or indorser is bankrupt, notice may be given either to the party himself or to the trustee ;
- (11) Where there are two or more drawers or indorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others ;
- (12) The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time thereafter.

In the absence of special circumstances, notice is not deemed to have been given within a reasonable time unless—

- (a) where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill;
 - (b) where the person giving and the person to receive notice reside in different places, the notice is sent off on the day after the dishonour of the bill, if there be a post at a convenient hour on that day, and if there be no such post on that day then by the next post thereafter;
- (13) Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the parties liable on the bill, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder;
- (14) Where a party to a bill receives due notice of dishonour he has, after the receipt of such notice, the same period of time for giving notice to antecedent parties that the holder has after the dishonour;
- (15) Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the Post Office.

50. (1) Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the notice must be given with reasonable diligence.

Excuses for non-notice and delay.

- (2) Notice of dishonour is dispensed with—
- (a) when, after the exercise of reasonable diligence, notice as required by this Ordinance cannot be given to or does not reach the drawer or indorser sought to be charged;
 - (b) by waiver express or implied. Notice of dishonour may be waived before the time of giving notice has arrived or after the omission to give due notice;

- (c) as regards the drawer in the following cases, namely :
- (i) where drawer and drawee are the same person,
 - (ii) where the drawee is a fictitious person or a person not having capacity to contract,
 - (iii) where the drawer is the person to whom the bill is presented for payment,
 - (iv) where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill,
 - (v) where the drawer has countermanded payment;
- (d) as regards the indorser in the following cases, namely .
- (i) where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the bill,
 - (ii) where the indorser is the person to whom the bill is presented for payment.
 - (iii) where the bill was accepted or made for his accommodation.

Noting or
protest of bill.

51. (1) Where an inland bill has been dishonoured, it may, if the holder think fit, be noted for non-acceptance or non-payment, as the case may be ; but it shall not be necessary to note or protest any such bill in order to preserve the recourse against the drawer or indorser.

(2) Where a foreign bill, appearing on the face of it to be such, has been dishonoured by non-acceptance, it must be duly protested for non-acceptance, and where such a bill, which has not been previously dishonoured by non-acceptance, is dishonoured by non-payment, it must be duly protested for non-payment. If it be not so protested the drawer and indorsers are discharged. Where a bill does not appear on the face of it to be a foreign bill, protest thereof in case of dishonour is unnecessary.

(3) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

(4) Subject to the provisions of this Ordinance, when a bill is noted or protested, it may be noted on the day of its dishonour and must be noted not later than the next succeeding business day. When a bill has been duly noted, the protest may be *subsequently extended as of the date of the noting.*

(5) Where the acceptor of a bill becomes bankrupt or insolvent or suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

(6) A bill must be protested at the place where it is dishonoured : Provided that—

(a) when a bill is presented through the Post Office, and returned by post dishonoured, it may be protested at the place to which it is returned and on the day of its return if received during business hours, and if not received during business hours, then not later than the next business day ;

(b) when a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonoured by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

(7) A protest must contain a copy of the bill, and must be signed by the notary making it, and must specify—

(a) the person at whose request the bill is protested ;

(b) the place and date of protest, the cause or reason for protesting the bill, the demand made, and the answer given, if any, or the fact that the drawee or acceptor could not be found.

(8) Where a bill is lost or destroyed, or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

(9) Protest is dispensed with by any circumstances which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

Duties of holder as regards drawee or acceptor.

52. (1) When a bill is accepted generally, presentment for payment is not necessary in order to render the acceptor liable.

(2) When by the terms of a qualified acceptance presentment for payment is required, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

(3) In order to render the acceptor of a bill liable it is not necessary to protest it, or that notice of dishonour should be given to him.

(4) Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

Liabilities of Parties.

Bill not assignment of funds in hands of drawee.

53. A bill of itself does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Ordinance is not liable on the instrument.

Liability of acceptor.

54. The acceptor of a bill, by accepting it—

- (1) engages that he will pay it according to the tenor of his acceptance;
- (2) is precluded from denying to a holder in due course—
 - (a) the existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill;
 - (b) in the case of a bill payable to drawer's order, the then capacity of the drawer to indorse, but not the genuineness or validity of his indorsement;
 - (c) in the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to indorse, but not the genuineness or validity of his indorsement.

Liability of drawer or indorser.

55. (1) The drawer of a bill by drawing it—

- (a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or any indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;

(b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

(2) The indorser of a bill by indorsing it—

(a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or a subsequent indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;

(b) is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous indorsements;

(c) is precluded from denying to his immediate or a subsequent indorsee that the bill was at the time of his indorsement a valid and subsisting bill, and that he had then a good title thereto.

56. Where a person signs a bill otherwise than as drawer or acceptor, he thereby incurs the liabilities of an indorser to a holder in due course.

Stranger signing bill liable as indorser.

57. Where a bill is dishonoured, the measure of damages, which shall be deemed to be liquidated damages, shall be as follows :—

Measure of damages against parties to dishonoured bill.

(1) The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an indorser who has been compelled to pay the bill may recover from the acceptor or from the drawer or from a prior indorser—

(a) the amount of the bill;

(b) interest thereon from the time of presentment for payment if the bill is payable on demand, and from the maturity of the bill in any other case;

(c) the expenses of noting, or when protest is necessary, and the protest has been extended, the expenses of protest.

(2) In the case of a bill which has been dishonoured abroad, in lieu of the above damages, the holder may recover from the drawer or an indorser, and the drawer or an indorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange with interest thereon until the time of payment.

(3) Where by this Ordinance interest may be recovered as damages, such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate, interest as damages may or may not be given at the same rate as interest proper.

Transferor by
delivery and
transferee.

58. (1) Where the holder of a bill payable to bearer negotiates it by delivery without indorsing it, he is called a "transferor by delivery."

(2) A transferor by delivery is not liable on the instrument.

(3) A transferor by delivery who negotiates a bill thereby warrants to his immediate transferee, being a holder for value, that the bill is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any fact which renders it valueless.

Discharge of Bill.

Payment in due
course.

59. (1) A bill is discharged by payment in due course by or on behalf of the drawee or acceptor.

"Payment in due course" means payment made at or after the maturity of the bill to the holder thereof in good faith and without notice that his title to the bill is defective.

(2) Subject to the provisions hereinafter contained, when a bill is paid by the drawer or an indorser, it is not discharged; but—

(a) where a bill payable to, or to the order of, a third party is paid by the drawer the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill;

(b) where a bill is paid by an indorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent indorsements, and again negotiate the bill.

(3) Where an accommodation bill is paid in due course by the party accommodated, the bill is discharged.

60. When a bill payable to order on demand is drawn on a banker, and the banker on whom it is drawn pays the bill in good faith and in the ordinary course of business, it is not incumbent on the banker to show that the indorsement of the payee or any subsequent indorsement was made by or under the authority of the person whose indorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such indorsement has been forged or made without authority. Banker paying demand draft whereon indorsement is forged.

61. When the acceptor of a bill is or becomes the holder of it at or after its maturity, in his own right, the bill is discharged. Acceptor the holder at maturity.

62. (1) When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor the bill is discharged. Express waiver.

The renunciation must be in writing, unless the bill is delivered up to the acceptor.

(2) The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity; but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

63. (1) Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged. Cancellation.

(2) In like manner any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent. In such case any indorser who would have had a right of recourse against the party whose signature is cancelled is also discharged.

(3) A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where a bill or any signature thereon appears to have been cancelled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority.

Alteration of bill.

64. (1) Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is avoided, except as against a party who has himself made, authorised, or assented to the alteration, and subsequent indorsers:

Provided that where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered, and may enforce payment of it according to its original tenor.

(2) In particular the following alterations are material, namely, any alteration of the date, the sum payable, the time of payment, the place of payment, and, where a bill has been accepted generally, the addition of a place of payment without the acceptor's consent.

Acceptance and Payment for Honour.

Acceptance for honour *suprà* protest.

65. (1) Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the Bill *suprà* protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

(2) A bill may be accepted for honour for part only of the sum for which it is drawn.

(3) An acceptance for honour *suprà* protest in order to be valid must—

(a) be written on the bill, and indicate that it is an acceptance for honour;

(b) be signed by the acceptor for honour.

(4) Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer.

(5) Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of the noting for non-acceptance, and not from the date of the acceptance for honour.

66. (1) The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment, and protested for non-payment, and that he receives notice of these facts.

Liability of acceptor for honour.

(2) The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted.

67. (1) Where a dishonoured bill has been accepted for honour *suprà* protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour or referee in case of need.

Presentment to acceptor for honour.

(2) Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity; and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

(3) Delay in presentment or non-presentment is excused by any circumstance which would excuse delay in presentment for payment or non-presentment for payment.

(4) When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

68. (1) Where a bill has been protested for non-payment any person may intervene and pay it *suprà* protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

Payment for honour *suprà* protest.

(2) Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.

(3) Payment for honour *suprà protest*, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour which may be appended to the protest or form an extension of it.

(4) The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays.

(5) Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of, the holder as regards the party for whose honour he pays, and all parties liable to that party.

(6) The payer for honour on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

(7) Where the holder of a bill refuses to receive payment *suprà protest* he shall lose his right of recourse against any party who would have been discharged by such payment.

Lost Instruments.

Holder's right
to duplicate of
lost bill.

69. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill he may be compelled to do so.

Action on lost
bill.

70. In any action or proceeding upon a bill, the Court or a Judge may order that the loss of the instrument shall not be set up, provided an indemnity be given to the satisfaction of the Court or Judge against the claims of any other person upon the instrument in question.

Bill in a Set.

71. (1) Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill. Rules as to sets

(2) Where the holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed as if the said parts were separate bills.

(3) Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders deemed the true owner of the bill; but nothing in this sub-section shall affect the rights of a person who in due course accepts or pays the part first presented to him.

(4) The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

(5) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

(6) Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

Conflict of Laws.

72. Where a bill drawn in one country is negotiated, accepted, or payable in another, the rights, duties, and liabilities of the parties thereto are determined as follows:— Rules where laws conflict.

- (1) The validity of a bill as regards requisites in form is determined by the law of the place of issue, and the validity as regards requisites in form of the supervening contracts, such as acceptance, or indorsement or acceptance *suprà* protest, is determined by the law of the place where such contract was made :

Provided that—

- (a) where a bill is issued out of the Colony it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue ;
 - (b) where a bill issued out of the Colony conforms, as regards requisites in form, to the law of the Colony, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold, or become parties to it in the Colony.
- (2) Subject to the provisions of this Ordinance, the interpretation of the drawing, indorsement, acceptance, or acceptance *suprà* protest of a bill, is determined by the law of the place where such contract is made :
- Provided that where an inland bill is indorsed in a foreign country the indorsement shall, as regards the payer, be interpreted according to the law of the Colony.
- (3) The duties of the holder with respect to presentment for acceptance or payment, and the necessity for or sufficiency of a protest or notice of dishonour, or otherwise, are determined by the law of the place where the act is done or the bill is dishonoured.
- (4) Where a bill is drawn out of but payable in the Colony and the sum payable is not expressed in the currency of the Colony, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable.
- (5) Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable.

PART II.

CHEQUES ON A BANKER.

73. *Cheque defined.* A cheque is a bill of exchange drawn on a banker payable on demand.

Except as otherwise provided in this Part, the provisions of this Ordinance applicable to a bill of exchange payable on demand apply to a cheque.

74. Subject to the provisions of this Ordinance :—

Presentment of
cheque for
payment.

- (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment as between him and the banker to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid.
- (2) In determining what is a reasonable time regard shall be had to the nature of the instrument, the usage of trade, and of bankers, and the facts of the particular case.
- (3) The holder of such cheque as to which such drawer or person is discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge, and entitled to recover the amount from him.

75. The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by—

Revocation of
banker's
authority.

- (1) countermand of payment;
- (2) notice of the customer's death.

Crossed Cheques.

76. (1) Where a cheque bears across its face an addition of—

General and
special crossings
defined.

- (a) the words "and company" or any abbreviation thereof between two parallel transverse lines, either with or without the words "not negotiable"; or
- (b) two parallel transverse lines simply, either with or without the words "not negotiable",

that addition constitutes a crossing, and the cheque is crossed generally.

(2) Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable", that addition constitutes a crossing, and the cheque is crossed specially and to that banker.

Crossing by
drawer or after
issue.

77. (1) A cheque may be crossed generally or specially by the drawer.

(2) Where a cheque is uncrossed, the holder may cross it generally or specially.

(3) Where a cheque is crossed generally, the holder may cross it specially.

(4) Where a cheque is crossed generally or specially the holder may add the words "not negotiable".

(5) Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.

(6) Where an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself.

Crossing, a
material part of
cheque.

78. A crossing authorised by this Ordinance is a material part of the cheque; it shall not be lawful for any person to obliterate or, except as authorised by this Ordinance, to add to or alter the crossing.

Duties of
banker as to
crossed cheques.

79. (1) Where a cheque is crossed specially to more than one banker, except when crossed to an agent for collection being a banker, the banker on whom it is drawn shall refuse payment thereof.

(2) Where the banker on whom a cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid :

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorised by this Ordinance, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been

obliterated or having been added to or altered otherwise than as authorised by this Ordinance, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection being a banker, as the case may be.

80. Where the banker, on whom a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially, to the banker to whom it is crossed, or his agent for collection being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

Protection to
banker and
drawer where
cheque is
crossed.

81. Where a person takes a crossed cheque which bears on it the words "not negotiable", he shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Effect of words
"not
negotiable".

82. (1) Where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

Protection to
collecting
banker.

(2) A banker receives payment of a crossed cheque for a customer within the meaning of this section, notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

PART III.

PROMISSORY NOTES.

83. (1) A promissory note is an unconditional promise in writing made by one person to another signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer.

Promissory note
defined.

(2) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section unless and until it is indorsed by the maker.

(3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

(4) A note which is, or on the face of it purports to be, both made and payable within the Colony is an inland note. Any other note is a foreign note.

Delivery
necessary.

84. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer.

Joint and
several notes.

85. (1) A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor.

(2) Where a note runs "I promise to pay," and is signed by two or more persons, it is deemed to be their joint and several note.

Note payable on
demand.

86. (1) Where a note payable on demand has been indorsed, it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3) Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

Presentment of
note for
payment.

87. (1) Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place in order to render the maker liable. In any other case, presentment for payment is not necessary in order to render the maker liable.

(2) Presentment for payment is necessary in order to render the indorser of a note liable.

(3) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the indorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

- 88.** The maker of a promissory note by making it— Liability of
maker.
- (1) engages that he will pay it according to its tenor ;
 - (2) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

89. (1) Subject to the provisions in this Part and, except Application of
Part I to notes. as by this section provided, the provisions of this Ordinance relating to bills of exchange apply, with the necessary modifications, to promissory notes.

(2) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3) The following provisions as to bills do not apply to notes, namely, provisions relating to—

- (a) presentment for acceptance ;
- (b) acceptance ;
- (c) acceptance *suprà* protest ;
- (d) bills in a set.

(4) Where a foreign note is dishonoured, protest thereof is unnecessary.

PART IV.

SUPPLEMENTARY.

90. A thing is deemed to be done in good faith within Good faith. the meaning of this Ordinance where it is in fact done honestly, whether it is done negligently or not.

91. (1) Where, by this Ordinance, any instrument or Signature. writing is required to be signed by any person, it is not necessary that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person by or under his authority.

(2) In the case of a corporation, where by this Ordinance any instrument or writing is required to be signed, it is sufficient if the instrument or writing be sealed with the corporate seal.

But nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal.

Computation of
time.

92. Where, by this Ordinance, the time limited for doing any act or thing is less than three days, in reckoning time, non-business days are excluded.

“ Non-business days ” for the purposes of this Ordinance mean—

(a) Sunday ;

Cap. 30.

(b) a public holiday under the Public Holidays Ordinance.

Any other day is a business day.

When noting
equivalent to
protest.

93. For the purposes of this Ordinance, where a bill or note is required to be protested within a specified time, or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding ; and the formal protest may be extended at any time thereafter as of the date of the noting.

Protest when
notary not
accessible.

94. Where a dishonoured bill or note is authorised or required to be protested, and the services of a notary cannot be obtained at the place where the bill is dishonoured, any householder or substantial resident of the place may, in the presence of two witnesses, give a certificate, signed by them, attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill.

The form given in the Schedule to this Ordinance may be used with necessary modifications, and if used shall be sufficient.

Dividend
warrants may be
crossed.

95. The provisions of this Ordinance as to crossed cheques shall apply to a warrant for payment of dividend.

Savings.

96. (1) The rules in bankruptcy relating to bills of exchange, promissory notes, and cheques, shall continue to apply thereto notwithstanding anything in this Ordinance contained.

(2) The rules of common law including the law merchant, save in so far as they are inconsistent with the express provisions of this Ordinance, shall continue to apply to bills of exchange, promissory notes and cheques.

(3) Nothing in this Ordinance shall affect—

- (a) the provisions of the Stamp Ordinance or any law or enactment for the time being in force relating to the revenue; *Cap. 57.*
- (b) the provisions of the Companies Ordinance or any Ordinance relating to joint stock banks or companies; *Cap. 93.*
- (c) the validity of any usage relating to dividend warrants, or the indorsements thereof.

SCHEDULE.

(Section 94.)

FORM OF PROTEST WHICH MAY BE USED WHEN THE SERVICES OF A NOTARY CANNOT BE OBTAINED.

COLONY AND PROTECTORATE OF KENYA.

KNOW ALL MEN that I, A.B. (householder), of.....
in the above-mentioned Colony,
 at the request of C.D., there being no Notary Public available,
 did on the.....day of....., 19..., at.....
 demand payment (or acceptance) of the bill of
 exchange hereunder written, from E.F., to which demand he
 made answer [*state answer, if any*], wherefore I now, in the
 presence of G.H. and J.K., do protest the said bill of exchange.

(Signed)

A.B.

G.H. }
 J.K. } *Witnesses.*

N.B.—The bill itself should be annexed, or a copy of the bill, and all that is written thereon should be underwritten.

No. VIII.

Supplementary Appropriation (Railway) 1927

No. 8 OF 1927.

Amended
28/27

**An Ordinance to Amend the Supplementary
Appropriation (Railway) Ordinance, 1925.**

Date of Assent.

[14th May, 1927]

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

Short title.

1. This Ordinance may be cited as “ the Supplementary
Appropriation (Railway) (Amendment) Ordinance, 1927,” and
shall be read as one with “ the Supplementary Appropriation
(Railway) Ordinance, 1925.” hereinafter referred to as “ the
Principal Ordinance.”

(No. 30 of
1925.)Substitution
of new
Schedule to
Principal
Ordinance.

2. The Principal Ordinance is hereby amended by the
repeal of the Schedule thereto and the substitution therefor of
the Schedule annexed to this Ordinance.

SCHEDULE.

<i>Heads of Expenditure.</i>	<i>Amounts.</i>
Railway and Marine Revenue Services	£2,058,711
Railway and Marine Renewals, Betterment and Insurance Fund Services	736,000
	<hr/>
Total	£2,794,711
	<hr/> <hr/>

Repealed 1/30

~~An Ordinance to Amend the Customs Tariff
Ordinance.~~

[14th May, 1927] 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 Customs Tariff Ordinance, 1927,” and shall be read as one with the Customs Tariff Ordinance (Chapter 50 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.” Short title.

2. When any agreement has been made with the Government of any of the territories mentioned in section 263 of the Customs Management Ordinance, 1926, making the provision described in paragraph (2) of that section, the Governor shall notify the fact in the Gazette and thereupon the following provisions shall have effect with respect to such territory :— Notification of agreement in Gazette and application of special provisions to import duty.

- (1) No import duty shall be collected upon goods imported from such territory if import duty shall have previously been collected upon such goods in such territory at a rate not lower than the rate prescribed by the Principal Ordinance in respect of the importation of such goods into the Colony; When no import duty is collected.
- (2) When duty shall have been collected upon the importation of goods into such territory at a rate lower than the rate prescribed by the Principal Ordinance in respect of the importation of such goods into the Colony, then, if such goods are subsequently removed from such territory into the Colony, import duty shall be levied and collected to an amount equal to the difference between the sum payable to the Government of the Colony in respect of such goods under such agreement as aforesaid and the full import duty payable under the Principal Ordinance; When a portion of import duty is collected.

When a refund
in respect of
import duty
may be made.

(3) (a) When import duty shall have been collected upon goods imported into the Colony and such goods shall have subsequently been removed into such other territory, then, if the duty collected in the Colony is greater than the amount payable upon the importation of such goods into such other territory, the Commissioner of Customs may refund to the person from whom import duty shall have been received an amount equal to the difference between the amount payable by the Government of the Colony under such agreement as aforesaid and the import duty collected in the Colony ;

(b) This sub-section shall apply only in the case of goods which either have paid a specific import duty in the Colony, or are removed into such other territory in packages unbroken since importation, and, in either event, are removed into such other territory within twelve months from the date upon which import duty shall have been collected in the Colony.

No. 10 OF 1927.

**An Ordinance to Provide for the Allocation of
Customs Revenue between the Governments
of Kenya and Uganda.**

[14th May, 1927] 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 Customs Revenue Allocation Ordinance, 1927,” and shall come into operation on such date as the Governor may by notice in the Gazette appoint. Short title
and com-
mencement.

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

“ Combined department ” means the combined Customs Department of Kenya and Uganda.

“ Net total duty ” means the total amount collected in respect of duty less the total amount of such duty refunded.

“ Net revenue ” means the gross revenue less the gross expenditure.

“ Gross revenue ” means the total amount collected in respect of the following—

- (1) net total duty;
- (2) transit and re-export fees;
- (3) administration fees;
- (4) crantage charges;
- (5) net proceeds of sale of confiscated and unclaimed goods;
- (6) net proceeds of sales of departmental stores or equipment the cost of which has been charged against the expenditure of the combined department;

- (7) weighing fees, sealing fees, endorsement fees, commission on sale of unclaimed goods and other similar receipts for specific services rendered by the combined department;
- (8) warehousing fees;
- (9) seventy-five per cent. of the net amount of all fines imposed under any law relating to Customs, whether by any Court or by the Commissioner of Customs. The term "net amount" means the amount credited to revenue after the payment of any awards.

"Gross expenditure" means—

- (1) all salaries and expenses of the combined department as provided for in the Customs Estimates;
- (2) expenses actually incurred for rent of warehouses for storage of uncustomed goods at Mombasa and Kilindini and an allowance in respect of rent on warehouses used by the combined department at Mombasa and Kilindini which have been erected at the cost of the Kenya Government, calculated on the cubic storage capacity and the average rental payable for similar storage accommodation;
- (3) house allowances paid to officers of the combined department stationed at Mombasa and Kilindini, and, in cases where such officers occupy Government houses, the amount of house allowance to which they would be entitled if they did not occupy Government quarters;
- (4) interest and sinking fund on the capital expended on any new building erected in the future as headquarters for Customs purposes and the equipment thereof;
- (5) cost of all stationery supplied to the combined department from any source whatever.

Amount of
Customs
revenue payable
to Uganda.

3. There shall be payable annually to the Government of the Uganda Protectorate a sum which bears the same proportion to the net revenue collected by the combined department as the total net duty collected on goods imported into or exported from Uganda bears to the net total duty collected.

Amended ord. 3/32

No. XI. *European Officers' Pensions*

Amended 27/29 1927
Govt. N. 1927/1930
2/32

No. 11 OF 1927.

[25TH JUNE, 1927.] Date of Assent.

An Ordinance for regulating Pensions, Gratuities and other Allowances to be granted in respect of the Service of European Officers in the Colony and Protectorate of Kenya.

1st April, 1927.

Date of commencement.

WHEREAS it is expedient to make provision by law for the granting of pensions, gratuities or other allowances in respect of the public service of European Officers in Kenya :

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

1. This Ordinance may be cited as "the European Officers' Pensions Ordinance, 1927," and shall be deemed to have come into operation on the first day of April, 1927. Short title and commencement.

2. In this Ordinance and the regulations made hereunder— Definitions.

"European officer" means any officer both of whose parents were of European descent, ^{and} includes also any other officer appointed under the conditions of service ordinarily applicable to Europeans, ^{and} in case of any question or dispute arising as to whether an officer is to be regarded as an European officer for the purpose of this Ordinance or of any regulations made hereunder the decision of the Governor shall be final;

Ord. 3/1935

"Pensionable office" means—

(a) in respect of services in Kenya, an office which has been declared by the Governor in Council, with the sanction of the Secretary of State, by a notification published in the Gazette, to be pensionable for the purposes of this Ordinance: Provided that any office declared to be pensionable under this section may be declared at any

time by the Governor in Council, with the sanction of the Secretary of State, by a notification published in the Gazette, to be no longer pensionable, due regard being had to existing rights;

(b) in respect of other public services, an office which is a pensionable office under the laws or regulations in force in such services;

“ Pensionable emoluments ” (a) in respect of service in Kenya includes—

- (i) salary,
- (ii) personal allowance,
- (iii) house allowance;

but does not include duty allowance, entertainment allowance or any other emoluments whatever; (b) in respect of other public service means emoluments which count for pension in accordance with the law or regulations in force in such service;

“ Salary ” means the salary attached to an office;

“ Personal allowance ” means a special addition to such salary, granted personally to the holder for the time being of the office;

“ House allowance ” means the estimated value of free quarters as defined in regulation 7 (2) in the Schedule to this Ordinance or any regulation hereafter made amending or substituted for the same;

“ Year ” means a calendar year;

“ Month ” means a calendar month;

“ Secretary of State ” means one of His Majesty's Principal Secretaries of State;

“ Public service ” means service in a civil capacity under the Government of Kenya or the Imperial Government, or the Government of India or of a British Dominion, Colony or Protectorate or a territory under British mandate, or under the High Commissioner for Transport in Kenya and Uganda, and any such other service as the Secretary of State may determine to be “ public service ” for the purpose of any provision of this Ordinance or the regulations made thereunder;

3/1935.

"but does not include the conditions of Asiatics."

“ East African Dependencies ” means Kenya, the Uganda Protectorate, the Zanzibar Protectorate, the Nyasaland Protectorate, the Somaliland Protectorate, the Tanganyika Territory, Northern Rhodesia, and the Kenya and Uganda Railway;

“ East African service ” means service in a civil capacity under the administration of one of more of the East African Dependencies;

Service as a Governor or High Commissioner of a British Dominion, Colony or Protectorate, or a territory under British mandate, or as a Governor in India shall be deemed to be “ public service ” except for the purpose of computation of pension or gratuity and of section 10 of this Ordinance;

“ Service of Kenya ” means service in a civil capacity under the Government of Kenya, but does not include service under the High Commissioner for Transport;

“ Other public service ” means public service not under the Government of Kenya.

3. (1) It shall be lawful for the Governor in Council, with the sanction of the Secretary of State, from time to time to make and when made to vary and revoke regulations for the granting of pensions, gratuities, and other allowances to European officers who have been in the service of Kenya.

Governor in Council may make pension regulations.

Every such regulation when made shall be laid before the Legislative Council and shall be published in the Gazette :

Provided that until varied or revoked by any such regulations the regulations contained in the Schedule to this Ordinance shall be in force.

(2) The said regulations, and any regulations varying or revoking the same as aforesaid, shall have the same force and effect for all purposes as if they were contained in this Ordinance, and the term “ this Ordinance ” shall in the following sections be read and construed accordingly.

Pensions, etc.,
to be charged
on revenues of
Kenya.

4. There shall be charged on and paid out of the revenues of Kenya all such sums of money as may from time to time be granted by the Governor in Council by way of pension, gratuity or other allowance in accordance with this Ordinance.

Pensions, etc.,
not of right.

5. (1) No European officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowance; nor shall anything in this Ordinance contained limit the right of the Crown to dismiss any officer without compensation.

(2) No European officer shall be granted a pension, gratuity or other allowance without a certificate from the head of his department, or, if he is himself the head of a department, from the Governor, to the effect that he has discharged the duties of his office with such diligence and fidelity as to justify the grant to him of such pension, gratuity or other allowance.

(3) Where it is established to the satisfaction of the Governor in Council that an European officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may, with the approval of the Secretary of State, be reduced or altogether withheld.

Service not
qualifying for
pension.

6. No pension, gratuity or other allowance shall be granted to any European officer in respect of any service—

- (a) while on probation or agreement, unless without break of service he is confirmed in a pensionable office in Kenya or in an office in other public service which is at the time of confirmation pensionable under the pension regulations applicable to such service; or
- (b) while under the age of twenty years.

Circumstances
in which
pension may be
granted.

7. No pension, gratuity or other allowance shall be granted to any European officer except on his retirement from the public service in one of the following cases—

- (a) on or after attaining the age of fifty years, or, in the case of transfer to other public service, on or after attaining the age at which an European officer is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity;

- (b) in the case of an officer who was appointed to the service of one of the East African Dependencies before the commencement of this Ordinance, after completing twenty years' East African service: Provided that no such service shall be counted if it is not in itself pensionable or allowed to be reckoned for pension;
- (c) on the abolition of his office;
- (d) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency and economy can be effected;
- (e) on medical evidence to the satisfaction of the Governor in Council or the Secretary of State that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (f) in the case of removal on the ground of inefficiency as hereinafter provided.

8. Where an European officer is removed from his office on the ground of his inability to discharge efficiently the duties thereof, and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Ordinance, the Governor in Council, with the approval of the Secretary of State, may, if he considers it justifiable having regard to all the circumstances of the case, grant such a pension, gratuity or other allowance as he thinks just and proper, but in no case exceeding in amount that for which the officer would be eligible if he were suffering from some infirmity of mind or body likely to be permanent.

Retirement for
inefficiency.

9 It shall be lawful for the Governor in Council, with the approval of the Secretary of State, to require an European officer to retire from the service of Kenya at any time after he attains the age of fifty years or, in case of an officer who was appointed to the service of one of the East African Dependencies before the commencement of this Ordinance, after he completes twenty years' East African service.

Age of
compulsory
retirement.

Maximum
pension
grantable.

10. (1) A pension granted to an European officer under this Ordinance shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in Kenya.

(2) Where the European officer has been or is granted a pension or pensions in respect of other public service, he may be granted the full pension for which he is eligible in respect of his service in Kenya, but no person may at any time draw from the funds of Kenya an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by such person at any time in the course of his service in Kenya or in other public service :

Provided that where such a person receives in respect of some period of public service, both a gratuity and a pension, the amount of such pension shall be deemed, for the purpose of this sub-section, to be four-thirds of its actual amount.

(3) In a case falling under the limitation laid down by sub-section (2), the amount of the pension to be drawn from the funds of Kenya shall be subject to the approval of the Secretary of State, in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service.

(4) For the purpose of the preceding sub-sections an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his public service by more than the sum by which the amount of his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

Liability of
pensioners to
be called upon
to take further
employment.

11. Every pension granted to an European officer shall be subject to the following condition :—

Unless or until he has attained the age of fifty years or has completed twenty years' East African service, he may, if physically fit for service, be called upon by the Secretary of

State to accept, in lieu of his pension, an office, whether in Kenya or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he had at the date of the grant of his pension.

If a pensioner so called upon declines to accept the office for which he may have been selected, the payment of his pension may be suspended until he has attained the age of fifty years.

12. If any European officer to whom a pension has been granted under this Ordinance is appointed to another office in the service of Kenya, or in any other public service, then during his tenure of such office so much only (if any) of his pension from the funds of Kenya shall be paid to him per annum as, together with—

Pensions
affected by
re-employment.

- (a) the annual emoluments of such office;
- (b) any annual amounts received on account of pension in respect of other public service; and
- (c) where the officer receives, in respect of some period of public service, both a gratuity and a pension, an annual amount equal to one-third of such pension,

makes up an amount not greater than the highest pensionable emoluments drawn by such officer at any time in the course of his public service:

Provided that—

- (1) where an European officer, in whose case an abatement of pension falls to be made under this section, has been granted a pension or pensions in respect of other public service the amount of pension to be drawn from the funds of Kenya shall be subject to the approval of the Secretary of State, in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service; and

(2) any bonus or temporary increase, whether on pension or on salary of the new office, granted in view of the high cost of living shall be added to such pension or salary, as the case may be, for the purposes of this section ;

(3) where the new office is that of Governor or High Commissioner of a British Dominion, Colony or Protectorate or a territory under British mandate or that of Governor in India the amount to be taken as the annual emoluments of such office for the purpose of this section shall be determined by the Secretary of State.

Gratuity
affected by
re-employment.

13. If any European officer to whom a gratuity without pension has been granted under this Ordinance is re-appointed to any office in the service of Kenya, his previous service may, with the approval of the Secretary of State, be taken into account for the purposes of pension, if he refunds the gratuity on such re-appointment.

Pensions, etc.,
not to be
assignable.

14. No pension, gratuity or other allowance granted under this Ordinance shall be assignable or transferable, or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever, other than a debt due to the Government.

Pensions etc.,
to cease on
bankruptcy.

15. If any European officer to whom a pension or other allowance has been granted under this Ordinance is adjudicated a bankrupt or is declared insolvent by judgment of the Court, then such pension or allowance shall forthwith cease :

Provided always that in any case where a pension or allowance ceases by reason of the bankruptcy or insolvency of the pensioner, it shall be lawful for the Secretary of State from time to time during the remainder of such pensioner's life, or during such shorter period or periods, either continuous or discontinuous, as he shall think fit, to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension or allowance, had he not become a bankrupt or insolvent, to be paid to, or applied for the maintenance and personal support or benefit of all or any, to the exclusion of the other or others, of the following persons, namely, such pensioner and any wife, child or children of his, in such proportions and manner as the Secretary of State thinks proper, and such moneys shall be paid or applied accordingly.

16. If any European officer to whom a pension or other allowance has been granted under this Ordinance is sentenced to a term of imprisonment by any competent Court whether within or without Kenya for any crime or offence then, in every such case, it shall be lawful for the Secretary of State to direct that such pension or allowance shall forthwith cease :

Pensions, etc.,
to cease on
conviction.

Provided always that the pension or allowance shall be restored with retrospective effect in the case of a person who after conviction at any time receives a free pardon :

And provided further that where a pension or allowance ceases for the reason aforesaid it shall be lawful for the Secretary of State to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension or allowance to be paid to or applied for the benefit of any wife, child or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner precisely and subject to the same qualifications and restrictions as in the case of bankruptcy hereinbefore provided.

17. If any European officer to whom a pension or other allowance has been granted under this Ordinance becomes either a director of any company the principal part of whose business is in any way directly concerned with Kenya, or an officer or servant employed in Kenya by any such company, without in every such case the permission of the Governor in writing first had and obtained, then in every such case it shall be lawful for the Governor, with the approval of the Secretary of State, to direct that such pension or allowance shall forthwith cease :

Pensions, etc.,
to cease on
accepting
certain appoint-
ments.

Provided always that it shall be lawful for the Governor with the approval of the Secretary of State, on being satisfied that the person in respect of whose pension or allowance any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Kenya, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he shall see fit, to such a date as he shall specify.

18. Where an European officer holding a pensionable office who is not on probation or agreement dies while in the service of Kenya, and during the five years preceding his death has continuously held pensionable office in Kenya or offices in

Gratuity to
estate where an
European officer
dies in the
service.

other public service which were, when he held them, pensionable under the pensions regulations applicable to such service, it shall be lawful for the Governor in Council to grant to his legal personal representative a gratuity of an amount not exceeding one year's pensionable emoluments.

Pensions, etc.,
to dependents
when an
European officer
is killed on
duty.

19. (1) Where an European officer holding a pensionable office, who is not serving on probation or agreement, dies as the direct result of injuries received—

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

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

- (i) if the deceased officer leaves a widow, a pension to the widow, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or £10 a year, whichever be the greater, and also a gratuity not exceeding £1 multiplied by the total number of their years, starting from their ages at the time of their father's death and ending with 15 years, to each child alive at the date of the father's death, and a gratuity not exceeding £15 to any posthumous child:

Provided that the gratuities so granted shall not in the aggregate be less than £10 nor more than £60;

- (ii) if the officer's wife predeceases him or if no pension is granted to her under the preceding paragraph, and he leaves children who would have been eligible for gratuity if a pension had been granted to the widow, gratuities of twice the amount of the gratuities for which they would have been eligible in such circumstances;

- (iii) if the deceased officer does not leave a widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, at a rate not exceeding the rate of the pension which might have been granted to his widow :

Provided that—

- (a) if the mother is a widow at the time of the grant of the pension and subsequently remarries, such pension shall cease as from the date of re-marriage; and
- (b) if the mother is not a widow and it appears that the deceased's father is in a position to support her, such pension shall cease from such date as the Secretary of State may determine.

(2) When an European officer who is not qualified for either pension or gratuity dies in the circumstances mentioned in sub-section (1) of this section, it shall be lawful for the Governor in Council, with the approval of the Secretary of State, to grant the pension or gratuities which might have been granted if his case had fallen under sub-section (1), but no grant shall be made under section 18 of this Ordinance.

20. The provisions of this Ordinance shall apply to all European officers in the service of Kenya at or after the commencement of the Ordinance, and to all those who, having served in Kenya, have before the commencement of the Ordinance been transferred to other public service and are still in other public service at the commencement of this Ordinance :

Application of
Ordinance.

Provided that if the Governor in Council is satisfied that any European officer to whom the provisions of this Ordinance apply has received an undertaking that he will be regarded as eligible for pension or gratuity under conditions more favourable to him than those prescribed by this Ordinance, the Governor in Council may direct that his pension or gratuity shall be computed with due regard to such undertaking.

SCHEDULE.

REGULATIONS FOR THE GRANTING OF PENSIONS, GRATUITIES AND
OTHER ALLOWANCES TO EUROPEAN OFFICERS.

PART I.

Pensions to whom and at what rates to be granted.

1. Subject to the provisions of the European Officers' Pensions Ordinance, 1927, hereinafter called "the Ordinance," and of these regulations, every European officer holding a pensionable office in Kenya, who has been in the service of Kenya in a civil capacity for ten years or upwards, may be granted a pension at the rate of one four hundred and eightieth of his pensionable emoluments for each complete month of pensionable service, subject to the limit described in section 10 of the Ordinance.

Gratuities where length of service does not qualify for pension.

2. Every European officer, otherwise qualified for a pension, who has not completed the minimum period of service qualifying for a pension, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which if there had been no qualifying period might have been granted to him under regulation 1.

Period of service in Kenya qualifying for pension or gratuity defined.

3. Subject to the provisions of section 6 of the Ordinance and of these regulations, service qualifying for pension or gratuity, as the case may be, shall be the inclusive period between the date on which an European officer begins to draw salary or half salary from Kenya funds and the date of his leaving the service of Kenya, without deduction of any period during which he has been absent on leave.

Service to be unbroken.

4. Service in respect of which pension or gratuity may be granted must be unbroken except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment not arising from misconduct or voluntary resignation.

Computation of pensions and gratuities.

5. For the purpose of computing the amount of an European officer's pension or gratuity the following periods shall be taken into account as pensionable service:—

- (a) Any periods during which he has been on duty;
- (b) Any period during which he received half salary from Kenya funds while proceeding to Kenya on first appointment;

- (c) Any periods during which he has been absent from duty on leave with full or half salary ;
- (d) Any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the Secretary of State, and during which he has not qualified for pension or gratuity in respect of other public service ;

And any periods during which he has been absent on leave, other than those specified above, shall be deducted from the European officer's total service in order to arrive at his period of pensionable service.

6. For the purpose of computing the amount of the pension or gratuity of an European officer who, during some period of his service in a pensionable office in Kenya, has been on the active list of the Navy, Army, or of the Royal Air Force, the whole or any part of such period during which no pension contributions have been paid by Kenya, or, if paid, have been refunded, may be taken into account.

Computation of pensions and gratuities. Service on the Active List of the Navy, Army or Air Force.

7. (1) For the purpose of computing the amount of an European officer's pension or gratuity—

Computation of pensions, etc., on what emoluments to be based.

- (a) in the case of an officer who has held one office for a period of three years immediately preceding the date of his retirement, the full pensionable emoluments payable to him at that date in respect of that office shall be taken ;
- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, the full pensionable emoluments payable to him at the date of his retirement in respect of the office then held by him shall be taken ;
- (c) in other cases the average of the full pensionable emoluments payable in respect of each of the offices substantively held by the European officer during his tenure thereof within such period of three years shall be taken :

Provided that if such average is less than the full pensionable emoluments which were payable to him at the date

of the first transfer within such period of three years, the Governor in Council may, with the approval of the Secretary of State, grant him a pension calculated upon the full pensionable emoluments payable to him at that date

(2) The estimated value of free quarters shall be taken as fifteen per centum of the initial salary of the officer's appointment, or of the actual salary if such salary is non-incremental :

Provided that—

- (a) the point in any scale of salary at which an efficiency bar occurs shall for this purpose be regarded as the initial salary of the appointment in the case of any officer who has passed such efficiency bar ;
- (b) the estimated value of free quarters shall not be reckoned as less than £50 per annum, nor, in the case of officers appointed to the service of Kenya after the commencement of the Ordinance, as more than £150 per annum.

Non-pensionable service followed by pensionable service.

8. Only service in a pensionable office shall be taken into account as pensionable service :

Provided that where an unbroken period of service in a civil capacity in an appointment other than a pensionable office is immediately followed by service in a pensionable office in one of the East African Dependencies, such period or any part of such period may, with the approval of the Secretary of State, be so taken into account.

Acting service.

9. Where an European officer has performed acting service in a pensionable office in Kenya, the period of such service may be taken into account as pensionable service :

Provided that—

- (1) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the European officer's own pensionable service in other public service ;
- (2) this period of service is immediately preceded or followed by service in a substantive capacity in a pensionable office in Kenya.

10. If an European officer holding a pensionable office retire or be removed from the service in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organisation of the department to which he belongs, by which greater efficiency and economy can be effected, he may be granted a pension calculated in accordance with regulation 1 :

Abolition or reorganisation of office.

Provided, however, that if he has been in the service of Kenya for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with that regulation as if there had been no qualifying period :

And provided also that the grant of such pension shall be subject to the condition that he shall be liable to be recalled to service in Kenya :

Provided further that if such an European officer is not qualified for other employment in the public service, and if there is no reason, in the opinion of the Governor, to expect that he can be shortly re-employed, a pension may, with the approval of the Secretary of State, be granted to him free from the above-mentioned condition.

11. (1) Where an European officer has been permanently injured—

European officers retiring on account of injuries.

(a) in the actual discharge of his duty ; and

(b) without his own default ; and

(c) by some injury specifically attributable to the nature of his duty, and his retirement is thereby necessitated or materially accelerated, he may, if he is qualified for a pension under regulation 1, be granted, in addition to the pension granted to him under that regulation, an additional pension at the rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table :—

When his capacity to contribute to his own support is—

slightly impaired :	five-sixtieths.
impaired :	ten-sixtieths.
materially impaired :	fifteen-sixtieths.
totally destroyed :	twenty-sixtieths.

Provided that the amount of the additional pension shall, subject to the approval of the Secretary of State, be reduced to such an extent as the Governor shall think reasonable in the following cases :—

- (a) Where the injured European officer has continued to serve for not less than one year after the injury in respect of which he retires ;
- (b) Where the injured European officer is at the date of injury within ten years of the age at which he may be required to retire ; or
- (c) Where the injury is not the sole cause of retirement, but the retirement is caused partly by age or infirmity not due to the injury :

Provided also that the total amount of the additional pension shall not exceed the amount prescribed in section 10 (4) of the Ordinance.

Pensions to injured European officers where service less than ten years.

(2) An European officer so injured, whose length of service is not such as to qualify him for a pension under regulation 1, but who is qualified for a gratuity under regulation 2, may nevertheless be granted in lieu of such gratuity a pension at the rate of one four hundred and eightieth part of his pensionable emoluments for each complete month of pensionable service together with such additional pension as might be awarded to him under the preceding part of this regulation if he were qualified for pension.

(3) An European officer so injured who is not qualified for either a pension under regulation 1 or a gratuity under regulation 2 may nevertheless be granted a pension of the same amount as the additional pension which he might have been granted if he had been so qualified.

**SENIOR COMMISSIONER,
NYANZA.**

INDEX TO ORDINANCES, 1927.

ORDINANCE.	No.	PAGE.
- Ancient Monuments Preservation	17	144
Arms and Ammunition (Amendment)	26	174
Asiatic Widows' and Orphans' Pension	20	158
Bank (Amendment)	5	10
Bills of Exchange	7	13
<i>R. 28/33</i> Companies (Amendment)	4	9
Cotton (Tax) (Amendment)	2	2
✓ Crown Grants (Execution)	18	152
Customs Revenue Allocation	10	55
<i>R. 1/30</i> Customs Tariff	9	53
Dangerous Petroleum Tax (Amendment)	1	1
Employment of Natives	21	168
European Officers' Pensions	11	57
Kenya and Uganda Railway	15	98
King's African Rifles Reserve of Officers	12	79
✓ Land Titles (Amendment)	27	175
Marriage (Amendment)	6	11
<i>R. 36/30</i> Native Liquor (Amendment)	19	153
Specific Loan	22	169
Stamp (Amendment)	13	82
Supplementary Appropriation	16	142
Supplementary Appropriation (Railway) (Amendment)	8	52
Supplementary Appropriation (Railway) (Amendment) (No. 2)	25	173
Supplementary Appropriation (Railway) (Amendment) (No. 3)	28	176
Town Planning (Amendment)	14	94
Widows' and Orphans' Pension (Amendment)	3	5
Widows' and Orphans' Pension (Amendment) (No. 2)	23	171
Wireless Telegraphy (Amendment)	24	172

II

CHRONOLOGICAL TABLE.

Ordinance No.	Title of Ordinance.	Date of Assent	Date of Commencement.	Page.
I	The Dangerous Petroleum Tax (Amendment) Ordinance, 1927 ..	10 3 27	1 7 26	1
II	The Cotton (Tax) (Amendment) Ordinance, 1927	10 3 27	10 3 27	2
III	The Widows' and Orphans' Pension (Amendment) Ordinance, 1927 ..	29 3 27	1 1 26	3
IV	The Companies (Amendment) Ordinance, 1927	29 3 27	29 3 27	9
V	The Bank (Amendment) Ord. 1927 ..	29 3 27	29 3 27	10
VI	The Marriage (Amend.) Ord. 1927 ..	29 3 27	29 3 27	11
VII	The Bills of Exchange Ord. 1927 ..	14 5 27	14 5 27	13
VIII	The Supplementary Appropriation (Railway) (Amend.) Ord. 1927 ..	14 5 27	14 5 27	52
IX	The Customs Tariff Ordinance, 1927..	14 5 27	14 5 27	53
X	The Customs Revenue Allocation Ordinance, 1927	14 5 27	By Notice	55
XI	The European Officers' Pensions Ordinance, 1927	25 6 27	1 4 27	57
XII	The King's African Rifles Reserve of Officers Ordinance, 1927	25 6 27	25 6 27	79
XIII	The Stamp (Amendment) Ord. 1927..	25 6 27	25 6 27	82
XIV	The Town Planning (Amend.) Ordinance, 1927	25 6 27	25 6 27	94
XV	The Kenya and Uganda Railway Ordinance, 1927	22 10 27	By Proclamation	98
XVI	The Supplementary Appropriation Ordinance, 1927	22 10 27	22 10 27	142
XVII	The Ancient Monuments Preservation Ordinance, 1927	22 10 27	22 10 27	144
XVIII	The Crown Grants (Execution) Ordinance, 1927	22 10 27	22 10 27	152
XIX	The Native Liquor (Amend.) Ordinance, 1927	22 10 27	22 10 27	153
XX	The Asiatic Widows' and Orphans' Pension Ordinance, 1927	22 10 27	22 10 27	158

III

CHRONOLOGICAL TABLE —(Contd.).

Ordinance No.	Title of Ordinance.	Date of Assent.	Date of Commencement.	Page.
XXI	The Employment of Natives Ordinance, 1927	7 11 27	7 11 27	168
XXII	The Specific Loan Ordinance, 1927 ..	3 11 27	3 11 27	169
XXIII	The Widows' and Orphans' Pension (Amendment) (No. 2) Ord. 1927 ..	31 12 27	1 1 26	171
XXIV	The Wireless Telegraphy (Amend.) Ordinance, 1927	31 12 27	31 12 27	172
XXV	The Supplementary Appropriation (Railway) (Amend.) (No. 2) Ord. 1927	31 12 27	31 12 27	173
XXVI	The Arms and Ammunition (Amend.) Ordinance, 1927	31 12 27	1 1 28	174
XXVII	The Land Titles (Amendment) Ordinance, 1927	31 12 27	1 7 26	175
XXVIII	The Supplementary Appropriation (Railway) (Amend.) (No. 3) Ord. 1927.	31 12 27	31 12 27	176

TABLE SHOWING THE EFFECT OF THE YEAR'S LEGISLATION.

Former Ordinances (in Chronological Order) Repealed or Amended by Ordinances of 1927.

Year and No. of Ordinance	Short Title.	How Affected.	Ordinance of 1927.
Revised Edition Chap. 34	Widows and Orphans Pension ..	Amends S. 5 (1), 27 and 28 ..	No 3
do	do.	Further amendment to S. 28 (1), ..	.. 23
48	Specific Loan (number two) ..	Repealed ..	.. 22
50	Customs Tariff — ..	Application of Special provisions to import duty on notification of agreement under S. 263 of Customs Management Ordinance, 1926. ..	.. 9
54	Dangerous Petroleum Tax ..	Amends S. 3 ..	.. 1
57	Stamp	Amds S. 2(2),(19),(22); S. 3 (1); Adds S. 8A; Amends S. 16; Adds S. 16A; Amends S. 17, 26, 34 (3), 37; Repeals S. 38, Amends S. 42 (1) 43, 52 (1), 57, 63 (2), 67, 68 69; Amends Schedule and Adds Second Schedule ..	.. 13
60	Cotton (Tax)	Amends S. 2 and Schedule ..	.. 2
85	Town Planning	Provides for procedure upon final Approval of a Town Planning Scheme and adds sub-section 13 (7) ..	.. 14
93	Companies.. .. .	Amends S. 292 ..	.. 4
94	Bank.. .. .	Amends S. 2, 32, 33, 38 (1) and 39 (1); Repeals S. 35 and 40 ..	.. 5
115	East Africa Railways	Repealed ..	.. 15
118	Wireless Telegraphy	Amends S. 2 and adds paragraph to S. 6 (1) ..	.. 24
133	Natives Liquor	Amends S. 2, 8 (1). Adds S. 8A; Amends S. 11, 13, 14, 20, 23; Adds S. 31 ..	.. 19
139	Employment of Natives	Declares S. 47 to be law ..	.. 21

TABLE SHOWING THE EFFECT OF THE YEAR'S
LEGISLATION—(contd.)

Former Ordinances (in Chronological Order) Repealed
or Amended by Ordinances of 1927—(contd.)

Year and No. of Ordinance	Short Title.	How Effect'd.	Ordi- nance of 1927.
Revised Edition Chap. 140	Crown Lands	Execution of Crown Grants, etc., by Com- missioner of Lands	No. 18
142	Registration of Titles	Execution of Crown Grants, etc., by Com- missioner of Lands	„ 18
143	Lands Titles	Amends S. 59	„ 27
167	Marriage	Amends S. 33 and First Schedule (Form F) ..	„ 6
8 of 1925	Arms and Ammunition	Amends S. 12. ..	„ 26
30 of 1925	Supplementary Appropriation (Railway)	Amends Schedule ..	„ 8
19 of 1926	Supplementary Appropriation (Railway) (Amendment) ..	Adds S. 1A. ..	„ 25
8 of 1927	Supplementary Appropriation (Railway) (Amendment) ..	Adds S. 1A' ..	„ 28

COLONY AND PROTECTORATE OF KENYA.

No. 1 OF 1927.

See 27/28

**An Ordinance to Amend the Dangerous Petroleum
Tax Ordinance.**

[10TH MARCH, 1927.] 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 Dangerous Petroleum Tax (Amendment) Ordinance, 1927,” and shall be read as one with the Dangerous Petroleum Tax Ordinance (Chapter 54 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.” Short title.

2. Section 3 of the Principal Ordinance is hereby amended by the deletion of the words “ twelve and a half ” and by the substitution therefor of the words “ twenty-five ”. Tax on imported dangerous petroleum.

3. This Ordinance shall be deemed to have come into operation on the first day of July, 1926. Date of commencement.

No. 2 OF 1927.

**An Ordinance to Amend the Cotton (Tax)
Ordinance.**

Date of Assent.

[10TH MARCH, 1927.]

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 Cotton (Tax) (Amendment) Ordinance, 1927, and shall be read as one with the Cotton (Tax) Ordinance (Chapter 60 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Tax on cotton.

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

“ 2. (1) There shall be payable in respect of all cotton ginned in any part of the Colony to which this Ordinance applies a tax on the basis of the sliding scale and according to the conditions set out in the Schedule to this Ordinance.

(2) The Governor in Council may from time to time, by order, vary the sliding scale or the conditions set out in the Schedule.”

Schedule.

3. The following shall be inserted as the Schedule to the Principal Ordinance :—

SCHEDULE.

BASIS OF TAXATION.

The tax shall be calculated on the sliding scale below according to the closing price on the Liverpool Cotton Exchange on the 14th, 15th or 16th day of December of the previous year, whichever shall be the last day on which business is done in respect of June American “ Middling ” futures :—

<i>Price in pence per lb.</i>	<i>Tax in cents per lb.</i>
6·00 pence or under	None.
From 6·01 „ to 7 pence, inclusive	2 cents.
„ 7·01 „ „ 8 „ „	3 „
„ 8·01 „ „ 9 „ „	4 „
„ 9·01 „ „ 10 „ „	5 „
„ 10·01 „ „ 13 „ „	6 „
„ 13·01 „ „ 14 „ „	7 „
„ 14·01 „ „ 15 „ „	8 „
Above 15 „ „ „ „ „	9 „

No. 3 OF 1927.

Amended
23/27.**An Ordinance to Amend the Widows and Orphans Pensions Ordinance.**

[29TH MARCH, 1927.] 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 Widows and Orphans Pension (Amendment) Ordinance, 1927,” and shall be read as one with the Widows and Orphans Pension Ordinance (Chapter 34 of the Revised Edition), hereinafter called the “ Principal Ordinance.” Short title.

2. Sub-section (1) of section 5 of the Principal Ordinance (as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926), is hereby repealed and the following sub-section is substituted therefor :— Rates of contribution.

“ 5. (1) The rates of contribution shall be as follows :—

“ (a) An officer whose salary exceeds the amount given in any line of the first column below but does not exceed that given in the corresponding line of the second shall contribute at the annual rate given in the corresponding line of the third column :

Column 1.	Column 2.	Column 3.
£	£	£
— ...	275 ...	12
275 ...	300 ...	15
300 ...	400 ...	18
400 ...	500 ...	24
500 ...	600 ...	30
600 ...	720 ...	36
720 ...	840 ...	42
840 ...	920 ...	48
920 ...	1,100 ...	54
1,100 ...	1,200 ...	60
1,200 ...	1,300 ...	65

and so on, the annual contribution increasing by £5 for each step of £100 in the salary scale.

“(b) A contributor who before the date of his first payment of contribution under this Ordinance or within three months after marrying shall by written notice to the Crown Agents so elect may make an additional annual contribution of one-half of the amount specified in the line of column 3 above which is applicable to him at the date of notification, or, if he so decides at the date of notification, of one-half the amount so specified which is applicable to him from time to time.

“ A contributor who has not so elected before the date of his first contribution or within three months after marrying may be permitted so to elect at any time during his contribution term, subject to the approval of the Governor after examination by a Government medical board. If he so elects to make an additional annual contribution he shall make it accordingly as from the date on which he first became a contributor or as from the first day of the month next after that in which his notice was received by the Crown Agents or as from the first day of the month next after that in which the Governor's approval was given to his subsequent election, as the case may be.

“ A contributor who on the first day of January, 1926, was making an additional annual contribution and has not since discontinued it may, if he so elects before the first day of August, 1927, discontinue it with effect from the first day of January, 1926, or he may elect to make his annual contribution at one or the other of the above rates with effect either from the first day of the month next after that in which his notice was received by the Crown Agents, or, if he prefers it and so elects before the first day of August, 1927, with retrospective effect from the first day of January, 1926.

“ A contributor who at the time of his appointment or re-appointment to the service of this Government is already making an additional annual contribution under the scheme shall (unless he elects at any time under section 7 (1) to discontinue such additional contribution) continue to pay it as an additional annual contribution under this Ordinance; and an officer who has ceased to contribute under the scheme may on being re-appointed to the service of this Government elect to make an additional annual contribution at the rate then applicable to him from time to time. No officer shall be allowed to make more than one additional annual contribution under the scheme at the same time.

“ (c) No officer shall be required to contribute at a higher rate than £60 a year.

“ (d) No officer shall, after attaining the age of forty-nine years, contribute at a higher rate than that at which he was contributing immediately before attaining that age.”

3. Section 27 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“ 27. If a contributor in the service of this Government who is married or who is a widower with children of a pensionable age and whose period of payment of contribution has not expired—

(a) is transferred to other service under the Crown not being East African Service; or

(b) retires on pension; or

(c) otherwise leaves the East African Service, and his service is of such a nature and of such length as would have rendered him eligible for a pension if he had been retired from the East African Service on medical certificate,

he may continue to contribute at the rate at which he was contributing immediately before he left the East African Service, in which case, if he is a pensioner, his contributions shall be deducted from his pension. Or he may, on or at any time after so leaving the East African Service,

Contributor married or widower with pensionable children leaving the East African Service on transfer, or pension, or when of pensionable standing.

cease to contribute. If he so ceases to contribute, any pension payable on his death shall be reduced so as to correspond with the payments he has made; or, if in the meantime—

- (i) in the case of a married contributor, his wife has died and his children, if any, have ceased to be of a pensionable age, or
- (ii) in the case of a widower, his children, if any, have ceased to be of a pensionable age,

he shall cease to rank for benefit under this Ordinance whether by way of pension or return of contributions."

Contributor
married or
widower with
pensionable
children.

4. Section 28 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

" 28. (1) If a contributor who is married or who is a widower with children of a pensionable age and whose service is not of such a nature or is not of such length as would render him eligible for a pension if retired from the East African Service on a medical certificate, and whose period of payment of contribution has not expired, dies in the East African Service, any pension that may become payable on his death shall be at the rate of four-fifths of the amount given by the Pension Tables; and pension at the same rate shall be granted if such a contributor having left the East African Service on retirement, transfer or otherwise ceases to contribute on leaving that service and dies within a period dating from the day of his leaving the service and equal to one-third of the number of complete months during which he contributed.

" (2) A contributor who is married or is a widower with children of a pensionable age whose service is not of such a nature or is not of such length as would render him eligible for a pension if retired from the East African Service on a medical certificate, and whose period of payment of contribution has not expired and who leaves the East African Service and is not transferred to other service under the Crown, shall not be eligible to continue to contribute thereafter, and, if he is alive on the expiration of the above-mentioned period during which he was entitled to rank for benefit under the scheme, he shall cease to be entitled to rank for benefit under this Ordinance whether by way of pension or return of contributions.

“ If such a contributor is appointed or re-appointed to the service of this Government before the expiration of the above-mentioned period during which he was entitled to rank for benefit under the scheme, he shall commence or re-commence to contribute under this Ordinance as from the expiration of that period, or, if he so elects, from the date of his appointment or re-appointment to the service of this Government, anything in section 3 of this Ordinance to the contrary notwithstanding.

“ (3) For the purpose of this section one-third of a month shall be taken as ten days and two-thirds of a month as twenty days.

“ (4) (a) If any person formerly in the service of this Government has been transferred to other service under the Crown, not being East African Service, prior to the first day of January, 1926, and at the time of such transfer—

- (i) was a contributor; and
- (ii) was married or was a widower with children of a pensionable age; and
- (iii) his period of payment of contributions had not expired; and
- (iv) his service was not of such a nature and of such a length as would have rendered him eligible for pension if he had been retired from the East African Service on medical certificate,

he may, if he is still in the service of the Crown and otherwise eligible to be a contributor, by a written notice addressed to the Crown Agents and received by them prior to the first day of January, 1928, elect to become again a contributor. If he so elects, he shall pay to the Crown Agents, within six months of the date of their receipt of his notice of election, arrears of contributions at the rate at which he was contributing immediately before he ceased to contribute, together with compound interest on such arrears at the rate of eight per centum per annum, with annual rests from the date from which he ceased to contribute to the date of expiration of his

contribution term, or to the date of resumption of payment of contributions, whichever shall first occur, whereupon he shall again be a contributor and any pension to his beneficiary shall be calculated as it would have been calculated if he had not ceased to contribute, and, if his contribution term has not expired, he shall resume payment of contributions at the rate at which he was contributing immediately before he ceased to contribute as from the first day of the month next after that in which the payment of arrears and interest as aforesaid is received by the Crown Agents.

“(b) A person who has resumed payment of contributions under this sub-section may at any time after such resumption of payment cease to contribute, in which case any pension payable on his death shall be reduced so as to correspond with the payments which he had made; or, if in the meantime—

(i) in the case of a married contributor, his wife has died and his children, if any, cease to be of a pensionable age; or

(ii) in the case of a widower, his children, if any, have ceased to be of a pensionable age,

he shall cease to rank for benefit under this Ordinance, whether by way of pension or return of contributions.”

Commence-
ment.

5. This Ordinance shall be deemed to have commenced and come into operation on the first day of January, 1926.

Repealed Ord. 28/33

**An Ordinance to Amend the Companies
Ordinance.**

[29TH MARCH, 1927.] 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 Companies (Amendment) Ordinance, 1927,” and shall be read as one with the Companies Ordinance (Chapter 93 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Short title

2. Section 292 of the Principal Ordinance is hereby repealed and in lieu thereof shall be read the following :—

Saving of Bank
Ordinance
(Cap. 94).

“ 292. (1) Nothing in this Ordinance shall affect the provisions of the Bank Ordinance.

“ (2) The provisions of sections 32 and 277 of this Ordinance shall not apply to any bank required to furnish statements or returns under Part II, Part III or Part IV, as the case may be, of the Bank Ordinance.”

NO. 5 OF 1927.

**An Ordinance to Amend the Bank
Ordinance.**

Date of Assent.

[29TH MARCH, 1927.]

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 Bank (Amendment) Ordinance, 1927,” and shall be read as one with the Bank Ordinance (Chapter 94 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.”

Amendment of definition of “ bank ”.

2. Section 2 of the Principal Ordinance is hereby amended by the substitution of the following for the definition of the word “ bank ” :—

“ The word ‘ bank ’ means any company, person or body of persons, whether incorporated or not, engaged in the business of banking within the Colony.”

Amendment of sections 32, 33, 38 (1) and 39 (1) of the Principal Ordinance.

3. (1) Sections 32, 33 and 39 (1) of the Principal Ordinance are hereby amended by the substitution of the words “ Registrar of Companies ” for the word “ Governor ” and by the substitution of the words “ one copy ” for the words “ two copies ” wherever such words appear.

(2) Sub-section (1) of section 38 of the Principal Ordinance is hereby amended by the substitution of the words “ Registrar of Companies ” for the word “ Governor ” and by the deletion of the words “ in duplicate ”.

Repeal

4. Sections 35 and 40 of the Principal Ordinance are hereby repealed.

No. 6 OF 1926.

**An Ordinance to Amend the Marriage
Ordinance.**

[29TH MARCH, 1927.] Date of Assent.

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

1. This Ordinance may be cited as “ the Marriage (Amendment) Ordinance, 1927,” and shall be read as one with the Marriage Ordinance (Chapter 167 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.” Short title.

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

“ 33. The Registrar-General shall cause indexes of all the said certified copies of the Marriage Registers to be made and kept in the Registrar-General's office, and every person shall be entitled to search the said indexes at any reasonable time and, on payment of the fees set out in the Second Schedule hereto, shall be entitled to have a certified copy of any entry in the said certified copies of the Registers; and all certified copies of entries purporting to be signed and certified by the Registrar-General, and every certificate of marriage which shall have been filed in the office of the registrar of any district or a copy thereof purporting to be signed and certified by the registrar of such district for the time being, and every entry in a Marriage Register Book, shall be received as evidence of the marriage to which the same relates without any or other proof of such entry.”

3. Form F in the First Schedule to the Principal Ordinance is hereby repealed, and the Form F in the Schedule hereto is substituted therefor. Amendment of Form F in the First Schedule.

SCHEDULE.

FORM F.

MARRIAGE REGISTER BOOK.

No.	Marriage solemnized at.....in the .....of..... in the Province of.....						
	When married. Name and Surname.	Age	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's Name and Surname.	Rank or Profession of Father.
Married in the.....				by Registrar's Certificate, by Special Licence, by.....			
This Marriage was Solemnized between		{.....}		in the presence of		{.....}	

Entered this.....day of.....19 , at the District Registry of Marriage
at.....

Registrar.

**An Ordinance relating to Bills of Exchange,
Cheques, and Promissory Notes.**

[14th May, 1927] Date of Assent.

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

1. This Ordinance may be cited as “ the Bills of Exchange Interpretation Ordinance, 1927.”

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

“ Acceptance ” means an acceptance completed by delivery or notification ;

“ Action ” includes counter-claim and set-off ;

“ Banker ” includes a body of persons whether incorporated or not who carry on the business of banking ;

“ Bankrupt ” includes any person whose estate is vested in a trustee or assignee under the law for the time being in force relating to bankruptcy ;

“ Bearer ” means the person in possession of a bill or note which is payable to bearer ;

“ Bill ” means bill of exchange, and “ note ” means promissory note ;

“ Delivery ” means transfer of possession, actual or constructive, from one person to another ;

“ Holder ” means the payee or indorsee of a bill or note who is in possession of it, or the bearer thereof ;

“ Indorsement ” means an indorsement completed by delivery ;

“ Issue ” means the first delivery of a bill or note, complete in form, to a person who takes it as a holder ;

“ Value ” means valuable consideration ;

PART I.

BILLS OF EXCHANGE.

Form and Interpretation.

Bill of exchange defined.

3. (1) A bill of exchange is an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person or to bearer.

(2) An instrument which does not comply with these conditions, or which orders any act to be done in addition to the payment of money, is not a bill of exchange.

(3) An order to pay out of a particular fund is not unconditional within the meaning of this section ; but an unqualified order to pay, coupled with—

(a) an indication of a particular fund out of which the drawee is to reimburse himself or a particular account to be debited with the amount ; or

(b) a statement of the transaction which gives rise to the bill, is unconditional.

(4) A bill is not invalid by reason—

(a) that it is not dated ;

(b) that it does not specify the value given or that any value has been given therefor ;

(c) that it does not specify the place where it is drawn or the place where it is payable.

No. VII.*Bills of Exchange***1927**

4. (1) An inland bill is a bill which is or on the face of it purports to be— Inland and foreign bills.

(a) both drawn and payable within the Colony; or

(b) drawn within the Colony upon some person resident therein.

Any other bill is a foreign bill.

(2) Unless the contrary appear on the face of the bill the holder may treat it as an inland bill.

5. (1) A bill may be drawn payable to, or to the order of, the drawer, or it may be drawn payable to, or to the order of, the drawee. Effect where different parties to bill are the same person.

(2) Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note.

6. (1) The drawee must be named or otherwise indicated in a bill with reasonable certainty. Address to drawee.

(2) A bill may be addressed to two or more drawees whether they are partners or not, but an order addressed to two drawees in the alternative or to two or more drawees in succession is not a bill of exchange.

7. (1) Where a bill is not payable to bearer, the payee must be named or otherwise indicated therein with reasonable certainty. Certainty required as to payee.

(2) A bill may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees. A bill may also be made payable to the holder of an office for the time being.

(3) Where the payee is a fictitious or non-existing person the bill may be treated as payable to bearer.

What bills are negotiable.

8. (1) When a bill contains words prohibiting transfer, or indicating an intention that it should not be transferable, it is valid as between the parties thereto, but is not negotiable.

(2) A negotiable bill may be payable either to order or to bearer.

(3) A bill is payable to bearer which is expressed to be so payable, or on which the only or last indorsement is an indorsement in blank.

(4) A bill is payable to order which is expressed to be so payable, or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it should not be transferable.

(5) Where a bill, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

Sum payable.

9. (1) The sum payable by a bill is a sum certain within the meaning of this Ordinance, although it is required to be paid—

(a) with interest;

(b) by stated instalments;

(c) by stated instalments, with a provision that upon default in payment of any instalment the whole shall become due;

(d) according to an indicated rate of exchange or according to a rate of exchange to be ascertained as directed by the bill.

(2) Where the sum payable is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable.

(3) Where a bill is expressed to be payable with interest, unless the instrument otherwise provides, interest runs from the date of the bill, and if the bill is undated from the issue thereof.

No. VII. *Bills of Exchange*

1927

10. (1) A bill is payable on demand—

Bill payable
on demand.

(a) which is expressed to be payable on demand, or at sight, or on presentation; or

(b) in which no time for payment is expressed.

(2) Where a bill is accepted or indorsed when it is overdue, it shall, as regards the acceptor who so accepts, or any indorser who so indorses it, be deemed a bill payable on demand.

11. A bill is payable at a determinable future time within the meaning of this Ordinance which is expressed to be payable—

Bill payable at
a future time.

(1) at a fixed period after date or sight;

(2) on or at a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain.

An instrument expressed to be payable on a contingency is not a bill, and the happening of the event does not cure the defect.

12. Where a bill expressed to be payable at a fixed period after date is issued undated, or where the acceptance of a bill payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the bill shall be payable accordingly:

Omission of date
in bill payable
after date.

Provided that—

(1) where the holder in good faith and by mistake inserts a wrong date, and

(2) in every case where a wrong date is inserted, if the bill subsequently comes into the hands of a holder in due course, the bill shall not be avoided thereby, but shall operate and be payable as if the date so inserted had been the true date.

13. (1) Where a bill or an acceptance or any indorsement on a bill is dated, the date shall, unless the contrary be proved, be deemed to be the true date of the drawing, acceptance, or indorsement, as the case may be.

Ante-dating and
post-dating.

(2) A bill is not invalid by reason only that it is ante-dated or post-dated, or that it bears date on a Sunday.

Computation of
time of payment

14. Where a bill is not payable on demand, the day on which it falls due is determined as follows :—

(1) Three days, called “days of grace”, are, in every case where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace : Provided that—

(a) when the last day of grace falls on Sunday, Christmas Day or Good Friday, the bill is, except in the case hereinafter provided for, due and payable on the preceding business day ;

Cap. 30.

(b) when the last day of grace is a public holiday (other than Christmas Day or Good Friday) under the Public Holidays Ordinance, or when the last day of grace is a Sunday and the second day of grace is a public holiday, the bill is due and payable on the succeeding business day.

(2) Where a bill is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by excluding the day from which the time is to begin to run and by including the day of payment.

(3) Where a bill is payable at a fixed period after sight, the time begins to run from the date of the acceptance if the bill be accepted, and from the date of noting or protest if the bill be noted or protested for non-acceptance, or for non-delivery.

(4) The term “ month ” in a bill means calendar month.

Case of need.

15. The drawer of a bill and any indorser may insert therein the name of a person to whom the holder may resort in case of need, that is to say, in case the bill is dishonoured by non-acceptance or non-payment. Such person is called the “ referee in case of need ”. It is in the option of the holder to resort to the referee in case of need or not as he may think fit.

Optional
stipulations by
drawer or
indorser.

16. The drawer of a bill and any indorser may insert therein an express stipulation—

(1) negating or limiting his own liability to the holder ;

(2) waiving as regards himself some or all of the holder's duties.

17. (1) The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. Definition and requisites of acceptance.

(2) An acceptance is invalid unless it complies with the following conditions, namely—

- (a) it must be written on the bill and be signed by the drawee. The mere signature of the drawee without additional words is sufficient;
- (b) it must not express that the drawee will perform his promise by any other means than the payment of money.

18. A bill may be accepted—

Time for acceptance.

- (1) before it has been signed by the drawer, or while otherwise incomplete;
- (2) when it is overdue, or after it has been dishonoured by a previous refusal to accept, or by non-payment;
- (3) when a bill payable after sight is dishonoured by non-acceptance, and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of first presentment to the drawee for acceptance.

19. (1) An acceptance is either—

General and qualified acceptance.

- (a) general, or
- (b) qualified.

(2) A general acceptance assents without qualification to the order of the drawer. A qualified acceptance in express terms varies the effect of the bill as drawn.

In particular an acceptance is qualified which is—

- (a) conditional, that is to say, which makes payment by the acceptor dependent on the fulfilment of a condition therein stated;
- (b) partial, that is to say, an acceptance to pay part only of the amount for which the bill is drawn;
- (c) local, that is to say, an acceptance to pay only at a particular specified place;

(An acceptance to pay at a particular place is a general acceptance, unless it expressly states that the bill is to be paid there only and not elsewhere.)

- (d) qualified as to time ;
- (e) the acceptance of some one or more of the drawees, but not of all.

Inchoate
instruments

20. (1) Where a simple signature on a blank stamped paper is delivered by the signer in order that it may be converted into a bill, it operates as a *primâ facie* authority to fill it up as a complete bill for any amount the stamp will cover, using the signature for that of the drawer, or the acceptor, or an indorser ; and, in like manner, when a bill is wanting in any material particular, the person in possession of it has a *primâ facie* authority to fill up the omission in any way he thinks fit.

(2) In order that any such instrument when completed may be enforceable against any person who became a party thereto prior to its completion, it must be filled up within a reasonable time, and strictly in accordance with the authority given. Reasonable time for this purpose is a question of fact :

Provided that if any such instrument after completion is negotiated to a holder in due course it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given.

Delivery.

21. (1) Every contract on a bill, whether it be the drawer's, the acceptor's, or an indorser's, is incomplete and revocable, until delivery of the instrument in order to give effect thereto :

Provided that where an acceptance is written on a bill, and the drawee gives notice to or according to the directions of the person entitled to the bill that he has accepted it, the acceptance then becomes complete and irrevocable.

(2) As between immediate parties, and as regards a remote party other than a holder in due course, the delivery—

- (a) in order to be effectual must be made either by or under the authority of the party drawing, accepting, or indorsing, as the case may be ;
- (b) may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the bill.

But if the bill be in the hands of a holder in due course, a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed.

(3) Where a bill is no longer in the possession of a party who has signed it as drawer, acceptor, or indorser, a valid and unconditional delivery by him is presumed until the contrary is proved.

Capacity and Authority of Parties.

22. (1) Capacity to incur liability as a party to a bill is co-extensive with capacity to contract : Capacity of parties.

Provided that nothing in this section shall enable a corporation to make itself liable as drawer, acceptor, or indorser of a bill unless it is competent to do so under the law for the time being in force relating to corporations.

(2) Where a bill is drawn or indorsed by an infant, minor, or corporation having no capacity or power to incur liability on a bill, the drawing or indorsement entitles the holder to receive payment of the bill, and to enforce it against any other party thereto.

23. No person is liable as drawer, indorser, or acceptor of a bill who has not signed it as such : Provided that— Signature essential to liability.

(1) where a person signs a bill in a trade or assumed name, he is liable thereon as if he had signed it in his own name ;

(2) the signature of the name of a firm is equivalent to the signature by the person so signing of the names of all persons liable as partners in that firm.

24. Subject to the provisions of this Ordinance, where a signature on a bill is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorised signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority : Forged or unauthorised signature.

Provided that nothing in this section shall affect the ratification of an unauthorised signature not amounting to a forgery.

25. A signature by procuration operates as notice that the agent has but a limited authority to sign, and the principal is only bound by such signature if the agent in so signing was acting within the actual limits of his authority. Procuration signatures.

Person signing
as agent or in
representative
capacity.

26. (1) Where a person signs a bill as drawer, indorser, or acceptor, and adds words to his signature, indicating that he signs for or on behalf of a principal, or in a representative character, he is not personally liable thereon; but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability.

(2) In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted.

The Consideration for a Bill.

Value and
holder for
value.

27. (1) Valuable consideration for a bill may be constituted by—

(a) any consideration sufficient to support a simple contract;

(b) an antecedent debt or liability. Such a debt or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.

(2) Where value has at any time been given for a bill the holder is deemed to be a holder for value as regards the acceptor and all parties to the bill who became parties prior to such time.

(3) Where the holder of a bill has a lien on it, arising either from contract or by implication of law, he is deemed to be a holder for value to the extent of the sum for which he has a lien.

Accommodation
bill or party.

28. (1) An accommodation party to a bill is a person who has signed a bill as drawer, acceptor, or indorser, without receiving value therefor, and for the purpose of lending his name to some other person.

(2) An accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

29. (1) A holder in due course is a holder who has taken a bill, complete and regular on the face of it, under the following conditions, namely—

Holder in due course.

- (a) that he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact ;
- (b) that he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

(2) In particular the title of a person who negotiates a bill is defective within the meaning of this Ordinance when he obtained the bill, or the acceptance thereof, by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

(3) A holder (whether for value or not) who derives his title to a bill through a holder in due course, and who is not himself a party to any fraud or illegality affecting it, has all the rights of that holder in due course as regards the acceptor and all parties to the bill prior to that holder.

30. (1) Every party whose signature appears on a bill is *primâ facie* deemed to have become a party thereto for value.

Presumption of value and good faith.

(2) Every holder of a bill is *primâ facie* deemed to be a holder in due course ; but if in an action on a bill it is admitted or proved that the acceptance, issue or subsequent negotiation of the bill is affected with fraud, duress, or force and fear, or illegality, the burden of proof is shifted, unless and until the holder proves that, subsequent to the alleged fraud or illegality, value has in good faith been given for the bill.

Negotiation of Bills.

31. (1) A bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill.

Negotiation of bill.

(2) A bill payable to bearer is negotiated by delivery.

(3) A bill payable to order is negotiated by the indorsement of the holder completed by delivery.

(4) Where the holder of a bill payable to his order transfers it for value without indorsing it, the transfer gives the transferee such title as the transferor had in the bill, and the transferee in addition acquires the right to have the indorsement of the transferor.

(5) Where any person is under obligation to indorse a bill in a representative capacity, he may indorse the bill in such terms as to negative personal liability.

Requisites of a valid indorsement.

32. An indorsement in order to operate as a negotiation must comply with the following conditions, namely :—

(1) It must be written on the bill itself and be signed by the indorser. The simple signature of the indorser on the bill, without additional words, is sufficient.

An indorsement written on an *allonge*, or on a "copy" of a bill issued or negotiated in a country where "copies" are recognised, is deemed to be written on the bill itself.

(2) It must be an indorsement of the entire bill. A partial indorsement, that is to say, an indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the bill to two or more indorsees severally, does not operate as a negotiation of the bill.

(3) Where a bill is payable to the order of two or more payees or indorsees who are not partners, all must indorse, unless the one indorsing has authority to indorse for the others.

(4) Where, in a bill payable to order, the payee or indorsee is wrongly designated, or his name is mis-spelt, he may indorse the bill as therein described, adding, if he thinks fit, his proper signature.

(5) Where there are two or more indorsements on a bill, each indorsement is deemed to have been made in the order in which it appears on the bill, until the contrary is proved.

(6) An indorsement may be made in blank or special; it may also contain terms making it restrictive.

Conditional indorsement.

33. Where a bill purports to be indorsed conditionally, the condition may be disregarded by the payer, and payment to the indorsee is valid whether the condition has been fulfilled or not.

34. (1) An indorsement in blank specifies no indorsee, and a bill so indorsed becomes payable to bearer. Indorsement in blank and special indorsement.

(2) A special indorsement specifies the person to whom, or to whose order, the bill is to be payable.

(3) The provisions of this Ordinance relating to a payee apply with the necessary modifications to an indorsee under a special indorsement.

(4) When a bill has been indorsed in blank, any holder may convert the blank indorsement into a special indorsement by writing above the indorsee's signature a direction to pay the bill to or to the order of himself or some other person.

35. (1) An indorsement is restrictive which prohibits the further negotiation of the bill or which expresses that it is a mere authority to deal with the bill as thereby directed and not a transfer of the ownership thereof, as, for example, if a bill be indorsed "Pay *D* only," or "Pay *D* for the account of *X*," or "Pay *D* or order for collection." Restrictive indorsement.

(2) A restrictive indorsement gives the indorsee the right to receive payment of the bill and to sue any party thereto that his indorser could have sued, but gives him no power to transfer his rights as indorsee unless it expressly authorise him to do so.

(3) Where a restrictive indorsement authorises further transfer, all subsequent indorsees take the bill with the same rights and subject to the same liabilities as the first indorsee under the restrictive indorsement.

36. (1) Where a bill is negotiable in its origin it continues to be negotiable until it has been-- Negotiation of overdue or dishonoured bill.

(a) restrictively indorsed, or

(b) discharged by payment or otherwise.

(2) Where an overdue bill is negotiated, it can only be negotiated subject to any defect of title affecting it at its maturity, and thenceforward no person who takes it can acquire or give a better title than that which the person from whom he took it had.

(3) A bill payable on demand is deemed to be overdue within the meaning and for the purposes of this section when it appears on the face of it to have been in circulation for an unreasonable length of time. What is an unreasonable length of time for this purpose is a question of fact.

(4) Except where an indorsement bears date after the maturity of the bill, every negotiation is *primâ facie* deemed to have been effected before the bill was overdue.

(5) Where a bill which is not overdue has been dishonoured, any person who takes it with notice of the dishonour takes it subject to any defect of title attaching thereto at the time of dishonour, but nothing in this sub-section shall affect the rights of a holder in due course.

Negotiation of bill to party already liable thereon.

37. Where a bill is negotiated back to the drawer, or to a prior indorser, or to the acceptor, such party may, subject to the provisions of this Ordinance, re-issue and further negotiate the bill, but he is not entitled to enforce payment of the bill against any intervening party to whom he was previously liable.

Rights of the holder.

38. The rights and powers of the holder of a bill are as follows :—

- (1) He may sue on the bill in his own name.
- (2) Where he is a holder in due course, he holds the bill free from any defect of title of prior parties, as well as from mere personal defences available to prior parties among themselves, and may enforce payment against all parties liable on the bill.
- (3) Where his title is defective—
 - (a) if he negotiates the bill to a holder in due course, that holder obtains a good and complete title to the bill; and
 - (b) if he obtains payment of the bill, the person who pays him in due course gets a valid discharge for the bill.

General Duties of the Holder.

When presentment for acceptance is necessary.

39. (1) Where a bill is payable after sight, presentment for acceptance is necessary in order to fix the maturity of the instrument.

(2) Where a bill expressly stipulates that it shall be presented for acceptance, or where a bill is drawn payable elsewhere than at the residence or place of business of the drawee, it must be presented for acceptance before it can be presented for payment.

(3) In no other case is presentment for acceptance necessary in order to render liable any party to the bill.

(4) Where the holder of a bill, drawn payable elsewhere than at the place of business or residence of the drawee, has not time, with the exercise of reasonable diligence, to present the bill for acceptance before presenting it for payment on the day that it falls due, the delay caused by presenting the bill for acceptance before presenting it for payment is excused, and does not discharge the drawer and indorsers.

40. (1) Subject to the provisions of this Ordinance, when a bill payable after sight is negotiated, the holder must either present it for acceptance or negotiate it within a reasonable time. Time for presenting bill payable after sight.

(2) If he do not do so, the drawer and all indorsers prior to that holder are discharged.

(3) In determining what is a reasonable time within the meaning of this section, regard shall be had to the nature of the bill, the usage of trade with respect to similar bills, and the facts of the particular case.

41. (1) A bill is duly presented for acceptance which is presented in accordance with the following rules :— Rules as to presentation for acceptance, and excuses for non presentation.

(a) The presentment must be made by or on behalf of the holder to the drawee or to some person authorised to accept or refuse acceptance on his behalf at a reasonable hour on a business day and before the bill is overdue.

(b) Where a bill is addressed to two or more drawees, who are not partners, presentment must be made to them all, unless one has authority to accept for all, then presentment may be made to him only.

(c) Where the drawee is dead, presentment may be made to his personal representative.

(d) Where the drawee is bankrupt, presentment may be made to him or to his trustee.

(e) Where authorised by agreement or usage, a presentment through the Post Office is sufficient.

(2) Presentment in accordance with these rules is excused, and a bill may be treated as dishonoured by non-acceptance—

(a) where the drawee is dead or bankrupt, or is a fictitious person or a person not having capacity to contract by bill;

(b) where, after the exercise of reasonable diligence, such presentment cannot be effected;

(c) where, although the presentment has been irregular, acceptance has been refused on some other ground.

(3) The fact that the holder has reason to believe that the bill, on presentment, will be dishonoured, does not excuse presentment.

Non-acceptance

42. When a bill is duly presented for acceptance, and is not accepted within the customary time, the person presenting it must treat it as dishonoured by non-acceptance. If he do not, the holder shall lose his right of recourse against the drawer and indorsers.

Dishonour by non-acceptance and its consequences.

43. (1) A bill is dishonoured by non-acceptance—

(a) when it is duly presented for acceptance, and such an acceptance as is prescribed by this Ordinance is refused or cannot be obtained; or

(b) when presentment for acceptance is excused and the bill is not accepted.

(2) Subject to the provisions of this Ordinance, when a bill is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues to the holder, and no presentment for payment is necessary.

Duties as to qualified acceptances.

44. (1) The holder of a bill may refuse to take a qualified acceptance, and, if he does not obtain an unqualified acceptance, may treat the bill as dishonoured by non-acceptance.

(2) Where a qualified acceptance is taken, and the drawer or an indorser has not expressly or impliedly authorised the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or indorser is discharged from his liability on the bill.

The provisions of this sub-section do not apply to a partial acceptance, whereof due notice has been given. Where a foreign bill has been accepted as to part, it must be protested as to the balance.

(3) When the drawer or indorser of a bill receives notice of a qualified acceptance, and does not, within a reasonable time, express his dissent to the holder, he shall be deemed to have assented thereto.

45. Subject to the provisions of this Ordinance, a bill must be duly presented for payment. If it be not so presented, the drawer and indorsers shall be discharged.

Rules as to
presentment for
payment.

A bill is duly presented for payment which is presented in accordance with the following rules :—

- (1) Where the bill is not payable on demand, presentment must be made on the day it falls due.
- (2) Where the bill is payable on demand, then, subject to the provisions of this Ordinance, presentment must be made within a reasonable time after its issue in order to render the drawer liable, and within a reasonable time after its indorsement, in order to render the indorser liable.

In determining what is a reasonable time, regard shall be had to the nature of the bill, the usage of trade with regard to similar bills, and the facts of the particular case.

- (3) Presentment must be made by the holder or by some person authorised to receive payment on his behalf at a reasonable hour on a business day at the proper place, as hereinafter defined, either to the person designated by the bill as payer, or to some person authorised to pay or refuse payment on his behalf, if with the exercise of reasonable diligence such person can there be found.
- (4) A bill is presented at the proper place—
 - (a) where a place of payment is specified in the bill and the bill is there presented ;
 - (b) where no place of payment is specified, but the address of the drawee or acceptor is given in the bill, and the bill is there presented ;
 - (c) where no place of payment is specified, and no address given, and the bill is presented at the drawee's or acceptor's place of business, if known, and if not, at his ordinary residence, if **known ;**

(d) in any other case, if presented to the drawee or acceptor wherever he can be found, or if presented at his last-known place of business or residence.

- (5) Where a bill is presented at the proper place, and, after the exercise of reasonable diligence, no person authorised to pay or refuse payment can be found there, no further presentment to the drawee or acceptor is required.
- (6) Where a bill is drawn upon, or accepted by two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.
- (7) Where the drawee or acceptor of a bill is dead, and no place of payment is specified, presentment must be made to a personal representative, if such there be, and with the exercise of reasonable diligence he can be found.
- (8) Where authorised by agreement or usage, a presentment through the Post Office is sufficient.

Excuses for delay or non-presentment for payment.

46. (1) Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence.

(2) Presentment for payment is dispensed with—

(a) where, after the exercise of reasonable diligence, presentment, as required by this Ordinance, cannot be effected.

The fact that the holder has reason to believe that the bill will, on presentment, be dishonoured, does not dispense with the necessity for presentment :

(b) where the drawee is a fictitious person ;

(c) as regards the drawer, where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented ;

- (d) as regards an indorser, where the bill was accepted or made for the accommodation of that indorser, and he has no reason to expect that the bill would be paid if presented;
- (e) by waiver of presentment, expressed or implied.

47. (1) A bill is dishonoured by non-payment—

Dishonour by non-payment.

- (a) when it is duly presented for payment and payment is refused or cannot be obtained; or
- (b) when presentment is excused and the bill is overdue and unpaid.

(2) Subject to the provisions of this Ordinance, when a bill is dishonoured by non-payment, an immediate right of recourse against the drawer and indorsers accrues to the holder.

48. Subject to the provisions of this Ordinance, when a bill has been dishonoured by non-acceptance or by non-payment, notice of dishonour must be given to the drawer and each indorser, and any drawer or indorser to whom such notice is not given is discharged: Provided that—

Notice of dishonour and effect of non-notice.

- (1) where a bill is dishonoured by non-acceptance, and notice of dishonour is not given, the rights of a holder in due course, subsequent to the omission, shall not be prejudiced by the omission;
- (2) where a bill is dishonoured by non-acceptance, and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment unless the bill shall in the meantime have been accepted.

49. Notice of dishonour in order to be valid and effectual must be given in accordance with the following rules:—

Rules as to notice of dishonour.

- (1) The notice must be given by or on behalf of the holder, or by or on behalf of an indorser who, at the time of giving it, is himself liable on the bill;
- (2) Notice of dishonour may be given by an agent either in his own name, or in the name of any party entitled to give notice, whether that party be his principal or not;

- (3) Where the notice is given by or on behalf of the holder, it enures for the benefit of all subsequent holders and all prior indorsers who have a right of recourse against the party to whom it is given ;
- (4) Where notice is given by or on behalf of an indorser entitled to give notice as hereinbefore provided, it enures for the benefit of the holder and all indorsers subsequent to the party to whom notice is given ;
- (5) The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently indentify the bill, and intimate that the bill has been dishonoured by non-acceptance or non-payment ;
- (6) The return of a dishonoured bill to the drawer or an indorser is, in point of form, deemed a sufficient notice of dishonour ;
- (7) A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the bill shall not vitiate the notice unless the party to whom the notice is given is in fact misled thereby ;
- (8) Where notice of dishonour is required to be given to any person, it may be given either to the party himself or to his agent in that behalf ;
- (9) Where the drawer or indorser is dead, and the party giving notice knows it, the notice must be given to a personal representative, if such there be, and with the exercise of reasonable diligence he can be found ;
- (10) Where the drawer or indorser is bankrupt, notice may be given either to the party himself or to the trustee ;
- (11) Where there are two or more drawers or indorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others ;
- (12) The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time thereafter.

In the absence of special circumstances, notice is not deemed to have been given within a reasonable time unless—

- (a) where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill;
 - (b) where the person giving and the person to receive notice reside in different places, the notice is sent off on the day after the dishonour of the bill, if there be a post at a convenient hour on that day, and if there be no such post on that day then by the next post thereafter;
- (13) Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the parties liable on the bill, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder;
- (14) Where a party to a bill receives due notice of dishonour he has, after the receipt of such notice, the same period of time for giving notice to antecedent parties that the holder has after the dishonour;
- (15) Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the Post Office.

50. (1) Delay in giving notice of dishonour is excused where the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the notice must be given with reasonable diligence.

Excuses for non-notice and delay.

- (2) Notice of dishonour is dispensed with—
- (a) when, after the exercise of reasonable diligence, notice as required by this Ordinance cannot be given to or does not reach the drawer or indorser sought to be charged;
 - (b) by waiver express or implied. Notice of dishonour may be waived before the time of giving notice has arrived or after the omission to give due notice;

- (c) as regards the drawer in the following cases, namely :
- (i) where drawer and drawee are the same person,
 - (ii) where the drawee is a fictitious person or a person not having capacity to contract,
 - (iii) where the drawer is the person to whom the bill is presented for payment,
 - (iv) where the drawee or acceptor is as between himself and the drawer under no obligation to accept or pay the bill,
 - (v) where the drawer has countermanded payment;
- (d) as regards the indorser in the following cases, namely .
- (i) where the drawee is a fictitious person or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the bill,
 - (ii) where the indorser is the person to whom the bill is presented for payment.
 - (iii) where the bill was accepted or made for his accommodation.

Noting or
protest of bill.

51. (1) Where an inland bill has been dishonoured, it may, if the holder think fit, be noted for non-acceptance or non-payment, as the case may be ; but it shall not be necessary to note or protest any such bill in order to preserve the recourse against the drawer or indorser.

(2) Where a foreign bill, appearing on the face of it to be such, has been dishonoured by non-acceptance, it must be duly protested for non-acceptance, and where such a bill, which has not been previously dishonoured by non-acceptance, is dishonoured by non-payment, it must be duly protested for non-payment. If it be not so protested the drawer and indorsers are discharged. Where a bill does not appear on the face of it to be a foreign bill, protest thereof in case of dishonour is unnecessary.

(3) A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

(4) Subject to the provisions of this Ordinance, when a bill is noted or protested, it may be noted on the day of its dishonour and must be noted not later than the next succeeding business day. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

(5) Where the acceptor of a bill becomes bankrupt or insolvent or suspends payment before it matures, the holder may cause the bill to be protested for better security against the drawer and indorsers.

(6) A bill must be protested at the place where it is dishonoured : Provided that—

(a) when a bill is presented through the Post Office, and returned by post dishonoured, it may be protested at the place to which it is returned and on the day of its return if received during business hours, and if not received during business hours, then not later than the next business day ;

(b) when a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonoured by non-acceptance, it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

(7) A protest must contain a copy of the bill, and must be signed by the notary making it, and must specify—

(a) the person at whose request the bill is protested ;

(b) the place and date of protest, the cause or reason for protesting the bill, the demand made, and the answer given, if any, or the fact that the drawee or acceptor could not be found.

(8) Where a bill is lost or destroyed, or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

(9) Protest is dispensed with by any circumstances which would dispense with notice of dishonour. Delay in noting or protesting is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

Duties of holder as regards drawee or acceptor.

52. (1) When a bill is accepted generally, presentment for payment is not necessary in order to render the acceptor liable.

(2) When by the terms of a qualified acceptance presentment for payment is required, the acceptor, in the absence of an express stipulation to that effect, is not discharged by the omission to present the bill for payment on the day that it matures.

(3) In order to render the acceptor of a bill liable it is not necessary to protest it, or that notice of dishonour should be given to him.

(4) Where the holder of a bill presents it for payment, he shall exhibit the bill to the person from whom he demands payment, and when a bill is paid the holder shall forthwith deliver it up to the party paying it.

Liabilities of Parties.

Bill not assignment of funds in hands of drawee.

53. A bill of itself does not operate as an assignment of funds in the hands of the drawee available for the payment thereof, and the drawee of a bill who does not accept as required by this Ordinance is not liable on the instrument.

Liability of acceptor.

54. The acceptor of a bill, by accepting it—

- (1) engages that he will pay it according to the tenor of his acceptance;
- (2) is precluded from denying to a holder in due course—
 - (a) the existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the bill;
 - (b) in the case of a bill payable to drawer's order, the then capacity of the drawer to indorse, but not the genuineness or validity of his indorsement;
 - (c) in the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to indorse, but not the genuineness or validity of his indorsement.

Liability of drawer or indorser.

55. (1) The drawer of a bill by drawing it—

- (a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or any indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;

(b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

(2) The indorser of a bill by indorsing it—

(a) engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured he will compensate the holder or a subsequent indorser who is compelled to pay it, provided that the requisite proceedings on dishonour be duly taken;

(b) is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous indorsements;

(c) is precluded from denying to his immediate or a subsequent indorsee that the bill was at the time of his indorsement a valid and subsisting bill, and that he had then a good title thereto.

56. Where a person signs a bill otherwise than as drawer or acceptor, he thereby incurs the liabilities of an indorser to a holder in due course.

Stranger signing bill liable as indorser.

57. Where a bill is dishonoured, the measure of damages, which shall be deemed to be liquidated damages, shall be as follows :—

Measure of damages against parties to dishonoured bill.

(1) The holder may recover from any party liable on the bill, and the drawer who has been compelled to pay the bill may recover from the acceptor, and an indorser who has been compelled to pay the bill may recover from the acceptor or from the drawer or from a prior indorser—

(a) the amount of the bill;

(b) interest thereon from the time of presentment for payment if the bill is payable on demand, and from the maturity of the bill in any other case;

(c) the expenses of noting, or when protest is necessary, and the protest has been extended, the expenses of protest.

(2) In the case of a bill which has been dishonoured abroad, in lieu of the above damages, the holder may recover from the drawer or an indorser, and the drawer or an indorser who has been compelled to pay the bill may recover from any party liable to him, the amount of the re-exchange with interest thereon until the time of payment.

(3) Where by this Ordinance interest may be recovered as damages, such interest may, if justice require it, be withheld wholly or in part, and where a bill is expressed to be payable with interest at a given rate, interest as damages may or may not be given at the same rate as interest proper.

Transferor by
delivery and
transferee.

58. (1) Where the holder of a bill payable to bearer negotiates it by delivery without indorsing it, he is called a "transferor by delivery."

(2) A transferor by delivery is not liable on the instrument.

(3) A transferor by delivery who negotiates a bill thereby warrants to his immediate transferee, being a holder for value, that the bill is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any fact which renders it valueless.

Discharge of Bill.

Payment in due
course.

59. (1) A bill is discharged by payment in due course by or on behalf of the drawee or acceptor.

"Payment in due course" means payment made at or after the maturity of the bill to the holder thereof in good faith and without notice that his title to the bill is defective.

(2) Subject to the provisions hereinafter contained, when a bill is paid by the drawer or an indorser, it is not discharged; but—

(a) where a bill payable to, or to the order of, a third party is paid by the drawer the drawer may enforce payment thereof against the acceptor, but may not re-issue the bill;

(b) where a bill is paid by an indorser, or where a bill payable to drawer's order is paid by the drawer, the party paying it is remitted to his former rights as regards the acceptor or antecedent parties, and he may, if he thinks fit, strike out his own and subsequent indorsements, and again negotiate the bill.

(3) Where an accommodation bill is paid in due course by the party accommodated, the bill is discharged.

60. When a bill payable to order on demand is drawn on a banker, and the banker on whom it is drawn pays the bill in good faith and in the ordinary course of business, it is not incumbent on the banker to show that the indorsement of the payee or any subsequent indorsement was made by or under the authority of the person whose indorsement it purports to be, and the banker is deemed to have paid the bill in due course, although such indorsement has been forged or made without authority. Banker paying demand draft whereon indorsement is forged.

61. When the acceptor of a bill is or becomes the holder of it at or after its maturity, in his own right, the bill is discharged. Acceptor the holder at maturity.

62. (1) When the holder of a bill at or after its maturity absolutely and unconditionally renounces his rights against the acceptor the bill is discharged. Express waiver.

The renunciation must be in writing, unless the bill is delivered up to the acceptor.

(2) The liabilities of any party to a bill may in like manner be renounced by the holder before, at, or after its maturity; but nothing in this section shall affect the rights of a holder in due course without notice of the renunciation.

63. (1) Where a bill is intentionally cancelled by the holder or his agent, and the cancellation is apparent thereon, the bill is discharged. Cancellation.

(2) In like manner any party liable on a bill may be discharged by the intentional cancellation of his signature by the holder or his agent. In such case any indorser who would have had a right of recourse against the party whose signature is cancelled is also discharged.

(3) A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where a bill or any signature thereon appears to have been cancelled the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake, or without authority.

Alteration of bill.

64. (1) Where a bill or acceptance is materially altered without the assent of all parties liable on the bill, the bill is avoided, except as against a party who has himself made, authorised, or assented to the alteration, and subsequent indorsers:

Provided that where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, such holder may avail himself of the bill as if it had not been altered, and may enforce payment of it according to its original tenor.

(2) In particular the following alterations are material, namely, any alteration of the date, the sum payable, the time of payment, the place of payment, and, where a bill has been accepted generally, the addition of a place of payment without the acceptor's consent.

Acceptance and Payment for Honour.

Acceptance for honour *suprà* protest.

65. (1) Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the Bill *suprà* protest, for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

(2) A bill may be accepted for honour for part only of the sum for which it is drawn.

(3) An acceptance for honour *suprà* protest in order to be valid must—

(a) be written on the bill, and indicate that it is an acceptance for honour;

(b) be signed by the acceptor for honour.

(4) Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer.

(5) Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of the noting for non-acceptance, and not from the date of the acceptance for honour.

66. (1) The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, provided it has been duly presented for payment, and protested for non-payment, and that he receives notice of these facts.

Liability of acceptor for honour.

(2) The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted.

67. (1) Where a dishonoured bill has been accepted for honour *suprà* protest, or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honour or referee in case of need.

Presentment to acceptor for honour.

(2) Where the address of the acceptor for honour is in the same place where the bill is protested for non-payment, the bill must be presented to him not later than the day following its maturity; and where the address of the acceptor for honour is in some place other than the place where it was protested for non-payment, the bill must be forwarded not later than the day following its maturity for presentment to him.

(3) Delay in presentment or non-presentment is excused by any circumstance which would excuse delay in presentment for payment or non-presentment for payment.

(4) When a bill of exchange is dishonoured by the acceptor for honour it must be protested for non-payment by him.

68. (1) Where a bill has been protested for non-payment any person may intervene and pay it *suprà* protest for the honour of any party liable thereon, or for the honour of the person for whose account the bill is drawn.

Payment for honour *suprà* protest.

(2) Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill shall have the preference.

(3) Payment for honour *suprà protest*, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour which may be appended to the protest or form an extension of it.

(4) The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays.

(5) Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for, and succeeds to both the rights and duties of, the holder as regards the party for whose honour he pays, and all parties liable to that party.

(6) The payer for honour on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour is entitled to receive both the bill itself and the protest. If the holder do not on demand deliver them up he shall be liable to the payer for honour in damages.

(7) Where the holder of a bill refuses to receive payment *suprà protest* he shall lose his right of recourse against any party who would have been discharged by such payment.

Lost Instruments.

Holder's right
to duplicate of
lost bill.

69. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill he may be compelled to do so.

Action on lost
bill.

70. In any action or proceeding upon a bill, the Court or a Judge may order that the loss of the instrument shall not be set up, provided an indemnity be given to the satisfaction of the Court or Judge against the claims of any other person upon the instrument in question.

Bill in a Set.

71. (1) Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill. Rules as to sets

(2) Where the holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed as if the said parts were separate bills.

(3) Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders deemed the true owner of the bill; but nothing in this sub-section shall affect the rights of a person who in due course accepts or pays the part first presented to him.

(4) The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

(5) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof.

(6) Subject to the preceding rules, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

Conflict of Laws.

72. Where a bill drawn in one country is negotiated, accepted, or payable in another, the rights, duties, and liabilities of the parties thereto are determined as follows:— Rules where laws conflict.

- (1) The validity of a bill as regards requisites in form is determined by the law of the place of issue, and the validity as regards requisites in form of the supervening contracts, such as acceptance, or indorsement or acceptance *suprà* protest, is determined by the law of the place where such contract was made :

Provided that—

- (a) where a bill is issued out of the Colony it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue ;
 - (b) where a bill issued out of the Colony conforms, as regards requisites in form, to the law of the Colony, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold, or become parties to it in the Colony.
- (2) Subject to the provisions of this Ordinance, the interpretation of the drawing, indorsement, acceptance, or acceptance *suprà* protest of a bill, is determined by the law of the place where such contract is made :
- Provided that where an inland bill is indorsed in a foreign country the indorsement shall, as regards the payer, be interpreted according to the law of the Colony.
- (3) The duties of the holder with respect to presentment for acceptance or payment, and the necessity for or sufficiency of a protest or notice of dishonour, or otherwise, are determined by the law of the place where the act is done or the bill is dishonoured.
- (4) Where a bill is drawn out of but payable in the Colony and the sum payable is not expressed in the currency of the Colony, the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable.
- (5) Where a bill is drawn in one country and is payable in another, the due date thereof is determined according to the law of the place where it is payable.

PART II.

CHEQUES ON A BANKER.

Cheque defined. **73.** A cheque is a bill of exchange drawn on a banker payable on demand.

Except as otherwise provided in this Part, the provisions of this Ordinance applicable to a bill of exchange payable on demand apply to a cheque.

74. Subject to the provisions of this Ordinance :—

Presentment of
cheque for
payment.

- (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment as between him and the banker to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid.
- (2) In determining what is a reasonable time regard shall be had to the nature of the instrument, the usage of trade, and of bankers, and the facts of the particular case.
- (3) The holder of such cheque as to which such drawer or person is discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge, and entitled to recover the amount from him.

75. The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by—

Revocation of
banker's
authority.

- (1) countermand of payment;
- (2) notice of the customer's death.

Crossed Cheques.

76. (1) Where a cheque bears across its face an addition of—

General and
special crossings
defined.

- (a) the words "and company" or any abbreviation thereof between two parallel transverse lines, either with or without the words "not negotiable"; or
- (b) two parallel transverse lines simply, either with or without the words "not negotiable",

that addition constitutes a crossing, and the cheque is crossed generally.

(2) Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable", that addition constitutes a crossing, and the cheque is crossed specially and to that banker.

Crossing by
drawer or after
issue.

77. (1) A cheque may be crossed generally or specially by the drawer.

(2) Where a cheque is uncrossed, the holder may cross it generally or specially.

(3) Where a cheque is crossed generally, the holder may cross it specially.

(4) Where a cheque is crossed generally or specially the holder may add the words "not negotiable".

(5) Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.

(6) Where an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself.

Crossing, a
material part of
cheque.

78. A crossing authorised by this Ordinance is a material part of the cheque; it shall not be lawful for any person to obliterate or, except as authorised by this Ordinance, to add to or alter the crossing.

Duties of
banker as to
crossed cheques.

79. (1) Where a cheque is crossed specially to more than one banker, except when crossed to an agent for collection being a banker, the banker on whom it is drawn shall refuse payment thereof.

(2) Where the banker on whom a cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid :

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorised by this Ordinance, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been

obliterated or having been added to or altered otherwise than as authorised by this Ordinance, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection being a banker, as the case may be.

80. Where the banker, on whom a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially, to the banker to whom it is crossed, or his agent for collection being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

Protection to
banker and
drawer where
cheque is
crossed.

81. Where a person takes a crossed cheque which bears on it the words "not negotiable", he shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Effect of words
"not
negotiable".

82. (1) Where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

Protection to
collecting
banker.

(2) A banker receives payment of a crossed cheque for a customer within the meaning of this section, notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

PART III.

PROMISSORY NOTES.

83. (1) A promissory note is an unconditional promise in writing made by one person to another signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer.

Promissory note
defined.

(2) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section unless and until it is indorsed by the maker.

(3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

(4) A note which is, or on the face of it purports to be, both made and payable within the Colony is an inland note. Any other note is a foreign note.

Delivery
necessary.

84. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer.

Joint and
several notes.

85. (1) A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor.

(2) Where a note runs "I promise to pay," and is signed by two or more persons, it is deemed to be their joint and several note.

Note payable on
demand.

86. (1) Where a note payable on demand has been indorsed, it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3) Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

Presentment of
note for
payment.

87. (1) Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place in order to render the maker liable. In any other case, presentment for payment is not necessary in order to render the maker liable.

(2) Presentment for payment is necessary in order to render the indorser of a note liable.

(3) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the indorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

- 88.** The maker of a promissory note by making it— Liability of maker.
- (1) engages that he will pay it according to its tenor ;
 - (2) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

89. (1) Subject to the provisions in this Part and, except Application of Part I to notes. as by this section provided, the provisions of this Ordinance relating to bills of exchange apply, with the necessary modifications, to promissory notes.

(2) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3) The following provisions as to bills do not apply to notes, namely, provisions relating to—

- (a) presentment for acceptance ;
- (b) acceptance ;
- (c) acceptance *suprà* protest ;
- (d) bills in a set.

(4) Where a foreign note is dishonoured, protest thereof is unnecessary.

PART IV.

SUPPLEMENTARY.

90. A thing is deemed to be done in good faith within Good faith. the meaning of this Ordinance where it is in fact done honestly, whether it is done negligently or not.

91. (1) Where, by this Ordinance, any instrument or Signature. writing is required to be signed by any person, it is not necessary that he should sign it with his own hand, but it is sufficient if his signature is written thereon by some other person by or under his authority.

(2) In the case of a corporation, where by this Ordinance any instrument or writing is required to be signed, it is sufficient if the instrument or writing be sealed with the corporate seal.

But nothing in this section shall be construed as requiring the bill or note of a corporation to be under seal.

Computation of time.

92. Where, by this Ordinance, the time limited for doing any act or thing is less than three days, in reckoning time, non-business days are excluded.

“ Non-business days ” for the purposes of this Ordinance mean—

(a) Sunday ;

Cap. 30.

(b) a public holiday under the Public Holidays Ordinance.

Any other day is a business day.

When noting equivalent to protest.

93. For the purposes of this Ordinance, where a bill or note is required to be protested within a specified time, or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding ; and the formal protest may be extended at any time thereafter as of the date of the noting.

Protest when notary not accessible.

94. Where a dishonoured bill or note is authorised or required to be protested, and the services of a notary cannot be obtained at the place where the bill is dishonoured, any householder or substantial resident of the place may, in the presence of two witnesses, give a certificate, signed by them, attesting the dishonour of the bill, and the certificate shall in all respects operate as if it were a formal protest of the bill.

The form given in the Schedule to this Ordinance may be used with necessary modifications, and if used shall be sufficient.

Dividend warrants may be crossed.

95. The provisions of this Ordinance as to crossed cheques shall apply to a warrant for payment of dividend.

Savings.

96. (1) The rules in bankruptcy relating to bills of exchange, promissory notes, and cheques, shall continue to apply thereto notwithstanding anything in this Ordinance contained.

(2) The rules of common law including the law merchant, save in so far as they are inconsistent with the express provisions of this Ordinance, shall continue to apply to bills of exchange, promissory notes and cheques.

(3) Nothing in this Ordinance shall affect—

- (a) the provisions of the Stamp Ordinance or any law or enactment for the time being in force relating to the revenue; *Cap. 57.*
- (b) the provisions of the Companies Ordinance or any Ordinance relating to joint stock banks or companies; *Cap. 93.*
- (c) the validity of any usage relating to dividend warrants, or the indorsements thereof.

SCHEDULE.

(Section 94.)

FORM OF PROTEST WHICH MAY BE USED WHEN THE SERVICES OF A NOTARY CANNOT BE OBTAINED.

COLONY AND PROTECTORATE OF KENYA.

KNOW ALL MEN that I, A.B. (householder), of.....
in the above-mentioned Colony,
 at the request of C.D., there being no Notary Public available,
 did on the.....day of....., 19..., at.....
 demand payment (or acceptance) of the bill of
 exchange hereunder written, from E.F., to which demand he
 made answer [*state answer, if any*], wherefore I now, in the
 presence of G.H. and J.K., do protest the said bill of exchange.

(Signed)

A.B.

G.H. }
 J.K. } *Witnesses.*

N.B.—The bill itself should be annexed, or a copy of the bill, and all that is written thereon should be underwritten.

No. VIII.

Supplementary Appropriation (Railway) 1927

No. 8 OF 1927.

Amended
28/27

**An Ordinance to Amend the Supplementary
Appropriation (Railway) Ordinance, 1925.**

Date of Assent.

[14th May, 1927]

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

Short title.

1. This Ordinance may be cited as “ the Supplementary
Appropriation (Railway) (Amendment) Ordinance, 1927,” and
shall be read as one with “ the Supplementary Appropriation
(Railway) Ordinance, 1925.” hereinafter referred to as “ the
Principal Ordinance.”

(No. 30 of
1925.)Substitution
of new
Schedule to
Principal
Ordinance.

2. The Principal Ordinance is hereby amended by the
repeal of the Schedule thereto and the substitution therefor of
the Schedule annexed to this Ordinance.

SCHEDULE.

<i>Heads of Expenditure.</i>	<i>Amounts.</i>
Railway and Marine Revenue Services	£2,058,711
Railway and Marine Renewals, Betterment and Insurance Fund Services	736,000
	<hr/>
Total	£2,794,711
	<hr/> <hr/>

Repealed 1/30

~~An Ordinance to Amend the Customs Tariff
Ordinance.~~

[14th May, 1927] 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 Customs Tariff Ordinance, 1927,” and shall be read as one with the Customs Tariff Ordinance (Chapter 50 of the Revised Edition), hereinafter referred to as “ the Principal Ordinance.” Short title.

2. When any agreement has been made with the Government of any of the territories mentioned in section 263 of the Customs Management Ordinance, 1926, making the provision described in paragraph (2) of that section, the Governor shall notify the fact in the Gazette and thereupon the following provisions shall have effect with respect to such territory :— Notification of agreement in Gazette and application of special provisions to import duty.

- (1) No import duty shall be collected upon goods imported from such territory if import duty shall have previously been collected upon such goods in such territory at a rate not lower than the rate prescribed by the Principal Ordinance in respect of the importation of such goods into the Colony; When no import duty is collected.
- (2) When duty shall have been collected upon the importation of goods into such territory at a rate lower than the rate prescribed by the Principal Ordinance in respect of the importation of such goods into the Colony, then, if such goods are subsequently removed from such territory into the Colony, import duty shall be levied and collected to an amount equal to the difference between the sum payable to the Government of the Colony in respect of such goods under such agreement as aforesaid and the full import duty payable under the Principal Ordinance; When a portion of import duty is collected.

When a refund
in respect of
import duty
may be made.

(3) (a) When import duty shall have been collected upon goods imported into the Colony and such goods shall have subsequently been removed into such other territory, then, if the duty collected in the Colony is greater than the amount payable upon the importation of such goods into such other territory, the Commissioner of Customs may refund to the person from whom import duty shall have been received an amount equal to the difference between the amount payable by the Government of the Colony under such agreement as aforesaid and the import duty collected in the Colony ;

(b) This sub-section shall apply only in the case of goods which either have paid a specific import duty in the Colony, or are removed into such other territory in packages unbroken since importation, and, in either event, are removed into such other territory within twelve months from the date upon which import duty shall have been collected in the Colony.

No. 10 OF 1927.

**An Ordinance to Provide for the Allocation of
Customs Revenue between the Governments
of Kenya and Uganda.**

[14th May, 1927] 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 Customs Revenue Allocation Ordinance, 1927,” and shall come into operation on such date as the Governor may by notice in the Gazette appoint. Short title
and com-
mencement.

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

“ Combined department ” means the combined Customs Department of Kenya and Uganda.

“ Net total duty ” means the total amount collected in respect of duty less the total amount of such duty refunded.

“ Net revenue ” means the gross revenue less the gross expenditure.

“ Gross revenue ” means the total amount collected in respect of the following—

- (1) net total duty;
- (2) transit and re-export fees;
- (3) administration fees;
- (4) crantage charges;
- (5) net proceeds of sale of confiscated and unclaimed goods;
- (6) net proceeds of sales of departmental stores or equipment the cost of which has been charged against the expenditure of the combined department;

- (7) weighing fees, sealing fees, endorsement fees, commission on sale of unclaimed goods and other similar receipts for specific services rendered by the combined department;
- (8) warehousing fees;
- (9) seventy-five per cent. of the net amount of all fines imposed under any law relating to Customs, whether by any Court or by the Commissioner of Customs. The term "net amount" means the amount credited to revenue after the payment of any awards.

"Gross expenditure" means—

- (1) all salaries and expenses of the combined department as provided for in the Customs Estimates;
- (2) expenses actually incurred for rent of warehouses for storage of uncustomed goods at Mombasa and Kilindini and an allowance in respect of rent on warehouses used by the combined department at Mombasa and Kilindini which have been erected at the cost of the Kenya Government, calculated on the cubic storage capacity and the average rental payable for similar storage accommodation;
- (3) house allowances paid to officers of the combined department stationed at Mombasa and Kilindini, and, in cases where such officers occupy Government houses, the amount of house allowance to which they would be entitled if they did not occupy Government quarters;
- (4) interest and sinking fund on the capital expended on any new building erected in the future as headquarters for Customs purposes and the equipment thereof;
- (5) cost of all stationery supplied to the combined department from any source whatever.

Amount of
Customs
revenue payable
to Uganda.

3. There shall be payable annually to the Government of the Uganda Protectorate a sum which bears the same proportion to the net revenue collected by the combined department as the total net duty collected on goods imported into or exported from Uganda bears to the net total duty collected.

Amended ord. 3/32

No. XI. *European Officers' Pensions* *Amended 27/29* 1927

No. 11 OF 1927. *Govt. N. 1927/1930*
2/32

[25TH JUNE, 1927.] Date of Assent.

An Ordinance for regulating Pensions, Gratuities and other Allowances to be granted in respect of the Service of European Officers in the Colony and Protectorate of Kenya.

1st April, 1927. Date of commencement.

WHEREAS it is expedient to make provision by law for the granting of pensions, gratuities or other allowances in respect of the public service of European Officers in Kenya :

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

1. This Ordinance may be cited as "the European Officers' Pensions Ordinance, 1927," and shall be deemed to have come into operation on the first day of April, 1927. Short title and commencement.

2. In this Ordinance and the regulations made hereunder— Definitions.

"European officer" means any officer both of whose parents were of European descent, ~~but~~ *and* includes also any other officer appointed under the conditions of service ordinarily applicable to Europeans, *In case of any question or dispute arising as to whether an officer is to be regarded as an European officer for the purpose of this Ordinance or of any regulations made hereunder the decision of the Governor shall be final;* *Ord. 3/1935*

"Pensionable office" means—

(a) in respect of services in Kenya, an office which has been declared by the Governor in Council, with the sanction of the Secretary of State, by a notification published in the Gazette, to be pensionable for the purposes of this Ordinance: Provided that any office declared to be pensionable under this section may be declared at any

time by the Governor in Council, with the sanction of the Secretary of State, by a notification published in the Gazette, to be no longer pensionable, due regard being had to existing rights;

(b) in respect of other public services, an office which is a pensionable office under the laws or regulations in force in such services;

" Pensionable emoluments " (a) in respect of service in Kenya includes—

- (i) salary,
- (ii) personal allowance,
- (iii) house allowance;

but does not include duty allowance, entertainment allowance or any other emoluments whatever; (b) in respect of other public service means emoluments which count for pension in accordance with the law or regulations in force in such service;

" Salary " means the salary attached to an office;

" Personal allowance " means a special addition to such salary, granted personally to the holder for the time being of the office;

" House allowance " means the estimated value of free quarters as defined in regulation 7 (2) in the Schedule to this Ordinance or any regulation hereafter made amending or substituted for the same;

" Year " means a calendar year;

" Month " means a calendar month;

" Secretary of State " means one of His Majesty's Principal Secretaries of State;

" Public service " means service in a civil capacity under the Government of Kenya or the Imperial Government, or the Government of India or of a British Dominion, Colony or Protectorate or a territory under British mandate, or under the High Commissioner for Transport in Kenya and Uganda, and any such other service as the Secretary of State may determine to be " public service " for the purpose of any provision of this Ordinance or the regulations made thereunder;

3/1935.

"but does not include the conditions of Asiatics."

“ East African Dependencies ” means Kenya, the Uganda Protectorate, the Zanzibar Protectorate, the Nyasaland Protectorate, the Somaliland Protectorate, the Tanganyika Territory, Northern Rhodesia, and the Kenya and Uganda Railway;

“ East African service ” means service in a civil capacity under the administration of one of more of the East African Dependencies;

Service as a Governor or High Commissioner of a British Dominion, Colony or Protectorate, or a territory under British mandate, or as a Governor in India shall be deemed to be “ public service ” except for the purpose of computation of pension or gratuity and of section 10 of this Ordinance;

“ Service of Kenya ” means service in a civil capacity under the Government of Kenya, but does not include service under the High Commissioner for Transport;

“ Other public service ” means public service not under the Government of Kenya.

3. (1) It shall be lawful for the Governor in Council, with the sanction of the Secretary of State, from time to time to make and when made to vary and revoke regulations for the granting of pensions, gratuities, and other allowances to European officers who have been in the service of Kenya.

Governor in Council may make pension regulations.

Every such regulation when made shall be laid before the Legislative Council and shall be published in the Gazette :

Provided that until varied or revoked by any such regulations the regulations contained in the Schedule to this Ordinance shall be in force.

(2) The said regulations, and any regulations varying or revoking the same as aforesaid, shall have the same force and effect for all purposes as if they were contained in this Ordinance, and the term “ this Ordinance ” shall in the following sections be read and construed accordingly.

Pensions, etc.,
to be charged
on revenues of
Kenya.

4. There shall be charged on and paid out of the revenues of Kenya all such sums of money as may from time to time be granted by the Governor in Council by way of pension, gratuity or other allowance in accordance with this Ordinance.

Pensions, etc.,
not of right.

5. (1) No European officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowance; nor shall anything in this Ordinance contained limit the right of the Crown to dismiss any officer without compensation.

(2) No European officer shall be granted a pension, gratuity or other allowance without a certificate from the head of his department, or, if he is himself the head of a department, from the Governor, to the effect that he has discharged the duties of his office with such diligence and fidelity as to justify the grant to him of such pension, gratuity or other allowance.

(3) Where it is established to the satisfaction of the Governor in Council that an European officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may, with the approval of the Secretary of State, be reduced or altogether withheld.

Service not
qualifying for
pension.

6. No pension, gratuity or other allowance shall be granted to any European officer in respect of any service—

- (a) while on probation or agreement, unless without break of service he is confirmed in a pensionable office in Kenya or in an office in other public service which is at the time of confirmation pensionable under the pension regulations applicable to such service; or
- (b) while under the age of twenty years.

Circumstances
in which
pension may be
granted.

7. No pension, gratuity or other allowance shall be granted to any European officer except on his retirement from the public service in one of the following cases—

- (a) on or after attaining the age of fifty years, or, in the case of transfer to other public service, on or after attaining the age at which an European officer is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity;

- (b) in the case of an officer who was appointed to the service of one of the East African Dependencies before the commencement of this Ordinance, after completing twenty years' East African service: Provided that no such service shall be counted if it is not in itself pensionable or allowed to be reckoned for pension;
- (c) on the abolition of his office;
- (d) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency and economy can be effected;
- (e) on medical evidence to the satisfaction of the Governor in Council or the Secretary of State that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (f) in the case of removal on the ground of inefficiency as hereinafter provided.

8. Where an European officer is removed from his office on the ground of his inability to discharge efficiently the duties thereof, and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Ordinance, the Governor in Council, with the approval of the Secretary of State, may, if he considers it justifiable having regard to all the circumstances of the case, grant such a pension, gratuity or other allowance as he thinks just and proper, but in no case exceeding in amount that for which the officer would be eligible if he were suffering from some infirmity of mind or body likely to be permanent.

Retirement for
inefficiency.

9 It shall be lawful for the Governor in Council, with the approval of the Secretary of State, to require an European officer to retire from the service of Kenya at any time after he attains the age of fifty years or, in case of an officer who was appointed to the service of one of the East African Dependencies before the commencement of this Ordinance, after he completes twenty years' East African service.

Age of
compulsory
retirement.

Maximum
pension
grantable.

10. (1) A pension granted to an European officer under this Ordinance shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service in Kenya.

(2) Where the European officer has been or is granted a pension or pensions in respect of other public service, he may be granted the full pension for which he is eligible in respect of his service in Kenya, but no person may at any time draw from the funds of Kenya an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by such person at any time in the course of his service in Kenya or in other public service :

Provided that where such a person receives in respect of some period of public service, both a gratuity and a pension, the amount of such pension shall be deemed, for the purpose of this sub-section, to be four-thirds of its actual amount.

(3) In a case falling under the limitation laid down by sub-section (2), the amount of the pension to be drawn from the funds of Kenya shall be subject to the approval of the Secretary of State, in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service.

(4) For the purpose of the preceding sub-sections an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his public service by more than the sum by which the amount of his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

Liability of
pensioners to
be called upon
to take further
employment.

11. Every pension granted to an European officer shall be subject to the following condition :—

Unless or until he has attained the age of fifty years or has completed twenty years' East African service, he may, if physically fit for service, be called upon by the Secretary of

State to accept, in lieu of his pension, an office, whether in Kenya or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he had at the date of the grant of his pension.

If a pensioner so called upon declines to accept the office for which he may have been selected, the payment of his pension may be suspended until he has attained the age of fifty years.

12. If any European officer to whom a pension has been granted under this Ordinance is appointed to another office in the service of Kenya, or in any other public service, then during his tenure of such office so much only (if any) of his pension from the funds of Kenya shall be paid to him per annum as, together with—

Pensions
affected by
re-employment.

(a) the annual emoluments of such office;

(b) any annual amounts received on account of pension in respect of other public service; and

(c) where the officer receives, in respect of some period of public service, both a gratuity and a pension, an annual amount equal to one-third of such pension,

makes up an amount not greater than the highest pensionable emoluments drawn by such officer at any time in the course of his public service:

Provided that—

(1) where an European officer, in whose case an abatement of pension falls to be made under this section, has been granted a pension or pensions in respect of other public service the amount of pension to be drawn from the funds of Kenya shall be subject to the approval of the Secretary of State, in order that it may be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service; and

(2) any bonus or temporary increase, whether on pension or on salary of the new office, granted in view of the high cost of living shall be added to such pension or salary, as the case may be, for the purposes of this section ;

(3) where the new office is that of Governor or High Commissioner of a British Dominion, Colony or Protectorate or a territory under British mandate or that of Governor in India the amount to be taken as the annual emoluments of such office for the purpose of this section shall be determined by the Secretary of State.

Gratuity
affected by
re-employment.

13. If any European officer to whom a gratuity without pension has been granted under this Ordinance is re-appointed to any office in the service of Kenya, his previous service may, with the approval of the Secretary of State, be taken into account for the purposes of pension, if he refunds the gratuity on such re-appointment.

Pensions, etc.,
not to be
assignable.

14. No pension, gratuity or other allowance granted under this Ordinance shall be assignable or transferable, or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever, other than a debt due to the Government.

Pensions etc.,
to cease on
bankruptcy.

15. If any European officer to whom a pension or other allowance has been granted under this Ordinance is adjudicated a bankrupt or is declared insolvent by judgment of the Court, then such pension or allowance shall forthwith cease :

Provided always that in any case where a pension or allowance ceases by reason of the bankruptcy or insolvency of the pensioner, it shall be lawful for the Secretary of State from time to time during the remainder of such pensioner's life, or during such shorter period or periods, either continuous or discontinuous, as he shall think fit, to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension or allowance, had he not become a bankrupt or insolvent, to be paid to, or applied for the maintenance and personal support or benefit of all or any, to the exclusion of the other or others, of the following persons, namely, such pensioner and any wife, child or children of his, in such proportions and manner as the Secretary of State thinks proper, and such moneys shall be paid or applied accordingly.

16. If any European officer to whom a pension or other allowance has been granted under this Ordinance is sentenced to a term of imprisonment by any competent Court whether within or without Kenya for any crime or offence then, in every such case, it shall be lawful for the Secretary of State to direct that such pension or allowance shall forthwith cease :

Pensions, etc.,
to cease on
conviction.

Provided always that the pension or allowance shall be restored with retrospective effect in the case of a person who after conviction at any time receives a free pardon :

And provided further that where a pension or allowance ceases for the reason aforesaid it shall be lawful for the Secretary of State to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension or allowance to be paid to or applied for the benefit of any wife, child or children of the pensioner, or, after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner precisely and subject to the same qualifications and restrictions as in the case of bankruptcy hereinbefore provided.

17. If any European officer to whom a pension or other allowance has been granted under this Ordinance becomes either a director of any company the principal part of whose business is in any way directly concerned with Kenya, or an officer or servant employed in Kenya by any such company, without in every such case the permission of the Governor in writing first had and obtained, then in every such case it shall be lawful for the Governor, with the approval of the Secretary of State, to direct that such pension or allowance shall forthwith cease :

Pensions, etc.,
to cease on
accepting
certain appoint-
ments.

Provided always that it shall be lawful for the Governor with the approval of the Secretary of State, on being satisfied that the person in respect of whose pension or allowance any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Kenya, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he shall see fit, to such a date as he shall specify.

18. Where an European officer holding a pensionable office who is not on probation or agreement dies while in the service of Kenya, and during the five years preceding his death has continuously held pensionable office in Kenya or offices in

Gratuity to
estate where an
European officer
dies in the
service.

other public service which were, when he held them, pensionable under the pensions regulations applicable to such service, it shall be lawful for the Governor in Council to grant to his legal personal representative a gratuity of an amount not exceeding one year's pensionable emoluments.

Pensions, etc.,
to dependents
when an
European officer
is killed on
duty.

19. (1) Where an European officer holding a pensionable office, who is not serving on probation or agreement, dies as the direct result of injuries received—

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

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

- (i) if the deceased officer leaves a widow, a pension to the widow, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or £10 a year, whichever be the greater, and also a gratuity not exceeding £1 multiplied by the total number of their years, starting from their ages at the time of their father's death and ending with 15 years, to each child alive at the date of the father's death, and a gratuity not exceeding £15 to any posthumous child:

Provided that the gratuities so granted shall not in the aggregate be less than £10 nor more than £60;

- (ii) if the officer's wife predeceases him or if no pension is granted to her under the preceding paragraph, and he leaves children who would have been eligible for gratuity if a pension had been granted to the widow, gratuities of twice the amount of the gratuities for which they would have been eligible in such circumstances;

- (iii) if the deceased officer does not leave a widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, at a rate not exceeding the rate of the pension which might have been granted to his widow :

Provided that—

- (a) if the mother is a widow at the time of the grant of the pension and subsequently remarries, such pension shall cease as from the date of re-marriage; and
- (b) if the mother is not a widow and it appears that the deceased's father is in a position to support her, such pension shall cease from such date as the Secretary of State may determine.

(2) When an European officer who is not qualified for either pension or gratuity dies in the circumstances mentioned in sub-section (1) of this section, it shall be lawful for the Governor in Council, with the approval of the Secretary of State, to grant the pension or gratuities which might have been granted if his case had fallen under sub-section (1), but no grant shall be made under section 18 of this Ordinance.

20. The provisions of this Ordinance shall apply to all European officers in the service of Kenya at or after the commencement of the Ordinance, and to all those who, having served in Kenya, have before the commencement of the Ordinance been transferred to other public service and are still in other public service at the commencement of this Ordinance :

Application of
Ordinance.

Provided that if the Governor in Council is satisfied that any European officer to whom the provisions of this Ordinance apply has received an undertaking that he will be regarded as eligible for pension or gratuity under conditions more favourable to him than those prescribed by this Ordinance, the Governor in Council may direct that his pension or gratuity shall be computed with due regard to such undertaking.

SCHEDULE.

REGULATIONS FOR THE GRANTING OF PENSIONS, GRATUITIES AND
OTHER ALLOWANCES TO EUROPEAN OFFICERS.

PART I.

Pensions to whom and at what rates to be granted.

1. Subject to the provisions of the European Officers' Pensions Ordinance, 1927, hereinafter called "the Ordinance," and of these regulations, every European officer holding a pensionable office in Kenya, who has been in the service of Kenya in a civil capacity for ten years or upwards, may be granted a pension at the rate of one four hundred and eightieth of his pensionable emoluments for each complete month of pensionable service, subject to the limit described in section 10 of the Ordinance.

Gratuities where length of service does not qualify for pension.

2. Every European officer, otherwise qualified for a pension, who has not completed the minimum period of service qualifying for a pension, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which if there had been no qualifying period might have been granted to him under regulation 1.

Period of service in Kenya qualifying for pension or gratuity defined.

3. Subject to the provisions of section 6 of the Ordinance and of these regulations, service qualifying for pension or gratuity, as the case may be, shall be the inclusive period between the date on which an European officer begins to draw salary or half salary from Kenya funds and the date of his leaving the service of Kenya, without deduction of any period during which he has been absent on leave.

Service to be unbroken.

4. Service in respect of which pension or gratuity may be granted must be unbroken except in cases where the service has been interrupted by abolition of office or other temporary suspension of employment not arising from misconduct or voluntary resignation.

Computation of pensions and gratuities.

5. For the purpose of computing the amount of an European officer's pension or gratuity the following periods shall be taken into account as pensionable service:—

- (a) Any periods during which he has been on duty;
- (b) Any period during which he received half salary from Kenya funds while proceeding to Kenya on first appointment;

- (c) Any periods during which he has been absent from duty on leave with full or half salary ;
- (d) Any periods during which he has been absent from duty on leave without salary, granted on grounds of public policy with the approval of the Secretary of State, and during which he has not qualified for pension or gratuity in respect of other public service ;

And any periods during which he has been absent on leave, other than those specified above, shall be deducted from the European officer's total service in order to arrive at his period of pensionable service.

6. For the purpose of computing the amount of the pension or gratuity of an European officer who, during some period of his service in a pensionable office in Kenya, has been on the active list of the Navy, Army, or of the Royal Air Force, the whole or any part of such period during which no pension contributions have been paid by Kenya, or, if paid, have been refunded, may be taken into account.

Computation of pensions and gratuities. Service on the Active List of the Navy, Army or Air Force.

7. (1) For the purpose of computing the amount of an European officer's pension or gratuity—

Computation of pensions, etc., on what emoluments to be based.

- (a) in the case of an officer who has held one office for a period of three years immediately preceding the date of his retirement, the full pensionable emoluments payable to him at that date in respect of that office shall be taken ;
- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, the full pensionable emoluments payable to him at the date of his retirement in respect of the office then held by him shall be taken ;
- (c) in other cases the average of the full pensionable emoluments payable in respect of each of the offices substantively held by the European officer during his tenure thereof within such period of three years shall be taken :

Provided that if such average is less than the full pensionable emoluments which were payable to him at the date

of the first transfer within such period of three years, the Governor in Council may, with the approval of the Secretary of State, grant him a pension calculated upon the full pensionable emoluments payable to him at that date

(2) The estimated value of free quarters shall be taken as fifteen per centum of the initial salary of the officer's appointment, or of the actual salary if such salary is non-incremental :

Provided that—

- (a) the point in any scale of salary at which an efficiency bar occurs shall for this purpose be regarded as the initial salary of the appointment in the case of any officer who has passed such efficiency bar ;
- (b) the estimated value of free quarters shall not be reckoned as less than £50 per annum, nor, in the case of officers appointed to the service of Kenya after the commencement of the Ordinance, as more than £150 per annum.

Non-pensionable service followed by pensionable service.

8. Only service in a pensionable office shall be taken into account as pensionable service :

Provided that where an unbroken period of service in a civil capacity in an appointment other than a pensionable office is immediately followed by service in a pensionable office in one of the East African Dependencies, such period or any part of such period may, with the approval of the Secretary of State, be so taken into account.

Acting service.

9. Where an European officer has performed acting service in a pensionable office in Kenya, the period of such service may be taken into account as pensionable service :

Provided that—

- (1) the period of such acting service was not part of the pensionable service of the previous holder of the office and does not fall to be reckoned as part of the European officer's own pensionable service in other public service ;
- (2) this period of service is immediately preceded or followed by service in a substantive capacity in a pensionable office in Kenya.

10. If an European officer holding a pensionable office retire or be removed from the service in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organisation of the department to which he belongs, by which greater efficiency and economy can be effected, he may be granted a pension calculated in accordance with regulation 1 :

Abolition or reorganisation of office.

Provided, however, that if he has been in the service of Kenya for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with that regulation as if there had been no qualifying period :

And provided also that the grant of such pension shall be subject to the condition that he shall be liable to be recalled to service in Kenya :

Provided further that if such an European officer is not qualified for other employment in the public service, and if there is no reason, in the opinion of the Governor, to expect that he can be shortly re-employed, a pension may, with the approval of the Secretary of State, be granted to him free from the above-mentioned condition.

11. (1) Where an European officer has been permanently injured—

European officers retiring on account of injuries.

(a) in the actual discharge of his duty ; and

(b) without his own default ; and

(c) by some injury specifically attributable to the nature of his duty, and his retirement is thereby necessitated or materially accelerated, he may, if he is qualified for a pension under regulation 1, be granted, in addition to the pension granted to him under that regulation, an additional pension at the rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table :—

When his capacity to contribute to his own support is—

slightly impaired :	five-sixtieths.
impaired :	ten-sixtieths.
materially impaired :	fifteen-sixtieths.
totally destroyed :	twenty-sixtieths.

Provided that the amount of the additional pension shall, subject to the approval of the Secretary of State, be reduced to such an extent as the Governor shall think reasonable in the following cases :—

- (a) Where the injured European officer has continued to serve for not less than one year after the injury in respect of which he retires ;
- (b) Where the injured European officer is at the date of injury within ten years of the age at which he may be required to retire ; or
- (c) Where the injury is not the sole cause of retirement, but the retirement is caused partly by age or infirmity not due to the injury :

Provided also that the total amount of the additional pension shall not exceed the amount prescribed in section 10 (4) of the Ordinance.

Pensions to
injured
European
officers where
service less than
ten years.

(2) An European officer so injured, whose length of service is not such as to qualify him for a pension under regulation 1, but who is qualified for a gratuity under regulation 2, may nevertheless be granted in lieu of such gratuity a pension at the rate of one four hundred and eightieth part of his pensionable emoluments for each complete month of pensionable service together with such additional pension as might be awarded to him under the preceding part of this regulation if he were qualified for pension.

(3) An European officer so injured who is not qualified for either a pension under regulation 1 or a gratuity under regulation 2 may nevertheless be granted a pension of the same amount as the additional pension which he might have been granted if he had been so qualified.