



COLONY AND PROTECTORATE OF KENYA

ORDINANCES

ENACTED DURING THE YEAR

1953

VOL. XXXII (NEW SERIES)

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COLONY AND PROTECTORATE OF KENYA

ORDINANCE No. 1 of 1953

Assented to in Her Majesty's name this fifth day of February, 1953.

E. BARING,
Governor.

AN ORDINANCE TO ALTER THE INCIDENCE OF RATES MADE UNDER THE LOCAL GOVERNMENT (RATING) ORDINANCE AND TO EFFECT CERTAIN MINOR AMENDMENTS IN THAT ORDINANCE

5th February, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Local Government (Rating) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Local Government (Rating) Ordinance, hereinafter referred to as the principal Ordinance.

Short title.

Cap. 137.

2. Section 2 of the principal Ordinance is hereby repealed and the following new section substituted therefor—

Repeal and replacement of section 2 of the principal Ordinance.

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

Interpretation.

“Commissioner for Local Government” means the Commissioner for Local Government appointed under the provisions of the Municipalities Ordinance;

Cap. 136.

“improvements” in relation to land means all work actually done or material used on, in or under land by the expenditure of capital or labour by any owner or occupier of such land, nevertheless in so far only as the effect of such work or material used is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation; but shall not include machinery, whether fixed to the soil or not; nor shall it include work done or material used on or for the benefit of such land by the Crown or by any statutory public body unless such work has been paid for by the contribution of the owner or occupier of such land for that purpose:

Provided that the payment of rates or taxes shall not be deemed to be a contribution within the meaning of this definition;

“land” includes the value of any improvements thereon, therein or thereunder;

Cap. 136 “local authority” means a Municipal Council or Municipal Board constituted by or under the Municipalities Ordinance;

“Mayor” means the Mayor or Deputy Mayor or the Chairman or the Deputy Chairman of the local authority;

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

“Municipality” means the area under the control and jurisdiction of a local authority;

“occupier” means any person in actual occupation of rateable property without regard to the title under which he occupies;

“person” includes a company, corporation or partnership;

“rateable owner” has the meaning assigned to it by section 26 of this Ordinance;

“rateable property” includes all land as above defined, save and except—

- (a) land occupied by buildings used primarily for public worship and by the necessary curtilage;
- (b) land used for crematoria, burial or burning grounds;
- (c) land used exclusively for the purposes of any charitable or educational institutions supported mainly by endowments or voluntary contributions;
- (d) land laid out and used for the purpose of sport and controlled in accordance with rules or regulations approved by the local authority:

Provided that land used as a sports ground conducted for profit or as a racecourse shall not be entitled to the benefit of this exception;

- (e) land held by the Crown;

“Town Clerk” and “Town Treasurer” mean the persons for the time being lawfully acting respectively in the capacities of Town Clerk and Town Treasurer for the municipality;

“time of valuation” means such date, within a period of eighteen months prior to the commencement of the financial year for which such valuation roll is to come into operation, as may be determined by resolution of the local authority and approved by the Member, as the date at which all valuations shall be deemed to have been made for the purposes of a valuation roll prepared in accordance with the provisions of sub-section (1) of section 3 of this Ordinance;

“unimproved value” in relation to any land means the sum which the freehold in possession therein, if unencumbered by any mortgage or other charge thereon, might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a bona fide seller might be expected to impose and if the improvements, if any, thereon or appertaining thereto had not been made. The unimproved value of land shall include any value due to any licence, privilege or concession attached to the site for the time being;

“value of improvements” in relation to any land, means the added value which the improvements give to such land at the time of valuation irrespective of the cost of the improvements:

Provided that the added value shall in no case exceed the amount that should reasonably be involved in bringing the site value of the land to its improved value as at the time of valuation, such improved value being the value of such land together with any improvements therein, thereon or thereunder, if valued together as a whole under the provisions of section 6 of this Ordinance.

3. Section 6 of the principal Ordinance is hereby amended in the following respects—

(a) by re-numbering that section as sub-section (1) of section 6;

(b) by deleting the words “any rateable property in” appearing in the first proviso to sub-section (1) (as now renumbered);

Amendment of
section 6 of
the principal
Ordinance.

- (c) by deleting the further proviso appearing in that sub-section (1) and substituting therefor the following proviso—

Provided further that where any land is held by the rateable owner subject to a restriction as to or limitation upon the user or enjoyment thereof and such restriction or limitation is certified by the Member to be in the public interest, such land shall be valued as if the freehold in possession thereof were subject to an enforceable restriction or limitation of the same nature.;

- (d) by adding thereto the following new sub-section as sub-section (2) thereof—

(2) The Member may, for the purposes of this Ordinance, issue certificates in accordance with the provisions of sub-section (1) of this section, and any such certificate shall be conclusive for all such purposes.

Repeal of section 7 of the principal Ordinance.

4. Section 7 of the principal Ordinance is hereby repealed.

Amendment of section 12 of the principal Ordinance.

5. Section 12 of the principal Ordinance is hereby amended in the following respects—

(a) by inserting the words “who has appeared before or who has submitted his objections in writing to a Valuation Court pursuant to sub-section (7) of section 9 of this Ordinance” immediately after the words “It shall be lawful for any person” appearing at the commencement of sub-section (1);

(b) by substituting the words “against the decision of the Valuation Court in respect of” for the words “against the decision the the Valuation Court in respect of” appearing in sub-section (2).

Repeal and replacement of section 26 of the principal Ordinance.

6. Section 26 of the principal Ordinance is hereby repealed and the following new section substituted therefor—

Person liable for rates.

26. (1) The person (in this Ordinance referred to as the “rateable owner”), who, at the date when a rate be-

comes due and payable in respect of any rateable property under section 18 of this Ordinance—

(a) is registered as the owner of the freehold of, or the tenant for life of, such property, in possession, or in reversion or remainder expectant upon a lease or interest other than such a lease or interest as is referred to in paragraph (b) or paragraph (c) of this sub-section; or

(b) is registered as the lessee of such property holding under a lease for a term of not less than ten years or for the natural life of any person, or under a lease which is renewable from time to time at the will of the lessee or under a lease which is for an indefinite term or is renewable indefinitely, or under a lease which is renewable at the will of the lessee for a term or terms which together with the initial term of such lease amounts or amount to not less than ten years, or as a person having any interest, other than an interest as a statutory tenant arising under the Increase of Rent (Restriction) Ordinance, 1949, in such property entitling him to possession thereof for a period not less than the period for which he would be entitled to possession if he were such a lessee as aforesaid; or

No. 22 of 1949.

(c) is registered as the lessee of such property holding under a lease for, or as a person having an interest in such property otherwise than as a lessee entitling him to possession of such property for, a definite term of less than ten years, and, in either case, any buildings or other improvements in, on or under, such property are owned and removable by him; or

(d) in the case of any property situate in any district area or place to which the Land Titles Ordinance has been applied but being property in respect of which no certificate of ownership has, at such date as aforesaid, been registered under the provisions of that Ordinance, has or claims to have any such leasehold or other interest in the property as is specified in the preceding paragraphs of this sub-section or, where it cannot be established that any person has or claims to have such an interest, is in possession or receipt of the rents or profits of such property,

Cap. 159.

shall be liable for payment of the amount of such rate.

Cap. 160.
Cap. 155.
Cap. 159.

(2) For the purposes of sub-section (1) of this section the expression "registered" means registered in any register of titles or title deeds maintained under the Registration of Titles Ordinance, the Crown Lands Ordinance or the Land Titles Ordinance, as the case may be.

(3) Where more than one such leasehold or other interest as is referred to in sub-section (1) of this section subsist in the same property, that sub-section shall be deemed to refer to the leasehold or other interest by virtue of which the lessee, or person having such interest, is entitled to immediate possession of such property, or would be so entitled if no leasehold or other interest, not being such a leasehold or other interest as is referred to in sub-section (1) of this section, subsisted in the property.

(4) Where joint owners or tenants in common of rateable property are liable for payment of a rate they shall be jointly and severally liable therefor.

(5) In the case of the absence from the Colony of the rateable owner or any person liable for payment of any rate any person receiving the rents or profits of, or being in charge or control of, the rateable property shall be liable for payment of such rate.

Consequential
and minor
amendments to
the principal
Ordinance.

7. The provisions of the principal Ordinance specified in the first column of the Schedule to this Ordinance shall have effect subject to the amendments set out in relation thereto respectively in the second column of that Schedule.

Transitional
provisions.

8. (1) Nothing in this Ordinance contained shall affect—
- (a) the previous operation of the principal Ordinance or anything done or suffered thereunder;
 - (b) the validity and operation in all respects of any valuation roll which shall be prepared in accordance with the provisions of the principal Ordinance and be signed and certified pursuant to section 11 thereof before the 1st day of July, 1953;
 - (c) the like validity and operation of any addition to, or amendment of, such a valuation roll, which results from or represents any interim valuation, revaluation, correction or apportionment made, in accordance with the provisions of section 13 of the principal Ordinance, at any time before the first valuation roll

prepared under and in accordance with the provisions of the principal Ordinance as amended by this Ordinance comes into operation.

(2) Any such valuation roll as is referred to in paragraph (b) of sub-section (1) of this section may be prepared and completed, and any such additions or amendments as are referred to in paragraph (c) of that sub-section may be made, and the like rights, remedies and proceedings may be had, enforced or instituted under or in respect of any such valuation roll, additions or amendments, as if this Ordinance had not been passed.

(3) The provisions of this section shall apply to any valuation roll which shall be deemed, under the provisions of sub-section (7) of section 15 of the principal Ordinance, to have come into operation before the 1st day of July, 1953.

SCHEDULE

<i>First Column</i>	<i>Second Column</i>
Section 5	<p>(a) Insert the word "rateable" immediately before the word "owner" which occurs in paragraph (a).</p> <p>(b) Insert the word "rateable" immediately before the word "owner" which occurs in paragraph (c).</p> <p>(c) Delete paragraph (e) and substitute the following new paragraph therefor— (e) the value of improvements on, in or under the land.</p>
Section 13	Substitute the words "of the interest of or the name of the rateable owner" for the words "of the interest valued or the name of the owner" which occur in paragraph (e).
Section 14	Insert the word "rateable" immediately before the word "owner" appearing therein.
Section 17	Insert the word "rateable" immediately before the word "owners" appearing in sub-section (5).
Section 24	<p>(a) Insert the word "rateable" immediately before the word "owners" appearing in the first paragraph of the section.</p> <p>(b) Delete the word "Evidence" appearing as a marginal note opposite the second paragraph of the section.</p>
Section 25	Insert the following marginal note thereto— Evidence.
Section 27	<p>(a) Insert the words "joint owners or" before the words "tenants in common" wherever the latter words appear therein.</p> <p>(b) Insert the words "joint owner or" before the words "tenant in common" wherever the latter words appear therein.</p>

<i>First Column</i>	<i>Second Column</i>
Section 30	<p>(a) Delete the words "interest in" appearing immediately before the words "land held by the Crown" wherever the latter words appear in sub-section (1) and the first proviso to that sub-section.</p> <p>(b) Delete the words "interest in" appearing immediately before the words "land for a public purpose" in the second proviso to sub-section (1) of the section.</p> <p>(c) Delete the words "the Crown's interest in" appearing immediately before the words "such land" in sub-section (2).</p> <p>(d) Delete the words "interest in" wherever those words appear in sub-section (3).</p> <p>(e) Substitute the words "and other land held by the Crown" for the words "and another interest in land held by the Crown" appearing in sub-section (4).</p> <p>(f) Delete the words "interest in" appearing immediately before the words "land during the period of five years" appearing in sub-section (4).</p> <p>(g) Delete the words "interest in" wherever they appear before the word "land" in sub-section 5.</p>

ORDINANCE No. 2 of 1953

Assented to in Her Majesty's name this fifth day of February, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE RABIES ORDINANCE

5th February, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Rabies (Amendment) Ordinance, 1953, and shall be read and construed as one with the Rabies Ordinance, hereinafter referred to as the principal Ordinance. Short title.
Cap. 214.

2. Section 2 of the principal Ordinance is amended by deleting the definition of "proclaimed district" appearing therein and by inserting in its place a definition of "rabies control area" as follows— Amendment of section 2 of the principal Ordinance.

"rabies control area" means any area which may be declared by the Director, by notice in the Gazette, to be a rabies control area for the purposes of this Ordinance:

Provided that any area so declared shall cease to be a rabies control area on being declared by the Director, by notice in the Gazette, to be free from infection;

3. The principal Ordinance is further amended by substituting for the words "proclaimed district" wherever the same appear therein the words "rabies control area". Consequential amendment of the principal Ordinance

the provisions of sub-section (3) of section 31 of the Ordinance shall continue in force until the 31st day of December, 1956, and accordingly sub-section (2) of section 31 shall have effect as if there were substituted for the words "the 31st day of December, 1955", appearing therein, the words "the 31st day of December, 1956".

1955, s. 2, with effect from 1st January, 1956.)

ORDINANCE No. 3 of 1953

Amended Ord 60/54

Assented to in Her Majesty's name this fifth day of February, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title and duration.	6—Appointment of places for receipt of tax.
2—Interpretation.	7—Payment of tax by instalments.
3—Application.	8—Remission of tax.
4—Special tax.	9—Incorporation of certain provisions of the African Poll Tax Ordinance.
5—Date on which tax due and penalty for non-payment.	10—Savings.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF A TEMPORARY SPECIAL TAX ON THE MEMBERS OF THE AFRICAN TRIBE KNOWN AS THE KIKUYU

Date of commencement. *1st January, 1953*

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

Short title and duration. **1.** (1) This Ordinance may be cited as the Special Tax (Temporary Provisions) Ordinance, 1953.

(2) This Ordinance shall be deemed to have come into force on the 1st day of January, 1953, and shall continue in force until the 31st day of December, ~~1954~~ and shall then expire.

Cap. 1. (3) Upon the expiry of this Ordinance sub-section (3) of section 13 of the Interpretation and General Clauses Ordinance (which relates to the effect of repeals) shall apply as if this Ordinance had been repealed.

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

Replaced "adult male Kikuyu" means a male Kikuyu of or over the apparent age of eighteen years;

Deleted "Kikuyu" means a member of the Kikuyu tribe; *Revisions added* "present emergency" means the public emergency referred to in Proclamation No. 38 made by the Governor on the 20th day of October, 1952;

"scheduled area" means an area declared as a scheduled area under the provisions of sub-section (1) of section 3 of this Ordinance;

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“special tax” means the special tax imposed by this Ordinance;

“year” means the twelve months ending on the 31st day of December.

3. (1) Whenever it appears to the Governor in Council *Application.* that the amount or nature of crime in any area in the Colony is, or has, whether before or after the commencement of this Ordinance, recently been, abnormal, the Governor in Council may, by order published in the Gazette, declare any such area to be a scheduled area for the purposes of this Ordinance.

(2) The Governor in Council may by any subsequent order, published as aforesaid, without prejudice to any other power of revocation or amendment vested in him, extend, diminish or otherwise vary any scheduled area or the limits thereof, and upon the coming into force of any such subsequent order the provisions of this Ordinance shall apply to the scheduled area as so extended, diminished or varied.

4. Every adult male Kikuyu *Man or woman* who, at any time in any year during which this Ordinance is in operation, is in a scheduled area shall pay in respect of that year a special tax *45/53* of ~~twenty~~ *fifteen* shillings. *(43/55)* *Special tax.* *Ord 60/54*
W.C.F. 1-1-56.

5. (1) Subject to the provisions of section 7 of this Ordinance, the special tax shall become due and payable to a collector on or before the 30th day of April in each year at the place appointed for the purpose under the provisions of section 6 of this Ordinance. *Date on which tax due and penalty for non-payment* *Revised*

Provided that, in the case of any adult male Kikuyu who is not in a scheduled area on or before the 30th day of April in any year but becomes liable to pay the special tax in that year by reason of the fact that he enters a scheduled area after the aforesaid 30th day of April, the special tax shall become due and payable on the date on which such adult male Kikuyu so enters a scheduled area as aforesaid.

(2) Any person who fails to pay the full amount of the special tax due in respect of any year within six months of the date upon which the same becomes due shall, subject to the provisions of this Ordinance, be liable, in addition to his liability for payment of such special tax, to a penalty of ten shillings which shall be deemed to be special tax for the purposes of this Ordinance and recoverable accordingly.

Appointment of places for receipt of tax.

6. The special tax shall be paid at the office of the district commissioner of any district for the time being within a scheduled area or at any such other place as the district commissioner may appoint for the purpose.

Payment of tax by instalments.

7. Payment of the special tax shall not be made and a collector shall not be obliged to receive payment thereof otherwise than in the full amount thereof paid at one time:

Provided that a collector exercising his functions under this Ordinance within the Municipality of Nairobi may accept payment of the special tax due in any year from any person by way of equal instalments payable on any two or more of the following dates, namely, the 31st day of January, the 30th day of April, the 31st day of July and the 31st day of October, of that year.

Remission of tax.

8. Whenever a district officer is satisfied that any person liable to pay any special tax under this Ordinance—

- (a) is without sufficient means to pay the whole amount thereof; or
- (b) is deserving of the remission of the whole or any part thereof by reason of his having, whether before or after the commencement of this Ordinance, actively supported the maintenance of law and order in the Colony or any part thereof in the present emergency; or
- (c) being a person employed in an area other than a scheduled area, is in a scheduled area for less than 21 days in the aggregate in the year in respect of which such special tax is due;

such officer may allow the remission of the whole or any part of such special tax:

Provided that in such case the officer shall give to such person a certificate in such form as may be prescribed relieving him from liability to pay such portion of the special tax as may be specified in such certificate.

§ A. Added

Incorporation of certain provisions of the African Poll Tax Ordinance, Cap. 252.

9. All the provisions of the African Poll Tax Ordinance, except the provisions of sections 1, 3, 4, 5, 6 (1), 8, 9, 10 and 11 thereof, are hereby incorporated and shall be deemed to form part of this Ordinance:

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Provided that the provisions so incorporated shall, as so incorporated, have effect—

- (i) as if all references therein to poll tax and to any penalty in respect of non-payment thereof were construed as references to the special tax and the penalty prescribed by section 5 of this Ordinance;
- (ii) as if there were substituted for the word "African" wherever that word appears therein, the word "Kikuyu"; and
- (iii) as if such of those provisions as are specified in the first column of the Schedule to this Ordinance were modified in the manner set forth in the second column of that Schedule.

10. Nothing in this Ordinance contained shall pre-
 judicially affect the provisions of the African Poll Tax Ordinance or the African Poll Tax (Urban Areas) Ordinance, 1950.

Savings.
 Cap. 252.
 No. 55 of 1950.

SCHEDULE

(Section 9)

MODIFICATIONS OF CERTAIN SECTIONS OF THE AFRICAN POLL TAX ORDINANCE INCORPORATED IN THIS ORDINANCE

Cap 252

FIRST COLUMN <i>Section or sub-section</i>	SECOND COLUMN <i>Modification</i>
6 (2)	(a) Substitute for the words "such first-mentioned date" the words " the 31st day of October of the year in which the tax is due ". <i>Repealed</i>
	(b) Insert, immediately after the words "any court", the words "including an African court".
6 (4)	(a) Substitute for the words "the provisions of sub-section (1) of this section" the words "the provisions of section 5 of this Ordinance".
	(b) Substitute for the words "under section 11 of this Ordinance" the words "under section 8 of this Ordinance".
7 (2)	Substitute for the words and figure "under section 5" the words and figure "under section 6".
11A	Substitute, in sub-section (1) and sub-section (2), for the words "of sub-section (1) of section 6", the words "of sub-section (2) of section 5".

Provided that the repeal of the African Poll Tax Ordinance shall have effect without prejudice to the provisions of Sections 8A and 9 of the Special Tax (Temporary Provisions) Ordinance, 1953.

No. 3 of 1953.

(Ordinance No. 28 of 1957, s. 21, with effect from 1-1-58)

ORDINANCE No. 4 of 1953

Assented to in Her Majesty's name this eleventh day of March, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE DISTRIBUTION OF GERMAN ENEMY PROPERTY ORDINANCE, 1951

11th March, 1953

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 Distribution of German Enemy Property (Amendment) Ordinance, 1953, and shall be read and construed as one with the Distribution of German Enemy Property Ordinance, 1951, hereinafter referred to as the principal Ordinance.

2. Section 3 of the principal Ordinance is amended in the following respects—

- (a) by inserting, immediately at the commencement of sub-section (1) thereof the words "Subject to the provisions of section 7 of this Ordinance";
- (b) by re-lettering paragraph (g) of sub-section (2) thereof as paragraph (h) and inserting the following new paragraph as paragraph (g) of that sub-section—
- (g) the charging of fees in respect of the collection and realization of German enemy property hereunder;

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

7. The Governor may, subject to such conditions as he may think fit to impose—

- (a) by Order, exempt from the provisions of this Ordinance any property of any Christian religious mission;
- (b) dispose of, or direct the disposition of, any such property to such person and in such manner as he may think fit.

Date of commencement.

Short title.

No. 32 of 1951.

Amendment of section 3 of the principal Ordinance.

Repeal and replacement of section 7 of the principal Ordinance.

Power to exempt certain property.

ORDINANCE No. 4 of 1953

Assented to in Her Majesty's name this eleventh day of March, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE DISTRIBUTION OF GERMAN ENEMY PROPERTY ORDINANCE, 1951

11th March, 1953

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 Distribution of German Enemy Property (Amendment) Ordinance, 1953, and shall be read and construed as one with the Distribution of German Enemy Property Ordinance, 1951, hereinafter referred to as the principal Ordinance.

2. Section 3 of the principal Ordinance is amended in the following respects—

- (a) by inserting, immediately at the commencement of sub-section (1) thereof the words "Subject to the provisions of section 7 of this Ordinance";
- (b) by re-lettering paragraph (g) of sub-section (2) thereof as paragraph (h) and inserting the following new paragraph as paragraph (g) of that sub-section—
- (g) the charging of fees in respect of the collection and realization of German enemy property hereunder;

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

7. The Governor may, subject to such conditions as he may think fit to impose—

- (a) by Order, exempt from the provisions of this Ordinance any property of any Christian religious mission;
- (b) dispose of, or direct the disposition of, any such property to such person and in such manner as he may think fit.

Date of commencement.

Short title.

No. 32 of 1951.

Amendment of section 3 of the principal Ordinance.

Repeal and replacement of section 7 of the principal Ordinance.

Power to exempt certain property.

Provided that the provisions so incorporated shall, as so incorporated, have effect—

- (i) as if all references therein to poll tax and to any penalty in respect of non-payment thereof were construed as references to the special tax and the penalty prescribed by section 5 of this Ordinance;
- (ii) as if there were substituted for the word "African" wherever that word appears therein, the word "Kikuyu"; and *Apply to urban*
- (iii) as if such of those provisions as are specified in the first column of the Schedule to this Ordinance were modified in the manner set forth in the second column of that Schedule.

10. Nothing in this Ordinance contained shall pre-
judicially affect the provisions of the African Poll Tax Ordinance or the African Poll Tax (Urban Areas) Ordinance, 1950.

Savings.
Cap. 252.
No. 55 of 1950

SCHEDULE

(Section 9)

MODIFICATIONS OF CERTAIN SECTIONS OF THE AFRICAN POLL TAX ORDINANCE INCORPORATED IN THIS ORDINANCE

Cap 252

FIRST COLUMN <i>Section or sub-section</i>	SECOND COLUMN <i>Modification</i>
6 (2)	(a) Substitute for the words "such first-mentioned date" the words " the 31st day of October of the year in which the tax is due ". <i>Repealed</i>
	(b) Insert, immediately after the words "any court", the words "including an African court".
6 (4)	(a) Substitute for the words "the provisions of sub-section (1) of this section" the words "the provisions of section 5 of this Ordinance".
	(b) Substitute for the words "under section 11 of this Ordinance" the words "under section 8 of this Ordinance".
7 (2)	Substitute for the words and figure "under section 5" the words and figure "under section 6".
11A	Substitute, in sub-section (1) and sub-section (2), for the words "of sub-section (1) of section 6", the words "of sub-section (2) of section 5".

Provided that the repeal of the African Poll Tax Ordinance shall have effect without prejudice to the provisions of Sections 8A and 9 of the Special Tax (Temporary Provisions) Ordinance, 1953.

No. 3 of 1953.

(Ordinance No. 28 of 1957, s. 21, with effect from 1-1-58)

ORDINANCE No. 5 of 1953

Assented to in Her Majesty's name this eleventh day of March, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE ESTATE DUTY
ORDINANCE**

1st January, 1953

Date of
commencement.

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

1. (1) This Ordinance may be cited as the Estate Duty (Amendment) Ordinance, 1953, and shall be deemed to have come into force on the 1st day of January, 1953.

Short title
and
commencement.

(2) This Ordinance shall be read and construed as one with the Estate Duty Ordinance, hereinafter referred to as the principal Ordinance.

Cap. 257.

2. Section 11 of the principal Ordinance is amended by adding thereto a proviso as follows—

Amendment of
section 11
of the principal
Ordinance.

Provided that the first £5,000 of any estate the principal value of which exceeds that amount shall, without prejudice to the rate of estate duty applicable in the case of such estate according to the Schedule to this Ordinance, be exempt from estate duty.

ORDINANCE No. 6 of 1953

Assented to in Her Majesty's name this eleventh day of March, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE PERSONAL TAX ORDINANCE

Date of commencement.

1st January, 1953

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

Short title and commencement.

Cap. 251.

1. This Ordinance may be cited as the Personal Tax (Amendment) Ordinance, 1953, and shall be read and construed as one with the Personal Tax Ordinance, hereinafter referred to as the principal Ordinance, and shall be deemed to have come into force on the 1st day of January, 1953.

Amendment of section 3 of the principal Ordinance.

2. Section 3 of the principal Ordinance is amended by substituting a colon for the full stop at the end of the section and by adding the following proviso—

Provided that any individual who—

- (a) first arrives in the Colony; or
- (b) having left the Colony before attaining the age of 18 years, returns to the Colony,

at any time after—

- (i) the 30th June but prior to the 1st October in any year shall be exempt from the payment of one-half of the tax payable under this section in respect of that year;
- (ii) the 30th September in any year shall be exempt from the payment of the whole of the tax payable under this section in respect of that year.

3. The principal Ordinance is amended by substituting for section 4 thereof a new section as follows, and the said section 4 shall be deemed always to have had effect since the commencement of the principal Ordinance as if it had been enacted in the terms following—

Replacement of section 4 of the principal Ordinance.

4. The tax payable by an individual shall be assessed—

Assessment of tax.

(a) in the case of an individual who is ordinarily resident in the Colony, by reference to the total income of such individual for the calendar year immediately preceding the year in respect of which the tax is due;

(b) in the case of an individual whose ordinary place of residence is not in the Colony and who becomes liable to the tax in respect of any year, under the provisions of this Ordinance, by reference to the total income which may reasonably be expected to accrue to such individual during that year;

(c) in the case of an individual who arrives for the first time in the Colony with the intention of establishing his residence in the Colony, for the first and second years of such residence, by reference to the total income which may reasonably be expected to accrue to such individual during such years respectively.

4. Sub-section (1) of section 16 of the principal Ordinance is amended by substituting for paragraph (a) thereof a new paragraph as follows—

Amendment of section 16 of the principal Ordinance.

(a) any individual who has not attained the age of 18 years, or who, having attained the age of 18 years, is receiving full-time instruction at any university, college, school or other educational establishment or is serving under articles or indentures with a view to qualifying in a trade or profession:

Provided that, in respect of the year in which such individual attains the age of 18 years or, as the case may be, ceases to receive such instruction or to serve under such articles or indentures—

- (i) if such attainment or cessation occurs before the 1st July, the individual shall pay the tax for that year at full rate;
- (ii) if such attainment or cessation occurs after the 30th June but before the 1st October, the individual shall pay the tax for that year at half rate; and
- (iii) if such attainment or cessation occurs on or after the 1st October, the individual shall not be liable to pay the tax for that year.

ORDINANCE No. 7 of 1953

Assented to in Her Majesty's name this eleventh day of
March, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE LIQUOR
ORDINANCE**

11th March, 1953

Date of
commencement.

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

1. This Ordinance may be cited as the Liquor (Amend- Short title.
ment) Ordinance, 1953, and shall be read and construed as
one with the Liquor Ordinance, hereinafter referred to as the Cap. 266.
principal Ordinance.

2. Paragraph (a) of sub-section (13) of section 10 of the Amendment of
principal Ordinance is amended by inserting therein imme- section 10 of
diately after the words "the Kenya Police Force" appearing the principal
therein the words "the Kenya Police Reserve". Ordinance.

ORDINANCE No. 8 of 1953

Assented to in Her Majesty's name this twentieth day of
March, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE INCREASE OF
RENT (RESTRICTION) ORDINANCE, 1949**

Date of
commencement.

By Notice

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

Short title and
commencement.

1. (1) This Ordinance may be cited as the Increase of Rent (Restriction) (Amendment) Ordinance, 1953, and shall come into force on such date as the Governor may, by notice in the Gazette, appoint.

No. 22 of 1949.

(2) This Ordinance shall be read and construed as one with the Increase of Rent (Restriction) Ordinance, 1949, hereinafter referred to as the principal Ordinance.

Amendment of
section 1 (2).

2. Sub-section (2) of section 1 of the principal Ordinance is amended by adding at the end thereof a new proviso as follows—

“Provided that this Ordinance shall cease to apply to any business premises, wheresoever situate in the Colony, with effect from the 25th day of December, 1954.”

Amendment of
section 2 (1).

3. (1) The definition of “standard rent” in sub-section (1) of section 2 of the principal Ordinance is amended as follows—

(a) by deleting the words “equal to a sum” appearing in sub-paragraph (ii) of paragraph (A) thereof;

(b) by adding to sub-paragraph (ii) of paragraph (A) thereof a proviso as follows—

“Provided that where the premises were or are erected after the 1st day of January, 1953, “standard rent” means a rent assessed by the Board not exceeding the sum of ten per centum per annum of the

market cost of construction of the premises at the date of completing such construction plus five per centum per annum of the market value of the land at the date of completing such construction;”;

(c) by adding at the end thereof a new paragraph as follows—

“For the removal of doubt, it is hereby declared that where in this definition reference is made to the assessment of any rent by the Board, or to the determination of any sum by the Board, such assessment or, as the case may be, such determination shall, within the limits imposed by the definition, be at the absolute discretion of the Board and shall, for the purposes of section 7 of this Ordinance, be deemed to be a question of fact.”.

(2) Sub-section (1) of section 2 of the principal Ordinance is further amended by inserting therein, immediately following the definition of “dwelling house”, a new definition as follows—

“‘erect’, with its grammatical variations and cognate expressions, means, in relation to a building, complete the construction of such building;”.

4. Paragraph (ii) of sub-section (2) of section 2 of the principal Ordinance is amended by substituting for the word “similar” appearing therein the word “comparable”. Amendment of section 2 (2).

5. Section 5 of the principal Ordinance is amended as follows— Amendment of section 5.

(a) by substituting for the words “to fix” appearing at the beginning of paragraph (b) of sub-section (1) thereof the words “to fix in the case of any premises, at its discretion and in accordance with the requirements of justice.”;

(b) by inserting at the beginning of paragraph (f) of sub-section (1) thereof the words “subject to the provisions of section 16 of this Ordinance.”;

(c) by deleting the words “of which, but for the provisions of this Ordinance, the landlord could have recovered possession”, appearing in paragraph (g) of sub-section (1) thereof;

(d) by substituting for paragraph (h) of sub-section (1) thereof the following—

“(h) to allocate to any suitable tenant at such rent as the Central Board or the Coast Board, as the case may be, may fix, any place of residence which without good cause has been left unoccupied for a period exceeding one month, and by order to direct the landlord, and any person who has entered into occupation of such place of residence subsequently to the allocation thereof as aforesaid, to deliver up possession of such place of residence to the tenant to whom the same has been allocated as aforesaid on or before such date as may be specified in the order;”;

(e) by substituting for paragraph (i) of sub-section (1) thereof the following—

“(i) where the landlord fails to carry out any repairs for which he is liable, to order the landlord to carry out such repairs, and, if the landlord fails to carry out such repairs within the time specified in the order, then, without prejudice to any penalty to which the landlord may be liable under this Ordinance, to have the required repairs carried out and to recover the cost thereof either from the landlord or by requiring the tenant to pay the rent to the Central Board or the Coast Board, as the case may be, for such period as may be required to defray the cost of such repairs, and the receipt of such Board shall be a good discharge for any rent so paid;”;

(f) by deleting the proviso to paragraph (o) of sub-section (1) thereof;

(g) by adding at the end of sub-section (1) thereof a new paragraph as follows—

“(p) at any time, of its own motion, or for good cause shown on an application by any landlord or tenant, to re-open any proceedings in which it has given any decision, determined any question, or made any order, and to revoke, vary or amend such decision, determination or order:

Provided that nothing in this paragraph shall be deemed to prejudice or affect the right of any person under section 7 of this Ordinance to appeal to the Supreme Court from any such decision, determination or order as aforesaid, or from the revocation, variation or amendment of any such decision, determination or order:

And provided that the powers conferred on the Board by this paragraph shall not be exercised in respect of any decision, determination or order while an appeal therefrom is pending or in a manner inconsistent with or repugnant to the decision of the appellate court on such an appeal.”;

(h) by adding at the end thereof a new sub-section, to be numbered (5), as follows—

“(5) Where, by virtue of the provisions of paragraph (i) of sub-section (1) of this section, the Board is entitled to recover any sum of money from any person, the Board may make an order directing that person to pay such sum of money to the Board:

Provided that no such order shall be enforced under section 32 of this Ordinance unless and until, in addition to filing a certified copy thereof in the court, the Board also serves notice of such filing on the person against whom such order is made:

And provided that, notwithstanding the provisions of section 7 of this Ordinance, an appeal from any such order shall lie to the Supreme Court.”.

6. Sub-section (4) of section 6 of the principal Ordinance is amended by substituting for the words “(k) and (l) of sub-section (1)” appearing therein the words “(k), (l) and (p) of sub-section (1)”. Amendment of section 6 (4).

7. The principal Ordinance is amended by substituting for section 8 thereof the following— Amendment of section 8.

“8. (1) It shall be the duty of the landlord of any premises which are let for the first time after the commencement of this Ordinance, or of which, if let before the commencement of this Ordinance, the rent has not been determined by the Board, to apply to have the rent of such premises determined by the Board. Duty of landlord of premises let.

(2) Applications under sub-section (1) of this section shall be made—

(a) in the case of premises which are let for the first time after the commencement of this Ordinance, as soon as possible after the premises are so let; and

(b) in the case of premises let before the commencement of this Ordinance, but of which the rent has not been determined by the Board, forthwith on the coming into force of this section in its present form.

(3) If any landlord to whom this section applies fails to comply with any of the provisions thereof, he shall be guilty of an offence and liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

(4) Nothing contained in section 216 of the Criminal Procedure Code shall operate to preclude the trial of offences under this section by a subordinate court whenever the charge or complaint relating thereto be laid.”.

Amendment of section 9 (5).

8. Sub-section (5) of section 9 of the principal Ordinance is amended by substituting for the words “such order in the matter” appearing therein the words “such order in the matter, being an order which it is by this Ordinance empowered to make.”.

Amendment of section 13 (1).

9. Section 13 of the principal Ordinance is amended by substituting for paragraph (a) of sub-section (1) thereof the following—

“(a) (i) where the premises were erected before the 1st day of January, 1953, but after the 31st day of December, 1945—

(A) in the case of a dwelling-house, by an amount not exceeding ten per centum of the standard rent; and

(B) in the case of business premises, by an amount not exceeding twenty per centum of the standard rent;

(ii) where the premises were erected before the 1st day of January, 1946, but after the prescribed date, by an amount not exceeding twenty per centum of the standard rent;

- (iii) where the premises were erected before the prescribed date, by an amount not exceeding thirty-five per centum of the standard rent:

Provided that where such rent has previously been increased under the provisions of this Ordinance or of any Ordinance in force before the commencement of this Ordinance, the increase permitted shall be limited to such sum as is required to make the total increase up to the percentage increase now permitted by this paragraph;”.

10. Sub-section (2) of section 15 of the principal Ordinance is amended by substituting for the proviso thereto the following— Amendment of section 15 (2).

“Provided that where the rent of any premises is increased, under and by virtue of the provisions of paragraph (b) of sub-section (1) of section 13 of this Ordinance, on account of an increase in rates or of the imposition of rates not previously payable, such increase in rent shall be payable by the tenant,

- (i) if the notice in writing referred to in sub-section (1) of section 13 of this Ordinance is served on him by the landlord on or before the date on which the increase in rates became operative, or the rates become payable, as the case may be, with effect from such date; and
- (ii) if the said notice is not served on him before such date, with effect from the date of service on him of such notice by the landlord :

Provided further that where, by virtue of the provisions of this Ordinance or of any law in force before the commencement of this Ordinance, the landlord has increased the rent of any premises on account of an increase in rates or of the imposition of rates not previously payable, the landlord may, on letting such premises to a new tenant, include in the rent payable by such new tenant any such increase as aforesaid.”.

11. Section 16 of the principal Ordinance is amended as follows— Amendment of section 16.

- (a) by substituting for the words “one month’s notice to quit” appearing in paragraph (j) of sub-section (1) thereof the words “three months’ notice to quit”;

- (b) by substituting for the words "and imposing such reasonable conditions as the Board may think necessary" appearing in paragraph (k) of sub-section (1) thereof the words "and imposing such other reasonable conditions, whether relating to the matters aforesaid or to the provision or availability of alternative accommodation for the tenant or to the payment of compensation by the landlord to the tenant or otherwise, as the Board or the court, as the case may be, may think fit";
- (c) by substituting for the words "the landlord is the owner" appearing at the beginning of paragraph (l) of sub-section (1) thereof the words "the landlord is the owner, or was prior to the prescribed date the lessee,";
- (d) by deleting the words "or the tenancy is for a term certain", appearing in paragraph (n) of sub-section (1) thereof;
- (e) by adding at the end of sub-section (1) thereof a new paragraph as follows—
 - “(p) the application for recovery of possession of the premises is made by a person who, having been the tenant of the premises, has been unlawfully dispossessed thereof by the landlord, and any order made in such circumstances may include an order for compensation to be paid by the landlord to any tenant of the premises dispossessed thereof by such order.”;
- (f) by substituting for the words "more than one dwelling-house" appearing in sub-section (4) thereof the words "more than one place of residence".

Amendment of
section 18.

12. Section 18 of the principal Ordinance is amended—

- (a) by deleting the words "or give" appearing in sub-section (1) thereof;
- (b) by substituting for the words "requiring, taking or giving" appearing in sub-section (2) thereof the words "requiring or taking";

(c) by adding thereto a new sub-section, to be numbered (4), as follows—

“(4) Notwithstanding any rule of law or of practice to the contrary, in any prosecution for an offence under this section no person shall be deemed to be an accomplice or to be unworthy of credit, neither shall the uncorroborated evidence of any person be held to be insufficient to support a conviction, merely by reason of the fact that such person, whether before or after the coming into force of this section in its present form, paid, gave or offered, or agreed or attempted to pay or give, any such fine, premium or other like sum, or pecuniary consideration, as aforesaid to the person charged or to any other person.”

13. Section 25 of the principal Ordinance is amended as follows— Amendment of section 25.

(a) by substituting for the words “do any act” appearing in sub-section (1) thereof the words “and no person other than a landlord shall without lawful authority, do any act”;

(b) by substituting for the word “landlord” appearing in sub-section (2) thereof the word “person”.

14. Section 34 of the principal Ordinance is amended by adding to sub-section (2) thereof a new paragraph as follows— Amendment of section 34.

“and (e) the circumstances and manner in which a tenant may, notwithstanding any contractual obligation, elect to pay and pay to the Board rent due to his landlord; the manner in which rent so paid may be claimed from the Board by the landlord or, if not so claimed, may be disposed of by the Board; and the amount of commission which the Board may deduct from rent so paid to it.”

Assented to in Her Majesty's name this twentieth day of
March, 1953.

E. BARING,
Governor.

ORDINANCE No. 9 of 1953 *Amended Ord 59/54*

ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title.	10—Discharge of security on repayment of the loan.
2.—Interpretation.	11—Charge of service of loan to particular account.
3.—Establishment and constitution of Local Government Loans Authority.	12—Borrowing by the Authority.
4—Meetings and procedure of Authority.	13—Stock Regulations.
5—Accounts and report by Authority.	14—Provisions as to local bonds.
6—Establishment of Local Government Loans Fund.	15—Stock and bonds to be trustee security.
7—Loans by the Authority and repayments thereof.	16—Transfers of stock and bonds to be exempt from stamp duty.
8—Charge of loan on rates and revenues of local authority.	17—Certain Ordinances may properly be disallowed.
9—Powers in relation to rate where default made.	18—Appointment of receiver.
	19—Regulations.
	20—Savings.
	21—Repeal of Cap. 141 and amendment of Ordinances.

AN ORDINANCE TO FACILITATE THE BORROWING BY LOCAL GOVERNMENT AUTHORITIES OF MONEY FOR CAPITAL DEVELOPMENT, TO ESTABLISH A LOCAL GOVERNMENT LOANS AUTHORITY AND A FUND FOR THAT PURPOSE; AND FOR PURPOSES CONNECTED THEREWITH

Date of commencement.

20th March, 1953

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

Short title.

1. This Ordinance may be cited as the Local Government Loans Ordinance, 1953.

Interpretation.

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

“the Authority” means the Local Government Loans Authority established by section 3 of this Ordinance;

“the Fund” means the Local Government Loans Fund established by section 6 of this Ordinance;

“local authority” means a municipal council or municipal board constituted under the provisions of the Municipalities Ordinance, the district commissioner administering a township, a district council constituted under the provisions of the Local Government (District Councils) Ordinance, an African district council established under the African District Councils Ordinance, 1950, the council of a county, county district, or county division constituted under the provisions of the Local Government (County Councils) Ordinance, 1952; Cap. 136.
Cap. 140.
No. 12 of 1950.
No. 30 of 1952.

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

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

“prescribed” means prescribed by regulations made by the Member;

“statutory securities” means any securities in which trustees are for the time being authorized by law to invest trust moneys, and any security created by a local authority other than securities transferable by delivery.

3. (1) There is hereby established a Local Government Loans Authority which shall be a body corporate by that name with perpetual succession and a common seal, and which shall exercise the duties and have the powers conferred upon it by this Ordinance. Establishment
and constitution
of Local
Government
Loans Authority

(2) The Authority shall consist of—

- (a) the Member, who shall be Chairman of the Authority;
- (b) a person to be appointed by the Member for Finance;
- (c) the Commissioner for Local Government;
- (d) the Local Government Inspector; and
- (e) such other persons as the Member may from time to time appoint.

(3) In the case of his absence from, or inability to attend any meeting of the Authority an officer mentioned in paragraph (c) or paragraph (d) of sub-section (2) of this section may be represented at such meeting by a deputy nominated by such officer, and any such deputy shall be deemed to be a duly appointed member of the Authority for the purposes of such meeting.

(4) Every member of the Authority appointed under paragraph (e) of sub-section (2) of this section shall hold office during the Member's pleasure and any person appointed under paragraph (b) of that sub-section shall hold office during the pleasure of the Member for Finance.

(5) The Authority shall have power to enter into contracts and to hold and dispose of property both moveable and immoveable, and may sue and be sued in its corporate name.

Meetings and
procedure of
Authority.

4. (1) In the absence of the Member from any meeting of the Authority a person shall be chosen, by the members present at the meeting, from their number, to preside at such meeting.

(2) At all meetings of the Authority three members, of whom not less than two are persons other than persons appointed under paragraph (e) of sub-section (2) of section 3 of this Ordinance, shall form a quorum.

(3) The Member, or other person acting as chairman of any meeting of the Authority, shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote; a decision of the majority of the members present and voting at a meeting of the Authority shall be deemed to be the decision of the Authority.

(4) The Authority shall have power to act notwithstanding a vacancy among the members thereof, and all acts done at any meeting of the Authority shall, notwithstanding that it was afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Authority, be as valid as if that defect had not existed.

(5) Subject to the provisions of this section the Authority shall have power to regulate its own procedure.

(6) The seal of the Authority shall be authenticated by the signatures of the Member and the Commissioner for Local Government and such seal shall be officially and judicially noticed.

(7) All documents, other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Commissioner for Local Government.

(8) It shall be the duty of the Commissioner for Local Government to carry into effect the decisions of the Authority.

5. (1) The Authority shall keep such capital, revenue and other accounts as the Member for Finance may from time to time require, and such accounts together with a balance sheet shall be audited annually by the Director of Audit appointed under the Audit Ordinance, 1952.

Accounts and
report by
Authority.

No. 14 of 1952.

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

(3) Every such report and all such accounts and balance sheets as are furnished to the Member under this section shall be laid by the Member upon the table of the Legislative Council as soon as may be after they are submitted to him.

6. (1) There is hereby established a Local Government Loans Fund under the control of the Authority, consisting of such securities and moneys and applicable to such purposes as are provided for by this Ordinance.

Establishment
of Local
Government
Loans Fund.

(2) There shall, by virtue of this Ordinance and without further assurance, become vested in the Authority the right of the Government to demand, sue for and recover, and give receipts for, and the benefit of all securities for such loans made to local authorities by the Government out of the public revenues of the Colony as may be approved from time to time by Resolution of the Legislative Council to the extent to which such loans, at the date of the commencement of this Ordinance, remain outstanding; and all moneys received by the Authority on account of every such loan shall be carried to the Fund.

(3) There shall also be paid to the Authority and carried to the Fund—

- (a) all such moneys as may from time to time be voted or appropriated by the Legislative Council for the purpose of providing loans to local authorities;
- (b) all repayments of principal or interest made by any local authority on account of any loan referred to in sub-section (2) of this section;

(c) all repayments of principal or interest made by any local authority on account of any loan made by the Authority under the provisions of this Ordinance;

(d) all such moneys as may from time to time be borrowed by the Authority in exercise of the powers conferred by this Ordinance;

(e) all such moneys as may from time to time become due upon any investment made by the Authority in exercise of the powers conferred by this Ordinance.

(4) Every such loan as is referred to in sub-section (2) of this section shall be deemed for the purposes of sections 9, 10 and 11 of this Ordinance to be a loan made by the Authority under this Ordinance.

(5) *Added G.L. 59/54*

Loans by the Authority and repayments thereof.

7. (1) The Authority may from time to time, in manner provided by this Ordinance, make loans to local authorities for such purposes as local authorities may be authorized by law to borrow money.

(2) The Authority may from time to time make to a local authority advances of moneys required for the proper discharge of the functions of the local authority.

(3) The Authority may from time to time make loans to the Central Housing Board appointed under the provisions of section 12 of the Housing Ordinance upon such terms and conditions as may be directed by the Member for Finance.

Cap. 142.

(4) Every loan made by the Authority under this Ordinance to a local authority shall bear interest at such rate and shall be repaid at such time and in such manner as the Authority may determine.

Charge of loan on rates and revenues of local authority.

8. All moneys borrowed by a local authority from the Authority and all such loans as are referred to in sub-section (2) of section 6 of this Ordinance shall be charged indifferently on all the rates and revenues of the local authority.

Powers in relation to rate where default made.

9. (1) If any local authority having power to levy rates or taxes or impose and collect dues or cesses shall neglect to pay any moneys due to the Authority in respect of any loan granted under this Ordinance, the Governor in Council may, at any time after the expiry of sixty days from the date on which such moneys become due and payable, forthwith impose

and levy a rate or tax of sufficient amount which may be imposed and levied by the local authority, and impose and recover any dues or cesses which may be imposed and recovered by the local authority.

(2) For the purpose of this section the Governor in Council shall have all the powers vested in the local authority for imposing, levying and recovering rates upon all rateable property and improvements thereon within its jurisdiction and for imposing, levying and recovering taxes and for imposing and recovering such dues and cesses as aforesaid.

(3) The Governor in Council in making an estimate of the rate or tax to be levied or of the dues or cesses to be imposed for the purpose of paying any sum due to the Authority as aforesaid, may add such sum as the Governor in Council thinks sufficient for defraying, and may defray thereout, all costs, charges and expenses, including remuneration to any officer or other person employed, incurred in the execution of the powers conferred by this section or otherwise by reason of the default in payment of the sum due to the Authority as aforesaid.

(4) If, after payment out of the proceeds of any such rate or tax or dues or cesses of the sum due to the Authority as aforesaid and of the expenses of and incidental to the imposition, levy and recovery of such rate or tax or dues or cesses, there remains any balance, such balance shall be paid over to the local authority whose default led to the exercise by the Governor in Council of his powers under this section.

10. Upon all money due from a local authority to the Authority being fully paid the Authority shall, when required, give to the local authority a receipt in writing for the same, and such further sufficient discharge (if any) as may seem to the Authority to be necessary, and upon such receipt being given the rates and revenues of the local authority shall be released from the charge created by section 8 of this Ordinance.

Discharge of security on repayment of the loan.

11. Where a loan is made by the Authority to meet any expenditure of a local authority which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon.

Charge of service of loan to particular account.

Borrowing by
the Authority.

12. (1) The Authority may, with the consent of the Member for Finance, borrow such sums as may be required by the Authority in exercise of the powers conferred by this Ordinance.

(2) Where the Authority is authorized to borrow money, it may, subject to the provisions of this Ordinance, raise the money either—

- (a) by stock issued under this Ordinance; or
- (b) by local bonds issued under this Ordinance; or
- (c) in such other manner as may be approved by the Member for Finance:

Provided that no money may be raised by the Authority in any place outside the Colony except with the prior approval of the Secretary of State.

(3) All moneys borrowed by the Authority under this Ordinance shall be charged indifferently on all the revenues of the Authority.

12 A or 12 B added Ord 59/54

Stock
Regulations.

13. (1) For the purposes of any borrowing by the Authority by means of an issue of stock under this Ordinance, stock may be created, issued, transferred, dealt with and redeemed in such manner as may be prescribed by regulations made by the Member with the consent of the Member for Finance.

(2) Without prejudice to the generality of the above power, the regulations made under this section may provide for the discharge of any loan so raised and may provide for the consent of owners under disability and for the application or non-application of the Ordinances in the Colony relating to stamp duties (subject to the provisions of sections 14 and 16 of this Ordinance) and to cheques, and for the disposal of unclaimed dividends.

Provisions as
to local bonds.

14. For the purposes of any borrowing by the Authority by means of an issue of local bonds under this Ordinance the following provisions shall have effect, that is to say, the bonds shall—

deleted Ord 59/54 (a) be secured upon all the ~~property and~~ revenues of the Authority;

- (b) bear interest at such rate as the Authority may determine at the time of issue of the bonds;
- (c) be issued in denominations of one hundred, two hundred, four hundred, one thousand and two thousand shillings and multiples of two thousand shillings;
- (d) be issued for periods of not less than three years;
- (e) be exempt from all stamp duties.

15. A trustee, as defined in the Trustees Ordinance, may invest any trust funds in his hands, whether at the time in a state of investment or not, in any stock or local bonds issued by the Authority under this Ordinance.

Stock and bonds to be trustee securities. Cap. 36.

16. Transfers of any stock or local bonds issued by the Authority under this Ordinance shall be exempt from all stamp duties.

Transfers of stock and bonds to be exempt from stamp duty.

17. If at any time hereafter an Ordinance is passed which appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting any such stock as aforesaid to the injury of the holder thereof, or to involve a departure from the original contract in regard to such stock, that Ordinance may properly be disallowed.

Certain Ordinances may properly be disallowed

18. (1) If at any time any interest due on any stock remains unpaid for three months after demand in writing, the person entitled thereto may, without prejudice to any other remedy, apply to the Supreme Court of Kenya for a receiver to be appointed, and the court may, if it thinks fit, appoint a receiver on such terms as the court thinks fit.

Appointment of receiver.

(2) The court may confer on the receiver any of the powers of collecting, receiving and recovering the revenues of the Authority which are conferred upon the Authority by this Ordinance and any of the powers of imposing and levying rates and taxes and imposing and recovering dues and cesses which are conferred on the Governor in Council by this Ordinance.

Regulations.

19. Subject to the provisions of this Ordinance the Member may make regulations prescribing anything required to be prescribed by this Ordinance and generally for carrying out the provisions of this Ordinance.

Savings.

20. Nothing in this Ordinance shall—

(a) in any way prejudice or affect the rights of Her Majesty the Queen, Her Heirs and Successors, or of any body or bodies politic or corporate or other person or persons excepting only such as are mentioned in this Ordinance and those claiming by, from or under them;

(b) prejudice or affect the priority of any security for a loan created by any local authority before the date of the commencement of this Ordinance.

Repeal of Cap.
141 and
amendment of
Ordinances.

21. (1) The Local Government (Loans) Ordinance is hereby repealed.

(2) The Ordinances specified in the first column of the Schedule to this Ordinance are amended in the manner specified in the second column of that Schedule.

Local Government Loans

SCHEDULE

FIRST COLUMN		SECOND COLUMN
Chapter No.	Title	Amendments
133.	Townships Ordinance.	<p>(a) Insert after paragraph (b) of section 14 the following new paragraph— (c) interest and redemption charges on loans raised under the powers conferred by section 19A of this Ordinance.</p> <p>(b) Insert immediately after section 19, the following new section— 19A. (1) The district commissioner administering a township for which a township account is directed to be kept under section 12 of this Ordinance may, with the consent of the township committee, from time to time raise loans for such purposes in such amounts and upon such conditions as the Member of the Executive Council for the time being responsible for Local Government may approve. (2) All such loans shall be charged indifferently on all the revenues referred to in section 13 of this Ordinance, and all securities therefor, whether created before or after the date of the commencement of the Local Government Loans Ordinance, 1953, shall rank equally without any priority.</p> <p style="text-align: right;">No. 9 of 1953.</p>
Chapter No.	Title	Amendments
136.	Municipalities Ordinance.	<p>(a) In section 97— (i) Substitute for sub-section (1) thereof the following new sub-section— (1) The Council may from time to time, by a majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Council, raise loans for such purposes, in such amounts and on such conditions as the Minister may approve: Provided that no such loan shall be raised in any place outside the Colony except with the prior approval of the</p>

SCHEDULE—(Contd.)

FIRST COLUMN		SECOND COLUMN
Chapter No.	Title	Amendments
136—(Contd.)	Municipalities Ordinance.	<p>(iii) any such loan may in addition be charged by way of mortgage or charge upon any land vested in the Council, and any such mortgage or charge shall rank in priority according to the law for the time being in force in the Colony and all moneys thereby secured shall be recoverable and the mortgagee or chargee shall have in respect of the mortgage or charge all such rights and remedies as are conferred by law upon mortgagees or chargees.</p> <p>(iii) Amend sub-section (4) thereof by substituting for the words "property and revenues on which the loan is secured", appearing therein, the words "rates and revenues of the Council, or, in the case of a loan raised by the Municipal Council of Nairobi, the property and revenues on which the loan is secured".</p> <p>(iv) Substitute for sub-section (7) thereof the following new sub-sections—</p> <p>(7) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers No. 9 of 1953. exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.</p>

Local Government Loans

No. 9

3

FIRST COLUMN

FIRST COLUMN

Title

Chapter No.

136.
(Contd.)

Municipalities Ordinance.

SECOND COLUMN

Amendments

(iv) Substitute for sub-section (7) thereof the following new sub-section—

(7) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.

(b) In section 99 substitute for the words "property and revenues, present and future", appearing in sub-section (3) thereof, the words "rates and revenues".

In section 118—

(i) Substitute for sub-section (1) thereof the following new sub-section—

(1) The Council may from time to time, by a majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Council, raise loans for such purposes, in such amounts and on such conditions as the Member may approve:

Provided that no such loan shall be raised in any place outside the Colony except with the prior approval of the Secretary of State.

(ii) Substitute for sub-section (2) thereof the following new sub-section—

(2) All such loans shall be charged indifferently on all rates and revenues of the Council and all securities therefor and shall rank equally without any priority:

No. 9
of 1953.

Local Government (District Councils) Ordinance.

140.

SCHEDULE—(Contd.)

FIRST COLUMN

Title

SECOND COLUMN

Amendments

Chapter No.

140.
(Contd.)

Local Government (District Councils) Ordinance.

Provided that—

(i) nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of the commencement of the Local Government Loans Ordinance, 1953;

(ii) any such loan may in addition be charged by way of mortgage or charge upon any land vested in the Council, and any such mortgage or charge shall rank in priority according to the law for the time being in force in the Colony and all moneys thereby secured shall be recoverable and ~~the Council shall have in respect of the mortgage or charge all such~~ rights and remedies as are conferred by law upon mortgagees or chargees.

If the mortgage or charge shall have in respect of the mortgage or charge all such rights and remedies as are conferred by law upon mortgagees or chargees.

(iii) Sub-section (3) thereof is amended by substituting for the words "property and revenues on which the loan is secured", appearing therein, the words "rates and revenues of the Council".

(iv) Substitute for sub-section (6) thereof the following new sub-section—

(6) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.

No. 9 of 1953.

No. 9 of 1953.

9/55.
s. 2.

FIRST COLUMN

SECOND COLUMN

Chapter No.

Title

Amendments

No. 30 of 1952.

Local Government (County Councils) Ordinance, 1952.

(a) In section 145—

(i) Substitute for sub-section (1) thereof the following new sub-section—

(1) A Council may from time to time raise loans for such purposes, in such amounts and upon such conditions as the Member may approve.

(ii) Substitute for sub-section (2) thereof the following new sub-section—

(2) All such loans shall be charged indifferently on all the rates and revenues of the Council and all securities therefor shall rank equally without any priority:

Provided that—

(i) nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of commencement of the Local Government Loans Authority Ordinance, 1953;

(ii) any such loan may in addition be charged by way of mortgage or charge upon any land vested in the Council, and any such mortgage or charge shall rank in priority according to the law for the time being in force in the Colony and all moneys thereby secured shall be recoverable and ~~the Council shall have in respect of the mortgage or charge~~ all such rights and remedies as are conferred by law upon mortgagees or chargees.

No. 9 of 1953.

The mortgage or charge shall have in respect of the mortgage or charge

*0/55
1/2.2.*

SCHEDULE—(Contd.)

FIRST COLUMN		SECOND COLUMN
Chapter No.	Title	Amendments
No. 12 of 1950.	African District Councils Ordinance, 1950.	<p>In section 32—</p> <p>(i) Sub-section (1) thereof is amended by deleting the words "for Finance" appearing therein.</p> <p>(ii) Substitute for sub-section (2) thereof the following new sub-section—</p> <p>(2) All such loans shall be charged indifferently on all rates and revenues of the Council and all securities therefor shall rank equally without any priority:</p> <p>Provided that nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of the commencement of the Local Government Loans Ordinance, 1953.</p> <p>(iii) The following new sub-section to be inserted immediately after sub-section (4) thereof—</p> <p>(5) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.</p>
		No. 9 of 1953.
		No. 9 of 1953.

Local Government Loans

SCHEDULE—(Contd.)

FIRST COLUMN		SECOND COLUMN
		<i>Amendments</i>
<i>Chapter No.</i>	<i>Title</i>	
No. 30 of 1952 (Contd.)	Local Government (County Councils) Ordinance, 1952.	<p>(iii) Sub-section (3) thereof is amended by substituting for the words "property and revenues and any land on which the loan is charged or is secured", appearing therein, the words "rates and revenues of the Council".</p> <p>(iv) Substitute for sub-section (6) thereof the following new sub-section—</p> <p>(6) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof.</p> <p>(b) In section 146 substitute for the words "property and revenues, present and future", appearing in sub-section (3) thereof, the words "rates and revenues".</p>

No. 9
of 1953.

ORDINANCE No. 10 of 1953

Assented to in Her Majesty's name this twenty-seventh day of May, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE CUSTOMS TARIFF
ORDINANCE**

27th May, 1953

Date of
commencement.

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

1. This Ordinance may be cited as the Customs Tariff (Amendment) Ordinance, 1953, and shall be read and construed as one with the Customs Tariff Ordinance, hereinafter referred to as the principal Ordinance.

Short title.

Cap. 262.

2. The Schedule to the principal Ordinance is hereby amended by inserting after part (vi) of sub-item (c) of item 160 thereof the following new part—

Amendment of
the Schedule to
the principal
Ordinance.

(vii) Goods consigned as gifts by post from members of the East African forces serving outside the territories of Kenya, Uganda, Tanganyika, Northern Rhodesia and Nyasaland addressed to private individuals in the Colony, not including cigarettes, tobacco, perfumed spirits, and alcoholic beverages, subject to such limitations and conditions as the Commissioner shall specify Free.

ORDINANCE No. 11 of 1953

Assented to in Her Majesty's name this twenty-seventh day of May, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE PATENTS
(REGISTRATION) ORDINANCE**

27th May, 1953

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Patents (Registration) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Patents (Registration) Ordinance, hereinafter referred to as the principal Ordinance.

Cap. 294.

Amendment of section 9 (2) of the principal Ordinance.

2. There shall be substituted for the second paragraph of sub-section (2) of section 9 of the principal Ordinance, which commences with the words "Such grounds", the following new paragraph:—

Such grounds shall be deemed to include the manufacture, use or sale of the invention in the Colony before the priority date applicable to the patent in the United Kingdom, but not to include the manufacture, use or sale of the invention in the Colony by some person or persons after the priority date applicable to the patent in the United Kingdom and before the date of the issue of the certificate of registration under section 6 of this Ordinance.

For the purposes of this sub-section the expression "priority date" in its application to a patent in the United Kingdom has the meaning assigned to it in section 5 of the Patents Act, 1949.

12, 13, & 14,
Geo. VI. C.87.

ORDINANCE No. 12 of 1953

Assented to in Her Majesty's name this ninth day of June, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE LOCAL GOVERNMENT (COUNTY COUNCILS) ORDINANCE, 1952

9th June, 1953

Date of
commencement.

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

1. This Ordinance may be cited as the Local Government (County Councils) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Local Government (County Councils) Ordinance, 1952, hereinafter referred to as the principal Ordinance.

Short title.
No. 30 of 1952.

2. Section 4 of the principal Ordinance is amended by substituting for the words "one representative", appearing in sub-paragraph (v) of paragraph (c) thereof, the words "one or more representatives".

Amendment of
section 4 of
the principal
Ordinance.

ORDINANCE No. 13 of 1953

Assented to in Her Majesty's name this ninth day of
June, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title.	4—Commencement of contributions to Sinking Fund.
2—Authority to raise loan.	5—Interim power to raise money by issue of Treasury Bills.
3—Application of loan.	

**AN ORDINANCE TO MAKE PROVISION FOR THE
RAISING OF A LOAN OF SIX MILLION FIVE
HUNDRED THOUSAND POUNDS STERLING FOR
THE PURPOSES OF DEVELOPMENT AND RE-
CONSTRUCTION**

Date of commencement. *9th June, 1953*

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

Short title. **1.** This Ordinance may be cited as the Development Loan Ordinance, 1953.

Authority to raise loan. **2.** The Governor is hereby authorized to raise by loan by the issue of debentures or stock or both under the provisions of the General Loan and Stock Ordinance, 1950, an amount sufficient to produce as nearly as may be the sum of six million five hundred thousand pounds sterling, and such further sum as may be necessary to defray the expenses of issue.

No. 14 of 1950

Application of loan **3.** (1) Any sums raised to defray the expenses of issue shall be applied only to that purpose:

Provided that any balance of such sums remaining after defraying the expenses of issue may be applied in payment of Stamp Duties on transfers of stock issued under this or any other Ordinance.

(2) Save as aforesaid, the money to be borrowed under the authority of this Ordinance shall be appropriated and applied to development and reconstruction.

1953

Development Loan

No. 13

4. Contributions to the Sinking Fund as contemplated by sections 14 and 28 of the General Loan and Stock Ordinance, 1950, shall commence not later than one year after the date from which the interest on the stock or debenture issued under that Ordinance shall commence to run.

Commencement of contributions to Sinking Fund. No. 14 of 1950.

5. Pending the issue of the whole or any portion of the loan authorized by section 2 of this Ordinance, the Governor may, if he deems this necessary, raise money, up to the amount authorized to be borrowed by this Ordinance, by the issue as and when required of Treasury Bills under the Colonial Treasury Bills Ordinance, and money so raised shall be repaid out of money borrowed under the authority of section 2 of this Ordinance.

Interim power to raise money by issue of Treasury Bills. Cap. 250.

ORDINANCE No. 14 of 1953

Assented to in Her Majesty's name this ninth day of
June, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS

SECTION		SECTION
	PART I—PRELIMINARY	14—Application for the transfer of a licence.
1—Short title and commencement.		15—Variation of licence.
2—Interpretation.		16—Revocation of licences.
	PART II—PROMOTION AND DEVELOPMENT OF INDUSTRY BY MEANS OF INDUSTRIAL LICENSING	PART IV—SPECIAL PROVISIONS RELATING TO DECLARATIONS
3—Duties of Council in relation to industrial licensing.		17—Application for declaration in respect of scheduled articles.
4—Duties of Registrar.		18—Conditional licences.
	PART III—OPERATION OF INDUSTRIAL LICENSING	PART V—APPEALS
5—Industrial licensing.		19—Industrial Licensing Appeal Tribunal.
6—Applications.		20—Appeals.
7—Applications relating to existing industries.		21—Decision of Appeal Tribunal.
8—Publication of applications.		PART VI—MISCELLANEOUS
9—Objections.		22—Rules and orders.
10—Council to hold an inquiry.		23—Offences and penalties.
11—Council to make decision.		24—Repeal and saving.
12—Action by Registrar on receipt of decision from Council.		FIRST SCHEDULE
13—Transfer of a licence.		SECOND SCHEDULE
		THIRD SCHEDULE
		FOURTH SCHEDULE
		FIFTH SCHEDULE

**AN ORDINANCE TO MAKE PROVISION FOR THE
ORDERLY PROMOTION AND DEVELOPMENT OF
CERTAIN INDUSTRIES BY MEANS OF INDUS-
TRIAL LICENSING EFFECTED ON AN EAST
AFRICAN BASIS THROUGH THE EAST AFRICAN
INDUSTRIAL COUNCIL AND FOR MATTERS
RELATING THERETO AND CONNECTED THERE-
WITH**

Date of
commencement.

By Notice

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

PART I—PRELIMINARY

Short title and
commencement.

1. This Ordinance may be cited as the East African
Industrial Licensing Ordinance, 1953, and shall come into
operation upon such date as the Governor may, by notice in
the Gazette, appoint.

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

“Appeal Tribunal” means the Industrial Licensing Appeal Tribunal established under section 19 of this Ordinance;

“applicable date” means, in relation to any scheduled article, the date specified in the first column of the First Schedule to this Ordinance set out opposite the scheduled class of product, specified in the second column of that Schedule, within which class the scheduled article falls;

“applicant” means any person making an application under this Ordinance;

“conditional licence” means an industrial licence granted under the provisions of section 18 of this Ordinance;

“cottage industry” means, in relation to the manufacture of any scheduled article, any single unit of industry in which—

- (a) no more than ten workers are employed; and
- (b) no prime mover is utilized;

“Council” means the East African Industrial Council established by the East Africa High Commission under the East African Industrial Council Order, 1948; High Commission
Notice No. 31
of 1948.

“East Africa” or “East African Territories” means the Colony, the Protectorate of Uganda, and the Trust Territory of Tanganyika;

“factory” means any building or place, and any machinery or plant therein or thereon, intended to be used, or used, for the manufacture of any scheduled article;

“licence” means an industrial licence issued under the provisions of this Ordinance;

“licensee” means the holder of a licence;

“to manufacture”, with its grammatical variations and cognate expressions, means to subject any physical matter to any process—

- (a) which materially changes such matter in substance, character or appearance; and
- (b) which results in such matter, after being so processed, being a scheduled article, whether or not it was such an article before such process;

“objector” means any person who has lodged an objection to any application under this Ordinance and who has served a copy of such objection on the applicant;

“prime mover” means any engine, motor, or other appliance, which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel, or other source, in excess of 5 horsepower;

“Registrar” means such person as the High Commission may appoint to be the Registrar for the purposes of this Ordinance;

“scheduled class of product” means any class of product specified for the time being in the First Schedule to this Ordinance;

“scheduled article” means any article falling within any scheduled class of product;

“specified article” means, in relation to any licensee, any scheduled article which such licensee is authorized to manufacture for sale, or for the manufacture of which for sale such licensee is authorized to erect, establish, or operate a factory under and in accordance with the provisions of the licence.

(2) In determining for the purposes of this Ordinance whether—

- (a) any class of product is a scheduled class of product;
- (b) any article is a scheduled article; or
- (c) any article is a specified article,

regard shall be had to the normal trade usage in relation thereto.

PART II—PROMOTION AND DEVELOPMENT OF INDUSTRY BY MEANS OF INDUSTRIAL LICENSING

Duties of Council
in relation to
industrial
licensing.

3. (1) With the object of effecting on an East African basis the orderly promotion and development of industries manufacturing or seeking to manufacture for sale scheduled articles in East Africa, it is hereby declared that it shall be the duty of the Council to consider and deal with all applications relating to industrial licensing made under this Ordinance in accordance with the provisions of this Ordinance.

(2) The Council may, subject to the provisions of section 7 of this Ordinance, in its discretion grant or refuse any application made under the provisions of this Ordinance, and in considering any such application the Council shall, in addition to any other matters, have regard to—

- (a) the capital, technical skill, and raw materials available to the applicant;

- (b) the siting, or proposed siting, of any factory in relation to the availability of power, fuel, labour, transport, raw materials, land, and water;
- (c) the potential production of, and the potential demand for, both within and without the East African Territories, the scheduled articles in respect of which the application is made in so far as, in the opinion of the Council, such production and demand is likely to affect the undertaking in respect of which the application is made;
- (d) the interests and conditions of service of the labour employed or to be employed by the applicant;
- (e) the interests of the potential consumers of the scheduled articles in respect of which the application is being made;
- (f) the general promotion and development of industries and the avoidance of uneconomic competition.

4. (1) All applications and other documents which, under this Ordinance, are intended for consideration by the Council, shall be lodged with the Registrar; and the Registrar shall forward such applications and documents to the Council and shall also forward copies thereof to the Government of each of the East African Territories.

Duties of Registrar.

(2) All acts or decisions of the Council shall be signified through the Registrar.

(3) In the exercise of its duties under this Ordinance the Council may give orders to the Registrar, who shall give effect to such orders.

PART III—OPERATION OF INDUSTRIAL LICENSING

5. (1) From and after the applicable date and notwithstanding anything to the contrary contained in any Ordinance no person, other than a person carrying on a cottage industry, shall in the Colony—

Industrial licensing.

- (a) manufacture for sale any scheduled article; or
- (b) erect, establish, or operate, any factory for the manufacture for sale of any such article,

except under and in accordance with the conditions of an industrial licence issued or deemed under section 24 of this Ordinance to have been issued in that behalf under the provisions of this Ordinance, and any person desirous of being granted such a licence under this Ordinance shall make application therefor in the appropriate form set out in the Second Schedule to this Ordinance.

(2) The Governor may, on the advice of the Council and with the consent signified by resolution of the Legislative Council, by order amend the First Schedule to this Ordinance:

Provided that where any order under the proviso to sub-section (5) of this section has been made in respect of any scheduled article, no order under this sub-section deleting that article from the First Schedule shall be made during the additional period specified in such first-mentioned order for which the article is to remain a scheduled article.

(3) Notwithstanding anything contained in sub-section (2) but without prejudice to the application of sub-section (5) of this section no article in respect of which a licence has been issued and is valid shall be deleted from the First Schedule before the expiration of twenty years from the commencement of this Ordinance.

(4) For the purpose of this section—

(a) where a scheduled article is manufactured in the course of, and solely for the purpose of, manufacturing a specified article, then the scheduled article so manufactured shall be deemed not to have been manufactured for sale;

(b) where a scheduled article is manufactured in the course of the manufacture for sale of an article other than a scheduled article, then the scheduled article so manufactured shall be deemed to have been manufactured for sale.

(5) Notwithstanding any other provision contained in this Ordinance, upon the expiration of twenty years from its commencement all articles falling within any class of product then contained in the First Schedule shall cease to be scheduled articles:

Provided that the Governor may, on the advice of the Council and with the consent signified by resolution of the Legislative Council, at any time prior to the expiry of such period of twenty years by order declare that any article contained in the First Schedule shall remain a scheduled article for such additional period as may be specified in such order: and any licence granted in respect of such article shall, as from the expiry of such period of twenty years, have effect subject to the provisions of the law in force on the expiry of such period.

6. (1) An application for the grant, transfer, or variation, of an industrial licence under the provisions of this Ordinance shall be made to the Council. Applications.

(2) Such application shall be made in quadruplicate on the appropriate form set out in the Second Schedule to this Ordinance.

(3) Where the appropriate form specifies a fee, such fee shall be forwarded with the application; and if such fee is not so forwarded the Registrar shall return the application.

7. (1) Where any person, other than a person carrying on a cottage industry, on the applicable date was in East Africa— Applications relating to existing industries.

(a) manufacturing for sale any scheduled article; or

(b) operating any factory for the manufacture for sale of any such article,

then, on such person making application for a licence in respect of such article, the Council shall grant such application and the provisions of this Ordinance in relation to the publication of applications and the lodging of objections thereto shall not apply to any such application:

Provided that the provisions of this section shall apply only in respect of the scheduled article which the applicant was so manufacturing for sale on the applicable date or in respect of which he was so operating any factory.

(2) Notwithstanding the provisions of section 5 and of sub-section (1) (a) of section 23 of this Ordinance, any person to whom the provisions of this section apply shall not be guilty of an offence under such sub-section (1) (a) if he makes application for a licence within two months of the commencement of this Ordinance.

(3) Save as is provided in sub-section (1) of this section, all the provisions of this Ordinance shall apply to any application made under that sub-section and to the person making the application and, in particular, the provisions of sub-section (2) of section 11 of this Ordinance shall apply.

Publication of applications.

8. Every application made under the provisions of section 6 of this Ordinance shall be published by the Registrar in the form set out in the Second Schedule to this Ordinance in one issue of the Gazette of the East Africa High Commission and in two issues, within a period not exceeding six weeks of the Gazettes of each of the East African Territories.

Objections.

9. (1) Any person having a financial interest in the East African Territories who claims that in respect of any industry, commerce, or trade in which he is concerned, he is liable to be injuriously affected by the grant of any application published in accordance with the provisions of section 8 of this Ordinance may not later than thirty days from the date of the last publication effected in accordance with such provisions, lodge an objection with the Registrar.

(2) Any objection lodged with the Registrar under sub-section (1) of this section shall be in writing and shall set out the grounds upon which the objector claims that he is liable to be injuriously affected by the grant of such application.

(3) A copy of any objection lodged with the Registrar under sub-section (1) of this section shall be served by post by the objector on the applicant and the objection itself shall be certified accordingly.

Council to hold an inquiry.

10. (1) The Council shall, as soon as practicable, meet for the purpose of inquiring into any application made under this Ordinance.

(2) The date, time and place of such inquiry shall be notified by the Registrar in writing to the applicant and to the objector, if any.

(3) The Council shall investigate and consider every application and objection, if any, and shall hear, record the substance of, and consider, all relevant evidence and matters submitted by or on behalf of the applicant and objector, if any.

(4) At an inquiry held under the provisions of this section the applicant shall be entitled to be present or be represented during the whole hearing.

(5) Save with the express consent of the applicant an objector shall not be entitled to be present or be represented at the hearing of an application held under the provisions of this section except during the hearing of evidence of independent expert witnesses and witnesses giving evidence in rebuttal of his objection.

(6) Save as provided in sub-sections (4) and (5) of this section the procedure at any inquiry held under the provisions of this section shall be within the discretion of the Council.

(7) The Council may in its discretion at any stage of any inquiry under this section adjourn such inquiry for the purpose of obtaining further or better evidence or information.

11. (1) Upon the conclusion of an inquiry held under the provisions of section 10 of this Ordinance the Council shall, having regard to the provisions of section 3, but subject to the provisions of section 7 and of Part IV of this Ordinance, consider whether the application is to be granted or refused. Council to make decision.

(2) Any licence granted by the Council—

(a) shall specify the scheduled articles in respect of which the licence is granted;

(b) shall be subject to such conditions as the Council may think fit to impose; and

(c) shall be subject to the provisions of this Ordinance in force at the time of such grant.

(3) Subject to the provisions of Part IV of this Ordinance, the decision of the Council shall be by majority as provided in the East African Industrial Council Order, 1948. High Commission Notice No. 31 of 1948.

(4) The Council shall forward to the Registrar a copy of its decision, and, if such decision is that the application for the licence be refused, the grounds upon which such decision is based shall be specified therein.

12. Upon receipt by him of a decision made by the Council, the Registrar shall— Action by Registrar on receipt of decision from Council.

(a) if such decision is that a licence be granted, issue a licence, in respect of such scheduled articles and subject to such conditions as the Council may have specified, in the appropriate form set out in the Third Schedule to this Ordinance;

- (b) if such decision is that a licence be refused, notify the applicant in writing of such decision and the grounds upon which such refusal is based;
- (c) if such decision is that any other action be taken, take such action accordingly; and
- (d) in any of the above-mentioned cases if there is an objector, notify the objector accordingly.

Transfer of
a licence.

13. A licence may be transferred upon application being made in the appropriate form set out in the Second Schedule to this Ordinance.

Application for
transfer of a
licence.

14. An application for the transfer of a licence shall be dealt with in accordance with the provisions of this Ordinance; and the Council may, in its discretion, grant or refuse the application and may, if the application is granted, attach conditions to the licence and, where conditions are already attached to the licence which is sought to be transferred, may add further conditions thereto and vary or delete existing conditions.

Variation of
licence.

15. (1) The conditions attached to a licence granted under the provisions of this Part of this Ordinance may be varied upon application being made by the licensee in the appropriate form set out in the Second Schedule to this Ordinance.

(2) An application for the variation of the conditions of a licence shall be dealt with in accordance with the provisions of this Ordinance; and the Council may, in its discretion, grant or refuse the application and may, if the application is granted, subject to the approval of the applicant add further conditions thereto and vary or delete existing conditions.

Revocation of
licences.

16. (1) If, in the opinion of the Council, a licensee has—

- (a) failed to comply with any condition attached to his licence; or
- (b) failed or ceased to manufacture for sale any specified article, or to operate any factory for the manufacture for sale of such specified article, in respect of which the licence is granted; or
- (c) failed to maintain a minimum level of production of such specified articles,

the Council may, in its discretion, call upon him to show cause why his licence should not be revoked; and for such purpose the Council may hold such inquiry as it may think fit.

(2) If a licensee who has under sub-section (1) of this section been called upon to show cause why his licence should not be revoked fails to do so, or fails to do so to the satisfaction of the Council, the Council may revoke such licence from such date as the Council may decide or may make such other order, including variation of the licence or the conditions thereof, as it may think fit.

(3) Where any declaration has been made under section 17 of this Ordinance on the application of any licensee whose licence is revoked under the provisions of this section, then the Council may direct that such declaration shall cease to have effect from the date on which such revocation takes effect.

PART IV—SPECIAL PROVISIONS RELATING TO DECLARATIONS

17. (1) Any applicant for a licence or any licensee may apply to the Council for a declaration that, subject to the provisions of section 7 of this Ordinance, no other licence to manufacture for sale any scheduled article, or to erect, establish, and operate a factory for the manufacture for sale of any such article, covered by the licence of the applicant shall be granted during such period not exceeding five years from the date of such declaration, as the Council may determine and the Council may make such a declaration.

Application for declaration in respect of scheduled articles.

(2) Any declaration made under sub-section (1) of this section may, on the application of the licensee made either before or after the expiry of the declaration or any renewal of it, be renewed by the Council for a further period not exceeding five years from the date of the expiry of the declaration or any period for which it has been renewed.

(3) An application for a declaration or the renewal of a declaration under this section shall be dealt with in all respects as if it were an application for the grant of a licence under this Ordinance.

(4) Where the Council is considering an application under this section, the decision shall be by majority, so, however, that in respect of the Colony the declaration shall only be operative if the majority of the representatives appointed to the Council from the Colony vote in favour of making the declaration.

Conditional
licences.

18. (1) Notwithstanding the fact that a declaration has been made under section 17 of this Ordinance, the Council may, with the consent in writing of the licensee on whose application such declaration has been made, in its discretion grant or refuse an application for a conditional licence in respect of any scheduled articles comprised within any such declaration.

(2) Every application for a conditional licence shall have attached to it the consent in writing of the licensee on whose application a declaration has been made under section 17 of this Ordinance together with the conditions, if any, on which such licensee has so consented but shall otherwise be made and dealt with in all respects as if it were an application for the grant of a licence under the provisions of this Ordinance.

(3) Where a conditional licence is granted, then, during the period of its validity in accordance with the provisions of sub-section (4) of this section—

(a) it shall, notwithstanding the provisions of section 21 of this Ordinance, be subject to the conditions, if any, referred to in sub-section (2) of this section; and

(b) it shall be subject to such other conditions as the Council may attach thereto in accordance with the provisions of section 11 of this Ordinance; and

(c) it shall not, save with the consent in writing of the licensee who consented to its grant, be transferable; and

(d) it shall, save as is otherwise in this section provided, be subject to the provisions of this Ordinance.

(4) A conditional licence shall be valid only during the currency of the declaration which gave rise to the grant of the conditional licence and a period of three months thereafter:

Provided that the Council may on the application of the holder of such conditional licence and pending the determination of any application for a licence, extend the validity thereof for such further period, not exceeding three months, as the Council may think fit.

PART V—APPEALS

19. (1) There shall be established an appeal tribunal under the name of the Industrial Licensing Appeal Tribunal, which shall consist of a Chairman and six other persons, who shall be appointed by the High Commission by notice published in the Gazette of the High Commission; and the Chairman of the Appeal Tribunal shall be either a person holding or who has held judicial office in the East African Territories or an advocate of not less than seven years' standing entitled to practise before any of the courts of the East African Territories.

Industrial
Licensing Appeal
Tribunal.

(2) The High Commission may, from time to time, remove all or any of the persons appointed under sub-section (1) of this section and appoint others in the stead of such of them as may be removed, die, resign, or depart from East Africa.

(3) The Appeal Tribunal shall determine every appeal made to it under the provisions of section 20 of this Ordinance and may hear evidence, and the applicant and any objector shall have the right to appear before the Appeal Tribunal or to be represented.

(4) Subject to the provisions of this Part and of the rules contained in the Fourth Schedule the Appeal Tribunal shall have power to regulate its own procedure.

20. (1) Any applicant, objector, or licensee who is aggrieved by a decision of the Council under the provisions of this Ordinance may, within the time and in the manner set out in the rules contained in the Fourth Schedule to this Ordinance and on payment of the prescribed fee, appeal against such decision to the Appeal Tribunal and the decision of the Appeal Tribunal thereon shall be final and conclusive and shall not be questioned by any proceedings in any court.

Appeals.

(2) Where an applicant, objector, or licensee under this section succeeds in his appeal, the Appeal Tribunal may direct that the whole or any portion of the prescribed fee shall be refunded to him.

21. The decision of the Appeal Tribunal under the provisions of section 20 of this Ordinance shall be notified to the Registrar who shall notify all parties to the appeal of the decision, and if such decision is—

Decision of
Appeal Tribunal

(a) that a licence shall be granted, the Registrar shall issue the licence subject to such conditions as the Appeal Tribunal may, after consultation with the Council, direct to be attached thereto;

- (b) that the licence shall be refused, the Registrar shall notify the applicant accordingly or, if the licence has already been issued, shall notify the licensee that the licence has been revoked with effect from the date of the decision of the Appeal Tribunal;
- (c) that any other action shall be taken, such action shall accordingly be taken.

PART VI—MISCELLANEOUS

Rules and orders.

22. (1) The Governor may, on the advice of the Council—

- (a) by order, amend the Second and Third Schedules to this Ordinance;
- (b) make regulations generally for giving effect to the provisions of this Ordinance, and, in particular, for controlling and regulating cottage industries.

(2) The High Commission may by rules amend the Fourth Schedule to this Ordinance.

Offences and penalties.

23. (1) Any person who—

- (a) contravenes any of the provisions of sub-section (1) of section 5 of this Ordinance shall be guilty of an offence against this Ordinance and shall on conviction therefor be liable to a fine not exceeding two thousand shillings, or in default of payment of such fine, to imprisonment for any term not exceeding six months; and in the case of a continuing offence to a further fine not exceeding four thousand shillings in respect of each day on which the offence continues after conviction as aforesaid, or in default of payment to imprisonment for any term not exceeding twelve months;
- (b) knowingly makes any false statement in any application made, or at any inquiry held, under the provisions of this Ordinance shall be guilty of an offence against this Ordinance and shall on conviction therefor be liable to a fine not exceeding one thousand shillings, or in default of payment of such fine, to imprisonment for any term not exceeding three months.

(2) Where a person convicted of an offence against this Ordinance is a company, every director of the company and every officer of the company concerned in the management thereof, shall be guilty of the like offence, unless he proves that the act constituting the offence took place without his knowledge or consent.

24. The Industrial Licensing Ordinance is hereby repealed:

Repeal and saving.
Cap. 276.
Ord. 59 of 1949.
Ord. 49 of 1950.

Provided that—

- (a) any appointments made under the provisions of the Ordinance hereby repealed shall be deemed to have been made under this Ordinance and shall continue in force until other provision is made by virtue of this Ordinance;
- (b) all licences, conditional licences and declarations granted or made under the provisions of the Ordinance hereby repealed shall be deemed to have been granted or made under this Ordinance and shall continue to remain in force accordingly subject to the provisions of this Ordinance;
- (c) notwithstanding anything to the contrary contained in this Ordinance or in any declaration made under the provisions of the Ordinance hereby repealed and continued in force under the provisions of this section, the Council may, on the application of any person specified in the Fifth Schedule to this Ordinance grant a licence to such person in respect of any scheduled articles comprised within such declaration:

Provided further that—

- (i) no such licence shall be granted unless such person makes application therefor within two months of the commencement of this Ordinance;
- (ii) the provisions of this Ordinance, other than those of Part IV thereof, shall apply to any application made under this paragraph and to the person making the application, and in particular, the provisions of sub-section (2) of section 11 of this Ordinance shall apply;
- (iii) the Council in granting the licence and exercising the powers conferred by sub-section (2) of section 11 of this Ordinance shall have due regard to the position of any licensee on whose application any such declaration was made.

FIRST SCHEDULE

(Sections 2 and 5)

SCHEDULED CLASSES OF PRODUCT

<i>Applicable date</i>	<i>Class of product</i>
11th September, 1948.	Cotton yarn.
11th September, 1948.	Cotton piecegoods other than knitwear.
11th September, 1948.	Cotton blankets.
11th September, 1948.	Woollen yarn.
11th September, 1948.	Woollen piecegoods other than knitwear.
11th September, 1948.	Woollen blankets.
11th September, 1948.	Glazed articles of pottery.
The date on which this Ordinance comes into operation.	Fabric spun or woven from soft fibres other than fibres derived from cotton or flax.
The date on which this Ordinance comes into operation.	Steel drums of 5 to 60 gallons capacity, of 26 to 12 gauge.
The date on which this Ordinance comes into operation.	Caustic Soda other than Caustic Soda manufactured by way of recovery from a residue resultant from the use of Caustic Soda in any process.

SECOND SCHEDULE

FORMS

FORM 1

THE EAST AFRICAN INDUSTRIAL LICENSING
ORDINANCE, 1953APPLICATION FOR THE GRANT OF AN INDUSTRIAL LICENCE
(Section 6)

This form, when completed, shall be forwarded to the Registrar and shall be accompanied by a fee of Sh. 200.

1. Name of applicant.....
 2. Specific types of articles it is proposed to manufacture.....
 3. Specified articles for which the licence is desired.....
 4. Proposed location of works.....
 5. Capital resources of applicant and source or sources from which these will be obtained.....
 6. Is the applicant prepared to raise any part of the capital in East Africa?
- If so, how much?

*7. Would the applicant be prepared to agree to financial participation by an East African Government or by a government sponsored Corporation?

If so, what extent?

*8. If the answer to the question in 7 above is in the negative, would the applicant be prepared to agree to Government representation on the Board of Directors?

9. Types of power plant, if any, it is proposed to install

10. Types of other plant it is proposed to install

(i) New

(ii) Second-hand

(iii) Sources of supply

(iv) Probable date of availability

11. Estimated cost of works as a whole

12. Estimated annual consumption of raw materials

(i) Types and quantities

(ii) Sources of supply

13. Previous experience of applicant in type of production envisaged and availability of skilled and experienced managerial and supervisory staff

14. Estimated date on which production would begin

15. Anticipated volume of production—

(i) Initially, e.g. during first five years

(ii) Thereafter

16. Number of operatives envisaged—

(i) African

(ii) Non-African (number by race)

17. Estimated selling price of products of the industry (if possible to forecast)

18. Estimated trading prospects (if possible to forecast)

19. Proposed export markets (if any)

NOTE.—The applicant is invited to add any relevant information relating to conditions of service of African and non-African employees, and proposals for training of African operatives.

Signature of applicant

Date of application

* The questions 7 and 8 are included with a view to obtaining the fullest possible information as to the proposals of the applicant, and do not imply that financial participation is either desired by any East African Government or will be forthcoming, or that any form of tariff protection will be granted.

FORM 2

THE EAST AFRICAN INDUSTRIAL LICENSING
ORDINANCE, 1953APPLICATION FOR THE GRANT OF AN INDUSTRIAL LICENCE IN RESPECT
OF AN EXISTING INDUSTRY*(Section 7)*

This form, when completed, shall be forwarded to the Registrar.

1. Name of applicant.....
 2. Specific types of articles manufactured.....
 3. Specified articles for which the licence is desired.....
 4. Location of works.....
 5. Capital resources of applicant and source or sources from which these have been obtained.....
 6. Did the applicant raise any part of the capital in East Africa? If, so, how much?.....
 7. Types of power plant, if any, installed.....
 8. Types of other plant installed.....
 - (i) New
 - (ii) Second-hand
 - (iii) Sources of supply.....
 9. Cost of work as a whole.....
 10. Annual consumption of raw materials over the last five years or since the commencement of operations—
 - (i) Types and quantities.....
 - (ii) Sources of supply.....
 11. Date on which production began.....
 12. Volume of production—
 - (i) annually up to date.....
 - (ii) estimated thereafter
 13. Number of operatives engaged—
 - (i) African
 - (ii) Non-African (number by race)
 14. Selling price of products of the industry.....
 15. Has the enterprise been successful?.....
 16. Export markets, if any, to date.....
- and are there any proposed export markets?.....

NOTE.—The applicant is invited to add any relevant information relating to conditions of service of African and non-African employees, and proposals for training of African operatives.

Signature of applicant.....

Date of application.....

FORM 3

THE EAST AFRICAN INDUSTRIAL LICENSING
ORDINANCE, 1953

APPLICATION FOR THE GRANT OF A CONDITIONAL LICENCE
(Section 18)

This form, when completed, shall be forwarded to the Registrar and shall be accompanied by a fee of Sh. 200.

1. Name of applicant.....
2. Specific types of articles it is proposed to manufacture.....
.....
3. Specified articles for which the licence is desired.....
.....
4. Date of relevant declaration.....
5. Attach consent, in writing, of the licensee on whose application the declaration was made, together with the conditions on which he has so consented.
6. Proposed location of works.....
7. Capital resources of applicant and source or sources from which these will be obtained.....
8. Is the applicant prepared to raise any part of the capital in East Africa?
If so, how much?.....
- *9. Would the applicant be prepared to agree to financial participation by an East African Government or by a government sponsored Corporation?
If so, what extent?.....
- *10. If the answer to the question in 9 above is in the negative, would the applicant be prepared to agree to Government representation on the Board of Directors?.....
11. Types of power plant, if any, it is proposed to install.....
.....
12. Types of other plant it is proposed to install.....
(i) New
(ii) Second-hand
(iii) Sources of supply
(iv) Probable date of availability
13. Estimated cost of works as a whole.....
14. Estimated annual consumption of raw materials.....
(i) Types and quantities
(ii) Sources of supply
15. Previous experience of applicant in type of production envisaged and availability of skilled and experienced managerial and supervisory staff
.....
16. Estimated date on which production would begin.....

17. Anticipated volume of production—
 (i) Initially, e.g. during first five years.....
 (ii) Thereafter
18. Number of operatives envisaged—
 (i) African
- (ii) Non-African (number by race)
19. Estimated selling price of products of the industry (if possible to forecast).....
20. Estimated trading prospects (if possible to forecast).....
21. Proposed export markets (if any).....

NOTE.—The applicant is invited to add any relevant information relating to conditions of service of African and non-African employees and proposals for training of African operatives.

Signature of applicant.....

Date of application.....

* The questions 9 and 10 are included with a view to obtaining the fullest possible information as to the proposals of the applicant, and do not imply that financial participation is either desired by any East African Government or will be forthcoming, or that any form of tariff protection will be granted.

FORM 4

THE EAST AFRICAN INDUSTRIAL LICENSING
 ORDINANCE, 1953

APPLICATION FOR THE TRANSFER OF AN INDUSTRIAL LICENCE
 (Section 13)

This form when completed shall be forwarded to the Registrar and shall be accompanied by a fee of Sh. 100.

1. Name of licensee.....
2. Attach copy of licence which it is sought to transfer.
3. Name of person to whom the licence is proposed to be transferred
4. State reason for this application.....
5. If the undertaking is being sold, state the sale price.....
6. Capital resources of the proposed transferee.....
7. State any improvements which the proposed transferee intends to make

NOTE.—The proposed transferee is invited to add any relevant information.

Signature of applicants.....(licensee)

.....(transferee)

Date.....

FORM 5

THE EAST AFRICAN INDUSTRIAL LICENSING
ORDINANCE, 1953

APPLICATION FOR THE VARIATION OF THE CONDITIONS OF AN
INDUSTRIAL LICENCE

(Section 15)

This form when completed shall be forwarded to the Registrar and shall be accompanied by a fee of Sh. 100.

- 1. Attach copy of licence and specify the condition which is the subject matter of this application.....
 - 2. State the particular variation desired.....
 - 3. Give details of any material change of circumstances which have taken place since the date of the issue of the licence.....
 - 4. Any other relevant information.....
- Date..... Signature of applicant.....

FORM 6

THE EAST AFRICAN INDUSTRIAL LICENSING
ORDINANCE, 1953

FORM OF PUBLICATION OF AN APPLICATION FOR THE GRANT, RENEWAL,
TRANSFER, OR VARIATION, OF AN INDUSTRIAL LICENCE

(Section 8)

In accordance with the provisions of section 8 of the East African Industrial Licensing Ordinance, 1953, it is hereby notified for general information that an application dated..... has been received from..... of..... for the transfer, grant, variation (strike out whichever is inapplicable) of an Industrial/a Conditional Licence to manufacture for sale and to erect, establish, and operate, a factory for the manufacture for sale of (here set out the specified articles in respect of which the application is made).....

2. Any person having a financial interest in the East African Territories who claims that, in respect of any industry, commerce, or trade, in which he is concerned, he is liable to be injuriously affected by the granting of this application may, not later than thirty days from the date of the last publication of this notice, lodge with the Registrar an objection and shall serve a copy thereof on the applicant. Any objection so made must be in writing and must set out the grounds upon which the objector claims that he is liable to be injuriously affected by the granting of such application. An objection must be certified to the effect that a copy thereof has been served on the applicant.

Date.....

Registrar.

FORM 7

THE EAST AFRICAN INDUSTRIAL LICENSING
ORDINANCE, 1953

FORM OF PUBLICATION OF AN APPLICATION FOR A DECLARATION
(Under Section 17)

In accordance with the provisions of section 17 of the East African Industrial Licensing Ordinance, 1953, it is hereby notified for general information that an application dated has been received from for a declaration under section 17 of the Ordinance that, subject to existing rights, no further licences for the manufacture of (here set out specified articles) shall be issued for a period of years from

2. Any person having a financial interest in the East African Territories who claims that, in respect of any industry, commerce, or trade in which he is concerned, he is liable to be injuriously affected by the granting of this application may, not later than thirty days from the date of the last publication of this notice, lodge with the Registrar an objection and shall serve a copy thereof on the applicant. Any objection so made must be in writing and must set out the grounds upon which the objector claims that he is liable to be injuriously affected by the granting of such application. An objection must be certified to the effect that a copy thereof has been served on the applicant.

Date..... Registrar.

THIRD SCHEDULE
(Section 12)

LICENCES

FORM 1

THE EAST AFRICAN INDUSTRIAL LICENSING
ORDINANCE, 1953

Industrial Licence No. issued at under the provisions of sections 7, 11 and 12 of the East African Industrial Licensing Ordinance, 1953.

..... (name of licensee) is hereby licensed to continue to manufacture for sale and to operate a factory for the manufacture for sale of (here set out the specified articles) at subject to the provisions of the East African Industrial Licensing Ordinance, 1953, and to the following conditions.....

Date..... Registrar.

FORM 2

THE EAST AFRICAN INDUSTRIAL LICENSING ORDINANCE, 1953

Industrial Licence No. issued at under the provisions of sections 11 and 12 of the East African Industrial Licensing Ordinance, 1953.

.(name of licensee) of is hereby licensed to manufacture for sale and to erect, establish and operate a factory for the manufacture for sale of (here set out specified articles) at subject to the provisions of the East African Industrial Licensing Ordinance, 1953, and to the following conditions.

Date. Registrar.

FORM 3

THE EAST AFRICAN INDUSTRIAL LICENSING ORDINANCE, 1953

Conditional Industrial Licence No. issued at under the provisions of sections 11, 12 and 18 of the East African Industrial Licensing Ordinance, 1953.

. (name of licensee) of is hereby licensed to manufacture for sale and to erect, establish and operate a factory for the manufacture for sale of (here set out specified articles). at subject to the provisions of the East African Industrial Licensing Ordinance, 1953, and to the following conditions.

This licence is valid for the period set out in sub-section (4) of section 18 of the East African Industrial Licensing Ordinance, 1953, and only in respect of the specified articles and premises described above.

. Registrar.

Date.

FOURTH SCHEDULE

THE EAST AFRICAN INDUSTRIAL LICENSING
(APPEAL) RULES, 1953*(Section 20)*

1. These Rules may be cited as the East African Industrial Licensing (Appeal) Rules, 1953.

2. Notice of any appeal under the provisions of section 20 of the Ordinance shall be given in writing to the Appeal Tribunal within thirty days of the date of notification by the Registrar to the appellant (whether as applicant or objector) of the decision against which it is desired to appeal.

3. The grounds of appeal shall be submitted in writing within a further fourteen days of the date of such notice of appeal and the appeal shall otherwise lapse.

4. The notice of appeal shall be accompanied by a fee of Sh. 200.

5. The grounds of appeal shall be accompanied by a fee of Sh. 2,000 and the Appeal Tribunal may direct that the whole or any portion thereof be refunded under the provisions of section 20 (2) of the Ordinance.

FIFTH SCHEDULE

(Section 24)

Van Eeghen and Maclaine (East Africa), Ltd.

Moshi Trading Company, Ltd.

ORDINANCE No. 15 of 1953

Assented to in Her Majesty's name this ninth day of June, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE MUNICIPALITIES ORDINANCE

9th June, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Municipalities (Amendment) Ordinance, 1953, and shall be read and construed as one with the Municipalities Ordinance (hereinafter referred to as the principal Ordinance).

Short title.

Cap. 136.

2. Section 4 of the principal Ordinance is amended in the following respects—

Amendment of section 4 of the principal Ordinance.

(a) by substituting for paragraph (vi) thereof the following new paragraph—

(vi) two members of the County Council of Nairobi, to be appointed by the County Council;

(b) by substituting for paragraph (vii) thereof the following new paragraph—

(vii) three African members, to be nominated by the Member, who shall be selected from among persons resident within the Municipality of Nairobi.

3. Section 23 of the principal Ordinance is amended by substituting for the words "once in every month", appearing at the end thereof, the words "once in every three months".

Amendment of section 23 of the principal Ordinance.

4. Section 38 of the principal Ordinance is amended by substituting for the words "one hundred and fifty pounds", appearing in sub-section (1) thereof, the words "ten thousand shillings".

Amendment of section 38 of the principal Ordinance.

Amendment of
section 42B of
the principal
Ordinance.

5. Section 42B of the principal Ordinance is amended in the following respects—

- (a) by renumbering the section as section 43A;
- (b) by substituting for the word and figures "section 52", appearing in sub-section (1) thereof, the words and figures "paragraph (22) of section 59";
- (c) by deleting sub-sections (2) and (3) thereof and substituting therefor the following new sub-section as sub-section (2)—

(2) (a) A Council, having established a fund, may after receiving a report from a Fellow of the Institute of Actuaries or a Fellow of the Faculty of Actuaries in Scotland appointed by such Council and subject to the approval of the Member, agree with any employing authority to admit employees of such employing authority to membership of the fund with retrospective effect, and may amend any rules made under sub-section (1) of this section to enable such rules to be applied to any such employing authority and to any employee of such employing authority admitted to membership of the fund.

(b) A Council may arrange with any other local authority administering a fund for the admission, on such terms and conditions as may be agreed, of any employee of such Council to participate in the benefits of such fund:

Provided that sub-section (1) of this section shall cease to apply to a Council, any of whose employees have been admitted under this sub-section to membership of a fund with regard to those employees as from the date of such admission.

- (d) by renumbering sub-section (4) thereof as sub-section (3) and by adding the following new sub-sections as sub-sections (4) and (5) thereof—

(4) Any rules made under this section may operate retrospectively within the limits prescribed by the rules as regards contributions by the officers, servants and Council and as regards the calculation of the pension or other payment.

(5) In this section the expression "employing authority" means any local authority or association of local authorities of the Colony and Protectorate of Kenya, and any local authority of the Trust Territory of Tanganyika, the Protectorate of Uganda, or the Protectorate of Zanzibar which is empowered to enter into an agreement under paragraph (a) of sub-section (2) of this section.

6. Section 60 of the principal Ordinance is amended by adding thereto the following new sub-section as sub-section (3) thereof—

Amendment of section 60 of the principal Ordinance.

(3) Where the Council is unable to ascertain the name and address of the owner of such building, the owner of the land upon which the building stands shall, upon being required in writing so to do by the Council, within twenty-eight days of the date of service of such requirement, furnish the Council with full particulars of the name and address of the owner of such building, and if the owner of the land shall without reasonable excuse fail to furnish the said particulars within the time prescribed or if he shall in furnishing the said particulars make any statement which proves to be false he shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings, and if he shall thereafter continue to withhold the said particulars he shall be liable to a further fine not exceeding thirty shillings for every day during which such offence shall continue.

7. Section 67 of the principal Ordinance is amended by renumbering the section as sub-section (1) thereof and by adding thereto the following new sub-section—

Amendment of section 67 of the principal Ordinance.

(2) If any person shall require a supply of electricity or water from the Council to premises occupied or about to be occupied by him and shall have previously quitted other premises at which electricity or water has been supplied to him by the Council without paying all charges for electricity or water and all other sums due to the Council in respect of the supply thereof or in respect of any advances made under the provisions of section 61 or 63 of this Ordinance, the Council may refuse such person a supply of electricity or water, or if such supply has already been provided may forthwith cut off such supply, and for that purpose may cut or disconnect any pipe, wire, line or other work through which the electricity or

water may be supplied, and may, until such charges or other sums together with the cost (if any) incurred by the Council in cutting off such supply of electricity or water is fully paid, but no longer, discontinue the supply thereof to such person.

Amendment of section 96 of the principal Ordinance.

8. Sub-section (6) of section 96 of the principal Ordinance is amended in the following respects—

(a) by deleting the semi-colon at the end of sub-paragraph (ii) of paragraph (b) thereof and by adding thereto the following words—

and a sum of which is equivalent to one-third of any payment made by the Council or Board with the approval of the Member by way of contribution in respect of any such officer to a pension, provident or benevolent fund under the provisions of sub-paragraph (a) of paragraph (22) of section 59 of this Ordinance;

(b) by deleting the semi-colon at the end of sub-paragraph (iii) of paragraph (b) thereof and by adding thereto the following words—

and a sum which is equivalent to one-half of any payment made by the Council or Board with the approval of the Member by way of contribution in respect of any such officer to a pension, provident or benevolent fund under the provisions of sub-paragraph (a) of paragraph (22) of section 59 of this Ordinance;

Insertion of new sections 101A and 101B into the principal Ordinance.

Establishment of capital fund.

9. There shall be inserted immediately after section 101 of the principal Ordinance the following new sections—

101A. (1) The Council may in accordance with regulations to be made by the Council with the approval of the Member, establish a capital fund for the purpose of defraying capital expenditure and reducing outstanding debts. Such regulations may make provision for any matters incidental to the establishment and administration of the capital fund.

(2) The Council shall keep a separate account of the transactions of the capital fund and the provisions of sections 102 to 107 (inclusive) of this Ordinance shall apply to such account.

101B. (1) The Council may in accordance with regulations to be made by the Council with the approval of the Member establish a consolidated loans fund for the purpose of centralizing all loans transactions of the Council. Such regulations may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

Establishment of consolidated loans fund.

(2) Notwithstanding anything contained in any other Ordinance, By-laws, Rules or Regulations the Council may pay into the consolidated loans fund established under the provisions of sub-section (1) of this section any moneys forming part of any provident, superannuation, reserve, capital, capital reserve, renewals, repairs, depreciation, insurance, contingency or other fund of the Council (hereinafter referred to as "the lending fund") and not for the time being required and such moneys shall be deemed to be moneys borrowed by the Council and shall be used accordingly subject to the following conditions—

(a) the moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the said fund was established; and

(b) there shall be paid out of the consolidated loans fund to the lending fund an amount equal to the interest on any moneys so used and for the time being not repaid at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the average rate of interest payable by the Council on their current borrowings.

(3) The Council shall keep a separate account of the transactions of the consolidated loans fund and the provisions of sections 102 to 107 (inclusive) of this Ordinance shall apply to such account.

10. There shall be inserted immediately after section 133 of the principal Ordinance the following new section—

Insertion of new section 133A into the principal Ordinance.

133A. (1) If at any time the Governor, by proclamation under section 12 of this Ordinance, shall declare any area which is then a municipality under the jurisdiction of a Municipal Board to be a municipality under the

Succession of Municipal Council to rights and liabilities of Municipal Board.

jurisdiction of a Municipal Council the following provisions shall have effect as from the date of such proclamation—

- (i) all by-laws made by the Board shall be deemed to be by-laws made by the Council and shall continue to be of full force and effect within the area to which they apply until altered or revoked under this Ordinance;
- (ii) all appointments made, powers conferred, and notifications served or published by the Board shall be deemed respectively to have been made, conferred, served and published by the Council;
- (iii) all works and undertakings authorized to be executed, all rights, liabilities and engagements existing, and all actions, suits and legal proceedings pending by or against the Board shall be vested in, attached to, and be enforced, carried on and prosecuted by or against the Council and no such action, suit or proceeding shall abate or be discontinued or prejudicially affected by the operation of the proclamation;
- (iv) all rates, fees, charges and debts of whatsoever description due or payable to or recoverable by the Board shall be payable to or recoverable by the Council;
- (v) all property, moveable and immoveable, vested in or belonging to the Board or to which the Board was entitled and all assets and claims to which the Board was entitled, shall be vested in and belong to the Council;
- (vi) all creditors of the Board shall have the same rights and remedies against the Council as they had against the Board;
- (vii) all licences, registrations and permits issued, made or granted by the Board shall continue in force for the period, if any, specified in such licences, registrations or permits, unless the same are sooner lawfully suspended or cancelled by the Council.

(2) This section shall be deemed to have come into operation on the first day of November, 1952.

11. The provisions of the principal Ordinance specified in the First Column of the Schedule to this Ordinance shall have effect subject to the amendments set out in relation thereto respectively in the Second Column of that Schedule.

Minor amend-
ments to the
principal
Ordinance.

SCHEDULE

First Column	Second Column
Section 2 ..	<p>Substitute for the definition of "owner", appearing therein the following definition—</p> <p>"owner", in the case of freehold property, means the person (other than Her Majesty) registered as the owner of the freehold of such property, and, in the case of any property held under a lease for a period of not less than ten years, or for the natural life of any person, or which is renewable from time to time at the will of the lessee indefinitely or for a period which together with the first period thereof amount in all to not less than ten years, means the person registered as the lessee of such property holding under such lease and includes any agent who receives rents or profits on behalf of any such person and also any superintendent, overseer or manager of any such lessee in respect of the holding on which he resides as such superintendent, overseer, or manager.</p>
Section 59 ..	<p>(a) Delete the words "subject to the consent of the Governor", appearing at the commencement of paragraph (16) thereof, and the proviso to that paragraph.</p> <p>(b) Add to sub-paragraph (a) of paragraph (22) the following two provisos—</p> <p>Provided that sub-paragraph (a) of this paragraph, save and except only the power to contribute to any pension, provident or benevolent fund intended for the benefit of the officers and servants of the Council, shall cease to apply to a Council, any of whose officers or servants have been admitted by agreement under paragraph (a) of sub-section (2) of section 43A of this Ordinance to the membership of a pension, provident or benevolent fund established, controlled, managed and maintained by any other local authority with regard to those officers or servants as from the date of such admission :</p> <p>Provided further that the Municipal Council of Nairobi shall also have power subject to the provisions of rules made under paragraph (a) of sub-section (2) of section 43A of this Ordinance, to establish, control, manage, and maintain a pension, provident or benevolent fund, within the structure of a fund, established as hereinbefore provided, intended for the benefit of the officers and servants</p>

SCHEDULE—(Contd.)

<i>First Column</i>	<i>Second Column</i>
Section 59 (Contd.)	<p>of any employing authority as defined in section 43A of this Ordinance, and to grant pensions and gratuities from any such fund to such officers or servants of such employing authority as shall have been admitted to such fund on their retirement from the service of such employing authority and to dependants on the death of such officers or servants.</p> <p>(c) Insert after the words "under this sub-section", appearing in sub-paragraph (b) of paragraph (22), the words "or no arrangement has been made under the provisions of paragraph (b) of sub-section (2) of section 43A".</p> <p>(d) Insert after the words "fund so established", appearing in sub-paragraph (b) of paragraph (22), the words "or arrangements so made".</p> <p>(e) Insert after the words "under this sub-section", appearing in sub-paragraph (c) of paragraph (22), the words "or an arrangement has been made under the provisions of paragraph (b) of sub-section (2) of section 43A".</p> <p>(f) Substitute for the words and figures "sub-sections (2) to (5) of section 76", appearing in sub-paragraph (b) of paragraph (45), the words and figures "sub-sections (3) to (6) of section 76".</p> <p>(g) Substitute for the words "subject to the consent of the Governor, and to the provisions of any law relating to water rights", appearing at the commencement of paragraph (47), the words "subject to the consent of the Member, and to the provisions of the Water Ordinance, 1951," and also insert in the margin opposite to the words "Water Ordinance, 1951," the reference "No. 56 of 1951".</p>
Section 61 ..	<p>(a) Substitute for the words "Subject to the provisions of any law relating to water rights", appearing at the commencement of the section, the words "Subject to the provisions of the Water Ordinance, 1951," and also insert in the margin opposite to the words "Water Ordinance, 1951," the reference "No. 56 of 1951".</p> <p>(b) Substitute for the words and figures "sub-sections (2) to (5) of section 76", appearing in paragraph (4), the words and figures "sub-sections (3) to (6) of section 76".</p> <p>(c) Delete the proviso to the section.</p>

SCHEDULE—(Contd.)

<i>First Column</i>	<i>Second Column</i>
Section 62 ..	Insert after the word "premises", appearing therein, the words "within the area of supply of the Council".
Section 63 ..	Substitute for the words and figures "sub-sections (2) to (5) of section 76", appearing in paragraph (c) of sub-section (2), the words "sub-sections (3) to (6) of section 76".
Section 69 ..	Delete the proviso to the section.
Section 77 ..	(a) Insert after the word "regulating", appearing in paragraph (26), the words "and licensing". (b) Insert after the word "regulating", appearing in paragraph (57), the words "and licensing".
Section 95 ..	Substitute for the words "three years", appearing in paragraphs (a) and (b) of sub-section (1), the words "twelve years".
Third Schedule	Substitute for the word and figures "section 91", appearing therein, the word and figures "section 95".

ORDINANCE No. 16 of 1953

Assented to in Her Majesty's name this ninth day of June, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE MEDICAL
PRACTITIONERS AND DENTISTS ORDINANCE**

Date of commencement.

9th June, 1953

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 Medical Practitioners and Dentists (Amendment) Ordinance, 1953, and shall be read and construed as one with the Medical Practitioners and Dentists Ordinance, hereinafter referred to as the principal Ordinance.

Cap. 125.

Amendment of section 6 of the principal Ordinance.

2. Section 6 of the principal Ordinance is amended by substituting a semi-colon for the full stop at the end thereof and by adding thereto the following paragraphs—

(c) the holder of a diploma of the Makerere Medical School received after the 1st day of December, 1951, who has been engaged in employment as a resident house surgeon or house physician for at least two years in one or more prescribed hospitals and whose service while so employed has been satisfactory;

(d) the holder of a diploma of the Makerere Medical School received before the 1st day of December, 1951, subject to such conditions as may be prescribed.

Amendment of section 11 of the principal Ordinance.

3. Section 11 of the principal Ordinance is amended by substituting for the words "an assistant surgeon", appearing therein, the words "a district surgeon, an assistant surgeon".

Amendment of section 12 of the principal Ordinance.

4. Section 12 of the principal Ordinance is amended by substituting for the words "an assistant surgeon", appearing therein, the words "a district surgeon, an assistant surgeon".

5. Section 22 of the principal Ordinance is amended by substituting for the proviso thereto the following proviso—

Amendment of section 22 of the principal Ordinance.

Provided that nothing in this section contained shall be deemed to make it an offence for any person in the service of—

- (i) the Medical Department of the Government; or
- (ii) any hospital, dispensary or similar institution which the Director of Medical Services may, by notice in the Gazette, declare to be an approved institution for the purposes of this section,

to render medical assistance in the course of his duties in such service.

ORDINANCE No. 17 of 1953

Assented to in Her Majesty's name this ninth day of
June, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS**SECTION**

- 1—Short title.
- 2—Interpretation.
- 3—Establishment and constitution of the Central Housing Board.
- 4—Meetings and procedure of the Board.
- 5—Accounts and report of the Board.
- 6—Establishment of the Housing Fund.
- 7—Loans and grants by the Board and repayments of loans.
- 8—Charge of loan on rates and revenues of local authority.
- 9—Powers in relation to rate where default made.
- 10—Charge of service of loan to particular account.
- 11—Powers of local authorities.
- 12—Loans by local authorities for the construction of dwellings.
- 13—Repayment of loans.
- 14—Security for loans.
- 15—Loan may be made notwithstanding non-registration of title, etc.

SECTION

- 16—Discharge of security and repayment of loan.
- 17—Rate of interest on loans.
- 18—Remedies in respect of loans.
- 19—Approved schemes and dwellings may be exempted from by-laws, etc.
- 20—Governor's powers where inadequate or unsuitable accommodation provided for Africans.
- 21—Member's powers upon failure of local authority to comply with requirements made under section 20.
- 22—Additional duties of Board.
- 23—Borrowing by the Board.
- 24—Power of Member to make regulations.
- 25—Powers of entry and inspection of premises.
- 26—Provisions of this Ordinance in relation to other laws.
- 27—Savings.
- 28—Repeal of Cap. 142.

AN ORDINANCE TO PROVIDE FOR LOANS AND GRANTS OF PUBLIC MONEYS FOR THE CONSTRUCTION OF DWELLINGS FOR CERTAIN CLASSES OF THE POPULATION, TO ESTABLISH A HOUSING FUND AND A HOUSING BOARD FOR THESE PURPOSES: AND FOR PURPOSES CONNECTED THEREWITH

Date of commencement.

9th June, 1953

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 Housing Ordinance, 1953.

Interpretation.

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

“approved” means approved by the Board;

“Board” means the Central Housing Board appointed under section 3 of this Ordinance;

“dwelling” means a building the whole or part of which is intended to provide residential accommodation for Africans, or for Arabs, Baluchis, Somalies, Abyssinians, Malagasies or Comoro Islanders;

“grant” means a grant of money made to a local authority out of the Housing Fund under the provisions of section 7 (1) (a) of this Ordinance;

“Housing Fund” means the Fund established under section 6 of this Ordinance;

“local authority” means a municipal council or board established under the Municipalities Ordinance, a County District Council established under the Local Government (County Councils) Ordinance, 1952, an African District Council established under the African District Councils Ordinance, 1950, or any person whom, or body of persons which, the Governor may by notice in the Gazette declare to be a local authority for the purposes of this Ordinance;

Cap. 136.

No. 30 of 1952.

No. 12 of 1950.

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

“scheme” means a proposal for the construction of several approved dwellings including such other proposals as may be necessary or desirable or incidental thereto by way of the provision of roads, drains, open spaces, places of worship, places of recreation, facilities for social welfare and trading, and the acquisition, laying out, subdivision and development of land comprised within the area of the scheme.

3. (1) There is hereby established a Central Housing Board which shall be a body corporate by that name with perpetual succession and a common seal, and which shall perform the duties and have the powers conferred on it by this Ordinance.

Establishment and constitution of the Central Housing Board.

(2) The Board shall consist of such persons as the Member may appoint; the Member shall designate one of the members to be Chairman and shall appoint an officer in the public service to be secretary to the Board.

(3) Members of the Board shall be appointed as such for a period of two years, or for such longer period as the Member may determine, but every member shall hold office during the pleasure of the Governor.

(4) The Board shall have power to enter into contracts, to hold and dispose of property both moveable and immovable, and may sue and be sued in its corporate name.

Meetings and
procedure of
the Board.

4. (1) In the absence of the Chairman from any meeting of the Board a person shall be chosen, by the members present at the meeting, from their number, to preside at such meeting.

(2) At all meetings of the Board three members shall form a quorum.

(3) The person acting as chairman of any meeting of the Board shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote. A decision of the majority of the members present and voting at a meeting of the Board shall be deemed to be the decision of the Board.

(4) The Board shall have power to act notwithstanding a vacancy among the members thereof, and all acts done at any meeting of the Board shall, notwithstanding that it was afterwards discovered that there was some defect in the appointment of a person purporting to be a member of the Board, be as valid as if that defect had not existed.

(5) Subject to the provisions of this section the Board shall have power to regulate its own procedure.

(6) The seal of the Board shall be authenticated by the signatures of the Member and the Chairman of the Board and such seal shall be officially and judicially noticed.

(7) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Chairman.

Accounts and
report of the
Board.

No. 14 of 1952.

5. (1) The Board shall keep such capital, revenue and other accounts as the Member may require, and such accounts together with a balance sheet shall be audited annually by the Director of Audit appointed under the Audit Ordinance, 1952.

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

(3) Every such report and all such accounts and balance sheets as are furnished to the Member under this section shall be laid by the Member upon the table of the Legislative Council as soon as may be after they are submitted to him.

6. (1) There is hereby established a Housing Fund under the control of the Board, consisting of such securities and money and applicable to such purposes as are provided for by this Ordinance. Establishment of Housing Fund.

(2) There shall, by virtue of this Ordinance and without further assurance, become vested in the Board the right of the Government to demand, sue for and recover, and give receipts for, and the benefit of all securities for every loan made to a local authority by the Government out of the Housing Fund established under the provisions of the Housing Ordinance (hereby repealed) to the extent to which such loans, at the date of the commencement of this Ordinance, remain outstanding, and all moneys received by the Board on account of every such loan shall be carried to the Housing Fund. Cap. 142.

(3) There shall also be paid to the Board and carried to the Housing Fund—

- (a) all such moneys as may from time to time be voted or appropriated by the Legislative Council for payment into the Housing Fund;
- (b) the repayments of principal or interest made by any local authority on account of any loan referred to in sub-section (2) of this section;
- (c) all repayments of principal or interest made by any local authority, company, society or individual person, on account of any loan made by the Board under the provisions of this Ordinance;
- (d) all such sums as may from time to time be borrowed by the Board in exercise of the powers conferred by this Ordinance;
- (e) all such sums as may from time to time become due upon any investment made by the Board in exercise of the powers conferred by this Ordinance.

7. (1) The Board may, from the Housing Fund and from time to time, in manner provided by this Ordinance— Loans and grants by the Board and repayments of loans.

- (a) lend, or grant, money to any local authority, for the purpose of enabling the authority to exercise any of the powers conferred upon it by this Ordinance;
- (b) make loans to any company, society, or individual person for the purpose of enabling such company, society or individual person to acquire land and construct thereon approved dwellings or to carry out approved schemes;

- (c) construct dwellings, carry out approved schemes and lay out and provide services for approved schemes;
- (d) acquire any land, building, estate or interest therein for any of the purposes of this Ordinance;
- (e) maintain any land, building, estate or interest therein for any of the purposes of this Ordinance;
- (f) appoint and employ on such terms and conditions as the Board may determine such officers and servants as it may deem necessary.

(2) Every loan made by the Board under this Ordinance shall bear interest at such rate as the Board may from time to time prescribe.

(3) The Board in considering the propriety of making a loan to any company, society or individual person, shall have regard to the financial position of the company, society or individual person and, the sufficiency of the security for the repayment thereof.

Charge of loan on rates and revenues of local authority.

8. All loans made to a local authority by the Board shall be charged indifferently on all the rates and revenues of the local authority.

Powers in relation to rate where default made.

9. (1) If any local authority having power to levy rates or taxes or impose and collect dues or cesses shall neglect to pay any moneys due to the Board in respect of any loan granted under this Ordinance, the Governor in Council may, at any time after the expiry of sixty days from the date on which such moneys become due and payable, forthwith impose and levy a rate or tax of sufficient amount which may be imposed or levied by the local authority and impose and recover any dues or cesses which may be imposed and recovered by the local authority.

(2) For the purpose of this section the Governor in Council shall have all the powers vested in the local authority for imposing, levying and recovering rates upon all rateable property and improvements thereon within its jurisdiction and for imposing, levying and recovering taxes and for imposing and recovering such dues and cesses as aforesaid.

(3) The Governor in Council in making an estimate of the rate or tax to be levied or of the dues or cesses to be imposed for the purpose of paying any sum due to the Board as aforesaid, may add such sum as the Governor in Council thinks sufficient for defraying and may defray thereout, all costs,

charges and expenses, including remuneration to any officer or other person employed, incurred in the execution of the powers conferred by this section or otherwise by reason of the default in payment of the sum due to the Board as aforesaid.

(4) If, after payment out of the proceeds of any such rate or tax or dues or cesses of the sum due to the Board as aforesaid and of the expenses of and incidental to the imposition, levy and recovery of such rate or tax or dues or cesses, there remains any balance, such balance shall be paid over to the local authority whose default led to the exercise by the Governor in Council of his powers under this section.

10. Where a loan is made by the Board to meet any expenditure of a local authority which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon.

Charge of service of loan to particular account.

11. Any local authority may—

Powers of local authorities.

(a) out of loans or grants made to it from the Housing Fund—

(i) acquire land, construct approved dwellings and carry out approved schemes within the area of its jurisdiction;

(ii) with the approval of the Board acquire land and construct approved dwellings or carry out approved schemes outside its area of jurisdiction;

(b) sell or let on such conditions as may be specified by the Board any dwellings constructed by it:

Provided that all moneys received by the local authority from the sale of any dwelling shall be appropriated to the reduction or extinction of any existing debt incurred for the construction of such dwelling.

12. Any local authority may, out of any loan or grant made to it from the Housing Fund make a loan to any company, society or individual person for the purpose of enabling such company, society or individual person—

Loans by local authorities for the construction of dwellings.

(a) to acquire land within the area of jurisdiction of such local authority and construct thereon approved dwellings; or

(b) to carry out therein an approved scheme :

Provided that no such loan shall exceed such proportion of the estimated cost of the land and dwellings or scheme as the Board may determine either generally or specially.

Repayment of
loans.

13. (1) Every loan made under this Ordinance shall be repayable by such instalments as the Board or the local authority, as the case may be, shall specify and within a period not exceeding forty years or such other period as may be prescribed by the Member.

(2) Where a loan has been made repayable within a period less than the full period allowed by sub-section (1) of this section, the Board or the local authority, as the case may be, if the repayment of the loan with interest is in its opinion sufficiently secured, may extend the period for the repayment thereof to a period not exceeding the said full period from the date of the loan.

Security for
loans.

14. (1) Subject to the provisions of this section, every loan made to a company, society or individual person shall be secured by a first mortgage or charge over the land on which the dwelling is to be constructed or is situate or, as the case may be, over the land acquired for the approved scheme together with all the buildings and improvements on such land, and on such further security or on any other security, as the Board, or the local authority, as the case may be, may require.

(2) The Board may prescribe the form of such first mortgage or charge and the affixation of the seal of the Board, or the local authority, as the case may be, to any mortgage or charge purporting to be made under the provisions of this Ordinance shall be conclusive evidence that the same is in the prescribed form.

Loan may be
made notwith-
standing non-
registration of
title, etc.

15. (1) Any loan may be made notwithstanding that the land in respect of which the loan is made has not been surveyed or that such a map or plan of the land as any officer concerned with the registration of the title to or the title deeds of such land is bound to accept for the purpose of registering any dealing with the land is not, for the time being registered or available for registration.

(2) Upon making such a loan the Board, or the local authority, as the case may be, may require the execution of such documents as will ensure—

- (a) that the loan will, immediately upon the issue or completion of such grant, lease, purchase or other acquisition as aforesaid, become secured as a first mortgage or charge upon the land in favour of the Board or local authority;
- (b) that pending the creation of such first mortgage or charge, no mortgage or charge of the land which would or might rank in priority thereto shall be created.

16. Upon all money due upon any loan being fully paid, the Board, or the local authority, as the case may be, shall, when required, give to the local authority, company, society or individual person as aforesaid a receipt in writing for the same, and such further sufficient discharge (if any) as may be necessary, and upon such receipt being given the rates and revenues of the local authority or the land mortgaged or charged, as the case may be, shall be released from the charge created by section 8 of this Ordinance, or the first mortgage or charge, as the case may be.

Discharge of security and repayment of loan.

17. The rate of interest payable on a loan made by a local authority shall not exceed the rate of interest which the local authority is liable to pay in respect of the money from which the loan has been made by more than one-half per centum, and such loans or instalments thereof shall bear interest from the date of issue.

Rate of interest on loans.

18. (1) If an individual person to whom, or a company or society to which, a loan has been made—

Remedies in respect of loans.

- (a) fails to pay any amount due in respect of the principal or interest of the loan; or
- (b) has not applied the whole or any part of the loan to the specific purpose for which it was made; or
- (c) fails to make such progress as the Board, or the local authority, as the case may be, considers reasonable with an approved dwelling or approved scheme; or
- (d) fails to comply with any condition on which the loan or any part thereof was made; or
- (e) becomes bankrupt, or is placed in liquidation,

the Board or the local authority, as the case may be, may either proceed to recover the amount outstanding on account of the loan together with all interest due thereon, by action in

a competent court or may by an officer authorized in writing by it and without obtaining any judgment or order of any court, enter upon and take possession of the land and premises on which the loan is secured, using force, if necessary for that purpose; and may thereupon sell, by public auction or after public tender, the said land and premises and transfer it to the purchaser and give a good and valid title thereto notwithstanding that such land and premises may have been mortgaged or charged in favour of some other person:

Provided that—

(i) if the land and premises are so mortgaged or charged the Board, or the local authority, as the case may be, shall transmit to the second or subsequent mortgagee or chargee at his last known abode or office or place of business three weeks before the date fixed for the sale, notice by prepaid registered post of such its intention in order that such mortgagee or chargee may redeem the loan, if he so desires;

(ii) except in the event of the bankruptcy of the person, or the liquidation of the company or society as aforesaid, the Board, or the local authority, as the case may be, shall before exercising its power of entry and sale hereunder, give three months' notice by prepaid registered letter addressed to such individual person at his last known place of abode or office or business, or to such company or society at its office or place of business, of its intention as aforesaid.

(2) If any such dwelling is not completed the Board or the local authority, as the case may be, may in its discretion complete the same before such sale. The proceeds of such sale shall be applied in payment of all sums due to the Board or the local authority, including the cost of completing any such dwelling and of the sale; and the balance (if any) shall be paid to the individual person to whom, or the company or society to which, the loan was made or to any other person who is the legal representative thereof or is otherwise entitled to receive such balance.

(3) The Board or a local authority may itself purchase any land and premises sold by public auction as aforesaid and take transfer of any dwelling sold as aforesaid and treat the same as if it had been constructed by the Board or by the local

authority under this Ordinance, and no stamp duty or registration charges shall be payable on transfer to the Board or to the local authority.

(4) Any officer having any duties in connexion with the registration of the title to or the title deeds of any such land and premises as aforesaid shall make all the necessary entries in his registers and sign all documents necessary to give effect to this section.

19. The Member may, on the application of the Board, declare that any by-law or resolution made by a local authority which is inconsistent with the conditions of approval specified by the Board in respect of any dwelling or scheme, shall, in so far as it is inconsistent, not apply to the approved dwelling or scheme.

Approved schemes and dwellings may be exempted from by-laws, etc.

20. Whenever it appears to the Governor in Council, and after a local inquiry in public by an officer appointed by the Governor for that purpose at which the local authority and other parties interested shall be entitled to be heard, that the provision made in the area of any local authority for the needs of Africans ordinarily employed within that area for normal requirements is inadequate or unsuitable, the Governor in Council may, by written notice, require that local authority within such time as may be stated in the notice, to make such provision for the housing of Africans as the Governor in Council may specify.

Governor's powers where inadequate or unsuitable accommodation provided for Africans.

21. (1) Upon the failure of a local authority within the time fixed in any notice given under section 20 of this Ordinance or within any extension of that time granted by the Governor in Council to comply with any requirement notified under that section, the Member may, after written notice to the local authority, carry out such works and do all such things as may be necessary to give effect to that requirement; and for that purpose the Member is hereby authorized to exercise all such rights, powers and authorities as might have been exercised by the local authority in that behalf.

Member's powers upon failure of local authority to comply with requirements made under section 20.

(2) Any expenditure reasonably incurred by the Member under this section in excess of revenue derived from the exercise of the powers vested in him may be recovered in the manner provided by section 9 of this Ordinance.

Additional duties
of the Board.

22. (1) The Board may, and shall when required by the Member or the local authority, inquire into and report to the Member or the local authority, on the necessity or otherwise of the provision of dwellings in the area of any local authority.

(2) The Board shall advise and assist in the preparation of proposals for dwellings and schemes.

Borrowing by
the Board.

23. The Board may, with the consent of the Member, borrow any moneys which it requires for the purpose of exercising its functions under this Ordinance in such amount and upon such conditions as the Member may sanction.

Power of
Member to make
regulations.

24. The Member may from time to time make regulations for prescribing anything which may require to be prescribed under this Ordinance, and for the better carrying out of the objects and purposes of this Ordinance, and such regulations may be expressed to apply throughout the Colony or any specified or defined portion thereof. Such regulations may provide penalties for any contravention thereof or failure to comply therewith not exceeding a fine of ten thousand shillings or imprisonment for two years, or both such fine and imprisonment.

Powers of entry
and inspection
of premises.

25. (1) Any member of the Board, any officer or servant of a local authority generally or specially authorized by such local authority, and any person likewise authorized by the Member may, at any hour reasonable for the proper performance of the duty, enter upon any land or building in respect of which a grant or loan has been made or undertaken to be made under this Ordinance to make any inspection or to perform any work or to do anything which he is required or authorized to do under regulations made under this Ordinance.

(2) Any person who fails to give or refuses access to any person mentioned in or authorized under sub-section (1) of this section or obstructs or hinders him in the execution of his duties under the regulations made under this Ordinance or who prevents any servant or workman of a local authority from entering any such land or dwelling for the purpose of complying with any requirements under the regulations made under this Ordinance shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

26. The provisions of this Ordinance shall be deemed to be in addition to and not in substitution for any provisions of any other law which are not in conflict or inconsistent with this Ordinance, and if the provisions of any law are in conflict with or inconsistent with this Ordinance the provisions of this Ordinance shall prevail.

Provisions of
this Ordinance
in relation to
other laws.

27. Nothing in this Ordinance shall—

Savings.

(a) in any way prejudice or affect the rights of Her Majesty the Queen, Her Heirs and Successors, or of any body or bodies politic or corporate or other person or persons, excepting only such as are mentioned in this Ordinance and those claiming by, from or under them.

(b) prejudice or affect the priority of any security for a loan created by any local authority before the date of the commencement of this Ordinance.

28. The Housing Ordinance is hereby repealed.

Repeal of
Cap. 142.

ORDINANCE No. 18 of 1953

Assented to in Her Majesty's name this ninth day of June, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (ELDORET EUROPEAN
HOSPITAL RATE) ORDINANCE**

9th June, 1953

Date of commencement.

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

Short title

1. This Ordinance may be cited as the Local Government (Eldoret European Hospital Rate) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Local Government (Eldoret European Hospital Rate) Ordinance, hereinafter referred to as the principal Ordinance.

Cap. 139,

Amendment of section 2 of the principal Ordinance

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

(a) by substituting for the definition of "European" the following definition—

"European" means any person of wholly European origin or descent, other than a married woman living with her husband;

and

(b) by adding the following new definition—

"total income" has the meaning assigned to it in the East African Income Tax (Management) Act, 1952, whether the income is received in the Colony or not.

High Commission Act No. 8 of 1952.

Amendment of section 6 of the principal Ordinance.

3. Sub-section (1) of section 6 of the principal Ordinance is amended by adding the following new paragraph—

(c) every female person whose total income did not exceed one hundred and twenty pounds in the calendar year immediately preceding the year in respect of which the rate is due.

ORDINANCE No. 19 of 1953

Assented to in Her Majesty's name this ninth day of June, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (DISTRICT COUNCILS)
ORDINANCE**

9th June, 1953

Date of
commencement.

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

1. This Ordinance may be cited as the Local Government (District Councils) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Local Government (District Councils) Ordinance, hereinafter referred to as the principal Ordinance.

Short title.

Cap. 140.

2. Sub-section (1) of section 110 of the principal Ordinance is amended in the following respects—

Amendment
of section 110
of the principal
Ordinance.

(a) by substituting for the words "every male person of wholly European origin or descent residing within the district" where they occur in paragraph (a) thereof, the words "every person of wholly European origin or descent residing within the district, other than a married woman living with her husband,";

(b) by adding the following new sub-paragraph in paragraph (d) thereof—

(iii) every female person whose total income, as defined in the East African Income Tax (Management) Act, 1952, whether received in the Colony or not, did not exceed one hundred and twenty pounds in the calendar year immediately preceding the year in respect of which the rate is due;

High Commission
Act No. 8 of
1952.

and

(c) in paragraph (f) thereof, by substituting for the words "any male person of wholly European origin or descent" the words "any person of wholly European origin or descent (other than a married woman living with her husband)".

ORDINANCE No. 20 of 1953

Assented to in Her Majesty's name this ninth day of June, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE SUGAR
ORDINANCE**

9th June, 1953

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Sugar (Amendment) Ordinance, 1953, and shall be read and construed as one with the Sugar Ordinance, hereinafter referred to as the principal Ordinance.

Cap. 194.

Amendment of section 2 of the principal Ordinance.

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

(a) by inserting immediately after the definition of “controller”, appearing therein, the following new definition—

“Member” means the Member of the Executive Council of the Colony for the time being responsible for Agriculture and Natural Resources;
and

(b) by substituting for the definition of “prohibited area”, appearing therein, the following new definition—

“prohibited area” means any area to which this Ordinance or any section thereof has been applied under the provisions of section 14 of this Ordinance;.

Repeal and replacement of section 14 of the principal Ordinance.
Application of Ordinance.

3. There shall be substituted for section 14 of the principal Ordinance and the marginal note thereto the following section and marginal note—

14. The Member may from time to time, by notice in the Gazette, apply this Ordinance or any section thereof to any area in the Colony.

ORDINANCE No. 21 of 1953

Assented to in Her Majesty's name this ninth day of June, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE CROWN LANDS ORDINANCE

9th June, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Crown Lands (Amendment) Ordinance, 1953, and shall be read and construed as one with the Crown Lands Ordinance, hereinafter referred to as the principal Ordinance, and shall be reserved for the signification of Her Majesty's pleasure.

Short title.

Cap. 155.

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

Amendment of section 2 of the principal Ordinance.

(a) by deleting the word "public" where it occurs for the first time in the definition of "Crown land";

(b) by substituting for the definition of "Director of Surveys" the following definition—

"Director of Surveys" includes any officer of the Survey Department authorized by the Director of Surveys to perform the duty in relation to which the term is used;

(c) by placing an asterisk at the end of the definition of "Highlands Board" and by inserting the following footnote—

*See the Kenya (Highlands) Order in Council, 1939;

(d) by substituting for the definition of "licensed surveyor" the following definition—

"licensed surveyor" shall have the meaning assigned to it by the Survey Ordinance, 1951;

No. 22 of 1951.

(e) by placing an asterisk at the end of the definition of "Trust Board" and by inserting the following footnote—

*See the Kenya (Native Areas) Order in Council, 1939.

Amendment of section 3 of the principal Ordinance.

3. Section 3 of the principal Ordinance is amended by adding next after paragraph (v) thereof the following new paragraph—

Accept the surrender of a freehold conveyance.

(vi) accept the surrender of any freehold conveyance under the Crown Lands Ordinance, 1902, or freehold grant under this Ordinance.

Repeal and replacement of section 5 of the principal Ordinance.

4. There shall be substituted for section 5 of the principal Ordinance the following section—

Commissioner to have charge of administration of Ordinance.

5. The Governor shall appoint a Commissioner of Lands (hereinafter in this Ordinance referred to as "the Commissioner") who shall have charge of the administration of this Ordinance, and shall further appoint such Assistant Commissioners, land officers, assistant land officers and other officers as the Governor may deem necessary who may, if so authorized by the Commissioner either generally or specially, perform any of the duties or do any of the acts or things required or authorized by this Ordinance, or by any law regulating the sale, letting, disposal and occupation of Crown land, to be done by the Commissioner.

Subordinate officers.

Amendment of section 7 of the principal Ordinance.

5. There shall be substituted for the proviso to section 7 of the principal Ordinance the following proviso—

Provided, however, that nothing in this section shall be deemed to authorize the Commissioner to exercise any of the powers conferred upon the Governor by sections 3, 5, 6, 15, 22, 23, 36, Parts VI, VIII or IX, or sections 121, 155 or 175 of this Ordinance.

Amendment of section 8 of the principal Ordinance.

6. Section 8 of the principal Ordinance is amended in the following respects—

(a) in sub-section (1) thereof, by inserting a full stop after the words "in the name of the Commissioner", and by substituting for the words from "and the

Commissioner may be the plaintiff” to the end of that sub-section, the words—

“In any such action, suit or proceeding the Commissioner may be represented by any advocate, or by any officer of the Lands Department, or by any Government officer authorized in writing by the Commissioner in that behalf.”;

(b) in sub-section (2) thereof, by inserting after the word “may” where it first occurs, the words “in his own name”.

7. Sections 9, 10 and 11 of the principal Ordinance are repealed.

Repeal of sections 9, 10 and 11 of the principal Ordinance.

8. There shall be substituted for section 21 of the principal Ordinance the following—

Repeal and replacement of section 21 of the principal Ordinance.

21. (1) In every lease of a town plot under this Ordinance there shall be implied by virtue of this Ordinance a covenant by the lessee not to divide the plot and assign or sub-let any portion thereof except with the previous consent of the Governor in writing and in such manner and upon such conditions as he may prescribe or require:

Implied covenant restricting division, assignation and sub-letting

Provided that—

(i) no application for such consent shall be entertained unless the building conditions (if any) have been complied with;

(ii) in no case shall the annual rent reserved to the Crown on any such portion be less than ten shillings nor the aggregate annual rent be less than that reserved in the original lease;

(iii) the immediately foregoing proviso shall apply to every building lease granted under the Crown Lands Ordinance, 1902, in the event of the property held under such lease being subdivided and the portions assigned.

(2) Every application for the consent of the Governor under this section shall be made to the Commissioner and shall—

(a) contain the applicant’s proposals for development of each portion created by the subdivision; and

(b) be accompanied by suitable plans in quadruplicate on durable material showing the proposed subdivisions.

(3) Every such applicant shall furnish such further or other information or particulars as the Commissioner may require.

9. Sections 29 and 30 of the principal Ordinance are repealed.

10. There shall be substituted for section 39 of the principal Ordinance the following section—

39. (1) In every lease of land under this Part there shall be implied by virtue of this Ordinance a covenant by the lessee not to divide the land and assign or sublet any portion thereof except with the previous written consent of the Governor and in such manner and upon such conditions as he may prescribe, and subject to the provisions of Part V of this Ordinance:

Provided that—

- (i) no application for such consent shall be entertained unless the whole of the purchase price in respect of such lease shall have been paid;
 - (ii) the annual rent reserved for each such portion shall be at the rent prescribed in section 33 of this Ordinance and shall not be less than ten shillings;
 - (iii) the immediately foregoing proviso shall apply to every lease granted under the Crown Lands Ordinance, 1902, for grazing or agricultural purposes or both in the event of the property held under such lease being subdivided and the portions assigned.
- (2) Every application for the consent of the Governor under this section shall be made to the Commissioner and shall—
- (a) contain the applicant's proposals for apportionment of any development conditions in the original lease and for the development and maintenance of development of each portion of land to be assigned or sublet; and

Repeal of sections 29 and 30 of the principal Ordinance.

Repeal and replacement of section 39 of the principal Ordinance.

Restriction on sub-division, assignation or sub-letting.

(b) be accompanied by suitable plans in quadruplicate on durable material showing the proposed subdivisions.

(3) Every such applicant shall furnish such further or other information or particulars as the Commissioner may require.

11. Sections 40, 41 and 42 of the principal Ordinance are repealed.

Repeal of sections 40, 41 and 42 of the principal Ordinance.

12. Part V of the principal Ordinance is amended in the following respects—

Amendment of Part V of the principal Ordinance.

(a) by deleting the sub-heading “(1) LEASES AND LICENCES FOR SPECIAL PURPOSES”; and

(b) by substituting for sub-heading “(2) LICENCES FOR TEMPORARY OCCUPATION OF SMALL AREAS”, the heading “PART VA—LICENCES FOR TEMPORARY OCCUPATION OF LAND”.

13. Section 44 of the principal Ordinance is amended by substituting for the word “entertain” the word “grant”.

Amendment of section 44 of the principal Ordinance.

14. Section 47 of the principal Ordinance is amended by inserting next after the words “not to”, appearing in paragraph (a) thereof, the word “divide,”.

Amendment of section 47 of the principal Ordinance.

15. Section 48 of the principal Ordinance is amended in the following respects—

Amendment of section 48 of the principal Ordinance.

(a) by deleting the words “and to erect thereon a hut or huts or other temporary erection” where they occur in sub-section (1) thereof; and

(b) by deleting sub-section (2) thereof.

16. Section 55 of the principal Ordinance is amended in the following respects—

Amendment of section 55 of the principal Ordinance.

(a) by deleting the commas and words “, save that a rent shall be payable for the occupation of such areas, computed on the fair economic value of the land” where they occur at the end of sub-section (1) thereof; and

(b) by inserting next after sub-section (2) thereof the following new sub-section—

(3) The Governor may, in any proclamation setting aside an area under the provisions of this section, provide for the payment, by any tribe or tribes, or individual members thereof, for the satisfaction of whose economic needs such area is being so set aside, of a rent for the occupation thereof, computed on the fair economic value of the land, and in such event shall direct by whom and where appropriate in what proportions such rent shall be payable, and to what fund such rent shall be credited.

Amendment of section 67 of the principal Ordinance.

17. Section 67 of the principal Ordinance is amended by re-numbering it as sub-section (1) of section 67 and by adding the following new sub-section—

(2) The Governor may, with the consent of the Highlands Board, and subject to the approval of the Legislative Council, by notice in the Gazette, adjust the boundaries of the Highlands and the Seventh Schedule to this Ordinance shall thereupon be read and construed to give effect to such adjustment:

Provided that no such adjustment shall be made to affect any land which is at the time of the adjustment situated in the native lands except with the consent of the Trust Board.

Amendment of section 81 of the principal Ordinance.

18. Section 81 of the principal Ordinance is amended in the following respects—

(a) by substituting for the word "thirty", where it occurs in sub-section (1) thereof, the word "ninety";

(b) by substituting for the word "ninety", where it occurs in sub-section (2) thereof, the words "one hundred and twenty", and by substituting for the words "one hundred and twenty" where they occur later in that sub-section, the words "one hundred and fifty".

Amendment of section 108 of the principal Ordinance.

19. Section 108 of the principal Ordinance is amended in the following respects—

(a) by substituting for the words "two hundred" the words "four hundred";

(b) by substituting for the figures "200" in the marginal note thereto, the figures "400";

(c) by substituting for the proviso to the section the following—

Provided that where the area of land so sold or leased exceeds— Proviso as to compensation.

(i) four hundred acres but does not exceed one thousand acres and a proportion greater than two per centum of such area is being taken for any such purpose; or

(ii) one thousand acres and a proportion greater than four per centum of such area is being taken for any such purpose,

there shall be paid to the purchaser or lessee, as the case may be, compensation for the land taken in excess of such proportion, so, however, that no such compensation shall exceed the value of the land taken in excess of the said proportion.

20. Section 109 of the principal Ordinance is amended in the following respects— Amendment of section 109 of the principal Ordinance.

(a) by substituting for the words "two hundred" the words "four hundred";

(b) by substituting for the figures "200" in the marginal note thereto, the figures "400".

21. Section 111 of the principal Ordinance is amended by substituting a colon for the full-stop at the end of sub-section (3) thereof and by adding the following proviso thereto— Amendment of section 111 of the principal Ordinance.

Provided that except in cases of emergency certified by the Member of the Executive Council of the Colony for the time being responsible for Lands no officer of the Government or contractor, nor any servant or agent of such officer or contractor, shall enter on any land for the purpose of constructing any road or railway or of taking materials for such construction until there has first been given not less than one month's notice of the intention so to enter. Period of notice.

Insertion of new sections 111A, 111B and 111C in the principal Ordinance.

Compensation for severance and damage to planted trees and bushes.

22. There shall be inserted in the principal Ordinance next after section 111 thereof the following new sections—

111A. Where damage or loss has been occasioned to any land consequent upon the entry upon, or the resumption of, land under any of the provisions of sections 106, 107, 108, 109 and 110 of this Ordinance or of sections 23 to 28 inclusive of the Crown Lands Ordinance, 1902, and any part of such damage or loss is proved to have been occasioned by the severance of the land or by injury or destruction of trees, bushes or shrubs planted thereon, or by reason of the fact that the land so resumed has, before the date of notice of such resumption, been cleared or otherwise developed for the purpose of cultivation, a reasonable sum by way of compensation shall be paid in respect of any damage or loss incurred as aforesaid notwithstanding that compensation is not otherwise payable under the provisions of any of the aforesaid sections :

Provided that any compensation so paid for injury or destruction of such trees, bushes or shrubs, or for loss incurred by reason of such clearance or development having been carried out, shall not exceed, on the one hand, the market value of such trees, bushes or shrubs, and, on the other hand, the expense directly incurred in such clearance or development.

Responsibility for fencing on entry for construction of railway or road.

111B. (1) Where any land is entered and resumed for the purpose of constructing or re-aligning—

(a) any railway line, station or siding, the following provisions relating to fencing shall apply—

(i) if such land is at the date of notice of such entry and resumption completely enclosed by a fence, the Commissioner for Transport shall at his own expense, on the request of the owner or occupier of such land, erect and maintain a fence on each side of that portion of such railway line which traverses such land or part thereof, together with such gates, stiles or other devices as may be necessary to give reasonable access to such land;

(ii) if such land is at any time after the date of such entry and resumption completely enclosed by a fence, the Commissioner for Transport shall, on the request of the owner or occupier of such land, pay half the cost of erecting and maintaining a fence on each side of that portion of such railway line which traverses such land or part thereof, together with such gates, stiles or other devices as may be necessary to give reasonable access to such land;

(b) any public road, if such land is at the date of notice of such entry and resumption completely enclosed by a fence, or so enclosed except for that portion which abuts on the land reserved for such entry and resumption, the Road Authority shall, on the request of the owner or occupier of such land, erect a fence on each side of that portion of such public road which traverses or abuts on such land or part thereof, together with such gates, stiles or other devices as may be necessary to give reasonable access to such land. The cost of erecting any such fences, gates, stiles or other devices as aforesaid shall be borne by the Road Authority, but the cost of the repair and maintenance thereof shall be borne by the owner or occupier of the land.

(2) Any claim by the owner or occupier of such land for work to be done or money paid in pursuance of the provisions of sub-section (1) of this section shall, in default of agreement, be referred to arbitration in the manner required by section 174 of this Ordinance.

111c. Where any holding of land is entered and part thereof resumed for the purpose of constructing or re-aligning a road, any compensation payable under this Ordinance in respect of such resumption shall be reduced by an amount equivalent to any increased value given to such holding by reason of such construction or re-alignment.

Betterment to be set off against compensation for land taken for roads.

23. Section 137 of the principal Ordinance is amended by deleting the words "by a Government or licensed surveyor, and countersigned" where they occur in sub-sections (1) and (2) thereof, and in the marginal note to sub-section (1) thereof.

Amendment of section 137 of the principal Ordinance.

Amendment of section 158 of the principal Ordinance.

24. Section 158 of the principal Ordinance is amended by substituting for the words "Commissioner, Director of Surveys or deputy director" the words "Commissioner or the Director of Surveys".

Repeal and replacement of section 168 of the principal Ordinance.
Power to enter land in execution of duty.

25. There shall be substituted for section 168 of the principal Ordinance the following section—

168. (1) The Commissioner or any person authorized by him in writing in that behalf may at all reasonable times and after giving reasonable notice (save as hereinafter provided) enter with any necessary assistants, servants, conveyances and appliances upon any land or premises sold, leased or occupied under licence and may do all such acts thereon as are necessary or incidental to the exercise of the powers or the performance of the duties granted or imposed by this Ordinance, or as may be prescribed in any grant under this Ordinance or the Crown Lands Ordinance, 1902 :

Provided that a valuer or land ranger duly appointed and authorized under the provisions of section 5 of this Ordinance entering such land or premises between sunrise and sunset shall not be required to give such notice but shall, if required by the owner or occupier thereof, produce and show the authority under which he claims to enter or has entered such land or premises.

(2) Whenever the exercise or performance of the powers or duties referred to in sub-section (1) of this section render it necessary or desirable so to do, the Commissioner or his duly authorized officers shall be empowered together with his or their other assistants, servants, conveyances and appliances as aforesaid to go upon and encamp on any uncultivated site, not being within one quarter of a mile of a dwelling house, on or in the vicinity of the land or premises in respect of which the powers or duties are being exercised or performed, and shall be allowed access with their servants to the nearest available source of potable water.

(3) Any person who wilfully obstructs, interferes with, or impedes any officer or person in the exercise of his powers under this section, or in the performance of his duties, shall be guilty of an offence and shall be liable

on conviction to a fine not exceeding one thousand shillings, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

26. Section 172 of the principal Ordinance is repealed.

Repeal of section 172 of the principal Ordinance.

27. Sub-section (1) of section 175 of the principal Ordinance is amended in the following respects—

Amendment of section 175 of the principal Ordinance.

(a) by substituting for the words "The Governor in Council shall have power from time to time to make rules for the purposes of this Ordinance" the words "The Governor in Council shall have power to make rules generally for the better carrying out of the provisions of this Ordinance and, without prejudice to the generality of the foregoing power, such rules may make provision—";

(b) by substituting for the words "imposing any reasonable charges for surveys or for computing the work of licensed surveyors, or for", where they occur in paragraph (i) thereof, the word "prescribing".

28. There shall be inserted in the principal Ordinance next after section 177 thereof the following new section—

Insertion of new section 178 in the principal Ordinance.

178. Notwithstanding anything contained in section 177 of this Ordinance or in the Interpretation and General Clauses Ordinance or in any grant, lease or licence under the Crown Lands Ordinance, 1902—

Special provisions relating to land held under the Crown Lands Ordinance, 1902. Cap. 1.

(a) the provisions of paragraph (d) of section 14, and of section 29, of the Crown Lands Ordinance, 1902, shall cease to have effect; and

(b) the provisions of sections 106, 107, 108, 109, 110, 111, 111A and 111B of this Ordinance shall apply in relation to the entry upon and resumption for public purposes of all land the subject of a grant, lease or licence under the Crown Lands Ordinance, 1902, in substitution for the provisions of sections 23 to 28 inclusive of that Ordinance:

No. 21 of 1953.

Provided that any person who holds any land as owner, lessee, or occupier under licence, under the Crown Lands Ordinance, 1902, may within twelve months of the date of coming into operation of the Crown Lands (Amendment) Ordinance, 1953, by notice in writing addressed to the Commissioner of Lands, elect that the provisions of sections 23 to 28 inclusive of the Crown Lands Ordinance, 1902, shall continue to apply in relation to the resumption of any such land, and upon giving such notice as aforesaid those provisions shall continue to apply. The Commissioner of Lands shall cause the fact of such election to be duly endorsed on the registered title of such landholder.

Amendment of Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Schedules to the principal Ordinance.

29. The principal Ordinance is amended by substituting for the words "Survey Records Office, Department of Lands, Mines and Surveys, Nairobi" wherever they appear in the Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Schedules thereto the words "Survey Records Office, Survey Office, Nairobi".

Amendment of the Sixth Schedule to the principal Ordinance.

30. The principal Ordinance is amended by deleting the description of boundaries under the sub-heading "ISILOLO" in the Sixth Schedule thereto and by substituting the following—

Commencing at the trigonometrical beacon Mukogodo situate on the northern boundary of North Nyeri District;

thence westerly by a straight line through trigonometrical beacon Lendili extended to its intersection with the Uaso Nyiro River;

thence down-stream by that river to Chanler's Falls;

thence due south by a straight line to its intersection with the generally north-western boundary of the Kikuyu Native Land Unit;

thence south-westerly by that boundary to its intersection with the Ngare Siolo (Isiolo River);

thence up-stream by that river to its intersection with the northern boundary of the Isiolo Township;

thence westerly and southerly by part of the northern and the whole of the western boundaries to the south-western corner of that township;

thence by a straight line north-westerly towards the summit of Ol Donyo Lossos to its intersection with the Ngare Ndare;

thence down-stream by that river to the Ndare Ford on the Isiolo-Kipsing Road;

thence westerly by a straight line to the point of commencement.

ORDINANCE No. 22 of 1953

Assented to in Her Majesty's name this twenty-fourth day of August, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE ADOPTION OF CHILDREN ORDINANCE

24th August, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Adoption of Children (Amendment) Ordinance, 1953, and shall be read and construed as one with the Adoption of Children Ordinance, hereinafter referred to as the principal Ordinance.

Short title.
Cap. 21.

2. Section 4 of the principal Ordinance is amended by substituting for sub-section (5) thereof, and the marginal note to such sub-section, the following new sub-section and marginal note:—

Amendment of section 4 of the principal Ordinance.

(5) An adoption order shall not be made in favour of any applicant who, or in respect of any infant who, is not resident in the Colony.

Applicant not resident in the Colony.

ORDINANCE No. 23 of 1953

Assented to in Her Majesty's name this twenty-fourth day of August, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE WILD ANIMALS PROTECTION ORDINANCE, 1951

24th August, 1953

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Wild Animals Protection (Amendment) Ordinance, 1953, and shall be read and construed as one with the Wild Animals Protection Ordinance, 1951, hereinafter referred to as the principal Ordinance.

No. 18 of 1951.

Amendment of section 7 of the principal Ordinance.

2. Paragraph (b) of sub-section (5) of section 7 of the principal Ordinance is amended by inserting next after the words "in contravention of" the commas and words ", or fails to comply with,".

Amendment of section 13 of the principal Ordinance.

3. Section 13 of the principal Ordinance is amended by substituting for sub-sections (1) and (2) thereof the following sub-section—

(1) Subject to the provisions of this section and of section 4 of this Ordinance, and to any directions issued by the Member under section 56 of this Ordinance, a licensing officer may, in respect of any of the animals specified in the first column of the Fourth Schedule to this Ordinance, in his discretion grant to the holder of a full licence, on payment of the appropriate fee specified in the third column of the said Schedule, a special licence:

Provided that—

- (i) during the period of validity of any one full licence no special licence shall be granted in respect of more animals than the number respectively specified in the second column of the said Schedule in relation to each type of animal;

~~Part 1~~ *Animals Protection*

(ii) a licensing officer may, without assigning any reason therefor, refuse to grant a special licence.

4. Sub-section (1) of section 23 of the principal Ordinance is amended by substituting for paragraph (b) of the proviso thereto the following paragraph—

Amendment to section 23 of the principal Ordinance.

(b) any animal killed on private land, other than an animal specified in the Second or Fourth Schedule to this Ordinance.

5. Section 32 of the principal Ordinance is amended as follows—

Amendment of section 32 of the principal Ordinance.

(a) by deleting the words from the beginning of sub-section (2) thereof to the words “and if—” in that sub-section, and by substituting therefor the words “For the purposes of this section a game animal or trophy or meat shall be deemed to have been obtained by any person in accordance with the provisions of this Ordinance either if it was purchased by such person in accordance with the provisions of section 33 of this Ordinance, or if no offence against this Ordinance or any Ordinance hereby repealed has been committed in relation to the animal, trophy or meat and—”;

(b) by deleting paragraph (d) of sub-section (2) thereof;

(c) by inserting next after sub-section (5) thereof the following new sub-section—

(6) Whenever any person is charged with being in possession of any game animal, trophy, or the meat of a game animal obtained in contravention of this Ordinance, and proof is given of possession, the onus shall be upon the person charged to prove that such animal, trophy or meat was lawfully obtained.

6. There shall be inserted, next after section 41 of the principal Ordinance, the following new section—

Insertion of new section 41A in the principal Ordinance.
Road barriers.

41A. (1) For the more effective carrying out of the provisions of this Ordinance a competent officer, or a subordinate officer authorized by him in that behalf, may erect a temporary barrier across any road or public place.

(2) Every person approaching such a barrier shall, on being required by such officer so to do, stop before

reaching it, and shall allow such officer to carry out such search, including the inspection of any vehicle, as may appear to such officer to be necessary or expedient.

(3) Any person who fails to comply with any of the provisions of this section, or with any reasonable order given in pursuance thereof, or with any reasonable signal requiring such person to stop as aforesaid, shall be guilty of an offence.

7. There shall be substituted for the Fourth Schedule to the principal Ordinance the following Schedule—

Repeal and replacement of the Fourth Schedule to the principal Ordinance.

FOURTH SCHEDULE

(Section 13)

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Animals which may be hunted or killed by special licence only</i>	<i>Maximum number of animals for which special licence may be granted to holder of one full licence</i>	<i>Special Licence Fee</i>
		<i>Sh.</i>
1. Elephant*	Two	First elephant .. 1,500 Second elephant .. 2,000
2. Rhinoceros*	Two	Each rhinoceros .. 300
3. Giraffe	Two	Each giraffe .. 300
4. Leopard	One	Each leopard .. 200
5. Lion†	One	Each lion .. 200
6. Cheetah†	One	Each cheetah .. 100
7. Ostrich	Two	Each ostrich .. 40
8. Colobus monkey‡	Three	Each monkey .. 20
9. Blue monkey	Three	Each monkey .. 20

* Except in the protected area. (See Second Schedule, Part II.)

† In the Masai Extra Provincial District, but excluding the protected area. (See Second Schedule, Part II.)

‡ Other than white. (See Second Schedule, Part I.)

ORDINANCE No. 24 of 1953

Assented to in Her Majesty's name this twenty-fourth day of August, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE PROTECTED
AREAS ORDINANCE, 1949**

24th August, 1953

Date of
commencement.

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

1. This Ordinance may be cited as the Protected Areas (Amendment) Ordinance, 1953, and shall be read and construed as one with the Protected Areas Ordinance, 1949, hereinafter referred to as the principal Ordinance.

Short title.
No. 28 of 1949.

2. Section 2 of the principal Ordinance is amended by deleting the definition of "Member" appearing therein.

Amendment of
section 2 of the
principal
Ordinance.

3. There shall be substituted for sub-section (1) of section 3 of the principal Ordinance the following new sub-section—

Amendment of
section 3 of the
principal
Ordinance.

(1) If, as respects any area, place or premises wherein are stored or kept any arms, ammunition or military stores, it appears to the Chief Secretary to be necessary or expedient in the public interest that special precautions should be taken to prevent the entry of unauthorized persons, he may by order published in the Gazette, declare such area, place or premises to be a protected area for the purposes of this Ordinance; and, so long as the Order is in force no person shall, subject to any exemptions for which provision may be made in the Order, be in such protected area without the permission of the prescribed authority or such other person as may be specified in the Order.

4. Sub-section (3) of section 5 of the principal Ordinance is amended by substituting for the word "Member", wherever that word appears therein, the words "Chief Secretary".

Amendment of
section 5 of
the principal
Ordinance.

Repeal and replacement of section 8 of the principal Ordinance.

Fencing of areas and warning of danger.

5. There shall be substituted for section 8 of the principal Ordinance the following new section and marginal note—

8. It shall be the duty of the prescribed authority in which the protected area is situate to cause such precautions to be taken as the prescribed authority and any person deputed by the Chief Secretary shall deem reasonably necessary to prevent inadvertent or accidental entry into any such protected area during the hours of darkness. Such precautions shall include the fencing of the protected area and the prominent display of warning notices, and where such precautions have been duly taken, no person shall be entitled to compensation or damages in respect of injury received or death caused as a result of any unauthorized entry into any such protected area.

ORDINANCE No. 25 of 1953

Assented to in Her Majesty's name this twenty-fourth day of August, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE DEVELOPMENT
LOAN ORDINANCE, 1950**

24th August, 1953

Date of
commencement.

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

1. This Ordinance may be cited as the Development Loan, 1950 (Amendment) Ordinance, 1953, and shall be read and construed as one with the Development Loan Ordinance, 1950, hereinafter referred to as the principal Ordinance.

Short title.
No. 17 of 1950.

2. Sub-section (1) of section 3 of the principal Ordinance is amended by substituting a colon for the full stop at the end of the sub-section and by adding thereto the following proviso—

Amendment of
section 3 of the
principal
Ordinance.

Provided that any balance of such sums remaining after defraying the expenses of issue may be applied to payment of Stamp Duties on transfers of stock issued under this or any other Ordinance.

ORDINANCE No. 26 of 1953

Assented to in Her Majesty's name this twenty-fourth day of August, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE DEVELOPMENT
LOAN ORDINANCE, 1951**

Date of commencement.

24th August, 1953

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 Development Loan, 1951 (Amendment) Ordinance, 1953, and shall be read and construed as one with the Development Loan Ordinance, 1951, hereinafter referred to as the principal Ordinance.

No. 43 of 1951.

Amendment of section 3 of the principal Ordinance.

2. Sub-section (1) of section 3 of the principal Ordinance is amended by substituting a colon for the full stop at the end of the sub-section and by adding thereto the following proviso—

Provided that any balance of such sums remaining after defraying the expenses of issue may be applied to the payment of Stamp Duties on transfers of stock issued under this or any other Ordinance.

ORDINANCE No. 27 of 1953

Assented to in Her Majesty's name this seventeenth day of August, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS

SECTION	SECTION
1—Short title.	3—Power to adapt enactments.
2—Interpretation.	4—Supplementary powers as to orders.

AN ORDINANCE TO MAKE PROVISION FOR THE DISCHARGE OF THE STATUTORY FUNCTIONS OF EX-OFFICIO MEMBERS OF THE EXECUTIVE COUNCIL OF THE COLONY CONSEQUENT UPON ANY REDISTRIBUTION OF THE RESPONSIBILITIES OF SUCH MEMBERS OR UPON ANY ALTERATION OF THE STYLE OR TITLE OF ANY SUCH MEMBER

17th August, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Ex-Officio Members of Executive Council (Transfer of Functions) Ordinance, 1953. Short title.

2. In this Ordinance the expression "Member" means an Ex-Officio Member of the Executive Council of the Colony. Interpretation.

3. (1) Where in any Ordinance or in any part or provision of any Ordinance reference is made to any particular Member and, at any time after the commencement of the Ordinance, a transfer of or change in all or any of the subjects, matters or departments for which such Member is responsible occurs or the style or title of such Member is altered, it shall be lawful for the Governor, by order, to declare that any such reference as aforesaid shall be construed as a reference to such Member as may be specified in the order, or, where reference is made to different Members in different parts or provisions of the Ordinance, to declare that any one or more of such references shall be construed as a reference to such Member, and that any other of such references shall be construed as a reference to such other Member, as may be specified in the order. Power to adapt enactments.

(2) Where an order is made under this Ordinance, the Ordinance in relation to which the order is made shall thereafter be read and construed in all respects as if the same were amended in conformity with the terms of the order; and where such Ordinance contains a definition of the expression "Member" or "the Member" which is inconsistent with the terms of the order, the definition shall, to the extent of such inconsistency, cease to have effect.

Supplementary
powers as
to orders.

4. (1) Where an order purports to be made under this Ordinance it shall be taken by all courts to be conclusive evidence that such a transfer or change as aforesaid has occurred or, as the case may be, that such alteration as aforesaid has been made.

(2) An order made under this Ordinance in relation to any other Ordinance may be expressed to have effect retrospectively from any date specified therein, not being a date prior to the commencement of such other Ordinance or prior to such transfer, change or alteration as aforesaid, and, if so expressed shall have effect accordingly.

(3) An order made under this Ordinance may be varied or revoked by a subsequent order thereunder made in like manner and subject to the like conditions.

(4) No provision in any Ordinance passed before the commencement of this Ordinance shall be construed as limiting the powers conferred by this Ordinance.

(5) No order made under this Ordinance shall contain any provision which is in any respect inconsistent with or repugnant to any Instructions which have been, or may hereafter be, passed by Her Majesty under the Royal Sign Manual and Signet to the Governor, and any such order shall, to the extent of any such inconsistency or repugnancy, be void and of no effect.

ORDINANCE No. 28 of 1953

Assented to in Her Majesty's name this twenty-fourth day of August, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE LAND AND AGRICULTURAL BANK ORDINANCE

24th August, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Land and Agricultural Bank (Amendment) Ordinance, 1953, and shall be read and construed as one with the Land and Agricultural Bank Ordinance, hereinafter referred to as the principal Ordinance.

Short title
Cap. 181.

2. Section 20 of the principal Ordinance is amended by inserting, immediately after paragraph (d) thereof, the following new paragraph—

Amendment of section 20 of the principal Ordinance.

(e) to make such advances as are authorized by sections 30 and 30A of this Ordinance.

3. Section 23 of the principal Ordinance is amended by substituting for the words "under sub-section 1 (a)", appearing in sub-section (2) thereof, the words "under paragraph (a) or (b) of sub-section (1)".

Amendment of section 23 of the principal Ordinance.

4. Section 28 of the principal Ordinance is amended in the following respects—

Amendment of section 28 of the principal Ordinance.

(a) by deleting the words "or under the Agricultural Advances Ordinance," appearing in sub-section (2) thereof, and the marginal note "Cap. 183" to that sub-section;

(b) by substituting for the words "three thousand five hundred pounds", appearing in sub-section (3) thereof, the words "five thousand pounds".

Amendment of section 31 of the principal Ordinance.

Advances on unsurveyed land.

Cap. 155.

5. The principal Ordinance is amended by adding thereto, immediately after section 30 thereof, the following new section—

30A. (1) Notwithstanding anything in this Ordinance contained, the Bank may, at any time advance money to a farmer—

(a) to whom the Governor has, in exercise of the powers conferred by the Crown Lands Ordinance, agreed to grant or lease land for use for agricultural purposes;

(b) who has contracted to purchase or otherwise acquire, from any person, land for use for agricultural purposes.

(2) Any such advance shall be made for the purpose of enabling the farmer to discharge any stand premium or purchase-money, or balance thereof, as the case may be, due from him under or in respect of such grant, lease, purchase or other acquisition as aforesaid or for the purpose of enabling him to effect any of the purposes specified in paragraphs (a), (b), (c), (d) or (g) of section 21 of this Ordinance.

(3) An advance may be made by the Bank in pursuance of the powers conferred by this section notwithstanding that the land in respect of which the advance is made has not been surveyed or that such a map or plan of the land as the Registrar is bound to accept for the purpose of registering any dealing with the land is not, for the time being registered or available for registration.

(4) Upon making any such advance the Bank may require the execution of such documents as will ensure—

(a) that the advance will, immediately upon the issue or completion of such grant, lease, purchase or other acquisition as aforesaid, become secured as a first charge upon the land in favour of the Bank;

(b) that pending the creation of such first charge, no mortgage of the land which would or might rank in priority thereto shall be created;

(c) that the Government will indemnify the Bank against all losses, costs or expenses which may be sustained or incurred by the Bank in respect of the advance.

(5) The Member of the Executive Council for the time being responsible for Finance may execute on behalf of the Government any document necessary for indemnifying the Bank in pursuance of paragraph (c) of sub-section (4) of this section.

6. Section 31 of the principal Ordinance is amended by substituting for the words "five thousand pounds", where those words twice appear in sub-section (3) thereof, the words "seven thousand five hundred pounds".

Amendment of section 31 of the principal Ordinance.

7. Section 48 of the principal Ordinance is amended by deleting sub-section (2) thereof.

Amendment of section 48 of the principal Ordinance.

8. Section 49 of the principal Ordinance is amended by deleting the words "Notice of the extinguishment of any advance shall be published in the Gazette as soon as possible after the date of such extinguishment." which appear therein.

Amendment of section 49 of the principal Ordinance.

9. Section 73 of the principal Ordinance is amended in the following respects—

Amendment of section 73 of the principal Ordinance.

(a) by substituting for sub-sections (1), (2) and (3), appearing therein, the following new sub-section—

(1) Such fees, costs and expenses shall be charged and payable in respect of advances and applications for advances under the provisions of this Ordinance as the Board may, from time to time, with the consent of the Governor in Council, prescribe by regulations made under this Ordinance and any such regulations may provide for—

(a) scales of application fees and valuation fees based on the amount of the advance for which application is made;

(b) reduced scales of application fees and valuation fees where the application is for a short-term advance;

(c) the basis upon which travelling expenses incurred by any valuation officer employed by the Board in or about any valuation for the purpose of an advance are to be calculated;

(d) the refund or partial refund of the application fee where an application for an advance is refused;

(e) the reduction of the application fee where an amount less than applied for is advanced;

(f) a scale of conveyancing costs and fees for the preparation and completion of mortgages or securities and discharges thereof;

(g) the time and mode of payment of all such fees, costs and expenses.;

(b) by renumbering sub-sections (4) and (5) as sub-sections (2) and (3) thereof.

Repeal of
Second and
Third Schedules
to the principal
Ordinance.

10. The Second and Third Schedules to the principal Ordinance are hereby repealed:

Provided that the Scale of Application Fees and the Scale of Costs and Fees therein respectively contained shall be deemed to be scales prescribed by regulations made by the Board with the consent of the Governor in Council under section 73 of the principal Ordinance as hereby re-enacted until such Scale of Application Fees and Scale of Costs and Fees are replaced by scales so prescribed and except so far as the same are inconsistent with any scales so prescribed.

ORDINANCE No. 29 of 1953

Assented to in Her Majesty's name this twenty-fourth day of August, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE LOCAL GOVERNMENT (COUNTY COUNCILS) ORDINANCE, 1952

24th August, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Local Government (County Councils) (Amendment) (No. 2) Ordinance, 1953, and shall be read and construed as one with the Local Government (County Councils) Ordinance, 1952, hereinafter referred to as the principal Ordinance.

Short title.

No. 30 of 1952.

2. Section 9 of the principal Ordinance is amended in the following respects—

Amendment of section 9 of the principal Ordinance.

(a) by deleting the word "until" from sub-paragraph (1) of the proviso to paragraph (b) thereof and by substituting therefor the words "unless sooner";

(b) by adding the following new sub-paragraphs to the proviso to paragraph (b) thereof immediately after sub-paragraph (3) of the said proviso—

(4) every such township shall be deemed for the purposes only of the Crown Lands Ordinance to remain a township established by or under the Townships Ordinance;

Cap. 155.
Cap. 133.

(5) the Governor may exercise in respect of any such township or in respect of any area or place in the administrative county, the powers conferred upon him by section 4 of the Townships Ordinance, but the exercise of such powers shall have effect only for the purposes of the Crown Lands Ordinance.

Cap. 133.
Cap. 155.

(c) by inserting, immediately after paragraph (b) thereof, the following new paragraph—

(c) the Trading Centres Ordinance shall cease to apply to any trading centre included in the administrative county:

Cap. 278.

Provided that—

(1) all rules made under the said Ordinance shall continue to be of full force and effect within the area to which they apply for a period of two years from such date unless sooner altered or revoked under this Ordinance;

(2) all fees, charges, tariffs and debts of whatsoever description due or payable to or recoverable by the Government of the Colony under the said Ordinance within any area placed under the jurisdiction of a county district council shall be payable to or recoverable by such county district council constituted by a scheme of county administration made under this Ordinance;

(3) all permits granted under or in pursuance of the said Ordinance shall continue in force for the period, if any, specified in such permits, unless the same are sooner suspended or cancelled under or in pursuance of this Ordinance;

Cap. 155.

(4) every such trading centre shall be deemed, for the purposes only of the Crown Lands Ordinance to remain a trading centre established under the Trading Centres Ordinance;

Cap. 278.

Cap. 278.

(5) the Governor may exercise in respect of any such trading centre or in respect of any place in the administrative county, the powers conferred upon him by section 2 of the Trading Centres Ordinance, but the exercise of such powers shall have effect only for the purposes of the Crown Lands Ordinance.

Cap. 155.

Amendment of section 118 of the principal Ordinance.

3. Section 118 of the principal Ordinance is amended in the following respects—

(a) by adding at the end of sub-section (1) thereof the words “and shall forward such estimates to the county council”; and

(b) by substituting for the words "A summary of such annual estimates shall be published in the Gazette", appearing at the commencement of sub-section (3) thereof, the words "The county council shall cause a summary of such annual estimates to be published in the Gazette".

4. Section 129 of the principal Ordinance is amended by inserting immediately after the words "not being", appearing therein, the words ", except in the case of the first rate imposed by the county council,".

Amendment of section 129 of the principal Ordinance.

ORDINANCE No. 30 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE EXPLOSIVES
ORDINANCE**

27th October, 1953

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

Date of commencement.

1. This Ordinance may be cited as the Explosives (Amendment) Ordinance, 1953, and shall be read and construed as one with the Explosives Ordinance, hereinafter referred to as the principal Ordinance.

Short title.
Cap. 303.

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

Amendment of section 2 of the principal Ordinance.

(a) by inserting next after the definition of "blasting materials" the following new definition—

"Commissioner" means the Commissioner (Mines and Geology) or any other officer whom he may depute to exercise the powers conferred upon the Commissioner by this Ordinance;

(b) in the definition of "danger building" by deleting the words "unless in respect of that building or part thereof a certificate has been granted in accordance with rules made under this Ordinance" and by substituting therefor the words—

"other than a building or part thereof in which no material of an explosive nature is made, used or kept, in respect of which—

(i) the licence clearly indicates that it does not constitute a danger building, or

(ii) a certificate has been granted by an inspector to the effect that it does not constitute a danger building";

(c) by deleting the definition of "Director".

(d) by inserting at the end of the definition of explosives, the following proviso—

Cap. 302. Provided that “explosives” shall not include ammunition as defined in the Arms and Ammunition Ordinance, or in any Ordinance for the time being replacing or amending the same.

Substitution of “Commissioner” for “Director”. 3. The principal Ordinance is amended by substituting for the word “Director” wherever it appears therein, the word “Commissioner”.

Amendment of section 4 of the principal Ordinance. 4. Sub-section (2) of section 4 of the principal Ordinance is amended by substituting for the words “two thousand shillings” and “six months” the words “five thousand shillings” and “two years” respectively.

Amendment of section 5 of the principal Ordinance. 5. Section 5 of the principal Ordinance is amended by substituting for the words “two thousand shillings” and “six months” the words “five thousand shillings” and “two years respectively”.

Amendment of section 7 of the principal Ordinance. 6. Sub-section (2) of section 7 of the principal Ordinance is amended by substituting for the words “one thousand shillings” and “three months” the words “three thousand shillings” and “one year” respectively.

Amendment of section 8 of the principal Ordinance. 7. Section 8 of the principal Ordinance is amended in the following respects—

(a) by numbering the existing three paragraphs thereof, which begin respectively with the words “No person”, “There shall be”, and “For the purposes”, as sub-sections (1), (2) and (3) respectively of that section;

(b) by substituting for the words “a mine manager”, where they appear in sub-section (3) thereof, the words “a manager as defined in the Mining (Safety) Regulations”.

Cap. 168
Subsidiary
Legislation.

Insertion of
new section 8A
in the principal
Ordinance.

Permit for
acquisition of
blasting
materials.

8. There shall be inserted, next after section 8 of the principal Ordinance, the following new section—

8A. (1) No person shall purchase or otherwise acquire blasting materials except under the authority of, and to the extent authorized in, a written permit issued by an inspector.

(2) No person shall sell or dispose of blasting materials to any person who fails to produce at the time of the transaction a permit of the type referred to in sub-section (1) of this section, nor shall any person sell or dispose of any such materials in excess of the quantity referred to in such permit.

9. Sub-section (2) of section 10 of the principal Ordinance is hereby repealed.

Repeal of sub-section (2) of section 10 of the principal Ordinance.

10. There shall be substituted for section 11 of the principal Ordinance the following section—

Replacement of section 11 of the principal Ordinance.

11. Any person who contravenes the provisions of sections 8, 8A, 9 or 10 of this Ordinance shall be liable on conviction to a fine not exceeding three thousand shillings or in default of payment to imprisonment for a period not exceeding one year.

Penalties.

11. There shall be inserted, next after section 11 of the principal Ordinance, the following new section and heading—

Insertion of new section 11A in the principal Ordinance.

MOVEMENT OF EXPLOSIVES WITHIN COLONY

11A. (1) No person shall convey explosives or cause them to be conveyed within the Colony, except under and in accordance with a permit in writing issued by an inspector:

Prohibition on conveyance of explosives without permit.

Provided that—

(i) this section shall not apply to safety fuses, percussion caps or fireworks;

(ii) no permit shall be required for the conveyance of explosives within any land or property belonging to or occupied by the person conveying, or authorizing the conveyance of the explosives.

(2) Every person contravening the provisions of this section or of any permit issued under this section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings, or in default of payment, to imprisonment for a period not exceeding six months.

12. The provisions of section 12 of the principal Ordinance shall continue to have effect until the 31st day of December, 1953, but shall then cease to have effect.

Expiry of section 12 of the principal Ordinance.

Amendment of section 13 of the principal Ordinance.

13. There shall be substituted for paragraph (f) of sub-section (1) of section 13 of the principal Ordinance the following paragraph—

(f) the maximum number of persons of each race which it is proposed to employ in each danger building in the factory;

Repeal of section 21 of the principal Ordinance.

14. Section 21 of the principal Ordinance is hereby repealed.

Repeal of sub-sections (2) and (4) of section 22 of the principal Ordinance.

15. Sub-sections (2) and (4) of section 22 of the principal Ordinance are hereby repealed.

Replacement of section 23 of the principal Ordinance.

16. There shall be substituted for section 23 of the principal Ordinance the following section—

Penalty for unlicensed factory or magazine.

23. Any person who establishes, erects, maintains or uses a factory for the manufacture of explosives, otherwise than in accordance with a valid licence issued under the provisions of this Ordinance, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings, or in default of payment, to imprisonment for a period not exceeding twelve months.

Amendment of section 25 of the principal Ordinance.

17. Section 25 of the principal Ordinance is amended by substituting for the words "one thousand shillings" and "three months" the words "three thousand shillings" and "one year" respectively.

Replacement of section 26 of the principal Ordinance.

18. There shall be substituted for section 26 of the principal Ordinance the following section—

Power to stop dangerous methods.

26. (1) If an inspector finds any method of work, storage, packing or use in connexion with explosives to be in conflict with the provisions of this Ordinance or of any rules, or to be in his opinion dangerous to the public security or to the safety of any person, he may in his discretion—

(a) confiscate and remove the explosives;

(b) by order in writing require the immediate discontinuance of such method;

(c) by order in writing require such remedial measures to be taken as in his opinion are necessary.

(2) Any person who is dissatisfied with a confiscation or requisition done or made under this section may within thirty days thereof appeal to the chief inspector of explosives, who shall give his decision thereon with the least possible delay.

(3) If an appellant is dissatisfied with a decision of the chief inspector of explosives given under this section he may within thirty days of such decision appeal therefrom to the Governor in Council, whose decision shall be final.

(4) The provisions of this section shall be without prejudice to any prosecution.

19. There shall be inserted, next after section 28 of the principal Ordinance, the following new section.

28A. Any person who makes or knowingly has in his possession or under his control any explosive, in circumstances which give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding seven years, and the explosive shall be forfeited to Her Majesty.

20. Section 29 of the principal Ordinance is amended in the following respects—

(a) by numbering the provisions thereof which begin with the words "The Governor in Council" and end with the words "purposes of this Ordinance", as sub-section (1) of that section, and by numbering the remaining two paragraphs of that section as sub-sections (2) and (3) respectively;

(b) by substituting for the words "giving of notice", where they appear in paragraph (g) of sub-section (1) of that section, the word "reporting";

Insertion of new section 28A in the principal Ordinance.

Penalty for making, possession or control of explosive for unlawful object.

Amendment of section 29 of the principal Ordinance.

- (c) by substituting for the words "manufacturers and dealers", where they appear in paragraph (k) of sub-section (1) of that section, the words "manufacturers, dealers and users of explosives";
- (d) by adding next after paragraph (k) of sub-section (1) of that section, the following new paragraph—
 - (l) prescribing the fees payable for licences or permits, and any renewals or duplicates thereof;
- (e) by substituting for the words "three thousand shillings" and "twelve months", where they appear in sub-section (2) thereof, the words "five thousand shillings" and "two years" respectively.

Insertion of
new section 29A
in the principal
Ordinance.

Expiration of
licences and
permits.

Amendment of
Schedule to the
Principal
Ordinance.

21. There shall be inserted next after section 29 of the principal Ordinance, the following new section—

29A. Every licence or permit issued under the provisions of this Ordinance shall expire on the 31st day of December in the year of issue unless renewed.

22. The Schedule to the principal Ordinance is amended in the following respects—

- (a) by deleting the words "Safety Fuse" and "Fuse igniters or tshisa sticks" and substituting therefor the words "Danolite and instantaneous detonating fuse";
- (b) by deleting the words "Ammunition of various kinds (cartridges)."

ORDINANCE No. 31 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS**SECTION**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Guarantee of loans.
- 4—Sums charged on general revenues.

SECTION

- 5—Provision for payment of money due to stock-holder.
- 6—Certificate by Crown Agents.
- 7—Certain Ordinances may properly be disallowed.

AN ORDINANCE TO GUARANTEE LOANS OF THREE AND A HALF MILLION, AND THIRTY-TWO MILLION SEVEN HUNDRED AND FIFTY THOUSAND POUNDS STERLING OR THE EQUIVALENT IN POUNDS STERLING AND OTHER CURRENCIES TO BE RAISED BY THE HIGH COMMISSION FOR CERTAIN PURPOSES OF THE EAST AFRICAN RAILWAYS AND HARBOURS ADMINISTRATION, TO FACILITATE THE INVESTMENT OF TRUST AND OTHER FUNDS IN THE UNITED KINGDOM IN HIGH COMMISSION SECURITIES ISSUED FOR THE PURPOSES OF SUCH LOANS, AND FOR OTHER MATTERS RELATING THERETO AND CONNECTED THEREWITH

By Notice

WHEREAS the High Commission, by an Act entitled the Loan (Railways and Harbours) Act, 1951 (hereinafter called the Act of 1951) as amended by an Act entitled the Loan (Railways and Harbours) (1951) (Amendment) Act, 1953, made in accordance with the provisions of section 28 (1) (a) of the East Africa (High Commission) Order in Council, 1947, is authorized to raise, either at one time or by instalments, and either separately or at the same time as any other loan, a loan of three and a half million pounds-sterling or the equivalent in pounds sterling and other currencies for certain purposes of the East African Railways and Harbours Administration (hereinafter called the Administration) specified in such Act:

Date of commencement.

H.C. Act,
Cap. 14.

H.C. Act,
No. 6 of 1953

H.C. Act,
No. 7 of 1952.

AND WHEREAS the High Commission, by an Act entitled the Loan (Railways and Harbours) Act, 1952 (hereinafter called the Act of 1952) made in accordance with the said Order in Council, is authorized to raise, either at one time or by instalments and either separately or at the same time as any other loan, a loan of thirty-two million, seven hundred and fifty thousand pounds sterling, or the equivalent in pounds sterling and other currencies, for certain purposes of the said Administration specified in the Schedule thereto:

H.C. Act,
Cap. 3.

AND WHEREAS the principal moneys authorized to be raised by the Act of 1951 and the Act of 1952 respectively, and any interest and other charges thereon, are by such Acts charged upon and payable out of the Railways and Harbours Fund maintained by the High Commission for the Administration under the provisions of section 22 of the East African Railways and Harbours Administration Act:

AND WHEREAS by section 7 of the Act of 1951 (as inserted by the said amending Act of 1953) and by section 8 of the Act of 1952 it is provided (in the case of each of those Acts, namely the Act of 1951 and the Act of 1952) that if any portion of the loan thereby authorized is raised by means of a loan from the International Bank for Reconstruction and Development and if it be lawful for the Treasury to guarantee such loan, then any sum issued out of the Consolidated Fund of the United Kingdom on account of the guarantee of such loan by the Treasury shall be repaid with interest to the Treasury out of the said Fund:

H.C. Act,
No. 14 of 1953.

AND WHEREAS by an Act entitled the Loan (Railways and Harbours) (1952) (Amendment) Act, 1953, it is provided that any portion of the loan authorized to be raised by the Act of 1952 may be raised by means of advances from the Government of the United Kingdom out of credit provided by the Mutual Security Agency as hereinafter defined:

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

Short title and
commencement.

1. This Ordinance may be cited as the Guarantee (High Commission Railways and Harbours Loans) Ordinance, 1953, and shall come into force on such day as the Governor may by notice in the Gazette, appoint.

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

“High Commission (Railways and Harbours Loans) Securities” means all securities created or issued by the High Commission on behalf of the Administration for the purpose of raising the loans of three and a half million, and thirty-two million, seven hundred and fifty thousand pounds sterling or the equivalent in pounds sterling and other currencies respectively authorized by the Act of 1951 and the Act of 1952, to which securities for the time being the Colonial Stock Acts, 1877 to 1948, of the United Kingdom apply, and which are for the time being registered in the United Kingdom in accordance with the provisions of those Acts;

40 & 41 Vict.
Cap. 59 to 12,
13, 14, Geo. 6
Cap. 1.

“final judgment, decree, rule or order” means in case of appeal the final judgment, decree, rule or order of the ultimate court hearing the appeal;

“Mutual Security Agency” means the Agency of the United States Government set up to carry out the programme of military, economic and technical assistance authorized by the Mutual Security Act, 1951, of the United States of America, as amended;

“the Treasury” means the Commissioners for the time being of Her Majesty’s Treasury in the United Kingdom.

3. (1) The payment of the principal moneys authorized to be raised by the High Commission under the authority of the Act of 1951 and the Act of 1952 respectively, and any interest and other charges thereon, is, to the extent to which such principal moneys and interest and other charges are not paid out of the Railways and Harbours Fund maintained for the Administration under the provisions of section 22 of the East African Railways and Harbours Administration Act, hereby guaranteed out of the general revenues and funds of the Colony:

Guarantee of
loans.

H.C. Act,
Cap. 3.

Provided that the aggregate amount of principal moneys guaranteed under this Ordinance shall not exceed thirty-seven and a half million pounds sterling.

(2) The guarantee created by sub-section (1) of this section shall extend to the repayment to the Treasury of any sums due to be repaid to the Treasury under section 7 of the Act of 1951 or under section 8 of the Act of 1952 and to the

substituted
Ord 4/55 s 2

repayment under section 9 of the Act of 1952 to the Government of the United Kingdom of any advances received by the High Commission from that Government out of credit provided by the Mutual Security Agency.

Sums charged on general revenues. 6-1 485 53

4. Any sum required for fulfilling the guarantees created by this Ordinance shall be charged upon and paid out of the general revenues and other funds of the Colony, and the Governor shall appropriate out of the general revenues and funds of the Colony and remit to the Crown Agents any such sum; and any sum received by the Governor by way of the repayment of any sum so paid shall form part of the general revenues of the Colony.

Provision for payment of money due to stockholder.

5. (1) Whenever by the final judgment, decree, rule or order of any court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable in respect of any of the High Commission (Railways and Harbours Loans) Securities, then that sum, if not forthwith paid by the High Commission, shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

(2) Whenever any sum of money is required to be paid to the Treasury under section 7 of the Act of 1951 or under section 8 of the Act of 1952, or to the Government of the United Kingdom under section 9 of the Act of 1952, then that sum, if not forthwith paid by the High Commission shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

(3) If the sum remitted to the Crown Agents under section 4 of this Ordinance is insufficient for the payment of any sum adjudged or declared to be payable under sub-section (1) of this section or of any sum required to be repaid to the Treasury or the Government of the United Kingdom as aforesaid, any balance required to meet such deficit shall be charged upon and paid out of the general revenues and funds of the Colony, and the Governor shall forthwith appropriate out of such general revenues and funds and shall remit to the Crown Agents a sum equal to the amount of the said balance; and the

(2) Without prejudice to the guarantee created by sub-section (1) of this section there is hereby provided that out of the general revenues and funds of the Colony the Governor shall pay to the Treasury of any sum required to be repaid to the Treasury under section 7 of the Act of 1951 or under section 8 of the Act of 1952 or payment under section 9 of the Act of 1952 to the Government of the United Kingdom of any sum received by the High Commission from that Government out of credit provided by the Mutual Security Agency.

(Ordinance No. 4 of 1955, s. 2.)

1953 *Guarantee (High Commission Railways and Harbours Loan)*

No. 31

said sum shall be applied by the Crown Agents in the satisfaction of the amount due under any such final judgment, decree, rule or order or the amount due to the Treasury or the Government of the United Kingdom, as the case may be, as aforesaid.

6. In order to enable every payment due to be made by the Crown Agents under the provisions of this Ordinance to be duly made, a certificate under the hand of the Crown Agents, specifying the sums so paid under a judgment, decree, rule or order of any court or to the Treasury or to the Government of the United Kingdom, as the case may be, shall be sufficient authority to the Auditor General, or other officer having the auditing of the accounts of the Crown Agents, for passing such sum without further appropriation.

Certificate by
Crown Agents.

7. If at any time hereafter an Ordinance is passed which appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting the High Commission (Railways and Harbours Loans) Securities to the injury of the holder thereof, or to involve a departure from the original contract in regard to these securities, or to prejudicially affect the right of the Treasury to require repayment of any sum under section 7 of the Act of 1951 or under section 8 of the Act of 1952 or the right of the Government of the United Kingdom to require repayment of any advance under section 9 of the Act of 1952, that Ordinance may properly be disallowed.

Certain Ordin-
ances may
properly be
disallowed.

ORDINANCE No. 32 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS**SECTION**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Guarantee of loan.
- 4—Sums charged on general revenues.

SECTION

- 5—Provision for payment of money due to stock-holder.
- 6—Certificate by Crown Agents.
- 7—Certain Ordinances may properly be disallowed.

AN ORDINANCE TO GUARANTEE A LOAN OF SIX MILLION POUNDS STERLING OR THE EQUIVALENT IN POUNDS STERLING AND OTHER CURRENCIES TO BE RAISED BY THE HIGH COMMISSION FOR CERTAIN PURPOSES OF THE EAST AFRICAN POSTS AND TELECOMMUNICATIONS ADMINISTRATION, TO FACILITATE THE INVESTMENT OF TRUST AND OTHER FUNDS IN THE UNITED KINGDOM IN HIGH COMMISSION SECURITIES ISSUED FOR THE PURPOSES OF SUCH LOAN, AND FOR OTHER MATTERS RELATING THERETO AND CONNECTED THEREWITH

Date of commencement.

By Notice

H.C. Act,
No. 9 of 1953.

WHEREAS the High Commission, by an Act entitled the Loan (Posts and Telecommunications) Act, 1953 (hereinafter called the Act of 1953), made in accordance with the provisions of section 28 (1) (a) of the East Africa (High Commission) Order in Council, 1947, is authorized to raise, either at one time or by instalments, as may be convenient, a loan of six million pounds sterling or the equivalent in pounds sterling and other currencies for certain purposes of the East African Posts and Telecommunications Administration (hereinafter called the Administration) specified in such Act:

H.C. Act,
Cap. 4.

AND WHEREAS the principal moneys authorized to be raised by the Act of 1953 and any interest or other charges thereon, are by that Act charged upon and payable out of the Posts and Telecommunications Fund maintained by the High Commission for the Administration under the provisions of section 97 of the East African Posts and Telecommunications Administration Act:

1953 *Guarantee (High Commission Posts and
Telecommunications Loan)*

No. 32

AND WHEREAS by section 8 of the Act of 1953 it is provided that if any portion of the loan thereby authorized is raised by means of a loan from the International Bank for Reconstruction and Development and if it be lawful for the Treasury to guarantee such loan, then any sum issued out of the Consolidated Fund of the United Kingdom on account of the guarantee of such loan by the Treasury shall be repaid with interest to the Treasury out of the said Fund:

AND WHEREAS it is expedient that repayment of such principal moneys and interest and other charges as aforesaid should be guaranteed out of the general revenues and other funds of the Colony and that any sums necessary for fulfilling such guarantee should be charged on such general revenues and other funds:

BE IT, THEREFORE, 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 Guarantee (High Commission Posts and Telecommunications Loan) Ordinance, 1953, and shall come into force on such day as the Governor may, by notice in the Gazette, appoint.

Short title and commencement.

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

Interpretation.

“High Commission (Posts and Telecommunications Loan) Securities” means all securities created or issued by the High Commission on behalf of the Administration for the purpose of raising the loan of six million pounds sterling or the equivalent in pounds sterling and other currencies authorized by the Act of 1953 to which securities for the time being the Colonial Stock Acts, 1877 to 1948, of the United Kingdom apply, and which are for the time being registered in the United Kingdom in accordance with the provisions of those Acts;

40 and 41 Vict.,
Cap. 59 to 12,
13, 14 Geo. 6,
Cap. 1.

“final judgment, decree, rule or order” means in case of appeal the final judgment, decree, rule or order of the ultimate court hearing the appeal;

“the Treasury” means the Commissioners for the time being of Her Majesty’s Treasury in the United Kingdom.

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*Guarantee (High Commission Posts and
Telecommunications Loan)* 1953

Guarantee
of loan.

3. (1) The payment of the principal moneys authorized to be raised by the High Commission under the authority of the Act of 1953 and any interest and other charges thereon, is, to the extent to which such principal moneys and interest and other charges are not paid out of the Posts and Telecommunications Fund maintained for the Administration under the provisions of section 97 of the East African Posts and Telecommunications Administration Act, hereby guaranteed out of the general revenues and funds of the Colony:

H.C. Act,
Cap. 4.

Provided that the aggregate amount of principal moneys guaranteed under this Ordinance shall not exceed six and a half million pounds sterling.

(2) The guarantee created by sub-section (1) of this section shall extend to the repayment to the Treasury of any sums due to be repaid to the Treasury under section 8 of the Act of 1953.

Sums charged
on general
revenues.

4. Any sum required for fulfilling the guarantee created by this Ordinance shall be charged upon and paid out of the general revenues and other funds of the Colony, and the Governor shall appropriate out of the general revenues and funds of the Colony and remit to the Crown Agents any such sum; and any sum received by the Governor by way of the repayment of any sum so paid shall form part of the general revenues of the Colony.

Provision for
payment of
money due to
stock-holder.

5. (1) Whenever by the final judgment, decree, rule or order of any court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable in respect of any of the High Commission (Posts and Telecommunications) Securities, then that sum, if not forthwith paid by the High Commission, shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

(2) Whenever any sum of money is required to be paid to the Treasury under section 8 of the Act of 1953, then that sum, if not forthwith paid by the High Commission, shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

1953 *Guarantee (High Commission Posts and
Telecommunications Loan)*

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(3) If the sum remitted to the Crown Agents under section 4 of this Ordinance is insufficient for the payment of any sum adjudged or declared to be payable under subsection (1) of this section or of any sum required to be repaid to the Treasury as aforesaid, any balance required to meet such deficit shall be charged upon and paid out of the general revenues and funds of the Colony, and the Governor shall forthwith appropriate out of such general revenues and funds and shall remit to the Crown Agents a sum equal to the amount of the said balance; and the said sum shall be applied by the Crown Agents in the satisfaction of the amount due under any such final judgment, decree, rule or order or the amount due to the Treasury, as the case may be, as aforesaid.

6. In order to enable every payment due to be made by the Crown Agents under the provisions of this Ordinance to be duly made, a certificate under the hand of the Crown Agents, specifying the sums so paid under a judgment, decree, rule or order of any court or to the Treasury, as the case may be, shall be sufficient authority to the Auditor General, or other officer having the auditing of the accounts of the Crown Agents, for passing such sum without further appropriation.

Certificate by
Crown Agents.

7. If at any time hereafter an Ordinance is passed which appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting the High Commission (Posts and Telecommunications) Loan Securities to the injury of the holder thereof, or to involve a departure from the original contract in regard to these securities, or to prejudicially affect the right of the Treasury to require repayment of any sum under section 8 of the Act of 1953, that Ordinance may properly be disallowed.

Certain
Ordinances
may properly
be disallowed.

ORDINANCE No. 33 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE INTERPRETATION
AND GENERAL CLAUSES ORDINANCE**

27th October, 1953

Date of commencement.

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

Short title.

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance, 1953, and shall be read and construed as one with the Interpretation and General Clauses Ordinance, hereinafter referred to as the principal Ordinance.

Cap. 1.

Amendment of section 2 of the principal Ordinance.

2. Section 2 of the principal Ordinance is amended in the definition of "subsidiary legislation" by inserting next after the word "by-law" the words "appointment, delegation".

Amendment of section 15 of the principal Ordinance.

3. Section 15 of the principal Ordinance is amended by adding next after paragraph (e) thereof the following new paragraph—

(f) when any subsidiary legislation purports to be made or issued in exercise of a particular power or powers it shall be deemed also to be made or issued in exercise of all other powers thereunto enabling.

Insertion of new section 22A in the principal Ordinance.

4. There shall be inserted, immediately after section 22 of the principal Ordinance, the following new section—

Power to appoint substantively pending retirement, etc., of existing office-holder.

22A. Where the substantive holder of any office in the service of the Government is on leave of absence pending relinquishment of his office it shall be lawful for another person to be appointed substantively to the same office.

Renumbering of section 23A of the principal Ordinance. No. 32 of 1948.

5. Section 23A of the principal Ordinance, which was originally inserted next after section 23 of the Interpretation and General Clauses Ordinance, 1948 (now section 26 of the principal Ordinance), is amended by renumbering the section as section 26A.

1953 *Interpretation and General Clauses*
(Amendment)

No. 33

6. There shall be inserted, immediately after section 26A of the principal Ordinance (formerly section 23A) the following new section—

Insertion of new section 26B in the principal Ordinance.

26B. Where any Ordinance empowers a Member of the Executive Council to make rules, the Governor may by notice in the Gazette authorize any other Member of the Executive Council to make such rules during any period of absence from the Colony, or of inability to act from illness or any other cause, of such first-mentioned Member, and thereupon or from such date as may be specified in such notice, the Member so authorized shall be empowered to make such rules, and any rules so made shall be of the like validity as if they had been made by such first-mentioned Member.

Power to authorize Member to make rules during absence, etc., of another Member.

7. (1) There shall be inserted, immediately after section 32 of the principal Ordinance, the following new section—

Insertion of new section 32A in the principal Ordinance.

32A. (1) Where in any Ordinance reference is made to any area and, at any time or times after the Ordinance comes into effect, any one or more of the following events occur by virtue of any Proclamation or other instrument made in exercise of the powers conferred by the Kenya Colony and Protectorate (Boundaries) Order in Council, 1921, or otherwise, namely—

Effect of change of boundaries, etc.

- (a) the name of the area or of any part thereof is altered;
- (b) the boundaries thereof are altered;
- (c) the area or any part thereof is incorporated in any one or more other areas,

Sub. Leg. Vol. V p. 379.

then nothing contained in any such Proclamation or other instrument shall be deemed to affect such reference as aforesaid and every such reference shall for the purposes of the Ordinance be deemed to be and to continue to be a reference to the area as constituted, named, defined or bounded prior to such alteration or incorporation as aforesaid.

(2) For the purposes of this section—

“area” includes any province, extra-provincial district, district or other place;

“Ordinance” includes any subsidiary legislation.

(2) This section shall be deemed to have come into effect on the 1st day of August, 1953, and to have had effect for all purposes from that date.

Repeal and
replacement of
section 48 of
the principal
Ordinance.
Reprint of
amended
Ordinances.

8. There shall be substituted for section 48 of the principal Ordinance the following section—

48. Where any Ordinance has been amended it shall be lawful for the Government Printer, with the authority of the Attorney General, to print copies of the Ordinance with all the additions, omissions, substitutions and amendments effected by the amending Ordinance or Ordinances, and all copies purporting to be so printed shall, until the contrary is shown, be deemed to be authentic copies of the Ordinance as so amended.

ORDINANCE No. 34 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

AN ORDINANCE TO AMEND THE OIL PRODUCTION ORDINANCE

27th October, 1953

Date of commencement.

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

1. This Ordinance may be cited as the Oil Production (Amendment) Ordinance, 1953, and shall be read and construed as one with the Oil Production Ordinance, hereinafter referred to as the principal Ordinance.

Short title.

Cap. 171.

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

Amendment of section 2 of the principal Ordinance.

(a) by substituting for the definition of "Commissioner of Mines", the following—

"Commissioner" means the Commissioner (Mines and Geology) appointed under the Mining Ordinance;

Cap. 168.

(b) by deleting the definitions of "prospecting" and "salt licks";

(c) by adding, in their appropriate alphabetical order, the following new definitions—

"explore" means to explore for oil in such manner as may be authorized by an exploration licence;

"exploration licence" means a licence to explore for oil granted under this Ordinance;

"lease" means a lease to mine for oil granted under this Ordinance;

"lessee" means a lessee under a mining lease;

"licence" means an exploration licence or a prospecting licence as the case may require, and "licensee" has a corresponding meaning;

"prospect" means to prospect for oil in such manner as may be authorized by a prospecting licence;

“prospecting licence” means a licence to prospect for oil granted under this Ordinance;

“salt lick” means a deposit of salt or other mineral regularly used as a salt lick by cattle or other stock;

“to mine” means intentionally to win oil in such manner as may be authorized by a mining lease.

Substitution of “Commissioner” for “Commissioner of Mines” throughout Ordinance.

3. There shall be substituted for the expression “Commissioner of Mines”, wherever that expression occurs in the principal Ordinance, the expression “Commissioner”.

Substitution of “Mining Ordinance” for “Mining Ordinance, 1912” throughout Ordinance.

4. There shall be substituted for the words and figures “Mining Ordinance, 1912”, wherever those words and figures appear in the principal Ordinance, the words “Mining Ordinance”.

Replacement of section 3 of the principal Ordinance.

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

Application of Ordinance and licences and leases thereunder.

3. (1) Subject to the provisions of this section, this Ordinance shall extend to all land situate within the Colony and Protectorate including that part of the sea bed off the coasts of the Colony and Protectorate, and the sub-soil thereunder, whereof the natural resources, by right, treaty, grant, usage, sufferance or other lawful means, appertain to Her Majesty or are subject to Her Majesty’s jurisdiction or control; and the Governor may grant licences to explore or prospect for oil and leases to mine for oil over or in respect thereof or any part thereof.

(2) Subject to the provisions of sub-section (3) of this section and except as is provided in this sub-section, nothing contained in this Ordinance or contained in or implied by any licence or lease shall be deemed to authorize the licensee or lessee—

(a) to enter upon or occupy or exercise any rights whatsoever in respect of the surface or the sub-soil of any land comprised in the licence or lease being—

(1) the site of a burial ground or place of worship;

(2) land which the Governor may in exercise of the powers conferred by sub-section (4) of

this section declare to be required for any public purpose;

- (3) land which prior to the grant of the licence or lease has been dedicated or set apart for any public purpose, except with the consent of the Governor;
 - (4) a salt lick, except with the consent of the Governor;
 - (5) land which is the site of, or land situate within fifty yards of, any building, reservoir or dam owned by the Government, except with the consent of the Governor;
 - (6) land situate within any municipality, urban district or township, except with the consent of the owner and occupier of the surface thereof and the consent either of the Governor or of the municipal, urban or township authority;
 - (7) the site of a public street, road or highway, except with the consent either of the Governor or of the municipal, urban or township authority or other person or body having control of such street, road or highway;
 - (8) the site of a railway, or land reserved for the purpose of a railway or situate within fifty yards of any railway, except with the consent of the East African Railways and Harbours Administration as defined by the East African Railways and Harbours Act;
- (b) to enter upon or occupy or exercise any rights whatsoever in respect of the surface of any land comprised in the lease or licence, being—
- (1) land in respect of which any right of prospecting or mining for minerals has been granted prior to the grant of the licence or lease, except with the consent of the person enjoying such right;
 - (2) the site of a licensed or Government aerodrome or Government landing ground or land within one thousand yards of the boundaries thereof, except with the consent of the Governor;

High Commis-
sion Acts
(Cap. 3)

- (3) the site of a Government rifle range, except with the consent of the Governor;
- (4) the foreshore, between high and low water marks at ordinary spring tides, within the boundaries of any municipality, urban district or township, except with the consent either of the Governor or of the municipal, urban or township authority;
- (5) land situate within any trading centre within the meaning of the Trading Centres Ordinance, except with the consent of the Governor:

Cap. 278.

Provided that in the case of a licence, subject to the terms and conditions of his licence, the licensee may explore or prospect upon the surface only of any such lands as are described in sub-paragraphs (2) to (5) inclusive of this paragraph and for that purpose enter thereon and make geological, geophysical, topographic and hydrographic examinations thereof, causing as little damage as possible in so doing and making good any damage caused forthwith upon the completion of such examinations.

(3) The Governor may in or by any licence or lease, or document varying the same, authorize the licensee or lessee to enter upon, occupy and exercise rights of exploration, prospecting or mining for oil over or in respect of the surface or the sub-soil of any such lands as are described in paragraph (a) of sub-section (2) of this section or to enter upon or occupy or to exercise such rights as aforesaid over or in respect of the surface of any such lands as are described in paragraph (b) of sub-section (2) of this section, but save in so far as any licence or lease or any such document as aforesaid expressly grants such authority by reference to this sub-section every licence and lease shall be deemed, notwithstanding anything therein contained or implied, to be subject to the provisions of sub-section (2) of this section.

(4) The Governor may at any time and from time to time during the subsistence of any licence or lease declare any land comprised in such licence or lease to be land required for a public purpose:

Provided that—

- (i) no such declaration may be made in respect of any land or lands exceeding, or exceeding in the aggregate, five per centum of the land comprised in the licence or lease; and
- (ii) if the licensee or lessee shall within thirty days of being notified of any such declaration satisfy the Governor that the declaration will interfere substantially with the operations or proposed operations of the licensee or lessee under his licence or lease, he shall be entitled to require the Governor to declare other land or other lands, being part of the land comprised in the licence or lease, to be required for such public purpose and thereupon the Governor shall modify the declaration accordingly.

6. The principal Ordinance is amended by inserting therein, immediately after section 3 thereof, the following new sections—

Insertion of new sections 3A and 3B in the principal Ordinance.

3A. Where any licensee or lessee intends to explore, prospect or mine upon, or in any manner to disturb, the surface of any private land, he shall give not less than forty-eight hours' notice of such intention to the occupier, and if practicable to the owner, of such land and shall, if required by the owner or occupier, give security in such sum and by such means as the Commissioner may direct for meeting any compensation payable under the provisions of section 3B of this Ordinance.

Notice in respect of private land.

3B. (1) Whenever, in the course of any exploring, prospecting or mining operations carried on by any licensee or lessee, any disturbance of the rights of the owner or occupier of any private land, or damage to any such land, or to any crops, trees, buildings, stock or works therein or thereon, is caused, the licensee or lessee shall be liable on demand to pay to the owner or occupier such compensation as is fair and reasonable having regard to the extent of the disturbance or damage and to the interest of the owner or occupier in the land.

Payment of compensation to owners or occupiers of private land.

(2) If any such licensee or lessee as aforesaid shall fail to pay compensation, when demanded, under subsection (1) of this section or if any owner or occupier shall be dissatisfied with the amount of any compensation

offered to him thereunder, such owner or occupier may within six months of the date on which such demand or offer as aforesaid is made, take proceedings before a court of competent jurisdiction for the determination and recovery of the compensation (if any) properly payable under the provisions of sub-section (1) of this section:

Provided that where the owner or occupier is an African, a Somali or an Arab, the district commissioner of the district in which land affected is situate shall, if the African, Somali or Arab so desires, determine the amount of compensation (if any) so payable and make an award for the payment thereof; any such award shall be subject to review by a magistrate of the first class upon an application by either party filed within the period of thirty days from the date of such award and the magistrate may upon any such review, confirm, quash or vary the award, subject to an appeal to the Supreme Court whose decision shall be final, and for the purposes of any such appeal the decision of the magistrate shall be deemed to be a decree within the meaning of the Civil Procedure Code.

Cap. 5.

(3) Any sum payable under any such award as aforesaid shall be paid by the licensee or lessee to the person entitled thereto upon the expiration of the period of thirty days from the date of the final award.

(4) Any award made by virtue of the provisions of this section shall be enforceable as if it were a decree of a competent court.

Amendment of section 7 of the principal Ordinance.

7. Section 7 of the principal Ordinance is amended by substituting for the words "the granting of licences or leases to prospect and mine for oil", appearing therein, the words "the granting of licences and leases to explore, prospect and mine for oil".

Amendment of section 8 of the principal Ordinance.

8. Section 8 of the principal Ordinance is amended in the following respects—

(a) by substituting for the words "that His Majesty's Government shall have the right of pre-emption", appearing in paragraph (a) thereof, the words "that the Governor shall, in time of war or national emergency, have the right of pre-emption";

- (b) by substituting for the words "that in the event of war, whether His Majesty's Government is involved or not, the Governor on behalf of His Majesty shall", appearing in paragraph (b) thereof, the words "that the Governor shall, in time of war or national emergency,".

ORDINANCE No. 35 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

SECTION

- 1—Short title and commencement.
- Interpretation.
- Vesting of scheduled lands in the Crown.
- Lease of scheduled lands to the Company.
- 5—Compensation to persons interested in the scheduled lands.
- 6—Authority to Company to operate oil refinery and exemption from liability for nuisance.
- 7—No actions maintainable against the Crown, etc.

SECTION

- 8—Power to declare other lands to be scheduled lands.
 - 9—Compulsory acquisition of easements and rights.
 - 10—Savings of the rights of the Crown, bodies corporate and other persons.
- FIRST SCHEDULE—The Scheduled lands.
SECOND SCHEDULE—Section of the Indian Land Acquisition Act, 1894, applied by and incorporated in this Ordinance and modifications subject to which such sections are so applied and incorporated.

AN ORDINANCE TO EFFECT THE VESTING IN THE CROWN OF CERTAIN LANDS IN THE COAST PROVINCE, SUBJECT TO PAYMENT OF COMPENSATION THEREFOR, AND FOR AUTHORIZING THE GOVERNOR TO GRANT A LEASE THEREOF FOR THE PURPOSE OF THE CONSTRUCTION OF AN OIL REFINERY AND ANCILLARY WORKS; AND FOR PURPOSES CONNECTED THEREWITH AND INCIDENTAL THERETO

Date of commencement.

By Notice

WHEREAS The Anglo-Saxon Petroleum Company, Limited, a limited liability company incorporated in the United Kingdom and having its registered office at St. Helen's Court, London, has under consideration a project for the construction and operation, at considerable expense, of an oil refinery and ancillary works in the Coast Province and, for that purpose, of securing a lease or leases of, *inter alia* the lands hereinafter described:

AND WHEREAS it is in the public interest that the said Company, or an associate, should be enabled to construct and operate an oil refinery and ancillary works in the Colony:

AND WHEREAS accordingly it is expedient that the said lands should be vested in the Crown, subject to payment of compensation therefor, and that the Governor should be empowered to grant a lease or leases thereof to the said Company or its associate, with power to construct and operate an oil refinery and ancillary works as aforesaid:

AND WHEREAS it is desirable to make provision for giving effect to the foregoing purposes under the authority of the Legislative Council:

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

1. This Ordinance may be cited as the Land Acquisition (Mombasa Oil Refinery) Ordinance, 1953, and shall come into operation on such day as the Governor may by notice in the Gazette appoint.

Short title and commencement.

2. In this Ordinance unless the context otherwise requires—

Interpretation.

“ancillary purposes” includes, subject to the provisions of the East African Railways and Harbours Act and of the East African Posts and Telecommunications Act, the construction or provision of docks, slips, quays, wharves, piers, warehouses, buildings, yards and structures deemed by the Company to be necessary or useful for the purpose of accommodating, storing, loading, discharging, handling, importing or exporting goods, materials and commodities of any kind, and the construction or provision of railways, tramways, bridges, ferries, canals, roads, ways, pipelines, telegraphs, telephones and other means of transport or communication, and the construction or provision of housing and facilities for the recreation or welfare of employees of the Company;

East Africa High Commission Acts, Cap. 3 and Cap. 4.

“appointed day” means the day appointed by the Governor under section 1 of this Ordinance;

“appropriate Registrar” means the Registrar of Titles, the Registrar of Crown Lands, or the Registrar of Coast Land Titles, appointed for the purposes of the Registration of Titles Ordinance, the Crown Lands Ordinance, or the Land Titles Ordinance, as the case may require;

Cap. 160.
Cap. 155.
Cap. 159.

“appropriate Register” means the Register maintained under the provisions of the Registration of Titles Ordinance, the Crown Lands Ordinance or the Land Titles Ordinance, as the case may require;

Cap. 160.
Cap. 155.
Cap. 159.

“Her Majesty” includes Her Heirs and Successors;

“lease” means any tenancy however created;

“meeting” in relation to the Legislative Council, has the meaning for the time being assigned to it by the Standing Orders of the Legislative Council;

“scheduled lands” means the lands described in the First Schedule to this Ordinance;

“the Company” means, as the case may from time to time require, The Anglo-Saxon Petroleum Company, Limited, as aforesaid, or such other Company, incorporated in the Colony, as the Governor may deem to be an associate of The Anglo-Saxon Petroleum Company, Limited, aforesaid.

Vesting of the
scheduled lands
in the Crown.

Cap. 155.

3. (1) Immediately upon the appointed day the scheduled lands shall, by virtue of this Ordinance, vest in Her Majesty absolutely, freed and discharged from all estates, rights, titles, interests, encumbrances, claims and demands whatsoever, and such land shall be deemed to be Crown land within the meaning of the Crown Lands Ordinance, and Her Majesty shall be deemed in law to be in actual possession thereof to all intents and purposes whatsoever.

(2) As soon as may be after the appointed day, the appropriate Registrar shall cause to be entered in the appropriate Register, in respect of each piece or parcel of land forming part of the scheduled lands, a memorandum of the vesting thereof in Her Majesty by virtue of this Ordinance.

Lease of
scheduled lands
to the Company.

4. (1) At any time after the appointed day, the Governor may, on behalf of Her Majesty, grant a lease or leases of all or any part of the scheduled lands to the Company with authority to do all or any of the following acts and things thereon—

- (a) to construct and operate an oil refinery and any ancillary works;
- (b) to extend or alter the refinery or any ancillary works;
- (c) to carry out ancillary purposes.

(2) Every such lease shall be granted at such premium and rent and shall be for such period and subject to such terms and conditions as the Governor may deem expedient. The lease may be made assignable to any company, incorporated

in the Colony, which the Governor may deem to be an associate of The Anglo-Saxon Petroleum Company, Limited.

(3) Nothing herein contained shall—

(a) be deemed to exempt any lease granted under the provisions of this Ordinance from chargeability to stamp duty under the provisions of the Stamp Ordinance Cap. 259. or the Company from liability to payment of any such stamp duty;

(b) affect the provisions of section 328 of the Companies Ordinance. Cap. 288.

(4) Every such lease shall be deemed for the purposes of the Crown Lands Ordinance to be a lease granted under the provisions of that Ordinance. Cap. 155.

5. (1) Subject to the provisions of this Ordinance, every person interested in the scheduled lands, or any part thereof, shall be entitled to compensation in respect of the vesting thereof in Her Majesty by virtue of the provisions of section 3 of this Ordinance. Compensation to persons interested in the scheduled lands.

(2) All such compensation shall be payable out of the public funds of the Colony.

(3) The provisions of those sections of the Indian Land Acquisition Act, 1894, as applied to the Colony, which are specified in the First Column of the Second Schedule to this Ordinance shall apply for the purposes of compensating persons interested in the scheduled lands as aforesaid and for regulating all matters connected with the compensation payable under this Ordinance to the persons interested as aforesaid and for those purposes the aforesaid sections of the said Act shall be deemed to be incorporated in and form part of this Ordinance in the same manner as if they were enacted in the body thereof, subject, however, to the following provisions—

(a) in their application and incorporation as aforesaid, sections 3, 8, 9, 14, 19, 23, 24, 25, 26, 28, 31, 34 and 54 of the said Act shall, subject to the provisions of sub-section (3) of section 8 of this Ordinance, be deemed respectively to be modified in the manner specified in respect of each such section in the Second Column of the Second Schedule to this Ordinance;

(b) every reference in any of the aforesaid sections of the said Act applied and incorporated herein as aforesaid to the provisions of any Act or law in force in India shall be deemed to be a reference to such comparable Ordinance or other law as may, for the time being, be in force in the Colony.

(4) The Governor shall appoint a person, by name or office, to be the Collector for the purposes of those provisions of the Indian Land Acquisition Act, 1894, which are applied and incorporated herein as aforesaid.

Authority to Company to operate oil refinery and exemption from liability for nuisance.

6. Subject to the grant of a lease to the Company under the provisions of this Ordinance and to the terms and conditions of any such lease, the Company is hereby authorized to construct and use upon the scheduled lands an oil refinery and ancillary works and to carry on all operations incidental to an oil refinery and ancillary works, and the Company is hereby exonerated from liability for nuisance in respect of such construction and use and all such operations as aforesaid except in so far as any nuisance is caused, or contributed to, by any negligence in the construction or use of such refinery or ancillary works or in the carrying on of such operations as aforesaid.

No actions maintainable against the Crown, etc.

7. No action, suit or proceeding of any kind shall be brought by any person against the Crown or the Governor or against the Government or any department thereof, or against any officer of the Government as such, in respect of the construction, use or operation of an oil refinery or ancillary works on the scheduled lands, or in respect of any matter or thing done or omitted to be done by the Company under this Ordinance or any lease granted to the Company thereunder.

Power to declare other lands to be scheduled lands.

8. (1) The Governor may, at any time before the expiration of ten years from the appointed day, declare any other lands for the time being within the Mombasa District or the Kwale District of the Coast Province to be scheduled lands for the purposes of this Ordinance.

(2) Where any such other lands are, at the date of a declaration made by the Governor under the provisions of subsection (1) of this section, unalienated Crown land within the meaning of the Crown Lands Ordinance, no compensation shall be payable under this Ordinance in respect of the vesting

thereof in Her Majesty, but all the provisions of this Ordinance with the exception of the provisions of section 5 thereof shall apply thereto:

Provided that in relation to such other lands the appointed day for the purposes of this Ordinance shall be deemed to be the date of such declaration as aforesaid.

(3) Where any such other lands are not, at the date of the declaration made by the Governor under the provisions of subsection (1) of this section, unalienated Crown land as aforesaid, compensation shall be payable under this Ordinance in respect of the vesting thereof in Her Majesty and all the provisions of this Ordinance shall apply thereto:

Provided that—

(i) every such declaration shall be laid before the Legislative Council on the first day of the meeting thereof next after the date of the making of the declaration and, unless before the conclusion of such meeting the Legislative Council resolves that the declaration shall not be approved, it shall come into effect on the day following such conclusion, or, if during such meeting the Legislative Council resolves that the declaration be approved with modifications, it shall come into effect on such day but subject to such modifications;

(attached)
(4/1/1955)

(ii) in relation to such other lands—

(a) the appointed day for the purposes of this Ordinance shall be the day upon which the declaration comes into effect as aforesaid; and

(attached)

(b) all references in those provisions of the Indian Land Acquisition Act, 1894, which are applied by and incorporated in this Ordinance to the date of the publication of a declaration under section 6 of that Act shall be deemed for the purposes of such application and incorporation, to be references to the day on which the declaration made under this section in respect of such other lands comes into effect as aforesaid.

9. (1) Subject to the provisions of this section, where it appears to the Governor necessary so to do, he may by order, from time to time, provide for compulsorily vesting in the Company all such easements or other rights in, under or over, or in respect of, any lands other than the scheduled lands as

Compulsory acquisition of easements and rights.

appear to him to be necessary or desirable for facilitating the operations of any oil refinery or ancillary works which may for the time be upon the scheduled lands, and, without prejudice to the generality of the foregoing provisions, such easements or rights may comprise easements or rights—

- (a) of support or withdrawal of support;
- (b) of ways of access or conveyance of any material;
- (c) of ventilation or drainage;
- (d) of the use or occupation of any land for the purpose of the erection of any buildings or structure;
- (e) of obtaining water supplies or disposing of water or other liquid matter;
- (f) of discharging into rivers, streams or watercourses of any liquid or solid matter, whether such discharge results in pollution or not;
- (g) of placing any waste materials on any land;
- (h) of overhead ways or pipes or other means of conveyance of any material and the use and occupation of the surface or the underground of any land for the purpose of supporting or maintaining any such overhead ways, pipes or other means of conveyance.

(2) Any order made under this section shall provide for the payment of compensation by the Company in such cases and subject to such conditions as may be specified in the order or determined thereunder, in respect of loss suffered as the result of the acquisition or exercise of easements or rights under the order.

(3) No Order shall be made under this section in relation to land which is unalienated Crown land within the meaning of the Crown Lands Ordinance or in relation to any land forming part of the Native Lands, without prejudice however, to the right of the Governor on behalf of Her Majesty to grant to the Company any easement or exclusive right over any land which is unalienated Crown land as aforesaid under the powers conferred by sub-section (6) of this section.

(4) Every Order made under this section shall be laid before the Legislative Council on the first day of the meeting thereof next after the date of the making of the Order and, unless before the conclusion of such meeting the Legislative Council resolves that the order shall not be approved, it shall come into effect on the day following such conclusion, or, if during such meeting the Legislative Council resolves that the Order be approved with modifications, it shall come into effect on such day but subject to such modifications.

(5) As soon as may be after an order made under this section comes into effect, the appropriate Registrar shall cause a memorandum of the Order to be entered in the appropriate Register in respect of each piece or parcel of land affected by the Order.

(6) The Governor may on behalf of Her Majesty at any time grant to the Company any such easement or other right as is referred to in sub-section (1) of this section in, under or over, or in respect of any unalienated Crown land within the meaning of the Crown Lands Ordinance, on such terms and conditions as he thinks fit. **Cap. 155.**

10. Save as herein expressly provided nothing in this Ordinance shall in any way prejudice or affect any rights of Her Majesty in any respect, or of any body politic or corporate or of any other person. Savings of the rights of the Crown, bodies corporate and other persons

Section 2.

FIRST SCHEDULE

THE SCHEDULED LANDS

Land Reference No.	Locality	Approximate Area in Acres
SECTION II—		
Plot No. 18	Mombasa Mainland South	1.80
Plot No. 19	Mombasa Mainland South	1.70
Plot No. 20	Mombasa Mainland South	2.10
Plot No. 21	Mombasa Mainland South	0.90
Plot No. 22	Mombasa Mainland South	1.30
Plot No. 51	Mombasa Mainland South	16.30
SECTION I—		
Plot No. 105	Mombasa Mainland South	5.60
Plot No. 106	Mombasa Mainland South	1.90
Plot No. 109	Mombasa Mainland South	10.20
Plot No. 141	Mombasa Mainland South	1.84
Plot No. 139	Mombasa Mainland South	2.00
Plot No. 128	Mombasa Mainland South	2.00
Plot No. 129	Mombasa Mainland South	1.23
Plot No. 130	Mombasa Mainland South	1.00
Plot No. 131	Mombasa Mainland South	1.00
Plot No. 150	Mombasa Mainland South	1.07
Plot No. 157	Mombasa Mainland South	0.3047
Plot No. 158	Mombasa Mainland South	0.315
Plot No. 160	Mombasa Mainland South	0.50
Portion of Plot No. 174	Mombasa Mainland South	6.00
Portion of Plot No. 2 north-east of road, including Plot No. 149 }	Mombasa Mainland South	0.857
Plot No. 163	Mombasa Mainland South	9.80
Plot No. 144	Mombasa Mainland South	1.58
Portion of Plot No. 114	Mombasa Mainland South	2.06
Portion of Plot No. 111	Mombasa Mainland South	0.20
Portion of L.R. No. 3855	Mombasa Mainland South	2,160.00

which said lands are more particularly delineated on Survey Map No. 282 deposited in the Survey Records Office, Nairobi.

(4) The draft of every order made shall be laid before the Legislative Council and shall be approved by resolution of the Legislative Council if the same is submitted to the Legislative Council and no further proceedings shall be taken without prejudice to the laying before the Legislative Council of a new draft; and every order made under this section shall come into effect on the date of such order.

(Ordinance No. 41 of 1955, s. 3.)

Section 5

SECOND SCHEDULE

SECTIONS OF THE INDIAN LAND ACQUISITION ACT, 1894, APPLIED AND INCORPORATED
IN THIS ORDINANCE AND MODIFICATIONS SUBJECT TO WHICH SUCH SECTIONS ARE SO
APPLIED AND INCORPORATED

<i>Sections and Marginal Notes</i>	<i>Modifications</i>
SECTION 3— Definitions	<p>(a) The expression "Collector" shall mean the Collector appointed under section 5 of this Ordinance.</p> <p>(b) The expression "Court" shall mean a subordinate court of the first class, except where the land or subject-matter in dispute exceeds or is claimed to exceed in value the sum of twenty thousand shillings, in which case the expression means the Supreme Court.</p> <p>(c) The definition of "Company" shall be inapplicable.</p> <p>(d) In paragraph (g), the words ", in cases to which the English law is applicable" shall be deleted.</p>
SECTION 8— Land to be marked out, measured and planned.	<p>(a) The words "as soon as may be after the appointed day caused the scheduled lands" shall be substituted for the words "thereupon cause the land".</p> <p>(b) The words "cause each piece or parcel of the scheduled lands" shall be substituted for the words "cause it".</p>
SECTION 9— Notice to persons interested.	<p>All references to land to be taken or needed shall be read and construed as references to the scheduled lands, and all references to the Government's intention to take possession of land shall be read as references to the vesting of the scheduled lands in Her Majesty by virtue of this Ordinance.</p>
SECTION 10— Power to require and enforce the making of statements as to names and interests.	_____
SECTION 11— Enquiry and award by Collector.	_____
SECTION 12— Award of Collector, when to be final.	_____
SECTION 13— Adjournment of enquiry ..	_____
SECTION 14— Power to summon and enforce attendance of witnesses and production of documents.	<p>The reference to a Civil Court acting under the Code of Civil Procedure of India shall be read and construed as a reference to the Supreme Court acting under the Civil Procedure Ordinance (Cap. 5).</p>

Sections and Marginal Notes	Modifications
SECTION 15— Matters to be considered and neglected.	_____
SECTION 18— Reference to Court ..	_____
SECTION 19— Collector's statement to the Court.	The references to sections 5 and 17 of the Act shall be inapplicable.
SECTION 20— Service of notice	_____
SECTION 21— Restriction on scope of proceedings.	_____
SECTION 22— Proceedings to be in open Court.	_____
SECTION 23— Matters to be considered in determining compensation.	All references to the date of the publication of a declaration under section 6 of the Act shall be read and construed as references to the date, the 30th day of August, 1952; and all references to the time of the Collector taking possession of land shall be read and construed as references to the appointed day.
SECTION 24— Matters to be neglected in determining compensation.	All references to the date of publication of a declaration as aforesaid shall be read and construed as references to the 30th day of August, 1952.
SECTION 25— Rules as to the amount of compensation.	All references to the Judge shall be read and construed as references to the Judge or Magistrate.
SECTION 26— Form of awards	There shall be substituted for the section the following:— Form of awards. 26. Every award under this Part shall be in writing and signed by the Judge or Magistrate, and shall be in such form as the Judge or Magistrate shall think fit.
SECTION 27— Costs	_____
SECTION 28— Collector may be directed to pay interest on excess compensation.	The reference to interest at the rate of six per centum shall be read and construed as a reference to interest at the rate of four per centum.
SECTION 29— Particulars of apportionment to be specified.	_____
SECTION 30— Dispute as to apportionment.	_____

Sections and Marginal Notes	Modifications
SECTION 31— Payment of compensation or deposit of same in Court.	The reference to the Local Government shall be read and construed as a reference to the Member of Executive Council for the time responsible for Lands.
SECTION 32— Investment of money deposited in respect of lands belonging to persons incompetent to alienate.	_____
SECTION 33— Investment of money in other cases.	_____
SECTION 34— Payment of interest ..	The reference to interest at the rate of six per centum shall be read and construed as a reference to interest at the rate of four per centum.
SECTION 45— Service of notices	_____
SECTION 46— Penalty for obstructing acquisition of land.	_____
SECTION 51— Exemption from stamp duty and fees.	_____
SECTION 52— Notice in case of suits for anything done in pursuance of Act.	_____
SECTION 53— Code of Civil Procedure to apply to proceedings before Court.	_____
SECTION 54— Appeals in proceedings before Court.	<p>There shall be substituted for the section the following:—</p> <p>Appeals in proceedings before Court.</p> <p>54. (1) An appeal shall lie to the Supreme Court from any award or decree of a Magistrate under this Act.</p> <p>(2) An award or decree of the Supreme Court under this Act shall, whether the same be made or passed on appeal from a subordinate court or otherwise, be final and conclusive both as to law and as to fact.</p>

ORDINANCE No. 36 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE AUDIT
ORDINANCE, 1952**

27th October, 1953

Date of
commencement

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

Short title.

1. This Ordinance may be cited as the Audit (Amendment) Ordinance, 1953, and shall be read and construed as one with the Audit Ordinance, 1952, hereinafter referred to as the principal Ordinance.

No. 14 of 1952.

Amendment of
section 12 of
the principal
Ordinance.

2. Section 12 of the principal Ordinance shall, with effect as from the 30th day of June, 1954, be amended by substituting for the words "Within the period of four months or such longer period as the Legislative Council may, by resolution, appoint after the close of each financial year the Accountant General shall transmit to the Director of Audit accounts showing fully the financial position of the Colony on the last day of such financial year", appearing therein, the words "Within the period of four months after the 30th day of June in each year or such longer period thereafter as the Legislative Council may, by resolution, appoint, the Accountant General shall transmit to the Director of Audit accounts showing fully the financial position of the Colony on such 30th day of June."

Amendment of
section 13 of the
principal
Ordinance.

3. Sub-section (1) of section 13 of the principal Ordinance shall, with effect as from the 30th day of June, 1954, be amended by substituting for the words "The Director of Audit shall prepare and transmit to the Member within seven months or such longer period as the Legislative Council may, by resolution, appoint after the close of each financial year", appearing therein, the words "Within the period of seven months after the 30th day of June in each year or such longer period thereafter as the Legislative Council may, by resolution, appoint, the Director of Audit shall prepare and transmit to the Member".

1953

Audit (Amendment)

No. 36

4. Nothing herein contained shall affect the operation of the provisions of section 12 and of sub-section (1) of section 13 of this Ordinance as originally enacted in respect of the financial year ending on the 31st day of December, 1953.

Special provisions for the year ending 31st December, 1953.

5. As respects the interim period from the 1st day of January, 1954, to the 30th day of June, 1954, the provisions of section 12 and of sub-section (1) of section 13 of this Ordinance shall be read and construed as if that period were a full year ending on the 30th day of June, 1954.

Special provisions in respect of interim period 1st January to 30th June, 1954.

ORDINANCE No. 37 of 1953

Assented to in Her Majesty's name this twenty-seventh day of October, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE AFRICAN
DISTRICT COUNCILS, ORDINANCE, 1950**

27th October, 1953

Date of
commencement.

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

Short title.
No. 12 of 1950.

1. This Ordinance may be cited as the African District Councils (Amendment) Ordinance, 1953, and shall be read and construed as one with the African District Councils Ordinance, 1950, hereinafter referred to as the principal Ordinance.

Insertion of
new section 4A
in the principal
Ordinance.

2. There shall be inserted, immediately after section 4 of the principal Ordinance, the following new section—

Alteration of
corporate name
of Council.

4A. (1) The Governor may at any time and from time to time, by order published in the Gazette, alter, or declare, the corporate name of any African District Council established or deemed to have been established under this Ordinance.

(2) An order made under this section shall have effect from the date of the Order or from such date as may be specified therein and may be expressed to have effect retrospectively and where so expressed shall have effect and be deemed for all purposes to have had effect accordingly.

(3) A change of name made under this section shall not affect any rights or obligations of any Council, authority or person, or render defective any legal proceedings, and any legal proceedings may be commenced or continued as if there had been no change of name.

Insertion of new
section 19A in
the Ordinance.

3. There shall be inserted, immediately after section 19 of the principal Ordinance, the following new section—

Joint Boards
for making
loans, etc.

19A. (1) Where a Council is desirous of acting jointly with the Government in making or guaranteeing loans to, or guaranteeing credit afforded to, Africans, African Companies, African Co-operative Societies or other African corporate bodies in pursuance of powers conferred on it by the Member under section 21 of this Ordinance, the

Governor may, by order, constitute a Joint Board and direct that, so long as the order remains in force, the Board shall have and may exercise, subject to such limitations and conditions (if any) as may be specified in the order, the Council's powers aforesaid.

(2) A Board so constituted shall be a body corporate in such name as may be specified in the order constituting the Board with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) Every such Board shall consist of an equal number of representatives appointed by the Council and the Governor respectively and of a Chairman appointed by the Governor; the Chairman of the Board shall be entitled to both a deliberative and a casting vote, and in the absence or inability to act of the Chairman, the Board shall elect one of its number to act as Chairman and any member of the Board so acting shall have both a deliberative and a casting vote.

(4) An order constituting a Joint Board under this section—

(a) may, subject to the provisions of sub-section (3) of this section, provide for regulating the appointment and term of office of members of the Board, for regulating the meetings and proceedings of and the execution of documents by or on behalf of, the Board, and for regulating the finances, investments, accounts and executive and administrative functions of the Board;

(b) may contain such other provisions (including provision for the transfer of property and liabilities, and for the adjustment of accounts and apportionment of liabilities) as appear to the Governor to be expedient for enabling the Board to exercise its functions.

(5) The Governor may at any time by order revoke an order constituting a Joint Board, and may in any such order of revocation provide for the dissolution of the Board and for winding up the affairs of the Board and for distributing, transferring or otherwise disposing of the property and liabilities thereof, and for all matters connected therewith or incidental thereto.

Amendment of section 21 of the principal Ordinance.

4. Section 21 of the principal Ordinance is amended in the following respects—

- (a) by renumbering paragraphs (38) and (39) thereof as paragraphs (40) and (41) respectively; and
- (b) by adding the following new paragraphs numbered as (38) and (39) respectively—

Power to make loans, etc.

(38) whether on its own behalf or jointly with the Government, make or guarantee loans to, or guarantee any credit afforded to, Africans, African Companies, African Co-operative Societies and other African corporate bodies, for such terms and conditions and with or without security, as the Member may generally or in any particular case approve; for the purposes of this paragraph a Company, Co-operative Society or other corporate body shall be deemed to be an African Company, African Co-operative Society or other African corporate body if, at the time of the making of the loan, the majority of the shareholders or members of, or persons liable in the event of a winding up to contribute to the assets of, the Company, Co-operative Society or other corporate body, are Africans, or the objects of the Company, Co-operative Society or other corporate body are, in the opinion of the Member, for the benefit of Africans or any particular class or description of African;

Power to allocate funds or make grants to Joint Boards.

(39) allocate funds or make grants of money to any Joint Board constituted under section 19A of this Ordinance;

Replacement of section 30 of the principal Ordinance.

5. There shall be substituted for section 30 of the principal Ordinance the following new section—

Power to levy and recover rates and taxes and penalty for non-payment of taxes.

30. (1) A Council may, in respect of each financial year, by resolution impose all or any one or more of the following rates and taxes—

- (a) a rate on immovable property;
- (b) a tax on each adult male African;
- (c) a tax on each African woman having independent means;
- (d) a graduated tax based on the income of each African.

(2) Every such resolution as aforesaid shall specify the financial year to which the same relates and shall also specify the date on which the rate or tax shall become due and payable, being a date falling within the financial year to which the resolution relates and not earlier than the expiration of six weeks from the date on which the resolution is passed, and every such rate or tax shall become due and payable on such specified date.

(3) Any such resolution as aforesaid which imposes a tax under paragraph (b) or paragraph (c) or paragraph (d) of sub-section (1) of this section may also provide that any African who fails to pay the whole amount of any tax due from him or her within three months of the date on which the tax is due and payable as aforesaid shall be liable, in addition to the payment of such tax, to a penalty of one-half of such amount, and any such penalty shall be deemed to be a tax lawfully imposed under this section and be recoverable accordingly.

(4) A rate on immovable property may be imposed either generally in respect of all immovable property or in respect of immovable property in any specified locality or of any specified description.

(5) Any tax which a Council is empowered to impose under paragraph (b), (c) or (d) of sub-section (1) of this section may be related either generally to the whole of the area under the jurisdiction of the Council or specially to any specified district within such area.

(6) Any African who fails to pay the whole of any rate or tax due from him or her within three months of the date on which the rate or tax is due and payable as aforesaid may be called upon by any court of competent jurisdiction to show cause why the same should not be recovered by distress, and if such African fails to show cause as aforesaid the court may order such rate or tax, together with any court costs ordered under sub-section (7) of this section, to be recovered by distress:

Provided that where it appears to the court that recovery of such rate or tax by distress would be ruinous to such African or to his or her family, or that he or she has no property or no property the whereabouts whereof can be ascertained, whereon distress may be levied, or

where other sufficient reason appears to the court, the court may, if it thinks fit, instead of or after issuing a warrant of distress, commit him or her to prison or to a detention camp for a period not exceeding three months, unless the amount of such rate or tax and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

(7) Where proceedings are taken under the provisions of sub-section (6) of this section for the recovery of any rate or tax, the court may order the person in default to pay such sum not exceeding six shillings by way of court costs as the court in its discretion may determine.

(8) Notwithstanding the provisions of sub-section (6) of this section, whenever in proceedings for the recovery of any tax imposed under this Ordinance any person liable to pay such tax proves to the satisfaction of the court that he or she is without sufficient means to pay the whole or any portion of such tax, the court may adjourn the hearing in order that the Council to which the tax is due may consider whether or not it should exercise the powers conferred by section 52A of this Ordinance.

(9) The proceeds of any rate or tax imposed, and any costs recovered, under this section shall be paid into and form part of the revenues of the Council.

Cap. 27.

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

No. 65 of 1951.

(11) For the purposes of this section an African Court established or deemed to have been established under the African Courts Ordinance, 1951, shall be a competent court.

Amendment of section 32 of the principal Ordinance.

6. There shall be substituted for sub-section (4) of section 32 of the principal Ordinance the following sub-section—

(4) The proceeds of any rate imposed under this section shall be paid into and form part of the revenues of the Council.

7. Section 44 of the principal Ordinance is amended in the following respects—

Amendment of section 44 of the principal Ordinance.

(a) by adding to the marginal note to the section the words “and debts due from the Council”;

(b) by substituting for sub-sections (2) and (3) thereof the following new sub-sections—

(2) Where the Member is satisfied that a decree for the payment of money has been made by a competent court against a Council in favour of any person, or that for other good and sufficient reason, money is due from and payable by a Council to any person, and the Council refuses or fails to make due payment, he may order that such payment be made from such funds, and that any rate necessary to produce the sum required shall be imposed upon and collected from the adult male African inhabitants or the area in respect of which the Council is established.

(3) The proceeds of any rate imposed under this section shall be paid into and form part of the revenues of the Council.

ORDINANCE No. 38 of 1953

Assented to in Her Majesty's name this eleventh day of November, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE CUSTOMS TARIFF
ORDINANCE**

Date of
commencement.

11th November, 1953

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

Short title.
Cap. 262.

1. This Ordinance may be cited as the Customs Tariff (Amendment) (No. 2) Ordinance, 1953, and shall be read and construed as one with the Customs Tariff Ordinance, hereinafter referred to as the principal Ordinance.

Amendment of
the Schedule to
the principal
Ordinance

2. The Schedule to the principal Ordinance is hereby amended by inserting immediately after item 144 thereof the following new items—

<i>Item</i>	<i>Article</i>	<i>Duty</i>
144A	Wireless receiving sets, complete, not specially provided for and not including batteries therefor— (a) Of a value not exceeding shillings 140 (b) Other	Free. <i>Ad valorem</i> 22%.
144B	Wireless receiving set parts, batteries and accessories not specially provided for	<i>Ad valorem</i> 22%.

ORDINANCE No. 39 of 1953

Assented to in Her Majesty's name this eleventh day of
November, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS

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PART I—PRELIMINARY	
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2—Interpretation.	40—Penalties.
3—Appointment of Officers.	PART V—DRIVING AND OTHER OFFENCES RELATING TO THE USE OF VEHICLES ON ROADS
4—Classification of vehicles.	41—Speed of motor vehicles.
PART II—REGISTRATION OF VEHICLES	
5—Records of vehicles.	42—Penalties, etc.
6—Motor vehicles and trailers to be registered.	43—Driving when under influence of drink.
7—Fees payable to Inspector of Vehicles.	44—Prohibition of drinking when driving or in charge of a public service vehicle.
8—Owner of a vehicle.	45—Reckless driving.
9—Change of ownership.	46—Power to convict for reckless or dangerous driving on trial for manslaughter.
10—Registration of motor vehicles exported or imported unlawfully prohibited.	47—Careless driving.
11—Vehicles may be exempted from registration.	48—Warning to be given before prosecution.
12—Vehicles to carry identification plates.	49—Signals and signs to be obeyed.
13—Production of registration book.	50—Obstruction.
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15—Motor vehicles and trailers to be licensed.	52—Condition of vehicles.
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19—Duration of licence.	56—Obstructing driver of motor vehicle.
20—Licence to be carried on vehicle.	57—Restrictions on pillion riding.
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22—New licence to be applied for in certain circumstances.	59—Restrictions on persons being towed.
23—Dealer's general licence.	60—Causing damage to motor vehicle.
24—Use of dealer's general licence.	61—Tampering with motor vehicle.
25—Duration of dealer's general licence.	62—Taking motor vehicle without consent.
26—Cancellation of dealer's general licence.	63—Unattended motor vehicles.
27—Dealer's general licence not to be transferred.	64—Penalties.
28—Penalties.	PART VI—REGULATION OF TRAFFIC
PART IV—DRIVING LICENCES	
29—Drivers to be licensed.	65—Issue by Member of directions for guidance of users of roads.
30—Conditions precedent to the granting of a licence.	66—Power to regulate traffic.
31—Provisional driving licence.	67—Traffic signs.
32—Driving licence not to be granted to persons under certain ages.	68—Closure of roads.
33—Applications for driving licences and to drive further class of vehicle.	69—Injury to bridges.
34—Issue of driving licences to members of H.M. Forces.	PART VII—ACCIDENTS
35—Production of driving licence on demand.	70—Duty to stop and report.
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SECTION

- 78—Fraudulent application for driving licence.
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- 92—Unlicensed vehicle plying for hire.
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SECTION

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- 102—Inspection of vehicles.
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- 110—Giving false information.
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- 112—Endorsement of licence to be proof of conviction.
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AN ORDINANCE TO CONSOLIDATE AND REPLACE THE LAW RELATING TO TRAFFIC ON THE ROADS

By Notice

Date of commencement.

PART I—PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be cited as the Traffic Ordinance, 1953.

(2) This Ordinance shall come into operation on such day as the Governor may by order appoint; and an order under this sub-section may appoint different days in relation to different provisions of this Ordinance and may appoint different days in relation to the same provision for different purposes.

Interpretation

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

“bicycle” means any bicycle or tricycle not self-propelled;

“cattle” includes oxen, bulls, cows, horses, camels, mules, asses, sheep, goats and swine;

Legal Department
Government of Madhya Pradesh
Bhopal

"commercial vehicle" means a motor vehicle constructed or adapted for the carriage of goods or burdens of any description in connexion with any trade, business or agriculture, but does not include any type or class of motor vehicle which the Registrar may declare by notice in the Gazette to be excluded from the term "commercial vehicle";

"dealer" means any person who deals by way of business in motor vehicles or trailers;

"dealer's general licence" means a licence issued under the provisions of section 23 of this Ordinance;

"drive" in relation to a motor vehicle includes the steering of a motor vehicle;

"driver" means any person who drives or guides, or is in actual physical control of any vehicle or cattle on any road;

"driving licence" means a licence to drive a motor vehicle issued under the provisions of this Ordinance and any document deemed to be a driving licence by any rules made under this Ordinance;

"heavy commercial vehicle" means a commercial vehicle whose tare weight exceeds six thousand seven hundred and twenty pounds;

"highway authority" means the Road Authority established under the provisions of the Road Authority Ordinance, 1950, except where a road in any area or district has been vested in a local authority under any Ordinance, in which case such local authority is the highway authority for the purposes of this Ordinance in relation to such road; No. 64 of 1950.

~~"inspector" means any person appointed to be an inspector of vehicles for the purpose of this Ordinance;~~

"invalid carriage" means a motor vehicle specially designed and constructed for the use of persons suffering from some physical defect or disability;

"licensing officer" means a licensing officer appointed under section 3 of this Ordinance;

"manufacturer" means a manufacturer of motor vehicles and trailers;

"motor car" means a motor vehicle having seating accommodation for not more than ten passengers excluding the driver but does not include a motor cycle;

"motor cycle" means a motor vehicle with less than four wheels the weight of which unladen does not exceed eight hundredweights;

“motor omnibus” means a public service vehicle having seating accommodation for more than seven passengers exclusive of the driver and includes any motor-car having seating accommodation for more than ten passengers exclusive of the driver;

“motor vehicle” means any mechanically propelled vehicle excluding any vehicle running on a specially prepared way such as a railway or tramway or any vehicle deriving its power from overhead electric power cables or such other vehicles as may from time to time by rules under this Ordinance be declared not to be motor vehicles for the purpose of this Ordinance;

“owner” in relation to a vehicle which is the subject of a hire-purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“plying for hire” shall include—

- (i) standing on any public taxi stand;
- (ii) being offered for hire by any notice, advertisement or announcement;
- (iii) standing or travelling whilst exhibiting a “For Hire” notice of any kind;

“provisional licence” means a licence issued under the provisions of section 31 of this Ordinance;

“private hire vehicle” means any public service vehicle constructed or adapted to carry not more than seven passengers, exclusive of the driver, such vehicle not being a taxicab;

“public service vehicle” means any motor vehicle which—

- (i) is licensed under Part XI of the Ordinance to carry passengers for hire or reward; or
- (ii) plies for hire or reward or is let out for hire or reward; or
- (iii) is carrying passengers for hire or reward;

“Registrar” means the Registrar of motor vehicles appointed under the provisions of section 3 of this Ordinance;

“road” means any public road within the meaning of the Public Roads Ordinance and includes any other road or way, wharf, car park, footpath or bridlepath on which vehicles are capable of travelling and to which the public has access;

“tare weight” means the weight of a vehicle when unladen, inclusive of the weight of the body and all parts (the heavier being taken when alternative bodies or parts are used)

which are necessary to or ordinarily used with the vehicle when used on the road;

“taxicab” means any public service vehicle constructed or adapted to carry not more than seven passengers, exclusive of the driver, which is registered under the provisions of any by-laws relating to the licensing and operation of taxicabs to ply for hire from a taxi rank or other public place within the area where such by-laws are in force;

“tractor” means a motor vehicle constructed or adapted for the purpose of hauling trailers but which is not itself designed to carry goods or passengers;

“trailer” means any vehicle designed to be drawn by a motor vehicle but does not include a sidecar attached to a motor cycle;

“traffic signs” means any sign, notice, signal, light or other device erected or in any way displayed by, or with the consent of the Highway Authority, for the purpose of regulating, restricting or prohibiting traffic and vehicles of any kind, on a road. Provided that all traffic signs shall conform to any regulations as to size, colour and type which may be prescribed by Rules made under this Ordinance;

“vehicle” includes a motor vehicle, a trailer and any other conveyance used on a road.

3. (1) The Governor shall, by notice published in the Gazette, appoint a Registrar of motor vehicles who shall be responsible for the registration and licensing of motor vehicles and trailers and for the licensing of drivers and for the keeping of such records in relation thereto as required by the provisions of this Ordinance. Appointment of officers.

(2) The Registrar shall, by notice published in the Gazette, appoint such licensing officers as may be necessary for the carrying out of the provisions of this Ordinance.

~~(3) The Commissioner of Police shall, by notice published in the Gazette, appoint such inspectors of vehicles and driving test examiners as may be necessary for the carrying out of the provisions of this Ordinance.~~

4. For the purpose of this Ordinance motor vehicles shall be divided into the following classes— Classification of vehicles.

- (a) motor omnibuses;
- (b) heavy commercial vehicles;
- (c) commercial vehicles;
- (d) tractors;

- (e) motor cars;
- (f) motor-cycles not exceeding fifty cubic centimetres engine capacity;
- (g) motor-cycles exceeding fifty cubic centimetres engine capacity;
- (h) invalid carriages;
- (i) special types of motor vehicles for which special authorization is required from the Registrar before such vehicles can be registered or used on a road.

PART II—REGISTRATION OF VEHICLES

Records of
vehicles.

5. (1) The Registrar shall keep records of all motor vehicles and trailers registered in the Colony and shall cause every licensing officer to keep records of all vehicles registered by him.

(2) Vehicle records maintained by the Registrar or licensing officer shall be open for inspection by any police officer, any collector of Customs and the Chairman of the Transport Licensing Board, who shall be entitled to copy any entry in such records free of charge.

(3) Any person who satisfies the Registrar that he has reasonable cause therefor shall be entitled on payment of the prescribed fee to a copy of any entry in such vehicle records.

Motor vehicles
and trailers to
be registered.

6. (1) No person shall possess a motor vehicle or trailer, other than a vehicle exempted from the provisions of this Part of the Ordinance, unless such vehicle is registered under the provisions of this Ordinance.

(2) Application for the registration of any vehicle shall be made to a licensing officer on the prescribed form and shall be accompanied by the prescribed fee.

(3) A licensing officer, before he registers any motor vehicle or trailer may verify all the particulars in the form of application and may, if he thinks fit, send the vehicle to an inspector for examination in order to satisfy himself that the vehicle is in a fit and proper condition for the purpose for which it is intended to be used and to conform in all respects to the provisions of this Ordinance.

(4) If any application is made to register any commercial vehicle or trailer the load capacity of which has not been declared by the manufacturers of the chassis, a licensing officer shall not register the vehicle or trailer until an inspector has determined its load capacity. Such determination shall be final.

(5) A licensing officer on being satisfied as to the accuracy of the particulars contained in a form of application for the registration of a vehicle shall assign the vehicle a registration number which shall be the identification mark of the vehicle. Particulars of the vehicle shall be forwarded by the licensing officer to the Registrar who shall enter such particulars in his records and shall issue to the owner of the vehicle a registration book, which book, or a duplicate thereof, shall be proof of registration of the vehicle.

(6) If a registration book has been lost, destroyed or defaced or the particulars thereon have become illegible the owner of the vehicle shall apply on the prescribed form for a duplicate thereof and the Registrar, if satisfied as to such loss, destruction, defacement or illegibility, shall, upon payment of the prescribed fee, issue a duplicate registration book:

Provided that any registration book which has been lost and is subsequently found shall forthwith be returned to the Registrar for cancellation.

(7) In the event of any change of circumstance which affects the accuracy of the registered particulars of any vehicle the owner of the vehicle shall inform the Registrar of such change and shall forward to him the registration book in order that it may be amended and shall supply the Registrar with any further information which he may require.

~~7. Where under the provisions of this Part of the Ordinance the owner of any vehicle is required to have his vehicle inspected by an inspector such fees as are incurred for such inspection shall be paid by the owner of the vehicle. Such fees shall be as determined from time to time by the Commissioner of Police.~~

Fees payable to inspector of vehicles.

8. The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle.

Owner of a vehicle.

9. (1) No motor vehicle or trailer the ownership of which has been transferred by the registered owner shall be used on a road for more than fourteen days after the date of such transfer unless the new owner is registered as the owner thereof.

Change of ownership.

(2) Upon the transfer of ownership of a motor vehicle or trailer the registered owner thereof shall, within seven days from the date of such transfer, inform the Registrar on the prescribed form of the name and address of the new owner and deliver to the new owner the registration book in respect of such vehicle. The new owner shall, after inserting particulars of the change of ownership, forward the registration book with the prescribed fee to the Registrar, whereupon the vehicle shall be registered in the name of the new owner:

Provided that where in any case the registered owner of a vehicle has failed to comply with the provisions of this subsection the Registrar, on being satisfied that such registered owner has died or has left the Colony or cannot be traced or refuses to comply with the provisions of this sub-section, may on payment of the prescribed fee cause the vehicle to be registered in the name of the new owner.

(3) Sub-sections (1) and (2) of this section shall not apply to a change of possession consequent on a contract of hiring where the period of hiring does not exceed three months, or where the registered owner continues to employ and pay the driver of the vehicle.

(4) Application for registration of a new owner may be made before the actual transfer of the vehicle, but the registration of a new owner shall not be effective until the registration book has been surrendered to and re-issued by the Registrar.

(5) Sub-sections (1), (2) and (4) of this section shall not apply to any change of possession of a vehicle which occurs by reason of the vehicle being lawfully seized under a hire-purchase agreement, but in such event the following provisions shall apply—

(a) the registered owner or his representative shall, within fourteen days of the seizure, deliver the registration book to the person who has seized the vehicle, and inform the Registrar in writing of the change of possession;

(b) such person shall, within fourteen days of receiving the registration book, apply to the Registrar to be registered as the owner thereof in place of the registered owner, and shall on payment of the prescribed fee be registered accordingly.

(6) On the registration of a new owner, the Registrar shall make the necessary alterations to the registration book,

(5) A licensing officer on being satisfied as to the accuracy of the particulars contained in a form of application for the registration of a vehicle shall assign the vehicle a registration number which shall be the identification mark of the vehicle. Particulars of the vehicle shall be forwarded by the licensing officer to the Registrar who shall enter such particulars in his records and shall issue to the owner of the vehicle a registration book, which book, or a duplicate thereof, shall be proof of registration of the vehicle.

(6) If a registration book has been lost, destroyed or defaced or the particulars thereon have become illegible the owner of the vehicle shall apply on the prescribed form for a duplicate thereof and the Registrar, if satisfied as to such loss, destruction, defacement or illegibility, shall, upon payment of the prescribed fee, issue a duplicate registration book:

Provided that any registration book which has been lost and is subsequently found shall forthwith be returned to the Registrar for cancellation.

(7) In the event of any change of circumstance which affects the accuracy of the registered particulars of any vehicle the owner of the vehicle shall inform the Registrar of such change and shall forward to him the registration book in order that it may be amended and shall supply the Registrar with any further information which he may require.

~~7. Where under the provisions of this Part of the Ordinance the owner of any vehicle is required to have his vehicle inspected by an inspector such fees as are incurred for such inspection shall be paid by the owner of the vehicle. Such fees shall be as determined from time to time by the Commissioner of Police.~~

Fees payable to inspector of vehicles.

8. The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle.

Owner of a vehicle.

9. (1) No motor vehicle or trailer the ownership of which has been transferred by the registered owner shall be used on a road for more than fourteen days after the date of such transfer unless the new owner is registered as the owner thereof.

Change of ownership.

and shall deliver the amended registration book to the new registered owner. The Registrar, if he thinks fit, may issue a new registration book.

10. Notwithstanding the provisions of this Ordinance a licensing officer shall not register a motor vehicle unless the owner of the vehicle satisfies him—

Registration of motor vehicles exported or imported unlawfully prohibited.

(a) that the vehicle has been lawfully exported from its country of origin or the country in which it was last registered, and that such owner is in possession of any export permit in relation to the export of such vehicle required by the law of the country of origin or of last registration; and

(b) that the vehicle has been lawfully imported into the Colony.

11. The Governor in Council may, by notice in the Gazette, exempt any vehicle, class or description of vehicle from the provisions of this Part of this Ordinance.

Vehicles may be exempted from registration.

12. (1) No motor vehicle or trailer registered under this Ordinance or driven under the authority of a general dealer's licence shall be used on a road unless there is fixed thereto in the prescribed manner the prescribed number of identification plates of the prescribed design and colour on which shall be inscribed the identification mark of the vehicle or of the general dealer's licence:

Vehicles to carry identification plates.

Provided that identification plates used under the authority of a general dealer's licence may be suspended from the vehicle and not fixed.

(2) In place of the plate or plates referred to in subsection (1) of this section the identification mark of a vehicle may be painted on the vehicle, but the design and colour of such mark shall in all respects conform to the requirements prescribed for the fixed plates and the mark shall be in the position prescribed for fixed plates. For all other purposes of this Ordinance and any regulations made thereunder such a painted mark shall be deemed to be an identification plate.

13. The owner of a vehicle shall, when requested by a police officer, produce for inspection, either immediately to such police officer or within five days of such request being made at a police station nominated by such owner, the registration book issued in respect of such vehicle.

Production of registration book.

Penalties.

14. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

PART III—LICENSING OF VEHICLES

Motor vehicles
and trailers to
be licensed.

~~15. (1) No person shall possess or use a motor vehicle or trailer on a road unless the vehicle is licensed under the provisions of this Part of this Ordinance, nor shall any person use such a vehicle on the road in contravention of any provision or condition contained in such licence.~~

(2) The Governor in Council may by notice in the Gazette exempt any vehicle, class or description of vehicle from the provisions of this Part of this Ordinance.

(3) Notwithstanding the provisions of sub-section (1) of this section if the owner of any vehicle informs the Registrar in writing that he does not intend to use such vehicle on a road for a stated period then for that period, if the vehicle is not used on a road, it shall be exempt from the provisions of ~~sub-section (1) of this section.~~

Applications for
licences.

16. Applications for licences under this Part of this Ordinance shall be made to a licensing officer on the prescribed form accompanied by the fee payable and the vehicle registration book.

Conditions for
issue of
licence.

17. (1) A licensing officer shall issue a licence only if he is satisfied—

- (a) that the vehicle is duly registered;
- (b) that the particulars in the registration book are correct; and
- (c) that the vehicle is insured against third party risks in accordance with the provisions of the Motor Vehicles Insurance (Third Party Risks) Ordinance;
- (d) that the licence in respect of such vehicle has not been cancelled under the provisions of sub-section (3) of section 55 of this Ordinance.

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~~(2) Before issuing a licence in respect of any vehicle a licensing officer may require the applicant for a licence to produce a certificate from an inspector that the vehicle conforms in all respects with the provisions of this Ordinance and any rules made thereunder in regard to construction and equipment.~~

18. Every vehicle licence shall be in the prescribed form, and a fee shall be paid on such licence in accordance with the First Schedule to this Ordinance.

Fees on licences.

19. (1) A vehicle licence, not being a dealer's general licence, may be issued for—

Duration of licence.

- (a) one year; or
- (b) three-quarters of a year; or
- (c) half a year; or
- (d) a quarter of a year; or
- (e) one calendar month:

Provided that licences under paragraph (e) of this sub-section shall be issued only at the absolute discretion of the licensing officer.

(2) Licences shall continue in force from the date of issue thereof until—

- (a) in the case of a yearly licence, the following thirty-first day of December;
- (b) in the case of a licence for three-quarters of a year, the following thirtieth day of September, or if issued on or after the first day of April, the following thirty-first day of December;
- (c) in the case of a half-yearly licence, the following thirtieth day of June or thirty-first day of December, whichever shall first ensue, or if issued between the first day of April and the thirtieth day of June, the following thirtieth day of September;
- (d) in the case of a quarterly licence, the following thirty-first day of March, thirtieth day of June, thirtieth day of September or thirty-first day of December, whichever shall first ensue;
- (e) in the case of a monthly licence, the last day of the month for which the licence was issued.

(3) The holder of a vehicle licence, other than the holder of a dealer's general licence, shall, on surrendering it for cancellation to the Registrar, be entitled to a refund of one-fifteenth part of the annual fee payable, in respect of the vehicle for which the licence is issued, for each complete calendar month remaining in the period for which the licence was issued:

Provided that where the refund of fee, calculated in accordance with the provisions of this sub-section, includes part of a shilling, the refund shall exclude such part of a shilling.

Licence to be carried on vehicle.

20. No vehicle which is required to be licensed shall be used on a road unless the licence, which shall be legible and in no way defaced, is carried on the vehicle in the prescribed manner.

Duplicate licences.

21. If a vehicle licence is lost, defaced, mutilated, or rendered illegible, the Registrar shall issue a duplicate licence on payment of the prescribed fee:

Provided that any licence which has been lost and is subsequently found shall forthwith be returned to the Registrar for cancellation.

New licence to be applied for in certain circumstances.

22. (1) The holder of a vehicle licence shall apply for a new licence—

- (a) where he desires to use the vehicle for any purpose not authorized by the licence; and
- (b) where the vehicle is so altered that a higher duty or a duty of a different class is required.

(2) A new licence under this section shall not be issued until the old licence has been surrendered and in respect of every such new licence there shall be deducted from the fee payable therefor a rebate calculated in like manner as is provided in sub-section (3) of section 19 of this Ordinance.

Dealer's general licence.

23. (1) The Registrar may issue to a dealer in, or manufacturer or repairer of, motor vehicles, upon application in the prescribed form and upon payment of the prescribed fees, such number of dealer's general licences, as the applicant may require, and with each such licence shall issue two identification plates.

(2) Subject to the provisions of sections 24, 25, 26 and 27 of this Ordinance, and to any other conditions which may, from time to time, be prescribed, the holder of a dealer's general licence shall use the said licence only in respect of vehicles in his possession; and shall not use more than one such vehicle under the authority of one licence at any one time.

24. (1) No vehicle shall be used on any road under the authority of a dealer's general licence—

Use of dealer's
general licence.

- (a) to convey passengers or goods for profit or reward;
- (b) to carry or convey any goods whatsoever except such load as may be necessary for the purpose of testing the motor vehicle or trailer, and no such load, and no part thereof, shall be removed from the motor vehicle or trailer at any time between the departure from and the return to the loading place of the motor vehicle or trailer, save in the case of an accident;
- (c) except with the permission in writing of the Registrar, for any purpose other than—
 - (i) for proceeding to or returning from any inspection, examination or test as provided for by this Ordinance;
 - (ii) for proceeding from the premises of a dealer to a railway station or wharf for entraining or shipment, or from a train or ship to such premises; or
 - (iii) for test or trial during or after completion, construction, assembly or repair; or
 - (iv) for test or trial by or on behalf of an intending purchaser, or for proceeding to or from the place where the purchaser intends to keep it; or
 - (v) for proceeding to or from a public weighbridge for the purpose of its weight being ascertained or to or from a place for registration;
 - (vi) for exportation to any territory in East Africa, the Sudan, or the Belgian Congo;
 - (vii) for proceeding from the premises of a dealer to the premises of a purchaser or of another dealer or manufacturer;

- (viii) for towing a motor vehicle which while being driven upon a road has become unable to proceed under its own power from the place where it has broken down to a place for repair or storage;
- (ix) for proceeding to or returning from a workshop in which a body is to be or has been fitted to the motor vehicle or where the motor vehicle is to be or has been painted or repaired;
- (x) for proceeding to or returning from an exhibition of motor vehicles.

(2) In any proceedings under this section the burden of proving the fact of an accident for the purposes of sub-section (1) (b) of this section, shall lie on the person charged.

(3) No vehicle shall be used on any road under the authority of a dealer's general licence unless the holder of the licence, or a person duly authorized by him, accompanies such vehicle.

(4) Not more than two persons, in addition to the driver, shall be carried within or upon any such vehicle, and such persons shall be limited to a prospective purchaser and his agent or a member of his family, or in the case of a vehicle proceeding to or from an accident, two mechanics.

(5) Upon the issue of a dealer's general licence the Registrar shall also supply to the person to whom such licence is issued a book in a form approved by the Registrar in which the holder of such licence shall on each occasion and before such licence is used complete in duplicate the entries for which provision is therein made. One copy of such entries shall remain in the book and the other copy shall be carried with the vehicle during the whole of the journey to which such entries relate, and shall be produced at any time during such journey by the driver for inspection upon demand made by any ~~Police or Licensing Officer~~ *police officer, licensing officer or inspector.*

(6) Every such book shall be produced at all reasonable times for inspection by any Police or Licensing Officer and shall be kept available for inspection at the place specified in the declaration made on application for the General Dealer's Licence as the place at which the book will be kept.

(7) No person shall deface or mutilate any such book or make any entry therein which is to his knowledge false or misleading or alter or obliterate any entry made therein or except

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as provided by this Ordinance make any entry therein or addition thereto, or after its removal from such book make, alter or obliterate any entry in any copy to be carried on the vehicle.

25. (1) A dealer's general licence shall continue in force until the thirty-first day of December next following the date of issue.

Duration of dealer's general licence.

(2) Every such licence shall cease to be valid if the dealer ceases to carry on business in the district for which it is issued.

(3) When a Dealer's General Licence expires or is cancelled or otherwise ceases to be valid under the provisions of this Ordinance, the holder of the licence shall deliver to the Registrar the identification plates which were issued to such holder with such licence, provided that upon the expiry of the licence the holder may retain the identification plates issued with such licence if he shall apply for and be issued with a new licence in respect of the same identification plates and such new licence would during the period of its validity authorize the use of such identification plates in the same manner as the expired licence.

26. (1) The Registrar may at any time cancel a dealer's general licence for a breach of any of the provisions of this Ordinance or of any regulations made thereunder which relate to dealers' general licences.

Cancellation of dealer's general licence.

(2) The Registrar shall give notice of such cancellation to the person to whom such licence was issued, and may make to such person a refund calculated in like manner as is provided in sub-section (3) of section 19 of this Ordinance.

(3) Any person holding a dealer's general licence aggrieved by the decision of the Registrar under this section may within one month from the date of the service on him of notice of cancellation appeal to a magistrate of the first class.

27. A dealer's general licence shall not be used for any purpose other than a purpose provided for in this Ordinance, and shall not be transferred or assigned to any other person without the authority of the Registrar.

Dealer's general licence not to be transferred, etc.

28. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand

Penalties.

or to imprisonment for a period not exceeding six months or to both such fine and imprisonment. ^{insert new sentence} ~~In addition to any other penalty which may be imposed under this section, the Court may in any case involving the non-payment of licence fee, order the accused to pay to the Commissioner for Inland Revenue a sum equal to that which would have been due had such licence fee been paid for any period during which the vehicle was unlicensed.~~

PART IV—DRIVING LICENCES

Drivers to be licensed.

29. (1) No person shall drive any class of motor vehicle on a road unless he is the holder of a valid driving licence or a provisional licence endorsed in respect of such class of vehicle.

(2) No person who owns or who has charge of a motor vehicle of any class shall cause or permit any person to drive such motor vehicle unless such person is the holder of a valid driving licence or a provisional licence endorsed in respect of that class of motor vehicle.

(3) No person shall be entitled to more than one driving licence, but a driving licence may be endorsed to permit the holder to drive one or more classes of motor vehicle.

(4) Driving licences shall be issued by a licensing officer and shall expire on the 31st December each year, but any such licence may, on production thereof and on payment of the prescribed fee, be renewed.

(5) In the event of any change of circumstances which affects the accuracy of any particulars declared under paragraph (b) of sub-section (1) of section 30 of this Ordinance, or which would operate to prevent the grant of a driving licence under that section, the holder of the driving licence shall forthwith inform the Registrar of such change.

Conditions precedent to the granting of a licence.

30. (1) A licensing officer shall not grant an applicant a driving licence endorsed in respect of any class of motor vehicle unless the applicant—

- (a) satisfies the licensing officer that he has passed a test of competence to drive that class of motor vehicle conducted under the provisions of section 38 of this Ordinance, or that he holds a certificate of competency for that class of motor vehicle issued under the provisions of the Traffic Ordinance (Chapter 232 of the Revised Edition), or is the holder of a valid driving licence for that class of motor vehicle granted

by a competent authority in some part of Her Majesty's dominions where such driving licences are granted only after a prescribed test has been passed or is the holder of an international driving permit;

(b) makes a declaration in the prescribed form as to whether or not he is suffering from any such disease or physical disability as may be specified in the form, or any other physical disability which would be likely to cause the driving by him of a motor vehicle, being a vehicle of such class as he would be authorized by the licence to drive, to be a source of danger to the public;

(c) is able to read, with glasses, if worn, a motor vehicle identification plate at a distance of twenty-five yards.

(2) If it appears to a licensing officer that there is reason to believe an applicant for any driving licence is suffering from disease or physical disability likely to cause the driving by him of a motor vehicle, of the class or classes in respect of which the application for a licence is made, to be a source of danger to the public, he may refuse to grant such application unless the applicant—

(a) produces a certificate from a medical practitioner, stating that in the opinion of such medical practitioner the applicant is physically fit to drive the class or classes of motor vehicle in question; and

(b) undergoes and passes a driving test.

(3) Any person aggrieved by the refusal of the Registrar or a Licensing Officer to grant a licence, may, after giving to the Registrar notice of his intention so to do, appeal to a magistrate of the first or second class, who shall after considering the grounds for such refusal make such order as he thinks fit, and any order so made shall be binding on the Registrar.

31. (1) Notwithstanding the provisions of sub-section (1) of section 30 of this Ordinance a licensing officer may grant an applicant for a driving licence a provisional licence endorsed in respect of any class or classes of motor vehicle which if he held a driving licence he would be entitled to drive in order that the applicant may learn to drive such class or classes of vehicle.

(2) Whenever the driving licence of any person has been cancelled or suspended a licensing officer may, on application,

Provisional
driving licence.

so soon as the period of cancellation or suspension is over, grant to such person a provisional licence endorsed in respect of any class or classes of vehicle which if he held a driving licence he would be entitled to drive with a view to such person passing any necessary test.

(3) Provisional licences shall be valid for three months only but may, in the discretion of the licensing officer, be renewed for further periods of three months on payment of the prescribed fee for granting a provisional licence.

(4) Any person holding a provisional licence driving a motor vehicle shall comply with all such conditions as shall be prescribed.

Driving licence not to be granted to persons under certain ages.

32. (1) No driving licence or provisional licence shall be granted to any person—

- (a) under the age of sixteen years;
- (b) under the age of eighteen years, except in respect of motor-cycles;
- (c) endorsed in respect of motor-omnibuses unless he is—
 - (i) over the age of twenty-one years; and
 - (ii) has for not less than two years held a licence endorsed in respect of motor-cars or commercial vehicles:

Provided that any person who satisfies the licensing officer that he has, before the coming into operation of this Ordinance, been in possession of a licence authorizing him to drive a motor vehicle in Kenya shall, subject to the provisions of sub-section (2) of section 30 of this Ordinance, notwithstanding the provisions of this section, be entitled to receive a licence in respect of the same class or description of vehicles which he is by such licence authorized to drive.

(2) If the applicant for a driving licence fails to produce his birth certificate the opinion of the licensing officer shall be conclusive as to a person's age.

Applications for driving licences, and to drive further class of vehicle.

33. (1) Applications for driving licences and provisional licences shall be made to a licensing officer on the prescribed form, accompanied by the prescribed fee, and the particulars required in such form shall be signed by the applicant.

(2) Subject to the provisions of sub-section (3) of section 29 of this Ordinance, any person holding a driving licence endorsed in respect of any class of motor vehicle who wishes his licence endorsed in respect of another class or classes of motor vehicles shall apply to a licensing officer on the prescribed form accompanied by the prescribed fee, and the particulars and declarations in such form shall be signed by the applicant.

34. Notwithstanding the provisions of this Part of this Ordinance the Governor in Council may make rules prescribing special terms and conditions for the issue of driving licences to members of Her Majesty's Forces for the purpose of driving service vehicles while on duty and he may in such rules order that such licences shall be issued without the payment of any fee.

Issue of driving licences to members of H.M. Forces.

35. (1) Any person driving a motor vehicle on a road shall carry his driving licence or provisional licence, and on being so required by a police officer, produce it for examination:

Production of driving licence on demand.

Provided that a person shall not be convicted of an offence under this section by reason only of failure to carry or to produce his driving licence or provisional licence if he produces it within two days at such police station within the Colony as may be specified by him at the time its production was required.

(2) For the purposes of this section "driving licence or provisional licence" shall include such other evidence as will satisfy the police that there is no contravention of the provisions of section 29 of this Ordinance.

36. (1) Driving licences and provisional licences shall be in the prescribed form, and there shall be affixed to each driving licence a photograph of the licence holder which shall be impressed with the official stamp of the Registrar.

Form of driving licence.

(2) The signature of the licence holder shall also be affixed to the licence.

(3) No person shall use a mutilated, or defaced driving licence or provisional licence.

(4) A driving licence issued to any person who is suffering from any disease or disability to whom under the provisions of section 30 of this Ordinance a licence has been granted shall be subject to such restrictions or conditions as may be decided by the Licensing Officer. Such restrictions or conditions

shall be entered on the licence which shall not be valid unless such conditions or restrictions are complied with by the holder thereof.

Duplicate licences.

37. If a driving licence or provisional licence is lost, defaced or mutilated, the Registrar shall, upon application being made on the prescribed form and upon payment of the prescribed fee, issue to the holder a duplicate licence or provisional licence:

Provided that where any licence or provisional licence which has been lost is subsequently found the holder shall forthwith deliver up to the licensing officer such duplicate.

Driving tests.

38. (1) Driving tests for the purpose of this Ordinance shall be conducted by ~~such persons or class of persons as the Commissioner of Police shall appoint by notice in the Gazette.~~

for driving test examiners the Minister may Ord 52 of 59

(2) Driving tests shall be carried out in such manner as ~~the Commissioner of Police shall~~ direct but shall in any case include a test of the applicant's—

- (a) knowledge of the rules of the road;
- (b) knowledge of recognized road signals and road signs;
- (c) knowledge of any authorized road or highway code; and
- (d) physical fitness to drive a motor vehicle of the class for which the licence is required.

(3) No person shall undergo a test until he has paid the prescribed fee.

Revocation, etc., of driving licences upon application by police.

39. (1) Upon application by a police officer of or above the rank of Assistant Superintendent, the Registrar may—

- (a) revoke the driving licence of any person who appears, in the opinion of the Registrar, to be suffering from a disease or disability likely to cause the driving by him of a motor vehicle to be a source of danger to the public; or
- (b) order a fresh driving test in the case of any holder of a driving licence who appears to the Registrar to be so deficient in driving ability as to be a source of danger to the public, and if the licence holder fails to pass such test, order that his licence shall be revoked.

(2) Where the Registrar has revoked a driving licence under the provisions of sub-section (1) of this section the owner of such licence shall deliver his driving licence to the Registrar, who shall endorse on it the reason for its revocation.

(3) The Registrar shall restore a driving licence revoked under sub-section (1) of this section to the person in question under the following conditions—

(a) in the case of a licence revoked under paragraph (a) of sub-section (1) of this section if he satisfies the Registrar by means of a certificate from a medical practitioner that he is suffering from no disease or physical disability likely to cause the driving by him of a motor vehicle, of the class or classes in respect of which his licence was issued, to be a source of danger to the public; and

(b) in the case of a licence revoked under paragraph (b) of sub-section (1) of this section if he passes the prescribed test for the class or classes of motor vehicle in respect of which his licence was originally granted.

(4) Any person aggrieved by the revocation of a licence under the provisions of this section may, after giving to the Registrar notice of his intention so to do, appeal to a magistrate of the first or second class, who shall, after considering the grounds for such revocation, make such order as he thinks fit, and any order so made shall be binding on the Registrar.

40. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment. Penalties.

PART V—DRIVING AND OTHER OFFENCES RELATING TO THE USE OF VEHICLES ON ROADS

41. (1) No person shall drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive, a vehicle on a road at a speed greater than the speed specified in the Second Schedule to this Ordinance as the maximum speed for that class of vehicle. Speed of motor vehicles.

(2) Every vehicle which is subject to a speed limit under the provisions of sub-section (1) of this section shall have painted or affixed to the rear thereof, as close to the rear number plate as possible, and in such a manner as to be con-

spicuous to any person within twenty-five feet of the rear of such vehicle a mark in the prescribed form indicating its maximum speed.

(3) No person shall drive, or, being the owner or person in charge of a vehicle, cause or permit any other person to drive any vehicle at a speed exceeding thirty miles per hour on any road within the boundaries of any Trading Centre, Township or Municipality:

Provided that it shall be lawful for a Highway Authority to permit any vehicle, other than a vehicle which is subject to a speed limit of thirty miles per hour or less under the provisions of sub-section (1) of section 41 of this Ordinance to exceed thirty miles per hour on any road:

Provided also that any such Highway Authority shall erect and maintain traffic signs as prescribed so as plainly to indicate to drivers entering or leaving such roads or areas where the thirty mile per hour speed limit restriction begins and ends.

(4) Notwithstanding the provisions of sub-sections (1) and (3) of this section it shall be lawful for the Highway Authority—

- (i) to impose on any road such lower limit of speed as it considers necessary in circumstances when, by reason of repairs, reconstruction or damage to the road or condition of the road, any lower limit of speed is necessary for the public safety or to prevent damage to the road, provided that such lower limit shall be imposed only for such period as is necessary to carry out repairs or reconstruction or until the condition of the road is satisfactory;
- (ii) to impose on any road or area such lower limit of speed as may be necessary for the safety of the public having regard to the width of streets, nature of traffic or general development of the area:

Provided that in any case whilst such lower limit is in force under the provisions of this sub-section indication of the maximum speed permitted shall be given by prescribed traffic signs erected and maintained so as plainly to indicate to drivers entering or leaving such restricted road where the lower speed limit begins and ends.

(5) The provisions of this section or of this or any other Ordinance, imposing a speed limit on motor vehicles, shall not apply to any vehicle on an occasion when it is being used

for fire brigade, ambulance or police purposes, if the observance of such provisions would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion.

42. (1) Any person who contravenes or fails to comply with any of the provisions of section 41 of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings one thousand. Penalties, etc

(2) A first or second conviction for an offence under this section shall not render the offender liable to be disqualified for holding or obtaining a licence for a longer period than, in the case of a first conviction, one month, or in the case of a second conviction, three months:

Provided that if the offender has been convicted of reckless or dangerous driving within the three years immediately preceding the date of his conviction for an offence under this section, such previous conviction shall be treated for the purposes of this sub-section as if it had been a conviction for an offence under this section.

(3) A person charged with the offence of driving a motor vehicle of any class or description on a road at a speed greater than the maximum speed allowed, shall not be liable to be convicted solely on the evidence of one witness to the effect that in the opinion of the witness the person charged was driving the vehicle at such greater speed.

43. (1) Any person who, when driving or attempting to drive, or when in charge of a motor vehicle on a road or other public place, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, shall be liable on conviction to a fine not exceeding shillings five thousand or to imprisonment for a period not exceeding eighteen months or to both such fine and imprisonment. Driving when
under the
influence of
drink.

(2) A person convicted of an offence under this section shall, unless the court for special reason thinks fit to order otherwise, and without prejudice to the power of the court to order a longer period of disqualification, be disqualified for a period of six months from the date of conviction, for holding or obtaining a licence.

Prohibition of drinking when driving or in charge of a public service vehicle.

44. (1) Any person who, when driving or in charge of, or during any period of duty in connexion with the driving of a public service vehicle, drinks any intoxicating liquor, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding shillings four thousand or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

(2) Any person who gives any driver or any person in charge of a public service vehicle any intoxicating liquor, whether for reward or not, shall be guilty of an offence and shall be liable on conviction to the same penalties as a person guilty of an offence under sub-section (1) of this section :

Provided that this section shall not apply in respect of any public service vehicle, other than a motor-omnibus or taxicab, which is not carrying passengers for hire or reward.
insert (44A)

Reckless driving.

45. (1) Any person who drives a motor vehicle on a road recklessly, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition, and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be on the road, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment, and the court shall order particulars of any such conviction to be endorsed on any driving licence held by the person convicted.

(2) On a second or subsequent conviction for reckless or dangerous driving the court shall exercise the power conferred by Part VIII of this Ordinance of ordering that the offender shall be disqualified for holding or obtaining a driving licence for such period as it thinks fit, unless the court having regard to the lapse of time since the date of the previous or last previous conviction or for any other special reason thinks fit to order otherwise, but this provision shall not be construed as affecting the right of the court to exercise the power aforesaid on a first conviction.

(3) Where a person is convicted of aiding, abetting, counselling, procuring, or inciting the commission of an offence under this section, and it is proved that he was present in the vehicle at the time, the offence of which he is convicted shall for the purpose of the provisions of this Ordinance relating to

disqualification for holding or obtaining driving licences, be deemed to be an offence in connexion with the driving of a motor vehicle.

46. Upon the trial of a person who is charged with manslaughter in connexion with the driving of a motor vehicle by him, if the court is satisfied that such person is guilty of an offence under section 45 of this Ordinance, he may be found guilty of such offence whether or not the requirements of section 48 of this Ordinance have been satisfied as regards that offence.

Power to
convict for
reckless or
dangerous
driving on
trial for
manslaughter.

47. (1) Any person who drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road shall be guilty of an offence, and shall be liable on conviction for a first offence to a fine not exceeding shillings one thousand, and for a second or subsequent offence to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months.

Careless
driving.

(2) A first or second conviction for an offence under this section shall not render the offender liable to be disqualified for holding or obtaining a licence for a longer period than in the case of a first conviction, one month, or in the case of a second conviction, three months:

Provided that if the offender has been convicted of reckless or dangerous driving within the three years immediately preceding the date of his conviction for an offence under this section such previous conviction shall be treated for the purposes of this sub-section as if it had been a conviction for an offence under this section.

(3) Where any person is charged with an offence under section 45 of this Ordinance, and the court considers that the evidence is such as to justify a conviction under this section but not under section 45, the court may convict such person of an offence against this section whether or not the requirements of section 48 of this Ordinance have been satisfied as regards that offence.

48. Where a person is prosecuted for an offence under any of the sections of this Ordinance relating respectively to the maximum speed at which motor vehicles may be driven,

Warning to be
given before
prosecution.

to reckless or dangerous driving, or to careless driving, he shall not be convicted unless—

- (a) he was warned at the time the offence was committed that the question of prosecuting him for an offence under some one or other of the sections aforesaid would be considered; or
- (b) within fourteen days of the commission of the offence a summons for the offence was served on him; or
- (c) within the said fourteen days a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or to the person registered as the owner of the vehicle at the time of the commission of the offence:

Provided that—

- (i) failure to comply with this requirement shall not be a bar to the conviction of the accused in any case where the court is satisfied that—
 - (1) neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time for a summons to be served or for a notice to be served or sent as aforesaid; or
 - (2) the accused by his own conduct contributed to the failure;
- and
- (ii) the requirement of this section shall in every case be deemed to have been complied with unless and until the contrary is proved.

49. The driver of a vehicle shall at all times—

- (a) obey any directions given, whether verbally or by signal, by a police officer in uniform, in the execution of his duty, and
- (b) conform to the indications given by any traffic sign, and
- (c) stop his vehicle on being so required by a police officer in uniform, and

(d) when any person in charge of any cattle raises his hand or in any manner gives a signal to stop forthwith stop his vehicle and keep it stationary for as long as it is reasonably necessary.

50. (1) No vehicle shall be allowed to remain in any position on any road so as to obstruct or to be likely to obstruct or cause inconvenience or danger to other traffic using the road and, save where the contrary is expressly provided in this Ordinance, every vehicle on a road, when not in motion, shall be drawn up as close to the side of the road as possible. Obstruction.

(2) The driver of any vehicle shall, in case of a breakdown, remove such vehicle from the road as soon as possible and until so removed the vehicle shall be placed as close to the side of the road as possible. If the vehicle remains on the road between the hours of 6.45 p.m. and 6.15 a.m. its position shall be clearly indicated by a light or lights visible to drivers of vehicles approaching from either direction.

(3) Any person who leaves any vehicle on a road in such a position or manner or in such a condition as to cause or be likely to cause any danger to any person shall upon conviction be liable to a fine not exceeding shillings ^{five} ~~one~~ thousand or to imprisonment for a period not exceeding ^{eighteen} ~~three~~ months. ord) 4/58.

51. (1) It shall not be lawful for any person, without the written consent of the highway authority and of the Commissioner of Police, to promote or take part in any race or trial of speed between vehicles on a road. Racing, pacemaking or trial of speed.

(2) A person convicted of an offence under this section shall, unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to order a longer period of disqualification, be disqualified for a period of twelve months from the date of conviction for holding or obtaining a driver's licence.

52. (1) No vehicle shall be used on a road unless such vehicle and all parts and equipment thereof, including lights and tyres, comply with the requirements of this Ordinance, and such parts and equipment shall at all times be maintained in such a condition that the driving of the vehicle is not likely to be a danger to other users of the road or to persons travelling on the vehicle. Condition of vehicles.

(2) No motor vehicle the weight or dimensions of which laden or unladen exceeds the maximum weight or dimensions provided for such vehicles by Rules made under this Ordinance shall be used on a road.

Limitation
of loads.

53. (1) No vehicle shall be used on a road with a load greater than the load specified by the manufacturer of the chassis of the vehicle or than the load capacity determined by an inspector under the provisions of this Ordinance.

(2) No vehicle shall be used on a road if it is loaded in such a manner as to make it a danger to other persons using the road or to persons travelling on the vehicle. Should any load or part of a load fall from any vehicle on to a road such fact shall be prima facie evidence that the vehicle was loaded in a dangerous manner until the contrary is proved to the satisfaction of the court.

(3) For the purpose of this section persons travelling on a vehicle shall be deemed to be part of the load.

Exemptions.

54. (1) A highway authority may grant a permit subject to such conditions as may be specified therein—

(a) for the use on a road of a vehicle the weight or dimensions of which exceeds the maximum weight or dimensions provided for by Rules made under this Ordinance;

(b) for the carriage by a vehicle on a road of any specified load which it is unlawful to place on the vehicle under the provisions of any Rules made under this Ordinance.

(2) Every permit granted under the provisions of this section shall be in writing and shall be carried on the vehicle in question whenever such vehicle is being used under the authority of such permit.

Penalty.

55. (1) Any person who drives or uses on a road a vehicle in contravention of the provisions of sections 52 or 53 of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings three thousand or to imprisonment for a period not exceeding nine months or to both such fine and imprisonment.

(2) For the purpose of sub-section (1) of this section any person who is shown to the satisfaction of the court to be responsible for the maintenance of the vehicle, and any person who is shown to the satisfaction of the court to have been responsible for the loading of the vehicle shall be deemed to have used the vehicle on the road.

(3) In any case where a motor vehicle or trailer is twice or more times, in a period of twelve months, the subject of a successful prosecution under any of the provisions of sections 52 or 53 of this Ordinance the court may order the Registrar to suspend the licence of such vehicle for a period of six months. The Registrar shall thereupon suspend the licence of such vehicle for such period and the owner of the vehicle shall return the licence of the vehicle to the Registrar, who in no case shall issue another licence in respect of such vehicle until the termination of the period of suspension. No vehicle licence shall be returned or new licence granted in respect of a vehicle whose licence has been so suspended unless an inspector certifies that the vehicle is fit in all respects for use upon the road.

(4) When a vehicle licence has been suspended under sub-section (3) of this section no refund of licence fee shall be made.

56. (1) No person in a motor vehicle shall molest or obstruct the driver of such motor vehicle while it is in motion.

Obstructing driver of a motor vehicle.

(2) In no motor vehicle shall passengers be carried in such numbers or in such a position as to be likely to interfere with the safe driving of such motor vehicle. In the event of a contravention of the provisions of this sub-section the driver and the person in charge of the motor vehicle shall be guilty of an offence.

(3) No person driving a motor vehicle shall be in such a position that he cannot control the same or obtain a full view of the road and traffic ahead.

57. (1) It shall not be lawful for more than one person in addition to the driver to be carried on any two-wheeled motor cycle, nor shall it be lawful for any such one person to be so carried otherwise than sitting astride the motor cycle and on a proper seat securely fixed to the motor cycle behind the driver's seat.

Restrictions on pillion riding

(2) If any person is carried on any such motor cycle in contravention of the provisions of this section, the driver of the motor cycle shall be liable upon conviction to a fine not exceeding shillings two hundred.

58. (1) Except for the purpose of testing or repairing a motor vehicle no person shall ride or be carried on the foot-board, tailboard, steps, mudguards, canopy, roofing or elsewhere on the outside of any vehicle.

Riding in a dangerous position.

(2) No person shall ride or be carried on any load upon a vehicle if such a proceeding is unsafe by reason of the insufficiency of space available for such person to stand or sit or by reason of the position in which he is carried or the height or arrangement of the load.

Restrictions on persons being towed.

59. No person otherwise than with lawful authority or reasonable cause, shall take or retain hold of, or get on or off, a motor vehicle or trailer while in motion on any road.

Causing damage to a motor vehicle.

60. No person shall throw any object at any vehicle or at any person in or on such vehicle, nor shall he place any object on any road nor by any means impede the progress of any vehicle whereby injury or damage might be caused to such vehicle or any person.

Tampering with motor vehicle.

61. No person shall, without the knowledge or permission of the owner, or without reasonable excuse, get on to a motor vehicle or trailer or attempt to manipulate any of the levers, the starter, brakes or machinery of such a vehicle, or in any way tamper with a motor vehicle or trailer while it is standing on a road or parking place.

Taking motor vehicle without consent.

62. (1) If any person, whether employed by the owner or not, shall take and drive away any motor vehicle without the consent of the owner thereof or other lawful authority, he shall be liable on conviction to imprisonment for a term not exceeding nine months, or to a fine not exceeding shillings three thousand or to both such imprisonment and fine:

Provided that if the court is satisfied that the accused acted in the reasonable belief that he had lawful authority, or in the reasonable belief that the owner would, in the circumstances of the case, have given his consent, if he had been asked therefor, the accused shall not be liable to be convicted of an offence.

(2) If, in any prosecution for stealing a motor vehicle, the court is of opinion that the defendant is not guilty of stealing the motor vehicle, but was guilty of an offence under this section, the court may find him guilty of an offence under this section.

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Traffic

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(3) In addition to any penalty specified in this section, the court may order that the convicted person shall pay to the owner of the motor vehicle such sum as represents fair compensation for any damage sustained by the owner of the motor vehicle.

63. No person shall—

Unattended
motor vehicles.

(a) leave unattended on a road any motor vehicle with the engine running;

(b) quit any vehicle without having taken due precautions against its moving along the road from its stationary position.

64. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable, where no penalty is specifically provided, on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Penalties.

PART VI—REGULATION OF TRAFFIC

65. (1) The Member shall as soon as may be after the commencement of this Ordinance prepare a code (in this section referred to as the "highway code") comprising such directions as appear to him to be proper for the guidance of persons using roads and may from time to time revise the highway code by revoking, varying, amending or adding to the provisions thereof in such manner as he thinks fit.

Issue by
Member of
directions for
guidance of
users of roads.

(2) The highway code and any alterations proposed to be made in the provisions thereof shall be laid before the Legislative Council, and if a resolution of the Legislative Council is passed within thirty days of their being so laid, that such code be revoked or amended in accordance with such resolution, such code shall be deemed to be revoked or amended accordingly, but without prejudice to anything previously done or suffered by virtue thereof.

(3) A failure on the part of any person to observe any provisions of the highway code shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings (whether civil or criminal, and including proceedings for an offence under this Ordinance) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

Power to
regulate traffic

66. Without prejudice to any powers or duties of the police under this Ordinance or any other Ordinance it shall be the duty of the police—

- (a) to regulate all traffic and to keep order and prevent obstruction in all roads, parking places and other places of public resort;
- (b) to divert traffic temporarily, to restrict or close and deny public access to any road, parking place or other place of public resort, where any emergency or any assembly or other event appear to render advisable such a course.

Traffic signs.

67. (1) Subject to and in conformity with such general or other directions as may be given by the Member a highway authority may cause or permit traffic signs to be placed on or near a road.

(2) Traffic signs shall be of the prescribed size, colour and type except where the Member authorizes the erection or retention of a sign of another character.

(3) After the commencement of this Ordinance no traffic signs shall be placed on or near any road except under and in accordance with the preceding provisions of this section:

Provided that nothing in this sub-section shall apply to any notice in respect to the use of a bridge:

Provided also that a Highway Authority or police officer of or above the rank of Inspector may authorize the erection of any traffic sign for any special purpose for a period not exceeding seven days and such traffic sign shall be deemed to be lawful even though it does not conform to the requirements of this section.

(4) All traffic signs shall be deemed to have been lawfully erected until the contrary is proved.

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Traffic

No. 39

(5) A highway authority may by notice in writing require the owner or occupier of any land on which there is any traffic sign or any object which so closely resembles a traffic sign that it might reasonably be taken to be such a sign to remove it, and if any person fails to comply with such a notice the highway authority may effect the removal, do as little damage as may be, and may recover summarily as a civil debt from the person so in default the expense incurred in so doing:

Provided that the provisions of this sub-section shall not apply in the case of any sign or object so long as its retention is expressly authorized by the highway authority.

68. (1) It shall be lawful for the highway authority, or its authorized representative for the purpose of preventing damage being caused to any road or for the purpose of carrying out any works which it may consider necessary or desirable in connexion with the maintenance or improvement of any road, to close the whole or any part of such road to all vehicles or any particular type of vehicles at any time for any period it may think fit.

Closure
of roads

(2) It shall not be lawful for the driver or person in charge of a vehicle to drive or haul the vehicle or cause it to be driven or hauled over any bridge on or near which a conspicuous notice has been placed to the effect that such bridge is insufficient to carry traffic in excess of a specified weight, unless the gross weight of such vehicle and any trailer attached thereto is less than the weight specified or unless he has obtained the consent in writing of the highway authority.

(3) It shall not be lawful for the driver or person in charge of any vehicle to drive or haul the vehicle or cause it to be driven or hauled over any portion of a road which is closed to traffic and where a conspicuous notice is displayed to the effect that the road is closed, unless he has received the permission in writing of the highway authority.

69. If any injury to a bridge or road be caused through any contravention of this Ordinance it shall be lawful for the highway authority to make good such injury and to recover the cost thereof from the owner of the vehicle, and the certificate of the highway authority of the amount of the cost of making good such injury shall be conclusive evidence of the amount payable by such owner.

Injury to
bridges.

PART VII—ACCIDENTS

Duty to stop
and report.

~~70. (1) If, in any case, owing to the presence of a motor vehicle on a road, an accident occurs whereby damage or injury is caused to any person, vehicle, dog or cattle, the driver of the motor vehicle shall stop, and, if required to do so by any person having reasonable grounds for so requiring, give his name and address, and also the name and address of the owner and the identification marks of the vehicle. The driver shall as soon as possible report the accident at a police station or to a police officer.~~

~~(2) Any other person in the vehicle at the time of the accident shall also, if required to do so, give his name and address.~~

~~(3) The owner of a motor vehicle shall supply the police with all information necessary for the identification of a driver involved in an accident.~~

Inspection of
vehicle involved
in an accident.

71. Where an accident arises out of the presence of a motor vehicle on a road any police officer may inspect any vehicle in connexion with which the accident arose, and for that purpose may enter at any reasonable time any premises where the vehicle is, and if any person obstructs such police officer in the performance of his duty under this section, he shall be guilty of an offence.

Penalty.

72. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable on first conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months and on each subsequent conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

PART VIII—SUSPENSION, CANCELLATION AND ENDORSEMENT OF DRIVING LICENCES

Powers of
the Court.

73. (1) Any court before which a person is convicted of any offence in connexion with the driving of a motor vehicle may—

(a) if the person convicted holds a driving licence or provisional driving licence suspend the licence for such time as the court thinks fit, or cancel the

licence and declare the person convicted disqualified for obtaining another licence for a stated period;

- (b) if the person convicted holds a driving licence suspend the licence until such time as the person passes a driving test under the provisions of section 38 of this Ordinance;
- (c) if the person convicted does not hold a driving licence or provisional driving licence, declare him disqualified for obtaining a licence for a stated period;
- (d) limit any suspension, cancellation or disqualification imposed under this section to the driving of a motor vehicle of the same class or description as the vehicle in relation to which the offence was committed;
- (e) if the person convicted holds a driving licence order that particulars of the conviction be endorsed thereon;

(2) In any case where a court disqualifies a person for obtaining a driving licence until he has passed a driving test a licensing officer shall issue such person on application and on payment of the prescribed fee with a provisional driving licence.

(3) An order disqualifying a person from obtaining a driving licence shall be deemed to be an order disqualifying him from obtaining either a driving licence or provisional driving licence.

74. An appeal shall lie against any order made by a court under section 73 of this Ordinance in the same manner as against a conviction, and the court making the order or the court to which the appeal lies may suspend the operation of the order pending the determination of the appeal.

Right of appeal.

75. (1) In any case where a court under any provisions of this Ordinance has ordered the suspension of a driving licence or provisional driving licence, the licence shall be deemed to be cancelled in respect of the class or classes of motor vehicles in respect of which the order was made.

Cancellation of driving licence.

(2) On the application of any person for a new driving licence endorsed in respect of any class or classes of motor vehicles in respect of which the applicant's licence has been cancelled, the licensing officer shall treat such person as if he was applying for a driving licence in respect of such class or classes of motor vehicles for the first time and shall in no circumstances issue him with a driving licence until he has passed the prescribed test.

(3) Notwithstanding the provisions of paragraph (a) of sub-section (1) of section 30 of this Ordinance, the possession of a driving licence or certificate of competency issued by a competent authority shall not, in any case, exempt an applicant for a driving licence from passing the prescribed driving test, if such applicant has been disqualified for holding or obtaining a driving licence.

Production of
driving licence
for endorsement.

76. Every person who is convicted before any court of an offence in connexion with the driving of a motor vehicle, shall, if he holds a driving licence or provisional driving licence, produce such licence within such time as the court may direct for the purpose of endorsement.

Custody of
licence while
suspended or
cancelled.

77. (1) Where a court orders particulars to be endorsed on a driving licence or provisional driving licence held by any person, or where by a conviction or order of a court such a licence is cancelled, the court shall send notice of this conviction or order to the Registrar and, in a case where a person's licence is cancelled, shall also on the production of the licence for the purpose of endorsement retain it and forward it to the Registrar.

(2) Where the suspension, cancellation or disqualification to which a person has become subject is limited to the driving of a motor vehicle of a particular class or description, the Registrar to whom that person's licence has been forwarded under this section shall forthwith after the receipt thereof issue to that person a new licence on which there shall be indicated in the prescribed manner the class or description of vehicle which the holder of the licence is thereby authorized to drive.

Fraudulent
application for
driving licence.

78. If any person who under the provisions of this Part of this Ordinance is disqualified for holding or obtaining a driving licence or provisional driving licence applies for or obtains a licence while he is so disqualified, or if any

person while he is so disqualified drives a motor vehicle or, if the disqualification is limited to the driving of a motor vehicle of a particular class or description, drives a motor vehicle of that class or description, on a road or if any person who has been refused a licence applies for or obtains a licence without disclosing such refusal, he shall be liable on conviction to imprisonment for a period not exceeding nine months or to a fine not exceeding shillings three thousand. A licence obtained by any person disqualified as aforesaid shall be of no effect.

79. On the issue of a driving licence or provisional driving licence to any person, the particulars endorsed on any previous licence held by him shall be inserted in the new licence, unless he has previously become entitled under the provisions of section 81 of this Ordinance to the issue of a licence free from endorsement.

Particulars of endorsement to be inserted in new licence.

80. If any person whose driving licence or provisional driving licence has been ordered to be endorsed, and who has not previously become entitled under the provisions of section 81 of this Ordinance to have a licence issued to him free from endorsement, applies for or obtains a licence without giving particulars of the order, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two thousand or to imprisonment for a period not exceeding six months. Any licence so obtained shall be of no effect.

Applying for licence without disclosing endorsement.

81. Where a person in respect of whom an order has been made under this Part of this Ordinance requiring the endorsement of any licence or provisional driving licence held by him, has during a continuous period of three years or upwards since the order was made had no other such order made against him, he shall be entitled, at any time, on application and subject to the payment of the prescribed fee and to the surrender of any subsisting permit to have issued to him a new licence free from endorsement:

Issue of new licence free from endorsement.

Provided that in reckoning the said period of three years any period during which the person was by virtue of the order disqualified for holding or obtaining a permit shall be excluded.

PART IX—OFFENCES BY DRIVERS OF VEHICLES OTHER THAN
MOTOR VEHICLES AND OTHER ROAD USERS

Driving when
under influence
of drink.

82. Any person who when driving or attempting to drive, or when in charge of a vehicle, other than a motor vehicle, on a road or other public place is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, shall be liable on conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Reckless
driving.

83. Any person who on any road or in any public place drives any vehicle, other than a motor vehicle, recklessly or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition, and use of the road, and the amount of traffic which is actually at the time or which might reasonably be expected to be on the road shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Careless
driving.

84. Any person who on any road or in any public place drives a vehicle, other than a motor vehicle without due care or attention, or in such a manner as to be an annoyance to the public, shall on conviction be liable to a fine not exceeding shillings two hundred.

Carelessness
while in charge
of animals.

85. Any person driving or conducting any cattle, dog, or other animal who, on any road, fails to exercise reasonable care to keep it or them under proper control, or allows such cattle, dog or animal to become a danger or annoyance to the public, shall on conviction be liable to a fine not exceeding shillings two hundred.

Restrictions on
riding bicycles.

86. (1) Not more than one person shall be carried in addition to the rider on any bicycle, nor shall any such one person be so carried otherwise than sitting on a carrier securely fixed to the bicycle or on a step especially fitted to carry a passenger.

(2) No person shall carry on a bicycle a load which because of its size or the manner in which it is carried is likely to be a danger to other persons using a road.

(3) Any person contravening the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two hundred.

PART X—MISCELLANEOUS PROVISIONS AS TO ROADS

87. (1) No owner or person in charge of a vehicle drawn by animals shall allow an animal which is of materially defective vision to be used for drawing such vehicle on a road.

Offences in connexion with roads.

(2) No person shall do any of the following on a road—

(a) wilfully or negligently lead or drive any animal or vehicle on a footpath or in a road drain;

(b) play any games to the annoyance, inconvenience or danger of persons using the road;

(c) wilfully obstruct the free passage of persons or vehicles passing along the road;

(d) drive or conduct any vehicle drawn by animals without having reins to guide the animals, unless a person leads the animals in such a manner as to have proper control over them;

(e) when driving a vehicle, sleep whilst such vehicle is in motion;

(f) permit any cattle to be at large without being under such efficient control as to prevent their damaging the road;

(g) outspan any animals from a wagon or cart.

88. (1) Every person who, without the written permission of the highway authority—

Encroachment on and damage to roads.

(a) encroaches on a road or on any land reserved therefor at the side or sides thereof by making or erecting any building, fence, ditch, advertisement sign, or other obstacle, or by digging thereon or by planting or sowing any tree, shrub, or seeds thereon;

(b) leaves on a road any timber, stones or other material so as to obstruct or endanger persons using the road;

(c) digs up, removes or alters in any way the soil or surface of a road, or of any land reserved therefor at the side or sides thereof, or if done for the purpose of moving a vehicle without immediately thereafter making good the damage;

- (d) wilfully fills up, alters or obstructs any ditch or drain, whether on a road or contiguous thereto, made by or under the control of the highway authority, to carry water off the road or to keep it from flowing on to the road;
- (e) allows any sludge or any filthy or noisome matter to flow from any building or land in his occupation on to a road or into any ditch or drain made by the highway authority;
- (f) causes or allows any timber, sledge, plough or other heavy material, vehicle or implement not wholly raised, above the ground on wheels, to be dragged on a road;
- (g) pitches any tent, booth or stall on a road;
- (h) makes any fire on any road;

shall be guilty of an offence.

(2) It shall be lawful for the Highway Authority to remove anything whatsoever which has been placed or erected on a road or land reserved therefor in contravention of this section.

Prohibition on
use of tracked
vehicles, etc

89. (1) No person shall use or cause or permit to be used on any road any vehicle or trailer having ribbed, spudded or spiked wheels or fitted with chain or crawler type metal track, provided that this sub-section shall not apply—

- (a) where such wheels or tracks are fitted with special rims or street plates which would ensure an even contact with the road surface;
- (b) to any road set aside by a highway authority for the use of ox-drawn vehicles;
- (c) in any case where the highway authority has given permission in writing for the use of such a vehicle and such permission is carried on the vehicle to which it relates.

(2) No person shall use or cause or permit to be used on any road any ox-drawn vehicle not fitted with pneumatic tyres except on a road set aside for ox-drawn vehicles or on a road where no alternative road in a reasonably usable condition exists for ox-drawn vehicles.

(3) No person shall use or cause or permit to be used on any road which has a bituminous surface any vehicle the wheels of which are fitted with non-skid chains or any device of a similar kind for a similar purpose.

90. (1) The highway authority shall not be liable for any loss or damage which may be caused to any person or property through the condition of a road or the failure of a road to sustain the weight of a vehicle. Non-liability of highway authority for damage.

(2) Nothing in this Ordinance shall affect the right of the highway authority or of any person to recover compensation from the owner or driver of any vehicle for any loss, damage or injury which may be sustained by the highway authority or such person by the use of a vehicle.

91. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable to a fine not exceeding shillings two hundred. Penalty.

PART XI—PUBLIC SERVICE VEHICLES

92. (1) No person shall own, or drive, or be in charge of any public service vehicle on a road, unless there is in force in relation to such vehicle a public service vehicle licence issued under this part of this Ordinance. Unlicensed public service vehicle.

(2) Any person who is convicted of an offence under this section shall be liable to a fine not exceeding shillings two thousand.

93. (1) Application for the licensing of any motor vehicle as a public service vehicle shall be made by the registered owner of such vehicle. Such application shall be made to a licensing officer on the prescribed form and in the prescribed manner. Application for public service vehicle licence.

(2) No public service vehicle licence shall be issued in respect of any motor vehicle—

- (a) other than to the registered owner of such vehicle;
- (b) which is not registered and licensed under Parts II and III of this Ordinance;

- (c) which does not comply with the provisions of this Ordinance as to construction, equipment and use;
- (d) which is intended to be used as an omnibus unless the owner of such vehicle is in possession of a valid Road Service Licence in respect thereof issued under the provisions of the Transport Licensing Ordinance and unless such vehicle complies with any conditions attached to such licence;
- (e) which is intended to be used as a taxicab unless such vehicle has been registered as a taxicab under the provisions of any by-laws in force in a Municipality or Township;
- (f) unless a certificate authorizing the issue of such a licence is granted to the applicant by a police officer of or above the rank of Assistant Superintendent who shall certify that the applicant is a fit and proper person to hold such a licence.

Cap. 237.

Issue and
conditions of
licence.

94. (1) The Licensing Officer, if he is satisfied that the provisions of sub-section (2) of section 93 of this Ordinance have been complied with shall, upon payment of the prescribed fee, issue such licence as may be prescribed.

(2) Public service vehicle licences shall be issued for a period not exceeding twelve months and shall expire on the 31st of December each year unless previously cancelled or withdrawn.

(3) Where any public service vehicle licence is cancelled or withdrawn for any reason during the period of its validity no refund of licence fee shall be made in respect of the unexpired period of such licence.

(4) Every licence issued under the provisions of this section shall be carried on the vehicle to which it relates in the prescribed manner.

(5) A public service vehicle licence shall not be transferred or assigned to any other person or vehicle;

(6) Whenever the holder of any public service vehicle licence ceases to be the owner of the vehicle specified in the licence he shall forthwith return such licence to the Registrar and the vehicle shall from the date of such change of ownership, cease to be licensed as a public service vehicle.

(7) If any public service vehicle licence is lost, or becomes illegible, the owner of the vehicle to which such licence relates shall where the licence is illegible forthwith apply to the Registrar on the prescribed form for a duplicate thereof and shall return it to the Registrar. The Registrar shall, on payment of the prescribed fee, issue a duplicate licence. Where any public service vehicle licence which has been lost is subsequently found, the holder of a duplicate public service vehicle licence issued under the provisions of this sub-section shall forthwith deliver up to the Registrar such duplicate.

95. (1) A person shall not drive or act as the conductor of a public service vehicle on a road unless he is licensed for the purpose under this Part of this Ordinance and a person shall not employ or permit any person who is not so licensed so to do.

Drivers' and
conductors'
licences

Provided that the provisions of this sub-section shall not apply to any person who has hired a public service vehicle for the purpose of driving such vehicle himself and whose passengers, if any, are not carried for hire or reward, nor to any driver or conductor of a public service vehicle which is not carrying passengers.

(2) A person shall be disqualified for obtaining a licence to drive, or a licence to act as the conductor of, a public service vehicle unless he is, in the case of a licence to drive, over the age of twenty-one years, and in the case of a licence to act as a conductor, over the age of eighteen years.

(3) Upon application being made in the prescribed manner and upon the prescribed form the Registrar, if he is satisfied that the information given in the application form is correct, and that the applicant—

(a) for a public service vehicle driver's licence is the holder of a valid driving licence in respect of that class or classes of vehicles for which a public service vehicle driver's licence is required;

(b) is not disqualified under the provisions of any Ordinance from holding or obtaining a driving licence, public service vehicle driver's or conductor's licence as the case may be;

(c) fulfils and complies with such other conditions as may be prescribed and is not disqualified by reason of age,

shall, upon payment of the prescribed fee, issue such licence:

Provided that no licence to drive or act as the conductor of a public service vehicle shall be issued to any person unless such person has been granted a certificate by a police officer not below the rank of Assistant Superintendent to the effect that he is a fit and proper person to hold such a licence.

(4) A licence to drive, or a licence to act as the conductor of, a public service vehicle shall be valid for two years from the date of issue unless it is previously cancelled, suspended or revoked under the provisions of this Part of this Ordinance. Where any such licence is cancelled, suspended or revoked for any reason, no refund of licence fee shall be payable in respect of any unexpired period of the licence.

(5) A person licensed as a driver or conductor of a public service vehicle shall not drive or act as a conductor of such vehicle on a road without wearing the prescribed badge; provided that the provisions of this sub-section shall not apply to any person who hires a motor vehicle for the purpose of driving such a vehicle himself and whose passengers, if any, are not carried for hire or reward nor to any driver or conductor of a public service vehicle which is not carrying passengers.

(6) In the event of any public service vehicle driver's or conductor's licence or badge, becoming lost or rendered illegible, the holder thereof shall forthwith apply to the Registrar on the prescribed form which shall be accompanied by the prescribed fee, for a duplicate thereof. Where any original licence or badge is found after being lost the duplicate thereof, if any, shall forthwith be returned to the Registrar.

96. (1) Any licence issued under the provisions of this Part of this Ordinance may be cancelled at any time by the Registrar if he is satisfied that by reason of the conduct of the holder of such licence or the condition of any vehicle in respect of which the licence is issued, such cancellation would be in the public interest. Upon receipt of a notice of such cancellation, the licence holder shall forthwith deliver up such licence to the Registrar.

(2) Any court before which a person is convicted of any offence under this Part of this Ordinance or any offence relating to the construction, equipment, condition or use of a public service vehicle, may—

(i) if the person convicted holds a licence issued under this Part of this Ordinance, cancel such licence and

Power to
cancel or
suspend, etc.

declare the person convicted disqualified for holding or obtaining another such licence for a stated period and any licence so cancelled shall be surrendered to the court which shall forward it to the Registrar;

- (ii) if the person convicted is not the holder of any licence under this Part of this Ordinance, declare him disqualified for obtaining such a licence for a stated period and shall in such case notify the Registrar of such order,

and shall—

- (i) if the person convicted holds a licence to drive or act as the conductor of a public service vehicle endorse the details of such conviction on the licence within such time as the court may direct for the purpose of endorsement;

- (ii) if the person convicted is not the holder of such a licence order the Registrar to endorse such details on any such licence subsequently issued to such person.

(3) Any person aggrieved by the refusal or failure to grant or by the suspension or cancellation of a licence under this Part of this Ordinance or by any limitation imposed thereon by the Registrar or by a Police Officer may appeal in writing to a magistrate of the first or second class whose decision shall be final and any such licence shall continue in force during the period of its validity until the appeal has been disposed of.

97. (1) The Registrar shall in respect of any public service vehicle determine the maximum number of passengers, whether sitting or standing, and the weight of baggage or goods allowed to be carried at any time on such vehicle or on any vehicle of a similar class or description:

Numbers of
passengers and
loads.

Provided that such determination shall have regard to the provisions of this Ordinance with regard to construction, seating capacity and weight.

(2) If any public service vehicle carries more persons, baggage or goods than it is licensed to carry, the driver, conductor and the owner of such vehicle shall each be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two thousand:

Provided that the owner shall not be guilty as aforesaid if such offence is committed without his knowledge or consent and if he took all reasonable precautions to prevent it.

(3) No person who is requested by the owner, driver or conductor of a public service vehicle not to enter the vehicle, shall enter or attempt to enter the vehicle when it is carrying the full number of persons it is licensed to carry. Any person disobeying such a request shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings two hundred.

(4) For the purposes of this section—

- (a) "owner" shall include the owner and the agent of such owner;
- (b) a child, who is under the apparent age of five years and who does not occupy a seat, shall not count as a person;
- (c) any two children, each of whom is over the apparent age of five years and under the apparent age of twelve years, shall count as one passenger.

Recovery of
and non-
payment of
fares.

98. (1) Where, at any place on its scheduled route, a motor omnibus is, by reference to the relevant timetable, more than four hours late, owing to a breakdown or any fault or neglect of the owner, his servants or agents, any passenger who has paid his fare may elect to alight from the motor omnibus, and recover that proportion of the fare paid by him in respect of the uncompleted portion of his journey.

(2) Where a fare is recoverable under sub-section (1) of this section, it shall be the duty of the person who received the fare to repay it to the passenger on demand. Any person failing so to repay a fare shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding shillings two hundred in addition to being ordered to repay the fare, and the amount of the fare shall be recoverable as a fine.

(3) Any person who fails to pay any sum due from him by way of fare for accommodation in a public service vehicle shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding shillings two hundred.

(4) Upon any conviction for an offence under this section the magistrate may in addition to the imposition of a fine, make an order for the payment of any sum due by the offender by way of fare and may further, if he thinks fit, award costs and compensation against the offender in respect of any loss of time incurred by the owner, driver or conductor of the vehicle in attending the court.

99. (1) No person shall cause or permit any private hire car to ply for hire on any taxi rank, road, car park or other public place. Regulation of public service vehicles.

(2) No person shall own, drive or be in charge of any taxicab unless such vehicle is painted in such colour or colours or is permanently marked in such manner as may be prescribed, and no vehicle, not being a taxicab, shall be painted or marked in the manner prescribed for a taxicab.

(3) The owner of every taxicab and private hire vehicle shall keep or cause to be kept, a record in the prescribed form of every separate period of hire of such vehicle. Such record shall be made available for inspection by the police on demand; provided that the provisions of this sub-section shall not apply to any taxicab in respect of any journey which is wholly within the boundaries of the Municipality or Township in which it is registered.

(4) The Highway Authority may, after consultation with the officer in charge of the police in the area concerned, appoint stopping places where omnibuses may set down and pick up passengers and no driver of an omnibus shall stop his vehicle to set down or pick up passengers on any road where stopping places have been provided other than at such stopping places.

(5) No person shall drive or permit to be used a public service vehicle in a dirty or neglected condition.

100. No person shall, for the purpose of obtaining passengers for any public service vehicle make any noise or sound any instrument, or do anything which causes or is likely to cause annoyance, inconvenience or danger to the public.

101. Any person who contravenes or fails to comply with any of the provisions of this Part of this Ordinance shall be guilty of an offence and shall be liable, where no penalty is specifically provided, to a fine not exceeding shillings two hundred.

PART XII—GENERAL

102. (1) It shall be lawful for any police officer in uniform to stop any vehicle and for any police officer, licensing officer or inspector— Inspection of vehicles.

(a) to enter any vehicle;

- (b) to drive or cause any vehicle to be driven;
- (c) upon reasonable suspicion of any offence against the provisions of this Ordinance, to order and require the owner of any vehicle to bring the vehicle to him,

for the purpose of carrying out any examination and test of any vehicle with a view to ascertaining whether the provisions of this Ordinance are being complied with or with a view to ascertaining whether any vehicle is being used in contravention of this Ordinance.

(2) Any person who fails to comply with any instruction or order given under the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings five hundred.

Removal of
vehicles from
road.

103. (1) Where any vehicle is found in use on a road in contravention of the provisions of this Ordinance, or where any vehicle has been left on any road or other public place in such circumstances as to make it appear that such vehicle has been abandoned or should be removed to a place of safety, or where any vehicle has been left on a road in a position which causes or is likely to cause danger to other road users and the owner or driver cannot readily be found it shall be lawful for any police officer or any Inspector to take the vehicle or cause the same to be taken to a police station or other place of safety by such method, route and under such conditions as he may consider necessary having regard to all the circumstances of the case.

(2) Where under the provisions of sub-section (1) of this section it is considered necessary to have a vehicle towed, transported, driven or otherwise removed, or where it is considered necessary to carry out emergency repairs or to adjust or off-load any part of the load of such vehicle, any expense incurred thereby shall be payable by the owner of the vehicle and no such vehicle shall be released from the police station or other place of safety until either—

- (a) such expenses have been paid to the person to whom they are due; or
- (b) such person certifies in writing that he is willing to allow the vehicle to be removed before he receives such expenses due to him.

(3) A police officer or Inspector who orders the removal of a vehicle under the provisions of this section shall not be held liable for any damage to or loss of any item from such vehicle during its removal to or detention at a police station or other place of safety.

(4) Any police officer, licensing officer or Inspector, if he is of the opinion that any vehicle is being used in contravention of section 52 or section 53 of this Ordinance or in contravention of any rules relating to the construction, use and equipment of vehicles may by order prohibit the use of such vehicle, under such conditions and for such purposes as he may consider necessary for the safety of the public or to ensure that such vehicle does comply with the aforementioned provisions. Any such order shall remain in force until the repairs specified therein have been satisfactorily completed and the vehicle has been certified as complying with the aforesaid conditions with respect to construction, use, equipment and weight.

(5) Any person who permits the use of, or drives, any vehicle in respect of which any prohibition or restriction is in force other than in conformity with any conditions or for such purpose as may have been specified shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding shillings four thousand or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

(6) Any order issued under the provisions of this section shall be in writing.

(7) Where any vehicle is required to be examined and tested for the purpose of being certified as complying with the provisions of this Ordinance the fee, if any, shall be paid by the owner of the vehicle.

(8) Any person who fails to comply with any instruction or order given under the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings five hundred.

104. It shall be lawful for any police officer to detain at a police station or other place of safety any vehicle which has been removed from a road or other public place under the provisions of section 103 of this Ordinance until such inquiries have been made by the police as they may think necessary in the circumstances of the case.

Detention
of vehicles.

Certificate of inspector to be admissible in evidence.

105. (1) If in any proceedings under this Ordinance any question arises as to whether a vehicle does or does not comply with any provisions of this Ordinance, the certificate of an inspector to the effect that he has examined the vehicle and as to the result of his examination may be read as evidence although the inspector is not called as a witness.

(2) The court, if it thinks fit, may summon and examine the inspector as to the subject matter of his certificate.

Certified extract from records to be admissible in evidence.

106. In any proceedings under this Ordinance an extract from the records of registered vehicles, certified under the hand of a licensing officer, may be received in evidence although the licensing officer is not called as a witness, and shall be prima facie evidence of the facts therein set forth.

Owner or other person to furnish name and address of driver of vehicle.

107. The owner of any vehicle and any other person who is able to provide such information shall, as soon as reasonably possible and in any case within seven days after having received a verbal or written request for such information, give such information as he may be required by a police officer to give as to the identity of the driver of such vehicle.

Owner to keep list of drivers employed.

108. (1) Any person who employs any other person to drive a motor vehicle shall keep a written record of the name, address and driving licence number of such other person. Such record shall be preserved for a period of six months after the date that such person ceases to be employed as a driver and shall be made available to any police officer on demand.

(2) Any person who fails to comply with the provisions of sub-section (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings five hundred.

Verification of facts.

109. Any person to whom any application is made for anything to be done under this Ordinance may require any facts stated in the information to be verified to his satisfaction.

Giving false information.

110. Any person who makes any statement which to his knowledge is false or in any respect misleading in connexion with any information lawfully demanded or required under this Ordinance shall be guilty of an offence and shall

be liable on conviction to a fine not exceeding shillings four thousand or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment, and if such statement is made to any person in connexion with an application for any licence or permit the court convicting such person may also order that such licence or permit be not granted for a stated period.

111. (1) Any person who fraudulently imitates, alters, mutilates, destroys, or uses, or fraudulently lends or allows to be used by any other person any licence, document, plate or mark issued or prescribed under this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine not exceeding shillings four thousand or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

Fraudulent imitation, etc., of documents.

(2) A police officer may take possession of any licence, document, plate or mark relating to any suspected offence, under this section.

112. Notwithstanding any provisions to the contrary in any Ordinance contained it shall be lawful for a court to accept the particulars of endorsements on any licence issued in compliance with the provisions of this Ordinance as prima facie evidence of previous convictions recorded against the holder thereof.

Endorsement of licence to be proof of conviction.

113. (1) Notwithstanding the requirements of or provisions in any Ordinance contained it shall be lawful for any police officer to serve, either personally or by registered post, upon any person who is reasonably suspected of having committed any offence in connexion with the driving or use of any vehicle which is punishable only by a fine or by a fine and imprisonment for a period not exceeding six months, a notice in the prescribed form requiring such person to attend court in answer to the charges stated thereon, at such place and on such date and time (not being less than ten days from the date of such service) as shown on such notice or to appear by advocate or to enter a written plea of guilty:

Notice to attend court.

Provided that—

- (i) such notice shall be served not later than fourteen days from the date upon which the offence is alleged to have been committed;

(ii) failure to comply with this requirement shall not be a bar to the conviction of the accused in any case where the court is satisfied that the name and address of the accused could not with reasonable diligence have been ascertained in time for such notice to be served as aforesaid, or that the accused by his own conduct contributed to the failure.

(2) Such notice as aforesaid shall for all purposes be regarded as a summons issued under the provisions of the Criminal Procedure Code

(3) A copy of such notice as aforesaid shall be placed before the court by which the charge is to be heard before the time fixed for such hearing.

114. (1) Any person who acts in contravention of or fails to comply with the provisions of this Ordinance or of any regulations made thereunder or who acts in contravention of or who fails to comply with the conditions of any licence, order, demand, requirement, or direction issued under or in pursuance of this Ordinance, shall be guilty of an offence against this Ordinance.

(2) Any person who is guilty of an offence against this Ordinance for which no penalty is otherwise provided shall be liable on conviction—

(a) for a first offence to a fine not exceeding shillings five hundred;

(b) for a second or subsequent offence to a fine not exceeding shillings one thousand or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(3) All offences under this Ordinance shall be cognizable to the police.

115. (1) The Governor in Council may make rules prescribing—

(a) anything required by this Ordinance to be prescribed;

(b) the forms to be used for any purposes of this Ordinance;

(c) the weight of goods and passengers, the number of passengers which vehicles may carry, the method by which seating capacity is to be determined and the gross weight of vehicles;

(d) the weight and size of vehicles which may be permitted on any class of road and the manner in

Power of
Governor in
Council to
make rules.

which, if at all, vehicles whose weight or size is in excess of the prescribed maximum weight or size may be allowed to use any road;

- (e) the construction of, and equipment to be carried by any class of vehicle and in particular the type of tyres, lights, and warning instruments to be carried by any class of vehicle, and any restriction in the carrying or use of lights and warning instruments;
- (f) the carrying on any class of vehicle of any special identification plates and the fees to be charged for such plates;
- (g) all matters relating to the inspection, registration, licensing, regulation and control of vehicles and to the conditions which may be imposed in regard thereto;
- (h) the regulation of the conduct of drivers and conductors of public service vehicles and the wearing by them of special badges and uniforms and the fees to be paid for any badges provided by an authority;
- (i) conditions of service and hours of work for persons employed by owners of public service and commercial vehicles;
- (j) the regulation of the carriage of luggage and goods on public service vehicles;
- (k) the rules of the road and the signals to be given and obeyed by the drivers of vehicles;
- (l) the procedure to be adopted and the conditions to be observed in connexion with the issue of documents necessary for international travel and the use of such documents in the Colony;
- (m) the conditions on which motor vehicles licensed outside the Colony may be used within the Colony and on which persons holding driving licences or permits issued outside the Colony may be allowed to drive within the Colony;
- (n) measures for controlling or prohibiting the movement of vehicles of any specified class or description between the hours of 6.45 p.m. and 6.15 a.m.;
- (o) measures for controlling or prohibiting the use of vehicles of any specified class or description on any sea beach or foreshore or other place to which the public have access;

- (p) measures for generally restricting or regulating the use of vehicles in such manner as the circumstances and safety on the roads may appear to him to require and for the further, better or more convenient carrying out of any provisions of this Ordinance;
- (q) the penalties which may be imposed for the breach of such rules, which penalties shall not exceed, unless a higher penalty is provided for under the provisions of this Ordinance—
- (i) in the case of a first conviction, a fine not exceeding shillings six hundred, or imprisonment for a term not exceeding two months, or both such fine and imprisonment;
 - (ii) in the case of a second or subsequent conviction, a fine not exceeding shillings one thousand or imprisonment for a term not exceeding three months, or both such fine and imprisonment.

(2) In any case when the Governor in Council has not prescribed a suitable form under the provisions of paragraph (b) of sub-section (1) of this section the Registrar may direct that a particular form shall be used for a particular purpose.

(3) All rules made under the provisions of this section shall be laid as soon as conveniently may be before the Legislative Council and if a resolution of that Council is passed within thirty days of their being so laid, that such rules shall be revoked or amended in accordance with such resolution, such rules shall thenceforth be deemed to be revoked or amended accordingly, but without prejudice to anything previously done or suffered by virtue thereof.

116. The Governor in Council may, by notice published in the Gazette, suspend, restrict, or limit the application of any of the provisions of this Ordinance, either generally or in respect of any particular class or classes or description of vehicle, for such period and subject to such conditions as he may think fit and, similarly, may exempt any vehicle or any class or classes or description of vehicle from all or any of such provisions.

117. The Traffic Ordinance is hereby repealed:

Provided that all licences and permits granted under such Ordinance shall be deemed to have been granted under this Ordinance and shall be subject to the provisions of this Ordinance and all rules, orders and conditions made under this Ordinance.

Power to suspend and exempt from provisions.

Repeal.
Cap. 232.

(Section 18)

FIRST SCHEDULE
LICENCE FEES ON VEHICLES

	Yearly	Three-quarterly	Half-yearly	Quarterly	Monthly
(a) For a motor cycle without sidecar	30 00	25 50	16 50	9 00	3 75
(b) For a motor cycle with sidecar	40 00	34 00	22 00	12 00	5 00
(c) For a motor vehicle with pneumatic tyres—					
(i) Not exceeding 1,500 lb. tare weight	80 00	68 00	44 00	24 00	10 00
(ii) For every additional 250 lb. or part thereof	20 00	17 00	11 00	6 00	2 50
(d) For a motor vehicle with pneumatic tyres, the motor unit of which uses any power fuel other than dangerous petroleum—					
(i) Not exceeding 1,500 lb. tare weight	160 00	136 00	88 00	48 00	20 00
(ii) For every additional 250 lb. or part thereof	40 00	34 00	22 00	12 00	5 00
(e) For a motor vehicle with solid or cushion rubber tyres—					
(i) Not exceeding 1,500 lb. tare weight	100 00	85 00	55 00	30 00	12 50
(ii) For every additional 250 lb. or part thereof	25 00	21 25	13 75	7 50	3 15
(f) For a motor vehicle with metal tyres—					
(i) Not exceeding 1,500 lb. tare weight	160 00	136 00	88 00	48 00	20 00
(ii) For every additional 250 lb. or part thereof	40 00	34 00	22 00	12 00	5 00
(g) For a trailer—					
(i) With pneumatic tyres;					
(ii) With solid or cushion rubber tyres;					
(iii) With metal tyres.					
Half the rates set out in paragraphs (c), (e) and (f) respectively.					
(h) For a tractor used solely for agricultural purposes					
(i) Vehicles designed, constructed and used for the purpose of road construction, trench digging or any kind of excavating or shovelling work, which—					
(i) are used on public roads only for that purpose or for the purpose of proceeding to and from the place where they are to be used for that purpose, and	40 00				

FIRST SCHEDULE—(Contd.)

	Yearly	Three-quarterly	Half-yearly	Quarterly	Monthly
(ii) when so proceeding neither carry nor haul any load other than such as is necessary for their propulsion or equipment	100 00				
(j) Vehicles designed and constructed as mobile cranes which— (i) are used on public roads only either as cranes in connection with work being carried on on a site in the immediate vicinity or for the purpose of proceeding to and from a place where they are to be used as cranes; and (ii) when so proceeding neither carry nor haul any load other than such as is necessary for their propulsion or equipment	100 00				
(k) For a public service vehicle for each passenger which the vehicle is licensed to carry, an additional fee of . . .	10 00	8 50	5 50	3 00	1 25

(Section 41)

SECOND SCHEDULE
SPEED LIMITS

CLASS OF VEHICLE	Maximum speed in miles per hour
1. Motor vehicles not drawing a trailer or trailers:— (a) Motor omnibus, the tare weight of which does not exceed 6,720 lb.	40
(b) Heavy commercial vehicle or motor omnibus, the tare weight of which exceeds 6,720 lb.	30
(c) Commercial vehicle, the tare weight of which exceeds 4,000 lb., but does not exceed 6,720 lb.	40
(d) Tractors	20
2. Motor vehicles drawing one or more trailers:— (i) Any motor vehicle other than a motor car	20
(ii) Motor car	30
3. Vehicles not fitted with pneumatic tyres	20

ORDINANCE No. 40 of 1953

Assented to in Her Majesty's name this eleventh day of
November, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS

SECTION

INTRODUCTORY

- 1—Short title and commencement.
 - 2—Interpretation.
 - 3—Appointment of licensing officers.
- PART I—REGULATION OF PURCHASE, POSSESSION, MANUFACTURE AND SALE OF FIREARMS AND AMMUNITION AND OTHER TRANSACTIONS
- 4—Penalty for purchasing, etc., firearms or ammunition without firearm certificate.
 - 5—Grant, etc., of firearm certificates.
 - 6—Fees in respect of firearm certificates.
 - 7—Exemptions from holding a firearm certificate.
 - 8—Power to refuse firearm certificate or permit unless firearm or ammunition produced for inspection and marking.
 - 9—Prohibition of manufacture of firearms and ammunition.
 - 10—Production of firearm certificate.
 - 11—Production of firearms and ammunition.
 - 12—Penalty for dealing in firearms without being registered.
 - 13—Registration of firearms dealers.
 - 14—Certificate of registration.
 - 15—Registration of places of business of firearms dealers.
 - 16—Restrictions on sale, repair, etc., of firearms and ammunition.
 - 17—Register of transactions in firearms and ammunition.
 - 18—Storage and safe custody of firearms and ammunition.
 - 19—Powers of court in case of offences by registered firearms dealers.
 - 20—Penalty for taking in pawn firearms or ammunition.
 - 21—Provisions as to converting imitation firearms into firearms.
 - 22—Loss of firearms or ammunition to be reported.
 - 23—Appeals under Part I.
 - 24—Application of this Part.
 - 25—Saving.

SECTION

PART II—MISCELLANEOUS PROVISIONS AS TO FIREARMS AND AMMUNITION

- 26—Special provisions relating to certain types of weapons and ammunition.
- 27—Importation and exportation of firearms and ammunition.
- 28—Places of importation of firearms or ammunition and removal therefrom.
- 29—Removal and transportation of firearms and ammunition within the Colony.
- 30—Firearms and ammunition in transit through the Colony.
- 31—Restrictions on carriage by native vessels.
- 32—Restrictions on possession of firearms and ammunition by young persons.
- 33—Carrying firearm while drunk or disorderly.
- 34—Penalty for use and possession of firearms or imitation firearms in certain cases.
- 35—Appeals under Part II.

PART III—GENERAL

- 36—Prohibition of convicted persons for possessing firearms or ammunition; forfeiture of firearms and ammunition; and cancellation of firearm certificates.
- 37—Search warrants and disposal of firearms and ammunition seized.
- 38—Power to inspect premises.
- 39—Penalty for obstructing a police officer.
- 40—Arrest without warrant.
- 41—Jurisdiction.
- 42—Service of notices.
- 43—Reciprocal recognition of arms licences issued in neighbouring territories.
- 44—Power to make rules.
- 45—Savings.
- 46—Repeal.

AN ORDINANCE TO REPEAL THE ARMS AND AMMUNITION ORDINANCE AND TO MAKE PROVISION IN LIEU THEREOF FOR REGULATING, LICENSING AND CONTROLLING THE MANUFACTURE, IMPORTATION, EXPORTATION, TRANSPORTATION, SALE, REPAIR, STORAGE AND POSSESSION OF FIREARMS AND AMMUNITION AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO

By Notice

Date of commencement.

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

INTRODUCTORY

Short title and commencement.

1. This Ordinance may be cited as the Firearms Ordinance, 1953, and shall come into operation on such date as the Governor may by notice in the Gazette appoint.

Interpretation.

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

“acquiring” means hiring, accepting as a gift and borrowing, and the expressions “acquire” and “acquisition” shall be construed accordingly;

“ammunition” means ammunition for any firearm as hereinafter defined and includes grenades, bombs and other like missiles whether capable of use with such a firearm or not, and any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing;

“approved carrier” means a carrier approved by the Commissioner of Police;

“area” means a district or part of a district for which licensing officer is appointed under section 3 of this Ordinance;

“arms of war” means artillery of all kinds, apparatus for the discharge of all kinds of projectiles explosive or gas-diffusing, flame-throwers, bombs, grenades, machine-guns and rifled small-bore breech-loading weapons, but does not include sporting rifles, or personal or other weapons or apparatus not intended for war-like purposes;

“cadet unit” means a cadet unit established under the provisions of the Kenya Regiment (Territorial Force) Ordinance;

Cap. 89.

"customs control" means the control of the East African Customs and Excise Department;

"customs officer" means an officer of the East African Customs and Excise Department;

"firearm" means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing, and includes the barrel, bolt and chamber, and any other essential component part, of any such weapon as aforesaid;

"firearm certificate" means a firearm certificate granted under section 5 of this Ordinance;

"firearms dealer" means a person who, by way of trade or business, sells, transfers, repairs, tests or proves firearms or ammunition;

"immigration officer" has the same meaning as in the Immigration (Control) Ordinance;

Cap. 51.

~~"licensing officer" means a police officer appointed under section 3 of this Ordinance to be a licensing officer for the purposes of this Ordinance;~~

"munitions of war" means ammunition for use with arms of war;

"police officer" has the same meaning as in the Police Ordinance, 1948; No. 79 of 1948.

"slaughtering instrument" means a firearm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals with a view to slaughtering them;

"transferring" includes letting on hire, giving, lending, and parting with possession, and the expressions "transfer", "transferee", and "transferor" shall be construed accordingly.

~~3. The Commissioner of Police shall appoint a police officer to be the licensing officer for the purposes of this Ordinance in and for each district or part of a district in the Colony.~~

Appointment of
licensing officers.

PART I—REGULATION OF PURCHASE, POSSESSION,
MANUFACTURE AND SALE OF FIREARMS AND AMMUNITION AND
OTHER TRANSACTIONS

Penalty for
purchasing, etc.,
firearms or
ammunition
without firearm
certificate.

4. (1) Subject to the provisions of this Ordinance, no person shall purchase, acquire or have in his possession any firearm or ammunition unless he holds a firearm certificate in force at the time.

(2) If any person—

(a) purchases, acquires or has in his possession any firearm or ammunition without holding a firearm certificate in force at the time, or otherwise than as authorized by such a certificate, or, in the case of ammunition, in quantities in excess of those so authorized; or

(b) fails to comply with any condition subject to which a firearm certificate is held by him,

he shall, subject to the provisions of this Ordinance, for each offence be liable on conviction, if the offence was committed in a scheduled area, to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand shillings or to both such imprisonment and fine, and, if the offence was committed elsewhere, to imprisonment for a term not exceeding twelve months or to a fine not exceeding four thousand shillings or to both such imprisonment and fine.

(3) In this section the expression "scheduled area" means any area for the time being specified in the Schedule to this Ordinance.

(4) The ~~Governor~~ ^{Municipal Council for Defence (G.O. 1566)} may by order published in the Gazette from time to time add to, vary or amend the Schedule to this Ordinance.

Grant, etc., of
firearm
certificates.

5. (1) An application for the grant of a firearm certificate shall be made in the prescribed form to the licensing officer ~~for the area in which the applicant resides and shall state such~~ particulars as may be required by the said form.

(2) The firearm certificate shall be granted by the licensing officer if he is satisfied that the applicant has a good reason for purchasing, acquiring or having in his possession the firearm or ammunition in respect of which the application is made, and can be permitted to have in his possession that firearm or ammunition without danger to the public safety or to the peace:

Provided that a firearm certificate shall not be granted to a person whom the licensing officer has reason to believe to be

"licensing officer" means the licensing officer and every licensing officer appointed under section 3 of this Ordinance;

3. The Commissioner of Police shall, in the Gazette, appoint a chief licensing officer to perform the duties and exercise the powers and conferred by this Ordinance, and may appoint any number of licensing officers who shall be subject to the directions of the chief licensing officer.

prohibited by or under this Ordinance from possessing a firearm, or to be of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with such a firearm.*

(3) A firearm certificate granted under this section shall be in the prescribed form and shall specify the conditions (if any) subject to which it is held, the nature and number of firearms to which it relates, and, as respects ammunition, the quantities authorized to be purchased and to be held at any one time thereunder.

(4) A firearm certificate shall, unless previously revoked or cancelled, continue in force for one year from the date when it was granted or last renewed, but shall be renewable for a further period of one year by ^athe licensing officer ~~for the area in which the holder resides~~, and so from time to time, and the foregoing provisions of this section shall apply to the renewal of a firearm certificate as they apply to the grant of a firearm certificate.

(5) ~~The licensing officer for the area in which the holder of a firearm certificate resides may at any time by notice in writing vary the conditions subject to which the firearm certificate is held,~~ except such of them as may be prescribed, and may by the notice require the holder to deliver up the firearm certificate to him within fourteen days from the date of the notice for the purpose of amending the conditions specified therein.

(6) A firearm certificate may also, on the application of the holder thereof, be varied from time to time by ^athe licensing officer ~~for the area in which the holder for the time being resides~~.

(7) A firearm certificate may be revoked by ^athe licensing officer ~~for the area in which the holder resides~~ if—

- (a) the licensing officer is satisfied that the holder is prohibited by or under this Ordinance from possessing a firearm to which the firearm certificate relates, or is of intemperate habits or unsound mind, or is otherwise unfitted to be entrusted with such a firearm; or
- (b) the holder fails to comply with a notice under subsection (5) of this section, requiring him to deliver up the firearm certificate.

(8) In any case where a firearm certificate is revoked by a licensing officer, he shall by notice in writing require the holder to surrender the firearm certificate, and if the holder fails to do

so within fourteen days from the date of the notice, he shall be liable on conviction to a fine not exceeding one thousand shillings:

Provided that, where an appeal is brought against the revocation, this sub-section shall not apply to that revocation unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed.

(9) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant of a firearm certificate under this section, or the variation or renewal of a firearm certificate, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Fees in respect
of firearm
certificates.

6. (1) Subject to the provisions of this section, there shall be payable on the grant of a firearm certificate, and on the renewal of a firearm certificate, and on any variation of a firearm certificate which increases the number of firearms to which such firearm certificate relates, and on the replacement of a firearm certificate which has been lost or destroyed, such fees as may be prescribed:

Provided that, where a firearm certificate is varied as aforesaid and renewed or replaced at the same time, no fee shall be payable on the variation.

(2) No fee shall be payable on the grant, to any responsible officer of a rifle club, miniature rifle club or cadet unit approved for the purpose by the ~~Chief Secretary~~ ^{MINISTER}, of a firearm certificate in respect of firearms or ammunition to be used solely for target practice or drill by the members of the club or unit, or on the variation or renewal of a firearm certificate so granted.

(3) No fee shall be payable on the grant, variation or renewal of a firearm certificate if the licensing officer is satisfied that the firearm certificate relates solely to, and, in the case of a variation, will continue when varied to relate solely to—

- (a) a firearm or ammunition which the applicant requires as part of the equipment of a ship; or
- (b) a signalling apparatus, or ammunition therefor, which the applicant requires as part of the equipment of an aircraft or aerodrome; or

licensing officer that he will at all t
arm securely and in safe custody
ndition and take all reasonable
sure that the firearm is not lost or
ot at any time available to any pers
ntitled to possess the same”;

any time by notice in writing
subject to which a firearm cert
“A lic

(Ordinance No. 4 of 1960, s. 4, with effect fi

- (c) a slaughtering instrument or ammunition therefor, which the applicant requires for the purpose of the slaughter of animals.

7. (1) The following provisions of this section shall have effect notwithstanding anything in section 4 of this Ordinance. Exemptions from holding a firearm certificate.

(2) A person carrying on the business of a firearms dealer and registered as such under this Ordinance, or ~~a servant~~ of *an approved servant* such a person, may, without holding a firearm certificate, purchase, acquire or have in his possession a firearm or ammunition in the ordinary course of that business.

(3) A person carrying on the business of an auctioneer, an approved carrier or ~~a warehouseman, or a servant~~ of such a person, may, without holding a firearm certificate, have in his possession a firearm or ammunition in the ordinary course of that business.

(4) A person may, without holding a firearm certificate, have in his possession a slaughtering instrument and ammunition therefor in any abattoir the operation of which is licensed or permitted by or under section 7 of the Kenya Meat Commission Ordinance, 1950, if employed in such abattoir.

No. 13 of 1950.

(5) The proprietor of an abattoir such as is referred to in sub-section (4) of this section, or a person appointed by him to take charge of slaughtering instruments and ammunition therefor for the purpose of storing them in safe custody at that abattoir, may, without holding a firearm certificate, have in his possession a slaughtering instrument or ammunition therefor for that purpose.

(6) Any person may, without holding a firearm certificate—

- (a) have in his possession a firearm or ammunition on board a ship, or a signalling apparatus or ammunition therefor on board an aircraft or at an aerodrome, as part of the equipment of the ship, aircraft or aerodrome; and
- (b) remove a signalling apparatus or ammunition therefor, being part of the equipment of an aircraft, from one aircraft to another at an aerodrome, or from or to an aircraft at an aerodrome to or from a place appointed for the storage thereof in safe custody at that aerodrome, and keep any such apparatus or ammunition at such a place; and

from a licensing officer

(c) if he has obtained from a police officer of or above the rank of Assistant Superintendent ^a permit for the purpose in the prescribed form, remove a firearm from or to a ship, or a signalling apparatus from or to an aircraft or aerodrome, to or from such place and for such purpose as may be specified in the permit.

(7) A person carrying a firearm or ammunition belonging to another person holding a firearm certificate relating thereto may, without himself holding a firearm certificate, have in his possession that firearm or ammunition under instructions from and for the use of that other person for sporting purposes only.

(8) A member of a rifle club, miniature rifle club or cadet unit approved by the ~~Chief Secretary~~ ^{MINISTER} under and for the purposes of sub-section (2) of section 6 of this Ordinance, may, without holding a firearm certificate, have in his possession a firearm and ammunition therefor when engaged as such a member in, or in connexion with, drill or target practice.

(9) Any person may, without holding a firearm certificate, use a miniature rifle not exceeding 0.22 calibre, and ammunition suitable therefor, at a miniature rifle range or shooting gallery.

(10) Any person may, without holding a firearm certificate, have a firearm in his possession at an athletic or other sporting meeting for the purpose of starting races at that meeting.

(11) (a) A person who has obtained from ^a ~~the~~ licensing officer ~~for the area in which he resides~~ a permit for the purpose in the prescribed form may, without holding a firearm certificate, have in his possession a firearm and ammunition therefor in accordance with the terms of the permit. No such permit shall be issued in respect of, or be valid for, a period exceeding three months.

(b) A permit under this sub-section shall not be granted to any person in respect of any firearm or ammunition unless the licensing officer is satisfied that such person would, on application, be granted a firearm certificate in respect of such firearm or ammunition.

(c) A permit under this sub-section may at any time be revoked by ~~the~~ licensing officer ~~for the area in which the holder resides~~ if the licensing officer is satisfied that the holder would not, on application, be granted a firearm certificate in respect of such firearm or ammunition.

^a a ba
under section 4 of the Banking
1956, or an approved servant";

(12) (a) A person who has obtained from ^athe licensing officer ~~for the area in which he resides~~ a permit for the purpose in the prescribed form may, without himself holding a firearm certificate, acquire otherwise than by way of gift, and have in his possession, in accordance with the terms of the permit, a firearm or ammunition which is of a class or description specified in the permit and which belongs to another person who holds a firearm certificate relating thereto.

(b) A permit under this sub-section shall not be granted in respect of, or be valid for, a period exceeding one year, but shall be renewable by ^athe licensing officer ~~for the area in which the holder resides~~ for a further period not exceeding one year, and so on from time to time.

(c) A permit under this sub-section shall not be granted or renewed in respect of any class or description of firearms or ammunition unless the licensing officer is satisfied that the applicant or holder, as the case may be, can be permitted to have in his possession any firearm or ammunition of such class or description without danger to the public safety or to the peace, or if the licensing officer has reason to believe that the applicant or holder is prohibited by or under this Ordinance from possessing a firearm, or is of intemperate habits or unsound mind, or is for any reason unfitted to be entrusted with any firearm of such class or description as aforesaid.

(d) A permit under this sub-section may be revoked by ^athe licensing officer ~~for the area in which the holder resides~~, either wholly or in respect of any class or description of firearms or ammunition to which it relates, if the licensing officer is satisfied that the holder would not, by reason of the provisions of paragraph (c) of this sub-section, be granted, as at the date of such revocation, a renewal of the permit, or, as the case may be, a renewal thereof in respect of such class or description of firearms or ammunition as aforesaid.

(13) Where a licensing officer revokes a permit under sub-section (11) or (12) of this section, he shall by notice in writing require the holder of the permit to surrender it, and if the holder fails to surrender it within fourteen days from the date of the notice, he shall be liable on conviction to a fine not exceeding one thousand shillings:

Provided that where an appeal is brought against the revocation, this paragraph shall not apply to that revocation unless the appeal is abandoned or dismissed, and shall in that

case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed.

(14) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a permit under this section, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Power to refuse
firearm certificate
or permit unless
firearm or
ammunition
produced for
inspection and
marking.

8. (1) Notwithstanding anything contained in any of the foregoing sections of this Ordinance, a licensing officer may refuse to grant, renew or vary a firearm certificate, or to grant a permit under sub-section (11) of section 7 of this Ordinance, unless and until any firearm to which such firearm certificate or permit will, if granted, renewed or varied, relate is produced to him for his inspection and for marking, if necessary, in accordance with the requirements of sub-section (2) of this section.

(2) No firearm certificate, and no permit under sub-section (11) of section 7 of this Ordinance, shall be granted, or, as the case may be, varied or renewed, in respect of a firearm unless such firearm bears a mark or number of identification or is first marked with such a mark or number by, or under and in accordance with the directions of, the licensing officer.

Prohibition of
manufacture of
firearms and
ammunition

9. (1) No person shall manufacture any firearm or ammunition in the Colony save on behalf of the Government and at a place established or designated for the purpose by, and in accordance with instructions to be issued by, the ~~Chief Secretary~~ **MINISTER**.

(2) In this section, the word "manufacture", in relation to firearms or ammunition, does not include the repair of firearms or ammunition, the conversion into a firearm of anything which has the appearance of a firearm but is so constructed as to be incapable of discharging any missile through the barrel thereof, or the alteration, or substitution or replacement of any component part, of a firearm.

(3) If any person contravenes any of the provisions of sub-section (1) of this section, he shall be liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand shillings, or to both such imprisonment and fine.

Ordinance No. 4 of 1960, s. 5, with effect from 9-1

~~10. (1) Any police officer or customs officer may demand from any person, whom he believes to be in possession of a firearm or ammunition, the production of his firearm certificate.~~

Production of firearm certificate

~~(2) If any person upon whom a demand is so made fails to produce the certificate, or to permit the officer to read the certificate, or to show that he is entitled by virtue of this Ordinance to have the firearm or ammunition in his possession without holding a firearm certificate, the officer may seize and detain the firearm or ammunition, and may require that person to declare to him immediately his name and address.~~

~~(3) If any person refuses so to declare his name and address, or fails to give his true name and address, he shall be liable on conviction to a fine not exceeding one thousand shillings.~~

~~11. (1) Any police officer or customs officer may demand from any person who holds a firearm certificate or a permit under sub-section (11) of section 7 of this Ordinance the production of any firearm or ammunition to which such certificate or permit relates, at such time and place as such officer may specify, for his own inspection or for the inspection of such other police officer or customs officer as he may specify.~~

Production of firearms and ammunition.

~~(2) If any person fails to comply with such a demand as aforesaid, he shall be liable on conviction to a fine not exceeding one thousand shillings.~~

12. (1) Subject to the provisions of this section, no person shall, by way of trade or business—

Penalty for dealing in firearms without being registered.

- (a) sell, transfer, repair, test or prove; or
- (b) expose for sale or transfer, or have in his possession for sale, transfer, repair, test or proof,

any firearm or ammunition, unless he is registered under this Ordinance as a firearms dealer:

Provided that it shall be lawful for an auctioneer to sell by auction, and have in his possession for sale by auction, a firearm or ammunition without being registered as aforesaid if he has obtained from the licensing officer for the area in which the auction is held a permit for that purpose in the prescribed form and complies with the terms of the permit.

(2) If any person contravenes any of the provisions of this section, or makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other

person, the grant of a permit under this section, he shall, for each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Registration of
firearms dealers.

13. (1) ~~For the purposes of this Ordinance, the licensing officer for every area shall keep in the prescribed form a register of firearms dealers and, subject as hereinafter provided, shall enter therein the name of any person who, having or proposing to have a place of business in his area, applies to be registered as a firearms dealer and furnishes him with the prescribed particulars:~~

Provided that—

- (i) the licensing officer shall not register an applicant who is prohibited to be registered by order of a court made under section 19 of this Ordinance; and
- (ii) the licensing officer may refuse to register an applicant if he is satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.

(2) On the registration of an applicant as a firearms dealer ~~in any area~~ there shall be payable such fee as may be prescribed:

~~Provided that no fee shall be payable if the licensing officer for the area in which the applicant has applied to be registered is satisfied that the only place of business in respect of which the application is made—~~

- (i) has become situated in that area by reason of an alteration in the boundary of the area and was previously registered in the register for another area; or
- (ii) is one to which the applicant proposes to transfer the business previously carried on by him at a place entered in the register for another area.

(3) If the licensing officer, after giving reasonable notice to any person whose name is on the register, is satisfied that that person—

- (a) is no longer carrying on business as a firearms dealer;
or
- ~~(b) has ceased to have a place of business in the area; or~~

- (c) cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace,

he shall cause the name of that person to be removed from the register.

(4) The licensing officer shall also cause the name of any person to be removed from the register if that person so desires.

(5) If any person, for the purpose of procuring the registration of himself or any other person as a firearms dealer, makes any statement which he knows to be false, he shall, for each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

14. (1) The licensing officer shall grant or cause to be granted to any person who is registered as a firearms dealer under section 13 of this Ordinance a certificate of registration. Certificates of registration.

(2) On or before the first day of January in each year, every person for the time being registered as a firearms dealer ~~in any area shall—~~

- (a) surrender to the licensing officer ~~for that area~~ his certificate of registration; and
- (b) apply in the prescribed form for a new certificate of registration; and
- (c) pay such fee as may be prescribed,

and thereupon the licensing officer shall, subject to the provisions of sub-section (3) of section 13 of this Ordinance, grant him a new certificate of registration.

(3) If any such person as aforesaid fails to comply with all or any of the requirements of sub-section (2) of this section on or before the first day of January in any year, the licensing officer shall by notice in writing require him to comply therewith, and, if he fails to do so within twenty-one days from the date of the notice, or within such further time as the licensing officer may in special circumstances allow, shall cause his name to be removed from the register.

(4) In any case where a licensing officer causes the name of any firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration, and if the dealer fails to do so within twenty-one days from the date of the notice he shall be liable on conviction to a fine not exceeding one thousand shillings:

Provided that—

- (i) where an appeal is brought against the removal, this sub-section shall not apply to that removal unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed;
- (ii) until the dealer surrenders his certificate of registration in accordance with the provisions of this sub-section, or, if he fails so to surrender his said certificate, until the expiration of the aforesaid period of twenty-one days, the dealer shall be deemed to be registered as a firearms dealer for the purpose only of disposing of the stock in hand of his business.

Registration of
places of business
of firearms
dealers.

15. (1) The prescribed particulars which a person applying to be registered ~~in any area~~ as a firearms dealer under section 13 of this Ordinance is required to furnish shall include particulars of every place of business at which he proposes to carry on business ~~within the area~~ as a firearms dealer, and the licensing officer ~~for that area~~ shall, subject as hereinafter provided, enter in the register every such place of business.

(2) Every person registered as a firearms dealer ~~in any area~~ who proposes to carry on business as such at any place of business ~~in that area~~ which is not entered in the register, shall notify the licensing officer ~~for that area~~ and furnish him with such particulars as may be prescribed, and the licensing officer shall, subject as hereinafter provided, enter that place of business in the register.

(3) A licensing officer, if he is satisfied that any place of business notified to him by any person under sub-section (1) or sub-section (2) of this section, or any place entered as the place of business of any person in the register of firearms dealers, is a place at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter that place of business in the register or remove it from the register, as the case may be.

(4) If—

- (a) any person, being a registered firearms dealer, has a place of business which is not entered on the register ~~for the area in which that place is situated~~, and

(Ordinance No. 4 of 1960, s. 10)

carries on business as a firearms dealer at that place;
or

- (b) any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the entry of any place of business in ~~the~~ register of firearms dealers,

he shall, for each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

16. (1) No person shall sell or transfer to any other person in the Colony, other than a registered firearms dealer, any firearm or ammunition unless that other person produces a firearm certificate authorizing him to purchase or acquire it or shows that he is by virtue of this Ordinance entitled to purchase it, or, as the case may be, to acquire it by means of such transfer, without holding such a certificate :

Restrictions on sale, repair, etc., of firearms and ammunition.

Provided that this sub-section shall not prevent—

- (i) a person parting with the possession of a firearm or ammunition, otherwise than in pursuance of a contract of sale or hire or by way of gift or loan, to a person who shows that he is by virtue of this Ordinance entitled to have possession of the firearm or ammunition without holding a firearm certificate; or
~~(ii) the delivery of a firearm or ammunition by an approved carrier or a warehouseman, or a servant of an approved carrier or a warehouseman, in the ordinary course of his business or employment as such.~~

(2) Every person who sells, lets on hire, gives or lends a firearm or ammunition to any other person in the Colony, other than a registered firearms dealer, shall, unless that other person shows that he is by virtue of this Ordinance entitled to purchase or, as the case may be, to hire, accept as a gift or borrow the firearm or ammunition without holding a firearm certificate, comply with any instructions contained in the certificate produced, and in the case of a firearm shall, within forty-eight hours from the transaction, send by registered post notice of the transaction to the licensing officer, ~~by whom the certificate was issued.~~

(3) No person shall undertake the repair, test or proof of a firearm or ammunition for any other person in the Colony, other than a registered firearms dealer as such, unless that

other person produces or causes to be produced a firearm certificate authorizing him to have possession of the firearm or ammunition, or shows that he is by virtue of this Ordinance entitled to have possession of the firearm or ammunition without holding such a certificate.

(4) If any person—

- (a) contravenes or fails to comply with any of the provisions of this section; or
- (b) with a view to purchasing or acquiring, or procuring the repair, test or proof of, a firearm or ammunition produces a false firearm certificate or a firearm certificate in which any false entry has been made, or personates a person to whom a firearm certificate has been granted, or makes any false statement;

he shall, for each offence, be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Register of transactions in firearms and ammunition.

17. (1) Every person who by way of trade or business deals in, sells or transfers firearms or ammunition shall provide and keep a register of transactions, and shall enter or cause to be entered therein such particulars as may be prescribed.

(2) Every such entry shall be made within twenty-four hours after the transaction to which it relates took place, and, in the case of a sale or transfer, every such person as aforesaid shall at the time of the transaction require the purchaser or transferee to furnish particulars sufficient for identification, and shall immediately enter the said particulars in the register.

(3) Every such person as aforesaid shall on demand allow any police officer to enter and inspect all stock in hand, and shall on request by any such police officer produce for inspection the register so required to be kept as aforesaid.

(4) If any person—

- (a) fails to comply with any of the provisions of this section; or
- (b) knowingly makes any false entry in a register required to be kept under this section; or
- (c) knowingly furnishes any false particular of identification of himself or any other person,

for licensing officer

Ordinance No. 4 of 1960, s. 12, with

Ordinance No. 4 of 1960, s. 11, with effect from 9-1-60

he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

(5) Nothing in this section shall apply to the sale of firearms or ammunition by auction in accordance with the terms of a permit issued under the proviso to sub-section (1) of section 12 of this Ordinance.

18. (1) Every registered firearms dealer shall maintain at each of his places of business a suitable enclosed store for the safe custody of firearms and ammunition in his possession.

Storage and safe custody of firearms and ammunition.

(2) Each such store as aforesaid shall be, and be maintained constantly, secure to the satisfaction of the licensing officer for the area in which it is situated, and shall have only one means of entry thereto which shall be provided with two locks of which master-keys shall be delivered to, and retained by, the licensing officer.

(3) Every person having in his possession any firearm or ammunition shall keep the same at all times securely and in safe custody and in a safe condition, and shall take all reasonable precautions to ensure that such firearm or ammunition is not lost or stolen and is not at any time available to any person not lawfully entitled to possess the same.

(4) If any person fails to comply with any of the provisions of this section, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding ~~two~~ ^{five} thousand shillings, or to both such imprisonment and fine.

19. Where a registered firearms dealer is convicted of an offence against this Ordinance, or against any law for the time being in force in the Colony relating to customs in respect of the import or export of firearms or ammunition, the court may order—

Powers of court in case of offences by registered firearms dealers

- (a) that the name of the registered firearms dealer be removed from the register; and
- (b) that neither the dealer nor any person who acquires the business of that dealer, nor any person who took part in the management of the business and was knowingly a party to the offence, shall be registered as a firearms dealer; and

- (c) that any person who, after the date of the order, knowingly employs in the management or conduct of his business the dealer convicted of the offence, or any person who was knowingly a party to the offence, shall not be registered as a firearms dealer or, if so registered, shall be liable to be removed from the register; and
- (d) that any stock in hand of the business shall be disposed of by sale or otherwise in accordance with such directions as may be contained in the order:

Provided that a person aggrieved by an order made under this section may appeal against the order in the same manner as against the conviction, and the court may, if it thinks fit, suspend the operation of the order pending the appeal.

Penalty for taking in pawn firearms or ammunition.

20. (1) No person shall take any firearm or ammunition in pawn from any other person.

(2) If any person contravenes the provisions of this section, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Provisions as to converting imitation firearms into firearms.

21. (1) No person other than a registered firearms dealer shall convert into a firearm anything which, though having the appearance of being a firearm, is so constructed as to be incapable of discharging any missile through the barrel thereof.

(2) If any person contravenes any of the foregoing provisions of this section he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Loss of firearms or ammunition to be reported.

22. Any person having possession of a firearm or ammunition, whether or not he holds a firearm certificate therefor or is entitled to have possession thereof without holding a firearm certificate, shall, if such firearm or ammunition be lost, stolen or destroyed, report such loss, theft or destruction as soon as possible after its occurrence to the police officer in charge of the nearest police station, and if he fails to do so, shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Finance No. 4 of 1960, s. 13, with effect from

23. (1) Any person aggrieved by a refusal of a licensing officer to grant him a firearm certificate under section 5 of this Ordinance or to vary or renew a firearm certificate, or by the revocation of a firearm certificate, or by a refusal of a licensing officer to grant him a permit under sub-section (11) of section 7 of this Ordinance, or by the revocation of such a permit, or by a refusal of a licensing officer to grant him a permit under sub-section (12) of section 7 of this Ordinance or to renew such a permit, or by the revocation of such a permit, or by the refusal of a licensing officer to register him as a firearms dealer, or by the removal of his name from the register of firearms dealers by a licensing officer, or by the refusal of a licensing officer to enter a place of business in the register of firearms dealers under section 15 of this Ordinance or by the removal of any such place of business from the register, may appeal to the ~~Governor in Council~~, whose decision shall be final.

Appeals under Part I.

Ministry for Defence (S.N. 1602 of 1955)

(2) An appeal under this section shall be lodged within fourteen days after the date on which the appellant first received notice, whether written or oral, of the decision by which he is aggrieved.

(3) On an appeal under this section the Governor in Council may either dismiss the appeal or give such directions as he may think fit to the licensing officer from whose decision the appeal has been lodged, as respects the firearm certificate, permit or register which is the subject of the appeal.

~~24. (1) This Part of this Ordinance applies to all firearms as defined in section 2 of this Ordinance, except the following weapons and component parts thereof, namely—~~

Application of this Part.

~~an airgun, air-rifle or air-pistol not being of a type declared by the Chief Secretary by notice in the Gazette to be specially dangerous.~~

(2) This Part of this Ordinance applies to all ammunition as defined in section 2 of this Ordinance, except ammunition for an airgun or air-rifle or air-pistol.

25. Nothing in this Part of this Ordinance shall relieve any person using or carrying a firearm from the obligation to take out a licence to kill game under any law for the time being in force relating to such licences.

Saving.

PART II—MISCELLANEOUS PROVISIONS AS TO FIREARMS AND
AMMUNITION

Special provisions relating to certain types of weapons and ammunition.

26. (1) It shall not be lawful for any person, other than a person in the service of the Crown in his capacity as such or a person authorized in writing in that behalf by the Chief Secretary, or a person of a class for the time being authorized in that behalf by the Chief Secretary by notice in the Gazette, to sell, transfer, purchase, acquire, or have in his possession—

- (a) any firearm which is so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty; or
- (b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or similar thing;
- (c) any ammunition containing, or designed or adapted to contain, any such noxious thing; or
- (d) any firearm or ammunition specified, or any firearm or ammunition of a class or type specified, by the Chief Secretary by notice in the Gazette.

(2) If any person contravenes the provisions of sub-section (1) of this section, he shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding five thousand shillings, or to both such imprisonment and fine.

(3) An authority given under this section shall be subject to such conditions as may be specified therein, and, if any person authorized thereby fails to comply with any such condition, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

(4) The ~~Chief Secretary~~ ^{MINISTER} may at any time, if he thinks fit, revoke any individual authority given by him to any person under this section, by notice in writing requiring that person to deliver up the authority to such person as may be specified in the notice within fourteen days from the date of the notice, and if that person fails to comply with that requirement, he shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

(5) An authority given by the ~~Chief Secretary~~^{MINISTER} under this section to any class of persons may at any time be revoked or varied by the Chief Secretary by notice in the Gazette.

(6) The foregoing provisions of this section shall be in addition to and not in derogation of any other provisions of this Ordinance or any other Ordinance relating to the sale, transfer, purchase, acquisition or possession of firearms or ammunition, but a licensing officer—

(a) shall not refuse to grant or renew, and shall not revoke, a firearm certificate in respect of a firearm, weapon or ammunition such as is referred to in sub-section (1) of this section if the applicant is for the time being authorized as aforesaid to have possession of that firearm, weapon or ammunition; and

(b) shall not refuse to enter in the register of firearms dealers the name of a person for the time being authorized as aforesaid to sell or transfer a firearm, weapon or ammunition such as aforesaid, or remove the name of such a person from the register, on the ground that he cannot be permitted to carry on, or to continue to carry on, business as a firearms dealer without danger to the public safety or to the peace,

and where any authority to purchase, acquire or have possession of a firearm, weapon or ammunition is revoked under this section, the firearm certificate relating to that firearm, weapon or ammunition shall be revoked or varied accordingly by the licensing officer by whom it was granted.

27. (1) No person shall import or export any firearm or ammunition into or from the Colony save under and in accordance with the terms of an import or export permit, as the case may be, issued by an authorized officer:

Importation and exportation of firearms and ammunition.

Provided that where any firearm or ammunition, not being a firearm or ammunition the importation of which is for the time being prohibited under sub-section (2) of this section, is imported into the Colony for the personal use of the owner thereof but without an import permit under this section having been previously obtained authorizing the importation thereof, such importation shall not be deemed to contravene the provisions of this section if such firearm or ammunition on importation is left in customs control until an import permit under this section is obtained in respect of the importation thereof.

(2) No person shall import or export into or from the Colony any firearm or ammunition, or any firearm or ammunition of a class or type, of which the importation or exportation, as the case may be, is for the time being prohibited by the

MINISTER

~~Chief Secretary~~ by order published in the Gazette.

(3) If any person contravenes any of the provisions of sub-section (1) or (2) of this section, he shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

(4) An authorized officer may, at his discretion and without assigning any reason therefor, refuse to grant any import or export permit under this section, and shall refuse to grant any such permit authorizing—

(a) the importation or exportation of any arms or munitions of war unless the Governor in Council shall have sanctioned such importation or exportation; or

(b) the importation or exportation of any firearm or ammunition of which the importation or exportation, as the case may be, is for the time being prohibited under sub-section (2) of this section.

(5) Import and export permits under this section shall be in the prescribed forms and there shall be payable in respect thereof such fees as may be prescribed.

(6) An authorized officer may, without assigning any reason therefor, revoke any import or export permit granted under this section at any time before the firearms or ammunition to which it relates have been imported or exported, as the case may be, in pursuance thereof.

(7) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or for any other person, the issue of an import or export permit under this section, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

(8) For the purposes of this section, the expression "authorized officer" means a police officer or customs officer authorized by the Commissioner of Police in writing to grant import and export permits under this section.

In this section "firearm" includes safety alarm pistols and rifles which are capable of being converted into, or have the appearance of, lever action pistols or rifles which can be used or adapted for use as such.

and "ammunition" means ammunition as defined in Ordinance No. 4 of 1960, s. 16, with effect from 1st January 1961.

~~(9) In this section, "firearm" and "ammunition" mean respectively a firearm and ammunition to which Part I of this Ordinance applies.~~

28. (1) No person shall import any firearm or ammunition into the Colony save at any one or more places designated for the purpose by the ~~Chief Secretary~~ ^{MINISTER}, and all firearms and ammunition imported at any such place shall be detained in customs control pending removal in accordance with the provisions of this section.

Places of importation of firearms or ammunition and removal therefrom.

(2) No person who imports into the Colony any firearm or ammunition by way of trade or business, or for the purposes of any trade or business, or for any purpose other than his own personal use, shall remove the same, or cause the same to be removed, from customs control, unless he shall have first obtained a removal permit under section 29 of this Ordinance authorizing the removal thereof from the place at which the same is detained in customs control.

(3) No person who imports a firearm or ammunition into the Colony for his own personal use shall remove the same, or cause the same to be removed, from customs control unless he shall have first obtained a firearm certificate, or a permit under sub-section (11) of section 7 of this Ordinance, in respect thereof, or unless he is entitled by virtue of this Ordinance to have the firearm or ammunition in his possession without holding a firearm certificate.

(4) If any person contravenes any of the foregoing provisions of this section he shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

~~(5) In this section "firearm" and "ammunition" mean respectively a firearm and ammunition to which Part I of this Ordinance applies.~~

29. (1) Subject to the provisions of sub-section (4) of this section, no person shall remove or transport, or cause to be removed or transported, any firearm or ammunition from one place to another in the Colony, whether for the purpose of export from the Colony or otherwise, save under and in accordance with a removal permit issued by the licensing officer ~~for the area from which such firearm or ammunition is to be removed or transported.~~

Removal and transportation of firearms and ammunition within the Colony.

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(2) If any person contravenes any of the provisions of sub-section (1) of this section, or makes any statement which he knows to be false for the purpose of procuring for himself or any other person, the issue of a removal permit under this section, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

(3) No removal permit shall be issued under this section authorizing the removal or transport of firearms or ammunition by road from one area to another, save with the general or specific authority of the Commissioner of Police.

(4) Nothing in this section shall apply to—

- Can approved*
- (a) a person carrying on the business of an approved carrier, or ~~or~~ servant of such a person, in respect of the removal or transportation of any firearms or ammunition in the ordinary course of that business;
 - (b) the holder of a firearm certificate, or of a permit under sub-section (11) of section 7 of this Ordinance, in respect of the carriage with him and in accordance with the terms of the firearm certificate or permit of any firearm or ammunition to which the firearm certificate or permit relates;
 - (c) any person, not being a registered firearms dealer, in respect of the carriage with him of any firearm or ammunition which he is entitled by virtue of the provisions of this Ordinance to have in his possession without holding a firearm certificate; or
 - (d) the removal or transport by a registered firearms dealer of any firearm or ammunition in his possession in the ordinary course of his business as such from one of his places of business to another ~~in the same area~~, or from or to his own place of business to or from the place of business of another registered firearms dealer ~~in the same area~~.

(5) A permit issued under this section may at any time be revoked by the licensing officer who issued the same, and such licensing officer shall not be compelled to assign any reason for such revocation.

(6) In this section, "firearm" and "ammunition" mean respectively a firearm and ammunition to which Part I of this Ordinance applies.

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30. Notwithstanding anything in this Ordinance contained, a licensing officer may, at his discretion, grant with or without conditions, refuse, suspend or revoke transit permits for the importation to, removal within, transportation across, and exportation from, the Colony of any firearms or ammunition in transit through the Colony to any place outside the Colony, and the importation, exportation, removal, transportation and possession of any such arms or ammunition under and in accordance with the terms of any such transit permit shall be lawful and shall not constitute any offence under this Ordinance.

Firearms and ammunition in transit through the Colony.

31. (1) Subject to the provisions of sub-section (2) of this section, no person shall ship or off-load any firearms or ammunition in or from a native vessel of less than five hundred tons burden.

Restrictions on carriage by native vessels.

(2) The provisions of this section shall not apply—

(a) to lighters or barges lawfully engaged in loading or unloading ships;

(b) to firearms or ammunition conveyed on behalf of the Government and accompanied by an officer of the Government;

(c) to a firearm or ammunition in the possession of a person holding a firearm certificate in respect thereof or entitled by virtue of this Ordinance to have the same in his possession without holding a firearm certificate, where the firearm or ammunition is for the personal use of the person in possession thereof.

(3) For the purposes of this section, the expression "native vessel" means a vessel owned by a native, or fitted out by a native, or of which more than half of the crew are natives, of any country bordering on the Indian Ocean, the Red Sea, the Persian Gulf or the Gulf of Oman.

(4) In this section, "firearm" and "ammunition" mean respectively a firearm and ammunition to which Part I of this Ordinance applies.

32. (1) No person under the age of twelve years shall have in his possession any firearm or ammunition to which Part I of this Ordinance applies, and no person under the age of fourteen years shall have in his possession any firearm or ammunition to which Part I of this Ordinance applies other than a miniature rifle not exceeding 0.22 calibre or a shotgun

Restrictions on possession of firearms and ammunition by young persons.

the bore of which is not larger than 20 gauge, and ammunition suitable therefor, except in circumstances where he is entitled to have possession thereof without holding a firearm certificate by virtue of sub-sections (7), (8) or (9) of section 7 of this Ordinance; and no person shall part with the possession of any such firearm or ammunition to any person whom he knows or has reason to believe to be under the age of twelve or fourteen years, as the case may be, except in circumstances where that other person is entitled to have possession thereof as aforesaid.

(2) If any person contravenes any provision of this section, he shall for each offence be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Carrying firearm while drunk or disorderly.

33. Any person who is drunk, or who behaves in a disorderly manner, while carrying a firearm to which Part I of this Ordinance applies shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Penalty for use and possession of firearms or imitation firearms in certain cases.

34. (1) If any person makes or attempts to make any use whatsoever of a firearm or imitation firearm with intent to resist or prevent the lawful apprehension or detention of himself or any other person, he shall be liable on conviction to imprisonment for a term not exceeding fourteen years; and where any person commits any such offence in respect of the lawful apprehension or detention of himself for any other offence committed by him, he shall be liable to the penalty provided in this sub-section in addition to any penalty to which he may be sentenced for that other offence.

(2) A firearm or imitation firearm shall, notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile, be deemed to be a dangerous weapon or instrument for the purposes of the Penal Code.

Cap. 24.

(3) In this section, the expression "imitation firearm" means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not.

Appeals under Part II.

35. (1) Any person who is aggrieved by the refusal of an authorized officer to issue to him an import or export permit under section 27 of this Ordinance, or by the revocation of any such permit, or by the refusal of a licensing officer to issue to

him a removal permit under section 29 of this Ordinance, or by the revocation of any such permit, or by the refusal of a licensing officer to grant him a transit permit under section 30 of this Ordinance, or by the imposition of any condition attached to any such permit, or by the suspension or revocation of any such permit, may appeal to the ~~Governor in Council~~, whose decision shall be final.

*Municipal Defence
(G.N. 1602 of 1955)*

(2) The provisions of sub-sections (2) and (3) of section 23 of this Ordinance shall apply *mutatis mutandis* to appeals under this section.

PART III—GENERAL

36. (1) Where any person—

- (a) is convicted of an offence under this Ordinance or is convicted of an offence for which he is sentenced to imprisonment, or to detention of any description in an approved school or other place of detention; or
- (b) has been ordered to be subject to Police supervision, or to enter into recognizance to keep the peace or to be of good behaviour a condition of which is that the offender shall not possess, use or carry a firearm, or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm,

Prohibition of convicted persons for possessing firearms or ammunition; forfeiture of firearms and ammunition; and cancellation of firearm certificates.

the following provisions shall apply—

- (i) the court before whom such person is convicted or by whom the order is made may make such order as to forfeiture or disposal of any firearm or ammunition which was found in his possession or in respect of which the offence of which he is convicted was committed or which was used in the commission of such offence as the court thinks fit, and may cancel any firearm certificate or permit under sub-section (11) or (12) of section 7 of this Ordinance held by the person convicted;
- (ii) in the case of a person convicted, or convicted and sentenced, as mentioned in paragraph (a) of this sub-section, the court before whom he is convicted may order that such person shall not, at any time during such period, not exceeding ten years from the date of his release, as may be specified in the order, have in his possession any firearm or ammunition or, as the case may be, any firearm or ammunition of a class or description specified in the order.

(2) Subject to the provisions of this section, no person who is subject to the supervision of the Police, or is subject to a recognizance to keep the peace or to be of good behaviour a condition of which is that he shall not possess, use or carry a firearm, or is subject to a probation order containing a requirement that he shall not possess, use or carry a firearm, shall, at any time during which he is so subject as aforesaid, have a firearm or ammunition in his possession.

(3) Subject to the provisions of any other law for the time being in force under which a condition or requirement such as is referred to in sub-section (2) of this section is imposed or made, a person prohibited by the said sub-section from having in his possession a firearm or ammunition may apply to the Governor in Council for exemption from such prohibition, and if the application is granted, the provisions of the said sub-section shall not apply to that person.

(4) ^{Minister for Defence (G.O. 1602)} The ~~Governor in Council~~ may, in his absolute discretion, grant or refuse any such application for exemption as aforesaid, and shall not be required to assign any reason for the refusal of any such application.

(5) No person shall sell or transfer a firearm or ammunition to, or repair, test or prove a firearm or ammunition for, any person whom he knows, or has reasonable ground for believing, to be prohibited by this section or by any order made thereunder from having a firearm or ammunition in his possession.

(6) Where a court cancels a firearm certificate or permit under this section—

(a) the court shall cause notice to be sent to the ^{chief} licensing officer ~~by whom the firearm certificate~~
(Ordinance No. 4 of 1960, s. 18, with effect from 9-1-60)

(b) the ~~licensing officer~~ shall by notice in writing require the holder of the firearm certificate or permit to surrender it; and

(c) if the holder fails to surrender the firearm certificate or permit within fourteen days from the date of the last-mentioned notice, he shall be liable on conviction to a fine not exceeding one thousand shillings.

(7) Subject to the provisions of paragraph (c) of sub-section (6) of this section, if any person contravenes any provision of this section or of any order made thereunder, he shall

for each offence be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

37. (1) A court, if satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Ordinance has been, is being, or is about to be committed, may grant a search warrant authorizing a police officer or other person therein named—

Search warrants and disposal of firearms and ammunition seized.

- (a) to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found therein; and
- (b) to seize and detain any firearm or ammunition which he may find on the premises or place, or on any such person, in respect of which or in connexion with which he has reasonable ground for suspecting that an offence under this Ordinance has been, is being, or is about to be committed; and
- (c) if the premises are those of a registered firearms dealer, to examine any books relating to the business.

(2) A court shall have power, on the application of a police officer, ~~or~~ ^{or licensing officer,} customs officer, to order any firearm or ammunition seized and detained under this Ordinance to be destroyed or otherwise disposed of.

(3) Any firearm or ammunition in the hands of the Police or in customs control and unclaimed for a period in excess of six months may, if the owner thereof is unknown or cannot be traced or fails, when required, or is not entitled under this Ordinance or any other law for the time being in force in the Colony, to take possession thereof, be disposed of at any time after the expiration of the period aforesaid in such manner as the Commissioner of Police may direct, and no compensation shall be payable to any person in respect of any firearm or ammunition so disposed of as aforesaid.

38. Any police officer may at all reasonable times enter upon any premises with a view to ascertaining whether or not the provisions of this Ordinance or of any rules made thereunder are being complied with, and may inspect such premises and any firearm or ammunition, book, account, register, document or thing found therein, and may require any person appearing to be in control thereof or employed therein to give

Power to inspect premises.

such information as such police officer may require in order to ascertain whether or not the provisions of this Ordinance or of any rules made thereunder are being complied with.

Penalty for obstructing a police officer.

39. Any person who obstructs a police officer in the exercise of any of the powers conferred on him by or under section 37 or section 38 of this Ordinance, or who fails to give to such police officer any information which he is lawfully required by such police officer under the said section to give to him, shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both such imprisonment and fine.

Arrest without warrant.

40. Any police officer may arrest without warrant any person whom he suspects on reasonable grounds of having committed an offence against this Ordinance.

Jurisdiction.

41. A magistrate holding a subordinate court of the first class shall have power to try any offence under this Ordinance, other than an offence under sub-section (1) of section 34 of this Ordinance, and to award any punishment provided therefor.

Service of notices.

42. ~~Any notice required or authorized by this Ordinance to be given to any person may be sent by registered post in a letter addressed to him at his last or usual place of abode, or, in the case of a registered firearms dealer, at any place of business in respect of which he is registered.~~

Reciprocal recognition of arms licences issued in neighbouring territories.

43. ^{Minutes for Defence [C.M.(55)363]} The ~~Governor in Council~~ may, if he is satisfied that reciprocal provisions have been or will be made by the Governments of the Protectorate of Uganda, the Protectorate of Zanzibar, the Protectorate of Nyasaland, or the Trust Territory of Tanganyika for the recognition by and under the law in force in such Protectorate or Trust Territory, as the case may be, of firearm certificates granted under this Ordinance, by order declare that an arms licence corresponding to a firearm certificate under this Ordinance and issued under such law shall, on being endorsed by a licensing officer, have the same effect and validity in the Colony as if it were a firearm certificate granted under this Ordinance.

Power to make rules.

44. ^{Minutes for Defence} The ~~Governor in Council~~ may make rules—
(a) prescribing the form of a firearm certificate, and of any register required to be kept under this Ordinance,

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and of any other permit or document under this Ordinance;

- (b) prescribing the fees to be paid for anything done, or any permit, document or authorization issued or granted, under this Ordinance;
- (c) prescribing any other thing which under this Ordinance is to be prescribed;
- (d) providing for the establishment and maintenance of a central registry of firearms and ammunition;
- (e) regulating the manner in which licensing officers and other officers are to carry out their duties under this Ordinance;
- (f) enabling all or any of the functions of a licensing officer to be discharged by deputy in the event of the illness or absence, or a vacancy in the office, of a licensing officer;
- (g) generally for carrying this Ordinance into effect.

45. (1) The provisions of each Part of this Ordinance shall be in addition to and not in derogation of the provisions of any other Part of this Ordinance or of any other law for the time being in force in the Colony and relating to the manufacture, sale, transfer, purchase, acquisition, possession, use, storage, carriage, transportation, importation or exportation of firearms, ammunition or explosives. Savings.

(2) Nothing in this Ordinance relating to firearms shall apply to an antique firearm which is sold, transferred, purchased, acquired, imported, exported, transported, or possessed as a curiosity or ornament.

(3) Notwithstanding any rule of law whereunder the provisions of this Ordinance do not bind the Crown, the provisions of section 16, sub-sections (3) and (4) of section 18, section 33 and section 34, of this Ordinance shall apply to persons in the service of the Crown in their capacity and in the course of their duty as such.

46. The Arms and Ammunition Ordinance is hereby repealed, and all proclamations, rules and orders made, and licences, permits and authorizations issued or granted thereunder shall, on the commencement of this Ordinance, cease to be of effect: Repeal.
Cap. 302

Provided that the Governor may, by order published in the Gazette, make provision for—

- (i) exempting, for such period from the commencement of this Ordinance as may be specified in the order, any person or class of persons from the provisions of this Ordinance or any of them or from the provisions of any rule made under this Ordinance;
- (ii) refunding any fee or part thereof paid by any person for or in respect of any licence, permit or authorization issued or granted to him under the said Arms and Ammunition Ordinance and unexpired at the commencement of this Ordinance;

and provided that any such order, if made after the commencement of this Ordinance, shall, if expressed to take effect retrospectively from the commencement of this Ordinance, take effect accordingly.

(Section 4)

SCHEDULE

The Northern Province.

ORDINANCE No. 41 of 1953

Assented to in Her Majesty's name this nineteenth day of December, 1953.

E. BARING,
Governor.

AN ORDINANCE TO APPLY CERTAIN SUMS OF MONEY FOR THE SERVICE OF THE HALF-YEAR ENDING THE 30th DAY OF JUNE, 1954

1st January, 1954

Date of commencement.

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

1. This Ordinance may be cited as the Appropriation Ordinance, 1953. Short title
2. The public revenues for the half-year ending the 30th day of June, 1954, and other funds of the Colony are hereby charged towards the service of such half-year with the sum of twelve million four hundred and eighty-one thousand one hundred and five pounds in respect of the Colony and the further sum of three million four hundred and eighty-six thousand seven hundred and eight pounds in respect of the Development Fund. Public Revenue and other funds charged.
3. The moneys granted by the Ordinance shall be applied for the purposes and services specified in the First and Second Schedules to this Ordinance. Application of moneys granted.
4. The Accountant General of the Colony is hereby authorized and required from time to time upon the warrant or order of the Governor to pay out of the revenue and other funds of the Colony for the several services specified in the First and Second Schedules to this Ordinance the said sum of twelve million four hundred and eighty-one thousand one hundred and five pounds and the said further sum of three million four hundred and eighty-six thousand seven hundred and eight pounds which will come in course of payment during the half-year ending the thirtieth day of June one thousand nine hundred and fifty-four. Accountant General's authority for payment.

FIRST SCHEDULE

<i>Vote No.</i>		<i>Amount £</i>
1—1	The Governor	19,384
1—2	Judicial Department	100,667
1—3	Legislative Council	35,165
1—4	Audit Department	39,209
2—1	Office of the Chief Secretary	26,710
2—2	Administration	556,799
2—3	Department of Information	59,397
2—4	Police	889,849
2—5	Prisons	305,785
2—6	Office of the Member for African Affairs	7,248
2—7	Registrar of Co-operative Societies	8,224
2—8	Miscellaneous Services	3,640
3—1	Office of the Member for Legal Affairs	4,236
3—2	Immigration Department	27,201
3—3	Legal Department	15,365
3—4	Registrar General's Department	12,029
4—1	Office of the Member for Finance and Develop- ment	2,206
4—2	The Treasury	81,159
4—3	Inland Revenue Department	36,778
4—4	Miscellaneous Services	1,110,736
4—5	Pensions and Gratuities	367,841
4—6	Public Debt	735,135
4—7	Rent and Interest to H.H. the Sultan of Zanzibar	8,000
4—8	Price Control	7,561
4—9	Loans from Revenue	109,750
4—10	Public Works Department	352,617
4—11	Public Works Recurrent	658,031
4—12	Public Works Non-Recurrent	35,960
4—13	Contribution to Emergency Fund	2,000,000
5—1	Office of the Member for Agriculture and Natural Resources	10,702
5—2	Services Under the Authority of the Member for Agriculture and Natural Resources	43,682
5—3	Agricultural Department	311,102
5—4	Forest Department	153,322
5—5	Game Department	36,946
5—6	Veterinary Services	246,918
5—7	Miscellaneous Services	49,599
6—1	Office of the Member for Education and Labour	7,437
6—2	Labour Department	88,309
6—3	Coast Agency	8,984
6—4	Education Department	1,517,298
6—5	Military	354,487
6—6	Miscellaneous Services	43,427
6—7	Printing and Stationery	119,758
7—1	Office of the Member for Health, Lands and Local Government	9,067

1953

Appropriation

No. 41

FIRST SCHEDULE—(Contd.)

<i>Vote No.</i>		<i>Amount £</i>
7—2	Services Under the Authority of the Member for Health, Lands and Local Government ..	9,382
7—3	Local Government Department	11,020
7—4	Lands Department	49,775
7—5	Government Chemist's Department	2,938
7—6	Local Government Contributions	395,651
7—7	Medical Department	681,167
7—8	Town Planning Department	4,413
7—9	Survey Department	64,773
7—10	Miscellaneous Services	26,027
8—1	Office of the Member for Commerce and Industry	8,203
8—2	Services Under the Authority of the Member for Commerce and Industry	31,458
8—3	Mines and Geological Department	25,295
8—4	Weights and Measures Department	7,020
8—5	Department of Trade and Supplies	19,635
8—6	Miscellaneous Services	4,770
9—1	Contributions to the Cost of High Commission Services	521,858
	Total	£12,481,105

SECOND SCHEDULE

Development Fund	£3,486,708
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ORDINANCE No. 42 of 1953

Assented to in Her Majesty's name this thirty-first day of December, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE INCOME TAX
(RATES AND ALLOWANCES) ORDINANCE, 1952**

Date of
commencement.

31st December, 1953

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

Short title and
construction.

1. (1) This Ordinance may be cited as the Income Tax (Rates and Allowances) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Income Tax (Rates and Allowances) Ordinance, 1952, hereinafter referred to as the principal Ordinance.

No. 33 of 1952.

(2) The provisions of sub-section (1) of section 2 of the principal Ordinance shall apply to the principal Ordinance as amended by this Ordinance.

Commencement
and application.

2. This Ordinance shall be deemed to have come into operation on the 1st day of January, 1952, and accordingly to have and to have had effect for determining the chargeable income of any non-resident individual for any year of income commencing on or after the 1st day of January, 1952.

Amendment of
Schedule to
the principal
Ordinance.

3. The First Schedule to the principal Ordinance is amended in the following respects—

- (a) in the paragraph relating to non-resident primary allowance set forth in relation to section 34 (2) of the principal Act, by substituting—
- (i) for the figure of £160 (single allowance) the figure of £180;
 - (ii) for the figure of £245 (married allowance) the figure of £280;
 - (iii) for the figure of £60 (child's allowance) the figure of £85;
 - (iv) for the fraction of one-fifth (earned income allowance) the fraction of two-ninths;

1953

Income Tax (Rates and Allowances)

No. 42

(b) in the paragraph relating to the non-resident secondary allowance set forth in relation to section 34 (3) of the principal Act, by substituting—

- (i) for the figure of £100 (single allowance) the figure of £115;
- (ii) for the figure of £155 (married allowance) the figure of £180;
- (iii) for the figure of £40 (child's allowance) the figure of £55.

ORDINANCE No. 43 of 1953

Assented to in Her Majesty's name this thirty-first day of
December, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO ALLOW AND CONFIRM
CERTAIN EXPENDITURE INCURRED IN THE
FINANCIAL YEAR 1952**

Date of
commencement.

31st December, 1953

WHEREAS the expenditure of eighteen million eight hundred and fifty-eight thousand six hundred and twenty pounds, nineteen shillings and sixty-five cents, was necessarily incurred during the Financial Year 1952, on certain services, of which the sum of sixteen million three hundred and thirty-six thousand nine hundred and ninety-four pounds was provided in the Appropriation Ordinance, 1951:

No. 72 of 1951

AND WHEREAS it is now necessary to provide a further sum of two million six hundred and thirty-two thousand five hundred and fifty-nine pounds, sixteen shillings and fifty-five cents:

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

Short title.

1. This Ordinance may be cited as the Supplementary Appropriation (1952) Ordinance, 1953.

Further
expenditure for
the year 1952
authorized

2. The expenditure during the Financial Year 1952 to the amount of two million six hundred and thirty-two thousand five hundred and fifty-nine pounds, sixteen shillings and fifty-five cents, on the several services specified in the Schedule to this Ordinance and not provided for or not fully provided for by the Appropriation Ordinance, 1951, is hereby allowed and confirmed.

No. 72 of 1951.

SCHEDULE

Head No.	Head	Amount		
		£	sh.	cts.
1—1	The Governor	144	14	51
1—2	Judicial Department	16,931	13	06
1—4	Audit Department	2,587	15	48
2—1	Central Administration—Secretariat	8,282	6	89
2—2	Administration	66,020	8	99
2—4	Public Works Department	306,075	9	87
2—5	Public Works Recurrent	40,108	18	78
2—6	Public Works Non-recurrent	213,160	0	70
3—2	Immigration Department	6,487	14	08
3—4	Police	134,126	14	74
3—6	Registrar General's Department	2,276	15	26
4—1	Accountant General's Department	9,244	14	58
4—2	Loans from Revenue	66,575	4	15
4—3	Inland Revenue Department	1,311	12	49
4—4	Miscellaneous Services	571,124	1	60
4—6	Public Debt (Kenya Share)	8,371	10	14
4—8	Subventions	31,451	17	20
4—9	Emergency Expenditure	750,000	0	00
5—1	Office of the Member for Agriculture and Natural Resources	542	6	06
5—2	Services under the Member for Agriculture and Natural Resources	20,579	5	22
5—3	Agriculture Department	14,724	3	38
5—5	Game Department	3,035	5	64
6—1	Coast Agency	283	14	37
6—3	Lands Department	74,361	12	67
6—4	Survey Department	819	3	75
6—5	Military	34,288	15	90
6—6	Miscellaneous Services	26,619	2	54
6—7	Printing and Stationery Department	19,972	5	85
7—1	Office of the Member for Education, Health and Local Government	21	14	59
7—2	Services under the Member for Education, Health and Local Government	403	18	84
7—4	Education Department	21,662	7	72
7—5	Government Chemist's Department	462	11	87
7—6	Local Government Contributions	27,996	14	15
7—7	Medical Department	104,080	16	14
7—8	Town Planning Department	706	13	48
8—1	Office of the Member for Commerce and Industry	838	9	85
8—2	Services under the Member for Commerce and Industry	4,872	15	98
Part B.	Contribution to Cost of High Commis- sion Services	42,006	6	03
		<hr/>		
		£2,632,559	16	55

ORDINANCE No. 44 of 1953

Assented to in Her Majesty's name this thirty-first day of December, 1953.

E. BARING,
Governor.

ARRANGEMENT OF SECTIONS**SECTION**

- 1—Short title.
- 2—Interpretation.
- 3—Authority to raise the Loan.
- 4—The Loan to be a charge on general revenues and funds of the Colony.
- 5—No other loan to rank in priority to the Loan.
- 6—Application of the Loan.
- 7—Terms and conditions of the Loan.
- 8—Accountant General to keep register of bonds.

SECTION

- 9—Transfer of bonds.
- 10—Closing of register.
- 11—Appropriation out of the general revenues of sums to meet interest when due.
- 12—No notice of trust to be received or registered.
- 13—Exemption from stamp duty.
- 14—Power to make regulations.
- 15—Provisions of General Loan and Stock Ordinance, 1950, not to apply.

AN ORDINANCE TO MAKE PROVISION FOR BORROWING THE SUM OF TWO MILLION POUNDS FROM THE COLONIAL DEVELOPMENT CORPORATION AND FOR THE APPROPRIATION, APPLICATION AND REPAYMENT THEREOF

Date of commencement.

31st December, 1953

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 Specific Loan (Colonial Development Corporation) Ordinance, 1953.

Interpretation.

2. In this Ordinance—

“Accountant General” means the officer for the time being acting as Accountant General of the Colony;

11 and 12
Geo. 6. c. 15.

“Corporation” means the Colonial Development Corporation established by section 1 of the Overseas Resources Development Act, 1948, of the United Kingdom;

“the Loan” means the moneys authorized by this Ordinance to be borrowed from the Corporation by the Governor;

“Member” means the Member of the Executive Council for the time being responsible for Finance.

1953 *Specific Loan (Colonial Development Corporation)*

No. 44

3. The Governor is hereby authorized to borrow from the Corporation, either at one time or by instalments, the sum of two million pounds.

Authority to raise the Loan

4. The Loan and all interest and other charges thereon are hereby charged upon and shall be payable out of the general revenues and funds of the Colony.

The Loan to be a charge on general revenues and funds of the Colony.

5. No other charge on the general revenues and funds of the Colony ranking in priority to the charge created by section 4 of this Ordinance shall be created except with the prior consent of the Corporation:

No other loan to rank in priority to the Loan.

Provided that nothing in this section contained shall prevent the creation of a charge or charges on the general revenues and funds of the Colony ranking *pari passu* with the charge created by section 4 of this Ordinance.

6. The Loan shall be appropriated to and applied for the purposes of the Housing Ordinance, 1953, and no other purposes.

Application of the Loan. No. 17 of 1953.

7. (1) The terms and conditions upon and subject to which the Loan shall be borrowed shall be such as may be agreed between the Member and the Corporation consistently with the provisions of this Ordinance, and such agreement may provide for—

Terms and conditions of the Loan.

(a) the creation of and the issue to the Corporation of bonds for securing the Loan, in such form, in such amounts not being less than ten thousand pounds each issued at such times and made subject to such terms and conditions as, subject to the provisions of this Ordinance, may be agreed between the Member and the Corporation; and

(b) the conversion of the said bonds, when required by the Corporation, into stock or other securities.

(2) Any such agreement as aforesaid may be executed by the Member on behalf of the Governor.

8. (1) The Accountant General shall keep a register in which all bonds issued under the provisions of this Ordinance shall be registered, and in which all transfers, and transmissions thereof shall be registered.

Accountant General to keep register of bonds.

(2) Such register or a copy of any entry therein certified by the Accountant General, or a person nominated by him for the purpose, shall be prima facie evidence of the title of any person to any bond of which he is entered in the register as the holder.

Transfer of bonds.

9. All bonds issued under the provisions of this Ordinance shall be transferable by an instrument of transfer in a form approved by the Accountant General, and any endorsement upon any such bond purporting to record the transfer or transmission thereof or any dealing therein certified by the Accountant General, or a person nominated by him for the purpose, shall be prima facie evidence of the transfer, transmission or dealing.

Closing of register.

10. (1) The Accountant General may, for a period not exceeding fourteen days previous to each payment of interest on any bonds registered under the provisions of this Ordinance, close the register of those bonds as regards transfers upon giving not less than seven days' notice of such closing; such notice shall be published in the Gazette and a newspaper circulating in the Colony.

(2) The persons who on the day of such closing are registered as bond holders shall, as between themselves and their transferees, be entitled to the interest then next payable on the bonds.

Appropriation out of the general revenues of sums to meet interest when due.

11. So long as any portion of the Loan remains outstanding the Governor shall from time to time appropriate out of the general revenues and funds of the Colony such sums as are required to meet all payments becoming due under the terms and conditions of the agreement referred to in section 7 of this Ordinance and shall authorize the Accountant General to make such payments on the days on which the same fall due.

No notice of trust to be received or registered.

12. No notice of any trust in respect of any bond shall be entered in the register or be receivable by the Accountant General.

Exemption from stamp duty.

13. No stamp duty shall be payable in respect of any interest, warrant or transfer of a bond.

1953

Specific Loan (Colonial Development Corporation)

No. 44

14. The Governor in Council may make regulations for all or any of the following purposes—

Power to make regulations

- (a) registering bonds in the register;
- (b) prescribing the persons who may be registered as bond holders;
- (c) prescribing the method by which any payment in respect of the bonds shall be made;
- (d) prescribing the method by which bonds may be transferred;
- (e) providing for the registration, payment of interest on, repayment of principal of, and transfer of bonds in the case of persons who are under legal disability;
- (f) providing for the replacement of bonds lost or destroyed;
- (g) generally for the better carrying out of the provisions of this Ordinance.

15. Notwithstanding anything contained in the General Loan and Stock Ordinance, 1950, the provisions of that Ordinance shall not apply to the Loan or to any such bonds as aforesaid or anything done under this Ordinance.

Provisions of General Loan and Stock Ordinance not to apply. No. 14 of 1950.

ORDINANCE No. 45 of 1953

Assented to in Her Majesty's name this thirty-first day of December, 1953.

E. BARING,
Governor.

**AN ORDINANCE TO AMEND THE SPECIAL TAX
(TEMPORARY PROVISIONS) ORDINANCE, 1953**

Date of commencement.

1st January, 1954

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

Short title and commencement.

1. This Ordinance may be cited as the Special Tax (Temporary Provisions) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Special Tax (Temporary Provisions) Ordinance, 1953, hereinafter referred to as the principal Ordinance, and shall come into force on the 1st day of January, 1954.

No. 3 of 1953.

Amendment of section 2 of the principal Ordinance.

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

(a) by substituting for the definition of "adult male Kikuyu" the following definition—

"adult male Kikuyu" means a male member of the Kikuyu tribe of or over the apparent age of eighteen years;

(b) by deleting the definition of "Kikuyu"; and

(c) by inserting next after the definition of "adult male Kikuyu" the following definitions—

"adult male Embu" means a male member of the Embu tribe of or over the apparent age of eighteen years;

"adult male Meru" means a male member of the Meru tribe of or over the apparent age of eighteen years.

Amendment of section 4 of the principal Ordinance.

3. Section 4 of the principal Ordinance is amended by inserting immediately after the word "Kikuyu", appearing therein, a comma and the words ", Meru and Embu".

4. Section 5 of the principal Ordinance is amended in the following respects—

Amendment of section 5 of the principal Ordinance.

(a) by substituting for sub-section (1) thereof the following sub-section—

(1) Subject to the provisions of section 7 of this Ordinance, the special tax shall be payable to a collector on the 31st day of January in each year at the place appointed for the purpose under the provisions of section 6 of this Ordinance:

Provided that, in the case of any adult male Kikuyu, Meru or Embu who is not in a scheduled area on or before the 31st day of January in any year but becomes liable to pay the special tax in that year by reason of the fact that he enters a scheduled area after the aforesaid 31st day of January, the special tax shall become payable on the date on which such adult male Kikuyu, Meru or Embu so enters a scheduled area as aforesaid.; and

(b) by inserting immediately after the words "special tax due" appearing in sub-section (2) thereof the words "from him".

5. There shall be inserted, immediately after section 8 of the principal Ordinance, the following new section—

Insertion of new section 8A in the principal Ordinance.

8A. Without prejudice to the powers of the Governor under the provisions of section 12 of the African Poll Tax Ordinance (incorporated herein), the District Commissioner of any district comprised within a scheduled area may, by notice in the Gazette, exempt from the provisions of this Ordinance, in respect of any year, any specified persons or persons of any specified class or description, and any such class or description may be made ascertainable by reference to the tribe, place of residence, origin or registration under the Registration of Persons Ordinance, age or employment of the persons to whom the exemption is intended to relate.

Exemptions; powers of District Commissioners. Cap. 252.

Cap. 50.

6. Section 9 of the principal Ordinance is amended by inserting immediately after the word "Kikuyu", appearing in paragraph (ii) of the proviso thereto, a comma and the words ", Meru or Embu".

Amendment of section 9 of the principal Ordinance.

No. 45*Special Tax (Temporary Provisions)***195'**

Amendment of
the Schedule
to the
principal
Ordinance.

7. The Schedule to the principal Ordinance is amended by substituting for the words "the 31st day of October of the year in which the tax is due" appearing in the second column thereof the words "on or before the date on which the tax is due".